

# MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

*One Hundred and Sixth  
Legislature*

OF THE

STATE OF MAINE

**Volume II**

**April 23, 1973 to June 5, 1973**

KENNEBEC JOURNAL  
AUGUSTA, MAINE

**HOUSE**

Tuesday, May 8, 1973

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

Prayer by the Rev. Mr. Anthony Lombardi of Lewiston.

The journal of yesterday was read and approved.

**Orders Out of Order**

Mr. Wood of Brooks presented the following Order and moved its passage:

ORDERED, that Christine Nealey of Monroe, Betty Clifford of Troy and Brenda Vose of Montville be appointed Honorary Pages for today.

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

Mr. Jacques of Lewiston presented the following Order and moved its passage:

ORDERED, that Tom Connell of Lewiston be appointed Honorary Page for today.

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

The SPEAKER: Thomas Connell is the State spelling champion. He is a student of Holy Cross School of Lewiston and he represents the State of Maine in the National Spelling Bee Contest to be held in Washington, D.C., during the week of June 11 to June 16, 1973. After winning the Androscoggin County Spelling Bee he went on to win the State Spelling Bee over 15 other contestants. He is the son of Mr. and Mrs. Kenneth Connell of 4 Treemount Drive of Lewiston, an eighth grade student at the Holy Cross School, and as state champion Tom receives a 6-day expenses-paid educational trip to Washington, D.C., for himself and a chaperon. We are very pleased to have you here today. (Applause)

Mr. McMahon of Kennebunk presented the following order and moved its passage:

ORDERED, that Susan Hill and Edwin Parks of Kennebunk be appointed Honorary Pages for today.

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

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

Report of the Committee on State Government on Bill "An Act Relating to Investment and Custodial Care of Securities in the State Retirement System" (S. P. 552) (L. D. 1719) reporting "Ought not to pass."

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

**Leave to Withdraw**

Report of the Committee on Health and Institutional Services on Bill "An Act Relating to Hospital Administrators in the Department of Mental Health and Corrections" (S. P. 553) (L. L. 1720) reporting "Leave to Withdraw."

Came from the Senate with the Report read and accepted.

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

**Ought to Pass in New Draft**

Report of the Committee on Judiciary on Bill "An Act to Amend the Uniform Limited Partnership Act" (S. P. 180) (L. D. 488) reporting "Ought to pass" in New Draft (S. P. 607) (L. D. 1905) under same title.

Report of the Committee on Judiciary on Bill "An Act Relating to Application of Releases from Injured Persons Confined to Hospitals to Workmen's Compensation" (S. P. 447) (L. D. 1414) reporting "Ought to pass" in New Draft (S. P. 608) (L. D. 1906) under same title.

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

In the House, the Reports were read and accepted in concurrence, the New Drafts read once and assigned for second reading tomorrow.

**Divided Report**

Majority Report of the Committee on Appropriations and Financial Affairs on Resolve Providing Funds for the Maintenance of

Ocean Beaches (S. P. 278) (L. D. 826) reporting "Ought to pass."

Report was signed by the following members:

Messrs. SEWALL of Penobscot  
MORRELL of Cumberland  
—of the Senate.  
Messrs. JALBERT of Lewiston  
NORRIS of Brewer  
SMITH of Dover-Foxcroft  
—of the House.

Minority Report of the same Committee on same Resolve reporting "Ought not to pass"

Report was signed by the following members:

Messrs. SPROUL of Augusta  
BRAGDON of Perham  
HASKELL of Houlton  
CARTER of Winslow  
— of the House.

Came from the Senate with the Majority report read and accepted and the Resolve passed to be engrossed.

In the House: Reports were read.

On motion of Mr. Haskell of Houlton, the Minority "Ought not to pass" Report was accepted in non-concurrence.

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

Mr. NORRIS: Mr. Speaker, I move we reconsider our action whereby we accepted the minority report.

The SPEAKER: The gentleman from Brewer moves the House reconsider its action whereby it accepted the Minority "Ought not to pass" Report.

The gentleman may proceed.

Mr. NORRIS: Mr. Speaker, Members of the House: I would hope that we could accept the majority report of the committee. We had the bill there a long time; we did considerable research on it. It was the feeling that because this is a transient area that certainly there is some responsibility of the state to protect the environment there. That is basically what this is; it is an environmental measure, and we certainly feel that the state is involved to a certain extent.

We all talk environment and this certainly is an environmental measure. So I would hope you would vote against the minority

"ought not to pass" report and accept the majority "ought to pass" report.

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

Mr. McMAHON: Mr. Speaker and Members of the House: I would just review the fact we have accepted already the "ought not to pass" report. I would just like to say that if by chance we reconsider and accept the "ought to pass" report, being from a coastal community I would offer an amendment to include my town in this and I suspect there are many other people who represent coastal communities who would do likewise.

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

Mr. HASKELL: Mr. Speaker, Ladies and Gentlemen of the House: I hadn't planned to debate this, but very briefly, what this bill does is to appropriate \$30,000 over the biennium for three beaches — Scarborough, Old Orchard and Saco. The minority of the committee who signed it out "ought not to pass" had very serious reservations that the state wants to get in the position of assuming the responsibility for cleaning the beaches of the state because I think it is very apparent that if we pass this legislation and favor these three beaches, we are then going to be inundated with requests from every community up and down the coast that has a beach. Certainly if it were fair for the state to assume the responsibility on these three beaches, there is no reason they shouldn't assume the responsibility for cleaning all of the beaches in the state.

For this reason I move for the acceptance of the minority report and I hope that you will not reconsider action in accepting the minority report.

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

Mr. ROSS: Mr. Speaker and Members of the House: Like the gentleman from Kennebunk, Mr. McMahon, in Sagadahoc County, although we may be small, we

have two of the finest beaches in the whole state and I also would offer an amendment to include those beaches if it should pass.

The SPEAKER: The Chair recognizes the gentleman from Belfast, Mr. Webber.

Mr. WEBBER: Mr. Speaker and Members of the House: I concur with the gentleman from Bath and Kennebunk. We have a public park in the City of Belfast, which I think is the only public beach between Bath and Calais, and I too intend to offer an amendment to this.

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

Mr. GARSOE: Mr. Speaker, Ladies and Gentlemen of the House: If this bill passes I will insist on an amendment for the islands of Cumberland and Casco Bay.

The SPEAKER: The Chair recognizes the gentleman from Hampden, Mr. Farnham.

Mr. FARNHAM: Mr. Speaker and Members of the House: I will insist on an amendment to cover Monson Pond where my camp is. If you think it is just a couple thousand miles of coastline, I am telling you, there are an awful lot of inland lakes with beaches and, boy, they need some attention!

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

Mr. BRAGDON: Mr. Speaker and Members of the House: I move the indefinite postponement of this bill and all its accompanying papers.

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

Mr. NORRIS: Mr. Speaker, Ladies and Gentlemen of the House: This is only the third time I have ever seen a bill amended to death before it got to second reader.

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

Mr. LYNCH: Mr. Speaker and Members of the House: You know, this is a little bit amusing, but I can't help but think, no one wants to appropriate any money to take some of the shoreline areas, but I think the House and the other body are quite willing to tell the

people along the shoreline areas what they can do and what they can't do.

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

Mr. BITHER: Mr. Speaker and Members of the House: This may sound funny to some people, but I don't think it is funny. It may be funny today but it is not going to be funny a few years from now because you are going to have this right back in here in a few years because our beaches are being eroded.

From all the information that I can gain, there is nothing to do to maintain these beaches and I believe this law says not only clean them up but maintain them. The only way they have successfully — they have tried various methods — but the only successful means of maintaining the beach is by hauling in sand. Now you are going to have to have a lot of sand — I think we have a lot of sand in southern Aroostook and we can haul it down from southern Aroostook — but they are going to have to haul in sand to maintain these beaches and that is all there is to it.

I might add, too, while I am on my feet, I have a little beach down in Jonesport. It is a little private beach; it is a lovely little thing. It is being eroded and I would like to have some help down there too.

But this isn't so funny just the same. We are going to have to some day do something about our beaches because all the sand that has made these lovely in the State of Maine was made by the glacier, and until we get another glacier coming along, we are not going to have another supply of sand. That is the geological point of view this morning but it is true.

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

Mr. NORRIS: Mr. Speaker, a point of order. All we are talking about is reconsideration, so the motion to indefinitely postpone would be out of order, wouldn't it, on a reconsideration motion? The

actual paper isn't before the House until we reconsider it.

The SPEAKER: The pending question is on the motion of the gentleman from Brewer, Mr. Norris, that the House reconsider its action whereby it accepted the Minority "Ought not to pass" Report. All in favor of that motion will vote yes; those opposed will vote no.

A vote of the House was taken, 30 having voted in the affirmative and 90 having voted in the negative, the motion did not prevail.

Sent up for concurrence.

#### **Non-Concurrent Matter**

Bill "An Act Relating to the Prohibition Against Hitchhiking" (H. P. 1454) (L. D. 1875) which the House enacted on May 3.

Came from the Senate with the Bill indefinitely postponed in non-concurrence.

In the House:

The SPEAKER: The Chair recognizes the gentlewoman from Orrington, Mrs. Baker.

Mrs. BAKER: Mr. Speaker, I move the House recede and concur.

The SPEAKER: The gentlewoman from Orrington, Mrs. Baker, moves the House recede and concur.

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

Mr. MURRAY: Mr. Speaker, Ladies and Gentlemen of the House: I would ask for a division. This bill has been debated extensively on two or three occasions and I wouldn't want to go over everything that we have already discussed before. I just would like to point out that this House on previous occasions has passed this bill pretty substantially and I feel that we should continue to remember that we are talking about allowing people who have to rely on other people for transportation, allowing them to do this without breaking the laws of the State of Maine. I think that is the basic issue that this bill deals with.

I hope we will stand strong in our position of two or three days ago.

Thereupon, Mr. Mulhern of Portland requested a roll call vote.

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

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

The SPEAKER: The pending question is on the motion of the gentlewoman from Orrington, Mrs. Baker, that the House recede and concur with the Senate. All in favor of that motion will vote yes; those opposed will vote no.

#### **ROLL CALL**

YEAS — Baker, Berry, G. W.; Birt, Bragdon, Brawn, Brown, Bunker, Cameron, Carey, Carrier, Chick, Cote, Cressey, Crommett, Davis, Donaghy, Evans, Farnham, Farrington, Gauthier, Hamblen, Henley, Hoffses, Immonen, Kelley, Kelley, R. P.; Keyte, Knight, Lewis, E.; Littlefield, Maxwell, McCormick, McNally, Merrill, Morin, L.; Morton, Murchison, Palmer, Parks, Pratt, Shaw, Shute, Silverman, Simpson, L. E.; Sproul, Stillings, Theriault, Trask, Trumbull, Webber, White, Willard, Wood, M. E.

NAYS — Albert, Berube, Binnette, Bither, Boudreau, Briggs, Bustin, Carter, Chonko, Churchill, Clark, Conley, Connolly, Cottrell, Curran, Dam, Dow, Drigotas, Dudley, Dunleavy, Dunn, Dyar, Emery, D. F.; Faucher, Fecteau, Ferris, Finemore, Flynn, Fraser, Gahagan, Garsoe, Genest, Good, Goodwin, K.; Greenlaw, Hancock, Haskell, Hobbins, Huber, Hunter, Jackson, Kauffman, Kelleher, Kilroy, LaCharite, LaPointe, LeBlanc, Lewis, J.; Lynch, Mahany, Martin, McHenry, McKernan, McMahan, Mills, Mulhern, Murray, Najarian, Norris, O'Brien, Perkins, Peterson, Pontbriand, Ricker, Rolde, Rollins, Ross, Smith, D. M.; Soulas, Susi, Talbot, Tierney, Tyndale, Walker, Wheeler, Whitzell, The Speaker.

ABSENT — Ault, Berry, P. P.; Cooney, Curtis, T. S., Jr.; De-

shaies, Farley, Goodwin, H.; Herrick, Jacques, Jalbert, Lawry, MacLeod, Maddox, McTeague, Morin, V.; Santoro, Sheltra, Strout, Tanguay.

Yes, 53; No, 78; Absent, 19.

The SPEAKER: Fifty-three having voted in the affirmative and seventy-eight in the negative, with nineteen being absent, the motion to recede and concur does not prevail.

On motion of Mr. Murray of Bangor, the House voted to insist.

### Messages and Documents

The following Communication:

The Senate of Maine

Augusta

May 7, 1973

Hon. E. Louise Lincoln  
Clerk of the House  
106th Legislature

Dear Madam Clerk:

The Senate voted to Adhere to its action whereby it Indefinitely Postponed, Bill, "An Act Relating to the Redemption Value of Trading Stamps." (H. P. 810) (L. D. 1056)

Respectfully,

(Signed)

HARRY N. STARBRANCH  
Secretary of the State

The Communication was read and ordered placed on file.

### House Reports of Committees

#### Ought Not to Pass

Mr. Brown from the Committee on Labor on Bill "An Act Relating to Minimum Wages for Students" (H. P. 352) (L. D. 467) reporting "Ought not to pass"

Mrs. Wheeler from the Committee on Judiciary reporting same on Bill "An Act Relating to Sentence for Crime Committed by Parolee" (H. P. 358) (L. D. 473)

Mr. Gauthier from same Committee reporting same on Bill "An Act Relating to Zoning Certain Throughways as Commercial" (H. P. 893) (L. D. 1180)

Mrs. Kilroy from same Committee reporting same on Bill "An Act Relating to Support and Education of Persons 18 Years of Age and Older" (H. P. 1135) (L. D. 1470)

Mr. Dunleavy from same Committee reporting same on Bill "An Act Relating to Positions of Trust

for Prisoners in Jails" (H. P. 1090) (L. D. 1422)

Same gentleman from same Committee reporting same on Bill "An Act Providing for Suspension of Motor Vehicle Operator's License of Person Convicted of Possession of Marijuana in a Motor Vehicle" (H. P. 1219) (L. D. 1576)

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

### Ought to Pass with Committee Amendment

Mr. Fecteau from the Committee on Legal Affairs on Bill "An Act Relating to the State Valuation of the Town of North Berwick" (H. P. 1259) (L. D. 1634) reporting "Ought to pass" as amended by Committee Amendment "A (H-334)

Mr. Henley from the Committee on Veterans and Retirement on Resolve Providing a Minimum Service Retirement Allowance under the State Retirement Law for Barbara Goodwin, (H. P. 1225) (L. D. 1600) reporting "Ought to pass" as amended by Committee Amendment "A" (H-335)

Reports were read and accepted and the Bill and Resolve read once. Committee Amendment "A" to each was read by the Clerk and adopted and the Bill and Resolve assigned for second reading tomorrow.

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

Mr. Stillings from the Committee on State Government on Bill "An Act Creating the Office of State Fire Marshal" (H. P. 244) (L. D. 329) reporting "Ought to pass" in a New Draft (H. P. 1483) (L. D. 1910) under same title.

Mr. Gahagan from the Committee on State Government on Bill "An Act Relating to Consolidating Reports of Budgeted State Departments and Agencies" (H. P. 1317) (L. D. 1713) reporting "Ought to pass" in New Draft under new title "An Act Relating to Consolidating Reports of State Departments and Agencies" (H. P. 1484) (L. D. 1911)

Reports were read and accepted, the New Drafts read once and assigned for second reading tomorrow.

**Order Out of Order**

Mrs. Berube of Lewiston presented the following Joint Order and moved its passage:

WHEREAS, spelling is a skill to propagate for, if properly developed and integrated into life's activities, it can deeply enrich and make living more adequate; and

WHEREAS, Thomas Connell, 14-year-old son of Mr. and Mrs. Kenneth E. Connell of Lewiston possesses such a skill and with it has earned the title of Maine spelling champion for 1973; and

WHEREAS, he will represent the State of Maine at the national spelling bee at Washington, D. C. during the week of June 11th; now, therefore, be it

ORDERED, the Senate concurring, that the Members of the 106th Legislature of the State of Maine extend congratulations to Thomas Connell on his outstanding skill and achievement and offer the very best wishes of the Legislature for his future success and happiness; and be it further

ORDERED, that a duly authenticated copy of this Joint Order be transmitted forthwith to the new champion and his proud parents. (H. P. 1486)

The Order was received out of order by unanimous consent, read and passed and sent up for concurrence.

**Divided Report**

Majority Report of the Committee on Health and Institutional Services on Bill "An Act to Require Certain Adjustments in the Fluoride Content of Some Public Water Supplies" (H. P. 1282) (L. D. 1669) reporting "Ought not to pass"

Report was signed by the following members:

Messrs. HICHENS of York  
GREELEY of Waldo  
MINKOWSKY  
of Androscoggin  
— of the Senate.  
Messrs. DYAR of Strong  
SANTORO of Portland  
SOULAS of Bangor  
LEWIS of Bristol  
GOODWIN  
of South Berwick  
Mrs. MORIN of Old Orchard

BERRY of Madison

MCCORMICK of Union

— of the House.

Minority report of the same Committee on same Bill reporting "Ought not to pass"

Report was signed by the following members:

Messrs. WHITZELL of Gardiner  
LaPOINTE of Portland  
— of the House.

Reports were read.

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

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

The SPEAKER: The gentleman from Strong, Mr. Dyar, moves the acceptance of the Majority "Ought not to pass" Report.

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

Mrs. NAJARIAN: Mr. Speaker and Members of the House: I know that the majority of this legislature is philosophically opposed to requiring towns to do things, but I trust I won't be condemned for hoping that this House might make an exception to that rule in the case of fluoridated water supplies.

First, I am going to assume that fluoridation itself no longer needs defending. For over a period of more than 30 years, no public health measure has ever been subjected to so much critical study and there is no valid, scientific evidence to deny the conclusion that fluoride in the water at the level required to prevent tooth decay is absolutely safe. Fluoridation is not a medication; it does not treat an existing disease. It is an essential nutrient like vitamins and minerals. It is analogous to the addition to the nutrients to enrich white flour which is required by law in some states and a practice which is followed in all states.

This legislation would be particularly desirable in Maine where we have the worst record of the 50 states relative to dental health. We have, in addition, a severe shortage of dentists — one for over 2,700 people. Prevention here in Maine is especially important because of the relative inaccessibility



of corrective dental care. And to compound this, 14 percent of our population live at or below the poverty level.

Another point is that Maine has no statewide program for dental care for low income children which so many other states have. Fluoridation would go a long way toward preventing the dental disease which is not being corrected and would also have the effect of reducing the cost of the statewide program should one be implemented sometime in the future. The cost of fluoridation to prevent one cavity is about 20 cents per person per year compared to six to eight dollars to fill one cavity.

There are 68 towns in Maine with fluoridated water supplies. There are some towns whose voters have approved fluoridation in referendum but it has not yet been added to their water. Then there are areas such as Greater Portland where several towns are served by a common water supply and where it is terribly difficult and expensive to achieve unanimous consent. Maine is one of only four states requiring referendum prior to fluoridation. There are seven states which require fluoridation statewide — Connecticut, Minnesota, Illinois, Delaware, South Dakota, Michigan and Iowa.

We have legislators for all the towns in other areas of public concern. The environment is one area that comes readily to mind with mandatory zoning within 200 feet of navigable waters and open burning dumps. So considering the proven health and economic benefits of fluoridation, plus its convenience, and keeping in our mind our position among the 50 states in dental health, which is last, our lack of dentists and the 14 percent of our people at the poverty level, I would ask that you make another exception to your general position regarding mandatory legislation. Since 50 percent of all Mainers on public water supplies are now drinking fluoridated water, this bill would have the effect of making unanimous what already is the choice of the majority of the residents of this

state who drink water from public supplies.

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

Mr. DYAR: Mr. Speaker, Members of the House: I hope this morning this body will go along with the majority report. The title of this bill, "An Act to Require Certain Adjustments in the Fluoride Contents of Some Public Water Supplies," is somewhat misleading. This is a mandatory fluoridation bill. The last session we passed legislation allowing referendums in local municipalities to see whether or not they want to fluoridate their water supplies. I feel this was good legislation last session and we should not interfere with it at this time.

Due to the fact that the title is somewhat misleading, the opposition at the public hearing was less than previously. But the opposition was there and somewhat a strength group.

It is interesting to note that some small towns in this state that we have received communications from have voted down fluoridation as many as seven times in referendum. I don't believe this legislation this morning should force any town to take an action that they have voted against previously.

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

Mr. McMAHON: Mr. Speaker and Members of the House: I would like to pose a question through the Chair to the gentleman from Portland. That is, has the Commissioner of Health and Welfare taken a position on this bill?

The SPEAKER: The gentleman from Kennebunk, Mr. McMahon, poses a question through the Chair to the gentleman from Portland, Mrs. Najarian, who may answer if she wishes.

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

Mrs. NAJARIAN: Mr. Speaker and Members of the House: Yes, he supports the bill.

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

Mr. CARRIER: Mr. Speaker and Members of the House: In answer to Mr. McMahon's question, it is a much broader answer than what was asked that was given. Actually the commissioner might have taken a position on this, but he also took a position a few years ago by spending \$60,000 of the taxpayers money to promote such a program. So under such conditions which some legislators don't like I suggest to you that although his position has been in favor of this fluoride program, that most of the folks down our way have voted against it. My community has voted against; the adjoining communities have voted against it. And if we are to hold referendum on these measures and overlook what the people want, I think it is a waste of effort. I therefore support the motion to accept the majority "ought not to pass" report.

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

Mr. BRAUN: Mr. Speaker, Ladies and Gentlemen of the House: As I sit here this morning I cannot believe that our state ranks fiftieth in tooth decay. I have been in some of the western states, Arizona, and I saw bad tooth decay out there. Now, I don't know, I am not a dentist, but I cannot believe we are at the bottom of the pile of 50 states.

Our town has voted many times against fluoridation; we have defeated it every time. I do not believe in people being forced to have something which they do not want. And ladies and gentlemen, I don't know what that is going to do for my false teeth.

The SPEAKER: The Chair recognizes the gentlewoman from Madison, Mrs. Berry.

Mrs. BERRY: Mr. Speaker and Members of the House: Representative Dyar spoke of the opposition there as if it wasn't too strong. However, we only had three, I believe, proponents to it and the rest that were there were all opposed. I would say that was at least 10 to 1.

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

Mr. BRIGGS: Mr. Speaker, Ladies and Gentlemen of the House: I thought it might be interesting to you if I made the point this morning that the Committee on Natural Resources, of which I am a member, has just after all these many, many, many, many, many years accepted a bill ordering all of the public water supplies from surface water in the state to be chlorinated. Now the analogy is that chlorine has been added to most all the public water supplies. And the purpose of this obviously is to prevent serious consequences of any bacteria that might go into the people's drinking water pipes unnoticed.

Actually the addition of the very small amount of fluoride in public water supplies, which is a widely accepted public health measure throughout the United States, is no different than adding chlorine. The only difference being that chlorine would probably keep you from possibly dying of typhoid fever or hepatitis. Fluoride might keep a lot of children from having such bad teeth.

The main point is, it is important to note I think, that after all these years there were still four of five surface water drinking water supply sources which were not chlorinating their water supply. So the Natural Resources Committee did support a bill to order all surface water drinking water supplies to be chlorinated.

The SPEAKER: The pending question is on the motion of the gentleman from Strong, Mr. Dyar, to accept the Majority "Ought not to pass" Report. The Chair will order a vote. All in favor of that motion will vote yes; those opposed will vote no.

A vote of the House was taken.

85 having voted in the affirmative and 33 having voted in the negative, the motion did prevail.

Sent up for concurrence.

#### Divided Report

Majority Report of the Committee on Labor on Bill "An Act Extending the Period of Entitlement to Compensation for Partial Incapacity under the Workmen's Compensation Law in Certain Cases" (H. P. 616) (L. D. 814) re-

porting "Ought not to pass"

Report was signed by the following members:

Messrs. TANOUS of Penobscot  
HUBER of Knox

— of the Senate.

Messrs. BROWN of Augusta  
FLYNN of South Portland  
GARSOE of Cumberland  
BINNETTE of Old Town  
McNALLY of Ellsworth

— of the House.

Minority report of the same Committee on same Bill reporting "Ought to pass"

Report was signed by the following members:

Mr. KELLEY of Aroostook

— of the Senate.

Messrs. HOBBS of Saco  
McHENRY of Madawaska  
ROLLINS of Dixfield  
FARLEY of Biddeford

Mrs. CHONKO of Topsham

— of the House.

Reports were read.

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

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

The SPEAKER: The gentleman from Augusta, Mr. Brown, moves the acceptance of the Majority "Ought not to pass" Report.

The Chair recognizes the gentleman from Presque Isle, Mr. Dunleavy.

Mr. DUNLEAVY: Mr. Speaker; Ladies and Gentlemen of the House: Perhaps the most unfair provision in the Workmen's Compensation Law is the one which this bill ceased to make a small inroad into.

Presently, some severely disabled workers are denied fair compensation, in spite of the fact that their disability, although not totally incapacitating, is permanent. It is arbitrary to limit compensation for permanent, although partial incapacity, to 325 weeks when fairly and rationally benefits should be paid for so long as that disability exists.

Now this would not provide that benefits would be paid in all cases for as long as disability exists. It would only provide that in cases where the Industrial Accident Commissioner in his discretion felt that

the claimant, the injured worker, was seriously enough disabled, so seriously disabled perhaps that he could not find other work — let's say 70 percent, 80 percent or 90 percent disabled — that he should be allowed to continue to receive compensation beyond the arbitrary time limitation which the act sets up to prevent this.

Now I have spoken with several members of the House, and it appears that there isn't a great deal of understanding of workmen's compensation. I will try to give you a simple explanation of what it is and does. Workmen's compensation is an insurance policy which our state requires certain employers to take out on their employees. If an employee receives an accidental injury on the job which renders him incapacitated for work that employee receives a weekly compensation check from the employer's insurance company.

As things stand now, if two men who were working side by side and let's say they are each earning \$100 a week, and let's say they are both injured in the same job accident and one of these two men — let's call him Jones — is 100 per cent permanently incapacitated from the accident, and the other injured worker — let's say his name is Smith — is only 90 per cent permanently incapacitated as a result of the accident. Jones will receive, in round numbers, approximately \$67 per week for so long as he is totally incapacitated. Smith, on the other hand, will receive \$60 per week, 90 percent of Jones' amount, since he only has 90 percent of the incapacity that Jones has. But Smith's maximum period of entitlement is 325 weeks. At the end of 325 weeks, Mr. Jones who is 100 percent disabled is still getting 100 percent compensation, while Mr. Smith still 90 percent disabled, is getting no compensation whatsoever, zero percent.

This is plainly wrong, and here is our chance to change it. It is simple justice and fairness to do so. And justice, ladies and gentlemen of the House, is what laws and our job of lawmaking is all about.

I urge you to vote against this motion and I ask for a roll call.

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

Mr. BROWN: Mr. Speaker, Ladies and Gentlemen of the House: It is my understanding that this revision which is proposed here by the gentleman from Presque Isle, Mr. Dunleavy, is already case law. And if that is the case then I think there isn't much of anything that is any better. If the legislature has passed the bill, the Governor signed it, and the court has interpreted it, that is about as good as you can do.

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

Mr. ROSS: Mr. Speaker and Members of the House: The report on this bill looks like it might be a party measure.

Now, I was on the Labor Committee for some eight years, and very often the Republicans voted as a group against measures which would change workmen's compensation and unemployment compensation. Now often I sponsored legislation which I felt were fair changes to the men and women, not only whom I employ but who were employed by the state. And at that time I was the employer of approximately 500 men. But I felt that we should be fair to these men and women and consequently I was always willing to go along with equitable changes. And I personally feel that these next three bills are fair and equitable to the employees of the State of Maine.

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

Mr. GARSOE: Mr. Speaker and Ladies and Gentlemen of the House: As a signer of the majority report, I want to take issue with the question which has just been raised on the matter of party approach to this. I can assure you that I have heard nothing in that committee which would indicate that to me. And I think that as the reports of this committee unfold, you are going to see that there are some worthwhile, meaningful advances being made in this area. I think in this very complex situation we have to look at this as an overall situation. You cannot ap-

proach it piecemeal and I hope this body will listen to the arguments advanced in these instances. I would point out that in the last session of the legislature, it is my understanding that improvements were made that resulted in about a 45 percent increase in the cost of workmen's compensations in this state.

The Industrial Accident Commission opposed this bill on the basis that the gentleman from Augusta, Mr. Brown, has explained to you, and I would hope that we can support the majority report of this bill.

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

Mr. BINNETTE: Mr. Speaker and Ladies and Gentlemen of the House: I would have to take issue with my good friend from Bath, Mr. Ross. He said this was a party issue. I fail to see that. I am not a Republican; I might be considered a conservative Democrat. But in this case, I listened to both sides of the story that were presented to us and I decided that I was going to go with the "ought not to pass" and I certainly hope that this measure carries through.

The SPEAKER: The Chair recognizes the gentleman from Farmington, Mr. Morton.

Mr. MORTON: Mr. Speaker and Ladies and Gentlemen of the House: Mr. Speaker, I would like to address a question through the Chair to Mr. Dunleavy or anyone else who can answer it.

The SPEAKER: The gentleman may pose his question.

Mr. MORTON: Mr. Speaker and Ladies and Gentlemen of the House: I noticed that this bill calls for recognition of a disability in the 50 percent area and I would like to ask two questions. One, why was the bill not discussing compensation in the 50 percent area, and has anyone done an actuarial study to know how much more this will raise the cost of industrial accident insurance?

The SPEAKER: The gentleman from Farmington, Mr. Morton, poses a question through the Chair to anyone who may answer if he wishes.

The Chair recognizes the gentleman from Presque Isle, Mr. Dunleavy.

Mr. DUNLEAVY: Mr. Speaker and Ladies and Gentlemen of the House: It is impossible to determine the increased cost of workmen's compensation until the insurance companies get a reading on how many more claims and in what amounts come from the passing of legislation such as this. As far as the 50 percent part of the bill goes, generally speaking, if a worker is less than half work incapacitated, he can find some other employment. Frequently, however, many workers who are more than 50 percent incapacitated, perhaps we can even go as far as 60 or 70 or 80 percent incapacitated, because of their previous training and background, are not able to find gainful employment after an industrial accident. These are the individuals who are arbitrarily cut off at the end of the 325 weeks.

In response to what Mr. Brown said earlier. The Industrial Accident Commissioner at this point has absolutely no power to use his discretion to suspend the 325-week limitation in cases where the work incapacity is less than 100 percent. It is true that a claimant whose work incapacity is determined to be less than 100 percent can proceed into the courts through appeals and otherwise and perhaps continue to receive compensation. But in many instances this is not done because it is regarded as a fruitless effort and therefore they do not do so. As a result, we have many people with a 75 percent work incapacity, 80, 85 percent work incapacity who are arbitrarily cut off from compensation at the end of the 325 weeks. These are the people that the bill is seeking to help.

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

A vote of the House was taken, and more than one fifth of the members present having expressed

a desire for a roll call, a roll call was ordered.

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

#### ROLL CALL

YEA — Binnette, Birt, Bither, Bragdon, Brawn, Briggs, Brown, Bunker, Carey, Chick, Cressey, Davis, Donaghy, Dudley, Dunn, Dyar, Evans, Finemore, Flynn, Garsoe, Hamblen, Hancock, Haskell, Henley, Herrick, Hoffses, Huber, Hunter, Immonen, Kelley, Keyte, Knight, LeBlanc, Lewis, J.; Littlefield, Maxwell, McCormick, McKernan, McNally, Merrill, Morton, Murchison, Parks, Perkins, Pratt, Shaw, Simpson, L. E.; Soulas, Sproul, Susi, Trask, Trumbull, Walker, White, Willard.

NAY — Albert, Baker, Berry, G. W.; Berube, Boudreau, Bustin, Cameron, Carter, Chonko, Churchill, Clark, Conley, Connolly, Cooney, Cote, Cottrell, Crommett, Curran, Dam, Dow, Drigotas, Dunleavy, Emery, D. F.; Farley, Farnham, Farrington, Faucher, Fecteau, Ferris, Fraser, Gahagan, Gauthier, Genest, Good, Goodwin, K.; Hobbins, Jackson, Jacques, Kauffman, Kelleher, Kelley, R. P.; Kilroy, LaCharite, Lawry, Lewis, E.; Lynch, Mahany, Martin, McHenry, McMahan, McTeague, Mills, Morin, L.; Morin, V.; Mulhern, Murray, Najarian, O'Brien, Peterson, Pontbriand, Ricker, Rolde, Rollins, Ross, Silverman, Smith, D. M.; Smith, S.; Talbot, Tanguay, Theriault, Tierney, Tyndale, Webber, Wheeler, Whitzell, Wood, M. E.

ABSENT — Ault, Berry, P. P.; Carrier, Curtis, T. S., Jr.; Deshaies, Goodwin, H.; Jalbert, MacLeod, Maddox, Norris, Santoro, Sheltra, Shute, Stillings, Strout.

Yes, 55; No, 79; Absent, 15.

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

Thereupon, the Minority "Ought to pass" Report was accepted, the

Bill read once and assigned for second reading tomorrow.

**Divided Report  
Tabled and Assigned**

Majority Report of the Committee on Labor on Bill "An Act Relating to Interest on Awards in Workmen's Compensation Cases" (H. P. 1150) (L. D. 1481) reporting "Ought not to pass".

Report was signed by the following members:

Messrs. TANOUS of Penobscot  
HUBER of Knox  
— of the Senate.  
Messrs. GARSOE of Cumberland  
ROLLINS of Dixfield  
BROWN of Augusta  
McNALLY of Ellsworth  
FLYNN  
— of South Portland  
— of the House.

Minority report of the same Committee on same Bill reporting "Ought to pass"

Report was signed by the following members:

Mr. KELLEY of Aroostook  
— of the Senate.  
Messrs. FARLEY of Biddeford  
BINNETTE of Old Town  
HOBBS of Saco  
McHENRY of Madawaska  
Mrs. CHONKO of Topsham  
— of the House.

Reports were read.

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

**Divided Report**

Majority Report of the Committee on Labor on Bill "An Act Relating to Notification to Injured Employees of Rights under Workmen's Compensation Law" (H. P. 1243) (L. D. 1614) reporting "Ought not to pass"

Report was signed by the following members:

Messrs. TANOUS of Penobscot  
HUBER of Knox  
KELLEY of Aroostook  
— of the Senate.  
Messrs. BROWN of Augusta  
FLYNN of South Portland  
McHENRY of Madawaska  
GARSOE of Cumberland  
Mrs. CHONKO of Topsham  
— of the House.

Minority Report of the same Committee on same Bill reporting "Ought to pass"

Report was signed by the following members:

Messrs. McNALLY of Ellsworth  
HOBBS of Saco  
BINNETTE of Old Town  
ROLLINS of Dixfield  
FARLEY of Biddeford  
— of the House.

Reports were read.

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

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

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

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

Mr. McTEAGUE: Mr. Speaker and Ladies and Gentlemen of the House: This is another bill in the field of workmen's compensation. It is L. D. 1614. If the members would take a look at their copy of it and see the title of it really describes it. It is An Act Relating to Notification of Injured Employees of Their Rights Under the Workmen's Compensation Act." This is not a bill which will cost the employers in this state one cent or will cost any insurance company one cent. It is an attempt to advise people who are injured at work what their rights and obligations are.

As you know, when there is a work injury, the employer is under an obligation to file a certain report with the state. Ordinarily an insurance carrier contacts the injured man. The insurance carrier and its adjusters are professionals in the area of workmen's compensation. They know what their rights and duties are. All this bill seeks to do is to have a commission advise the injured employee — and they know who he is because there has been a report filed with them — of his rights so that he does not waive any of them.

Mr. Speaker, the House is aware that in the 1960's in the field of criminal law we developed a concept of advising criminal defend-

ant, people charged with serious crimes, of their rights. It strikes me as rather ironic and even sad that we give to a criminal defendant more information and in a sense a better deal and a fairer shake than we do to an injured employee.

What are some of the rights that an injured employee has that he should know about, because those rights are meaningless if he does not know he has the right? One of them is the right to collect compensation, another is the right to retain an attorney, the third is the right to make a statement or refuse to make any statement.

Information is power. When we set an injured employee on one side and a sophisticated attorney or claims adjuster on the other side, there can be an imbalance. An injured employee can waive rights without adequate information and it can harm him and his family in the future.

This does not change the law regarding what benefits are available or are not available. It only seeks to raise the injured employee to the same level of knowledge that the insurance company has. If any member of the House will look over L. D. 1614 and see if there is anything inaccurate contained in it, perhaps he can raise that. If not, I hope the House will approve this matter so that it can go on our law and so that injured workmen have at least the same rights as individuals charged with serious crimes do.

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

Mr. McNALLY: Mr. Speaker and Ladies and Gentlemen of the House: Since I was one of the ones who signed this bill "ought to pass," I hope you will look at this bill and see that we are not running along on any basis of party lines, that we are running on what we think is good for the people of the state.

The only thing against this bill that I know of, you cannot receive any information of injuries that come under the OSHA Act, the Occupational Safety Health Association Act. You cannot receive any information from those type

of injuries. But the other injuries can be told about and I think they should be.

I have a case at home where a painter in May fell from a staging that was improperly set in a house and injured very severely his right leg and did not work until sometime, perhaps November. His employer told him that he could not receive any compensation because he was too old. He came into my office and I said, "I will call the Industrial Accident Commission and see what I can find out for you" and I called up and they said, "Tell the gentleman to find out what the insurance name is of his employer and we will go on from there."

To this day he never has received anything and probably never will because he has gone back to work painting for the fellow. But had he known about his right which this bill would cover, and in this case it was not an OSHA accident, because the man isn't underneath their law, since he employs less than 15 men, it would have been very beneficial for him and he is a person who really shouldn't have had to pay all his doctor bills, and I think if he would still go along, I believe he still has three years that he can start suit against his employer if he wishes. I can see no trouble with this bill outside of the OSHA law.

The SPEAKER: The Chair recognizes the gentleman from Fairfield, Mr. Lawry.

Mr. LAWRY: Mr. Speaker, Ladies and Gentlemen of the House: This bill is just as the other speakers have pointed out, it is a bill trying to give fair treatment to all of our people who are covered under workmen's comp. At the hearing, the only objection I heard was from the commissioner that there might be a little more paper work, but I feel it is worth this little extra effort to make sure that all of our workers are protected and I hope you will vote against the pending motion and then accept the bill.

The SPEAKER: The Chair recognizes the gentleman from Saco, Mr. Hobbins.

Mr. HOBBS: Mr. Speaker and Members of the House: I would like to concur with the gentleman from Brunswick, Mr. McTeague, and the gentleman from Fairfield, Mr. Lawry, in regard to this bill. I feel it is a needed piece of legislation because I think every workingman should be entitled to be notified of his rights under the law.

I hope you support the minority "ought to pass" report and vote down the majority "ought not to pass" report.

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

Mr. GARSOE: Mr. Speaker, Ladies and Gentlemen of the House: I don't want anyone to think that those who signed the majority "ought to pass" report have any less concern for the humanities involved than the gentleman from Brunswick, Mr. McTeague, pointed out. But the testimony from the commission was to the effect that they now do not make a practice of notifying anyone covered under a collective bargaining agreement, feeling that those people are fully aware of their rights, but they did show a letter that they send out to others who aren't so represented. There may be some selectivity in the area of who is notified, even though not covered under a bargaining agreement, but they raised the administrative problem of sending notices out for every single accident and indicated in their testimony that possibly as many as 10 new secretaries would be needed.

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

Mr. BROWN: Mr. Speaker and Members of the House: This bill provides that the commission shall advise either orally or in writing. The question I raise, and I would ask this question of anyone who wishes to answer it, is whether or not this bill passes the state has assumed the responsibility and therefore the liability, in the event someone's injury or sickness is prolonged, by failure to give such a notice.

This statute is placing on our books an obligation on the state,

absolutely, to notify an injured employee of his rights. Failure by the state, does that increase or does that provide liability to the state to be contributed to the accident?

The SPEAKER: The gentleman from Augusta, Mr. Brown, poses a question through the Chair to anyone who may answer if he wishes.

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

Mr. McTEAGUE: Mr. Speaker and Members of the House: With hesitation and trepidation I will attempt to answer the question. I know that Brother Brown has sat many more years on the Bar than I have. As I understand it, the state may not be liable for any failure on its part unless the legislature has either by general act or by specific resolve allowed the liability to the state.

We have an old doctrine about the king can do no wrong, and I guess the State of Maine is, in a sense, a successor to the king. And even if the State of Maine as the king fails to do what it is supposed to do, there is no consequent liability absent a specific resolve of this legislature or a general claims act passed by this legislature. For example, we do have state liability in the field of motor vehicle accidents, only because of specific act of this legislature.

I would be happy if we could accept the majority report to get an informal opinion from the Attorney General to confirm that, but I am quite certain the state would not have any liability. It obviously is not the intent of the bill to place any liability on the state.

The other alternative would be to accept the minority "ought to pass" report on the representation of the proponents that at second reading there will be a specific amendment placed on the bill to exclude any possibility of liability on the part of the State of Maine.

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

Mr. BINNETTE: Mr. Speaker and Members of the House: Be-



ing a member of the committee having signed this "ought to pass" report, I felt as though it was not going to bring too much of a burden on the commission to notify the people of their rights. I believe these people have a right, and as my good friend from Ellsworth stated, that this gentleman did not know and he could not get any relief due to the fact that his employer was very very lax in not helping him out. But I feel this would be a good thing to help someone out who is really in dire need. Therefore, that is why I signed this "ought to pass" report.

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

Mr. HASKELL: Mr. Speaker, Ladies and Gentlemen of the House: Pursuing the question that Representative Brown raised, the Appropriations Committee has before it now an L. D. that would establish a Claims Commission. My understanding of the thrust of the legislation is that claims up to \$3,000 could be settled by such a commission. Now in the event this L. D. passes, what would be the effect of the state's liability?

The SPEAKER: The gentleman from Houlton, Mr. Haskell, poses a question through the Chair to anyone who may answer if he or she wishes.

The pending question is on the motion of the gentleman from Augusta, Mr. Brown, to accept the Majority "Ought not to pass" Report. All in favor of that motion will vote yes; those opposed will vote no.

A vote of the House was taken.

24 having voted in the affirmative and 94 having voted in the negative, the motion did not prevail.

Thereupon, on motion of Mr. Garsoe of Cumberland, the Minority "Ought to pass" Report was accepted.

The Bill was read once and assigned for second reading tomorrow.

#### Divided Report

##### Tabled and Assigned

Majority Report of the Committee on Judiciary on Bill "An Act

Providing for Mandatory Sentences for Persons Convicted of Arson" (H. P. 590) (L. D. 781) reporting "Ought not to pass"

Report was signed by the following members:

Messrs. TANOUS of Penobscot  
SPEERS of Kennebec  
BRENNAN of Cumberland  
— of the Senate.

Messrs. DUNLEAVY  
— of Presque Isle  
PERKINS  
— of South Portland  
McKERNAN of Bangor

Mrs. WHEELER of Portland  
— of the House.

Minority report of the same Committee on same Bill reporting "Ought to pass"

Report was signed by the following members:

Messrs. HENLEY of Norway  
CARRIER of Westbrook  
GAUTHIER of Sanford

Mrs. KILROY of Portland  
WHITE of Guilford  
BAKER of Orrington  
— of the House.

Reports were read.

The SPEAKER: The Chair recognizes the gentlewoman from Orrington, Mrs. Baker.

Mrs. BAKER: Mr. Speaker, I move the acceptance of the Minority "Ought to pass" Report.

Thereupon, on motion of Mr. Martin of Eagle Lake, tabled pending the motion of Mrs. Baker of Orrington to accept the Minority "Ought to pass" Report and tomorrow assigned.

#### Divided Report

Majority Report of the Committee on Judiciary on Bill "An Act to Provide for Use of the Courts by Poor Persons" (H. P. 771) (L. D. 1005) reporting "Ought to pass"

Report was signed by the following members:

Messrs. TANOUS of Penobscot  
SPEERS of Kennebec  
BRENNAN of Cumberland  
— of the Senate.

Messrs. PERKINS  
— of South Portland  
DUNLEAVY  
— of Presque Isle  
McKERNAN of Bangor

Mrs. WHITE of Guilford

WHEELER of Portland

KILROY of Portland

— of the House.

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

Report was signed by the following members:

Messrs. CARRIER of Westbrook

GAUTHIER of Sanford

HENLEY of Norway

Mrs. BAKER of Orrington

— of the House.

Reports were read.

The SPEAKER: The Chair recognizes the gentlewoman from Orrington, Mrs. Baker.

Mrs. BAKER: Mr. Speaker and Members of the House: I move the acceptance of the Minority "Ought not to pass" Report.

The SPEAKER: The gentlewoman from Orrington, Mrs. Baker, moves the acceptance of the Minority "Ought not to pass" Report.

The Chair recognizes the gentleman from South Portland, Mr. Perkins.

Mr. PERKINS: Mr. Speaker, Ladies and Gentlemen of the House: This is my bill and it is not a new one to some of you. When I was asked to introduce this bill, I had some hesitation about it because I think the use of the word "use" and term "poor" occasionally drums up in most of us an idea that we are being used by the poor. Fortunately, this is not necessarily so.

In studying the background on the bill, I find that the United States Supreme Court has already indicated that in the area of the divorce courts we cannot deny a person the right to use the court who is lacking monetary means to prosecute an action. This bill relates to civil suits, not to criminal actions, not specifically to divorce actions, because as I have already indicated, the high court of the United States has already indicated that right exists.

I would dare say that if the poor person had the means to prosecute an ordinary civil case through to the Supreme Court of the United States, that the high court would uphold his right in all civil actions to bring action and have the use of the courts, regardless of the fact that he didn't

have the money initially to do so. But you see, that is the ironic thing about it. He can't prosecute to get that determination because he doesn't have the means to get into court.

I, acting as a lawyer, have taken on many cases for poor people and out of my own pocket have borne the expense of the filing fee, the entry fees in court, the sheriff service fees, hopefully with the thought that I eventually would get it back if I was successful on their behalf.

This bill provides that if they do recover, that those expenses will be repaid. There is a particular form in the divorce field that is used by the courts to show whether or not they have the financial means to prosecute their actions. If they don't, the court may rule that they can file the case without the ordinary entry fees and without the ordinary sheriff service fees.

We in this body during this session have bills to increase those fees to the point where it even becomes much more difficult than it ever was for an individual to handle his case. So I think it is more important than ever that we provide for the individual in those cases where it is a justifiable case.

I also would say that taking an ordinary case of an automobile accident where there is insurance involved, that without this sort of approach we encourage the individual, because of his financial circumstances, to settle his case with the insurance company to his detriment because he doesn't have the financial means to get into court to press the issue.

So again, while I do want you to understand that I initially had some reservations about this bill, believe me, ladies and gentlemen, it does have merit. Some people say the cost is substantial to the state or the county. It is not. There are several states that have already enacted such legislation and their experience has shown that there are relatively few cases wherein the individual has sought the use of the courts without monetary means to finance it himself. It does not create a run on

the courts but it does mean that he would have an opening into the courts if he really needed it.

So again, I do urge you to not accept the minority report on this matter.

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

Mr. DUDLEY: Mr. Speaker and Members of the House: I must admit, to get into my conversation, this certainly is a good lawyers bill. There are quite a few of them here, and I notice they all signed the bill.

I think professional people, M.D.'s and a lot of professional people do supply poor people with some service that they don't get paid for now and it has been the practice in the past. But these free attorneys for these type of people are sometimes handled kind of unjustly.

I had a case in my town where a man was sued because he said they claimed his kid got pushed on the bus. It went to the Bangor court and it cost this innocent man about \$3,000 to defend himself and this fellow that did the suing had a free attorney. And I don't want to see any more of that stuff going on. If he hadn't had a free attorney the case would not have been in court to begin with. But seeing as the state or the government was paying for these indigent cases, the lawyer, the case went to court. The innocent man, it cost him \$3,000 to defend himself and he also had to pay taxes to pay the other man's attorney.

And I think it is well enough the way it is and we don't need to pass any attorney bills here in this legislature because they are doing quite well as it is. There is not a poor one in the state. Hasn't been one go bankrupt for a long time.

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

Mr. CARRIER: Mr. Speaker and Members of the House: I think that all of us have a certain amount of compassion for the poor, and if we were to restrict it in the "poor" sense to the poor, I probably would be one of the greatest workers for their cause.

On the other hand, "this "poor" statement as it is used and as it is qualified for many of the services given today is abused by the fact that some of them do qualify and really should not be there.

In the first place, I would like to speak a little on this bill here. And the fact is, I think one of the main things about this is who is going to pay for this stuff. It is right in Section 1102 on page 2, almost at the top. In the 1102 it says the services, what services these people would be allowed to have, and that is the use of the court, the sheriff, the clerk, the constable, without charge. Now, you and I cannot even get these services, not only without charge, but with pay you cannot get them.

And now on Section 3 of page 2, it says right there that any services shall be paid by the municipality or the town where the poor person resides. Well we have many laws and there are many situations where the poor person, because of not having set residence in a particular place, is having a hard time to get relief, and therefore I think a lot of municipalities would question whether they want to pay this amount or not for certain people who don't even belong in there, that don't live there, that have not a set residence in there.

Then finally down next to the last paragraph, it says the expense of such transcript is a county charge. So actually you are charging the municipality for certain things and you are actually charging the county for transcripts, but I can tell you that I am familiar with the fact that they are extremely expensive.

And we go on to the next paragraph, which was said here that if this particular person recovers, we were told here that he has to pay, that the judge could make him pay out of his judgment. The fact is that in the last paragraph it says that "may direct him to pay out of such recovery or settlement." Now I realize that the next paragraph says that he shall, but this is the way things are written and you can decide for yourself whether they will or not.

I think this bill here actually costs money. This really costs money to the municipality, it will cost money to the county, and I think this actually should have an appropriation on it if you are going to pass this at all.

We have had this bill before in other sessions and it did not pass. I think really that although it might have some value to it, that actually the taxpayer today has everything that he can do to pay his own expenses without paying the expenses of others.

I signed the "ought not to pass" report and I hope that this is what we accept this morning.

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

Mr. TIERNEY: Mr. Speaker and Ladies and Gentlemen of the House: Mr. Carrier just stated that you and I wouldn't be eligible for these services. Well I don't know about Mr. Carrier, but after I receive my last check this week, I am going to be eligible.

Mr. Perkins of South Portland requested a roll call vote.

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

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

The SPEAKER: The pending question is on the motion of the gentlewoman from Orrington, Mrs. Baker, that the House accept the Minority "Ought not to pass" Report. All in favor of that motion will vote yes; those opposed will vote no.

#### ROLL CALL

YEA — Baker, Berube, Binnette, Birt, Bragdon, Brawn, Bunker, Cameron, Carey, Carrier, Chick, Cottrell, Cressey, Crommett, Davis, Deshaies, Dudley, Dunn, Dyar, Farnham, Farrington, Fecteau, Finemore, Flynn, Gauthier, Good, Hamblen, Henley, Herrick, Hoffses, Hunter, Immonen, Jackson, Kauffman, Kelleher, Kelley, Kel-

ley, R. P.; Keyte, Knight, Lawry, LeBlanc, Lewis, E.; Littlefield, Maddox, Mahany, McHenry, Merrill, Morin, L.; Morton, Parks, Pratt, Ricker, Rollins, Shaw, Shute, Silverman, Sproul, Willard, Wood, M. E.; The Speaker.

NAY — Berry, G. W.; Bither, Briggs, Bustin, Carter, Chonko, Churchill, Clark, Conley, Connolly, Cooney, Cote, Curran, Dam, Dow, Drigotas, Dunleavy, Emery, D. F.; Farley, Faucher, Ferris, Fraser, Garsoe, Genest, Goodwin, H.; Goodwin, K.; Hancock, Haskell, Hobbins, Huber, Jacques, LaPointe, Lewis, J.; Lynch, Martin, Maxwell, McKernan, McMahon, McTeague, Mills, Morin, V.; Mulkern, Murchison, Murray, Najarian, Palmer, Perkins, Peterson, Pontbriand, Ross, Simpson, L. E.; Smith, D. M.; Smith, S.; Soulas, Stillings, Talbot, Tanguay, Tierney, Tyndale, Walker, Webber, Wheeler, White, Whitzell.

ABSENT—Albert, Ault, Berry, P. P.; Boudreau, Brown, Curtis, T. S., Jr.; Donaghy, Evans, Greenlaw, Jalbert, Kilroy, LaCharite, MacLeod, McCormick, McNally, Norris, O'Brien, Rolde, Santoro, Sheltra, Strout, Susi, Theriault, Trask, Trumbull.

Yes, 60; No, 65; Absent, 25.

The SPEAKER: Sixty having voted in the affirmative and sixty-five in the negative, with twenty-five being absent, the motion does not prevail.

Thereupon, the Majority "Ought to pass" Report was accepted, the Bill read once and assigned for second reading tomorrow.

#### Divided Report

Majority Report of the Committee on Judiciary on Bill "An Act Relating to Challenges of Jurors in Civil and Criminal Cases" (H. P. 1151) (L. D. 1482) reporting "Ought not to pass."

Report was signed by the following members:

Messrs. TANOUS of Penobscot  
SPEERS of Kennebec  
BRENNAN of Cumberland  
— of the Senate.

Messrs. GAUTHIER of Sanford  
PERKINS

— of South Portland  
CARRIER of Westbrook  
HENLEY of Norway

McKERNAN of Bangor  
 Mrs. WHITE of Guilford  
 WHEELER of Portland  
 BAKER of Orrington  
 — of the House.

Minority Report of the same  
 Committee on same Bill reporting  
 "Ought to pass"

Report was signed by the follow-  
 ing members:

Mr. DUNLEAVY  
 of Presque Isle  
 Mrs. KILROY of Portland  
 — of the House.

Reports were read.

On motion of Mrs. Baker of Or-  
 rington, the Majority "Ought not  
 to pass" Report was accepted and  
 sent up for concurrence.

**Divided Report**

Majority Report of the Commit-  
 tee on Judiciary on Bill "An Act  
 Relating to Inspection of Jails"  
 (H. P. 1241) (L. D. 1612) reporting  
 "Ought not to pass"

Report was signed by the follow-  
 ing members:

Mr. TANOUS of Penobscot  
 — of the Senate.

Messrs. PERKINS  
 of South Portland  
 HENLEY of Norway  
 CARRIER of Westbrook  
 GAUTHIER of Sanford

Mrs. WHITE of Guilford  
 KILROY of Portland  
 WHEELER of Portland  
 BAKER of Orrington  
 — of the House.

Minority Report of the same  
 Committee on same bill reporting  
 "Ought to pass"

Report was signed by the follow-  
 ing members:

Messrs. SPEERS of Kennebec  
 BRENNAN of Cumberland  
 — of the Senate.

Messrs. DUNLEAVY  
 of Presque Isle  
 McKERNAN of Bangor  
 — of the House.

Reports were read.

The SPEAKER: The Chair recog-  
 nizes the gentlewoman from Or-  
 rington, Mrs. Baker.

Mrs. BAKER: Mr. Speaker, I  
 move the acceptance of the Ma-  
 jority "Ought not to pass" Report.

The SPEAKER: The gentlewom-  
 an from Orrington, Mrs. Baker,  
 moves the acceptance of the Ma-  
 jority "Ought not to pass" Report.

The Chair recognizes the gentle-  
 man from Gardiner, Mr. Whitzell.

Mr. WHITZELL: Mr. Speaker  
 and Members of the House: The  
 inspection of jail facilities in the  
 State of Maine is not new, it has  
 been going on for several years.  
 There is a large study conducted,  
 the Batten, Batten Study, and this  
 is one of the recommendations that  
 came out of it, to include in the  
 inspection not only the county jails  
 and lockups but also the municipal  
 jails and lockups.

There are currently 14 county  
 jails that are inspected on an an-  
 nual basis. Recommendations are  
 then made to the county commis-  
 sioners in each separate county  
 for the specific — well, the recom-  
 mendations are made and the coun-  
 ty commissioners are urged to fol-  
 low them.

There are no standards, there  
 are no controls right now on mu-  
 nicipal lockups. There have been  
 reports from municipal lockups.  
 One lockup is located behind the  
 boiler in the basement of one of  
 the municipal police stations. If  
 there were a fire, nobody would  
 ever be able to get out of that  
 lockup. Many say, maybe crimi-  
 nals should die in fire, but I don't  
 feel that way.

There were inquiries made by  
 many municipalities through the  
 Department of Mental Health re-  
 garding a request for inspection,  
 because some don't really realize  
 what measures they should meet  
 up to.

This bill would provide for an-  
 nual reports of each municipal fa-  
 cility that will require no addi-  
 tional personnel, since they have a  
 full-time jail inspector at present  
 that works the 14 county jails. He  
 would also assume the duties of  
 taking on the 53 municipal jails.  
 This, at least, would establish  
 some minimum standards for mu-  
 nicipal lockups.

Some of the reasons for the leg-  
 islation are pointed out again in  
 the Batten and Batten report,  
 which I don't have with me. I am  
 quite unprepared this morning to  
 debate this bill in its entirety.

The members on the committee  
 that listened to the bill and my-  
 self, who was there to present the  
 bill, I feel that the reasons and

the justification for municipal inspection of jails are adequate to accept the minority "ought to pass" report. And I would urge you to consider the fact that there is no additional personnel necessary. The municipal jails have no standards, no minimum standards now, this would establish minimum standards and it would bring a whole new level of competency to the lockup in municipal and county jails.

And as I said, I really think that the need for the legislation is there. The study which was conducted by Batten and Batten did point out that there were definite deficiencies in municipal jails and they should be brought under some type of minimum standards, and that is what we are trying to do, establish minimum standards.

The SPEAKER: The Chair recognizes the gentleman from Presque Isle, Mr. Dunleavy.

Mr. DUNLEAVY: Mr. Speaker, Ladies and Gentlemen of the House: As a signer of the minority report, I feel I should give you about 60 seconds of the reasons why. I sat through this hearing and I couldn't see any legitimate reason to be against the passage of this bill. Why shouldn't our city jails be subject to periodic inspection? The city jail in Presque Isle is a clean one and we have nothing to hide. I urge all of you who feel as I do about your local jails to vote against the motion.

It seems to me that it is only right that there be a procedure to assure that sanitary and humane conditions prevail in local jails and lockups. Let's see that no man escapes justice, but let's also strive to assure that even those who have violated the law receive justice and health protection when they are being punished.

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

Mr. GAUTHIER: Mr. Speaker and Members of the House: The reason for the majority report "ought not to pass" is the fact that you have one gentleman at the present time who does inspect your county jails every year. It is true, you won't have to rehire, probably, somebody else, but you

will have to pay him much more money because there are 53 of these different towns that he would have to go into.

The feeling of the majority of the committee was that these people are probably there for a few hours, a day, or probably overnight, and that is all. And all, like Mr. Dunleavy just gave you an example, who signed the minority report, that his jail is very good in his town. It is good in Sanford and I think that for the time that these people are in these town jails, that it is an extra expense that is not needed. This is why the committee voted against it.

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

Mr. PERKINS: Mr. Speaker and Members of the House: A few of the words have already been said, but I would just like to add to them, ladies and gentlemen. And that is that the bill provides that standards will be set by the state commissioner and that these jails and lockups will be inspected. And municipalities will be given six months within which to bring their jails and lockups up to par. The difficulty is no one is quite sure what that is and the costs involved to the municipalities are uncertain. But there are going to be a lot of them, and I am sure you are aware of them, that are going to be hit hard with this. A lot of the small towns, a lot of the larger cities that have holding facilities, these lockups, and I assure you that requires immediate confinement and no other facility is necessary.

I am sure, again, in your areas, particularly in the rural areas, you are familiar with the lockups there and how they are employed. Granted they leave a great deal to be desired. But when we say that we are going to require those standards to be the standards set by the state to be upheld and changed within a six month period of time after the inspection, that we are opening ourselves up to a cost factor that I personally cannot buy.

The SPEAKER: The pending question is on the motion of the gentlewoman from Orrington, Mrs.

Baker, that the House accept the Majority "Ought not to pass" Report. All in favor of accepting the Majority Report will vote yes; those opposed will vote no.

A vote of the House was taken. Mr. Whitzell of Gardiner requested a roll call vote.

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

A vote of the House was taken, and more that 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 Gardiner, Mr. Whitzell.

Mr. WHITZELL: Mr. Speaker and Members of the House: I would like to add just a few things to what I said. As I said, I am sorry I was not better prepared for the bill. I just found out this morning. But Mr. Haskell, the inspector of jails, is 12 years, so to speak, in the business of inspections of jails. If any of you have read the County Jail Inspection Reports that have been put out by this gentleman over the last two years, you cannot help but be impressed with the quality of the work he is doing and with the types of particular problems that he is pointing out to the several counties.

Some of those things are, for instance, wiring that runs along a cement wall through the patients cell, along side where his bed lays or barenaked light bulbs in the cell room itself where they can be used to inflict harm on someone else. They are talking about removal of unsanitary conditions in the kitchen, such as greasy stoves, foul plumbing. You are talking about, for instance, the boiler that is located just directly in front of the cell where the prisoners are being held.

Now, consider the person that is being held for intoxication, a 16-year-old boy. Would you want your 16-year-old boy in that cell,

in that cellar, in that municipal jail?

True, the inspection is going to say you have to close that cell down. But if that cell is inadequate, it is inhumane, then it should be closed down and should be corrected. We are not going back to the dark ages. For God's sake, we finally reached a position in society where we do render humane treatment to people even though they are law breakers. It isn't an eye for an eye. There is no reason for anybody to be kept under those conditions.

I think that the man is eminently qualified to do the inspections; he has some 12 years of experience in that field. He does a very adequate job. Because of the job he has done in the county jails today, in Kennebec County for instance, we have had several major breaks in this jail, and because of his report, the conditions there have been changed to make it a more secure jail, to make it secure not only for society who is trying to be protected but to make it also humane for the people who are being kept there and secure to the other prisoners in the jail.

Now, those things came about through enlightenment and reform, and that is what this bill will do. It will reform some of the old municipal lockups that are inadequate and provide for routine annual inspection. And if there are changes that have to be made, those changes will be changes made on the recommendation of an expert in the field of minimum standards for jails.

That is what I am asking. Defeat the majority "ought to pass" report. I took an interest in the bill because I have seen what can happen in these particular jails, particularly in this county and in my town. This kind of legislation is needed, its time has come and it is time for us to act. So I would ask you to defeat the motion made by the gentlewoman from Orrington, and to move on the other committee report, which is minority "ought to pass."

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

Mr. GAUTHIER: Mr. Speaker and Members of the House: Most of the objections are the criticisms that were brought by the inspector, and the inspections that was just mentioned to you were in the county jails. That is what he found out at the county jails. In fact, I think that what you are asking in this bill here, part of it is already done in the present laws as far as your county jails are concerned. And as far as your lockups in your town, like Mr. Perkins has told you, the committee has felt, the majority, that this would be an awful burden on the towns for the small part-time that these people are going to be in there.

I am sure that in each of your towns you have plumbing inspectors and you have electrical inspectors and most of these overnight jails are in your town halls. I am sure that the wiring is not in that bad condition because I am sure that your electrical inspectors will make sure that your town hall is secured and the jails are taken care of. It is too much of an expense, the committee felt, to have an inspector go into these 53 different places and I have told you before and the expense doesn't call for as much as this. Therefore, I hope that you will continue to vote as you did previously.

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

Mr. THERIAULT: Mr. Speaker, Ladies and Gentlemen of the House. There are a few points here that I would like to make. We have a jail in our town and it serves all the surrounding areas. In fact, there are only two jails in the entire Oxford County. In our area, the Rumford jail has to take care of all the towns in our area. Now if there are any changes to be made, the cost will have to be borne entirely by the Town of Rumford. It still is providing services for half of Oxford County.

Another point is the fact that my friend Mr. Whitzell said something about a kitchen and its condition. We are proud of our jail in Rumford, but we have no kitchen.

The prisoners are only held overnight, in some cases two or three days, and we have to provide them meals and we have to go out to the local restaurants to get them meals and serve them. So that part of it would not apply, but if Mr. Whitzell would require kitchens in these jails, then we would have to build a kitchen. I do not feel that is necessary. So I would like to go along with accepting the "ought not to pass" report.

The SPEAKER: The Chair recognizes the gentleman from Presque Isle, Mr. Dunleavy.

Mr. DUNLEAVY: Mr. Speaker, Ladies and Gentlemen of the House: Just a few words with respect to the duration which these people supposedly spend in the local lockups and also a couple of words with respect to the cost of this bill.

In my particular county we have a Superior Court which houses our only county jail in the same town, which is 42 miles away from my town and which is 100 miles away from some towns in Aroostook County who have local lockups. Just to give you an example, Presque Isle holds arraignments, criminal arraignments on Tuesday, which means that if someone is arrested for something Friday night and he cannot get bail, he stays in that local lockup until next Tuesday morning.

I am sure that the same conditions prevail in the other towns, especially up in Fort Kent, Madawaska where they have local lockups. They just cannot transport them to the county jail with any degree of convenience. So these people do spend a great deal of time there, four and five days sometimes.

With respect to the cost, the gentleman from Gardiner, Mr. Whitzell, plainly told us during the committee hearing on this bill that the same individual who presently inspects the county jails, has plenty of time with which he could do a little inspection on the city local lockups and local jails.

Now as far as any other cost to the municipality, the primary cost would be in soap and water, not in very much else. So I urge



you to go along with Mr. Whitzell and vote against the motion.

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

Mr. MILLS: Mr. Speaker, Ladies and Gentlemen of the House: Having spent about 30 years in that kind of game, I think I can say with some authority that in my trips around Maine and going to some of the local jails where people are incarcerated either for one day or more, you wouldn't keep any of your animals in that same kind of a lockup. Above all, you would not want to put a human being in there, and that is what the officers have to do because they have no other means of holding the prisoner.

I think it is the most inhumane thing that I have observed in law enforcement in the State of Maine, the type of jails that are being used, and I am talking about the municipal jails and not the county jails, because the one in Washington County is beyond repair. I am talking about the plumbing that I see in these things that is coagulated, corroded through. I think Mr. Whitzell has a very good point on annual inspections.

The SPEAKER: A roll call has been ordered. The pending question is on the motion of the gentleman from Orrington, Mrs. Baker, that the House accept the Majority "Ought not to pass" Report. All in favor of that motion will vote yes; those opposed will vote no.

#### ROLL CALL

YEA—Albert, Baker, Berry, G. W.; Berube, Binnette, Birt, Bither, Bragdon, Brawn, Briggs, Brown, Bunker, Cameron, Carey, Carrier, Chick, Churchill, Conley, Cote, Cottrell, Cressey, Davis, Deshaies, Donaghy, Drigotas, Dudley, Dunn, Dyar, Emery, D. F.; Evans, Farnham, Farrington, Ferris, Finemore, Flynn, Garsoe, Gauthier, Hamblen, Haskell, Hoffses, Huber, Hunter, Immonen, Kauffman, Kelleher, Kelley, Keyte, Kilroy, Knight, Lewis, E.; Lewis, J.; Littlefield, Maddox, McCormick, McMahon, McNally, Merrill, Morin, L.; Morton, Murchison, Palmer, Perkins, Pratt, Rollins, Ross,

Shaw, Shute, Silverman, Simpson, L. E.; Stillings, Susi, Theriault, Trask, Trumbull, Tyndale, Walker, Webber, Wheeler, White, Willard, Wood, M. E.; The Speaker.

NAY—Boudreau, Bustin, Chonko, Clark, Connolly, Cooney, Crommett, Curran, Dam, Dow, Dunleavy, Farley, Faucher, Fecteau, Fraser, Gahagan, Genest, Good, Goodwin, H.; Goodwin, K.; Hancock; Hobbins, Jackson, Jacques, Kelley, R. P.; LaCharite, LaPointe, LeBlanc, Lynch, Mahany, Martin, Maxwell, McHenry, McKernan, McTeague, Mills, Morin, V.; Mulhern, Murray, Najarian, Parks, Peterson, Pontbriand, Ricker, Rolde, Santoro, Smith, D. M.; Smith, S.; Soulas, Talbot, Tanquay, Tierney, Whitzell.

ABSENT — Ault, Berry, P. P.; Carter, Curtis, T. S. Jr.; Greenlaw, Henley, Herrick, Jalbert, Lawry, MacLeod, Norris, O'Brien, Sheltra, Sproul, Strout.

Yes, 82; No, 53; Absent, 15.

The SPEAKER: Eighty-two having voted in the affirmative and fifty-three in the negative, with fifteen being absent, the motion does prevail.

Sent up for concurrence.

#### Consent Calendar

##### First Day

(S. P. 448) (L. D. 1415) Bill "An Act Relating to Liability of Distributing Utility for Death or Injury to Person or Damage to Property Caused by Natural Gas" — Committee on Judiciary reporting "Ought to pass" as amended by Committee Amendment "A" (S-103)

(S. P. 521) (L. D. 1652) Bill "An Act Relating to Name of Maine Citizens Concerned for Life" — Committee on Legal Affairs reporting "Ought to pass"

(H. P. 335) (L. D. 453) Bill "An Act Relating to Interstate Parole and Probation Hearing Procedures"—Committee on Judiciary reporting "Ought to pass".

(H. P. 752) (L. D. 1199) Bill "An Act to Make Uniform the Law of Partnerships"—Committee on Judiciary reporting "Ought to pass"

No objection having been noted, were assigned to the Consent Calendar's Second Day list.

(H. P. 823) (L. D. 1086) Bill "An Act Relating to Definition of Agricultural Labor in the Employment Security Law" — Committee on Labor reporting "Ought to pass"

On the request of Mrs. Berry of Madison, was removed from the Consent Calendar.

The SPEAKER: The Chair recognizes the gentlewoman from Madison, Mrs. Berry.

Mrs. BERRY: Mr. Speaker, Ladies and Gentlemen of the House: I would like to have a chance to put an amendment on it.

Thereupon, the Committee Report was accepted. The Bill was read once and assigned for second reading tomorrow.

(H. P. 844) (L. D. 1118) Bill "An Act Relating to Membership on the State Board of Barbers" — Committee on Health and Institutional Services reporting "Ought to pass" as amended by Committee Amendment "A" (H-336)

(H. P. 1091) (L. D. 1423) Bill "An Act Limiting Positions of Trust for Prisoners in Jails to Those Prisoners Sentenced to that Particular Jail" — Committee on Judiciary reporting "Ought to pass" as amended by Committee Amendment "A" (H-338)

(H. P. 1153) (L. D. 1486) Bill "An Act Relating to Venue in Personal and Transitory Actions" — Committee on Judiciary reporting "Ought to pass"

(H. P. 1178) (L. D. 1517) Bill "An Act to Create a Commission to Name Public Buildings, Bridges, Highway and Other Public Works" — Committee on State Government reporting "Ought to pass" as amended by Committee Amendment "A" (H-337)

No objection having been noted, were assigned to the Consent Calendar's Second Day list.

#### Consent Calendar Second Day

(H. P. 216) (L. D. 289) Bill "An Act to Replace Lump Sum Financing of State Employees Retirement with Percentage Financing Based Upon Payrolls Paid"

No objection having been noted, was passed to be engrossed and sent to the Senate.

(H. P. 770) (L. D. 1004) Bill "An Act Relating to Temporary Restraining Order and Cost of Litigation by the Attorney General under Unfair Trade Practices Act"

On the request of Mr. Farrington of China was removed from the Consent Calendar.

Thereupon, the Report was accepted. The Bill was read once and assigned for second reading tomorrow.

(H. P. 936) (L. D. 1235) Bill "An Act Relating to Licenses to Carry Weapons"

On the request of Mr. Simpson of Standish was removed from the Consent Calendar.

Thereupon, the Report was accepted and the Bill read once. Committee Amendment "A" (H. 328) was read by the Clerk and adopted and the Bill assigned for second reading tomorrow.

(H. P. 1154) (L. D. 1487) Bill "An Act Relating to Oral Settlements or Releases for Injured Persons Confined to Hospitals" (C. "A" H-327)

(H. P. 1169) (L. D. 1508) Bill "An Act Relating to Venue of Personal and Transitory Actions Involving the Residents of Brunswick and Harpswell"

(H. P. 1240) (L. D. 1611) Bill "An Act to Place Jurisdiction of Annulment and Divorce Actions in the District Court"

No objection having been noted, were passed to be engrossed and sent to the Senate.

(H. P. 1118) (L. D. 1454) Bill "An Act Clarifying Certain Municipal Laws"

On the request of Mr. Dam of Skowhegan, was removed from the Consent Calendar.

Thereupon, the Report was accepted and Bill read once. Committee Amendment "A" (H-329) was read by the Clerk and adopted and the Bill assigned for second reading tomorrow.

(H. P. 387) (L. D. 516) Bill "An Act to Clarify the Barber Law and Increase Certain Fees"

No objection having been noted, was passed to be engrossed and sent to the Senate.

**Passed to Be Engrossed**

Bill "An Act to Authorize York County to Raise \$800,000 for Construction of a County Jail" (S. P. 529) (L. D. 1659)

Bill "An Act Creating a County Civil Service Commission for Investigator Deputy Sheriffs" (S. P. 439) (L. D. 1341)

Bill "An Act Relating to Fees of Clerks of Courts" (S. P. 171) (L. D. 426) (C. "A" S-101)

Bill "An Act Providing Funds for a Study of the Recreational and Transportation Aspects of Bicycling" (H. P. 1480) (L. D. 1908).

Bill "An Act to Allocate Money from the Federal Revenue Sharing Fund for the Fiscal Years Ending June 30, 1974 and June 30, 1975" (H. P. 341) (L. D. 456) (C. "A" H-326)

Bill "An Act Relating to the Registration of Osteopathic Physicians and Surgeons" (H. P. 1274) (L. D. 1677) (C. "A" H-330)

Bill "An Act Appropriating Funds to Provide a Public Information Officer at Bangor State Hospital" (H. P. 1254) (L. D. 1631)

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

Bill "An Act Relating to Definition of Class A Restaurant under Liquor Laws" (H. P. 761) (L. D. 994)

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

Mr. Martin of Eagle Lake offered House Amendment "A" and moved its adoption.

House Amendment "A" (H-339) was read by the Clerk.

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

Mr. MARTIN: Mr. Speaker, Ladies and Gentlemen of the House: This is in part in response to the suggestion yesterday that I would offer an amendment on this bill.

Keep in mind that at the present time under existing law, even though the commission may feel that a hot dog stand could qualify, there is nothing in the law to allow the commission the right to deny them that license. Basically what

the amendment would do is to provide that when an applicant in a community of less than 5,000 people has met that dollar figure that I have suggested to you, the commission would have the right and would have the option of making a determination whether or not a hot dog stand or a joint would be created as a result of liquor being served on the premises and they could deny them the option of getting the license.

It would further provide, as I understand the system of operation, if an applicant is denied by the commission, then the applicant who is denied would have the right, if he feels that he was unjustly denied the application, he could go to Superior Court and ask the court to overturn the decision of the commission. But it would set up a system to operate in small towns and to provide them an opportunity to get the license and I think that this resolves the problem, and I hate to use, and I will not, it resolves the problem that many of the signers of the "ought not" report had. I hope you will accept the amendment.

Thereupon, House Amendment "A" was adopted.

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

Bill "An Act to Enable Communities to Establish Multiple Community Solid Daste Districts" (H. P. 1138) (L. D. 1520) (C. "A" H-321)

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

Mr. Susi of Pittsfield offered House Amendment "A" and moved its adoption.

House Amendment "A" (H-333) was read by the Clerk and adopted.

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

### Second Reader Indefinitely Postponed

Bill "An Act Relating to Determination of Just and Reasonable Electrical and Telephone Utility Rate by Public Utilities Commission" (H. P. 1192) (L. D. 1532)

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

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

Mr. KELLEHER: Mr. Speaker, I move the indefinite postponement of this bill and all its accompanying papers. I would like to speak on my motion.

The SPEAKER: The gentleman from Bangor, Mr. Kelleher, moves indefinite postponement of L. D. 1532 with all accompanying papers. The gentleman may proceed.

Mr. KELLEHER: Ladies and Gentlemen of the House: This is similar to a bill that we heard last week. Yesterday, Representative Carter presented some figures to us in this House concerning the cost of various power companies and utility companies insofar as paying for lobbyists to lobby bills both here at the state level and the federal level.

I was not prepared yesterday, and probably some will not think that I am prepared this morning, but I did contact the PUC office. In 1971 there was an account listing — I cannot remember the account now that Representative Carter had on the documents presented to each individual legislator — but it stated that X amount of thousands of dollars were paid out to various lobbyists concerning bills before the state and federal level. In checking with the commissioners office, this is true, there was X amount of dollars paid out, but it was below the line and the rate payers did not pay for this, it was not considered in the rates and when the utility companies do come in for their rates, these type of expenses are not allowed. They are not allowed now and the commission will not allow them any other time. The statute is on the books, and I am not sure of the number, but it gives the Public Utility Commission ample authority to determine what is fair and what is just and although these figures are not accurate, the intent is not accurate because the PUC Commission does not allow that these monies be applied to the rate payers. I ask

that the House support the indefinite postponement motion.

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

Mr. WHITZELL: Mr. Speaker, Members of the House: I rise in opposition to Mr. Kelleher's position again on this bill as with my own advertising bill. I would like to pose one question through the Chair to the gentleman from Bangor and that question is how many hours of research has he put into looking into the books of the several utility companies, something other than a telephone call. I have spent over 300 hours working on the bill to limit the advertising expenses that are spent — the advertising expenses and promotional expenses of the utility companies and for me to hear somebody stand up and completely on a moment's notice be able to knock down 300 hours of work, I defy that — that there is any justice at all in that.

If he is speaking from authority, then let him show us the figures and let him show us the facts because certainly the people who have been out promoting and looking into this type of legislation where there is possibly legislation on the books that is questionable, then the rest of us who are spending all the hours doing the work are certainly wasting our time and we are shoveling against the tide.

The SPEAKER: The gentleman from Gardiner, Mr. Whitzell, poses a question through the Chair to anyone who may care to answer.

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

Mr. KELLEHER: Mr. Speaker, Members of the House: I didn't spend 300 hours researching this and I submit this legislature since we have been in since January has not been here 300 hours and I doubt very much if the gentleman over there spent that many hours. All I can tell you is what I was told this morning and I take the gentleman to be an honest, honorable man.

The PUC Commission does not allow what he is trying to describe. It says right here in the statement of fact on Mr. Carter's bill, "The

purpose of this bill is to exclude from the Public Utilities Commission's determination of just and reasonable rates for electrical and telephone companies the expenditures of influenced legislation on the state or federal level." They do not allow it now. I don't care if he spent 500 hours here, it hasn't been allowed this year or the year prior to this year. I dislike his insinuations that I just took it as a graceful move to come in here and wipe away 300 hours of his time. I doubt that he spent 300 hours, although I know he is a very capable and energetic fellow that likes to research.

This bill is not necessary and I ask the House to support my motion this morning.

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

Mr. CARTER: Mr. Speaker, Ladies and Gentlemen of the House: It seems as though we are covering again the same ground that I covered yesterday. Had my good friend from Bangor, Mr. Kelleher, paid a little more attention, he would have probably picked up the fact that I stated that the information that I passed out on the first sheet of the four sheets, I clearly stated that these expenses were disallowed as a legitimate expense in the process of rate making. The account to which he refers is account number 426.4.

Now, I went on to state that the figures that I obtained through the office of Congressman Hathaway were not included in this account. This is a bone of contention. This is why this bill was introduced and that, ladies and gentlemen of the House, I tried not to hide. I thought I made myself perfectly clear but apparently I haven't.

I would hope that you would not go along with the motion to indefinitely postpone and stick to the original bill.

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

Mr. DUDLEY: Mr. Speaker, Members of the House: I, too, haven't spent 300 hours but I do have some confidence in the present utility commission. I think they are honorable men and try-

ing to do a good job and I accept their information as being reliable.

Now, my question that I arise to talk to you about right this minute is if we pass this bill, I don't believe we will need this utility commission any more, so that may be a saving to the state. So if we are going to pass this bill, I hope we will do away with the commission because we apparently are going to take the job upon ourselves. This type of legislation, seems to me, takes the job upon ourselves, the legislature, to set rates and so forth and this is the very thing that we wanted to get away from when we created this department and tried to get honorable men to run it.

So, I hope the motion to indefinitely postpone does prevail. If it doesn't, I have — see that we should do away with this commission, we won't need them anymore if we are going to come to a point where we determine the rates and so forth, and it would then take us 300 hours and we couldn't go up there and get the information like I had done just recently. We would really have to put a lot of hours in, and I think they are doing a very good job; and if we keep the commission, we don't need this item 10 on today's calendar and I hope we indefinitely postpone it.

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

Mr. CARTER: Mr. Speaker, Ladies and Gentlemen of the House: I don't want to prolong the debate but I would merely like to point out that passage of this bill is not going to render the Public Utilities Commission useless. All we are merely going to do is set guidelines for them to adhere to.

If you recall yesterday, I posed a question to certain people over at PUC and asked them when they made the ruling excluding these expenses and apparently, the answer I got anyway was that there was no such formal ruling made, that they had stopped this procedure several years back. They couldn't exactly remember how many years back. I thought that it was obvious that they are doing it now, but they are not doing it

fully and this bill would merely assure all of us, the consumer, since we are dealing with a different type of a business, which in reality is a paradox of the free enterprise system, we have them because of necessity, not because of a luxury.

I would hope that you would defeat the motion to indefinitely postpone and pass this legislation.

Mr. Genest of Waterville requested a roll call vote.

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

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

The SPEAKER: The pending question is on the motion of the gentleman from Bangor, Mr. Kelleher, that L. D. 1532 and all accompanying papers be indefinitely postponed. All in favor of that motion will vote yes; those opposed will vote no.

#### ROLL CALL

YEA — Baker, Berry, G. W.; Birt, Bither, Brawn, Brown, Cameron, Chick, Churchill, Conley, Cote, Cressey, Davis, Dudley, Dunn, Emery, D. F.; Evans, Farnham, Farrington, Ferris, Finemore, Flynn, Good, Hamblen, Henley, Hoffses, Huber, Hunter, Immonen, Jackson, Kauffman, Kelleher, Kelley, Kelley, R. P.; Kilroy, Knight, Lawry, Lewis, E.; Littlefield, Lynch, Maddox, Maxwell, McCormick, McNally, Merrill, Morton, Murchison, Palmer, Parks, Pratt, Rollins, Ross, Shute, Silverman, Simpson, L. E.; Sproul, Stillings, Trask, Trumbull, Tyndale, Walker, Wheeler, White, Willard, Wood, M. E.; The Speaker.

NAY — Albert, Berube, Binnette, Boudreau, Briggs, Bustin, Carey, Carter, Chonko, Clark, Connolly, Cottrell, Crommett, Curran, Dam, Deshaies, Dow, Drigotas, Dunleavy, Dyar, Farley, Faucher, Fecteau, Fraser, Gauthier, Genest, Goodwin, H.; Goodwin, K.; Hancock, Hobbins, Jacques, Keyte, LaCha-

rite, LaPointe, LeBlanc, Lewis, J.; Mahany, Martin, McHenry, McKernan, McMahon, McTeague, Mills, Morin, L.; Morin, V.; Mulkern, Murray, Najarian, Norris, O'Brien, Perkins, Peterson, Ricker, Rolde, Santoro, Shaw, Smith, D. M.; Smith, S.; Soulas, Talbot, Tanguay, Theriault, Tierney, Webber, Whitzell.

ABSENT — Ault, Berry, P. P.; Bragdon, Bunker, Carrier, Cooney, Curtis, T. S., Jr.; Donaghy, Gahagan, Garsoe, Greenlaw, Haskell, Herrick, Jalbert, MacLeod, Pontbriand, Sheltra, Strout, Susi.

Yes, 66; No, 65; Absent, 19.

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

#### Constitutional Amendment Tabled and Assigned

Resolution Proposing an Amendment to the Constitution Providing for Early Inauguration of the Governor (H. P. 1001) (L. D. 1326)

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

On motion of Mr. Martin of Eagle Lake, tabled pending enactment and tomorrow assigned.

#### Passed to Be Enacted Emergency Measure

An Act Changing Name of South Kennebec Agricultural Society and Relating to Membership Therein (H. P. 1290) (L. D. 1678)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure and a two-thirds vote of all the members elected to the House being necessary, a total was taken. 123 voted in favor of same and none against, and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

#### Finally Passed Emergency Measure

Resolve Designating Kennebas Road in Indian Township, Washington County, as a State Road (S. P. 601) (L. D. 1892)

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

emergency measure and a two-thirds vote of all the members elected to the House being necessary, a total was taken. 119 voted in favor of same and 3 against, and accordingly the Resolve was finally passed, signed by the Speaker and sent to the Senate.

**Passed to be Enacted**

An Act Relating to Credit Unions (S. P. 337) (L. D. 1036) (C. "A" S-98)

An Act Relating to Boundaries of Ocean Park Game and Bird Sanctuary (H. P. 346) (L. D. 461) (H. "B" H-296)

An Act to Repeal Borrowing Limitations Relating to Trust Companies (S. P. 414) (L. D. 1253)

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

**Enactor**

**Tabled and Assigned**

An Act to Revise the Maine Insurance Code as Related to Separate Accounts Established by Insurance Companies (H. P. 870) (L. D. 1158) (C. "A" H-291)

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

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

Mr. SMITH: Mr. Speaker, Ladies and Gentlemen of the House: I set this item aside simply because I am trying to fathom exactly what it was doing a few minutes ago and I frankly could not understand what its practical effect would be. So as a beginning, I would simply pose a question to anybody who could answer what this bill does.

On motion of Mr. Martin of Eagle Lake, tabled pending enactment and tomorrow assigned.

An Act Relating to Tread Depth of Motor Vehicle Tires (H. P. 1051) (L. D. 1380) (H. "A" H-308)

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

An Act to Provide an Agricultural Education Consultant within the Department of Educational and Cultural Services ((H. P. 1288) (L. D. 1673) (C. "A" H-289)

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

The SPEAKER: The Chair recognizes the gentleman from Fairfield, Mr. Lawry.

Mr. LAWRY: Mr. Speaker, Ladies and Gentlemen of the House: This bill just recreates a position that was found unnecessary. Back years ago most high schools, including my own, had an agricultural program which was very good and served a worthwhile purpose. Through the years the demand for it has just disappeared so this was discontinued.

I checked with some of the farmers in my area. Believe it or not, all the farmers are not in Aroostook. They didn't show any great favor for this position or this bill. So in view of this, what I would like to do is ask for a roll call on enactment.

The SPEAKER: The Chair recognizes the gentleman from Kennebunkport, Mr. Tyndale.

Mr. TYNDALE: Mr. Speaker, may I ask the Clerk of the House as to how this report came out of committee?

Thereupon, the Committee Report was read by the Clerk.

The SPEAKER: The Chair recognizes the gentleman from Kennebunkport, Mr. Tyndale.

Mr. TYNDALE: Mr. Speaker, Ladies and Gentlemen of the House: This bill was inspired by the Future Farmers of America because of the fact that many of the young men throughout the country were not coming back to the agricultural pursuit. In order that they might excite some interest and also that they might influence more young men to stay in the farming industry, they suggested, I presume, that this bill be submitted, the idea being that if they did have an agricultural consultant in the Department of Education; that he could encourage more young men to study farming and thus preserve a most essential industry.

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

Mr. BITHER: Mr. Speaker, members of the House. We have debated this over and over and over again. We had a very good hearing in committee. We had about 200 people there. I don't know whether Mr. Lawry was there or not and I don't know to what extent they do agriculture farming up in his area, but this is not a County bill at all. This is a bill that affects the whole of the State of Maine.

I mentioned before that agriculture is still the greatest industry in the state. I checked with a great many high schools and they weren't all in Aroostook County and the high schools want this bill.

Now, my position on creating new jobs is pretty well known in this House and I do not favor that at all. This particular one I think is very very necessary. We need to continue to increase and enforce our agriculture.

Now, if the vocational agricultural courses in our high schools are down right now, it is understandable; and I think they are down at a low point, because agriculture has been down at a low point. There hasn't been much pay, and many of our young men haven't cared to go into agriculture; but things may be picking up in the next few years. We do need an agricultural consultant.

The reason why the agricultural consultant was dropped in the first place, I understand it was for reasons of differences in personnel over there and they dropped him. That was in '72. Now, we feel we do want it back and I hope you vote for passage of this bill.

The SPEAKER: The Chair recognizes the gentleman from Exeter, Mr. Smith.

Mr. SMITH: Mr. Speaker and Ladies and Gentlemen of the House: I would like to correct an impression left by the gentleman from Fairfield, Mr. Lawry. If it is true that agriculture is declining, then maybe this position should have been abolished. If that is so, I probably agree with him.

However, I think what we have here is a problem of illusion. If

one looks only at the number of people in agriculture, then it is true that agriculture is declining. During the period of 1964 to 1965, we did lose one third of our farms in the State of Maine from about 12,800 to about 8,100. However, one must look at the total economic impact that agriculture makes upon the state; and if you look at that, you will find that agriculture is in an upward movement.

Our net cash receipts, for instance, have increased from the years 1960 to 1970 about \$4 million per year. Commercial farming in Maine generates a quarter of a billion dollars. This \$250 million, through the processing of the food product and so forth, generates about \$600 million total of economic impact in the State of Maine.

I think the crux of the problem now is that agriculture is getting larger in terms of cash receipts, and it is getting more sophisticated. What we really need is better management on our farms in order for us to be competitive with other areas; and because of this necessity for better management, it becomes more critical that we get better educated students out of our school system.

So I would urge you to look at the overall picture and to support this bill.

The SPEAKER: The Chair recognizes the gentleman from Easton Mr. Mahany.

Mr. MAHANY: Mr. Speaker, Members of the House: We had a good debate on this bill the other day. I think everybody fully realizes that there is more high schools with an agriculture course than just in Aroostook County. I think I mentioned the fact that in the state there is 17 high schools that do have an agricultural program.

Now, this position is not new. It was dropped, as I understand, or nearly dropped during the reorganization. The various agriculture teachers throughout the state believe this is something that is essential, this position that we were speaking about.

I think that agriculture has dropped some in the last few years, but in the last two I think it has been building more interest.



I think we need this position filled to have our agriculture courses run effectively and efficiently. I hope that you will go along and vote for keeping this bill as we voted the other day.

The SPEAKER: The Chair recognizes the gentleman from Benton, Mr. Hunter.

Mr. HUNTER: Mr. Speaker, Members of the House: I also favor this bill and I think that we should be doing something for our farm youth. They don't get too much, I don't think, out of education in this line. We passed the bill the other day to teach environment in our schools. I would be kind of afraid that without food, this wouldn't do us too much good; and we also passed a bill to raise money for a colt stake program here a while ago. I am afraid those colts might get kind of hungry.

The SPEAKER: The Chair recognizes the gentleman from Van Buren, Mr. LeBlanc.

Mr. LeBLANC: Mr. Speaker and Ladies and Gentlemen of the House: I signed the "ought not to pass" report, but I have since changed my mind. In further checking, I found that the schools do need this counsellor to coordinate the agriculture programs. I will vote for its passage.

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

Mr. COTE: Mr. Speaker and Ladies and Gentlemen of the House: I supported this bill the other day, I support it today. I know that all the future farmers in the City of Lewiston want this bill.

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

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

The SPEAKER: The pending question is final enactment of L. D. 1673, An Act to Provide an

Agricultural Education Consultant within the Department of Educational and Cultural Services. This being an emergency measure, a two-thirds vote of all the elected members of the House is necessary. All in favor of enactment will vote yes; those opposed will vote no.

#### ROLL CALL

YEA — Albert, Berry, G. W.; Berube, Binnette, Birt, Bither, Boudreau, Brawn, Briggs, Brown, Bunker, Carey, Carter, Chick, Chonko, Churchill, Connolly, Cote, Cottrell, Cressey, Crommett, Curran, Dam, Davis, Deshaies, Dow, Drigotas, Dudley, Dunleavy, Dunn, Emery, D. F.; Evans, Farnham, Farrington, Faucher, Fecteau, Finemore, Flynn, Fraser, Genest, Good, Goodwin, H.; Goodwin, K.; Hamblen, Hancock, Haskell, Henley, Herrick, Hobbins, Hoffses, Hunter, Immonen, Jackson, Jacques, Kauffman, Kelleher, Kelley, Kelley, R. P.; Keyte, Kilroy, Knight, LaCharite, LaPointe, LeBlanc, Littlefield, Maddox, Mahany, Martin, Maxwell, McHenry, McKernan, McMahon, McNally, McTeague, Merrill, Mills, Morin, L.; Morin, V.; Morton, Mulkern, Murchison, Murray, Najarian, Norris, O'Brien, Parks, Perkins, Pratt, Ricker, Rolde, Rollins, Ross, Santoro, Shaw, Shute, Silverman, Simpson, L. E.; Smith, D. M.; Smith, S.; Soulas, Sproul, Stillings, Susi, Tanguay, Theriault, Tierney, Trask, Trumbull, Tyndale, Walker, Webber, Wheeler, White, Whitzell, Willard, Wood, M. E.

NAY — Baker, Bustin, Clark, Conley, Dyar, Ferris, Garsoe, Lawry, Lewis, E.; Lewis, J.; Lynch, McCormick, Palmer.

ABSENT — Ault, Berry, P. P.; Bragdon, Cameron, Carrier, Cooney, Curtis, T. S., Jr.; Donaghy, Farley, Gahagan, Gauthier, Greenlaw, Huber, Jalbert, MacLeod, Peterson, Pontbriand, Sheltra, Strout, Talbot.

Yes, 116; No, 13; Absent 20.

The SPEAKER: One hundred sixteen having voted in the affirmative and thirteen having voted in the negative, with twenty being absent, this bill is passed to be enacted, will be signed by the Speaker and sent to the Senate.

An Act to Regulate the Size of Shot in Shotgun Shells for Waterfowl Hunting (H. P. 1466) (L. D. 1891)

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

The SPEAKER: The Chair recognizes the gentleman from Oakland, Mr. Brawn, relative to item 10.

Mr. BRAWN: Mr. Speaker and Ladies and Gentlemen of the House: I waited for this bill until the enactment, because I did not want anyone to shoot me down.

If you read this bill, this is in regards to waterfowl. It says that no shot larger than No. 2. Then in the last paragraph of this same thing, it says that the use of single ball cartridges and single slugs is not prohibited under this section. Gentlemen, I buy a stamp to hunt waterfowl, as many of you do. I hunt deer. I hunt deer with a shotgun with .00 buckshot. The gentleman has forgotten that from No. 2 there are BB's, there is .0 buck, which has 12 shots; there is No. 1 buck, which has 16 shots and .00 buck that has 9 shots. Why would he want to eliminate these?

If I am out hunting deer and I come onto a river — and I am talking about the Kennebec River up here where there is geese in it and I have shot them in it — and my gun is loaded with .00 buckshot, and I have my stamp with me, I have got to say, "Goosey, you can go on home, I can't shoot at you because I haven't got anything on my person to hunt." But if I have some slugs with me, a ball, I can shoot it. This is not common sense.

When I go hunting, I do not shoot at anything that I do not intend to kill. I think this is the object of why I go. When a man puts in a bill here that you can't hunt waterfowl with less than No. 2 shot, but you can hunt with slugs or balls, then I think that you people who have farms had better go along with me; and I now move to indefinitely postpone this bill and all its accompanying papers.

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

Mr. KELLEY: Mr. Speaker and Ladies and Gentlemen of the House: I think I can explain this bill to you. As many of you know, I have been a waterfowl hunter for many years. Considerable work was done on research on this bill. The bill originally was written to include all hunting in the State of Maine. We changed it to waterfowl because we know of people who do use buckshot still in hunting deer.

The reason that balls and slugs were left in there was so that a man who was out waterfowl hunting could have a shell in his pocket to kill a deer if the deer season was open. No man in his right mind is going to start shooting at flying ducks or geese or even sitting with a ball cartridge. This was merely to set the thing up so that a man would not be deprived of an opportunity to kill a deer if he wished to and the season was open.

Let's get into shot sizes. You have heard something about it. You have heard about a quarter of the various shot sizes mentioned that go between No. 2 shot and a single slug or ball cartridge, then there are T's and Double T's and triple T's; there are single B's, double B's and triple B's, and many of these shot sizes are no longer loaded; and if you were to study the modern day shot price list, you will find that Remington in its Peters and in its Remington shells, for a .10 gauge magnum, which is considered to be the heaviest legal gun to use for waterfowl hunting, No. 2 shot is the only size that they load in the shells for these guns. Winchester and Western load 2's and 4's. This is the biggest gun a man can legally use. It is used for extremely long-range shooting. No. 2 shot is chilled. Your common BB's are soft shot and also they are a little heavier than the 2's and will carry further. If you were to shoot at a duck or a goose at extreme ranges, unless you hit a wing or the neck and head, these shot going in the body ball up in feathers and barely pierce the skin where 2's will cut through and kill cleanly. Most of your Atlantic fly-

way states do have this limitation on shot sizes for hunting waterfowl.

There is another very good reason for prohibiting buckshot in waterfowl hunting. Lots of the hunting is done in relatively crowded areas like Merrymeeting Bay. Double ought buckshot will carry for half a mile. There are many people who will shoot at high passing flocks of geese hoping that by chance they might pick a goose out, and they are endangering every waterfowl hunter and every farm child and woman and everybody else who may be within a half a mile of them because of the carrying capacity of buckshot; and to go to the other end of the scale, the BB's will carry in excess of 400 yards. They will take out an eye, they will do a great deal of damage.

The Maine Waterfowl Council supports this bill. Most of your sportsmen's clubs, at least all that I have talked with that have interest in waterfowl, support it. It also will prevent a lot of loss of birds through crippling that are hit when they are northbound in the south end, flying miles and then dying in the air and not doing anybody any good.

I urge you all to defeat the motion for indefinite postponement.

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

Mr. BRAUN: Mr. Speaker and Ladies and Gentlemen of the House: I am very proud this morning to hear my good friend from Southport, Mr. Kelley, tell me that if he is out goose hunting, that he has a slug and if he sees a deer, he is going to put it in. I remember just a short time ago when Mr. Kelley didn't want the duck hunters to wear fluorescent clothing. You cannot hunt deer if you have not got on fluorescent clothing. Doesn't he remember his bill?

Then I want to say one thing more here. When he says that BB's will not do the damage that buck and No. 2 will, I am surprised; because the bigger your shot, the further it travels and the more it penetrates. If you shoot No. 6 shot at a distance of about 35 yards,

it won't penetrate more than three-fourths of an inch to an inch of pine board. But you can take .00 shot at 100 yards and you can put them through it. So I am surprised at the man telling us this, too.

So, I do hope now that he didn't want us — he wanted everyone to wear fluorescent clothing, now I understand he is going to hunt deer even if he hasn't got it on when he is out there. I hope you will go along with me and indefinitely postpone this bill.

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

Mr. KELLEY: Mr. Speaker and Ladies and Gentlemen of the House: To be brief, if you read the fluorescent clothing bill, while you are in a boat or in a duck-blind, you are exempt from it and if you are hunting in conjunction with decoys.

As far as the penetration of shot, I would just remind you that BB's and buckshot are drop shot. They are softer and they will not penetrate as well as chilled shot.

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

Mr. McNALLY: Mr. Speaker and Ladies and Gentlemen of the House: I hope the House will forgive me but we have a fellow down in Trenton that is a registered guide and a good one and we call him Honest George. He has a .20 gauge shotgun that he shoots his deer right up over the top of a mountain a half a mile away, and I am going home and apologize to him now that I have learned that a shotgun will carry a half a mile.

The SPEAKER: The pending question is on the motion of the gentleman from Oakland, Mr. Brawn, to indefinitely postpone L. D. 1891 and all accompanying papers. All in favor of that motion will vote yes; those opposed will vote no.

A vote of the House was taken.

Mr. Brawn of Oakland requested a roll call.

The SPEAKER: A roll call has been requested. For the Chair to order a roll call, it must have the expressed desire of one fifth of the

members present and voting. All those desiring a roll call vote will vote yes; those opposed will vote no.

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

The SPEAKER: The pending question is on the motion of the gentleman from Oakland, Mr. Brawn, that L. D. 1891 and all accompanying papers be indefinitely postponed. All in favor of that motion will vote yes; those opposed will vote no.

#### ROLL CALL

YEA — Baker, Berry, G. W.; Binnette, Birt, Brawn, Bunker, Bustin, Carey, Carter, Chonko, Conley, Connolly, Cressey, Dam, Donaghy, Dow, Dudley, D y a r, Emery, D. F.; Farley, Farnham, Faucher, Fecteau, Finemore, Flynn, Genest, Hoffses, Hunter, Immonen, Kauffman, Kelleher, Kelley, Kilroy, Knight, LaPointe, Lawry, McCormick, M e m a h o n, McNally, McTeague, M u l k e r n, Norris, Pontbriand, Rollins, Shaw, Shute, Silverman, Simpson, L. E.; Sproul, Theriault, Trask, Tyndale, Wheeler, Wheeler, White, Willard.

NAY — Albert, Berube, Bither, Boudreau, Bragdon, Briggs, Brown, Cameron, Chick, Churchill, Clark, Cooney, Cote, Cottrell, Crommett, Curran, Davis, Deshaies, Drigotas, Dunleavy, Evans, Farrington, Ferris, Fraser, Garsoe, Gauthier, Good, Goodwin, K.; Hamblen, Hancock, Haskell, Hobbins, Huber, Jackson, Jacques, Kelley, R. P.; Keyte, LaCharite, LeBlanc, Lewis, E.; Lewis, J.; Lynch, Maddox, Mahany, Martin, M a x w e l l, McHenry, McKernan, M e r r i l l, Mills, Morin, L.; Morin, V.; Morton, Murchison, Murray, Najarian, Palmer, Parks, Perkins, Peterson, Pratt, Ricker, Rolde, R o s s, Santoro, Smith, D. M.; Smith, S.; Stillings, Susi, Tierney, Trumbull, Walker, Whitzell, Wood, M. E.

ABSENT — Ault, Berry, P. P.; Carrier, Curtis, T. S., Jr.; Dunn, Gahagan, Goodwin, H.; Greenlaw, Henley, Herrick, Jalbert, Littlefield, MacLeod, O'Brien, Sheltra, Soulas, Strout, Talbot, Tanguay.

Yes, 56; No, 74; Absent, 19.

The SPEAKER: Fifty-six having voted in the affirmative and seventy-four having voted in the negative, with nineteen being absent, the motion does not prevail.

Thereupon, the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

#### Finally Passed

Resolve Designating A u g u s t a Bridge as "Father John J. Curran Bridge" (H. P. 1050) (L. D. 1369) (C. "A" H-292)

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

#### Orders of the Day

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

Mr. BRIGGS: Mr. Speaker and Ladies and Gentlemen of the House: Mr. Speaker, if the House is in possession of joint order 1481, can I get this amendment attached to it before you proceed with the tabled items?

The SPEAKER: The Chair would answer that the House is in possession of House Paper 1481, a Joint Order relative to State Police Trooper Arnold G. Gahagan Jr.

On motion of Mr. Martin of Eagle Lake, tabled pending reconsideration and later today assigned.

Mr. Crommett presented the following Joint Order and moved its passage:

WHEREAS, it was the law of this land in 1641 that . . . "No man shall exercise any tyranny or cruelty toward any brute creature which are usually kept for man's use . . ."; and

WHEREAS, the prevention of cruelty to domestic animals and pets and provision for their protection have long been the concern of humanitarians; and

WHEREAS, kindness to every living creature is a vital part of humane activity that can make every community a better, healthier and happier place in which to live for both people and animals; and

WHEREAS, the week of May 6th through the 12th has been set aside and designated nationally as the 59th annual "Be Kind to Animals Week" in order to stimulate and revive humane thoughts and to encourage year-round kindness to all animal life; now, therefore, be it

ORDERED, the Senate concurring, that the Members of the 106th Legislature join together on this occasion in calling public attention to the need for continued improvement in treatment of all animals, domestic and wild, and in commending those in the animal protective movement who have faced the world of wild and domesticated animals in a responsible manner; and be it further

ORDERED, that a suitable copy of this Order be forwarded to the Governor and the Department of Agriculture in token of our support. (H. P. 1487)

(On motion of Mr. Simpson of Standish, tabled pending passage and tomorrow assigned.)

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

Mr. NORRIS: Mr. Speaker and Ladies and Gentlemen of the House: I would inquire if the House is in possession of Senate Paper 79, L. D. 196, Bill "An Act Relating to the Use of Studded Tires on Motor Vehicles?"

The SPEAKER: The Chair would answer the gentleman that the House is in possession of L. D. 196.

Mr. NORRIS: Mr. Speaker, I would now move that the House reconsider its action whereby it adhered yesterday.

On motion of Mr. Simpson of Standish, tabled pending reconsideration and specially assigned for Thursday, May 10.

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

Bill "An Act Increasing Minimum Wages" (H. P. 91) (L. D. 112) (C. "A" H-318)

Tabled — May 4, by Mr. Simpson of Standish.

Pending — Motion by Mr. Brown of Augusta to accept the Minority "Ought not to pass" Report.

The SPEAKER: The Chair recognizes the gentleman from Saco, Mr. Hobbins.

Mr. HOBBS: Mr. Speaker, Ladies and Gentlemen of the House: I urge you not to accept the motion made by the gentleman from Augusta, Mr. Brown.

For those who served in the 105th Legislature, you may recall that a compromise bill calling for a minimum wage of \$1.80 was enacted. As you know, the cost of living has gone up greatly in the past two years despite the efforts of the Nixon Administration.

Organized labor has provided working people with cost of living raises that has helped keep the man or woman on the street above the inflationary level. But I ask you, who is going to represent the one that is not organized, the individual who is a laborer and isn't organized? This individual doesn't have union officials. He or she can't bargain and he or she is sometimes at the mercy of his employer. Who does this person look to? What can this person do? We are the ones, ladies and gentlemen of the House, who are supposed to be representing this unrepresented individual.

At this point in history, just about everyone recognizes that we have a highly sophisticated and integrated society and economy. The welfare of each of us is dependent on the welfare of others.

I think we learned from the Great Depression that we cannot have consumption without income and that we cannot have income without consumption.

The Fair Labor Standards Act was introduced as a measure to fight the depression, and it worked. The increased incomes of working people allowed them to purchase more and in purchasing more, created new jobs and with new jobs came renewed prosperity.

Now, all of this is regarded as an elementary principle in our economy. It is not a revolutionary idea, for it was present in the 30's, as many of you probably can remember. It is an idea held by

labor, business, and consumers alike.

This bill does not challenge or tamper with the principle of the interrelation of income and consumption for all. It simply updates the laws that make the principle a practical reality.

I do not have to outline for this House the causes for inflation. The war in Viet Nam and present federal deficits have created demands in excess of supply which has eroded the value of the dollar. Nor do I have to outline the consequences a lower real wage means for the Maine family living at the minimum wage. For many, going on welfare becomes financially more sensible.

In any case, a 40-hour work week means a gross pay of \$72, and that \$72 does not represent the purchasing power that this amount had when we passed our previous minimum wage. So, if we increase the minimum wage to \$2.00, we are really not increasing the number of loaves of bread or bottles of milk that people can buy with the minimum wage. We are doing nothing but catch up. It does nothing to let these individuals get ahead.

If we cannot provide for our people with a minimum of this type, how can we really, as legislators, expect children in our state to aspire to be normal, productive Maine citizens when they see their parents working but still not earning enough money to meet the minimum needs of their families. Certainly, a minimum wage must be set that allows a worker some dignity in his work and in the life he leads, a wage that shows his or her children that it is worthwhile to work for a wage that is a real alternative to idleness and welfare.

I sincerely hope that each and everyone of you, as members of this distinguished body, will weigh the merits of this crucial bill before you, and I hope your decision will be a just one for the people of Maine.

When the vote is taken, Mr. Speaker, I request the yeas and nays.

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

Mr. BROWN: Mr. Speaker, Ladies and Gentlemen of the House: This bill is one of several on minimum wage which we have in the committee. At the present time, I understand that we are ahead of the federal government in the minimum wage structure. We are also one of the highest in the country as far as individual states are concerned.

As a practical matter, another approach has been taken to this minimum wage problem in which we felt it better that — or at least many of us did — that this minimum wage for the State of Maine float with whatever the federal minimum wage might be. These other bills are still to come out of committee. Some of them have been acted on, some have not. But this is the reason why this one has been turned by a majority of the committee and the report was "ought not to pass." I hope you will go along with the motion.

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

Mr. ROSS: Mr. Speaker, Ladies and Gentlemen of the House: In 1959 when I was in the other body, I sponsored the first minimum wage law bill in this state. It was for a dollar at a time when many employees throughout the state were receiving approximately 40 cents an hour. This particular piece of legislation did become a party issue. The Democrats wanted to start at \$1.25 an hour against our dollar when we had no law at all.

In the other body it was debated and debated at length. I was accused of being stingy, mean and a regular Simon Legree. At one point, and I feel I can quote this because it is in the record for eternity, one man over there stated, "Senator Ross was so tight that he wouldn't even buy his wife a Playtex girdle." By the way, that made my wife angrier than it made me, because she was sure it was only meant as a derogatory comment on her figure.

Since then we went to \$1.40, \$1.60, and we are now at \$1.80.

When this last increase was passed, we said that we would follow the national trend but not in excess of \$2.00. We all realize what has happened to the cost of living in the last two years.

I now feel that \$2.00 is fair with a maximum of \$2.25 as is in the present bill. But there is a committee amendment to set this limit at \$3.00. This, I feel may come eventually, but it is now premature. But so we can discuss the amendment, I hope you vote against the "ought not to pass" report so you can vote for the bill, and then we can discuss the amendment separately.

The SPEAKER: The Chair recognizes the gentleman from Saco, Mr. Hobbins.

Mr. HOBBS: Mr. Speaker, Ladies and Gentlemen of the House: Point of clarification, could the clerk read the committee reports.

Thereupon, the Clerk read the Committee Reports.

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

Mr. McNALLY: Mr. Speaker and Members of the House: I feel that I must perhaps do a little explaining why I voted with the minority, which was 7 to 6 coming out of committee. We are already among the first eight highest states on minimum wage, and I felt that if we went faster than the federal government did, it would hurt our obtaining industries in here, which the Lord knows we need very badly.

I received a letter when I came back this Monday which pretty much goes along with my thinking. This is from the Maine Merchants Association. It says, "The members of this association respectfully request that you support the acceptance of the minority report of the Labor Committee when L.D. 112 is removed from the Table Tuesday, May 8. We strongly feel that Maine should not continue to be placed in the uncompetitive position of having a bigger minimum wage than its neighboring states." And that is true, we do. "We do support L.D. 911 which you will be considering later on in the session and which proposes

that Maine's minimum wage should be tied to the federal level"

Now, the reason that I like the 911 that they refer to is the fact that it has no umbrella over the top of it. The gentleman from Saco, Mr. Hobbins, bill, had an umbrella which said it shall stop at three dollars.

We know that the federal government has now as their Secretary of Labor the gentleman by the name of Mr. Brennan who is a union man. And there is no question but what we will have a higher minimum wage. There is no question but what it will be as high as the union people can make it. I think that as long as we go along with the federal rate, that we will not restrict the possibility of companies that desire to come here say, "We can't afford to come here because the State of Maine has such a high minimum wage."

That is the reason that I signed the minority report. I felt that it would be for the best interests to support a bill that had no umbrella over the top of it, and also that it would go along with whatever the federal government does.

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

Mr. FARLEY: Mr. Speaker, Ladies and Gentlemen of the House: The gentleman from Augusta mentioned being practical. I ask everybody in this House today how many of us can live on \$72 a week? I am talking about insurance for your children, rental, food, the cost of living today; \$72 a week for 40 hours is unreasonable. We need this \$2.00 minimum wage and I hope you will accept the majority "ought to pass" report.

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

Mr. FLYNN: Mr. Speaker, Ladies and Gentlemen of the House: I can concur with Mr McNally. I, too, am on the minority that signed.

Most of my mail on this L.D. has been very much adverse. They have as much as stated that they will either lay off people and get along with less amount or some of the small businesses might close their doors on account of it.

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

Mr. KELLEHER: Mr. Speaker, Ladies and Gentlemen of the House: I have heard similar arguments pertaining to this bill the two previous sessions I have been here, that business will lay off, that they will not come in. These are the same arguments that we hear session after session.

Representative Ross said that this bill was premature and I am sure the members of this House that have served here before have heard these same remarks, that this type of legislation is premature.

I am very much against the report that Mr. Brown is asking this House to accept, and I hope that you vote against it.

Mr. Hobbins of Saco, was granted unanimous consent to speak a third time.

Mr. HOBBS: Mr. Speaker and Members of the House: If I may answer the gentleman from Ellsworth, Mr. McNally. We have another bill in committee, L.D. 911, and what this bill does, it has a ceiling of \$3.00 also. So I just hope that you would not take the comments of Mr. McNally as being true. What that bill entails is keeping the minimum wage at \$1.80 at present and does have a \$3.00 ceiling. I wanted to make that point clear.

The SPEAKER: The Chair recognizes the gentleman from Farmington, Mr. Morton.

Mr. MORTON: Mr. Speaker and Ladies and Gentlemen of the House: It seems to me futile for the State of Maine to attempt to be different from the federal law. We are always going to have to follow the federal law. It is very difficult for employers to keep leap-frogging from one to the other. I believe it is much wiser to tie-in with the timing of the federal regulation with regard to minimum wage.

Minimum wage laws are a good thing. They have brought the standard of living up. But it is not correct for the State of Maine to jump out in front of the federal statute, place the employers of the State of Maine at a disadvantage

for six months or a year. I certainly hope you will support the motion of Mr. Brown so we can get to L. D. 911 and tie-in with the federal statute.

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

Mr. McTEAGUE: Mr. Speaker and Members of the House: Like the gentleman from Bangor, Mr. Kelleher, I have served here two sessions previously. I don't have the experience of the gentleman from Bath, Mr. Ross. I must admit that I agree with Mr. Kelleher that the arguments in opposition to a fair and decent minimum wage have a distressing similarity to the arguments that we rejected in this legislature resoundingly two years ago.

We have the predictions from the prophets of gloom that the minimum wage of \$1.80 will cause all kinds of economic problems. It hasn't. We know that by experience. We know those arguments are fallacious; and they are not only wrong economically, but they are unjust, because the very simple fact is that \$1.80 an hour now is worth less than \$1.60 an hour was two or three years ago.

Consider the ladies of the house and the gentlemen that sometimes do the grocery shopping with their wives, the cost of a loaf of bread or a quart or half gallon of milk. Forget about the cost of meat for a minute and assume the people that make \$1.80 are lucky if they eat macaroni. But we know how the costs have gone up on those ends.

There is one other item I would like to raise. I remember in the 104th Legislature, which was characterized as the environmental legislature, that the then majority floorleader, the gentleman from Cumberland, Senator Richardson, made a statement along the lines there were certain type industries and certain type people that were most welcome here in the State of Maine, and there were other people that we were perhaps a little bit reserved in regard to our welcome for. If I recall correctly, he made a famous statement about a brass band at a bridge in Kittery.



We now have a new bridge in Kittery. And I would suggest the type people we want coming over that bridge and coming into Maine are industries that are good for the State of Maine, that recognize our people, that recognize our environment and treat both with respect.

I think it is particularly incumbent upon those legislators who have a fine record in the area of environment to vote in a positive fashion on a bill like this, because, you know, the only reason, at least as I see it, that environment is really important is not abstract. It is because environment affects people. No matter how free and clear the air is or how tall or green the trees, if you are making \$1.80 an hour, the environment does not seem too good to you.

It is not a matter of what competition should be with the State of Mississippi, if they can come up with \$1.20 or \$1.30 an hour minimum wage. We have people that are worth more than that, and industry will come to Maine not because they can buy us cheaper but because our people have skills and a dedication to their work.

The sweatshop industry will not even go to the State of Mississippi anymore, they go to Mexico and Hong Kong. We cannot win that battle. There is one battle we can win here today, that is the battle to be a little bit just. We are not giving anyone anything, we are only being just, and \$2.00 an hour with the high prices we have in 1973 is just a minimum of justice.

The SPEAKER: The Chair recognizes the Gentleman from Standish, Mr. Simpson.

Mr. SIMPSON: Mr. Speaker and Ladies and Gentlemen of the House: I would like to address myself to the comments made by the gentleman from Bangor, Mr. Kelleher, and I am talking to you strictly as an individual. I personally favor minimum wage and I favor the \$2 minimum wage, but I also favor that the minimum wage go along with the federal requirements and that we are not a step ahead of the federal requirements.

We have heard in the past the arguments that jobs would be lost and this type of thing. In answer, and also part of an answer to the gentleman from Brunswick, I do not believe that you will find any real good industry coming into this state that would even consider paying just a minimum wage. I do believe that they realize that we have something to offer. As you meet and talk with businessmen out of the State of Maine, they will tell you that they can get a dead body, if it says that he came from Maine they will hire him because they will get more work out of him than they will get out of a person that comes from out of the state.

Let's take a look at the people that we are really affecting when we are talking about a minimum wage, because we are talking about the marginal worker, we are talking about the student and this is just exactly where the people in this state have taken work away and have cut it back and you are looking at one Mr. Kelleher. You're looking at a man who pays more than a minimum wage but when the cost of living and everything else based on a seasonal employment came to the point that we had to cut down on our services, we took six people right off our payroll. They are all students, because we just could not come up and meet the standards and meet the payroll cost and all the other requirements for taxes and everything else and make a profit on seasonal business. This is happening all over the State of Maine.

If you go and ask the students today about the amount of work that is available to them in the summertime, they will tell you that jobs now are hard to find in the State of Maine and for that one reason, that they have cut back, they have cut back on the hours. I have some people that I used to find work for so to make sure that they got 40 hours. I no longer do that. When their job is done at 9, 10, 11 o'clock in the morning, I let them go. Many other people do too.

These are the people you are talking about when we are talking about a minimum wage, it is the

marginal worker. I would hope that you would except the majority report "ought not to pass" and that we do take a look at the other bill when it comes along and we support that and put ourselves in the area of the federal standards.

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

Mr. MARTIN: Mr. Speaker, Ladies and Gentlemen of the House: This is my fifth session and we are constantly saying let's not do this because the federal government is not going to do it, or let's do this because the federal government is requiring us to do it, or let's wait awhile and the federal government is going to do it for us. I think that argument has been so overused that now I just look at it and say if the federal government has got anything to do with it, let's just do what we want to do and let them worry about the consequences of what we are doing.

There is nothing that says that in the Constitution of this State and the Constitution of the United States that we ought to wait for the federal government to do anything or that we ought to have them shove anything down our throat which we disagree with, whether it is a minimum wage or whether it is an OSHA bill or anything else with which we are going to be dealing.

I think that the issue raised by the gentleman from Standish with reference to the marginal worker and the students are two issues which we ought to give consideration to. First of all, as far as the student is concerned, keep in mind that this law is the same as the past laws which has indicated that students will get the salary based on three-fourths of the minimum wage, provided that they are 18 years old and still in high school. If the cost of living and the cost of expenses have gone up for someone who's earning \$2 or ought to be earning \$2, the same is true of those people who are shortly going to be receiving their adulthood.

It seems to me that what we are in effect doing is simply saying

look, we would love to have you, provided that you would work for 75 cents, but if you do not work for 75 cents then do not bother me. I used to pay a \$1 an hour to mow my lawn and I am now paying \$2 and this happens to be a high school student. Maybe I am overpaying them in some people's opinions, but I believe that this is entirely proper. If I am going to be getting and expecting to receive \$2 an hour minimum wage, then I ought to be willing to pay it at the same time.

Now in reference to the marginal worker, the marginal worker's problem is not as much the fact that he cannot earn what he is worth but the fact that he is not as well trained as he ought to be and that problem still lies upon our backs for failure to do the job of training these individuals to make them a productive member of society. I hope that we are going to help to resolve this this session. That is really the way to get to that problem, not by keeping the minimum wage that it is better for him to get on AFDC or aid to the disabled rather than making a minimum wage so that he can at least make a living.

Whatever we do to help them, to give them a desire to get off the issue of trying to get AFDC or AD then we are moving in the right direction. I know of people who if we had given them \$20 a week state money then it might have given them the pride and desire to earn the \$8 a week that they had and that they were making at the time and that they would not have bothered to try to force themselves upon the FDC roles of the state. If we want to solve that problem, then again I think a minimum wage is the proper way to do it.

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

Mr. ROSS: Mr. Speaker, Ladies and Gentlemen of the House: Perhaps when I spoke before my aside remarks confused you and I did not make it clear exactly how I do stand. I am for the bill. I hope you vote against the "ought not to pass," and later we can discuss

the committee amendment which raises it to \$3.

It has been mentioned that there is another bill in line with the federal government. This original bill ties in with the federal government but up to a point of \$2.25.

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

Mr. HASKELL: Mr. Speaker, and Ladies and Gentlemen of the House: I really had not planned to speak on this bill but the remarks of my friend, the assistant minority floor leader I cannot really let go unchallenged. He indicated that some of the economic consequences that were introduced in debate before have not materialized. This definitely is not true. Points that were made in debate the last time around on this are still valid.

First of all, minimum wage legislation, most competent economists recognize that unless they are applied with very sensible precision, you do have unfortunate effect in the economic climate and you also have unfortunate effects as far as the welfare situation in the state is concerned.

Now I will say very categorically that we have had unfortunate effects in the economic climate of the state. We have been engaged for the last ten years in the export of our labor intensive industries. You do not have to look any further than the shoe manufacturing industry to know that this is the case. We have had almost a wholesale exodus of manufacturing facilities out of the state and the percentage of the shoe manufacturing in the United States, more than a third of the capacity has now been exported.

We have a similar situation with respect to the labor intensive assembly of the electronic components. The labor intensive section of the electronics industry has been exported largely to the Orient and to Mexico.

Now with respect to its effect on welfare. Unless there is left a very substantial segment of your economy to accommodate marginal workers, you have the effect of creating a permanent class of

people on welfare. You do not have to look any further than the dollar figures on the welfare costs of the state to realize that some effect is taking place in a period of rising economy that we have a constantly increasing welfare load. Just within the last week we have had communication from the Governor that the cuts that he had made in his budget for aid to dependent children would have to be restored because there has not been a reduction as had been anticipated.

The cuts are going to have to be restored. This is a substantial item running, as I recall it, somewhere in eight or nine hundred thousand dollars.

So when minimum wage legislation is passed, you have to pass it with full knowledge that unless you leave widespread exemptions you are going to compound your welfare problem and the sensible course, in my view, is exactly the course that has been recommended this morning to defeat this piece of legislation and tie minimum wage legislation in with federal standards so that the manufacturers in the state are not at a disadvantage costwise and so that your total business community is not at a disadvantage costwise. You should recognize that this type of legislation has to be handled with precision otherwise you do as much harm as you do good.

There is another argument which has been advanced this morning, that an individual can not live and support a family. The thing that is very widely overlooked is that substantially more than half the family units in this or in all of the states, there are two wage earners. The percentage is well in the excess of half, so in reality what you are considering on low income is the fact that in most cases you have two wage earners and not a single wage earner.

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

Mr. McNALLY: I rise to ask a question through the Chair from anyone that cares to answer. Has L. D. 911 been redrafted or amended? If it has an umbrella

of \$3 over it, I apologize to the entire legislature.

The SPEAKER: The gentleman from Ellsworth, Mr. McNally poses a question through the Chair to anyone who may answer if he wishes.

The SPEAKER: The Chair recognizes the gentleman from Saco, Mr. Hobbins.

Mr. HOBBS: Mr. Speaker, Members of the House: In reference to that question, yes, in committee it was amended for a \$3 ceiling on the bill.

The SPEAKER: The Chair recognizes the gentleman from Hampden, Mr. Farnum.

Mr. FARNUM: Mr. Speaker, Ladies and Gentlemen of the House I rise in opposition to this bill and I would be the last one to ever say that \$1.80, \$2.00 or \$2.25 an hour is a high wage.

I would like to point out to the gentleman from Saco, Mr. Hobbins, who quoted from the great results obtained in the 1938 passage of the First Fair Labor Standards Act, which at the time called for 25 cents an hour, time and a half under 44 hours, and sir I was one of the beetles that went around enforcing that law. It did not change the economic picture of the country one iota. What changed the economic picture of the country was a war in Europe that started in 1939 and we had to supply them until that time when we were embaggled into the war.

I would like to call your attention to this one fact, that as far as industrial workers go, and these other people who produce wealth and all the rest of us live on top of them. There has been a decline in the number of industrial workers in Maine, if you want to look at the 1965 statistics and look at the 1971 statistics. Now, no industry wants to come into Maine with a low rate. But what does happen, many of these industries are piecework rates, and a pieceworker often has to be trained for weeks and weeks and months at a time. Even paying them 1.80 an hour, they are not earning their production. They may be working alongside another worker on the same type of work who is qualified, has experience and that same worker

may have no trouble at all earning \$3 an hour.

We are rather ridiculous to lead with our chin ahead of the rest of the country. There are 48 states all looking for industry. We have a Department of Economic Development or Commerce and Industry that spends a million dollars a year of state money trying to get industry into the state, and they also have had barrels of federal money. Now, you can't get people into the state when you put a roadblock in front of them to start with. If you are really thinking of encouraging industry in the state, stick along and wait until the federal law goes into effect and then we are all the same.

It has been pointed out that this would help get a lot of people off relief and whatnot. I heard that argument in 1938, and I am still hearing the same argument when the rate has gone from 25 cents to 1.80 an hour. So it accomplishes nothing. I urge you to vote against this bill.

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

Mr. DUDLEY: Mr. Speaker and Ladies and Gentlemen of the House: The gentleman from Hampden has just about covered what I was going to say except that I want to elaborate a little about the gloom that has been spoken of here in the last raise. Obviously, it costs different to live in the city than it does in the small towns where I come from. This is very obvious.

When we raise the wages, we drive out these marginal industries and probably should, but they are working in wood products, making wooden bowls and making fence stakes, cedar fence stakes and cedar fencing. It did put a lot of them on relief in my area. I was trying to figure out as near as I could, but in the immediate area that I represent, I know of approximately forty families give or take one or two. Now they had a job before. They had a choice to work making bowls, so much a bowl or working for the minimum wage. Some of them

were old or lame or lived alone or had a small family or just a man and his wife and farmed a little. They chose to work for the minimum wage rather than work on piecework. When we increase the minimum wage, we just drive out more of these little marginal industries in the area. Therefore, we increase the welfare load.

I agree that people should have \$2 an hour probably. But what I have noticed is that when they were making the minimum wage before and they were living quite comfortably and now after we closed the industry that I mentioned, namely the wood outfit that makes maybe toothpicks or what have you out of wood, then they were on relief and they are living on less money and they seem to be happier and now they do not want to get off relief. In other words, you would have to give them an \$8 job now to get them off relief.

The big industry in our area, the paper mills, do all pay more than the minimum wage and my thought in this matter is before we drive out any more from the area and put any more on relief, that we try to go along with federal standards. I think it is reasonable to these people who are making these marginal items like fence rails and fence stakes, wooden bowls out of wood, they have to put them on the market and be competitive and they cannot do it from this area if they are to compete with Georgia and some of the states where the wood even grows faster and their wood procurement, I understand, is even cheaper.

We have a choice, to put more on relief; and you have got to bear in mind that even rents in this city cost two or three times more than they do where I live. Food is much more expensive because they raise a lot of their own food. I think those areas like where I come from. There must be others in the state.

I hope that we will eventually go along with the federal regulations, and I probably do not think that \$2 an hour is too much.

It won't drive out any that haven't already been driven out. I would say that the federal is going to take care of it, in my opinion, anyway; and if you run much beyond that now, you will certainly drive out a few more and put a few more on relief.

The point that I want to make, you say they can't live on the now existing wages, they seem to be getting along; and if you take that away from them and they go on relief, they are going to live on even less and still seem to be happy.

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

Mr. SIMPSON: Mr. Speaker and Ladies and Gentlemen of the House: I would like to just bring out one quick point to you that hasn't been brought out yet, I don't believe. If we think that this bill is going to do a lot for us or the other one did, I would remind you that right now the unemployment rate in this state is 50 percent higher than what it is nationally. It is well over 7½ percent right now.

The SPEAKER: The Chair recognizes the gentleman from South Berwick, Mr. Goodwin.

Mr. GOODWIN: Mr. Speaker and Ladies and Gentlemen of the House: I would like to address myself briefly to a point that was brought out several times in the debate. For a year, I worked as a job developer, a job counsellor with the Maine Concentrated Employment Program, and my basic job was to try and find jobs for people who were marginal workers. This was in the York County area.

This talk about if we raise the minimum rate, we are going to force people on welfare or force them out of their jobs, I would like to talk a little bit about economics, and this is what I faced when I was trying to convince a person to go to work for \$1.80 an hour just to get started. It is not \$72 a week. You have to figure your taxes that are being taken out, your social security and everything else. For a person with a

wife and a kid, it comes to around \$65. And if he is going to pay transportation to and from work, it can bring it down to \$60. If it is a woman on A.F.D.C., and you are trying to get her off the welfare rolls, say she has a kid. She starts at 65. She has to pay for a babysitter. That knocks about 20 more off a week, transportation. You are really talking \$1.80 an hour, you are talking around \$50 or so a week clear. This is the purchasing power. I feel that we should go along and raise this minimum wage. At least it will help some. I do not think it is enough personally.

I would also like to bring up a point that as far as I am concerned and from my experiences — and I will probably get murdered on this statement — but I would rather see us keep out industry that is going to pay \$1.80 and \$2 an hour. Literally, when I tried to get people to go to work for \$1.80 or even \$2 an hour at a few places, they laughed at me because they can make more on unemployment and they can make more on AFDC, and I think the minimum of \$1.80 an hour is ridiculous.

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

Mr. McMAHON: Mr Speaker and Ladies and Gentlemen of the House: I will make this very brief. It seems to me that many of the businesses that come to this state take a lot more from it than they give. They pollute our water, they take our trees away in many cases and don't put them back. I would suggest that this is one way of encouraging them to contribute something to the people that do the work for them.

On a related issue, it seems to me that there is an imbalance in this state. I look around at government officials, not including the legislature, but mostly appointed government officials who make very high salaries. I look around at members of my profession, the school teachers, who make high salaries compared to the salaries that other working people make.

I suggest that this bill is a good way to begin to correct that imbalance.

The SPEAKER: The Chair recognizes the gentleman from Presque Isle, Mr. Dunleavy.

Mr. DUNLEAVY: Mr. Speaker and Ladies and Gentlemen of the House: I will take about 15 seconds. If there is anything I want to remember when I look back at my legislative service, it is that I dedicated myself to the proposition that every Maine man and woman who works is entitled to a living wage. This legislation does that. I am for it and so are the great majority of working people in this state.

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

Mr. COTTRELL: Mr. Speaker and Ladies and Gentlemen of the House: I do not have the answers to all the problems, the wage problems. But I do have some facts. I have always been interested in history, and I think we have to study our facts a little more carefully.

In 1871, a hundred and twenty-two years ago, Governor Hubbard, then the governor of Maine who was being inaugurated, said, among other things, in his inaugural address, "We must do something to keep our young people in Maine. We must do something to develop industry." The census showed in 1850 that we had 600,000 people in the State of Maine. Here we are now, having gone through the greatest industrial revolution in history, and we are just breaking a million in population.

On a special Taxation Committee this last summer, we were trying to get facts. And I was very interested in trying to find out how many new industries we have got compared to how many industries we have lost. We didn't have any facts on that. I think another fact that should be researched is that fact. How many industries are we losing compared to the industries we are gaining?

I haven't got the answers. But I think we have got to be very careful, and try to get more industry here to stay in line at

least with the rest of the country as far as the minimum wage is concerned. Then, of course, you have got the problem of it is easier to go on welfare than it is to work. We have a problem here.

The SPEAKER: The Chair recognizes the gentleman from Bethel, Mr. Willard.

Mr. WILLARD: Mr. Speaker and Ladies and Gentlemen of the House: It has been my observation, having worked in industry, that the minimum wage is relative. When the minimum wage is raised, let us say 10 percent, everybody else gets a 10 percent raise in the factory, and that will happen all over the State of Maine. Then the doctors go up in their price, the lawyers go up in their price and everybody else, the teachers, they demand more wages and what have we got? We have more inflation. I guess that is all.

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

A vote of the House was taken and more than one fifth of the members 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 Augusta, Mr. Brown, that the House accept the Minority "Ought not to pass" Report on L. D. 112, Bill "An Act Increasing Minimum Wages." All in favor of that motion will vote yes; those opposed will vote no.

#### ROLL CALL

YEA — Baker, Birt, Bither, Bragdon, Briggs, Brown, Cameron, Cressey, Donaghy, Dunn, Dyar, Emery, D. F.; Farnham, Flynn, Gahagan, Garsoe, Hambleton, Haskell, Henley, Hoffses, Huber, Hunter, Immonen, Jackson, Kelley, Kelley, R. P.; Knight, Lewis, E.; Lewis, J.; Littlefield, Maddox, Maxwell, McCormick, McKernan, McNally, Merrill, Morton, Norris, Palmer, Parks, Perkins, Pratt, Rollins, Shaw, Simpson, L. E.; Sproul, Susi, Trask, Trumbull, Tyn-

dale, Walker, White, Willard, The Speaker.

NAY — Albert, Berry, G. W.; Berube, Binnette, Boudreau, Bragdon, Bustin, Carey, Carrier, Chick, Chonko, Churchill, Clark, Conley, Connolly, Cooney, Cottrell, Crommett, Curran, Dam, Davis, Deshaies, Donaghy, Drigotas, Dudley, Dunleavy, Farley, Farrington, Faucher, Fecteau, Ferris, Finemore, Fraser, Gauthier, Genest, Good, Goodwin, H.; Goodwin, K.; Hancock, Herrick, Hobbins, Jacques, Kauffman, Kelleher, Keyte, Kilroy, LaCharite, LaPointe, Lawry, LeBlanc, Lynch, Mahany, Martin, McHenry, McMahon, McTeague, Mills, Morin, L.; Morin, V.; Mulkern, Murchison, Murray, Najarian, Peterson, Pontbriand, Ricker, Rolde, Ross, Sheltra, Shute, Silverman, Smith, D. M.; Smith, S.; Soulas, Stillings, Talbot, Tanguay, Theriault, Tierney, Webber, Wheeler, Whitzell, Wood, M. E.

ABSENT — Ault, Berry, P. P.; Carter, Curtis, T. S., Jr. Evans, Greenlaw, Jalbert, MacLeod, O'Brien, Santoro, Strout.

Yes, 55; No, 84; Absent, 11.

The SPEAKER: Fifty-five having voted in the affirmative and eighty-four having voted in the negative, with eleven being absent, the motion does not prevail.

Thereupon, the Majority "Ought to pass" Report was accepted, the Bill read once and Committee Amendment "A" (H-318) was read by the Clerk.

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

Mr. ROSS: Mr. Speaker, and Ladies and Gentlemen of the House: You heard me say that I was in favor of increasing minimum wages, but I think that at this time, although we probably eventually will go to \$3, I believe that it is premature to write this as our intention now. Already we are ahead of federal standards and I believe that we just should use caution. There is no telling what the federal government might do. They might go to \$2.50 right away and then go to \$3 and more but I think that we should stick with the original bill and stay with \$2.25,

and I move indefinite postponement of this amendment.

Mr. SPEAKER: The gentleman from Bath, Mr. Ross, moves the indefinite postponement of Committee Amendment A. Is this the pleasure of the House.

Mr. SPEAKER: The Chair recognizes the gentleman from Saco, Mr. Hobbins.

Mr. HOBBSINS: Mr. Speaker, Members of the House: If I may just bring up a point that the bill we have in committee L. D. 911 presented by the gentleman from Augusta, Mr. Brown, does have a \$3 ceiling. So, in fact, if we do limit ourself by defeating this amendment, what we would be doing in his bill is defeating his amendment also. I would like to have a roll call on this.

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

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

The SPEAKER: The pending question is on the motion of the gentleman from Bath, Mr. Ross, that Committee Amendment "A" be indefinitely postponed. All in favor of that motion will vote yes; those opposed will vote no.

#### ROLL CALL

YEA — Baker, Berry, G. W.; Birt, Boudreau, Bragdon, Brawn, Bunker, Cameron, Carey, Chick, Cottrell, Cressey, Curran, Dam, Davis, Deshaies, Donaghy, Dudley, Dunn, Dyar, Emerv, D. F.; Farnham, Farrington, Ferris, Fine-more, Fraser, Garsoe, Hamblen, Hancock, Haskell, Henley, Herrick, Huber, Hunter, Immonen, Jackson, Kelley, Kelley, R. P.; Keyte, Knight, Lawry, Lewis, E.; Littlefield, Maddox, M c c o r m i c k, McNally, Merrill, Morton, Murchison, Palmer, Parks, Perkins, Pontbriand, Pratt, Rollins, Ross, Shaw, Shute, Simpson, L. E.; Smith, S.; Sproul, Stillings, Susi, T r a s k, Trumbull, Tyndale, Walker, White,

Willard, Wood, M. E.; The Speaker.

NAY — Albert, Berube, Binnette, Bither, Briggs, Brown, Bustin, Carrier, Carter, Chonko, Clark, Conley, Connolly, Cooney, Cote, Dow, Drigotas, Dunleavy, Farley, Faucher, Fecteau, Flynn, Gahagan, Gauthier, Genest, Good, Goodwin, H.; Goodwin, K.; Hobbins, Jacques, Kauffman, Kelleher, Kilroy, LaCharite, LaPointe, LeBlanc, Lewis, J.; Mahany, Martin, Maxwell, McHenry, M c K e r n a n, McMahon, McTeague, Mills, Morin, L.; Morin, V.; Mulkern, Murray, Najarian, Norris, Peterson, Ricker, Rolde, Sheltra, Silverman, Smith, D. M.; Soulas, Talbot, Tanguay, Theriault, Tierney, W e b b e r, Wheeler, Whitzell.

NAY — Ault, Berry, P. P.; Churchill, Crommett, Curtis, T. S., Jr.; Evans, Greenlaw, Hoffses, Jalbert, MacLeod, O'Brien, Santoro, Strout.

Yes, 71; No, 66; Absent, 13.

The SPEAKER: Seventy-one having voted in the affirmative and sixty-six having voted in the negative, with thirteen being absent, the motion does prevail.

The Bill was assigned for second reading tomorrow.

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

Bill "An Act Preventing a Lien on Real Estate When Owner has Paid Contractor" (H. P. 828) (L. D. 1087)

Tabled - May 4, by Mr. Simpson of Standish.

Pending - Motion by Mr. Shute of Stockton Springs to accept Report C "ought to pass"

Mr. SPEAKER: The Chair recognizes the gentleman from Bristol, Mr. Lewis.

Mr. LEWIS: Mr. Speaker, and Ladies and Gentlemen of the House: I would hope that the body here would not vote to accept report C. Report C is merely the original bill. We had it before us at one time. It was sent back to committee and now we get three reports back. In my estimation, if we accept report C we are leaving no recourse whatsoever to the lumber dealer or supplier of the products that are used in the building of a house. It would seem to



me that we are creating a one way street in this respect.

True, I have compassion for a buyer of a house or a customer who is buying a house if he gets stuck with the lien attached to it, but on the other hand, I do not think that we can ignore the supplier and the lumber dealer completely. I would hope that you would vote in the negative in respect to this report C.

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

Mr. DUDLEY: Mr. Speaker, and members of the House: I was a member of this Committee on Legal Affairs. We very carefully considered this bill. As a matter of fact we took it back for the second time. Now report C very definitely should be indefinitely postponed and I can give you lots of reasons, but they always get in the way so I will just give you a few of them. Presently millions of dollars in credit go out to these small builders and there are a lot of them, especially in the small areas, and they get credit and they build a house. We have not had any problem and this bill was brought about by one or two, but before the committee there was one or two cases pointed out where some guy had a house built by a contractor and then after he thought he paid for the house they came back and complained that he had not paid for some of the building supplies. This is just two cases, I think in the whole state.

When we try to accept this Amendment "C", we are going to shut off all this credit. A man dealing in lumber, or furnace or plumbing or what have you is not going to be able to extend the credit to the small operators.

There are many alternatives. If I were going to have a house built by a small contractor, I would do like the state or the town did when I administered town affairs. The contractor gave a bond that he would finish the job and complete it and the bondsman would cover the fee, have him pay his bills, but if someone is gullible enough to let someone go along and make sure that the bill is not paid, it is no job to ask the sup-

plier for a bill before he pays them. If you paid the plumber, show me a receipt for your plumber, show me a receipt for your lumber, bricks and mortar and what have you.

But if you go and accept "C" what you are doing, you are going to nearly stop building in my area. It will put right to a standstill because nobody is going to sell lumber or plumbing supplies or anything to a contractor that he knows there is no recourse to get his money. It is just as simple as that. In my opinion this is really going to tie up things.

Now the present law on the book has been there some 150 years it has worked very nicely and I think it is wrong to try to put them out of business, and that is just what it will do, I am sure. I have listened to the case very attentively and just for the case of a very few cases of this. It was negligent on the part of the people having the house built that they did not check and see that the contractor did pay for his merchandise. I would like to say something probably further, but I think that this should be indefinitely postponed.

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

Mr. SHUTE: Mr. Speaker and Ladies and Gentlemen of the House: As a member of the Legal Affairs Committee and a signer of report C, I would like to explain my position on this bill. At the present time, if you hire a contractor say for \$20,000 to build a home for you and the contractor fails to pay the building supply dealer for the supplies going into your home, these supplies might come to the amount of \$14,000, the building supply dealer can put a lien on your property for that \$14,000, even though you have fully paid the contractor the contract price of the house.

Now, this does not seem quite right to me that a person can make a contract with a contractor to build a house, pay the contractor in full, then have the building supply dealer put a lien against the property because the contractor

failed to pay the building supply dealer.

The gentleman from Enfield, Mr. Dudley, mentioned that this law had worked very well for the last 150 years. I am sure it has worked very well for the building supply dealers but it has not worked very well for the home builders. I think the home builders should have some consideration on this bill today and that is a few of my reasons for signing this report.

The SPEAKER: The Chair recognizes the gentleman from South Berwick, Mr. Goodwin.

Mr. GOODWIN: Mr. Speaker, I am a little bit confused. Didn't we have a bill fairly recently? I have been trying to find the number of it. It dealt with liens on personal property. I was wondering if someone could answer me on that. There was an amendment added.

The SPEAKER: The gentleman from South Berwick, Mr. Goodwin poses a question through the Chair to anyone who may answer if he wishes.

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

Mr. CAREY: Mr. Speaker, I think the gentleman is referring to the bill that was put in by the Representative from Dixfield, Mr. Rollins, and all that pertained to were municipal liens on property and the amendment said that the people would be notified in the same method that they are notified when the lien goes on. It had nothing to do with the building liens as such.

The SPEAKER: The Chair recognizes the gentleman from South Berwick, Mr. Goodwin.

Mr. GOODWIN: Mr. Speaker and Members of the House: Evidently I am still a little confused on that, I thought it dealt with something else, but I would like to address myself to this particular bill. I would like to ask you to vote against report C. I would cite a few examples of what has happened. I do not know about the individual homeowners, but in several cases of large apartment houses the builders and contractors have more or less been one and the same operation. Many lumber dealers have had found themselves

on the short end of the stick because of that, and unless they can — the contractor will have one of his associates build and pay him, not pay the supplier in full and the supplier, if this law passes as such would have no recourse. I can see there would be a problem with the individual homeowner perhaps. I would at least like to go along with Mr. Dudley from Enfield that we do not accept this report.

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

Mr. BRAWN: Mr. Speaker, Ladies and Gentlemen of the House: This is a good bill that Mr. Dam entered before our committee and I will go along with Mr. Shute. I think that some people are confused here on what this bill really does. The way it is now, these lumber dealers can go out here to a man who has contracted a building, they are interested in selling. Now the gentleman says that these people having it done should have the bond. Why don't these lumber dealers make these men bond to him that he is selling to. He is interested in making a profit.

Now we will say that here is a young couple that is getting married. They are not familiar with all the laws. A man is building houses out here and doing a good job and they see it. They contract with this man for \$20,000 to build a home. They go to the bank. They get the money and they pay this man. When the man is all done, if they have hired the money and paid him, the minute that they get ready to move in he flies-by-night. They don't know where he is. Then within so many days over comes the building contractor, puts a lien on their place and takes it away from them. Now I maintain that this is robbery in all sense of the word. I think that these contractors are so eager, these building fellows, to make this money, that they should be the ones to get stuck, not the person who is having it done.

I know that if you have had homes built, as many of us have, the contractor who is building your home, you cannot find out from

him where the materials are coming from. You may have plumbing, you may have a furnace, you may have a hot water tank, you may have lumber supplies, you may have cement. He does not want you to know because he is making a profit on that and he does not want you to know how much profit he is making. Now if this man comes back to you and he gets ready to foreclose, he can add this bill to any price he wants to. How are you going to know? You have never seen the bill.

I hope that you go along this morning with Mr. Shute because it might be you or your son or daughter that gets caught in this picture as many of these young people have.

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

Mr. HAMBLEN: Mr. Speaker, Ladies and Gentlemen of the House: I think that you have to look at the other end of this bill a little bit, too. I have many friends and neighbors who have gone into business for themselves, carpenters, electricians, plumbers, and they did this mainly because they were able to get credit from a supplier. The supplier could always come back with his lien against the property owner. Normally if you are building a house, the bank will take care of this.

I think what you really have to do is cut out these small contractors and therefore, you are either going to pay cash to get something done or it is going to cost you more in the end. I hope you don't vote for this amendment.

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

Mr. SOULAS: Mr. Speaker, Ladies and Gentlemen of the House: At this point I am just a little confused. I am trying to get in to my mind clearly, assuming that I hire a contractor to build my house and at the same time he is building five other homes and suddenly for some reason or other I get a lien put upon my property by a lumberyard, how do I know that the contractor didn't use part

of that lumber on somebody else's home? This is what I am trying to get clear, if anybody can answer this. How does this bill affect me if I an owner under a circumstance like this?

The SPEAKER: The gentleman from Bangor, Mr. Soulas, poses a question through the Chair to anyone who may answer if he or she wishes.

The Chair recognizes the gentlemen from Enfield, Mr. Dudley.

Mr. DUDLEY: Mr. Speaker and Members of the House: I will do my best to explain it to the gentleman, because having been in the lumber business for many years, which I am not now, I can tell you how it works. I delivered lumber in Bangor; and when you deliver to a contractor, it says on the bill you delivered it to a house number so and so or a street number, such and such a job. I never made out a bill to any contractor that just said lumber delivered to Bangor; because Bangor is quite a good - size town. So when you deliver lumber to Mr. Soulas's house that he was building, you would say that it was to the Soulas' property or to house number 310 on Broadway or such and such a location. This would be on the bill.

Now when he comes to pay for the house, rather than pay the contractor sight-unseen, he would say to the contractor, to be protected, has your lumber been paid for? And if he doesn't want to take his word, he can call the supplier. He can just ask him, where did you get the lumber for my house, and call the fellow that supplied the lumber. Have you been paid for your lumber? The suppliers would be right there in Bangor where he got his furnace and his plumbing. If he didn't want to ask the contractor, afraid his work would not be good, did you pay these fellows, didn't want to show him the invoice, he could just say, well, where did you get it? And the man could call on the telephone, it does not cost anything, it is not a toll call to call within the town, if you have been paid for this particular material. This is how it works.

The negligence now, if a man gets stuck twice, it is on the fellow

that is having the house built. If he is negligent not to check this out and pay this contractor before he finds out that the contractor has paid for the merchandise, that is negligence on his part.

Now, I will tell you, I was in the lumber business a long while. And I am not going to deliver lumber to Mr. Soulas' site or any site if I am not either going to get my money or know that I am going to have recourse to get my money sometime later. In other words these small contractors, they are either going to pay me cash upon delivery, or I am going to have recourse and I am not going to deliver the lumber.

So consequently, the net result to this Amendment "C", if it is not defeated, there will be no lumber delivered. Therefore, the small contractor will be out of business. Now, I promise you this is true, having been in the business I do happen to know what I am talking about. There will just be no small contractors. It will just be a case of the big contractors eating up the little ones. And we speak of that up home, those of us that go fishing, we speak of it as the big fish eating up the little fish. This is just what it is going to amount to. And there are a lot of small contractors in my area, we even go to Bangor and build houses. As a matter of fact, I built a few of them myself in Bangor in years gone by. But the thing is the outlying towns come into the city places and do actually build homes, and they are small contractors. Now, they are not going to get any supplies if there is no recourse for the supplier.

Now, there is no need for this amendment and I hope that it is indefinitely postponed. If someone hasn't made that motion, I make a motion that we indefinitely postpone the amendment. As a matter of fact, the whole bill should be indefinitely postponed. There is no need for it. What you will be doing, you will stop house building almost to a standstill in the State of Maine. This is for sure, because there are not enough big contractors in the State of Maine. The houses in Maine, generally

about 85 percent of them are being built by small contractors. And these small contractors can't get credit or they won't be able to if this legislation passes, just as sure as I am standing here. I am not in the contract business, I am not in the lumber business, and I don't really care that much. I would just like to see justice done, and us use a little common sense here this morning.

The SPEAKER: The Chair would inform the gentleman that the pending question, until he spoke, was the motion of the gentleman from Stockton Springs, Mr. Shute, to accept Committee Report "C", "ought to pass." Does the gentleman move something different.

Mr. DUDLEY: Mr. Speaker and Members of the House: I move that this report be not accepted, because by what you will be doing then, you will be saying that they can no longer put a lien on the property. This Amendment "C" says that you can no longer put a lien on the property if you don't get your pay. This is what Amendment "C" says.

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

Mr. MULKERN: Mr. Speaker and Members of the House: I am a little confused about what we are doing on Report "C". Is Report "C" the original bill or is it an amended form of the bill?

The SPEAKER: The gentleman from Portland, Mr. Mulkern poses a question through the Chair to anyone who may answer if he or she wishes.

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

Mr. DAM: Mr. Speaker, it is the original bill.

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

Mr. SHUTE: Mr. Speaker, Ladies and Gentlemen of the House: It has been stated here that people do have a recourse in having a lien put against their property at the present time by building supply dealers. But when the Legal Affairs Committee heard this bill, I think there was only one person on the committee that real-

ized that building supply dealers could put a lien on your property after you paid the contractor his full price. So I don't think this is something that everyone in the whole state knows. I wonder how many people in the House know this.

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

Mr. MULKERN: Mr. Speaker and Members of the House: I am a little confused. I have a House Amendment here L. D. 1087 under filing number H-158. I was wondering what the status of this amendment was on the bill. Has this been killed or is it still on the bill?

The SPEAKER: The gentleman from Portland, Mr. Mulkern, poses a question through the Chair to anyone who may answer if he or she wishes.

The Chair recognizes the gentleman from Standish, Mr. Simpson.

Mr. SIMPSON: Mr. Speaker and Members of the House: We are in a position of accepting a committee report which the amendment cannot be put on anyway until we give a second reading.

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

Mr. DAM: Mr. Speaker, Ladies and Gentlemen of the House: This, as no doubt you know, is my bill. Now, I have been spoken to by some of the members of the House saying that maybe I am not going to have too much luck with it, number one, because I have started to try to grow a beard. Well, I can assure you that the reason for growing the beard first is that I haven't gone over to the ultra-liberal side. But we are in Skowhegan starting a sesquicentennial celebration and being the general chairman of the celebration, I feel it is my duty to grow a beard and not be the outcast in my own community. So, if the beard might have anything to do to influence the vote, I would hope it would not.

Now, to get down to the bill. The bill had a good hearing. All the opponents showed up. They all said their little piece. As Mr.

Shute said, only one member of the committee realized that there was such a law on the books. The consensus of the committee that day was that something should be done.

The bill came out of committee. They had an Executive Session the same day, right after the hearing, and the bill was reported out and you can go back to your March 29 calendar on page 7 and see that it was a unanimous "ought to pass" report.

However, things have changed. Things have changed because of the good lobbying effort that we have in the State of Maine. I went back to Skowhegan that night. There was a list of telephone numbers that my mother had taken during the day. I called one. Then I surmised what the other numbers were. So I did not waste my time, because they were from lumber suppliers.

Now, at the hearing, a Mr. Arthur Moulton of the Moulton Lumber Company in York, Maine, said that this would affect the credit of the contractors. They liked the law the way it is; because if the contractors don't come across and pay, they have a way to go at your home and get the money. A Mr. Woodbury from the L. C. Andrews Company used the same argument that has been used here on the floor this morning that it will put the fly-by-night operators out of business and I quote, that is what Mr. Woodbury said. He said, "Loose credit is the nature of the contracting business."

Another gentleman spoke about a man that came down from Alaska, and the only thing he had was a pickup truck, a handsaw and a few handtools, and he became a contractor. He admitted at the hearing that he had to put a lien against a homeowner's house to get their money. Another gentleman said that there haven't been any abuses, because they have only had to use it twice. If my memory serves me correctly, at that hearing Mr. Brawn from Oakland brought out an example where this had been used in Oakland.

When I looked at the Calendar the other day on May 4, I was

surprised to see three reports on this bill. I was absent the day this came out, and I do thank the gentleman from Standish, Mr. Simpson, for tabling it. What this does is to stop the homeowner from paying twice.

I have with me today a signed statement of where one man had to pay \$1,750 the second time after he had paid the cost of remodeling his home. At first the lien was for \$1,900. He went out and hired an attorney. They argued whether the material was used on the job or not, and it was reduced to \$1,400. This situation I have in my hand here is a little more costly. It happened in Somerset County. The summons and the writ is signed by Sheriff Francis B. Henderson, sheriff of Somerset County; is placed against a homeowner for the sum of \$7,179.70, as they say, as appears in Exhibit A. Exhibit A are copies of sales slips from the Ware-Butler Company, a lumber supplier. The lumber supplier trusted a contractor to build a home for an individual. The individual paid the bill, only to find out later that they had a lien against their home for over \$7,000. This is another added expense, it happened here in the City of Augusta on a \$40,000 home. The man had a lien of \$17,000 put against the home. This morning in the hall I picked up a little information where it has happened to some of the people working right in some of the offices in this building right here.

Now, it surprises me that we can have members of this legislature stand on the floor of this House on other bills and say how much feeling they have for the individuals and their taxpayers back home, and they allow themselves to be swayed by a high-paid lobbying group to support a special interest of this state.

Naturally, because it is my bill, I will say that I do not think that there is anything wrong with it. Well, I do not think there is anything wrong with it. There is nothing anywhere—and I am sure that many of you members of the House, until this bill came out, never knew that this could be done

against you. The average homeowner in this state does not know the law. They do not know that this can be done or that it will be done. Now this is protecting the individual homeowner.

When we get into the area of commercial or industrial building, the developers or the speculators have their attorneys. They can afford to pay them, and they can advise them as to the laws. But for an individual in this state having their kitchen remodeled, they do not hire a lawyer. They go to a contractor and if he does the job and they are well satisfied, they pay, then the contractor does not pay the bill and they pay again.

What I would hope today is that you people of this House accept report C. Then if there is any feeling that maybe this is going too far and that something should be written in as an amendment to take out speculative building or industrial development and spell it out in better terms. I would not object; as long as one thing is accomplished in this bill and that is to protect the individual homeowner. That is the only thing I have in mind with the intent of this bill. Whatever is necessary to do by amendment to change this, as long as the protection of the homeowner is left, I have no objection. I would hope that you would accept report C so that then it would be ready so that amendments could be offered and the objections taken out.

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

Mr. BRAWN: Mr. Speaker, Ladies and Gentlemen of the House: In regards to Mr. Soulas' question, how do they know where it comes from, I think this should be given an honest answer. Many contractors we were told picked up their own lumber and delivered it to the site. That lumber company does not deliver it there. They tell him where it is going to go. After your house is built and the ceiling has been put on the inside, I defy you or anyone else, unless you rip it down, to tell us what is behind it for materials, and I shall go along this morning 100 percent with Mr. Shute.

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

Mr. COTE: Mr. Speaker, Ladies and Gentlemen of the House: I am on the Legal Affairs Committee. Report B of that committee will do just what Mr. Dam has asked just a few minutes ago, that both sides will be protected, because the money will be deposited in a bank in escrow and both parties will pay the bills, the contractor signing and the individual who has the home built will sign also all bills. So he will know that the bills are paid. The contractor will have to pay the bills and the builder supplier will be happy, and this report B of the committee is just that, it does what Mr. Dam asked for.

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

Mr. EMERY: Mr. Speaker members of the House: I was not going to mention report B until we had disposed of report C. I would just like to say at this point that the gentleman from Lewiston is correct. I would hope and I would say this hoping that the members of the House would take this into consideration, that when you vote on report C, I would appreciate it if you would not move for indefinite postponement of the whole bill so that we can introduce report B and debate that one. So I would appreciate it very much if you would vote either for or against report C and then let's consider report B afterward. For anyone who is interested, report B is L.D. 1904.

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

Mr. DAM: Mr. Speaker, Members of the House: Since my good friend, Mr. Cote, has brought report B into the picture and before we vote on the acceptance of report C or the rejection, I would like to have the members of the House turn to L.D. 1904. I am not a lawyer, and I have never been to college. So most probably I will be shot down for having made a mistake but I will stick my neck out.

Reading this section of the bill, it says "All monies received by

a contractor from the owner or mortgagee of real estate for the purpose of having a building erected, constructed, completed, altered, repaired, or added to are trust funds in the hands of the contractor." It does not say they are going to be deposited in any escrow account. They are trust funds in the hands of the contractor. The contractor already has the trust funds now. He has them when he puts the lien back on your house.

Now, the other thing is down here at the bottom, the last sentence. It goes on to say that any contractor, officer, director, agent, so forth, if he misappropriates the money to any other cause is guilty of larceny and shall be punished accordingly. I ask you people here today, if you were placed in the predicament of having a lien put against your property of two, three, four, five thousand dollars that you had to pay a second time, would it make you feel any better to have the judge fine the contractor \$15? This is what this bill says. The contractor will be fined for larceny. If you have a good judge, like we have in Somerset County, he would fine him \$15, suspend the fine, and that would be it. Well, I can assure you people that I am not happy with report B. Report B does not protect the individual home owner. If this were reworded to put this money into escrow in a bank account, then all right, but it is not. But I still ask you people to support report C.

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

Mr. EMERY: Mr. Speaker, Members of the House: If it would make the gentleman from Skowhegan feel a little bit better, I do support his report C and I intend to vote for it.

The purpose of report B is to offer what I think will be a reasonable compromise in the eventuality that I hope does not occur, that report C would be defeated. I hope that you will support the original bill, Report C, ought to pass."

The SPEAKER: The Chair recognizes the gentlewoman from Union, Mrs. McCormick.

Mrs. McCORMICK: Mr. Speaker, Members of the House: I would like to just state here to the House members, all of you, Mr. Dam said we are here to protect the homeowner. We are here to protect all the people of the State of Maine. It might give interest to you people that liens are not always put on the homeowner to collect their money. Many times the contractor has to put out a lien to collect the money which people have promised him if he will build them the house.

They have got the house, he has got nothing except the bills, and he still cannot get his money. At times they have had to put liens on to get the money that was contracted to them.

Also, as far as liens go, anyone in this House can put a lien on anyone else if they want to. That is the way the law is.

So I think you want to look at both sides of the picture and I would just like to state that I do not go along with report C. I am sure that if you all look it over real well, that this process has been going on a long time, and I cannot see the reason for changing it today.

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

Mr. SHUTE: Mr. Speaker, and Ladies and Gentlemen of the House: I hate to disagree with my Legal Affairs chairman about report B, but I went down to the Attorney General's office about this report B to see just what it would do. The Honorable George West told me that about the only thing report B would do would change the penalty against the building contractor. At the present time, he is liable for civil action against him; and under this report B, he would be liable for a criminal action. So report B actually does nothing other than put a little more responsibility on the building contractor.

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

Mr. GAHAGAN: Mr. Speaker, Ladies and Gentleman of the House: I have a letter here from former representative, Don Collins,

from Caribou. He is, as you know, a small contractor. If I may read the letter. "To most lay people, L. D. 1087 must appear to be a very reasonable piece of legislation designed to protect the homeowner. Unfortunately, it upsets one of the few safeguards that is available to the people who supply the material for new homes. Lumber and building material dealers furnish much of the material that is incorporated into homes. Some sales are made directly to the owner or consumer, but frequently the material is sold to the building contractor. In practice, a great many home building contractors have limited resources and depend upon suppliers to extend them credit. Under the present lien law, many suppliers will extend the credit required by the contractor; but with the change contemplated by L. D. 1087, I suspect this will be substantially curtailed. In Maine there is a shortage of home contractors and this legislation would certainly curtail their number.

"Most new home construction requires financing by a lending institution which will hold a mortgage on the property. Under the present law, the lender will frequently disperse the funds or make sure that suppliers are paid in order to prevent a lien. The contemplated change would probably eliminate this procedure. In the 25 years that I have been involved in this business, we have not had a single instance where the homeowner has paid twice for the material incorporated in his home." Mr. Speaker, ladies and gentlemen, I urge you to vote no on the prevailing motion.

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

Mr. CONNOLLY: Mr. Speaker, Ladies and Gentleman of the House: Very quickly, I was a members of the Legal Affairs Committee who signed report C, the original bill. The history of this bill as related to you by Mr. Dam, the fact that it came out unanimous "ought not to pass" and then was recommitted to committee, is correct. At the time that it was recommitted to the committee, several committee members



spoke of the fact that they did not completely understand what the bill entailed when it was presented at this hearing, but since that time, new information had come to their attention and that they now felt that the bill should not be passed at all.

Simply, if we do not pass this bill, what it would do would be to legally require homeowners to pay twice for work done or else they would be in the position of losing their home. It is a bill that protects the homeowners. I think that you have an obligation in protecting homeowners to support Mr. Shute and to vote passage of this bill by accepting report C.

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

Mr. DESHAIES: Mr. Speaker, Ladies and Gentlemen of the House: The original bill, as I understood it, prevented a supplier of building materials from placing a lien on a building or a dwelling after the owner had paid the contractor. Now, I realize the intent was to protect the homeowner against the misappropriation of funds by the contractor. Apparently, the sponsor felt in some cases the contractor had not satisfied his obligations to the building supplier and the homeowner could be left holding the bag with the supplier for unpaid bills. Well, if the contractor was suspected then, I do not see how this redraft will help.

We are being asked to set up a trust fund for the contractor with the contractor acting as the fiduciary. This is the fox guarding the chickens again. What protection does the supplier have? I have no quarrel with the intent of the sponsor, but I can predict that under these circumstances, these conditions, the suppliers simply will not advance credit to the contractors which most of them require and a lot of them will be hurt, and so will the home owner who wants to build or repair. If you put the small contractors out of business, the suppliers simply will not advance credit to a builder who can control the monies rightfully due him.

Therefore, I support the motion to indefinitely postpone Report C.

The SPEAKER: The pending question is the acceptance of report C. The motion was made by the gentleman from Stockton Springs, Mr. Shute.

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

Mr. DYAR: Mr. Speaker and Ladies and Gentlemen of the House: I think there are two points that haven't been explained or even thought of on this particular bill. If I sold material to a building contractor who used them to build a house, the person receiving that service, having the house built, paid the contractor and the contractor didn't pay me, I could put an attachment on the contractor's property and on his bank account and on his checking account. I could also put an attachment on the person who had the home built. I could attach their checking account, savings account and their property. And then I could sit back and let the contractor and the person who had the home built fight it out in a civil case.

Now if both of these parties, the contractor and the person who had the work done - had competent attorneys, this could be dragged out for three or four years in the court, and certainly this could be very costly for the third party involved.

The second point, many out of state manufacturers who sell their products here in Maine, on their invoice it states that the merchandise used, remains the property of the manufacturer until it is paid for. So in this case, if I sold aluminum storm windows to a contractor who applied them to a person's house, the contractor didn't pay me and I didn't pay the manufacturer, the out of state manufacturer would still own the property, in this case, the storm windows, and could in effect, two years later come back and take the windows off the man's house and he couldn't do a thing about it.

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

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

House: I do not expect to be here past my lunch hour, but I have another 4 or 5 minutes and before I leave I want to tell you that both of these amendments should be killed and eventually you should kill the whole bill because this is here because of a few people that are incompetent enough not to be able to handle their money.

Now there is a method in which incompetent people can handle their money safely. They can put it in any bank and have the banker pay the bills and pay the contractor and then they won't get hurt. When they get their receipt for their house, they won't have to pay twice. This is one way an incompetent person can do it and believe me there are a lot of incompetent people with money. I wouldn't be surprised if there are some right here in the House. So the best thing for them to do, if they are incompetent with money, is to put their money in the bank and let the banker pay the bills and let the banker pay the contractor and they will get out of it whole.

Both amendments should be killed and the whole bill should be killed if you want to do justice to the people of the State of Maine.

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

Mr. McNALLY: Mr. Speaker and Ladies and Gentlemen of the House: I haven't got to ask for any question of any chairman of a committee as to what the law is, I have it in my hand. It says, "if the labor, materials or services were not furnished by a contract with the owner of the property affected, the owner may prevent such lien for labor, materials or services not then performed or furnished by giving written notice to the person performing or furnishing the same, that he will not be responsible therefore."

Both bills are something I hope you all vote against.

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

Mr. SHUTE: Mr. Speaker and Ladies and Gentlemen of the House: In answer to the remarks of the gentleman from Ellsworth,

Mr. McNally, this is only stating what I stated earlier, that not many people in this state know this law exists. Certainly you can prevent this lien from going on your property if you go around to every building supply dealer that supplied supplies for your home. But how many people in the state know this? I wonder if the gentleman from Ellsworth knew this.

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

Mr. DESHAIES: Mr. Speaker and Ladies and Gentlemen of the House: I concur with the remarks of Mr. Shute, but if the contractors are suspected of wrongdoing, why penalize the supplier? How about their rights? What recourse do they have? A long court fight over what is due them? I think this is a bad bill.

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

Mr. KELLEHER: Mr. Speaker and Ladies and Gentlemen of the House: I would like to pose a question through the Chair to the Legal Affairs Committee. If this report is defeated, are we going to spend an hour or two hours on the other two reports?

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

Mr. COTE: Mr. Speaker and Ladies and Gentlemen of the House: I just want to clarify my position. I signed the report A "ought not to pass."

Mr. Dam of Skowhegan was granted permission to speak a third time.

Mr. DAM: Mr. Speaker and Ladies and Gentlemen of the House: Number one, I would like to just mention again that the original report that came out on March 29 was unanimous "ought to pass" by the Legal Affairs Committee. Then I went back to the flak that night, after the lobbyists got to work and they were at work that afternoon immediately after the hearing because to quote the lobbyists, they said, "Don't worry, that bill hasn't got a chance because we have got four of the members in our

pocket." The next morning I went to the chairman of the Legal Affairs Committee and asked him if he wanted the bill recommitted and he said he would like to have it. So I asked to have it recommitted and I won't oppose it because I still have faith in the people.

Now as far as the gentleman from Ellsworth, Mr. McNally, reading the law, that law is very well reproduced in the original bill in my draft, 1087. The only thing is in the last part in the heavy print saying that the owner may prevent such lien by paying the contractor in full. And I made a provision there for the contractor to receive his money. And I just ask you people one thing, you people in business, how many chances do you have if you sold groceries, how do you go get a lien on the grocer when the grocery bill is not paid? How does the oil dealer get his money? Why should the little homeowner guarantee the building suppliers payment of their bill. Why aren't building suppliers a little more selective in who they extend their credit to? That is the only thing I leave with you people.

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

Mr. COTE: Mr. Speaker and Ladies and Gentlemen of the House: I just want to say, Mr. Speaker, that nobody has got me in his pocket because there is not a pocket large enough to hold me.

The SPEAKER: The Chair recognizes the gentleman from Parsonsfield, Mr. Pratt.

Mr. PRATT: Mr. Speaker, would a motion be in order to indefinitely postpone this bill and all accompanying papers.

The SPEAKER: Yes, it would.

Mr. PRATT: Mr. Speaker, I would so move.

Thereupon, Mr. Shute of Stockton Springs requested a roll call vote.

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

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

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

The SPEAKER: The pending question is on the motion of the gentleman from Parsonsfield, Mr. Pratt, to indefinitely postpone L. D. 1007 and all accompanying papers. All in favor of that motion will vote yes; those opposed will vote no.

### ROLL CALL

YEA — Berube, Binnette, Bither, Bragdon, Briggs, Bunker, Cameron, Chick, Cote, Crommett, Curran, Deshaies, Donaghy, Dunn, Dyar, Farnham, Farrington, Ferris, Flynn, Gahagan, Garsoe, Goodwin, H.; Hamblen, Hancock, Haskell, Huber, Hunter, Immonen, Jackson, Kauffman, Kelleher, Kelley, Kelley, R. P.; Keyte, Kilroy, Lewis, E.; Littlefield, Mahany, Maxwell, McCormick, McNally, Merrill, Murchison, Murray, Norris, Parks, Pontbriand, Pratt, Ricker, Santoro, Shaw, Smith, D. M.; Sproul, Theriault, Trask, Trumbull, Walker, Webber, White, Willard, The Speaker.

NAY — Albert, Baker, Berry, G. W.; Birt, Boudreau, Brawn, Brown, Bustin, Carey, Carrier, Carter, Chonko, Clark, Conley, Connolly, Cottrell, Cressey, Dam, Dow, Drigotas, Dunleavy, Emery, D. F.; Faucher, Fecteau, Finemore, Gauthier, Genest, Good, Goodwin, K.; Jacques, Knight, LaCharite, LaPointe, Lawry, LeBlanc, Lewis, J.; Lynch, Martin, McHenry, McKernan, McMahan, McTeague, Mills, Morin, L.; Morin, V.; Mul-kern, Palmer, Peterson, Rolde, Rollins, Ross, Shute, Silverman, Simpson, L. E.; Smith, S.; Soulas, Talbot, Tanguay, Tierney, Tyndale, Wheeler, Whitzell, Wood, M. E.

ABSENT — Ault, Berry, P. P.; Churchill, Cooney, Curtis, T. S., Jr.; Davis, Dudley, Evans, Farley, Fraser, Greenlaw, Henley, Herrick, Hoffses, Jalbert, MacLeod, Maddox, Morton, Najarian, O'Brien, Perkins, Sheltra, Stillings, Strout, Susi.

Yes, 61; No, 64; Absent, 25.

The SPEAKER: Sixty-one having voted in the affirmative and sixty-four in the negative, with twenty-five being absent, the motion to indefinitely postpone does not prevail.

The pending question now before the House is on the motion of the gentleman from Stockton Springs, Mr. Shute, that the House accept Report C. All in favor of that motion will vote yes; those opposed will vote no.

A vote of the House was taken.

73 having voted in the affirmative and 45 having voted in the negative, the motion did prevail.

The Bill was read once and assigned for second reading tomorrow.

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On motion of Mr. Birt of East Millinocket,

Adjourned until eight-thirty tomorrow morning.