

# MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

*One Hundred and Seventh  
Legislature*

OF THE

STATE OF MAINE

**Volume II**

May 21, 1975 to July 2, 1975

**Index**

KENNEBEC JOURNAL  
AUGUSTA, MAINE

**HOUSE**

Thursday, June 19, 1975

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

Prayer by the Rev. S. Carroll Coale of Winthrop.

The journal of yesterday was read and approved.

**Messages and Documents**

The following Communication:

STATE OF MAINE  
One Hundred And Seventh  
Legislature  
Committee On Appropriations  
and Financial Affairs

June 16, 1975

The Honorable John L. Martin  
Speaker of the House  
House of Representatives  
Augusta, Maine  
Dear Mr. Speaker:

The Committee on Appropriations and Financial Affairs is pleased to report that it has completed all business placed before it by the 107th Session of the Maine Legislature.

Total Bills Received	137
Unanimous Reports	135
Divided Reports	2
Ought to Pass	15
Ought to Pass as Amended	30
Ought to Pass in New Draft	4
Ought Not to Pass	48
Leave to Withdraw	37
Refer to Another Committee	1

The above totals do not include four bills considered pursuant to Joint Orders.

Respectfully,

Signed:

DOUGLAS M. SMITH  
House Chairman

The communication was read and ordered placed on file.

The following Communication:

STATE OF MAINE  
One Hundred And Seventh  
Legislature  
Committee On State  
Government

June 18, 1975

Honorable John L. Martin  
Speaker of the House  
107th Maine Legislature  
Augusta, Maine 04333  
Dear Speaker Martin:

It is with pleasure that I report to you that the Committee on State Government has completed all actions necessary on the business placed before it by the 107th Legislature.

Total Number of Bills Presented	193
Unanimous Reports	167
Leave to Withdraw	38
Ought Not to Pass	47
Ought to Pass	29
Ought to Pass in New Draft	9
Ought to Pass as Amended	41
Referred to Other Committees	2
Referred to 108th Legislature	1

Divided Reports	26
Total Number of Amendments	59
Total Number of New Drafts	13

Respectfully,

Signed:

LEIGHTON COONEY  
House Chairman

The Communication was read and ordered placed on file.

**Orders**

On Motion of Mr. Albert of Limestone, it was

ORDERED, that Jacob Immonen of West Paris be excused June 23rd and June 24th for personal reasons.

Mr. Jackson of Yarmouth presented the following Joint Order and moved its passage: (H. P. 1736)

WHEREAS, the public interest requires that the State of Maine protect its right to fish in Maine waters; and

WHEREAS, it is probable that the Congress of the United States will enact statutes providing for United States management jurisdiction over fisheries resources out to 200 miles or to the edge of the continental shelf, whichever is the greater distance; and

WHEREAS, the United States may wish to share the management responsibility with the affected coastal states; and

WHEREAS, it is appropriate for the 107th Maine Legislature to anticipate this new authority, expanded jurisdiction and responsibility by studying and recommending what the proper role of the State of Maine in sharing fisheries resources management should be and what legislation may be necessary to implement concurrent or individual state responsibility under such proposed United States Acts; now, therefore, be it

ORDERED, the Senate concurring, that the Legislative Council be authorized, through the Joint Standing Committee on Marine Resources, to study the problems presented above and make its findings as to Maine's proper role in sharing fisheries resources management; and be it further

ORDERED, that the Council report the results of its findings together with any proposed recommendations and necessary implementing legislation to the next special or regular session of the Legislature; and be it further

ORDERED, Upon passage in concurrence, that suitable copies of this Order be transmitted forthwith to said agencies as notice of this directive.

The Order was read and passed and sent up for concurrence.

Mr. Bennett of Caribou presented the following Joint Order and moved its passage: (H. P. 1737) (Cosponsor: Mr. Peterson of Caribou)

WHEREAS, The Legislature has learned of the Outstanding Achievement and Exceptional Accomplishment of

Kenneth L. Matthews  
Of Caribou

Upon His Retirement After 27 Years of Dedicated Service as Music Director of Caribou High School

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

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

The Order was read and passed and sent up for concurrence.

Mrs. Byers of Newcastle presented the following Joint Order and moved its passage: (H. P. 1738)

WHEREAS, The Legislature has learned of the Outstanding Achievement and Exceptional Accomplishment of The Jayhawks of Boothbay Region High School

Varsity Golf Team  
Coached by Walter Gorneau  
Knox-Lincoln League Golf Champions  
For 1975

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

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

The Order was read and passed and sent up for concurrence.

Mr. Dam of Skowhegan presented the following Joint Order and moved its passage: (H. P. 1739)

WHEREAS, some developers of recreational areas are experiencing difficulties in providing contractual services to purchasers within their subdivisions; and

WHEREAS, such contractual services are similar in nature to services normally provided by municipalities; and

WHEREAS, providing such services would constitute an undue burden upon municipalities and municipal taxpayers and in some cases cannot be provided by municipalities; and

WHEREAS, legislation has been prepared to provide an adequate substitute whereby the purchasers could adopt a limited form of billage corporation or service district so that the purchasers could equitably fund and provide such services for themselves without burden to the municipalities involved; and

WHEREAS, legislation in the form of L. D. 1652, "An Act to Incorporate Frye Island Village Corporation" as introduced at the regular session of the 107th Legislature was not considered to be adequate to meet the problems posed; and

WHEREAS, the Legislature feels these matters are deserving of additional study; now, therefore, be it

ORDERED, the Senate concurring, that the Legislative Council be authorized, through the Joint Standing Committee on Local and County Government, to study the subject matter of the bill, "An Act to Incorporate the Frye Island Village Corporation," H. P. 1316, L. D. 1652, as introduced at the regular session of the 107th Legislature and to study such other means and methods of solving the above problems as may be necessary to determine whether or not the interests of the State would be served by the enactment of such legislation; and be it further

ORDERED, that the Council report the results of its findings, together with any proposed recommendations and final drafts of necessary implementing legislation, to the next special or regular session of the Legislature; and be it further

ORDERED, upon passage in concurrence, that suitable copies of this Order be transmitted to said Legislative Council, the Joint Standing Committee on Local and County Government and each of the counties of this State, as notice of this directive

The Order was read and passed and sent up for concurrence.

Mr. Silverman of Calais presented the

following Joint Order and moved its passage: (H. P. 1735)

WHEREAS, the Joint Standing Committee on Performance Audit of the 107th Legislature was established to scrutinize the performance of state agencies under given funding levels in an effort to aid government to more efficiently serve the people of Maine; and

WHEREAS, the Governor has often stated, through his support of the Management Cost Survey and by numerous other actions and statements, his desire to streamline state government in order to better serve Maine's citizens; and

WHEREAS, the Legislature recognizes that the effort of the Performance Audit Committee and of the Governor can best be accomplished through extensive cooperation between the legislative and executive branches; now, therefore, be it

ORDERED, the Senate concurring, that the Legislative Council be authorized, through the Joint Standing Committee on Performance Audit, to study the performance and funding of state agencies in an effort to ensure maximum governmental efficiency with the least expenditure of taxpayer dollars; and be it further

ORDERED, that the Legislative Council be authorized, through the Joint Standing Committee on Performance Audit, to cooperate with the Governor and the executive departments to the maximum extent possible in order to achieve the purposes of this study; and be it further

ORDERED, that the Council report the results of its findings together with any proposed recommendations and necessary implementing legislation to the next special or regular session of the Legislature; and be it further

ORDERED, Upon passage in concurrence, that suitable copies of this Order be transmitted forthwith to said agencies as notice of this directive.

The Order was read and passed and sent up for concurrence.

#### House Reports of Committees Divided Report

Majority Report of the Committee on Taxation reporting "Ought to Pass" as amended by Committee Amendment "B" (H-796) on Bill "An Act to Establish a 10% Surcharge on Spirituous, Vinous and Malt Beverages Sold at State Liquor Stores" (H. P. 1432) (L. D. 1691)

Report was signed by the following members:

Messrs. WYMAN of Washington  
MERRILL of Cumberland  
-of the Senate.

Messrs. DRIGOTAS of Auburn  
SUSI of Pittsfield  
COX of Brewer  
MULKERN of Portland  
IMMONEN of West Paris  
FINEMORE of Bridgewater  
MORTON of Farmington  
-of the House.

Minority Report of the same Committee reporting "Ought Not to Pass" on same Bill.

Report was signed by the following members:

Mr. JACKSON of Cumberland  
-of the House.

Messrs. DAM of Skowhegan  
MAXWELL of Jay  
TWITCHELL of Norway  
-of the House.

Reports were read.

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

Mr. SUSI: Mr. Speaker, I move we adopt the Majority "Ought to pass" Report and

would speak to my motion.

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

The gentleman may proceed.

Mr. SUSI: Mr. Speaker, Ladies and Gentlemen of the House: This is a revenue bill which has been reported out by the Taxation Committee at the request of leadership of both Houses of the Legislature. It is being reported out as a means of financing some of the bills that are on the Appropriations Table. To give you a brief resume of the status of the Appropriations Table, at this time we have 117 bills tabled on the Appropriations Table, which represent about \$21 million. Of this, we have picked up something like \$4.5 million through a supplemental budget, and there is roughly \$17 million represented in the balance of the bills on the Appropriations Table for which we have no financing at this time.

If any of these bills survive, we need revenue, and this is the measure that has been offered in this legislature as a means of financing some of these bills. This bill would produce income at the rate of \$800,000 per year, a million-six for the biennium.

To go into the contents of the bill, which is pretty much contained in the Committee Amendment, will go back to the formation of the discount liquor store at Kittery several years ago by this Maine Legislature. I was a member of the legislature at the time that this store established, and I remember the debate that was conducted on this issue and it was established to meet the retail competition in our neighboring state of New Hampshire. We were losing sales of liquor to New Hampshire, Maine residents and tourists alike. So we did vote to reduce the retail sale price of liquor at this one store. The Liquor Commission advises us that it is an average of 22 percent below the sale price at the other retail stores around the state for the purpose of meeting this competition.

What wasn't contemplated at the time but which came as a side development of our main intent was that the licensees, the people who operate dining rooms and bars around the state who sell liquor by the drink were able to go to Kittery and buy for around 12 percent lower than what they had to pay at the other stores around the state. The other stores offer them a 10 percent discount from their regular prices, but the discount at Kittery is 22 percent, so they are able to gain about 12 percent by going to Kittery.

The Commissioner came before our committee and gave us some very interesting information on this operation at Kittery, and I think that it is vital to this whole issue. I am going to relay to you the skeleton of the facts as they apply.

At the Kittery Store, they service two thirds of the total sales to licensees in the State of Maine, but only about 10 percent of the licensees in Maine buy their liquor at the Kittery Store. Therefore, you can deduct from this that 10 percent of the licensees sell two thirds of the liquor in the State of Maine and they receive 100 percent of the benefits of this lower rate at the Kittery Store.

We asked the Commissioner whether, if this bill were enacted, the new law would be administrable. He advised us that there is no problem in that area, and he supported his statement by these facts. We have about 3,000 licensees in the State of Maine. Of this number, there are about 30 licensees per year who lose their license,

which the state has over their head, so to speak. So 99 percent of the licensees comply, and all of the larger licensees comply and the large licensees are the customers at Kittery. So, there is no difficulty whatsoever in administering this piece of legislation if it should be enacted by this legislature.

Also, the question was asked of the Commissioner as to whether, if we were to withdraw the wholesale sale, which make up 50 percent of the sales at the Kittery outlet, from that operation, whether the retail sales alone would sustain the Kittery operation as a viable store? The Commissioner assured us that this would be so, that when it was established in the first place, they contemplated the Kittery outlet to be a retail operation, that the wholesale thing had developed as sort of a by-product of this and that we would in effect, by adoption of this bill, be reverting the store to the original purpose for which it was established; namely, to service retail sales and to meet the competition of our neighboring state.

To me, from where I sit, it looks to me that the choice of this Maine Legislature now is whether we wish to adopt this legislation and finance some of these bills. I have a printout of the table. It is very impressive, it would reach from here to the Speaker's desk and I went through the bills that we have enacted and the purposes and their price, and I am going to say to you, without any reservations, that we have a lot of very worthwhile bills on the Appropriations Table that are very desirable, and it looks to me, given the situation and the attitudes of the people here in Augusta now, that probably this bill is the chance that we have to keep some of these Appropriation Table bills alive. We have on the one hand a choice to finance some of these and in my opinion do service to people of the State of Maine. On the other hand, to sustain an economic benefit that was never intended to be extended in the first place to a comparatively few people who I believe will not be particularly hurt by this legislation.

I hope that you support the legislation.

The SPEAKER: The Chair recognizes the gentleman from Jay, Mr. Maxwell.

Mr. MAXWELL: Mr. Speaker, Ladies and Gentlemen of the House: I am not going to make a motion. I think you do notice on the report though that I signed the "ought not to pass" report. I would like to explain a little something about this bill. It came on our desks as a supplement the other day, two or three days ago, with an "ought to pass" report. I would say this. The committee has not had a working session. The committee has not heard the amendment. The amendment was something completely different from the bill. If you read the title of the bill, you will notice that it says, "to establish a 10 percent surcharge on spirituous, vinous and malt beverages sold at state liquor stores." The state does not sell malt beverages at state stores in any way, and I question the germaneness of the amendment, but I am not going to ask about that at the moment.

What I do want to say, though, is this is a liquor control bill. It should have come before the Liquor Control Committee, which I happen to be chairman of. It should in no way have been a taxation measure. It is a thing to change priorities of people who are now purchasing their liquor at the Kittery Store, and I might add that the Commissioner, if I am not mistaken, he said 90 percent of their business came from licensees. If this is a fact, this is in effect going to put the

Kittery Store out of being. This I don't mind, but we should have done it the right way.

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

Mr. KELLEHER: Mr. Speaker, Ladies and Gentlemen of the House: The last session of the Legislature I sponsored a bill, as some of you know, to equalize the price of liquor in the state, and it failed. In this session, Mr. Quinn of Gorham and Mr. Pierce of Waterville sponsored a bill to equalize the price of liquor and that also failed.

I am really surprised at the figures that were given to Mr. Susi from the Commissioner's office saying that two thirds of the sales down there in Kittery come from licensees, which is a fact that I so stated here many times on the floor.

And just to follow up one remark made by Mr. Maxwell, I don't believe that we who want to put an equal and fair price of liquor across the state will ever have to really put a bill into this legislature, because I feel that if this bill that the Taxation Committee has come out with right now, without doubt, paralyzed the store in Kittery, because those licensees who will be losing this tax benefit, unless there is a stamp put on the Maine bottle, will go just across the border, and I really don't blame them, and buy the liquor there in New Hampshire.

If we wanted to raise a few hundred thousand dollars, my suggestion was that perhaps the Taxation Committee should have gone along with the Quinn bill or the Pierce bill and we probably would have raised a couple of million dollars in equalizing the price everywhere.

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

Mr. DAM: Mr. Speaker, Ladies and Gentlemen of the House: As a signer of the "ought not to pass" report, I feel I should say something on this bill.

First off, I will say it is too bad the bill arrived on the floor of the House in the fashion it did, and it is too bad it arrived, as far as I am concerned, at the time it did. Had this bill arrived earlier in the session, it might have, and I am sure it would have, influenced my vote on several issues; namely, one issue being the sales tax exemption on fuels used for burning blueberries.

I think this whole bill, number one, is a ridiculous bill to begin with, and secondly, going back to yesterday's calendar, on page 5, where we accepted an "ought not to pass" report because the title of the bill had changed entirely from what the original title was, and that was "An Act to Make the Offense of Using a Motor Vehicle without Authority" a felony, and the title had changed to, "An Act to Increase the Penalty for Littering." Well, I think the same thing applies to this bill, because when we talk about putting the 10 percent surcharge on liquor at state liquor stores, then we end up by changing the bill entirely to say that licensees can't buy at Kittery, then I think we have the same situation with this bill that we had with the one yesterday.

It seems strange to me that in the printout that was put out that they mention only the concern, such as the Sheridan, the Holiday Inns and Happy Jack's as the ones benefitting from the setup the way it is now.

It also seems to me, quite apparently, in fact, that this is leveled at almost a question of bigness. If a company is big and can afford to go down to Kittery and

buy a truckload of booze, even at the state price, which is not illegal to do right now, then this is aimed at reducing them down and bringing them down to size. So I would suggest that maybe if we were going to look to raise revenue in the state, this is not the answer, it is not the right approach.

Maybe we should get the bill back that says that the blueberry growers are exempt from fuel tax on the fuel to burn the blueberry fields, and we would amend that bill to say that everyone that has over one acre of blueberries shall not be exempt, but those with one acre or less will be exempt.

Maybe we should look at the pesticide exemption for the potato farmers. Maybe we should say that those who only have one acre will be exempt and those who have more than one acre, because they are big, will pay.

Maybe we should also start reamending the bill that has already been enacted and signed by the Governor, and even though I signed that report "ought to pass", since this bill has come out in the ridiculous fashion it has come out and the way it is being used to stop these people from having their own rights, then maybe we should have the bill amended that we gave the huge exemption to Sobin Chlor-Alkaloid. Maybe we should take these exemptions back and then we wouldn't have to come up with new ways to gain money for the State of Maine.

The other thing that bothers me in this bill is that the whole hearing procedure for any violation of any licensee that would go to Kittery and buy liquor is going to be heard by one man, but the Administrative Hearing Office. That leads me to believe that there could be a lot of hanky-panky there. I think if we are going to even consider this bill, we should consider writing in little better regulations than just being heard by one man.

I don't think that we should even consider limiting the licensees from buying liquor at Kittery. I think they have just as much right to buy it there as they would in any store. They are paying the tax on it, and if we want to do this, why don't we say then that all licensees shall go down to Hallowell and buy their booze from the State Liquor Warehouse. But when we take and single out one town or one group of people, and in this case, in the town of Kittery, any licensee in the town of Kittery will have to go to an adjoining town to buy their booze, even though it may be only five or six miles away. It is still discrimination as far as those licensees in Kittery are concerned.

I don't think this is right to start discriminating and setting up class action, classes of people and classes of licensees. I think we should run this thing on an impartial basis and everybody should be treated alike, and if we find that we have got so many problems with the Kittery Store, then maybe we should even eliminate that store or bring their prices up to coincide with the rest of the state, or bring the prices of the rest of the State Liquor Stores down to the level of Kittery.

I don't think this is the right approach, I think it is a very devious method of bringing a bill in, especially under this title, to do what this bill intends to do, and I would hope today that you do not accept the "ought to pass" report and that we could accept the "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: This is my original bill and I hope you won't let this talk of technicalities and procedures obscure the issue, because if there has been a failure in a technical matter or in a procedural matter, I think we should back up and correct it.

I would bring your attention to the fact that the speakers who have raised this issue have not suggested that we do that. I think they are just trying to obscure the issue, which I think is a very legitimate one.

They talk about discriminating against a class of people. We are not. These people are licensed by the state, and under the terms of that license, they are controlled by the state. There was never any intention that when Kittery was put into effect that this would be what would happen. Taking these licensees out of Kittery will still allow Kittery to function.

Maine has one of the highest discounts to its licensees of any state in the country and it ranges from that all the way to Idaho, which charges 10 percent more to its licensees. I am sure, in the obvious basis, that when you can take a \$5 bottle of booze and turn it into \$30 or \$40 worth of drinks across the counter, that indeed there really is no rationale in the first place for giving them a discount.

But even if we didn't need this bill, as the Representative from Pittsfield has pointed out, to fund the L. D.'s, even if we didn't need it for that, this would make sense, because by the happy coincidence of the Kittery store — and, incidentally, I in no way criticize the licensees for taking advantage of it, they would be foolish not to but even if we didn't need it for the L. D.'s, this makes sense on behalf of the best public interest of the State of Maine to correct this situation where the state has been losing \$800,000 a year by the fact of truckloads of liquor going out of there to licensees all over the state, and as the gentleman from Pittsfield, has mentioned, and this is only to illustrate the magnitude of it, it has got to be going out in truckloads, because only 10 percent of our licensees are buying down there.

So, I would hope that on the basis of the need for this legislation and the need to correct this imbalance and this outrage against the coffers of the State of Maine, that you would vote favorably to accept the Majority Report.

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

Mr. TALBOT: Mr. Speaker, I move that this bill and all accompanying papers be indefinitely postponed.

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

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

Mr. JALBERT: Mr. Speaker, I would ask for a roll call.

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

Mr. COTE: Mr. Speaker, Ladies and Gentlemen of the House: I just want to refute some of the arguments given by the gentleman from Cumberland, Mr. Garsoe.

I was here when they first passed the bill for the Kittery Store. At that time, we were asked to vote for it, which I did, because clubs and licensees would be able to benefit by it. This was one of the provisions that was mentioned on the floor of this House, if you go back into the

Record, and that is why some of us supported it.

As far as it goes, it could be that restaurants, the large restaurants, are making a little money. That is what they are in business for.

I belong to several clubs. I am treasurer of some clubs; I am secretary of others, and right in my car down below I have some financial monthly reports put out by the treasurer. Last month, one of the largest clubs I belong to ran \$12 and some-odd cents in the hole. This month, we had a meeting last Tuesday night, we made \$13.26, so where is this bonanza or this large amount of money that is made with booze? It could be, in restaurants, as I mentioned before, where they make the money, but I am sure that the clubs are not making any money right now. I know some clubs are running in the red every month because the overhead is too high for the amount of liquor they sell.

Now, you people voted for a bill here this week that enlarged the selling of the liquor to tennis clubs and ice skating rinks, so you have to maintain that there will be some extra revenue coming through that. I oppose at this time this bill and I hope we support the indefinite postponement.

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

Mr. DUDLEY: Mr. Speaker and Members of the House: I seldom do this but I would like to ask one question. I understand there is no limit, if I go down there, how much booze I want to buy. I don't think I am limited, I can buy as much as I want. I am wondering, how are they going to tell if I'm a licensee or I'm not a licensee? Are they going to put a brand mark on them or how are they going to tell them from an ordinary out-of-stater or an ordinary person like me that goes in and buys a truckload?

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

Mr. FARLEY: Mr. Speaker, I would ask for a ruling from the Chair on the germaneness of this committee amendment to the original L.D., which is 1691.

The SPEAKER: The gentleman from Biddeford has requested a ruling on the germaneness of the amendment. The Chair would rule, based on prior rulings, since the committee did not change the title of the bill and that the bill matter deals with the same issue as in the bill title that the committee amendment is germane.

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

Mrs. NAJARIAN: Mr. Speaker and Members of the House: I would just like to re-emphasize again a statement made by the gentleman from Pittsfield, Mr. Susi. This is the only vehicle we have left to fund the remaining L.D.'s on the Appropriations Table and if we kill this bill, except for those bills which are state obligations, such as the reimbursement for damage, all the other bills on the Appropriations Table will also have to be killed and I just hope you will keep that in mind.

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

Mr. SUSI: Mr. Speaker, Ladies and Gentlemen of the House: I would like to answer the question raised by the gentleman from Enfield, Mr. Dudley. This is a question that was asked two or three times of the Commissioner and his staff

man who was with him before the Taxation Committee, because we were concerned about this very same thing, and we were assured by the Commissioner, that should we ban sales to licensees at Kittery, which is what this bill would do, that there would be no problem in enforcing this because the licensees, as I explained earlier, are a very stable list of people, they are licensees for years on end, they are very concerned about retaining their license and they would clearly be in violation if they went there. Now something that wouldn't be clear to us but which was explained to us by the Commissioner, was that the commission is aware of the buying patterns of every licensee in the state.

Something else along the same line, 90 percent of the licensees in the State of Maine do not buy at Kittery, so they would not be affected by this at all, 90 percent buy at their own stores. If there were any change in the buying patterns, the commission is aware of this the first time they buy at a different place and they immediately check this out. So there is no problem in administering this.

Also, two of the speakers, one said that 90 percent of the sales at Kittery and another said that 75 percent of the sales at Kittery were to licensees. I made notes as the administrator talked yesterday, and the figure is 50 percent of sales at Kittery are to licensees, 50 percent are retail sales. And those same two speakers attacked this on the basis if we remove the licensee sales from Kittery, that we would cripple the Kittery operation. I will repeat again that the Commissioner and his staff are certain that this will not be so, that it will be a viable operation with just the retail sales.

Another statement that was made on the floor was that if we remove this source, the licensees will go across the border to New Hampshire, they would be in violation, they would hazard their license. Again, this wouldn't be so. This possibility was put to the Commissioner, too. So I haven't heard any arguments, frankly, that have impressed me that much. I believe it is a good bill.

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

Mr. KELLEHER: Mr. Speaker, Ladies and Gentlemen of the House: I am somewhat impressed by the remarks made by the good gentleman from Pittsfield, Mr. Susi, insofar as the commission is going to be able to administer this program. It seems to me that Mr. Ingraham and the members of his commission down there have got somewhat more of an imagination now than they had four years ago when I was sponsoring a bill on the Kittery Liquor Store simply because of the fact that I asked them if it was not at all possible to determine how many licensees were buying from Kittery and at the time, they gave me, "well, I really can't give you an answer." But isn't it rather surprising in three years how they can come up with an administrative program as far as the licensees are concerned in their buying patterns?

I demonstrated a buying pattern as far as the city of Portland was concerned with one store when it was reduced 78,000 bottle sales. I gave them another demonstration of a store in Bangor that was reduced 34,000 bottle sales, but that didn't seem to them at the time to create a pattern. Now, all of a sudden, they are able to do it, and I am somewhat disturbed at the fact that the Commissioner now is able to do something

I was darn well sure he could have determined three years ago.

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

Mr. DAM: Mr. Speaker, Ladies and Gentlemen of the House: I only want to get this into the record so that in case the liquor commissioner ever does read the record, maybe at least he will know the feelings of one person in the House. Since we are going to stop the licensees from buying liquor at Kittery, presumably we are going to accept the "ought to pass" report, and since the \$800,000 a year is going to come to the State of Maine in additional revenue, and since this involves handling \$4 million worth of booze at Kittery, I can see no reason why the Liquor Commission cannot produce the staff at Kittery by at least four people, because they are not going to be handling \$4 million worth of booze, they are going to have a job, they are not going to have any work, so if they are not going to have any work to do, then I cannot see keeping them on the state payroll. So I think the Liquor Commission should take this into consideration and reduce the staff at Kittery, since they are not going to handle the \$4 million worth of booze a year.

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

Mr. RAYMOND: Mr. Speaker, Ladies and Gentlemen of the House: The main argument for the proponents here seems to be the \$800,000 that we are going to be making if this bill goes through. Well, I question this amount for this reason — not only the clubs, but your restaurant owners today are having problems just to exist. This 10 percent, if this should go through, a lot of the clubs at this time, especially in our area of Lewiston and Auburn, where you have more clubs in the twin cities than you have in almost the entire State of Maine, many of these clubs have already spoke to me and advised me that not only because of this increase it would create on them but also because of the harassment they have been getting by the liquor enforcement officers, they are seriously thinking about going to bottle clubs.

Now, if you have enough of these big boys, the big clubs, going into bottle clubs, you are going to lose a heck of a lot more revenue than you're going to be getting by this \$800,000. This is something that you should be thinking about. I don't believe these figures whatsoever. All you have to do is lose about ten to fifteen clubs to go to bottle clubs, and this figure has gone down the drain.

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

Mr. QUINN: Mr. Speaker and Members of the House: I support the bill strongly. I agree with a great deal of what Mr. Kelleher has to say and I can sympathize with him. I, too, feel that the commissioner of booze has run the legislature around the daisy chain for some years now and I think he has finally been driven to ground in the matter. I also agree with Mr. Kelleher that this should be the full bill, such as either I presented or the quasi full bill such as Mr. Pierce presented; nevertheless, if there is anything I have learned in the last six months, it's to take half a loaf rather than to go without and I think that today we should take the half of loaf.

I want to quote you some figures that are factual figures, they are not dreams, stated in the State Financial Report for 1974 listed under Exhibit G3 for Enterprise Funds in the Bureau of Alcoholic Beverages.

First of all, you must realize that when licensees buy booze in every store in the state except Kittery, there is a record made of this, they buy at about 7½ percent below what you and I buy and there is a record made of it. That is how the bureau is able to keep track of their patterns, incidentally, as Mr. Susi has said. When they buy at Kittery, however, there is no record kept. If you wish to go to Kittery and buy six cases for your friend who is in a wholesale business, you can do so; therefore, when a sale to a licensee is made at Kittery, it disappears down the vast hole of lost taxes and I quote you, "In 1973," according to the Bureau of Alcoholic Beverages, "\$6,371,000 was sold to licensees. The Kittery Store opened that fall and in the next ten months, that is only ten months of operation, but in the next full year the sales to licensees was \$2,751,000. Now that \$4 million in business didn't simply go up the spout. People didn't drink less in Maine that year, they drank more, and those sales should have been in the vicinity of \$7 million. So it is safe to say that the state of Maine lost \$5 million in wholesale business to licensees that went down that hole at Kittery and on that \$5 million they lost about 20 cents on every dollar over and above what they would have made had it been purchased at their local store in Lewiston or in Bangor. That is \$1 million or I believe, as this bill estimates, \$800,000, which is certainly conservative, in lost revenue to the state.

The profits that booze made are another very interesting pattern. The net increase in all booze profits to the state, running all the way from 1966 onward, have averaged about \$800,000 a year in increase. In 1971, it was \$750,000; 1972, it increased \$874,000; in 1973, it increased \$673,000. They opened the Kittery Store, it increased \$242,000.

You simply can't argue with those figures. There is a terrific loss of revenue and that loss of revenue is in a very large measure due to the sales made to licensees through that very sharp tax reduction in Kittery. It is true that there will be some bootlegging across the border, but I agree very much with the remarks made by Mr. Susi that these people make their living with these licenses and they are valuable, and if we do have an effective, worthwhile enforcement division, those things can be controlled.

I don't feel that the people of the State of Maine, on whom last week, incidentally, we levied an increase, the working man in Lewiston, of which we have been speaking several times this morning, has to pay another penny for his six pack of beer, but the licensee can go to Kittery and he can buy his booze at 27 per cent less than that same man buys.

Forty-one percent of the states which control their liquor in the United States charge licensees more, they average charging ten percent more to licensees. In the State of Maine, we charge 7½ percent less at all stores and 27½ percent less at this one, great, vast hole which is the tax loss down at Kittery.

Now, let's get down to specifics for all these poor bottle clubs that are going to go down the drain if we pass this. If we raise this, this means a drink that normally costs \$1.25 cannot possibly go up more than four cents for the amount of booze price represented by this tax increase. You get 25 drinks out of a fifth of whiskey. You can divide the extra dollar this fifth is going to cost the licensees very quickly by the 25 drinks and you get four cents.

It is money that we need, we need for valuable purposes in the State of Maine. It will expose for once and for all this kind of

thing that exists at Kittery, it will expose the fact that the original legislation was ill-advised, poorly conceived and horribly executed, and I urge you very strongly that you pass the legislation.

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

Mr. COTE: Mr. Speaker, Ladies and Gentlemen of the House: If we close up our liquor outlets, then this tax money will not come in. That is the first thing.

Secondly, I heard people on the floor of this House make speeches and say this, "Please, we in Aroostook County need your help, would you vote with us?" The coastal towns have said, "Please, we need you people from the cities to vote with us", and we always have or most of the time we have. Now, the southern part of this state needs help and I plead with everyone here from the northern part of the state to vote for indefinite postponement on this bill.

The SPEAKER: A roll call has been ordered. 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 Cumberland, Mr. Garsoe.

Mr. GARSOE: Mr. Mr. Speaker, I just briefly want to respond to the remarks made by the gentleman from Lewiston, Mr. Cote, that tried to put this on a regional basis. I just want to make it very clear that this is statewide. Those are the citizens and the taxpayers of the State of Maine that have been sold down the river to the tune of almost \$1 million a year and let's rectify it for the people of the State of Maine.

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

#### ROLL CALL

YEA — Albert, Berube, Bowie, Bustin-Call, Carey, Carroll, Carter, Connolly, Cote, Dam, DeVane, Dow, Dudley, Dyer, Farley, Higgins, Hobbins, Jacques, Jalbert, Kauffman, Kelleher, Laffin, Lizotte, Mackel, MacLeod, Mahany, Martin, A.; Maxwell, McMahon, Mills, Nadeau, Perkins, T.; Post, Powell, Raymond, Rolde, Talbot, Tozier, Truman, Twitchell, Webber.

NAY — Ault, Bachrach, Bagley, Bennett, Berry, G.W.; Berry, P.P.; Birt, Blodgett, Boudreau, Burns, Byers, Carpenter, Chonko, Churchill, Clark, Connors, Cooney, Cox, Curran, P.; Curran, R.; Curtis, Davies, Doak, Drigotas, Durgin, Farnham, Fenlason, Finemore, Flanagan, Fraser, Garsoe, Gauthier, Goodwin, K.; Gould, Greenlaw, Hall, Henderson, Hennessey, Hewes, Hunter, Hutchings, Immonen, Ingegneri, Jackson, Jensen, Joyce, Kany, Kelley, Kennedy, LaPointe, LeBlanc, Leonard, Lewis, Lovell, Lunt, MacEachern, Martin, R.; McBreaity, McKernan, Miskavage, Mitchell, Morin, Morton, Najarian, Norris, Pearson, Pelosi, Perkins, S.; Peterson, P.; Peterson, T.; Pierce, Quinn, Rideout, Rollins, Saunders, Shute, Silverman, Snow, Snowe, Spencer, Sprowl, Strout, Stubbs, Susi, Tarr, Teague, Theriault, Tierney, Torrey, Tyndale, Usher, Wagner, Walker, Wilfong, Winship, The Speaker.

ABSENT — Faucher, Goodwin, H.;

Gray, Hinds, Hughes, Laverty, Lewin, Littlefield, Lynch, Mulhern, Palmer, Peakes, Smith.

Yes, 42; No, 96; Absent, 13.

The SPEAKER: Forty-two having voted in the affirmative and ninety-six in the negative, with thirteen being absent, the motion does not prevail.

Thereupon, the Majority "Ought to pass" Report was accepted and the Bill read once. Committee Amendment "B" (H-796) was read by the Clerk and adopted.

Under suspension of the rules, the Bill was read the second time, passed to be engrossed as amended.

The SPEAKER: Is there objection to this matter being sent forthwith to the Senate?

The Chair hears objection.

The Chair will order a vote. All those in favor of this matter being sent forthwith to the Senate will vote yes; those opposed will vote no.

A vote of the House was taken.

97 having voted in the affirmative and 22 having voted in the negative, the rules were suspended and the matter sent forthwith to the Senate.

#### Consent Calendar

##### First Day

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

Bill "An Act Concerning Continuing Jurisdiction over Juvenile Offenses" — Committee on Judiciary reporting "Ought to Pass" as amended by Committee Amendment "A" (H-791) (H. P. 939) (L. D. 1190)

Bill "An Act to Create a Central Professional and Occupational Licensing Bureau in the Department of Business Regulation" — Committee on State Government reporting "Ought to Pass" as amended by Committee Amendment "A" (H-792) (H. P. 1424) (L. D. 1816)

Bill "An Act Pertaining to the Disposition of the Facilities at the Women's Correctional Center at Skowhegan" — Committee on State Government reporting "Ought to Pass" as amended by Committee Amendment "A" (H-490) (H. P. 1441) (L. D. 1745)

Bill "An Act to Provide Consumer Representation on the Board of Commissioners of the Profession of Pharmacy" — Committee on State Government reporting "Ought to Pass" (H. P. 429) (L. D. 523)

No objections being noted, the above items were ordered to appear on the Consent Calendar of June 20, under listing of the Second Day.

Under suspension of the rules, the above four items on the Consent Calendar First Day were ordered to appear on Consent Calendar, Second Day.

Under suspension of the rules, the above four items on the Consent Calendar First Day were ordered to appear on Consent Calendar, Second Day.

Thereupon, under suspension of the rules, the Bills were passed to be engrossed and sent to the Senate.

By unanimous consent, ordered sent forthwith.

#### Consent Calendar

##### Second Day

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

Bill "An Act Relating to the Disposal of Certain Personal Property by Law

Enforcement Agencies" (Emergency) (C. "A" H-778) (H. P. 769) (L. D. 940)

Bill "An Act Concerning Vehicles Left on the Premises of Commercial Garages and Certain Other Automobile Business for a Period of 6 Months or More" (C. "A" H-783) (H. P. 842) (L. D. 1027)

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

Bill "An Act to Authorize the Board of Environmental Protection to Regulate the Anchorage of Tankers in Casco Bay" (C. "A" H-786) (H. P. 1700) (L. D. 1933)

Objections having been noted, was removed from the Consent Calendar.

By unanimous consent, all matters acted upon in concurrence and all matters requiring Senate concurrence were ordered sent forthwith to the Senate.

#### Passed to Be Engrossed

Bill "An Act to Reform the State Retirement System" (H. P. 1725) (L. D. 1939)

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

Mr. MacLeod of Bar Harbor offered House Amendment "A" and moved its adoption.

House Amendment "A" (H-787) was read by the Clerk.

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

Mr. MacLEOD: Mr. Speaker, Ladies and Gentlemen of the House: It has been brought to my attention that in this very lengthy retirement document, of which I must confess I am not an expert in and haven't delved into it too far, that there is an injustice being done to our law enforcement officers at this particular time and I feel that I have offered an amendment here which I am in hopes will protect the retirees from the law enforcement division here at the state level.

If enacted as written, L. D. 1939 would reduce the retirement benefits of the dedicated law enforcement officers of this state to one half of a three-year average final compensation. One law enforcement officer was advised by the retirement system that his retirement allowance would be reduced by \$10 per week. This amendment plan for the law enforcement officers of this state. They now pay 7½ percent of their salary for a 20 year retirement at one half of their current annual salary. I feel that this is certainly not the time to take away any benefits or conditions that these men have been working under and paying for over the years.

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

Mr. LAFFIN: Mr. Speaker, Ladies and Gentlemen of the House: I certainly hope that we will support this amendment this morning. For an example, if a fireman is working on a pension for 20 years to which they donate, if he is promoted to lieutenant on his 19th year, he will lose over \$2,000 in benefits on the pay scale. I certainly hope that this is supported. It is a good amendment. These men work hard in dangerous professions. The law enforcement profession is very dangerous. The fire fighting force is very dangerous, and it certainly is and would be a dishonor to not protect these people by giving them

or making them take a cut would be an unjustification of this House.

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

Mr. JALBERT: Mr. Speaker and Members of the House: I think this amendment as presented by the gentleman from Bar Harbor, Mr. MacLeod, is a fair and just one and it would give some protection to our public safety people who are living a rather hazardous life, and I hope it has passage.

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

Mr. FARNHAM: Mr. Speaker, Ladies and Gentlemen: Mr. MacLeod inadvertently left the impression, I am sure it was inadvertent, that this would cut the pension of people already retired. It does not cut the pension of anyone who is retired. In a sense, it might tend to reduce the pension of a potential future retiree.

Now, I'm sorry that this bill lands in our lap in the very last days of the session because it is a bill that needs a lot of study, there are a great many inequities in the state pension law. It is costing the state some \$40 million a year in contributions, or very nearly that when you figure the teachers and state employees all together. Over the years, special interest groups have come in one at a time and got our obtained special benefits and it is very very difficult to treat when you have a big bill like this in the closing days of the season. Basically, I do want you to know that this bill does not take one penny out of the pension of anyone who is now retired.

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

Mr. THERIAULT: Mr. Speaker, Members of the House: I move for indefinite postponement of this amendment.

The entire purpose of this bill is to try to equalize everybody under the retirement system to get the same benefits, as near as possible, while also acknowledging the fact of those in hazardous occupations be able to get more benefits than other. This idea of better compensation for certain groups has grown into a great big bubble which has increased the cost to the retirement system and that is why we are doing these matters that we are doing at this time.

I would like to say a few things in reference to the history of this bill and some of the reasoning behind it. This bill is a result of a two-year study of the retirement system undertaken by the 106th Legislature with a professional study of the entire system. The intent of this bill and the purpose of this bill is protection of abuses to the system, removal of unwarranted special provisions and equalization of employees rights and benefits, removal of unwarranted eligibility requirements, removal of unused provisions increasing flexibility of participating local district, increasing the efficiency and accountability of the system by administrative change and clarification of some of the provisions. Now, there is no doubt that here are some parts of the present law that have to be changed, and that is why this study was entertained and this is what we have done on this bill.

In reference to some of the remarks

made by some of the previous speakers, the matter of a person working 19 years and having to take a reduced pension because of this bill at this time, this part of the bill will not be effective until July 1, 1977, so that person who has 19 years of service will be able to finish his 20 years and still retire under the present system. He would lose nothing.

In the matter of the others, after the two years are up, they will still have more than three years anytime after the bill goes into effect. The retirement compensation will be figured on the benefits accrued up to the date this bill went into effect and from that time on, the benefits that they earn will be figured with their final compensation; in other words, up to the date of this bill, if it goes into effect, it will mean that the people who are asking for retirement and are now presently under the bill will have their retirement figures up to that point under the present system, but from that time on, they will be figured on the new provisions.

Under the new provisions, there are many benefits included in this bill that far offset any loss overall. Individually, there are some who may not benefit from it because if the person is going to retire within two years, certainly an increase in the disability payments and an increase in the death benefits probably wouldn't be too interesting to him, but for those people who are continuing in service for a number of years, certainly this is a great big improvement and, really, the entire cost is included in the fiscal note. I hope that you do not go along with this and I hope you indefinitely postpone this amendment.

The SPEAKER: The Chair recognizes the gentleman from Stonington, Mr. Greenlaw.

Mr. GREENLAW: Mr. Speaker, and Men and Women of the House: I stand before you this morning opposed to the motion of Indefinite Postponement and I would like to support the amendment which my colleague from Bar Harbor has introduced. I think he has put the situation in clear perspective and I don't have a great deal to add, except for maybe one or two points.

It seems to me that we ask law enforcement officers to provide an extremely important and sometimes dangerous service, and it has been the policy of the state in the past to provide them with some additional retirement benefits.

I think the gentleman from Hampden, Mr. Farnham, is quite correct when he says it does not affect the present retirement benefits of any law enforcement officers, but I don't think this is the time, nor do I think there is any time in the future or any circumstances that I am aware of that would merit giving consideration to reducing the retirement benefits of law enforcement officers. So, I hope this morning that we do defeat the motion of indefinite postponement and that we will adopt this House Amendment.

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

Mr. MacLEOD: Mr. Speaker, ladies and Gentlemen of the House: Very briefly, as I said before, I am not an expert on the retirement field but I would like to just add one or two little notes here at this particular time. This amendment is similar to the protection afforded other members of the retirement system under sections 33, 34 and 36 of the bill.

There seems to be mixed opinions from



the legislative assistants who have worked with this committee on this particular bill, and the law enforcement people just don't feel they are protected under this measure. Their benefits, they feel, will change and Mr. Theriault has brought out some very fine points this morning. I would just like to drop one further note. Those gentlemen who arrive at 1977 with 19 years service do have protection. I might ask what happens to those arriving after that at their 19 years, I think you'll find they are taking a reduction in their retirement.

I hope that you do not postpone this measure and you can see your way to support this amendment this morning and I would request the yeas and nays.

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

Mr. MORTON: Mr. Speaker, Ladies and Gentlemen of the House: This is very important legislation, as has been said, and I would just like to point out to you that every one of these cases will have to be figured individually in order to determine whether or not in fact, there is a loss in benefits.

Now, in our deliberations in the committee, we were furnished with several examples and some of them in this particular area, one of them we had furnished and I had a couple more that I have worked up within the last 24 hours, not myself, but the retirement system has worked them up for me. But here is a state police officer whose current annual salary is \$16,556.80 and he will have his benefit reduced \$7.87 a year if this bill comes in, because all of the rights that he has acquired in his 19½ years of service are grandfathered and the only portion of that right which is not grandfathered is that which comes in or accrues to his benefit after the effective date of that act, which is January 1, 1976.

He has an option, or the system has an option, of figuring his benefits under a direct figure under the new L. D. or prorating, and if he is prorated, and of course the option is to give him the highest benefits available, if he is prorated his loss will be \$7.87 per year. I don't think that is an unacceptable difference when you take into consideration the other benefits which will continue to accrue to law enforcement officers, and that includes state police, wardens, those who are considered under the special laws after this bill is passed.

Let me give you a couple more examples, another state police officer whose salary is the same will receive a benefit that is \$25 less per year under the new system if it is prorated. A law enforcement officer in the warden service will lose \$23 per year if this new system goes into effect.

Now, what are the benefits that still accrue to these people who are in these special categories? I would like to call that to your attention. If you're in the state police or if you're in the warden service, you are on a 20 year retirement. It has been said, and rightly, that these people pay in extra to the retirement system. That is true; they pay in 7½ percent of their salaries as against the 6½ percent that is paid in by those employees who do not qualify under these special rules.

However, in order to fund this 20 year retirement instead of the 30 year retirement that ordinary employees of the state are under, the state's contribution is almost three times as much for these special categories. Here is an example, an employee with a \$10,000 a year income puts in 6½ percent of his income or \$650, and for

him, the state puts in 10 percent of \$1,000, making a total contribution to the fund, employee and state, \$1,650 for 30 year retirees under the regular system. State Police, law enforcement officers, have a 7½ percent contribution that they make, or if they are making \$10,000 a year, they would put in \$750 of their money, a hundred dollars more. But, ladies and gentlemen, the state puts in 28 percent to the retirement fund for these officers in order to fund that 20 year retirement — \$2800 on a \$10,000 employee is being paid out of state funds, general fund taxation, to go into the retirement fund for these special categories. In other words, \$3,550 has to go into the fund to support the retirement of these people who are going out in 20 years. I think that is a pretty good offset to a slight reduction in their final benefits and certainly, if this is going to mean a tremendous handicap and hardship to these people, it should be taken into consideration when salary schedules are arranged.

It is time that we stopped using the retirement system as a crutch to pay people. We should pay people what they are worth while they are working, then they will get the benefits of the retirement system. It is too easy to take benefits out of the retirement system and give them to people as a carrot out there in the future, thinking it is not going to cost anything.

You heard the gentleman yesterday from Livermore Falls, who unfortunately is unable to be here today, who asked you to take a look at the report and it is just as plain as you can ask for on page 27 of this report. The unfunded liability of this state retirement system at the present time or as of last June 30 was \$464,000,000. You say, how did it get that way? It got that way because over the years we have given benefits away that we haven't charged ourselves for, and all we are trying to do here now is to even this thing out so that when these people who are presently working and paying the bills into the retirement system finally get to the position where they are retired and they are eligible for benefits, that the money will be there to pay them.

I certainly urge you to indefinitely postpone this amendment. It goes to the heart of the bill. State police have this 20 year retirement which only goes to law enforcement officers and does not go to any other state employees and in addition to this, they do have some death benefits that will accrue to them that are greater than are available for the other employees. So, I urge you to look at this bill as a package, to realize that there are some pluses for these people as well as some minuses. The minuses are relatively minor and that this amendment will really hurt the 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 on the motion of the gentleman from Rumford, Mr. Theriault, that House Amendment "A" be indefinitely postponed. All in favor of that motion will vote yes; those opposed will vote no.

#### ROLL CALL

YEA — Bagley, Bowie, Call, Carroll, Carter, Clark, Curran, R.; Curtis, Dow, Durgin, Farnham, Fraser, Garsoe, Hall,

Hennessey, Hunter, Immonen, Jacques, Kelleher, Kelley, Leonard, Maxwell, McKernan, Mills, Morin, Morton, Nadeau, Norris, Pierce, Rollins, Susi, Tarr, Teague, Theriault, Torrey, Twitchell, Winship.

NAY — Albert, Ault, Bennett, Berry, G. W.; Berry, P. P.; Berube, Blodgett, Boudreau, Burns, Bustin, Byers, Carey, Carpenter, Chonko, Churchill, Connors, Connolly, Cooney, Cote, Cox, Curran, P.; Dam, Davies, DeVane, Doak, Dudley, Dyer, Farley, Fenlason, Finemore, Flanagan, Gauthier, Goodwin, K.; Gould, Gray, Greenlaw, Henderson, Hewes, Higgins, Hobbins, Hutchings, Ingegneri, Jackson, Jalbert, Jensen, Joyce, Kany, Kauffman, Kennedy, Laffin, LaPointe, LeBlanc, Lewis, Lizotte, Lovell, Lunt, Mackel, MacLeod, Mahany, Martin, A.; Martin, R.; McBrearty, McMahon, Miskavage, Mitchell, Mulkern, Najarian, Pearson, Pelosi, Perkins, S.; Perkins, T.; Peterson, P.; Peterson, T.; Post, Powell, Quinn, Raymond, Rideout, Rolde, Saunders, Shute, Silverman, Snow, Snowe, Sprowl, Stubbs, Talbot, Tierney, Tozier, Truman, Tyndale, Usher, Wagner, Walker, Wilfong.

ABSENT — Bachrach, Birt, Drigotas, Faucher, Goodwin, H.; Hinds, Hughes, Laverty, Lewin, Littlefield, Lynch, MacEachern, Palmer, Peakes, Smith, Spencer, Strout, Webber.

Yes, 37; No, 95; Absent, 18.

The SPEAKER: Thirty-seven having voted in the affirmative and ninety-five in the negative, with eighteen being absent, the motion does not prevail.

Thereupon, House Amendment "A" was adopted.

Mr. Leonard of Woolwich offered House Amendment "E" and moved its adoption.

House Amendment "E" (H-797) was read by the Clerk.

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

Mr. KELLEHER: Mr. Speaker, would the gentleman from Woolwich explain his amendment to the House?

The SPEAKER: The Chair recognizes the gentleman from Woolwich who may respond to the question of the gentleman from Bangor, Mr. Kelleher.

Mr. LEONARD: Mr. Speaker, Ladies and Gentlemen of the House: I hate to offer an amendment under as hurried as conditions as this, but I have been working with the retirement system in trying to come up with something that was very feasible, at least to take some of the objection that I had to the L. D. out and in essence make a concession to the retirees.

What we are trying to do is, you have noticed under the section one of the bill that it now limits every employee to 30 days that he can use of his sick leave or his vacation in determining retirement allowance, trying to make some sort of concession to that. I had two objections to that section, which is section 9, earnable compensation; one was that I don't feel that an employee, if he was going to use that 30 days towards greater advantages in the retirement system or towards greater earnable compensation, I don't think he should be reimbursed for that amount of time and cash as well. I think that is double form of compensation and I don't really think that is right. This amendment doesn't really do anything to that, but that is one of my objections to it. I would rather see the 30 days the way it is and maybe some day take the inequities out of that later on when everybody has had time to digest what we are trying to do with the L. D. right now.

This Amendment "E" in a way really gives more of an incentive to employees not to use their sick leave or their vacation, possibly, that they haven't been able to take. Basically, what it does is you have an employee who throughout his time has not taken very much sick leave, that sick leave will be used as time in service when he retires. It doesn't, probably, in terms of dollars add up to nearly as much as it would under earnable compensation, but it gives the person, the employee, an incentive not to take his sick leave. I mention sick leave, because it is one item that I wanted to make sure there was an incentive in.

Presently, it is done under federal law, under the federal retirement system that is how they do it, that if, for example, the person worked, he had 90 days of sick leave coming to him, under the retirement system, the way we have it now, his earnable compensation, he could only have 30 days of that to boost his retirement income but now he can take the remainder, the net that he had coming to him and use that to add to his time in service. For example, if he were retiring after 30 years of service, he would have 90 days of sick leave coming to him, he could use 30 days for earnable compensation to build up his retirement income and he could use the other 60 as time in service so that he would be retiring in lieu of in the past with 30 years of earnable service, he would now be retiring with 30 years and 60 days of earnable service, so in effect it still gives the employee an incentive not to use the sick leave throughout his in-service time. I hope I have answered your question.

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

Mr. KELLEHER: I think the gentleman for his explanation, and move for the indefinite postponement of his amendment.

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

Mr. INGEGNERI: Mr. Speaker, Ladies and Gentlemen of the House— I find I am not able to keep seated when I hear the good gentleman from Woolwich make what I consider a very, very inaccurate statement. There is no limitation on the amount of unused sick leave which you can have credited to your retirement. I know that as well as I know my first name because I went through that process. I had 2,200 hours of unused sick leave and this worked to an additional 13 months credit. I must also take issue with him when he says that unused vacation time, if it is credited to retirement time, is a duplication of compensation. I disagree with this entirely, if a person has 30 days unused vacation or 60 days unused vacation, whatever the case may be, he is completely justified in going on vacation and having his retirement begin at the termination of his vacation. That would mean that he would be paid for the 30 days or whatever and the 30 days would amount to an extra month of a month and one half of credit time, so I think that this amendment is not only completely unfair to people who are contemplating retirement, it is also inaccurate and completely at variance with all retirement systems that I know of and I urge its indefinite postponement.

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

Mr. THERIAULT: Mr. Speaker and

Members of the House: This section, the amendment to this section, deals with something that we were trying to even out, and to start out with I am for the amendment. If the first amendment hadn't passed, then I would have been against this one also, but the 30 days of accrued sick leave that we put in this section was the compromise with the present system where they have all their accumulated sick leave and accumulated vacation pay.

Now, this accumulated sick leave and accumulated vacation pay and the figuring of the final average compensation of a one year current salary rather than over the three year average, all belongs to this retirement system where the actuary cannot figure exactly what is going to be paid out of this system at any given time. He never knows how much compensation has accrued as far as the sick leave and vacation pay which is all ballooned into that last year of compensation to balloon the retirement compensation to as much as one quarter bigger than it would be if they didn't use these figures and include the final compensation over a three year period. At least, if this goes by, then it would level it off a little instead of losing entirely what we are doing by having adopted Amendment "A".

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

Mr. NADEAU: Mr. Speaker, Ladies and Gentlemen of the House: I am in complete agreement with the gentleman from Rumford, Mr. Theriault. This section which deals with the accrued vacation and sick leave is one of the most important parts of the bill. This is a big compromise and if this amendment goes through, it would cost the retirement system. I don't know how much money, something which would be very hard to figure and something which could probably ruin the system.

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

Mr. BAGLEY: Mr. Speaker, Ladies and Gentlemen of the House: I think there is one thing about this that no one has mentioned yet; in any field, whether it is a state employee, a business or industry, you have people who are under systems where there are certain amounts of accumulated sick leave who always use that each year. There are others who never use it. If anybody uses sick leave year after year, he doesn't have much accumulation and so he wouldn't benefit any from this amendment. On the other hand, if he has gone to school or worked or whatever he is doing year after year and hasn't taken time out to be sick, many people, even though they are not feeling too rugged, stay with the job; other people, at the slightest feeling of any physical problem, stay home if they have sick leave that is accumulated. So it seems to me that this benefits the people who stay on the job and I think it is a good amendment. In fact, I'm rather in favor of the way it is now for that very reason, but I will admit that it does balloon, as someone has said, the amount that anybody gets quite a lot.

I think this is a reasonable solution. I think it does benefit the people to stay on the job, so it should be continued.

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

Mr. LAFFIN: Mr. Speaker, Ladies and Gentlemen of the House: I urge you not to pass this amendment. We have got a better one coming on. However, on this

amendment here, we feel this amendment would not be in the best interest at the present time.

The SPEAKER: The Chair recognizes the gentleman from Woolwich, Mr. Leonard.

Mr. LEONARD: Mr. Speaker, I have to defend myself a little bit. I don't see how Mr. Ingegneri can disagree with me when we in fact agree, or at least I think we do. Maybe I explained it a little bit out of the context you would normally hear it in, but I think that what we are doing is talking the same thing. Mr. Bagley, I think, said it very accurately, it is an incentive for people not to use their sick leave and, certainly, if we are going to limit it on one end, you should at least give some sort of incentive throughout the system, throughout their working years not to use sick leave.

As far as cost of this particular problem, it is not that great, it is not that great. I have checked it; I am not going to run in here with an amendment and find out that we have completely annihilated the retirement system or at least the fiscal note we have put on it. It is not that great a cost. One figure that is put up is probably one percent, it would increase the person's retirement one percent, which is not that great and certainly the retirement system, there are two things.

The retirement system now can have a handle on what amount of retirement costs a person is going to be generating and putting on the system, and number two is, it behooves every department to provide an incentive for an employee not to use sick leave. That is number one in my mind, that we should not encourage the use of sick leave. We are, by Item 9 on earnable compensation, because now we are limiting it to 30 days and any part of that could be his vacation. I just don't see the problem there.

This amendment will take it right from day one back to the system and give that person an incentive not to use his sick leave from the first day he comes on the job in the State of Maine, and I think that in itself is probably one of the greatest — well, I shouldn't say greatest, that is a great pat on the back, but I think it is a good amendment, it is not necessarily my own thinking. It was a group that got together and we tried to make concessions and at the same time make this a true reform package, truly reform the system so that everybody is treated equal and has an equal incentive throughout the system or throughout their employing years to not use sick leave.

I hope you accept the amendment and you do not move to kill it. I know the other amendments are coming on and they are what we are trying to get away from and that is what we worked on all year long, is try to get away from this ballooning effect. They want to restore that by killing or knocking out Section 9, and that is certainly not palatable as far as I am concerned because that just leaves us right back where we were before and you get in a problem of unfunded liabilities, you can't project, you can't do various things with the retirement system. I think this is a very, very valid compromise.

The SPEAKER: The pending question is on the motion of the gentleman from Bangor, Mr. Kelleher, to indefinitely postpone House Amendment "E". All in favor of that motion will vote yes; those opposed will vote no.

A vote of the House was taken.

Mr. Kelleher of Bangor 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 Augusta, Mr. Bustin.

Mr. BUSTIN: Mr. Speaker, Ladies and Gentlemen of the House: I really can't come to grips with what Mr. Leonard is trying to do, but I think after his last speech that it is becoming a little bit clear. I think he is playing the part of a scallawag here and I think his hidden agenda is House Amendment "B". House Amendment "B" is the one which puts back in the current law, the current provision is that people may have negotiated into collective bargaining contracts, policemen, teachers, firemen, public works may have negotiated into collective bargaining contracts a retirement stipend based on accumulated sick leave or accumulated vacation time, and in some instances, flat sum payments. The bill we are talking about says there is a ceiling on that of 30 days, no matter what is in these local collective bargaining contracts.

Mr. Usher's amendment, House "B", intends to put that on. I think that House Amendment "E" is the purpose of trying to muddy the waters and ultimately defeat House Amendment "B". My recommendation is to indefinitely postpone House Amendment "E".

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

Mr. MORTON: Mr. Speaker, Ladies and Gentlemen of the House: House Amendment "E" is not going to be an expensive amendment for the system and I urge you to back the gentleman from Rumford, Mr. Theriault, to back this amendment.

The SPEAKER: A roll call has been ordered. The pending question is on the motion of the gentleman from Bangor, Mr. Kelleher, to indefinitely postpone House Amendment "E" to Bill, "An Act to Reform the State Retirement System" House Paper 1725, L. D. 1939. All in favor of that motion will vote yes; those opposed will vote no.

#### ROLL CALL

YEA — Bennett, Berry, P. P.; Berube, Blodgett, Bustin, Carroll, Carter, Chonko, Clark, Connolly, Cooney, Curran, P.; Curran, R.; Dam, Davies, Farley, Farnham, Finemore, Flanagan, Goodwin, K.; Greenlaw, Hall, Henderson, Hennessey, Hobbins, Ingegneri, Jacques, Jalbert, Jensen, Joyce, Kany, Kelleher, Kennedy, Laffin, LaPointe, LeBlanc, Lizotte, MacEachern, Mahany, Martin, A.; McMahon, Mitchell, Mulhern, Nadeau, Najarian, Norris, Pearson, Pelosi, Pierce, Powell, Quinn, Raymond, Rideout, Rolde, Saunders, Silverman, Snow, Spencer, Stubbs, Talbot, Tierney, Tozier, Truman, Tyndale, Usher, Wagner, Walker, Wilfong.

NAY — Albert, Ault, Bachrach, Bagley, Berry, G. W.; Boudreau, Bowie, Burns, Byers, Call, Carpenter, Churchill, Connors, Cote, Cox, Curtis, DeVane, Doak, Dow, Dudley, Durgin, Dyer, Fenlason, Fraser, Garsoe, Gauthier, Gould, Gray, Hewes, Higgins, Hunter, Hutchings, Immonen, Jackson, Kauffman, Kelley, Leonard, Lewis, Lunt, Mackel, MacLeod, Martin, R.; Maxwell, McBrearty,

McKernan, Mills, Miskavage, Morin, Morton, Perkins, S.; Perkins, T.; Peterson, P.; Post, Rollins, Shute, Snowe, Sprowl, Strout, Susi, Tarr, Teague, Theriault, Torrey, Twitchell, Winship.

ABSENT — Birt, Carey, Drigotas, Faucher, Goodwin, H.; Hinds, Hughes, Laverty, Lewin, Littlefield, Lovell, Lynch, Palmer, Peakes, Peterson, T.; Smith, Webber.

Yes, 68; No, 65; Absent, 17.

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

Mr. Powell of Wallagrass Plantation offered House Amendment "D" and moved its adoption.

House Amendment "D" (H-795) was read by the Clerk.

The SPEAKER: The Chair recognizes the gentleman from Wallagrass Plantation, Mr. Powell.

Mr. POWELL: Mr. Speaker, Ladies and Gentlemen of the House: All I wanted to explain on this was that House Amendment "D" cleaned up a little matter we left out when we made the bill, and that was to allow these people, as you see in the statement of fact, to buy up their past time they have served in parochial or private schools. We forgot to include this when we rewrote the bill.

Thereupon, House Amendment "D" was adopted.

Mr. Usher of Westbrook offered House Amendment "B" and moved its adoption.

House Amendment "B" (H-793) was read by the Clerk.

The SPEAKER: The Chair recognizes the same gentleman.

Mr. USHER: Mr. Speaker, Ladies and Gentlemen of the House: I might say that all this does is eliminate this first part of the bill and is supported by all the firefighters in my area of Portland and Westbrook, Augusta, Bangor and the local police departments also.

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

Mr. THERIAULT: Mr. Speaker, Ladies and Gentlemen of the House: I move that this amendment be indefinitely postponed and would speak to my motion.

This amendexnt, with Amendemnt "A", would do away with all the work that we did for the last two years on the revision of the retirement system. This is part of the reason why the cost is ballooning way out of proportion, with no way that the actuary can figure out the cost.

Yesterday, we talked and debated about the erosion and the misuse of state retirement funds by using them to balance the budget. This is another way of eroding the retirement system. What we are doing is cutting down on the income of the retirement system and increasing on the output. You can't do business that way.

This Amendment "A" will just make it impossible for the system to finally come out even in the end. What we are doing here with this amendment is giving benefits to some individuals at the cost of all the people in the retirement system. What we are doing is making it so that eventually, if we keep doing these things, that those people who are now retired or are retiring in the future will someday wake up and find the retirement system of Maine has gone bankrupt and is unable to pay for their benefits, and that will mean that nobody will get a check at all.

If you want it that way, just do this, pass this amendment like you did Amendment,

"A" and eventually nobody will be getting any money from the retirement system. This is what it is doing. We can't conduct the retirement system in a businesslike manner when the legislature continues to put in some kind of amendments to the retirement system that gives benefits to people that they haven't earned. I don't feel that we should continue this if we want to have the retirement system be in a good financial state.

At the present time, we are about even. If we continue to put these kinds of amendments on costing the retirement system money, we are going to end up by going over the average of the fiscal liabilities, our unfunded liabilities. We are now at 29½ years. As Mr. Lynch told yesterday, 30 years is the average, and that is the dangerous point. In half a year, unfunded liability, believe you me, is not much. If we continue to do this with the other systems and retirement system they are just going bankrupt.

The federal government passed a law not too long ago trying to protect private retirement systems, and if we keep giving special privileges to the special groups, we are going to end up with the IRS coming in on it and we will have to pay income tax on the returns of our investments with the retirement system.

I move that this amendment be indefinitely postponed.

The SPEAKER: The gentleman from Rumford, Mr. Theriault, moves that House Amendment "D" be indefinitely postponed.

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

Mr. FARNHAM: Mr. Speaker, Ladies and Gentlemen of the House: I am rather disturbed that a committee that worked on this for a period of two years, and their opinions now are being completely disregarded by those of us who haven't even had time to read the bill, who are listening to little pressure groups all over the state, the state police, firemen's associations, the wardens down at Thomaston, and you name it.

Mr. Theriault is doing an admirable job. He is trying to get you to reason and listen to facts and nobody seems to want to do it. Do you realize that right now this fund has over a \$400 million shortage in that it hasn't funded the services that are there now, and you still want to add onto it, and the day is coming, not too far away, not just those who are now working won't have a pension, there wouldn't be enough in there to pay those who are retired.

The federal law this year basically affected the private plans. It does have an effect on the state plan, but under the state plan, you are funded under 10 years of service anyway. Most private funds didn't fund you until after 15 years. But if everyone now in the state employ, and I am thinking of teachers too, because they are all under the plan, who are eligible to retire, took his retirement, and of all those who were in and have 10 years of service should say, well, I am not going to work for the state anymore and I am going to leave my money in there so that when I do get of retirement age I will at least have the minimum state pension, they would be \$400 million short.

What this amendment really does is allow you to feather bed your last year of service, because you skip vacations for a couple of years and you have got all this accumulated sick leave, so we pay you off in your last year when you are going to retire, and we boost your average wage for

the three-year period by several hundred dollars. So your pension is based then on a fictitious figure, not your actual wage but on the vacation pay that you let slide over the years and the sick pay, and on sick pay, it always bothered me that it accumulate, because that is a bribe to try to keep people honest, to keep them from not claiming their sick pay. It has always bothered me that you had to bribe somebody and pay them at the end of their term because they were honest and didn't claim sick pay when they weren't sick.

I just wish you would listen to this committee. I was not on this committee, but I spent 25 years in personnel work. I wrote a pension plan that is still on the books almost the way I wrote it, except for the change in benefits that have to come with the years. I would like to impress upon you, it is a serious matter for those state employees who are now working or who may work in the future, and when I say state employees, I am thinking of the teachers, I am also thinking probably of a hundred municipalities in the state that are covered, they are town employees, firemen and police. You can play with this thing just so long and then it is going to haunt you. Let's accept our responsibilities now and not pass the buck.

The SPEAKER: The Chair recognizes the gentleman from Woolwich, Mr. Leonard.

Mr. LEONARD: Mr. Speaker and Members of the House: Just briefly. The section that is to be deleted by this bill, I will just reiterate, that is what I was afraid, it would completely annihilate your system. That is where we are having the most amount of problems, making concessions in the bill in other areas. Disability has increased. It seems like if we don't propose all increases, no one wants them. They want to get rid of the decreases, but if you get an increase, fine. You can't live that way forever, ladies and gentlemen, you just can't.

The state retirement system is probably one of the best around as far as benefits are concerned and all we are trying to do is protect that system so that those benefits will continue. Our hearts are as big as anybody else on the committee, and if you felt we could have this ballooning effect at the end and have their people build up their retirement benefits, fine, if we could afford it, we would let it to on, but the fact is, this system just can't stand it.

I will just add one word, that I wasn't trying to muddy any waters before, that was a benefit that you rejected.

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

Mr. LAFFIN: Mr. Speaker, Ladies and Gentlemen of the House: I don't consider this a bribe, I think it is a poor word to use, and I have the greatest respect for my good friend. However, I do have this to say. This is encouragement. That is the word to use. It costs the state a lot of money to train a police officer and keep him on the job. If you lose that police officer or that fireman after he has been trained and well qualified to do his job, that is money gone down the drain, that is like sending a boy to college for three years and have him quit at the end of three years. That is wasted. This is not wasted, because it gives the incentive to the person who is there for 10, 15 or 20 years to be on the job every day so that he knows he has a good attendance record.

The gentleman from the other side of the aisle spoke on this issue. I don't remember

his name, but he hit it right on the head, and it pertains to this bill. This is the one, not the previous bill.

When we have firemen and policemen in service of the people of this state, for the protection of the people, the safety of the people, they deserve more than just a pension and put out to pasture. I believe that a fireman's life is shortened by the dangerous work that he does, and to increase his benefit and have him on the job every day, it is a credit to our state, it is a credit to the communities that they serve in. That is not a deterrent, it is wonderful that they are on the job every day, and they should have a good retirement so that when their pension has built up, they can receive more money, that is the purpose of it. There is no excuse for a dead policeman and a dead fireman, they don't receive a pension.

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

Mr. THERIAULT: Mr. Speaker and Members of the House: I agree fully that the dangerous occupation such as firemen and police officers should be paid more, not given more retirement pay, but paid while they are doing the work, get more money that way.

I am a former policeman myself, and believe you me, when I speak this way, I am not trying to run down policemen and firemen. They deserve every cent they get, but once they retire, why should he be getting more money than the other people are getting? They are out of the dangerous occupation and there is no need of them getting more money. It costs just as much for a man with a few children who has been working on the state highways to live after he retires as it does for a policeman or a fireman. There is no difference, so why should there be any difference in their retirement pay?

Another point is, I can't emphasize too much the benefit of them being able to retire after 20 years — 20 years, mind you. A person starts working when he is 21 years of age, he retires at 41 with full pension rights. Do you think that isn't a benefit? I feel that definitely this amendment should be indefinitely postponed.

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

Mr. TYNDALE: Mr. Speaker, Ladies and Gentlemen of the House: if this question has been answered while I was away from my seat, I apologize for asking it again. I have heard the term erosion used several times during the debate in regard to the retirement fund. I would like to pose a question to any member of that committee or its financial expert, what is the amount of the retirement fund and what erosion has occurred by any amendments during the last couple of years?

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

Mr. GARSOE: Mr. Speaker and Members of the House: I overheard on the intercom the remarks of the gentleman from Augusta, Representative Bustin, and if I got the drift of what he was saying, I think he was attempting to convey to you the impression that this would place in jeopardy contracts with municipalities across the state and with teachers. This is erroneous. This in no way will affect the legality of any agreement in a contract. What this is intended to do is to avoid throwing out of kilter the retirement

system, because if you have people paying on an actuarial basis throughout their work years and then in their contract in the last they get a ballooning effect through some negotiated agreement, nothing in this will stop them receiving those funds, but it will prohibit that ballooning from attacking the integrity of the retirement fund, and I would urge you to disregard his remarks.

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

Mr. TYNDALE: Mr. Speaker, may I have my question answered now?

The SPEAKER: The Chair recognizes the gentleman from Rumford, Mr. Theriault, who may respond to the question.

Mr. THERIAULT: Mr. Speaker, in answer to Mr. Tyndale's question, I am not a financial expert, and as far as dollars and cents, I am not able to do this, but the fact of the matter is, in the past, the erosion that was caused, one example is, in the last session, the 106th, we passed a bill here increasing benefits to all employees of the state so that they would be able to have one-fiftieth of their earnable compensation for each year of service and we had reduced that from one-sixtieth and we put in a lot of other benefits that went into this, so it increased our unfunded liabilities by five or six years. That is the kind of erosion I am talking about.

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

Mr. MORTON: Mr. Speaker and Members of the House: Perhaps I can further explain for Mr. Tyndale's benefit what some of these erosions have been over the years. They aren't necessarily confined to the last two years, but they have affected the fund material, because, you see, the fund has been in effect since 1942 when it was founded, and at that point in time, all state employee credits for prior service were picked up by the system. So immediately there was an unfunded liability there, but it did not materially affect the system because we had payments coming in, we had a small number of employees and it didn't affect it.

One of the big erosions which took place was when the MTRA, the old MTRA group, which was a contributory system and the non-contributory teachers got together and then they came into the system in 1947. While I don't want to put a figure on it, it was many millions of dollars which increased the non-contributory part of the fund or the so-called unfunded part.

The third big jump came in 1970 when we moved from a seventieth to a sixtieth, when we moved from a high five to a high three years and when we went from zero to \$80 minimum. There was no minimum prior to 1970. These three things in 1970 really jumped the unfunded liability a great deal.

Finally, as the gentleman from Rumford pointed out, in 1973, we moved from a sixtieth to a fiftieth and also moved from \$80 to \$100 minimum, as you all remember. I remember that one. So, these have been quantum jumps in the unfunded liability.

What are we talking about by unfunded liability? What we are saying here is, we guarantee to pay to anybody who retires, the day after these laws go into effect, at the higher rate, but he hasn't contributed, nor has the state contributed for that higher rate on an actuarial basis over the period of time that he has been working. So

right at that moment, you jump the unfunded liability, and it has to be paid for by the contributions of those who are working on that day and continue to work until they retire.

At the present time, the state employees' unfunded liability in the fund totals \$152 million. The teachers under the MTRA section totals \$195 million, and the old system teachers, who never were funded under any circumstances and made no contributions, total \$117 million, so the total unfunded liability is \$464 million, the value of the fund is somewhere in the neighborhood of \$200 million at the present time.

The SPEAKER: The Chair recognizes the gentlewoman from Machias, Mrs. Kelley.

Mrs. KELLEY: Mr. Speaker and Members of the House: I rise to support Mr. Theriault's motion to indefinitely postpone the amendment, number H-793. This bill, as you have heard, has had a lot of work done on it. If we keep hacking away with amendments, we will ruin the original intent.

Mr. Theriault, as House Chairman, has put a lot of work into this, and I hope that you people will listen to him.

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

Mr. BUSTIN: Mr. Speaker, Ladies and Gentlemen of the House: It appears that I cannot escape the careful eye of Mr. Garsoe even when he is out of the chamber. He always comes in and he knows what I am up to, and he has for your benefit very carefully implied, if not boldly stated, that I have told you an untruth when I said this would have a deleterious effect on collective bargaining contracts in many areas of the state of teachers, firemen, public works employees and policemen. If you look at the bill, and you are going to have to look through the whole thing, it is right on page one, it says, "earnable compensation shall not include payment for more than 30 days of accumulated or accrued sick leave or unused vacation time."

If, for example, the fire fighters in Westbrook already have in their contract that they may have 35 days, would that not mean that five of those days would not count and thus have a deleterious effect upon the contract?

There is another side to the coin of what Mr. Theriault has said relative to what we ought to do is raise the salaries of these people and not do anything in terms of retirement more than what is done already. When those same fire fighters in Westbrook that year were bargaining that contract, they got their provision on retirement in lieu of some other benefit, maybe even in lieu of a salary increase. What I am saying is, they have paid the penalty and now, what they were going to get in return for paying the penalty is going to be taken away from them. That seems to me to be the point.

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

Mr. MORTON: Mr. Speaker, Ladies and Gentlemen of the House: The gentleman from Augusta, Mr. Bustin, is correct in what he says that the retirement benefit for the firemen in Westbrook will be reduced by the application of this bill. We have not quarreled with that, we know that is correct. In fact, I have an example here, and if you turn it around and say it the other way, it shows what the effect of ballooning to the extent that can be done in

some of these local districts does to the fund.

Here is a fireman, whose current annual salary, on the effective date of the act, is \$8320 a year and his average final compensation at the time of retirement is \$8300 even. Now, in his last twelve months, he has a salary, including vacation and sick leave, and usually this includes quite a lot of overtime that is given to this guy because other fellows back off from the overtime and they let him have it, so he boosts his salary from the average \$8300 to over \$10,000, which results, when his paid accrued vacation and sick leave of \$1748 is included, in an increase in his pension from \$4150 under the new bill, to \$5,000. That is \$850 a year that is being paid to him on a pension for the rest of his life that he hasn't contributed to except in the last year. Don't get me wrong. During that last year, when he receives this pay, he does contribute his percentage and the community contributes theirs, but it is only during that last year. It is not actuarially funded.

The committee was well aware of this and we really discussed it to great length, and in the committee, I think, this received more support than any other. The number of people who signed "Ought Not to Pass" on this were not all signing "Ought Not to Pass" in accordance with this paragraph. We addressed this problem, we listened to it and we tried to talk about it by saying that we would allow 30 days of accumulated and accrued sick leave.

Just so you don't get a wrong impression, and I even had it until this morning, 30 days, at least at the state level, does not mean one month. It is 30 working days, five days a week, that is six weeks or a month and a half, so this is a pretty reasonable compromise, it seems to me. In addition to that, it says, "nor include any other payment which is not compensation of actual services rendered," which is not paid at the time the services are rendered. That is to prevent special arrangements being made that as a bonus in the final year that elevates the retirement pay way beyond what one has earned over the period of time that he is working.

Finally, ladies and gentlemen, how did we address this? We made this section effective only on July 1, 1977. That allows two years for these contracts to be re-negotiated and so, if this is a matter of contract and if it does reduce benefits, and if by state law these local units wish to stay in the system, and it has been a pretty good system and they seem to have come flocking in, then they have two years to renegotiate their contracts if this affects them adversely.

I hope you will kill this amendemnt, because this, in a bill of — I can't remember how many pages there are, but well over 20, this is the heart of the bill right here, this one section.

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

Mr. GARSOE: Mr. Speaker, Ladies and Gentlemen of the House: That silver-tongued gentleman, the Representative from Augusta, has even beguiled by astute friends from Farmington in his remarks concerning contracts. We are not talking public employee contracts here, there is absolutely no connection with it. The gentleman from Augusta was correct when he phrased it as having a deleterious effect — that is bad — but only as they

have been able to maneuver these benefits to inflate retirement,

Now, what happens is, they negotiate their sick leave being converted into cash per diem payments, they negotiate bonuses, one percent a year for so many years, all to be paid in their final year of compensation.

The subject under discussion here will in no way affect the terms of that contract. It will remove the deleterious effect from the retirement system, because since you average out the three highest years, if you can balloon one of those years, Mr. Farnham presented it very clearly I think, you are upsetting the actuarial basis on which the retirement system is funded. That is the only connection that can be made between the two. It will in no way infringe on the validity of any contract. The individuals who have contracted for certain benefits will get them in cash at the time they were supposed to, but it will remove the bad effect that these are having on the retirement system, and I hope we make that very clear.

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

Mr. TYNDALE: Mr. Speaker, Ladies and Gentlemen of the House: The thing that I would like to find out before I vote on this question, if the fund is \$200 million at the present time, I don't know the rate of your investment return, but what I am trying to find out, how far are we going as a matter of erosion on the total income of this retirement fund at the present time and if we ever get to the point where something will have to be done that might seriously effect the fund?

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

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

Mr. MORTON: Mr. Speaker, Ladies and Gentlemen of the House: I am not sure that I can answer accurately enough for the gentleman because he is pinning us down pretty much, but actuarially, if we went ahead today and made none of these rather major changes that I pointed out earlier, the move from a seventieth to a sixtieth and a move from a sixtieth to a fiftieth, the granting of a minimum from zero to 80 and moving it from 80 to 100, none of these big changes were made. At the present time, and with this bill, we are talking about cleaning up the whole situation in 29 years, coming back even. I think the actuarial study did not use as high a figure for inflation as I would have liked to have had them use, so it will may be over 30 at the present time, as the gentleman from Livermore Falls mentioned yesterday.

I don't want to say anymore right now because I don't want to confuse the issue, but this bill, in and of itself, does not materially change the payout or the period of which we could finally fund this with no additional money paid in.

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

Mr. CURTIS: Mr. Speaker, Ladies and Gentlemen of the House: I just want to make a brief remark or two. How many times in this House have we referred, well, I am not a lawyer and defer some question to someone who is a lawyer. In this matter of retirement funds, the actuary acts much as the lawyer does in the judicial system and we do have to have some faith in these people who tell us whether the fund is going to be sufficient or

not, and they tell us that it is not at the rate we are going so, number one, we have got to try to preserve the integrity of the fund so that the people who are now retired, who hope to retire, their fund will not be depleted.

After careful study, this has become a compromise not to have to ask the state employees, the teachers or the local direct employees to contribute any more money. Also, the state doesn't seem to want to contribute any more money. In fact, we could use a million dollars more this biennium. We have borrowed, just temporarily, from the fund, in the first part of the biennium to fund the supplemental budget, so why don't we have a little faith in the experts on the system and the retirement organization of this state and go along with the hard work and the great study that has gone into this bill.

The SPEAKER: The pending question is on the motion of the gentleman from Rumford, Mr. Theriault, that House Amendment "B" be indefinitely postponed. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

Mr. Kelleher of Bangor requested a roll call.

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

A vote of the House was taken, and more than one fifth of the members present 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 Rumford, Mr. Theriault, that House Amendment "B" be indefinitely postponed. Those in favor will vote yes; those opposed will vote no.

#### ROLL CALL

YEA — Albert, Ault, Bachrach, Berry, G. W.; Berry, P. P.; Birt, Bowie, Burns, Byers, Call, Carey, Carpenter, Carroll, Connors, Cooney, Cox, Curran, R.; Curtis, DeVane, Doak, Dudley, Farnham, Fenlason, Finemore, Fraser, Garsoe, Gauthier, Gould, Gray, Greenlaw, Hall, Hennessey, Hewes, Hunter, Hutchings, Immonen, Ingegneri, Jackson, Kany, Kauffman, Kelley, LeBlanc, Leonard, Lewis, Lizotte, Lunt, MacLeod, Martin, A.; Maxwell, McBairty, McMahon, Mills, Miskavage, Morin, Morton, Nadeau, Norris, Peakes, Pearson, Perkins, S.; Perkins, T.; Peterson, P.; Post, Raymond, Rollins, Saunders, Silverman, Snowe, Sprowl, Strout, Susi, Tarr, Tague, Theriault, Torrey, Tozier, Twitchell, Walker, Webber, Winship.

NAY — Bagley, Bennett, Berube, Blodgett, Boudreau, Bustin, Carter, Chonko, Clark, Connolly, Cote, Curran, P.; Dam, Davies, Dow, Dyer, Farley, Flanagan, Goodwin, K.; Henderson, Hobbins, Jacques, Jalbert, Jensen, Joyce, Kelleher, Kennedy, Laffin, LaPointe, MacEachern, Mahany, Martin, R.; McKernan, Mitchell, Mulkern, Najarian, Pelosi, Peterson, T.; Powell, Quinn, Rideout, Rolde, Shute, Spencer, Stubbs, Talbot, Tierney, Tyndale, Usher, Wagner, Wilfong.

ABSENT — Churchill, Drigotas, Durgin, Faucher, Goodwin, H.; Higgins, Hinds, Hughes, Laverty, Lewin, Littlefield, Lovell, Lynch, Mackel, Palmer, Pierce, Smith, Snow, Truman.

Yes, 80; No, 51; Absent, 19.

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

The Chair recognizes the gentleman from Portland, Mr. Joyce.

Mr. JOYCE: Mr. Speaker, a parliamentary inquiry? How would one go about putting this back for a study or a summer study on this thing? I attended probably 95 percent of the committee meetings and I worked 10 years on the pension system before I came here, and I was even confused on the last day, and how would I ever get it back where they would study it rather than have it face a possible fatal blow here today?

The SPEAKER: If the members will allow the Chair the prerogative, the only way that it could be done under our rules would be to move that the bill be recommitted to the committee. The bill could then come out "Leave to Withdraw" so that then a study order could be introduced to conduct that study.

Mr. JOYCE: Mr. Speaker, I would then move that this bill be recommitted to the Committee on Veterans and Retirement.

I had a lot of problems with this bill originally and I felt that I could get squared away with attending the committee meetings. I went to the committee meetings and found Mr. Theriault, our House leader there. He seemed to be the only one that had previous experience on the committee with this bill. The bill, for someone to stay with the time that I had spent with it in Portland, it is a very confusing document and the committee, when they got this bill originally, 1818, they bounced it around and when it got down to the final few days of hearings, they decided to handle the bill by starting the Chinese system of going to the back page and working forward.

This is how they studied the bill. It seemed about 90 percent of the problems with this bill were right in that first section and it got down to, I think just a week ago, when they realized that they had big problems with that first section. I think we have all been lobbied on it quite heavily from our home districts, particularly when people were hired, even back 8, 10 or 18 years ago, and I guess we all realize that historically wages were the only compensation for employment but such is not the case now. As the good gentleman from Augusta mentioned, wage increases were passed over on the choice of employees to get a better pension, and now to tell them that we are going to remove this without adequately compensating them seems to be a big problem and I think we are going to have too much difficulty with it the way the bill is right now.

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

Mr. THERIAULT: Mr. Speaker, Ladies and Gentlemen of the House: I reject the motion to recommit. We spent two years on this, and regardless of what my friend Mr. Joyce from Portland, a former policeman says, I did not fully understand the bill myself when we started working on it the first of January, and the reason for that is, though we had about 30 or 40 meetings, I dare not say exactly how many of the Committee on Veterans and Retirement of the 106th, that I was, through no fault of my own, unable to attend many of those meetings, so I was not able to keep up with the general bill and Mr. Lynch, who was there at all the meetings and knows that part of the work

better than any member of the House not being able to be here today was kind of a loss.

To come back to recommitting, the parts that are objected to, Section 1 is, as was said, pretty near the heart of the thing, because it is a redefining of the meaning of the final compensation. At the present time, it is possible through adoption for each district to take that option of basing their salary, their final compensation, on their current salary for the final year of employment.

When it is said that people that have started to work 18 years ago more or less, started figuring on this for their retirement pay, this is not quite correct. The bill to permit averaging your final compensation on your final year's service rather than a three year average, passed, I think it was in 1960 or 1961, and at that time, some of the departments in the state took advantage of it, I think one of those were the State Police. But as far as the districts were concerned, no one took advantage of it for many years and, in fact, the Portland Police Department, or the Fire Department, I don't know which, one of them took the option in 1973, the other one in 1974 so that, therefore, there was no figuring up this kind of a retirement until that year, 1973 at the earliest.

On the entire system, the idea of the districts is, if they want to come in on the state retirement system and accept the rules the way they are, they are welcome. We don't like to have them come in here and then want to change the rules after they are in the system and that is why I object to recommitting, because if this bill is recommitted to the Veterans and Retirement, we cannot come up with anything better than we have right now.

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

Mr. JOYCE: Mr. Speaker, Ladies and Gentlemen of the House: I think my point perhaps was misunderstood. I retired two years ago this month and up to a month before I retired, I was recruiting, and seven of the last eight men I recruited had college degrees. I had to explain to them what we had to offer. And as the pension law was written on that day, I told them about the opportunities that the pension afforded them. I feel that at least seven of them are still employed. They have 18 years to go before they get their 20 years in, and I am sure that they are looking forward to the pension that they were promised. It was pointed out to them, as the City of Portland is a participating district in the Maine State Retirement System, it was pointed out what pension rights we were giving them in lieu of the high wages in some of the industries that they certainly could qualify for.

I feel that to change this now would be a great injustice to this group and I feel that throughout the state, including State Police, teachers, etc., took their present jobs because of certain benefits that they have in here. To remove some of these benefits without giving other benefits along the line, whether they be full hospitalization plan, additional vacation or sick leave, this type of thing, you have got to give some compensation when you take some away. I just very reluctantly got up and asked for the motion that I made, rather than to rise and ask that this thing be dumped at this time. I think there is so much good in there and I am only trying to save this bill.

The SPEAKER: The Chair recognizes

the gentleman from Farmington, Mr. Morton.

Mr. MORTON: Mr. Speaker, Ladies and Gentlemen of the House: I appreciate what the good gentleman from Portland has said, and I assure you, he is not confused, as he said in his first remarks on the floor, he knows exactly what he is doing. He knows that Section 1, which we just adopted by a large margin when we rejected Amendment "B" is the thing that is giving him the problem.

Now, this was studied, as the gentleman from Rumford said, for two years by the previous committee. I would point out to the gentleman from Portland, and I am sure he knows this but I hope you all also realize it, this in no way affects the benefits that will accrue to him because he is already retired. And as far as his concern for his men on the force who have 18 years to go. I trust that his recruiting efforts were reasonably accurate. I am sure they would have been. But I submit that I don't know what my situation is going to be 18 years from now, and I submit that very few of you, no matter what your age may be, knows what your situation is going to be 18 years from now and if they promised that number of dollars to these people 18 years hence, then it was a promise that they couldn't back up, because it is going to depend on inflation, it is going to depend on the jobs that these men hold over the years, it is going to depend on the jobs that these men hold over the years, it is going to depend on the wage scales and I finally point out to you that this is a problem for the City of Portland; it is not a problem for the State of Maine nor the State Retirement System.

All the things that the gentleman mentioned to you are negotiable in their contracts for future years and I am sure they are going to be negotiating many of them in the next 18 years.

Change has to come about. We cannot sit in one place, state government or anywhere else, and this bill, in its present form, is a good move for the State of Maine and we will go a long way towards protecting the fund. I urge you to vote against the motion of the gentleman from Portland.

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

Mr. JENSEN: Mr. Speaker, Ladies and Gentlemen of the House: Earlier in the session, this legislature enacted a major piece of legislation, the Criminal Code, the Truck Weight Bill, a number of things. In each of those cases, they had extensive public hearings and extensive input, it was a slow process, it was a process where many members of this legislature would go to a committee member of the committees involved, talk to them, find out what was going on, and get input from their constituents and change things. Then it came to the floor, there was a full public debate, there was full discussion of the merits and demerits of the proposal. The proposals were before us way before we actually voted upon them. That this is not the case with this bill. This bill has been printed and available to us since Wednesday. I don't know about you, but I have had no chance to take this bill home, talk with some of my constituents to find out what their reaction is to it.

It is a major piece of legislation. I point out what happened in the last legislature after we enacted the Educational Subsidy Law. If you will look at the number of amendments that came to that this session. I think you would have thought

twice before passing that law last year the way it was. That came in the final days of the session.

If you will look at the Truck Weights Law, it was passed in the final, hectic days of the session. That got people so upset, they went to referendum and they soundly defeated it.

If you will look at the Consumer Credit Code, that was passed and then in this session there was something in the neighborhood of 80 amendments. I submit to you that we ought to take a bill of major importance like this, send it back to committee where we have a chance to look at it very closely, where we have a chance to discuss it before it comes out and gets voted on. A piece of legislation as important as this ought to be fully discussed, ought to get a full hearing, not just a formal public hearing before the committee several days before it comes out, but a hearing by our constituents, by us, when we go home and we talk to the people who are going to be affected.

I hope you vote in favor of this motion so we don't kill the bill but rather can bring it back in special session.

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

Mr. THERIAULT: Mr. Speaker, Ladies and Gentlemen of the House: Mr. Jensen says this bill hasn't had a hearing, that it just landed on your desks a couple of days ago, 1939, agreed 1939, but if he knows anything about it, he can read where this is a redraft of 1818, which has been on your desks for much more than a couple of days. The changes in that redraft from the original bill have all been made because of our committee hearings on the bill. We had four separate committee hearings on that particular bill, taking it section by section to have everybody try to understand that particular section so that we could find out what the feeling of the public was on it and then, when we finally had all our hearings completed, the committee did have several meetings before we came up with the 1939, but the revision from 1818 was simply made from the suggestions we got from these public hearings and from the membership of this House.

I certainly don't feel that we should recommit this to the committee.

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

Mr. BAGLEY: Mr. Speaker, Ladies and Gentlemen of the House: Just very briefly, on this whole matter of one year or three years, which seems to be the crux of the argument of the gentleman from Portland, that one year thing is like the lottery, it is merely a gamble. As long as we are in times of inflation, one year is probably better.

I taught a long time and I had periods when it made no difference, my salary would stay the same year after year back in the 30's. That can happen again. These people who are retiring 18 years from now may find that their current year isn't as good as the best three years and that happens to individuals and it can happen to the whole of us during a period of time so it doesn't seem to me that this is a particular question.

As far as studying the thing is concerned, I have talked to any number of members of the committee, they have always been willing to answer my questions and I have gone over this thing item by item with several members of the

committee and I don't think there is any need of recommitting.

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

Mr. COTE: Mr. Speaker, Ladies and Gentlemen of the House: After hearing the debate on this bill, I have come to two conclusions. Some of the speakers are anti-labor, the second conclusion, if it is left at the local level, it means a rise in the local property taxes.

The SPEAKER: The Chair recognizes the gentleman from Wallgrass, Mr. Powell.

Mr. POWELL: Mr. Speaker, Ladies and Gentlemen of the House: I was on the committee and I don't think this is the time to recommit this bill. I would prefer that we defeat that motion and wait and see what happens in the other body.

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

Mr. MORTON: Mr. Speaker, Ladies and Gentlemen of the House: I would like to reply to the remarks from the gentleman from Lewiston, Mr. Cote. The bill would in no way affect local property taxes. All of the local units pay the full freight for their participation in the retirement fund, so it doesn't make a bit of difference what is done to the fund, the local unit does pay the full freight.

I would also like to point out that in addition to what the gentleman from Rumford pointed out with regard to Mr. Jensen's remarks, we did have many days that we scheduled different sections of the bill and on one day, there was a group of fire fighters there from the City of Portland, who had come on the wrong day because of a mixup in dates, and we had taken up the portion that they were concerned with a few days earlier, so we did allow those fire fighters to participate in the hearing and we went back to the section which they were concerned with. So, I really feel that Mr. Jensen's constituents have been carefully considered in the construction of this bill and the amendments to it.

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

Mr. COTE: Mr. Speaker, Ladies and Gentlemen of the House: If, through contract, they lose benefits and they get higher pay instead of getting retirement benefits, who is going to pay for it? It is going to be the local taxpayers or it will eventually come back to the raise on local property taxes.

Mr. Theriault of Rumford was granted permission to speak a third time.

Mr. THERIAULT: Mr. Speaker, Ladies and Gentlemen of the House: In answer to Mr. Cote, he is right, to a certain extent, but if the benefits go up, that comes from the local taxpayer also because they are the ones that pay the cost of the retirement as far as the district is concerned.

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

Mr. BUSTIN: Mr. Speaker, Ladies and Gentlemen of the House: Having spoken on this issue and a number of the amendments, let me indicate to you at this time that I at least do support recommitment. The bill does contain many positive reform proposals, but I don't think there is any way that we can, at this point in the session, grasp all the ramifications of this act.

I have discussed the matter, if it means anything to anyone, with representatives of the State employees in the corridors, and rather than lose the entire package

because of a few complex issues, they do also support recommital.

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

Mr. BIRT: Mr. Speaker, Ladies and Gentlemen of the House: I hope that you do not recommit this bill. This is an area that I have had a long interest in and I have watched some of the things that have developed with the retirement system over the years. Back some years ago, I was aware of the fact that actually your unfunded liability was such that I think the first study that was done on it in 1955 indicated that it should be paid off by 1974. Well, 1974 has come and gone and instead of being paid off, we are a great deal further in the hole.

I think that from everything I have seen on this study, I know there was a good deal of money spent on it, and they hired actuarial firms to do the study, I think everything that I can see in the bill will attempt to correct some of the problems that there is in the fund. I think that the bill itself is a good bill. If later on we find that we want to make some changes, we can at another session. At this late stage in the game, to recommit this bill, would be to me completely wrong and I hope you do not support the present motion.

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

Mr. BERRY: Mr. Speaker, Ladies and Gentlemen of the House: I had the privilege of serving with Mr. Theriault on the Veterans and Retirement Committee last session and I did participate in part of the study that was done last session and I can honestly tell you that you could not have a more capable person serving on a committee than Mr. Theriault, and if he says this is a good bill, you are just going to have to believe it, because he wouldn't say it if it wasn't. He is very, very capable, and I would hope that you don't recommit this bill.

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

Mr. HOBBS: Mr. Speaker, Ladies and Gentlemen of the House: I know the frustrations that the gentleman from Rumford, Mr. Theriault, and the other members of the Veterans and Retirement Committee must be going through. I served on the Judiciary Committee where many people thought that we should recommit the bill of revising the criminal laws back to committee for further study. Some people have had minor problems with it. I say that we should not recommit the bill, we might have minor flaws in the legislation which could be taken care of in special session.

I know that I have an amendment which I want to offer which was inadvertently left off this redraft before us this afternoon. I hope we do not recommit this bill to committee.

The SPEAKER: The pending motion is to recommit. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

Mr. Jensen of Portland requested a roll call.

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

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

The SPEAKER: The pending question before the House is the motion to recommit to the Committee on Veterans and Retirement. Those in favor will vote yes; those opposed will vote no.

#### ROLL CALL

YEA — Berube, Blodgett, Boudreau, Bowie, Bustin, Byers, Carpenter, Carter, Connolly, Cooney, Curran, P.; Dam, Davies, DeVane, Dyer, Farnham, Finemore, Flanagan, Henderson, Jacques, Jalbert, Jensen, Joyce, Kelleher, Laffin, LaPointe, MacEachern, Martin, R.; McKernan, McMahan, Miskavage, Mitchell, Najarian, Pearson, Pelosi, Peterson, T.; Saunders, Snow, Spencer, Strout, Stubbs, Talbot, Tozier, Usher.

NAY—Albert, Ault, Bachrach, Bagley, Bennett, Berry, G. W.; Berry, P. P.; Birt, Call, Carey, Carroll, Chonko, Churchill, Clark, Conners, Cote, Cox, Curran, R.; Curtis, Doak, Dow, Dudley, Farley, Fenlason, Fraser, Garsoe, Gauthier, Goodwin, K.; Gould, Gray, Greenlaw, Hennessey, Hewes, Higgins, Hobbins, Hunter, Hutchings, Ingegneri, Jackson, Kany, Kauffman, Kelley, Kennedy, LeBlanc, Leonard, Lewis, Lizotte, Lovell, Lunt, MacLeod, Mahany, Martin, A.; Maxwell, Mills, Morin, Morton, Mulhern, Nadeau, Norris, Peakes, Perkins, S.; Perkins, T.; Peterson, P.; Pierce, Post, Powell, Quinn, Raymond, Rideout, Rolde, Rollins, Shute, Silverman, Snowe, Sprowl, Susi, Tarr, Teague, Theriault, Tierney, Torrey, Twitchell, Webber, Wilfong, Winship, The Speaker.

ABSENT — Burns, Drigotas, Durgin, Faucher, Goodwin, H.; Hall, Hinds, Hughes, Immonen, Laverty, Lewin, Littlefield, Lynch, Mackel, McBreaarty, Palmer, Smith, Truman, Tyndale, Wagner, Walker.

Yes, 44; No, 86; Absent, 21.

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

Mr. Connolly of Portland offered House Amendment "C" and moved its adoption. House Amendment "C" (H-794) was read by the Clerk.

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

Mr. CONNOLLY: Mr. Speaker, Ladies and Gentlemen of the House: Very briefly, just let me explain what the intent and the purpose of what this amendment is all about.

The way the bill reads now, retirement benefits would be figured on the average of the last three years that an individual has worked and the purpose of this bill is to make it the last year or the annual wage. It is very simply that. I am sure there is going to be some debate on it and I would just point out again that this comes from groups across the state, mainly law enforcement agencies and fire fighters.

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

Mr. THERIAULT: Mr. Speaker, Ladies and Gentlemen of the House: Again, I have to ask for indefinite postponement of this amendment. All we are doing with these amendments is keep taking a bite out here and there of the original bill and if we keep doing that, we might as well give up the whole idea. What we are trying to do is to make it fair for everyone and in this particular case, in this amendment, I don't feel that they deserve any more of the acceptance of this amendment than the previous one, for the same reasons.

I am sorry that I haven't had a chance to study this completely, I have been wrapped up on the other two I guess, so if you will give me a moment—oh yes, to change the annual compensation, this is the current salary, to the final average compensation as a basis of calculating retirement and survivors benefits. Well, on that basis, the survivor benefits in this bill have been increased quite an amount. If you will check your bill, you will find that the survivor benefits have been increased, that is, if a person has died in service, the survivor, spouse, can get two thirds of their pay, 66⅔ percent of his final compensation and that compensation that he is earning at the present, if they have one child or more, they get a 100 percent of his pay, so I can't see where you can get anything better than that into this bill.

As far as calculating the retirement part, this, again, goes back to the fact that we are trying to do away with the ballooning cost of the retirement and this, again, would be taking a bite out of something that hasn't been paid for. To get the final compensation, you have to figure out on interest that has accrued on the part of the money that has been put in there, and if you balloon all of your costs into your final year of compensation, you can't do that. Actually, you are getting paid for something that you haven't made any payments on.

Mr. Morton from Farmington has given you the figures on what these additional costs would be if it was figured on the current annual salary rather than the average final compensation. So, I move for indefinite postponement.

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

Mr. FARNHAM: Mr. Speaker, Ladies and Gentlemen of the House: Once again, I rise to support the gentleman from Rumford, Mr. Theriault, even though I did vote for indefinite postponement or recommitment of this bill.

I have no objection to raising the age of retirement to 70, because I don't believe in a compulsive retirement age of a man if he is physically able, or a woman, if they are physically able to do the job. The little gimmick in here of making it the last year's salary, I want to tell you what happens in that.

Suppose you are a policeman, you have one year to go. We make you a lieutenant, we increase your pay three or four thousand bucks a year, so your pension is going to be based on that one year's pay. The same with the state police or any of those organizations, and in my time here, I have seen that happen over and over again. A man gets a darn good promotion for his last year of service, then his pension is based on one year's service, really. He has made his contributions, his percentage contribution, and the state has made its contributions for 19 years on much lower basis, and then one year's contribution and you have the rest of your life a very fat pension that you never earned or paid for.

I hope you will go along with the motion to indefinitely postpone.

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

Mr. KELLEHER: Mr. Speaker, Ladies and Gentlemen of the House: I have to take issue with one comment that the gentleman from Hampden made saying that if in fact a person that is publicly employed does receive an adjustment,



whether it is in his pay or his position with the department, indicating that he doesn't earn it, I would suggest that he does earn it after 20 years of public service and more important than that, an individual, if you are talking about a policeman or a fireman, or whatever the case may be, doesn't get that promotion without the town fathers giving it to them. I would take issue with that fact, and if he does receive that promotion, good luck to him.

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

Mr. MORTON: Mr. Speaker, Ladies and Gentlemen of the House: This is a really bad amendment because it is discriminatory toward the local districts, it does not include them and I feel as though it definitely should be indefinitely postponed.

The SPEAKER: The pending question is, on the motion of the gentleman from Rumford, Mr. Theriault, that House Amendment "C" be indefinitely postponed. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

Mr. Kelleher of Bangor requested a roll call.

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

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

The SPEAKER: The pending question before the House is on the motion of the gentleman from Rumford, Mr. Theriault, that House Amendment "C" is indefinitely postponed. Those in favor will vote yes; those opposed will vote no.

#### ROLL CALL

YEA — Albert, Ault, Bachrach, Bagley, Berry, G. W.; Berry, P. P.; Birt, Bowie, Burns, Byers, Call, Carey, Carpenter, Carroll, Chonko, Churchill, Clark, Cox, Curran, R.; Curtis, Doak, Dow, Dudley, Farnham, Fenlason, Fraser, Garsoe, Gauthier, Goodwin, K.; Gould, Greenlaw, Hennessey, Hewes, Higgins, Hunter, Hutchings, Jackson, Kany, Kauffman, Kelley, Kennedy, LeBlanc, Leonard, Lewis, Lizotte, Lovell, Lunt, MacEachern,

Mackel, MacLeod, Mahany, Martin, A.; Martin, R.; Maxwell, Mills, Morin, Morton, Nadeau, Norris, Perkins, S.; Perkins, T.; Peterson, P.; Pierce, Post, Powell, Raymond, Rideout, Rollins, Saunders, Shute, Silverman, Snow, Snowe, Sprowl, Susi, Tarr, Teague, Theriault, Torrey, Tozier, Twitchell, Webber, Winship.

NAY — Bennett, Berube, Blodgett, Boudreau, Bustin, Carter, Conners, Connolly, Cooney, Cote, Curran, P.; Davies, DeVane, Dyer, Farley, Flanagan, Henderson, Hobbins, Ingegneri, Jacques, Jalbert, Jensen, Joyce, Kelleher, Laffin, LaPointe, McMahon, Miskavage, Mitchell, Mulkern, Peakes, Pearson, Pelosi, Peterson, T.; Rolde, Spencer, Strout, Stubbs, Talbot, Tierney, Tyndale, Usher, Wagner, Wilfong.

ABSENT — Dam, Drigotas, Durgin, Faucher, Finemore, Goodwin, H.; Gray,

Hall, Hinds, Hughes, Immonen, Laverty, Lewin, Littlefield, Lynch, McBreairty, McKernan, Najarian, Palmer, Quinn, Smith, Truman, Walker.

Yes, 83; No, 44; Absent, 23.

The SPEAKER: Eighty-three having voted in the affirmative and forty-four in the negative, with twenty-three being absent, the motion does prevail.

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

Mr. BUSTIN: Mr. Speaker, relative to House Amendment "E", which was indefinitely postponed on my motion, I now move that we reconsider and I hope you will vote for the motion.

This was the amendment which allowed accumulated or accrued sick leave or unused vacation leave for which the member is accredited on termination of service but for which he does not receive payment to be credited to his membership service and I erroneously and hereby apologize to the gentleman from Woolwich, Mr. Leonard, for thinking that his goal was to defeat House Amendment "B" the unearnable compensation feature. I have talked with him at length outside the hall and he assures me that that was not his intention and the committee wanted this thing on, so I would hope that you would reconsider and put the amendment on the bill.

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

Mr. THERIAULT: Mr. Speaker, Ladies and Gentlemen of the House: I thought this amendment was passed.

The SPEAKER: The Chair would answer that this was indefinitely postponed by 3 votes, 68 to 65.

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

Mr. INGEGNERI: Mr. Speaker, Ladies and Gentlemen of the House: I wish to support Mr. Bustin. I must apologize that I also misunderstood what Mr. Leonard was trying to accomplish. I thought that he was going to substitute credit of time for money which is actually due somebody with unused vacation time. I have been assured by him that that was not the case. He wishes to have the time credited for whatever compensation not given and this, I believe, is a reasonable liberal amendment and I support it and I urge you to do so also.

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

Mr. SUSI: Mr. Speaker, Ladies and Gentlemen of the House: I assume that the Chairman supports this reconsideration and I would like to have him indicate whether he does support it or not.

The SPEAKER: The gentleman from Pittsfield, Mr. Susi, has posed a question through the Chair to the gentleman from Rumford, Mr. Theriault.

The Chair recognizes that gentleman.

Mr. THERIAULT: Mr. Speaker, I am confused, I have to admit it, because this amendment that we want to reconsider takes away something that we tried to give them and Mr. Bustin is for this reconsideration so they can pass this amendment. I have no objection if you want to reconsider, because then it will be putting the bill back where it will take

away some of the things that you have given them in Amendment "A" so I don't mind if you do, but I thought this had passed.

The SPEAKER: The pending is on the motion of Mr. Bustin of Augusta to reconsider the adoption of House Amendment "E". Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

86 having voted in the affirmative and 14 in the negative, the motion did prevail.

Thereupon, House Amendment "E" was adopted.

Mr. Hobbins of Saco offered House Amendment "F" and moved its adoption.

House Amendment "F" (H-801) was read by the Clerk.

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

Mr. THERIAULT: Mr. Speaker, Ladies and Gentlemen of the House: Again, I ask you to indefinitely postpone this amendment. In this case, though, I am not so strong for it. In this case, there may be grounds for it but it is not quite right, in a sense, that the amendment would require the State retirement to pay a surviving spouse and it was not the spouse at the time of retirement or when she or he retired. If you pass this amendment, it only means that the actuary has no way of knowing.

When a person retires, under the state retirement system, he has a chance to take one of several different kinds of retirement compensation, one of them is that he can take all of his retirement compensation, get the whole amount. Another one is to get a reduced benefit so that his spouse, his or her spouse, will be able to get some parts of the compensation — the third one is that he again gets a reduced retirement and his spouse gets half of what he would get if he died before she does, he or she. Therefore, the amount that you lose on this when you take one of these provisions is figuring on the age of your spouse and what chances he or she has of outliving you and how many years, that is the way they set it up. Those of you who are insurance agents may understand this better than I really do but, in any case, if you didn't change the rules and say that a man that is 76 or 80 is under retirement and his wife is dead and he marries a young woman, which sometimes does happen, and then probably, if she is 26 years old, the state has to take on that payment of her compensation as long as she lives.

This is a hard one for an actuary to be able to figure out. I know the circumstances which Mr. Hobbins put this amendment in but in this particular case, I don't believe it would apply, but if we pass this amendment, then it would apply to everyone in the future and I don't think we can afford it.

I move for indefinite postponement.

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

Mr. COTE: Mr. Speaker, Ladies and Gentlemen of the House: I have a question to ask for the benefit of the Speaker, myself and some others in this room. What happens if you are a bachelor? Does that money go to your estate or just what happens? Do we lose out entirely?

The SPEAKER: The gentleman from

Lewiston. Mr. Cote, poses a question through the Chair to anyone who may answer.

The Chair recognizes the gentleman from Wallagrass, Mr. Powell.

Mr. POWELL: Mr. Speaker, I believe in the present system, the heir that you designate would get what is left over, or if you have 25 years in before you die, if you are a bachelor, you will have designated the beneficiary. Could be your mother, your brother or something else. If it is your wife, okay, she gets it, if you have the 25 in. If you have 10 years in, the funds will come back to your estate also. I think that will help explain.

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

Mr. JALBERT: Mr. Speaker, Ladies and Gentlemen of the House: I would like further to answer the gentleman from Lewiston, Mr. Cote, and it might apply to the Chair. If you don't want to contribute on one end, you can't expect to cash in on the other.

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

Mr. INGEGNERI: Mr. Speaker, Ladies and Gentlemen of the House: I support this amendment because I don't believe it is fiscally unrealistic nor would it greatly deplete the retirement fund. Statistics will show, unfortunately, for us males, that the females outlive us. This particular provision is in the federal retirement system at the present time and it works very well. Not every retiree is able to go out and remarry a 26-year-old chick, it should only be that way. Most times it would be that it would be somebody comparable to him and his age and this woman, once this man dies, this second wife, would be left out in the cold and she would have to be supported by the state one way or the other. She probably would have to go on some kind of assistance, Social Security, Aid to the Elderly or whatever, and I believe that the cost of this is not that great that the state should not have this kind of humanity and I urge you to support this amendment.

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

Mr. THERIAULT: Mr. Speaker, Ladies and Gentlemen of the House: In answer to Mr. Ingegneri, he may not think this is very expensive on the federal level, billions mean nothing to them on the federal level, but believe you me, thousands means a lot of money to the State of Maine.

As far as the retirement system is concerned, that means a lot of money to them too. He may not consider the fact that a woman 26 years old would be eligible to get anywhere from probably \$500 to \$1,500 a month, I don't know what the top pension is in the state retirement, for say 50 years. If that doesn't come to a goodly sum, then maybe my figures are wrong.

As I said in the beginning, I am not a financier, I don't understand finances too well. I can barely balance my checkbook, but in this case, to me it means a lot of money, so I still feel that we should indefinitely postpone.

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

Mr. HOBBS: Mr. Speaker, Ladies and Gentlemen of the House: First of all, I will explain this amendment to you and then I will tell you the story of how I come up with the amendment. This amendment does not set a new precedent. Under of the present retirement system, a law enforcement officer, being a state police officer, his widow at the time of death and not the time of retirement would be able to receive the benefits of one-half of the benefits of his state retirement. This amendment before you is consistent, it is consistent with the purpose of the whole retirement system and it is consistent in that a law enforcement officer of the Department of Marine Resources, I feel, should have the same entitlement as a law enforcement officer in the State Police.

As you know, they have the power of arrest, they have in many instances, do same type of function, and this amendment will allow a widower or widow of an Inland Fisheries and Game Warden or a Coastal Warden to receive one-half retirement benefits that the warden was getting at the time of his death. Presently, under the law now, a spouse who remarries, if she marries a warden, after the wardens retirement, receives no such pension.

I am going to explain to you one of my constituents who has this problem. My constituent is 83 years old. At age 62, he retired, a year later his wife died. Two years later, he remarried. Under the present law, the second wife, whom he has been married to for many, many years, who has shared many experiences and loved and everything else, will not be able to receive one penny at the time of retirement. I think this is unfair and unjust. I feel very bad that I have to tell this person when I go back home and he says, did you get my wife the money, she is 83 years old, I doubt if you will live for two or three more years. His wife is a Canadian citizen, who kept her Canadian citizenship, who is not entitled to her Social Security because she never gained any. The only Social Security she can get his, so this is all she would have to live on. What she would have to do, most likely, is collect food stamps or either live off relatives or if she is really proud, she will probably starve, so I do hope that we adopt this amendment. It won't cost the studies one penny. There isn't one person now in the Department of Marine Resources who will be able to collect. I have checked with Mr. Looke, who is the Chief Warden, he is in favor of this legislation: in fact, he asked me if I would adopt the amendment.

I originally put this bill in with the understanding that this would be included in the bill before us. I took a "Leave to Withdraw" on my legislation because I was to understand that this bill would be included in the overall reform package that we have before us this afternoon.

I urge you not to indefinitely postpone this amendment so I can go home and at least say that I did something for this one individual.

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

Mr. NADEAU: Mr. Speaker, Ladies and Gentlemen of the House: For the first time in this whole bill, I am going to have to oppose my good friend from Rumford, Mr. Theriault, and go along with the gentleman from Saco, Mr. Hobbins'

amendment. I, too, feel that this should go through and hope you will give it favorable passage.

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

Mr. JOYCE: Mr. Speaker, Ladies and Gentlemen of the House: I rise to support the good man from Rumford. When one gets to retire under this Maine State Retirement System, he goes and looks at the options. There are four options. The Metropolitan Chart is used on ages and most men marry women younger than themselves, but the Metropolitan Chart shows women do get a few more years on this earth than us men folks and the thing is all balanced out that way so that, actually, when you get to retire as a state employee, under the Maine State Retirement, they figure your wages or your retirement benefits, like they did mine, on my wife's age. The only woman that I could find to marry was my age, so this, rather than give me half-pay, it gave me a little less because of a woman living older and I think we could really open a can of worms when somebody turns around with this amendment and is going to retire and decides he is going to marry some 26 year old woman, I think he can really bankrupt the state with a couple of these marriages. I urge you to support the good gentleman from Rumford.

The SPEAKER: Mr. Speaker, Ladies and Gentlemen of the House: I have a question. On this amendment, it says to amend said bill by striking out the fifth and sixth lines after the amending clause, the words, "who was his spouse at the time of his retirement." Then it says, and inserting in place thereof the following stricken out words and punctuation, "who was the spouse at the time of his retirement." You have taken out the same thing you put in, aren't you?

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

Mr. MORTON: Mr. Speaker, I believe that the problem with the lady is that what the bill will show then is a strikeout section and in its reality, this particular amendment does remove the words "who was his spouse at the time of his retirement", so that is what the amendment does do because the stricken out words are what is going to be in there.

I would further urge you, ladies and gentlemen of the House, to support the gentleman from Rumford, Mr. Theriault. I am sure that the gentleman, Mr. Hobbins, has an example, but this is typical of legislation which is put in which affects thousands of Maine people and thousands of Maine taxpayers for the benefit of one person. Unfortunately, once it is on the books, then it applies to who knows how many people? In this particular instance, it might only apply to one he has got reference to, but I believe this is the wrong way to go and I urge you to support the gentleman from Rumford.

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

Mr. FINEMORE: Mr. Speaker, I am not going to speak on this, I just want to ask a question. Now, I have helped fill out a lot of retirement papers; in fact, I just finished filling out one this winter for another gentleman and if you choose, to use this amendment for example, if you aren't married at the time you retire, you naturally would take the best one, take the one that would pay it all to you and you

can't change that — once you do it, you can't change it. I don't think you can change it under this bill, because this bill just cuts out "who was his spouse at the time of his retirement." I believe probably you might transfer from one spouse to another, but under that, whatever one you take, one, two, three or four, you cannot change that, according to the state, and I can't see what good this amendment would do.

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

Mr. THERIAULT: Mr. Speaker and Members of the House:

Mr. THERIAULT: Mr. Speaker and Members of the House: Mr. Finemore is correct in his assumption and that is the way it is. Once you make a choice, there is no turning back, except with one big exception, if you can get enough people in the legislature to pass a bill that would change it, and that has been done in the past. That is what I mean by the retirement system being eroded by actions of the legislature.

Now, in answer to Mr. Hobbins, I am very sorry about this but he says that he was assured that if he withdrew his original bill, that this would be included in the final bill. That never was my intention. If he understood this, this was not my intention and I'm sorry for it, because when I talked with him, I told him that the committee had acted on the bill and it was a unanimous "Ought Not to Pass", but I was giving him the option to take it out, to withdraw it, and he finally took that option. But not to my recollection did I ever say that this would be included in the bill.

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

Mr. BAGLEY: Mr. Speaker and Members of the House: I am a little disturbed at the trend this whole debate on this particular amendment is taking. Over one half of our retirees are women and many of them are married and if they died first, their husband would get the benefit. By and large, women live longer than men so it is going to happen that many of these women are going to want to remarry and perhaps marry somebody younger and how about their husbands getting the difference of the pensions? Nobody has mentioned that at all, it seems to me that is one of the considerations we ought to have in mind.

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

Mr. HOBBS: First off, Mr. Speaker, I will answer the question asked by Mr. Bagley. In the law, it states "for the remainder of her life or until the time that he or she shall remarry, so that wouldn't be a bout. I am sure that if a 71-year-old woman who marries a 26-year-old man or 24-year-old man like myself would have no problem. I talked to the gentleman from Rumford, Mr. Theriault, and he agreed with the basic premise of this bill that I presented in the committee, and he came to me, wrote me a note and told me to go back to the glass and I talked to him and he said that they hate to do things piecemeal and they would like to revise all of the laws which were going to reform the retirement system so I took a Leave to Withdraw. He told me that they didn't want to do things piecemeal. He said that they would address problems like this in the reform package, which is before us, of the retirement laws.

I am trying to emphasize this point. I know that people are trying to cloud what the real issue is. Number one, this bill does not set a new precedent. Under the present retirement laws, a law enforcement officer under the state retirement system of the state police has this provision in it.

All this does is brings a little consistency and allows the law enforcement officer who is hired by the state, by the Department of Marine Resources to protect the coastline of the Inland Game and Fisheries or whatever we have, to have the same benefits. I suppose every amendment that is offered looks bad because most people want to get out of here quick and kill things, but I do hope we can adopt this amendment. I have seen some good legislation and I think this is one piece.

The SPEAKER: The pending question is on the motion of the gentleman from Rumford, Mr. Theriault, that House Amendment "F" be indefinitely postponed. All in favor of that motion will vote yes; those opposed will vote no.

A vote of the House was taken.

Thereupon, Mr. Hobbins of Saco 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 Rumford, Mr. Theriault, that House Amendment "F" be indefinitely postponed. All in favor of that motion will vote yes; those opposed will vote no.

#### ROLL CALL

YEA — Albert, Ault, Bachrach, Bennett, Berry, G. W.; Berube, Birt, Bowie, Burns, Call, Carey, Carpenter, Chonko, Churchill, Clark, Connors, Curran, R.; DeVane, Doak, Farnham, Faucher, Fenlason, Finemore, Flanagan, Fraser, Garsoe, Gould, Hall, Hennessy, Hewes, Hunter, Hutchings, Jackson, Jalbert, Jensen, Joyce, Kany, Kelley, LeBlanc, Leonard, Lovell, Lunt, MacEachern, Mackel, MacLeod, Mahany, Martin, A.; Maxwell, McBreairey, McMahon, Mills, Miskavage, Morin, Morton, Peakes, Perkins, T.; Peterson, P.; Pierce, Quinn, Raymond, Rideout, Rollins, Saunders, Silverman, Snow, Snowe, Sprowl, Susi, Teague, Theriault, Torrey, Tozier, Twitchell, Tyndale, Walker, Webber, Winship.

NAY — Bagley, Berry, P. P.; Blodgett, Boudreau, Bustin, Byers, Carroll, Carter, Connolly, Cooney, Cote, Cox, Curran, P.; Curtis, Dam, Davies, Dow, Dyer, Farley, Goodwin, K.; Gray, Greenlaw, Henderson, Hobbins, Ingegneri, Jacques, Kauffman, Kelleher, Kennedy, Laffin, LaPointe, Lizotte, Martin, R.; McKernan, Mitchell, Mulkern, Nadeau, Najarian, Norris, Pearson, Pelosi, Perkins, S.; Peterson, T.; Post, Powell, Rolde, Shute, Spencer, Strout, Stubbs, Talbot, Tierney, Usher, Wagner, Wilfong.

ABSENT — Drigotas, Dudley, Durgin, Gauthier, Goodwin, H.; Higgins, Hinds, Hughes, Immonen, Laverty, Lewin, Lewis, Littlefield, Lynch, Palmer, Smith, Tarr, Truman.

Yes: 77; No: 55; Absent: 18.

The SPEAKER: Seventy-seven having voted in the affirmative and fifty-five in

the negative, with eighteen being absent, the motion does prevail.

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

By unanimous consent, ordered sent forthwith to the Senate.

Mr. Jalbert of Lewiston was granted unanimous consent to address the House.

Mr. JALBERT: Mr. Speaker and Members of the House: about three weeks ago, I was asked by a newspaper man about my feelings on the members of this House. I told him it was the talkiness, most sincere and dedicated House I had served in, loaded with integrity and it is loaded with integrity. This morning, however, for three hours, we have been talking about this bill. At times some of us were confused, but there are some people who actually possess the virtue of integrity and I think that label can very well be applied to the good gentleman from Rumford, Mr. Theriault. He has been under a three hour barrage and he stood up about 21 times, according to my count, and his voice did not want to go up above a whisper and I say that is the mark of a true, thorough, sincere and honest gentleman. I think he should recognize it. (Applause)

The SPEAKER: The Chair also wants to thank the gentleman from Rumford and the members of the Committee who have worked so hard for so long on what I consider one of the most difficult bills that I have ever looked at.

Mr. Morton of Farmington was granted unanimous consent to address the House.

Mr. MORTON: Mr. Speaker, Ladies and Gentlemen of the House: I would just like to make a very quick remark in connection with the overall funding of the retirement system, since you all have it in your minds. I call your attention to a sheet, and I put it on yellow paper as I pointed out, which came on your desks yesterday.

What I want to point out particularly, ladies and gentlemen is, when the actuarial request came from the trustees of the retirement fund last fall, a year ago, to the budget office, it was for \$14,485,662, and the budget office, for reasons which we do not know cut that \$1 million. That probably is one of the most serious cuts that was made in the retirement fund this session of the legislature so that when we came in to fund it on the recommended budget, we were only funding it in the first year for \$13,485,662, and I want to point that out to you, because in addition to that, ladies and gentlemen, the trustees of the retirement fund, in order to cut down on this unfunded liability of the old non-funded teachers who came on the system many, many years ago, asked the budget office to include in the budget for the first year of the biennium \$5.8 million and for the second year of the biennium, almost \$6 million. These are the kind of figures, ladies and gentlemen, that we are running short year by year. I wanted to get it in the record that it is vital that you realize the amount of money that is needed to property fund this retirement fund and keep it going for the future.

The following papers appearing on Supplement No. 3 were taken up out of order by unanimous consent:

An Act Relating to The State Truth-in-Lending Act (H. P. 1722) (L. D. 1941)

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

(On motion of Mr. Bowie of Gardiner, tabled pending passage to be enacted and later today assigned.)

An Act Relating to the Town of York School District and to Validate Proceedings Authorizing the Issuance of Bonds and Notes by School Administrative District No. 1 (H. P. 1727) (L. D. 1942)

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. 112 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.

An Act to Provide State Relief to Householders Whose Property Taxes are an Extreme Burden Due to Such Householders' Insufficient Yearly Income (S. P. 481) (L. D. 1671) (S. "A" S-330 to C. "A" S-321)

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

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

Mr. PERKINS: Mr. Speaker, just a question through the Chair if I may, just briefly looking at this bill, I question whether this money that is to be raised in this bill would come from the additional property tax thing or will the state have to fund this?

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

Mr. SUSI: Mr. Speaker, in answer to the question, if the bill is enacted and it goes to referendum and is approved by the people, it would require state funding.

Mr. Birt of East Millinocket requested a vote on enactment.

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

Mr. FARNHAM: Mr. Speaker, a question to anyone who would care to answer it, sir. It has been a long time since I was a selectman, but back back in my time, the selectmen or the assessors, I don't know which, had the authority on anyone who they felt honestly could not pay their taxes, to reduce those taxes, and I wonder if that still prevails?

The SPEAKER: The Chair recognizes the gentleman from Pittsfield, Mr. Susi, who may respond to the question.

Mr. SUSI: Mr. Speaker, in answer to that question, I'm quite sure that we put through a bill in this session which would take the tax assessors out of the welfare business. They no longer are concerned about the level of income of the people. I am quite sure this is true; it has been enacted.

The SPEAKER: The Chair recognizes the gentleman from Woolwich, Mr. Leonard.

Mr. LEONARD: Mr. Speaker, I would like to give you the L. D. number. The L. D. number is 1917.

The SPEAKER: The Chair recognizes the gentleman from Stonington, Mr. Greenlaw.

Mr. GREENLAW: Mr. Speaker, Ladies and Gentlemen of the House: I am sure it is not intentional, but I believe the good gentleman from Woolwich has just giving

us some incorrect information. I think the bill that Mr. Susi is referring to is a — I don't recall the L. D. number, but it would repeal a certain section of the statute that was in conflict with another section and it is not L. D. 1917.

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

Mr. CAREY: Mr. Speaker, regardless of what the L. D. number is, I think the tax laws are extremely clear, that you're going to be taxed equally on a piece of property, regardless of what your income is.

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

Mr. PERKINS: Mr. Speaker, I am just wondering if I might inquire from somebody who might know, in looking at this bill, it is a little bit difficult to understand or comprehend, at least in part, and I noticed on page 4 there is a schedule that involves the title and for all other and the term used if household income rounded to the nearest income and it sets forth a schedule, what is "household income rounded to the nearest income"? I am not quite sure I comprehend what that means. I am wondering if anybody might tell me, also the cost of this, as I understand it, is it going to be somewhere in the area of \$10 million or something along that line?

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

Mr. SUSI: Mr. Speaker, I do have the cost figure, it is around \$18 million a year. The determination of household income, I don't see the description of what "income" is in the bill. I presume it comes from the state income tax form.

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

Mrs. BOUDREAU: Mr. Speaker, I think in a section of the bill previous to the section that Representative Perkins was reading, I think you will find "income" defined as adjusted gross income.

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

Mr. INGEGNERI: Mr. Speaker, Ladies and Gentlemen of the House: I believe it's adjusted gross income as will appear on the state income tax form, plus other forms of income which are not taxable under the Maine State Income Tax Law and that would be retirement income, social security payments, etc.

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

Mr. MORTON: Mr. Speaker and Members of the House: In connection with the remarks of the gentleman from Pittsfield, Mr. Susi, and I very seldom get up to correct him, but in this particular instance, I think I should. The amount that the fiscal note of the bill shows of \$18 to \$20 million was put on there without considering the fact that this bill, if it ever goes into being, will absorb the elderly tax rent refund provisions of our present law. So the amounts that are expended for that will be reduced from these figures, so the net will be somewhere in the neighborhood of fifteen, sixteen or seventeen million.

The SPEAKER: The Chair recognizes the gentleman from York, Mr. Rolde.

Mr. ROLDE: Mr. Speaker, could I have the Clerk read the Committee Report.

Thereupon, the Report was read by the Clerk.

The SPEAKER: The Chair recognizes the gentlewoman from Auburn, Mrs. Lewis.

Mrs. LEWIS: Mr. Speaker, Ladies and Gentlemen of the House: As I understand this bill, and if I am wrong maybe somebody will correct me, this is a circuit breaker bill, which is really the same thing as the elderly householder tax or rent refund which Mr. Morton referred to. It is just that there isn't any age limit on it. This would apply to anybody whose income is low and whose property taxes or rent is high.

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

Mr. FINEMORE: Mr. Speaker, I believe if they would look on page 4, they could save a lot of questions on Committee Amendment "A", on 1671. It says in the title, "for low income elderly for a claimant who has attained the age of 62 during the year for which relief is requested." On there also, on the bottom of that page, it gives you the percentage, but this bill, ladies and gentlemen of the House, is a bill that we never could fund if we stayed here for ten years. It is a treacherous bill. This covers everyone. And as some gentleman has said here, I can't remember whether it was Mr. Morton from Farmington or not. Someone has said that it was \$20 million. It's true, whoever made that statement, that it wouldn't do away with the SSI we passed this year for rent relief and it would also do away with the rent relief for the elderly, but this takes in everyone and the whole thing is figured according to your income and that no one can receive over \$500 or the total amount of their taxes. As someone has made the statement, this couldn't go to the state, but it is a bill that never could be funded in the State of Maine, not for the next seven or eight years. I don't know why we put it on the books because that is a lot of money, and \$20 million, you take \$6 million away from that, what it is costing us now, or approximately, it will cost us \$7 million, say, that is \$13 million more than what we will be spending under the present laws.

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

Mr. MULHERN: Mr. Speaker, Ladies and Gentlemen of the House: The fiscal note on this bill is on the Committee Amendment — \$14,200,000 to \$16,200,000, with a cost of administration of \$200,000. If you notice, there is a referendum provision in this bill and this bill will go out to the people with the full understanding that there is this cost involved. It could conceivably be tied to an increase in the income tax or something such as that to fund it, if the people so wished it.

I think this is a good idea. I am all in favor of the elderly receiving benefits under the elderly householder's tax and rent refund, but I think that extraordinary property taxes, this should be based on need, it should be based on the need of all persons, young or old and this program will include the elderly and everyone that needs it. And as I say, it is going to referendum and I wish you would give this very strong consideration today.

The SPEAKER: The Chair recognizes the gentlewoman from Owls Head, Mr. Post.

Mrs. POST: Mr. Speaker, I would like to pose a question. The question that would actually go out to referendum always asks the question whether or not that this act

should well, it reads "An Act to Provide State Relief for Householders whose Property Taxes are an Extreme Burden due to such Householder's Insufficient Yearly Income shall become Law" and it was my understanding when I had talked with some people about this that it would also be part of the question, the fact that a substantial increase in the income tax would become necessary to fund this and that is not a question that concerns me. The question I would like to pose is, if this bill was passed by referendum, would we then be legally bound to come back and pass an income tax increase to fund that amount in the amount of about \$15 million?

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

Mr. SPENCER: Mr. Speaker, Ladies and Gentlemen of the House: The thrust of this bill is to relieve excessive property tax burdens on persons who cannot afford them. It sets up a schedule where if a person's income is less than \$5,000, he will receive back 60 percent of the amount by which their property tax exceeds 4 percent of their income. If their income is between five and eight thousand, I believe, they will receive 60 percent of the amount by which the property tax on their house and one acre exceeds 4.5 percent of their income.

It does not affect, as I understand it, the benefits that are received by the elderly under the Elderly Tax Relief Program that now exists. They would still receive benefits according to the formula which is now in effect.

What this Bill would do would be to relieve the excessive property tax burdens on the house of a person and the cost of that program would have to be made up by other taxes. It is basically a tax reform measure which addresses itself to the problems which are created when the property tax on a person's house gets to be an excessive percentage of their income and it attempts to build in a factor in our system of property taxation which will prevent the situation where people are being forced out of their homes because of the excessive property taxes on those homes and it is not the same formula as the elderly tax relief act, it is a lower benefit that is received by people who do suffer under excessive property taxes on their houses. But as we go to uniform assessment procedures and as we eliminate the leeway that the selectmen have had in dealing with people who for one reason or another are not able to pay an excessive property tax on their house, there has got to be some relief or we are going to find that the state is, in fact, pushing people out of their houses because they can't afford to pay the taxes on them.

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

Mr. McMAHON: Mr. Speaker, I would like to pose a question to either Mr. Spencer or Mr. Mulkern. I think the intent of this bill is quite clear and even laudible, but when the voters are voting this the question reads, "Shall an Act to provide state relief to householders whose property taxes are an extreme burden due to such householder's insufficient yearly income become a law". Now I suspect that everyone in this state feels that they fit that category and the question that I have is, how will people in voting on this know what this program will cost, if in fact they vote yes or no? Is that spelled out in the question that is going to be put before them, in the election?

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

Mr. INGEGNERI: Mr. Speaker, Ladies and Gentlemen of the House: On page 4, as Mr. Finemore pointed out to you, there are the income limitations, and I would imagine that the estimated cost is based on figures received from the Bureau of Taxation from an analysis of all of the returns which have been filed. I think that those are about the most reliable statistics you could have. Understandably, that would not take in non-legal residents of the state but the same percentage would probably prevail.

I would like to get up at this time and support this bill. I think you have to consider this bill in the picture as a whole.

What is this bill a corollary to? This bill is a corollary to the laudable purpose of having equal opportunity in education. The necessity for this bill was imprinted on the minds of all of the people in the Education Committee, because at one time or another, we had heard of the injustices of having property evaluated at a very high price which was completely out of conformity with the current income, and taxing people strictly on that basis, when their income consisted probably of only a total four or five thousand dollars, made up of Social Security and a little bit of bank interest or so, was to put on them an extreme burden.

Now this bill would not benefit anybody in a very comfortable position because as you go up higher in income, the amount of tax which has to be surmounted goes up, so somebody in a \$10,000 income, for example, would have to reach a higher portion of their property tax before they could get the benefits of this.

I think this is an excellent bill because it addresses itself to the realities of times. If we are going to have equal opportunity in education, and that has to be based on property taxation, then it is a necessary corollary that you must have a law of this kind.

Now it is true that this may necessitate an increase in income tax but many of the people who would be benefited by this would also pay a little perhaps on their income tax and their scale would be level, I believe to a great extent, so what you have here is a shifting of the taxation burden and it is bringing it more in conformity with ability to pay.

I think this is an excellent bill, I think they've given it great consideration in the other body and I think that this Body ought to follow.

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

Mr. NORRIS: Mr. Speaker, Ladies and Gentlemen of the House: The more I listen this morning the more concerned I become. This bill is a property tax relief bill. Now early in the session the good gentleman, my companion from Brewer had a Homestead Tax Bill before this legislature that was done away with and now apparently the Taxation Committee has come out with a bill of one shot type thing so that again, in my opinion, just listening to the debate here, that the working poor and the middle income people are going to have to get socked.

I was in hopes that if we were going to have some property tax relief and this is over the past two or three sessions of the legislature for the people of the State of Maine that we would try to help in some small way the very people that provide the money to pay. This way, it is a one shot deal and, again, not that it is not deserving, but

for the poor people on relief, for the low income people, but you get into the middle income area and they get, as usual, absolutely nothing, only the chance to pay. I was in hopes that we'd have when we came with a property tax reform bill, a homestead exemption type bill, a bill that would give everyone other than the very rich a chance and a little relief from property taxes. Now, we are passing a bill today to go out to the public with a one shot deal. Either they vote for this or they vote for nothing. One of the, I guess, a senior member on the Taxation Committee, apparently it was a unanimous report, but he gets up and says "it isn't a good bill and we can't afford it." This frightens me.

I don't see this as a good piece of legislation, I would like to see a piece of legislation, when it comes to property tax reform, that helps the people of the State of Maine that really have to bear the freight and that's the middle income people. I would dearly love to see this and I'm not going to make any motion on this bill but I would ask for a division, I would certainly hope that you all would think about this because if this passes, when we go to referendum, they've got a one shot deal, they either go this way or no way at all.

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

Mr. LAFFIN: Mr. Speaker, Ladies and Gentlemen of the House: In January, being new up here, I had a bill similar to this and talked to the different people who are supposed to know in this House, at that time that I thought I did, whom I have the greatest respect for, they couldn't support me on my bill, they couldn't cosponsor it with me, being new, not knowing the ropes, but I've learned very fast in this House. I might make a mistake once but I don't get caught the second time. This is almost six months later and a bill almost similar to mine is before us now. I wonder where this bill came from, if mine wasn't good enough to put in, where did this one come from? But I still support the bill.

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

Mr. BAGLEY: Mr. Speaker, Ladies and Gentlemen of the House: I don't know just where this bill came from but I know that it was discussed when we were talking about the school funding bill. One of the arguments against L. D. 1994 and, of course, against its successor, was the fact that in the high valuation towns there are a lot of poor people who were being taxed pretty high as the valuation of the town was high, and so forth. So it was felt that what we call a circuit breaker tax would be of a help to the people in that area and, of course, everybody else but if you look this thing over, you don't know my income but I can tell you fairly close this year I'm thrown way out of balance with the amount I'm getting here as a legislator but when I retired six years ago and I've earned enough so I've lost my Social Security over half of the time since, but during the time when I wasn't earning any other income, my income was such, that if my tax in Winthrop goes up fifty more dollars and its quite likely that it will go up fifty more dollars next year, I would benefit from this particular bill. Now, I consider myself reasonably middle income so it seems to me that this does help a lot of people, in fact, it helps so many people that it worries me about where its going to be paid from. Of course the answer to that has got to be a large increase in the income tax and of course that's logically a fair answer but it seems to me that this tax comes at least,

comes pretty close to doing what a lot of others have felt needed to be done in order to supplement the school funding bill.

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

Mr. COX: Mr. Speaker, Ladies and Gentlemen of the House: I'd like to reply to my friend from Brewer, Mr. Norris, first, in which he states that my exemption bill was done away with. I accepted a "Leave to Withdraw" on my Homestead Tax Exemption Bill in order to clear the way for another bill which I knew was coming along. The other bill was to be less acceptable than this one here and so this is the surviving bill we might say, of the triumvirate of bills of this type which the committee had.

Now, some objection has been raised that this will be money that will have to be raised well, its money that will have to be raised now by the property tax so its effect is to shift some of this burden and especially the burden that falls on the low income, from the property tax to the state income tax. Obviously you cannot give an exemption without making it up. Rep. Finemore has stated that this is a bill that cannot be funded. I would submit that it is a bill that this is a bill that cannot be funded. I would submit that it is a bill that can be funded if we want to fund it. The money has got to be raised, it is just a question of where it is going to be raised, is it going to be raised through a property tax on people who cannot afford it or is it going to be raised on an income tax levied on people who can better afford it? Therefore, it should be obvious that I support the bill.

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

Mr. BURNS: Mr. Speaker and Ladies and Gentlemen of the House: As it currently is written, I cannot support this bill. The bill itself is excellent, I go along with it all the way with the exception of the referendum going to the voters. I cannot buy sending out this simple question to the voter whether there should be relief in the property tax burden. It is very simple question and most naturally would be answered as "yes". If this was amended to include the statement as to where this money was coming from and how much money was involved, then it would be acceptable to me.

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

Mr. MULKERN: Mr. Speaker and Ladies and Gentlemen of the House: I just wanted to reply very briefly to some of the remarks of the gentleman from Brewer, Mr. Norris. He says that this is a bill that does not benefit the middle income people and I would suggest that he turn to page 4 of the committee amendment. The household incomes go from \$3,999, up to \$16,000. And I would suggest that that is middle income people.

Another thing something has been brought up about the cost of the referendum question, that it misleads the people, I don't think that the people are going to be misled by this. I would imagine that there would be plenty of time, there's going to be no cost to this bill in this biennium. If you will look in the fiscal note, it will require no appropriation in this biennium, and there's going to be, I think, plenty of time, for the news media and everyone that's interested in this kind of approach to get the word out to the public as to just exactly what the bill of this type will mean. There's no doubt about it, it's

going to mean an increase in the income tax but as far as I'm concerned if you believe that an income tax based on the ability to pay is more equitable than the present property tax, you should vote for this bill.

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

Mr. JALBERT: Mr. Speaker and Members of the House: I would like to commend the gentleman from Anson, Mr. Burns, for his honest remarks and I would like to comment that if the gentleman from Portland Mr. Mulkern, my young friend keeps on with any more of these speeches he positively is going to wind up with the title that I bestow on somebody every two years.

Now, let's start talking here, you know it's the 19th of June, it's the 11th hour and I think somewhere along the line we have got to start facing the facts just as they are. You might just as well as put on the ballot you're going to shoot your mother at high noon tomorrow, you might just as well put that on the ballot. Now, no amount of publicity and no amount of news media or anything else would force anybody to go along and vote against this bill. I can see myself a few years ago presenting such a bill and then running for Congress on this platform, then running off to Washington and letting anybody pick up the morsels right here. Let's start figuring out here just on the blackboard what the situation is. We are faced two years from now with one item, the inventory tax that we have to start paying back, that's \$15,000,000, that is the first thing. That was passed by the Taxation Committee two years ago, that comes into effect, we are faced with that bobble \$15,000,000, when we come back here and the word gets to me that we are coming back here sometime this fall to weigh some taxation and I shall be one of those who will come back this fall and vote to raise the taxes. Then we come back a year, two years from now, the members of this Body come back two years from now, and they are faced (1) with \$15 million. The gentleman from Pittsfield, Mr. Susi mentioned that this would be \$18 million somebody up back mentioned \$45 million. I'll settle for \$25 so you take \$25 and add this on to the \$15, that's \$40 million that we start with. Now with the \$700 million budget plus, say that the normal hike of the usual five percent which has now become 15 percent for the cost of operational government, let's say that we remain at five percent, you can tack on another \$35 million and let's say that somewhere along the line that we have made a couple of errors here and there, and it might cost us a little money, but even at that, let us take just where we are now, that means that we come back and open the doors to this Body and open the doors to the other body with an out and out, we must meet ourselves with \$75 million plus regardless of what happens in September and even when that door opens in September these programs are going to grow and there are going to be other programs but I'm not talking about that, I'm talking about using my famous expression to "keep the store open." We've got to start at least with the three items that I have mentioned to you, this one here, the inventory tax and the cost of living increase, we've got to start with at least \$75 million at the very, very least.

Now you know we talk about the property tax owner. I think somewhere along the line I've read so much about that in the newspapers, somewhere along the

line, we've got to start analyzing here, what are we talking about, we're talking about relief what about in my community for instance, the fifteen thousand that pay rent, what about thirty thousand in Portland that pay rent, what about the twenty thousand in Bangor that pay rent, what about the ten thousand here in Augusta that pay rent? I could go on and on. Who gives them any relief, when are we going to face up — what about the poor fellow in Wiscasset that has his house up for sale for \$45,000 yet pays only \$158 of taxes, that's the guy I'd like to get to and I'd like to get to the assessors even those who walk around my street, look at my house, take a peak and keep right on walking, never come in the house, don't see whether or not I've put some paneling down cellar or I've added this or I've added that, just keep right on going. I don't want them to keep on going, I want them to stop, I want them to ring my doorbell and I want them to properly assess me and I want them to properly assess everybody else. You will never be able to face up with the solid and honest, property tax relief until you've got a perfect sound system of assessment throughout this state. You've got thousands upon thousands upon thousands of citizens in this state who are paying nowhere near what they should pay.

I attended, last year a town meeting, just to satisfy myself where there are some six to seven hundred citizens of my community who have summer homes, cottages. At the end of the meeting, whamo, I knew what would happen another assessment on non-residents, the easiest thing in the world. Believe it or not, I know of one person who a member of this house knows very well, who I happen to know very well and I'm not going to mention the town, who has a house that he lives in year-round and he pays a tax of \$125. Next door to him is a man, also a mutual friend of ours, lives for four months out of the year in his summer home, tax \$760, last year. That's the situation right there.

I go along with property tax relief, I'd like to see an equalization of tax payments. Years ago, we had in our community, a famous program, tax abatements, and that's gone out the window. I shall never forget that as long as I live, I can recall one time when I was sent down to the city hall to pay the taxes. I went in to see the assessors, I got a slip for \$125, and there was the abatement and I just had some cash to pay the taxes, and the tax in full was given to me and, of course, I was commissioned by a couple of older sisters to take care of these errands and everything else and I wind up with \$125 and everything was alright until suddenly some alderman decided that he was going to be a hero and he went to the Board of Assessors and the next day, every tax abatement was printed on the pages of the newspapers. My ears are still ringing from the dissipation that I got from my two older sisters on that one. Seriously, this is a situation that we are plunging ourselves into, we are always talking about the property tax relief but I never hear anybody saying, we've had it in my city in Lewiston, we've brought in some outsiders and we've had a program whereby we have re-evaluated my community. Why, you mention to some of you people bringing in an outsider to replace Cousin Evans as a tax assessor and it's like a revolution in heaven. Now, when you really solidify the system in that area, then you'll

be doing some business and until you do, you won't.

This thing here you sleep with the angles, this thing on the ballot, can you imagine the question that Mr. McMahon, can you imagine anybody voting no, why, I mean I'd like to put an amendment on that thing there to give myself \$50 thousand. I mean, I think that every member of the House would and it would go by with flying colors. I have a lot of respect for the Taxation Committee and thank the good Lord that this thing, after it passes here and it will, it might pass with even my vote, who am I to object to it? I'm a gopher, too, but I know where it's going to wind up and I know where it's going to land and I know what the outcome is going to be, thank God.

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

Mr. DOW: Mr. Speaker and Members of the House: I am wholeheartedly in agreement with this bill. I, too, did a lot of work on the Homestead Bill and then when I knew this circuit breaker was coming out, I pulled the homestead bill out in favor of this circuit breaker. I have a circuit breaker from the State of Vermont that is somewhere similar to this one and they've had it on the books for the last couple of years and it has worked real well. It is something that has been needed for a long time. If anyone believes in the ability to pay, then this type of legislature is the type that will benefit most of the people in that category. They talk about raising this amount of money, somebody is paying this amount of money now, its paid in property tax, the only thing it will do, it will shift the burden over to some other type of tax that is based on the ability to pay and I recommend passage of this bill.

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

Mr. McMAHON: Mr. Speaker, Ladies and Gentlemen of the House: About one half hour ago, I asked a question. The good gentleman from Bangor attempted to answer that question but he did not do so, however, the good gentleman from North Anson and the good gentleman from Lewiston did, the answer is no. If the people vote on this, they will not know, will not have written in front of them, what the ultimate cost of it is going to be and I submit to you, as the good gentleman from Lewiston did and as I did earlier, everyone will vote for this. We are asking the people of Maine to vote on a popular issue without giving them an idea of what it will cost them. It is L. D. 1994 all over again, except this time we are asking the people to make the mistake. Now, if we have to have a tax increase, then let's get our priorities together and face the issue of a tax increase, the income tax, right here, honestly, out in the open, in this Body. Let's not set up any more spending programs until we raise the money in advance to pay for them. Now, I realize it is going to be difficult but I do hope you will do the responsible thing today and either vote against the passage of this bill or amend it so that when it goes out to the people in referendum, they will know what they are voting for and what it will cost them.

The SPEAKER: The Chair recognizes the gentleman from Corinth, Mr. Strout.

Mr. STROUT: Mr. Speaker, Ladies and Gentlemen of the House: As a former member of the Board of Selectmen, I have some problems with this and I think one of the things that the gentleman from

Lewiston brought out, said the inequities of assessing two pieces of property with the same income, you could run into problems here but there is one thing I would like to ask and if my assumption is correct, then maybe I could support this, that if a person was earning \$10 thousand a year, say as a farmer, we all know right now, a lot of the farmers are in trouble and with the inventory tax that we had taken and given the benefits back to these farmers, my question is that \$10 thousand a year and with a \$2 thousand tax on his property right now, he would be, as I read it, he would get 60 percent of the difference but if you took five percent of \$10 thousand it would be five hundred, he would be entitled to sixty percent of the difference which would be sixty percent of \$15 hundred and I know this would be \$900, but he would be entitled to the \$500, is my assumption of the basis correct? Would somebody answer that?

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

Mr. MORTON: Mr. Speaker and Ladies and Gentlemen of the House: In answer to the question of the gentleman from Corinth, Mr. Strout if you look at Section 3 of the bill, you will find out that this applies only to the homestead and one acre so if there are extensive acreage which would generate greater taxes they will not be eligible for relief under this bill. I would just further like to say, Mr. Speaker, while I'm on my feet, that the gentleman from Lewiston is quite right and we should address the problems that he talked about and I think this legislature, at least as far as this house is concerned has acted very responsibly in that area because this House has enacted L. D. 1150 and L. D. 1917 — whether they survive or not, I don't know but they certainly speak to the area that he was talking about.

This bill goes to those who are looking for homestead exemption and points in that direction. It's not exactly the same thing but it does something the same because it only applies to people whose principle residence is in Maine. It goes to those who want to keep low income homeowners from losing their dwellings to the high values of the land that are coming inevitably along but I think everyone, and Mr. Jalbert is correct and everyone else is correct, when they say that the record year should show that this vote today is the critical one. This goes out to the people that will be endorsed overwhelmingly, I don't think there's any question about it. Furthermore, the records should show that this legislature realizes that this move is only a move to shift the burden of taxation from one type of taxation to another and that, eventually, when it comes due, it will have to provide at the state level, funds from some broad base tax in order to fund it and that's what it's all about.

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

Mr. COONEY: Mr. Speaker and Ladies and Gentlemen: I favor the concept of this bill very much but I have just been figuring with my seat mate's assistance on reading the technical aspects of the bill and the thing that concerns me is that in the next two taxable years, I am very close to qualifying for this bill, personally, and I think I am a long way from qualifying for this bill and if I would qualify then the bill goes too far and I am seriously concerned that we are doing something that is far too great and is not going to be serving just the people who need to be served. I am in no

danger of losing my home but I can get my taxable income down to a paltry amount through all kinds of tax manipulations, all of them legal, but I am far from losing my home and what the end result will be in my own case is that I might very well get back \$50 or \$100, on my property tax because I can qualify for this and my income tax will be so low that I won't pay it in income tax either. I am not quite sure who is going to pay it but I know in my own situation, I am a little frightened that I might qualify for this bill, I don't want to.

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

Mr. FARNHAM: Mr. Speaker, Ladies and Gentlemen: I am like the gentleman who just spoke, Mr. Cooney, I have taken that chart and I know what my income is and I am going to have a \$180 gift from the State of Maine here in a couple of years if we pass this bill and I'm in no danger of losing my house. I own a summer cottage, the lot is worth a lot more than the cottage now but I'm able to pay the taxes on that and I have a car and I have a pickup and I'm so poor under this bill that you are going to give me \$180 back when this is over.

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

Mr. Burns of Anson moved that this be tabled until later in today's session.

Mr. Finemore of Bridgewater requested a division.

The SPEAKER: The pending question is the motion to table until later in today's session. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

28 having voted in the affirmative and 59 in the negative, the motion did not prevail.

The SPEAKER: The Chair recognizes the gentleman from Wells, Mr. Mackel.

Mr. MACKEL: Mr. Speaker, Ladies and Gentlemen: I would like to pose a question, there's a little bit of confusion in my mind. It is my understanding that a commission was established to study the state tax laws and I was wondering if such a bill as this would pre-empt any results of such a commission, if someone from the Committee on Taxation would answer that for me, please?

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

Mr. SUSI: Mr. Speaker and Ladies and Gentlemen of the House: To answer the question, it would have to be answered on a judgment basis and in my judgment it would not.

It's been made out that this is an insurmountable proposition to fund this. I said \$18 million, I was wrong it is less than that, something like \$14 or \$15, million against a \$700 million budget, it is entirely within this scope of this state to deal with matters of this size. I have no doubt in my mind about it at all.

We had discussion in connection with the problem that this legislation is aimed at when we were talking about 1994 and, not once, but many times on this floor, was the statement made that by increasing the property taxes, we were imposing a severe burden on certain low income people and endangered their being able to continue to reside in their homes, and I took this observation seriously. I believe that there is a real danger in this direction, and this bill that we have here today is a means to face up to what is a real problem with certain people. We have heard said here this morning that we can't finance this. Well, we are financing it. We are already

paying for state services here in the State of Maine.

What this legislation would do would be to give consideration to the family that is perhaps earning \$4,000 and paying \$400 taxes. This isn't an unusual thing. This does happen in Maine. It is a ridiculous thing to tax people 10 percent when they are making \$4,000, but we are doing it.

Under their proposition here, whatever exceeds 4 percent of \$4,000, or \$160, they would get reimbursed 60 percent, so they would get about \$150 back. To me, that is a reasonable objective. It is accomplished by this legislation. It is reasonable legislation, and I believe that it can be financed through other means and it probably will be the income tax. I believe it is good legislation and I hope you support it.

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

Mr. KELLEHER: Mr. Speaker and Members of the House: When and if we ever get to the question, I would request a roll call.

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

Mr. FINEMORE: Mr. Speaker and Members of the House: I am going to vote for this bill, but ever there was a Robinhood bill, this is it, this is what you call a Robinhood bill, but I am going to vote for it. Sent it out to referendum, it will come back. I thought the gentleman from Lewiston said that this didn't take in rent. This takes in rent, ladies and gentlemen, rent and all these houses and everything all over the state.

Another thing we have always done wrong on the rents, we sent the check back directly, which I am in favor of, to the recipient. A lot of times that isn't paid for, the taxes aren't paid, they go right into the tax books just the same, and I wonder lots of times who we are helping, whether we are helping the municipalities or what we are doing.

I am going to vote for this bill, ladies and gentlemen, this morning.

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

Mr. DOAK: Mr. Speaker, Ladies and Gentlemen of the House: I can't vote for this bill. I come from a high tax rate area, high state tax valuation area, and my people are being taxed out of their homes. They do need help, but I am going to submit to you, this is not it. This is a very deceitful piece of legislation to put out in this manner, and I wouldn't honor it by putting my vote on it.

The SPEAKER: The Chair recognizes the gentleman from York, Mr. Rolde.

Mr. ROLDE: Mr. Speaker, Ladies and Gentlemen of the House: I, too, come from a high valuation area, like the gentleman from Rangeley, Mr. Doak, and when the Education Subsidy Commission was discussing L. D. 1994, of course one of the ideas that came up was the circuit breaker. We felt that one of the ideas that came up was the circuit breaker. We felt that we could not handle that within the scope of what we were doing, and I was very pleased to see that the Taxation Committee did have the assignment of dealing with certain circuit breaker taxation.

I was also quite surprised when this bill came out as a unanimous report, and that is why I asked the Clerk to read the Report, because I wanted to emphasize that, because the Taxation Committee is a very hard-nosed committee, full of very

practical men. If they felt there was something wrong with this bill, why did they report it out unanimously? Was it just to accommodate a fellow member? I don't think so on a bill of this magnitude.

Perhaps some of the criticisms were justified, but I would have thought that the Taxation Committee would have dealt with them, and there must be some reason why they did what they did, including the wording of the question. So I hope you will support this bill.

The SPEAKER: The Chair recognizes the gentlewoman from Owls Head, Mrs. Post.

Mrs. POST: Mr. Speaker, Men and Women of the House: Since I am going to vote against passage of this bill, I want to go on record for my reason. I am doing that because I am obviously very well aware of the problems of high property taxes and the problems of state valuation, etc. But I am also well aware that the Education Commission is going to be working over the fall, that the Joint Standing Committee on Taxation is also going to be looking into the whole mechanism of state taxation, and I think it is the wrong time to lock ourselves into one way of dealing with a particular problem, and it most certainly is locking ourselves in. That is particularly true, if my memory serves me correctly, and we have indeed passed a bill dealing with referendum issues in the inability of this body to make substantial changes, and that may or may not be true, but that is the way I remember it coming across my desk.

I support the concept of property tax relief, and I support the concept of reducing the amount of the education funding which is taken from property taxes. I just think that right now, in the closing days of the session, is the wrong time to lock ourselves into something like this.

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

Mr. CAREY: Mr. Speaker and Members of the House: One of the things that we concern ourselves about at the local level when we put together a municipal budget is how much to finally spend because of the way it is going to affect our low income people and how it is going to affect them in the taxes that they are going to be paying.

You saw that idea destroyed with the passage of 1994 and now, unfortunately, I think what you are going to find is municipal officers saying, we don't have to worry about the poor people in this particular bill, because we are going to get our money from the state anyway.

I would certainly hope that you do not support the passage of this bill.

Mr. McMahon of Kennebunk was granted permission to speak a third time.

Mr. McMAHON: Mr. Speaker, Ladies and Gentlemen of the House: I wish to congratulate the gentleman from Rangeley, Mr. Doak. His statement was the most succinct, but the finest one I have heard on this subject today. This gentleman comes from an area where it would be politically expedient for him to support this measure, as it would, I suppose, be for all of us.

Let me tell you, last session, in the 106th Legislature, I was one of those who voted against L. D. 1994. You have heard me say that before privately, but I tell you this today only to illustrate the same kind of dilemma that is facing us here.

I happen to be a teacher and I happen to be representing a town, the school district

of which is now getting a new school because everyone in the town rushed out to approve a bond issue for a new school. I don't fault them for that. The point I am trying to make is that I was criticized the first year after I voted for 1994 by my colleagues in the teaching profession, by my constituents and by my political opponents, both in the primary and in the general election. But you know, I am not criticized this year.

This is the same thing. Have the courage of your convictions. Vote this bill down. If you send this out to the people, it will be approved, we will then come back here and be in a further box with no room to move around and the people will once again end up getting something they didn't think they were going to get.

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

Mrs. KANY: Mr. Speaker and Members of the House: Just very briefly, I too very strongly support the concept of this circuit breaker bill but cannot vote for the bill today because of the wording in the referendum question. Without an income tax question inserted in that sentence, I simply cannot support this bill. I am very sorry to have to vote for its defeat.

The SPEAKER: The Chair recognizes the gentleman from Limerick, Mr. Carroll.

Mr. CARROLL: Mr. Speaker, Ladies and Gentlemen of the House: I served on the Maine Municipal Valuation Appeals Board for five years. Many towns came before us — valuation, valuation. The problem was, the state had increased their valuation and what was happening to the local resident? What actually was happening to the local resident under this increase, the out-of-staters came down the pike, came into our small towns, came into our coastal areas, paid tremendous prices for property which ordinarily should never have sold for the prices they were paying. So this upped the valuation. What does that do in an area where you have many people, just working, common ordinary people that own homes? They are setting the valuation on a workingman's wage scale in the State of Maine by the wages they earn in the cities, in the high income areas of Connecticut and those areas when they come down here.

This legislative document is quite shocking to many people, but I am quite shocked also when I think of the Rockefeller's and all the rich and well-to-do of the Kennebunk wealthy down on that coast down there, and you have got a lot of them down in Kennebunk who own some elaborate homes, and they are beautiful.

You drive by them and you have to take your hat off to them, and you have got them all over the state, and these are the well-to-do who come into this state, fly in, sit around all summer, wine and dine and sit in the shade and swim in the ocean, jump on a jet and take off for Florida in the fall. They don't shovel any snow, they don't do anything, they don't deserve what they have, but they happen to be the elite and the wealthy. Many of them inherited what they have, they didn't get it by the sweat of their brow, but they are in here setting the valuation and they are in here raising hayoc, destroying the family life of the citizens of the State of Maine. They are setting our valuation on our low income people, on their homes that they need, and that is the reason why rise here today. I know it is not a popular position to be in,



but I also know that right is right and wrong is wrong, and when we say right is right, shall we let the wealthy come in, buy up the best property in our state, control it and then the people who live here all their lives have only what is left. They are going to get the shavings that fall off the shaving board when you plane the lumber, they are going to get what is left over. That is what your local people are going to have, because we do not have the industry, we do not have the income.

The wealthy are coming in here and buying up all your property. What have we got to offer our people living here year-round? We gave them L. D. 1994, the crime of the century they tell me this is, this is the crime of the century, the boy back on the backside of Douglas Mountain, way back there in hinterland, is now entitled to work what the boy in Wiscasset is getting. Don't you think I haven't met some of your Freedom Fighters head on. I was at a meeting when they would like to have thrown me out. Ladies and gentlemen, it is not popular to stand up for what you believe is right, it is much more popular lots of times to just sit down and be quiet and let this ball continue to roll, let them continue to come in here with their fat pocketbooks, buy up our native resources, deprive our future generations of an opportunity to live on the land of honey.

We have a great State of Maine, a beautiful State of Maine, we have got the fresh water, we have got the fresh air, but we don't have any payrolls. This is the problem. Now you have a document before you that is trying to address one of the problems of the local taxpayer, and you all say this is a Robinhood. Gentlemen, it may be a Robinhood, what is right is right and what is wrong is wrong, and you will have to address yourself to this someday. If you don't address yourself to this today, the day is coming when you are going to have to.

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 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 Skowhegan, Mr. Dam.

Mr. DAM: Mr. Speaker, Ladies and Gentlemen of the House: I would like to respond to the gentleman from Limerick, Mr. Carroll. I come from a small town and I have lived here in the State of Maine all my life so far, and I think when Mr. Carroll spoke about the out-of-staters, the rich and elite coming into the state, I don't blame these people from coming into the state, I don't blame people for being rich; I would like to be rich myself, or to use my phrase, I would like to be stinkin' rich; but I don't blame them for being rich, I don't blame them for being out-of-staters, and I don't blame them for being elite or any of that. I think if we really want to look at the problem in the State of Maine — and said this in one of my committee meetings one day and I was criticized by a letter from one of these town officials, but I think maybe to use a term of us old timers or us

Mainers, we create these problems ourselves in our own communities because I think maybe even in some of the communities in your area; Representative Carroll, you have got the same problem as I have had in my area, that anybody who comes in from out-of-state, they are immediately appointed to every vacancy on every board in that community, and if they run for selectman or they run for assessor or school board, they are elected because the people in the communities think the out-of-stater is smarter than the people that have been in that community for 24, 30 or 40 years. So I don't think the out-of-staters are creating the problem, I think we are creating the problem for ourselves by putting these out-of-staters on all our boards to control our lives. We do this in the communities and we do it on the state level. Maybe this is where we should stop and start thinking that the Maine people have got just as many brains if not a little more than the out-of-stater coming in.

The SPEAKER: The Chair recognizes the gentleman from Wells, Mr. Mackel.

Mr. MACKEL: Mr. Speaker, Ladies and Gentlemen of the House: I really admire the concept of the bill to help out the individual hardship cases which we have discussed in the past, but considering the cost involved, that is the eighteen to twenty million dollars that would have to be raised through income tax kind of staggers me a little bit, and the \$200,000 required to administer this program. This is a very complex bill and I don't think it is one that we should face at this time. I think it would be just as well if this issue were left to the commission that will be studying the entire tax structure.

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

Mr. TIERNEY: Mr. Speaker, I would just like to respond to my good friend Mr. Mackel and indeed those many members of the coastal communities who seem to be opposing this bill.

As I viewed L. D. 1994, it was a tax equalization in regard to geography. I think this is our opportunity to equalize taxation on the basis of income.

The SPEAKER: The Chair recognizes the gentleman from Corinth, Mr. Strout.

Mr. STROUT: Mr. Speaker, I would like to pair my vote with the gentleman from Wayne, Mr. Ault. If he were here, he would be voting nay and I would be voting yea.

The SPEAKER: A roll call has been ordered. The pending question is on passage to be enacted of L. D. 1671. All in favor of this Bill being passed to be enacted will vote yes; those opposed will vote no.

#### ROLL CALL

YEA — Bachrach, Bagley, Bennett, Berube, Blodgett, Boudreau, Bustin, Byers, Carpenter, Carroll, Chonko, Clark, Connolly, Cox, Curran, P.; Curran, R.; Curtis, Davies, Dow, Drigotas, Faucher, Finemore, Flanagan, Goodwin, H.; Goodwin, K.; Gray, Hall, Henderson, Hennessey, Hewes, Hobbins, Ingegneri, Jacques, Jensen, Joyce, Kelleher, Kennedy, Laffin, LaPointe, LeBlanc, Lunt, MacEachern, Martin, A.; Martin, R.; Maxwell, McBreairty, McKernan, Mills, Miskavage, Mitchell, Morin, Morton, Mulkern, Nadeau, Najarian, Pelosi, Peterson, P.; Peterson, T.; Powell, Rideout, Rolde, Shute, Silverman, Snow, Spencer, Sprowl, Susi, Talbot, Tierney, Twitchell, Usher, Wagner, Wilfong, Winship.

NAY — Berry, G. W.; Berry, P. P.; Birt,

Bowie, Burns, Call, Carey, Carter, Churchill, Connors, Cooney, Cote, Dam, DeVane, Doak, Dyer, Farnham, Fenlason, Fraser, Garsoe, Gauthier, Gould, Greenlaw, Higgins, Hunter, Hutchings, Jackson, Jalbert, Kany, Kauffman, Leonard, Lewis, Lizotte, Lovell, Mackel, MacLeod, McMahon, Norris, Pearson, Perkins, S.; Perkins, T.; Post, Raymond, Rollins, Saunders, Snowe, Stubbs, Teague, Theriault, Torrey, Tozier, Tyndale, Walker, Webber.

ABSENT — Albert, Ault, Dudley, Durgin, Farley, Hinds, Hughes, Immonen, Kelley, Laverty, Lewin, Littlefield, Lynch, Mahany, Palmer, Peakes, Pierce, Quinn, Smith, Strout, Tarr, Truman.

Yes, 74; No 54; Absent, 20; Paired, 2.

The SPEAKER: Seventy-four having voted in the affirmative and fifty-four in the negative, with twenty being absent, and two paired, the motion does prevail.

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

Mr. SUSI: Mr. Speaker, having voted on the prevailing side, I move we reconsider and hope you vote against me.

The SPEAKER: The gentleman from Pittsfield, Mr. Susi, moves we reconsider our action whereby this Bill was passed to be enacted. All in favor of that motion will vote yes; those opposed will vote no.

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

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

An Act to Regulate the Distribution and Sale of Motor Fuels (H. P. 735) (L. D. 920) (S. "A" S-332, H. "A" H-764, H. "B" H-766, C. "A" H-726)

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 Limit Abuse of the Unemployment Insurance Fund and to Increase Unemployment Benefits (H. P. 1230) (L. D. 1537) (C. "A" H-755)

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

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

Mr. TIERNEY: Mr. Speaker, Ladies and Gentlemen of the House: I am going to have to back this bill up in order to clarify a confusing situation which existed within the committee when we received the figures from the Unemployment Compensation Bureau. I am going to put on an amendment which reduces the cost of this program from \$1.7 million to \$600,000. So I hope you will bear with me.

Thereupon, on motion of Mr. Tierney of Durham, under suspension of the rules, the House reconsidered its action whereby the Bill was passed to be engrossed.

On further motion of the same gentleman, under suspension of the rules, the House reconsidered its action whereby Committee Amendment "A" was adopted.

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

House Amendment "A" to Committee Amendment "A" (H-804) was read by the Clerk and adopted.

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

The Bill was passed to be engrossed as amended by Committee Amendment "A" as amended by House Amendment "A"

thereto in non-concurrence and sent up for concurrence.

An Act Concerning the Potato Tax and the Maine Potato Commission (H. P. 1390) (L. D. 1798) (H. "A" H-759 to C. "A" H-750)

An Act Consolidating the Statutes of the Maine Guarantee Authority (H. P. 1389) (L. D. 1805) (C. "A" H-592)

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.

By unanimous consent, all matters acted upon in concurrence and all matters requiring Senate concurrence were ordered sent forthwith to the Senate.

On motion of Mr. Mulkern of Portland, the House reconsidered its action of earlier in the day whereby Bill "An Act to Authorize the Board of Environmental Protection to Regulate the Anchorage of Tankers in Casco Bay." House Paper 1700, L. D. 1933, was passed to be engrossed pursuant to Consent Calendar rules.

Thereupon, the Committee Report was accepted and the Bill read once. Committee Amendment "A" (H-786) was read by the Clerk.

Mr. Mulkern of Portland offered House Amendment "A" to Committee Amendment "A" and moved its adoption.

House Amendment "A" to Committee Amendment "A" (H-805) was read by the Clerk and adopted.

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

Under suspension of the rules, the bill was read the second time.

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

Mr. HEWES: Mr. Speaker and Members of the House: The gentlemen from Portland, Mr. Mulkern and Mr. LaPointe, very nicely for the last half hour have been talking to one of my constituents about this bill. He works on the waterfront, he claims the waterfront is a \$50 million industry in the City of Portland, and this does regulate the anchorage of boats in Portland Harbor, the Casco Bay area, and I would prefer that we not pass it to be engrossed at this time and perhaps it should be tabled until later in today's session for that part of it, or even until tomorrow. I know the hour is late.

This does regulate, a very important industry, and I would prefer that we go slow and if it could be tabled until tomorrow, I would prefer that, because I think eventually there are going to be other amendments offered that we will want to give serious consideration to. I certainly would hope that we don't pass it to be engrossed at this particular moment.

Thereupon, on motion of Mr. LaPointe of Portland, tabled pending passage to be engrossed as amended and later today assigned.

On motion of Mr. Rolde of York, Recessed until four o'clock in the afternoon.

After Recess  
4:00 P.M.

The House was called to order by the Speaker.

#### Orders of the Day

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

An Act to Provide for the Detention of

Shoplifters. (S. P. 452) (L. D. 1511) (S. "A" S-320 to C. "A" S-292)

Pending Motion of Mr. Rolde of York to Table for one Legislative Day. (Roll Call Ordered)

The SPEAKER: A roll call has been ordered. The pending question is on the motion of the gentleman from York, Mr. Rolde, that this matter be tabled for one legislative day pending passage to be enacted. All in favor of that motion will vote yes; those opposed will vote no.

#### ROLL CALL

YEA — Durgin, Gray, Morin, Tyndale.  
NAY — Albert, Bachrach, Bennett, Berry, G. W.; Berry, P. P.; Berube, Birt, Boudreau, Bowie, Burns, Byers, Carey, Carpenter, Carroll, Carter, Chonko, Clark, Connors, Connolly, Cooney, Cote, Cox, Curran, P.; Curtis, Dam, Davies, DeVane, Doak, Dow, Farnham, Faucher, Fenlason, Finemore, Flanagan, Fraser, Goodwin, H.; Goodwin, K.; Gould, Greenlaw, Hall, Henderson, Hennessey, Hewes, Higgins, Hunter, Jalbert, Jensen, Joyce, Kany, Kelleher, Kelley, Kennedy, Laffin, LaPointe, LeBlanc, Lizotte, Lunt, MacEachern, Mackel, MacLeod, Mahany, Martin, A.; Martin, R.; Maxwell, McBrearty, McKernan, McMahon, Mills, Mitchell, Morton, Nadeau, Najarian, Norris, Pearson, Pelosi, Perkins, T.; Peterson, P.; Pierce, Powell, Quinn, Raymond, Rideout, Rolde, Rollins, Saunders, Shute, Silverman, Smith, Snow, Spencer, Sprowl, Strout, Stubbs, Susi, Talbot, Tarr, Teague, Theriault, Tierney, Torrey, Tozier, Twitchell, Usher, Walker, Webber, Wilfong, Winship, The Speaker.

ABSENT — Ault, Bagley, Blodgett, Bustin, Call, Churchill, Curran, R.; Dirgotas, Dudley, Dyer, Farley, Garsoe, Gauthier, Hinds, Hobbins, Hughes, Hutchings, Immonen, Inegneri, Jackson, Jacques, Kauffman, Laverty, Leonard, Lewin, Lewis, Littlefield, Lovell, Lynch, Miskavage, Mulkern, Palmer, Peakes, Perkins, S.; Peterson, T.; Post, Snowe, Truman, Wagner.

Yes, 4; No, 108; Absent, 39.

The SPEAKER: Four having voted in the affirmative, one hundred and eight in the negative, with thirty-nine being absent, the motion does not prevail.

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

Mr. WILFONG: Mr. Speaker, Ladies and Gentlemen of the House: The other day when I moved indefinite postponement of this bill, I did so because I believe very sincerely that this is a break on civil liberties. I cannot vote for a piece of legislation that would take away my freedoms, allow a store employee to accuse me of stealing something and detaining me if I did not do so.

I have nothing against detaining somebody who stole something, believe me. I worked as a store employee and I helped detain somebody who had actually stolen something once he had left the store, but I would feel that if I did not steal anything, I would not want to be detained.

I think, if you will notice, a good number of the police officers or ex-police officers in this body, realize that this is a real civil liberties bill, and they are fighting very strongly to put an end to it. I think if we can do one thing in this legislature, we can protect the civil liberties of our citizens in the State of Maine.

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

Mr. BURNS: Mr. Speaker, Ladies and Gentlemen of the House: I have heard a lot on this bill pro and con. I have been asked

a couple of times to say something on it and I finally made my mind up to do it.

This bill actually does one thing. It puts into law what is going on every day in this state. Every store follows this procedure except for two things. There are two things that change in this law. Number one, we have established how long an individual may be detained, one-half hour. If he is held 31 minutes, the store owner had better turn him loose because he isn't going to get anywhere in court, the thing is going out the window.

Number two, the police officer has probable cause to arrest this individual when he finds out from his investigation, after arriving at the store, that this individual in all probability did steal something. He will not be taking the word of the store owner alone but he will conduct his own investigation when he gets there.

This is enabling action. It does violate civil rights because it allows people to be held without their consent. But also, if this legislation is not put on the books, it is violating the store owner civil rights, or his rights to operate his business.

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

Mrs. KANY: Mr. Speaker, Ladies and Gentlemen of the House: I wish I could say we have talked this bill to death, but the bill is very much alive. It is here today as an enactor.

I have three major questions about it. One is, would someone with just a guilty look on your face, could that constitute probable cause? Secondly, could any of us detained for the 30 minutes and found innocent, could we sue for false arrest? Thirdly, do you think that although the bill has been amended, it would still be an employee that would actually be making the determination of probable cause? Just for half a second, I guess what I can picture is that the bill has been amended supposedly to make it more palatable. It all seems to go back to that original committee amendment, because what would probable cause be to the store manager? Probable cause would probably be an assumption of guilt by those employees allowed to detain people in the original committee amendment but now amended out of the bill. It just seems that reputations and the future jobs are at stake.

Can you picture any of us here in the House being detained perhaps just because we have a guilty look on our face for either choosing to purchase something we feel we might not or shouldn't really afford to choose or for passing up a toy one of our children or grandchildren really want. I wonder if somebody on the committee or one of the lawyers could answer those three questions for me. What would actually be probable cause, could it be just a guilty look on your face? Could we sue for false arrest if detained within the 30 minute period and do you think it would be the employee who would actually be making the determination of probable cause? Could you answer those questions for me please?

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

Mr. SPENCER: Mr. Speaker, Ladies and Gentlemen of the House: The problem that I see with this legislation lies precisely within the area of the probable cause determination by the store supervisors or employees. In order to have probable cause, the employees will have to have good reason to stop you, but if an employee

thinks that you look suspicious and he does stop you, then he is in trouble, because if he didn't have any more reason than you look suspicious, he is going to have to make up a reason in order to justify his actions. It would be very easy for that to happen. If he stops you without probable cause, you could bring suit against him. If he does have probable cause, he could detain you for half an hour, even though you hadn't taken anything. You would not have any right to sue.

One of the things that I think is a problem with this is the question of who is going to be liable, is it the supervisors who are going to be sued individually or is it going to be the store. If I were bringing the suit, I would bring it against both the store and the supervisor or employee who made the detention because the argument would be that he was acting outside the scope of his authority if he stopped somebody without probable cause. I think there are all sorts of problems with this bill.

At one point in the committee we had it drafted so that it said that the store employee could stop anybody who concealed merchandise. That put the burden on the person who was stopping the person in the store to make sure that the person had concealed merchandise before they stopped them. I was prepared to sign the report with that provision in it. It was later changed to this probable cause thing, which I can't support, but I think it is a very simple matter to bring this legislation back in the special session or the next session and to handle it in that manner and then we will avoid this whole problem of probable cause detentions by citizens with no training in law enforcement.

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

Mr. McEACHERN: Mr. Speaker, Ladies and Gentlemen of the House: I realize that we have debated this bill and debated it and debated it. There isn't much that can be said that hasn't been said before. I think the previous gentleman made a very good case on the probable cause issue. I will just briefly address you on the police angle of the thing. I can't bring myself to support a bill like this with 25 years of police experience. This gives an individual the right to do something that a police officer can't do on his own. This is a misdemeanor.

The only other area of the criminal law where probable cause comes in is on felonies. If a police officer has reasonable grounds to believe that a felony has been committed, he can make an arrest without a warrant. This bill that we are discussing now permits an individual who has no law training, no enforcement training, except his own common sense and his own suspicions, to take away the freedom of an individual. When you take away a freedom of an individual, you are making a technical arrest. I don't think that this should be handled lightly. I move the indefinite postponement of this bill and all accompanying papers.

Mr. Farley of Biddeford moved the previous question.

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

A vote of the House was taken, and more than one third of the members present

having expressed a desire for the previous question, the motion for the previous question was entertained.

The SPEAKER: The question now before the House is, shall the main question be put now? This is debatable for five minutes by any one member.

The Chair recognizes the gentleman from Westbrook, Mr. Laffin.

Mr. LAFFIN: Mr. Speaker, Ladies and Gentlemen of the House: We have debated this thing to death, we have heard from law enforcement officials and we have heard from lawyers and we have heard from others. I think it is about time we start thinking about this thing from the store owners viewpoint.

The SPEAKER: The Chair would advise the gentleman that he cannot debate the issue. Would he simply state why he wished the debate would continue. That is the only thing that is debatable at this time.

Mr. LAFFIN: Mr. Speaker, Ladies and Gentlemen of the House: You have me at a disadvantage. I will sit down.

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

Mr. McKERNAN: Mr. Speaker, Ladies and Gentlemen of the House: I think it is obvious that at least one member of the House has something further to say on this, so I would hope that we would not move the previous question.

The SPEAKER: The Question now before the House is, shall the main question be put now? All in favor will vote yes; those opposed will vote no.

A vote of the House was taken. 33 having voted in the affirmative, 71 having voted in the negative the main question was not ordered.

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

Mr. LAFFIN: Mr. Speaker, Ladies and Gentlemen of the House: I want to thank the members of this House for giving me a chance to probably say the last thing I am going to say here while we are in session.

We have heard from lawyers and we have heard from everyone on this bill and it has been talked to death. We have hashed it over and talked it over, but I can assure you that no one who owns a business, who make a living is selling to the public, is going to do anything to disgrace his store or his name in the professional field of which he is doing business. If there is the slightest doubt in his own mind that a person did not shoplift, that person is not even going to be bothered with, they are going to let him steal if he is going.

One of the gentledadies of this House mentioned looks. Now, we know that is just not a possible thing, for anyone to judge a person by how they look. You take Mr. Cote down there. He doesn't look like a thief because he is not a thief. No one is a thief until they are caught in the act of shoplifting. The people who do these things are hoping and praying that this legislature will come to their defense once again.

I am telling you, ladies and gentlemen of this House, this is a problem, and a very serious problem, not for the small store owner because he can handle it himself, but for the large department store owners, of this state who invest millions of dollars to keep a business going, they are the people that you will be hurting if you stand up for shoplifters. I urge you on their behalf to give every consideration that you possibly can for their business. If you feel

that they will be doing wrong, there will be laws to handle that. If you feel that you could do justification by coming to their rescue, they would certainly support it.

I urge the members of this House to give this very, very serious consideration, because this is a bill that will help them. They are paying a lot of taxes, they pay our salaries up here, they do a lot for the state, not only do they pay salaries, but they keep employment, and the person who steals does absolutely nothing but for himself. I ask you in all sincerity to stick by our vote that we did the last time, to give this a good vote and support this bill.

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

Mr. DeVANE: Mr. Speaker, Ladies and Gentlemen of the House: Practically everything has been said on this bill, but there is one thing that hasn't and that is that the Maine State Police Chief's Association, at their last regular meeting adopted a resolve in support of the original draft of this bill. I don't think that has been said.

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

Mr. DAVIES: Mr. Speaker, Ladies and Gentlemen of the House: I have read through this bill, I have thought about it a great deal and I am bothered by it. I am bothered by the fact that what this bill is going to do is that it is going to grant police power to an awful lot of people. Now, the way that this state and this country is operated is, it has designated certain individuals who, by their training and by their expertise, such as the Representative from Portland, Mr. Joyce, should be police officers. One of those responsibilities is that they understand what the law is and understand some of the fine distinctions that exist within that law.

The question of whether there is probable cause for a person to be picked up shoplifting or not is one of those serious questions. I don't really like the idea of granting to each and every store employee, regardless of their education, their background, their ability to handle the job, the right to detain an individual because they think he may be shoplifting.

I urge you to give this very serious consideration. Are we going to start handing out the right to be policemen to thousands and thousands of people who simply do not have the training or the understanding of those fine legal technicalities that we continue to put into the law? I ask you to think about this seriously and I ask you not to vote for enactment.

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

Mr. HEWES: Mr. Speaker, Ladies and Gentlemen of the House: I hope you will vote against the pending motion to indefinitely postpone.

In response to the last gentleman, the gentleman from Orono, the bill has been amended so that all employees are not included. The bill provides that only a store owner, manager or supervisor may do certain things. What may he or she do? That store owner, manager or supervisor may detain on the premises in a reasonable fashion for a period of time not to exceed one half hour, and only for the purpose of identifying the person detained and to inform a law enforcement officer of the detention and surrender the person to this law enforcement officer. That is the

first paragraph — a reasonable fashion and only by a responsible employee of the store.

The second paragraph allows a law enforcement officer, if he, the law enforcement officer, I might say in response to the gentlelady from Waterville, Mrs. Kany, the law enforcement officer has probable cause to believe that that person has unlawfully concealed merchandise, he may then be arrested without a warrant.

I think that you are worried about something that you don't have to worry about here. This law has worked, as I understand it, in 40 states and without any problems. They aren't having these problems in 40 states. As I understand it, there is perhaps \$15 million stolen each year and now who makes up this \$15 million? The storekeeper makes his profit, it is and your constituents, the consumers. I certainly hope that you will vote for this reasonable, honest consumer's bill.

Mr. Greenlaw of Stonington requested a roll call vote.

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

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

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

Mr. PERKINS: Mr. Speaker, Ladies and Gentlemen of the House: The big question seems to be over the terminology of probable cause. I think Representative Kany asked a question and I am not sure it was entirely answered. No one ever really knows what is probable cause. Probable cause to me may be one thing, probable cause to you may be another, and probable cause to people in the gallery may be something else again. No one ever really knows what that is until it is tested in terms of one deciding, one party to a two party transaction deciding that there was not reasonable cause. Consequently, the issue will only be raised when and if an individual has been detained because the store owner thought there was probable cause when the individual felt there was not probable cause. Consequently, the question about whether the person, because he looks like a thief is going to be stopped, is going to be raised only at that time. I assure you that if the person who is detained then arises the issue by bringing suit against the store owner, the store owner is going to have to stand before a court and decide that he has had reasonable cause to detain that person. He will recite the fact situation as he saw it, that he saw this sneaky looking character going down the aisle and he saw him pick up something and he wasn't sure but what he looked around two or three times and that bothered him and therefore he ultimately decided he should detain him because he was quite certain he had slipped something in his pocket because there was a bulge in his pocket.

If the court of law decides that was sufficient to constitute reasonable cause, then the store will be off the hook. If the court decides that that was not sufficient, and I suspect that they will decide that, under the circumstances I raised, then the store owner will be in a position of having

to pay some form of damages. But you can recite umpteen dozen different situations, primarily because we as individuals also have our own individual opinion of what looks sort of suspicious to us.

I recall a bill that came through the legislature and I have tried to go through them in which I looked rather suspicious and found out it was my own. You can have that same sort of situation in every fact situation.

So, consequently, I merely point out that no one will ever know whether or not there was reasonable cause to detain until such time as the court has made the decision because one of the two parties to the two-party transaction decided there was not reasonable cause, we can't answer your question here.

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

Mr. MILLS: Mr. Speaker, Ladies and Gentlemen of the House: I would pose a question to any attorney here in the House, as I am not versed on this. The way this bill is worded, and you have removed the minor employee to the authority of somebody of a supervisor character. Now, if they act on this bill after its enactment, would they be excusable under the commonly known law of citizen's arrest?

The SPEAKER: The gentleman from Eastport, Mr. Mills, poses a question through the Chair to any member who cares to answer.

The Chair recognizes the gentleman from Portland, Mr. Joyce.

Mr. JOYCE: Mr. Speaker, Ladies and Gentlemen of the House: I will be brief today. I think this has been knocked around, I think we have all got our lessons in law, but of how I wish in years past that it had been as simple to make these arrests as the good gentleman, Mr. Perkins from South Portland, outlined to us. Do-it-yourself law enforcement. This is really a new twist.

I was called out to the Clerk's office the other day to take a phone call from the owner of a large Portland department store. He asked that I vote in favor of this bill because of the many shoplifters I arrested in his store. He said they told me so many things about it. He went on and told me what they told him. I got on to the issue of probable cause. I explained that to him as best I could and he said, really, what does it mean? I went on further and I said, look, did they explain to you, and if they didn't then I would suggest you contact your attorney, I said, did they explain to you respondent superior, that legal phrase? He said, what does that mean? I said, I will tell you exactly what that means, that is an easy one. Next February, when you are lying in the sun down in Florida and the supervisor at the popcorn machine in your store stops somebody on probable cause, and they goof it, which is very easy to do, they will no doubt bring a civil action and respondent superior means they will sue you, even though you were in Florida at the time.

Probable cause, when do you have it, where do you have it? Many times, as I explained to you, the court pointed it out, perhaps in one of the real famous cases that they passed it out on was the second Jimmy Hoffa case. Hoffa appealed to the U.S. Supreme Court and said they had, the law enforcement people, had probable cause to arrest me. They should have arrested me at the time that they had probable cause. That was a pretty good argument, but you know what the court told him, there is no such thing as a

constitutional right to be arrested. No, we haven't got to that one yet. The court further explained; the police are not required to guess at their peril the precise moment at which they have probable cause to arrest a suspect, because if they had to guess, they would be risking a violation of the Fourth Amendment. If they act too soon, and a violation of the Sixth Amendment if they waited too long. This is the answer that they gave to Hoffa, and he had the expensive attorneys.

There were a couple of members of this House the other evening who went shopping, I didn't know the stores were open that late around here. One of our gentleladies picked up a necklace and put it around her neck, but she wanted to get the necklace to match a dress that was three counters over, and she started walking over and she got a little self conscious, and she said, would this be probable cause and she returned and took it off. This is a real problem you have with this thing. This do-it-yourself law enforcement kind of bothers me.

I read that Crime in Maine Report yesterday and in six months there were 1,114 shoplifting cases. I hate shoplifters. I would like to really throw the book at them, but this is the wrong vehicle. I have a feeling in my heart for that woman who has the children all raised and she goes to the doctor and he tells her look, get some job to keep you busy for about 20 hours a week. She goes down to the department store and works afternoons. She sees somebody, thinks they are lifting something off the counters and she has what she feels is probable cause. Well, you know when they come around and you don't quite have it and they decide to sue you, this woman that is working on doctor's orders, she has probably got a \$40,000 home out on the shore. Look, lawyers, you don't really have to get a smart lawyer to know which way you go. You go towards the person who has got that \$40,000 home.

I am concerned about these employees. I am concerned about the pursuit of happiness, that you can go about and not be a suspect. I have dealt in cases when a judge from the highest court in this case was detained because he was wearing chino's. Did they have probable cause? They didn't think so when they found out who they grabbed. This here kind of bothers me. It is taking so many rights away from people. There is a better way that this can be done. For somebody to say the law is working in 40 other states, I don't really know how I could have said that. If I went down to the library and with the aid of Miss Edith Hary down there to go through all the states, I wouldn't know unless I went there and talked with the people dealing in it. Remember, it is still the fruits of the poisonous tree, like I told you, in Wan Sun, Toi, Yeh and Sun said you couldn't do it.

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

Mr. ROLLINS: Mr. Speaker, Ladies and Gentlemen of the House: Since I have been here, this is the best job of dragging a red herring across the path that I have ever heard. The gentleman from Portland has done his very best to confuse the issue. I believe that this bill, as amended, is some protection for the honest store owner against the dishonest shoplifter. I hope you will vote against the pending motion.

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

Mr. GAUTHIER: Mr. Speaker and Members of the House: The Chief of Police Association can't be all wrong. They have voted in favor of this bill. I hope you will pass it. We have brought it up to enactment, and I think it is about time we go ahead with it.

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

Mrs. MITCHELL: Mr. Speaker, I would pose a question through the Chair to the gentleman from Sanford. Did the Chief of Police Association endorse the bill or the committee amendment?

The SPEAKER: The gentlewoman from Vassalboro, Mrs. Mitchell, poses a question through the Chair to the gentleman from Sanford, Mr. Gauthier, who may answer if he so desires.

The Chair recognizes that gentleman.

Mr. GAUTHIER: Mr. Speaker, the association was in favor, the police chiefs, of the bill.

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

Mrs. MITCHELL: Mr. Speaker, Ladies and Gentlemen of the House: The bill talked about concealed evidence found on the person as evidence of shoplifting. The amendment talks about probable cause. There is a very serious difference.

The SPEAKER: A roll call has been ordered. The pending question is on the motion of the gentleman from Lincoln, Mr. MacEachern, that this Bill and all accompanying papers be indefinitely postponed. All in favor of that motion will vote yes; those opposed will vote no.

#### ROLL CALL

YEA — Bachrach, Berry, P. P.; Berube, Bustin, Call, Carey, Carter, Connolly, Cooney, Cote, Curran, P.; Curran, R.; Davies, Dow, Fenlason, Finemore, Flanagan, Fraser, Goodwin, H.; Goodwin, K.; Gray, Greenlaw, Hall, Jalbert, Jensen, Joyce, Kany, Kauffman, Kennedy, LaPointe, MacEachern, Mackel, Mahany, Martin, A.; Mills, Mitchell, Nadeau, Najarian, Pearson, Pelosi, Peterson, T.; Post, Powell, Quinn, Raymond, Rolde, Saunders, Smith, Snow, Spencer, Talbot, Theriault, Tierney, Tozier, Usher, Wagner, Wilfong, The Speaker.

NAY — Ault, Bagley, Bennett, Berry, G. W.; Birt, Blodgett, Boudreau, Bowie, Burns, Byers, Carpenter, Carroll, Chonko, Churchill, Clark, Connors, Cox, Curtis, Dam, DeVane, Doak, Durgin, Dyer, Farley, Farnham, Faucher, Garsoe, Gauthier, Gould, Henderson, Hennessey, Hewes, Higgins, Hobbins, Hunter, Hutchings, Ingegneri, Jackson, Kelleher, Kelley, Laffin, LeBlanc, Leonard, Lewis, Lizotte, Lovell, Lunt, MacLeod, Martin, R.; Maxwell, McBairty, McKernan, McMahon, Miskavage, Morin, Morton, Norris, Palmer, Perkins, S.; Perkins, T.; Peterson, P.; Pierce, Rideout, Rollins, Shute, Silverman, Snowe, Sprowl, Strout, Stubbs, Susi, Tarr, Teague, Torrey, Twitchell, Tyndale, Walker.

ABSENT — Albert, Drigotas, Dudley, Hinds, Hughes, Immonen, Jacques, Laverty, Lewin, Littlefield, Lynch, Mulhern, Peakes, Truman, Webber, Winship.

Yes, 58; No, 77; Absent, 16.

The SPEAKER: Fifty-eight having voted in the affirmative and seventy-seven in the negative, with sixteen being absent, the motion does not prevail.

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

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

Mr. LAFFIN: Mr. Speaker, having voted on the prevailing side, I now move reconsideration and I urge all of you to vote against me.

The SPEAKER: The gentleman from Westbrook, Mr. Laffin, moves that the House reconsider its action whereby this Bill was passed to be enacted. All in favor will say yes; those opposed will say no.

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

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

An Act Concerning the Disqualification of Former State Employees, and the Former Partners of Present State Employees, in Matters Connected with said State Employees' Official Duties or Responsibilities. (S. P. 474) (L. D. 1608) (C. "A" S-297)

Tabled — June 18, by Mr. Rolde of York.

Pending — Passage to be Enacted.

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

The following papers appearing on Supplement No. 2 were taken up out of order by unanimous consent:

The following Communication: (S. P. 595)

State of Maine  
Office Of The Governor  
Augusta

June 13, 1975

To Members of the House of Representatives and Senate of the 107th Maine Legislature

I am today returning to you without my signature and approval L. D. 660, An Act to Create a Construction Loan Program in Which the Maine Housing Authority and Financial Institutions May Participate.

While I am in agreement with the concept of aiding in the construction of housing, I am vetoing this bill because it is my strong feeling that we should make every effort to retain the state's Triple-A (AAA) bond rating before we authorize any further bonded debt or obligation.

I have been advised by Moody's Rating Service and other financial experts that Maine's ability to recapture its former Triple-A (AAA) rating is dependent more on our ability to restrict and more prudently monitor loan authorization than on almost any other single factor. This is attributable in large measure to the poor reputation and experience and adverse publicity Maine has received on its loan authority involvement with Vahlsing and other loan defaults.

Therefore, in view of this, plus the fact that I am also advised this increased loan authority is not really necessary nor even immediately beneficial to the housing industry, and the fact this bill could very easily benefit the banks and savings depositors more than the citizens of Maine as a group, I respectfully request you consider at least postponing the enactment of legislation that increases the loan authority and resulting potential of loss for the people of Maine.

You should also realize that the most recent bond issue will cost the citizens of Maine an extra million dollars due to the lowering of our bond rating.

Therefore, as governor, I ask that you

first allow Maine to regain the Triple-A (AAA) bond rating before adding additional unnecessary interest cost to the taxpayers and citizens of this state.

Your upholding of this veto will insure the citizens of Maine that the legislature is also every bit as anxious to restore our Triple-A (AAA) rating.

Very truly yours,  
S/JAMES B. LONGLEY  
Governor

Came from the Senate read and ordered placed on file.

Was read and ordered placed on file in concurrence.

The accompanying Bill, "An Act to Create a Construction Loan Program in which the Maine Housing Authority and Financial Institutions May Participate" (S. P. 192) (L. D. 660)

Came from the Senate with the following endorsement:

In the Senate June 18, 1975, this Bill, having been returned by the Governor, together with his objections to the same, pursuant to the provisions of the Constitution of the State of Maine, after reconsideration, the Senate proceeded to vote on the question: 'Shall this Bill become a law notwithstanding the objections of the Governor?'

22 voted in favor and 10 against, and accordingly it was the vote of the Senate that the bill become a law, notwithstanding the objections of the Governor, since two-third of the members of the Senate so voted.

S/HARRY N. STARBRANCH  
Secretary of the Senate.

The Communication was read and ordered placed on file.

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

Mr. PERKINS: Mr. Speaker and Members of the House: I think that this particular bill is a very important bill, it certainly is one which we all can relate very readily to, because it appears to be able to do many, many good things, increase the amount of construction for the State of Maine and certainly provide a form of financing for low income people, and none of us can kick in respect to that.

I do want to say that I think there has been some question about the status of the rating of the State of Maine in regard to their bonding status, and there is a disagreement as to whether or not passage of this legislation might in some indirect or direct fashion influence our standing in respect to our rating.

We, unfortunately, in the past few years, had our rating dropped from a triple A to a double A, and our last bonding issuance cost the State of Maine not a million dollars, as was suggested, I think, in the Governor's message but perhaps closer to \$886,000, which is to enlarge financial bureaucracy such as the State of Maine, perhaps not a great deal of money, but that \$886,000 was something that we unfortunately, I feel, did not have to lose. I really feel that we should make some effort to consider the legislation that is before us in the form of a veto of our Governor that may in some way jeopardize their rating. As to whether it does or does not, I can't answer that question, I am no financial wizard, but there has been a considerable amount of research done and there has been a question raised and a legitimate question raised as to what this can do to our rating. And if it continues as a double rather than a triple A, we will find ourselves losing

additional funds. It is a question of credibility of the State of Maine in terms of its financial future as to what it can and cannot do in the future in maintaining a stable financial condition.

I submit that we are passing legislation helter-skelter, if you will, not only this but other which may well jeopardize not only the triple rating we had but perhaps the double rating we have. So I feel that because of the type of legislation we have before us and the fact that it does deal with, a need, a need that we have all been aware of, a need for financial assistance to our low income people in the form of housing, construction, a need to be able to provide homes and equate it with the fact that we also have to maintain a financial stability, I find it is a difficult question to answer.

I have this morning attempted to do some checking in terms of our financial condition, or the financing situation of the banks, because we are all aware of what during the past year has happened or was happening insofar as the lending ability of the savings and loan associations and the savings banks to provide housing funding and the inability to provide that and have been informed that the market has changed considerably and that they can now provide funding much better than they could have a year ago, and it is hopeful that the future will be even brighter than it is today.

I hesitate, myself, to go on record in terms of this particular piece of legislation, as needed as the project is, to override the veto when it is possible that not just this but other forms of legislation may help in stabilizing our condition and ultimately obtain back that triple A rating which I think is critical for maintenance of the stability of this state.

The SPEAKER: The Chair recognizes the gentleman from York, Mr. Rolde.

Mr. ROLDE: Mr. Speaker, Ladies and Gentlemen of the House: This question of the state's credit rating has been brought across in this bill, and in my own particular view, I view it as a red herring.

I have a letter here from Rodney Scribner, State Treasurer, and I would like to read portions of it to you. Mr. Scribner says, "Since L. D. 660 specifically does not pledge the state's general obligation credit and specifically does not pledge the state's moral obligation, it will not affect that state's credit rating adversely. Actually, with the new construction that L. D. 660 may assist, it should increase the state's overall property valuation, which could even tend to raise the state's credit rating, although the small amount of money involved makes this unlikely. The \$25 million figure is not large enough to affect the general risk picture in Maine that are outstanding. Besides, money will be used for a large number of small projects, thereby spreading the risk reasonably. Security for these bonds will be real real estate, which will be the bond holders only recourse in case of a loss. The bond holder will know this in advance and therefore will not relate these bonds to other Maine bonds."

Mr. Scribner finishes, "I have read the Governor's veto message and believe the concern expressed in it about Maine's Triple-A rating is misplaced in view of the above."

"Also, the minority leader in the other body had this to report, that he was in contact with Dr. Jackson Phillips, Senior Vice President of Moody's Rating Service in New York. The gentleman inquired as to, whether Moody's Rating Service was

familiar with the comments attributed to that service by the Governor, and his letter to the legislature dated June 13, 1975. Dr. Phillips indicated that he had received a copy of the letter and most importantly indicated that the Governor's comments were inaccurate. Dr. Phillips went on to say, "The expansion of an authority's power to issue bonds when the credit of this state is not pledged would have no effect upon the bond credit rating of the State of Maine." Therefore, I believe that the Governor's message places a red herring, as I said, before this legislative body, since the issuance of additional bonds by the Maine State Housing Authority would in no way add additional interest costs to the people of the State of Maine.

Another point has been made about this particular piece of legislation is the amount of employment that it could increase in the state. It has been estimated that this particular piece of legislation could result in 5,000 seasonal construction jobs in the construction of over a thousand units. Therefore, in this time, in a time of recession, when the Maine unemployment rate is in the neighborhood of 12 percent, I do not see how we could let this bill become law, and I urge you to vote yes to override the Governor's veto.

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

Mr. HEWES: Mr. Speaker and Members of the House: I apologize for speaking so often this afternoon, but I would like to rebut that last statement of the gentleman from York for a moment. I had in my hands a comment from Mr. Scribner at the time Maine did lose its triple-A rating and he stated that there were three basic reasons why the state lost their triple-A rating and the second of those reasons is, "There was extension of the state's credit over which it had no control for purposes such as the state school building authority and the state housing authority."

I think that actually, although it is not a legal obligation, it is a moral obligation. Furthermore, the Governor is our chief executive officer, and he should be given some consideration, and he vetoed this after realizing that it passed both Houses of the legislature and I think that we should give some consideration to the chief executive officer who doesn't want us to lose any further credit rating and perhaps to get the triple-A rating back again.

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

Mr. JALBERT: Mr. Speaker and Members of the House: Not during the last session, but the session before, I chaired a committee and during the interim, one of the meetings we were having with some of the bonding houses, I made the statement that if we did not somewhere along the line pay some attention to the people who were setting the ratings, we would lose our credit rating, and we did lose our triple-A to double-A. And just to satisfy myself, and I am not interested in what His Excellency has to say on this, because I have been around a little longer than he has, as a matter of fact, I am not particularly interested in even what Rod Scribner had to say, who is a very, very dear friend of mine.

On railroad work, I took it upon myself to spend an extra day in New York with an officer of the First Boston Bank of New York, which is one of the largest banking institutions in the world. I met there with an individual who had been working

previous to his employment now with Moody's for years, and Moody's, as you know, is now almost the owner of Dun and Bradstreet. I approached them almost laughingly with the subject that we were not paying any attention to the people who set the credit ratings, and he said it was no laughing matter. He said that it concerned itself with two or three people, one of the heads of it happens to be a very brilliant woman. He said, I will tell you one thing right now, you could do more to get your credit rating in Maine back to triple-A than to turn around ask this group to join you in Maine, invited by the Chief Executive, to spend two or three days to see the beauty of Maine and to see what you have in Maine. That is the answer that I was given, and that is the answer that I believe. I think we should vote yes.

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

Mrs. NAJARIAN: Mr. Speaker and Members of the House: I would just like to respond briefly to the statement of the gentleman from Cape Elizabeth, Mr. Hewes. I believe he was quoting an article from the newsletter called the Watchdog. I read that article and I also have the copy of Moody's statement regarding the Maine Guarantee Authority. What they printed in that newsletter, while not totally inaccurate, was certainly very misleading, because what Moody's had said, in fact, what primarily caused our triple-A rating to drop to double was that the Maine Guarantee Authority, which was then the Maine Industrial Building Authority and the Maine Recreational Authority, and the reason for that was that those were high risk loans, and those are loans that the state insures made by those two authorities, which are very high risk and which the banks won't undertake, and those are a legal obligation to the State of Maine.

They did mention the Maine State Housing Authority only briefly because the Maine State Housing Authority has what they call a housing reserve fund and in that fund, they are required to keep the amount of money that is necessary to pay off the principle and interest on their outstanding bonds for the period of one year. This housing reserve fund has to be authenticated by the Governor about November of every year. This reserve fund has always, always been kept up to the maximum required, in fact they earn interest on that money that is invested in the fund that they can also use in their operating expenses.

It is entirely misleading, because that is only about \$5 million compared to the outstanding legal obligations of the state on highway bonds, school building bonds, there is over \$260 million. So you put \$5 million on top of \$260 million and you come out with a very high infraction. That is the extent of the Maine State Housing Authority's involvement in our credit rating. These are revenue bonds, they are paid back by the revenues from the mortgages, and they are similar to the Turnpike Authority and they are not general obligation bonds, legal obligation bonds or moral obligation bonds, and the Governor is simply mixing apples with oranges. It is as simple as that. I hope you will vote yes on the override.

The SPEAKER: The Chair recognizes the gentlewoman from Bath, Mrs. Goodwin.

Mrs. GOODWIN: Mr. Speaker and Members of the House: I would urge you

today to override this veto. About one half of this construction program contemplated is going to be elderly housing. Many of you are probably aware that very little elderly housing has been built in this state over the last two and a half years. There have been about 220 units constructed under the FHA program.

The FHA units are very nice, but they are out of reach for most of our low income elderly. They do serve a need for the middle income elderly, but very, very little has been done as far as housing for the low income elderly is concerned. If we do not have this legislation, I am afraid there is going to be very little more built, so I would urge you to override the veto this afternoon.

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

Mr. GAUTHIER: Mr. Speaker, Ladies and Gentlemen of the House: I have been told by brokerage firms that anyone who puts bonds on the market with a triple-A rating, that it costs them much less interest than it does with a double-A rating.

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

Mr. HEWES: Mr. Speaker and Members of the House: In response to the gentlewoman from Portland, Mrs. Najarian, I have a photo-copy of a municipal credit report, and this relates to the particular issue where this triple-A, double-A rating developed, from Moody's. It was May 15, 1974, thirteen months ago, and it was application for an \$8,740,000 loan. I was Speaker at the time, and I happen to have a copy here. Where we did not receive the rating we hoped to get, there was quite a statement to the reasons, but one of the reasons — and I am taking this out of context and I will be glad to deliver this to the lady from Portland or anybody else — is the fact that the State of Maine — the first sentence, the debt of the State of Maine has been increasing steadily and has more than tripled over the past decade. In addition, the state has extended credit to a number of agencies in the form of guarantees of mortgages insured by the Industrial Building Authority and Recreational Authority. It has guaranteed student loans and bonds issued by the Maine State School Building Authority.

I submit that one of the things we have got to watch is to have sound fiscal policy and to keep this state on an even keel is not to overextend these authorities that we don't actually guarantee or indemnify, but there is a moral obligation. So I think the Governor was right and I think sound fiscal policy would dictate, despite the worthwhile objects that might develop from the passage of this bill. Sound fiscal policy would dictate that sometime we have got to draw the line and here is a chance. Let's vote to sustain the veto.

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

Mrs. MITCHELL: Mr. Speaker, due to the appearance of a conflict of interest, I would like to be excused from voting.

The SPEAKER: Pursuant to Rule 19, the gentlewoman from Vassalboro, Mrs. Mitchell, is excused from voting.

The SPEAKER: Pursuant to the Constitution, the yeas and nays are ordered and a two-thirds vote is required to override the objections of the Governor. The pending question is, shall this Bill

become law notwithstanding the objections of the Governor? All in favor will vote yes; those opposed will vote no.

#### ROLL CALL

YEA — Albert, Ault, Bächrach, Bennett, Berry, P. P.; Berube, Blodgett, Boudreau, Bowie, Burns, Bustin, Carey, Carpenter, Carroll, Carter, Chonko, Churchill, Clark, Connolly, Cooney, Cote, Cox, Curran, P.; Curran, R.; Curtis, Dam, Davies, DeVane, Doak, Dow, Drigotas, Farley, Faucher, Fenlason, Finemore, Flanagan, Fraser, Goodwin, H.; Goodwin, K.; Gould, Greenlaw, Hall, Henderson, Hennessey, Hobbins, Ingegneri, Jalbert, Jensen, Joyce, Kany, Kelleher, Kelley, Kennedy, Laffin, LaPointe, LeBlanc, Leonard, Lovell, MacEachern, Mackel, Mahany, Martin, A.; Martin, R.; Maxwell, McBreaury, McKernan, McMahon, Mills, Miskavage, Morin, Nadeau, Najarian, Norris, Pearson, Pelosi, Peterson, T.; Pierce, Post, Powell, Quinn, Raymond, Rideout, Rolde, Saunders, Silverman, Smith, Snow, Snowe, Spencer, Strout, Stubbs, Susi, Talbot, Tarr, Theriault, Tierney, Tozier, Tyndale, Usher, Wagner, Walker, Wilfong, The Speaker.

NAY — Bagley, Berry, G. W.; Birt, Byers, Call, Connors, Durgin, Dyer, Farnham, Garsoe, Gauthier, Gray, Hewes, Higgins, Hunter, Hutchings, Jackson, Kauffman, Lewis, Lizotte, Lunt, MacLeod, Morton, Palmer, Perkins, S.; Perkins, T.; Peterson, P.; Rollins, Shute, Sprowl, Teague, Torrey, Twitchell.

ABSENT — Dudley, Hinds, Hughes, Immonen, Jacques, Laverty, Lewin, Littlefield, Lynch, Mulkern, Peakes, Truman, Webber, Winship.

EXCUSED — Mitchell.

Yes, 103; No, 33; Absent, 14; Excused, 1.  
The SPEAKER: One hundred and three having voted in the affirmative and thirty-three in the negative, with fourteen being absent and one excused, this Bill becomes law notwithstanding the objections of the Governor.

The following papers appearing on Supplement No. 1 were taken up out of order by unanimous consent:

The following Communication:

Honorable Edwin H. Pert

Clerk of the House

107th Legislature

Augusta, Maine

Dear Mr. Pert:

The Senate today voted to Adhere to its action whereby it Indefinitely Postponed, Bill, "An Act Creating the Maine Energy Authority" (H. P. 1471) (L. D. 1803).

Respectfully,

Signed:

HARRY N. STARBRANCH

Secretary of the Senate

The Communication was read and ordered placed on file.

The following Communication:

Honorable Edwin H. Pert

Clerk of the House

107th Legislature

Augusta, Maine

Dear Mr. Pert:

The Senate today voted to Adhere to its action whereby it Indefinitely Postponed, Bill, "An Act to Provide Maine No-fault Motor Vehicle Insurance Reform" (H. P. 1698) (L. D. 1932).

Respectfully,

Signed:

HARRY N. STARBRANCH

Secretary of the Senate

The Communication was read and ordered placed on file.

The following Joint Order: (S. P. 588)

ORDERED, the House concurring, that there be paid to the members of the Senate and House on January 2, 1976, as the final payment of compensation for the 1975 annual session as established by statute, the amount of One Thousand Dollars (\$1,000) according to a listing certified to the State Controller by the President of the Senate and Speaker of the House, respectively.

Came from the Senate read and passed.

In the House, the Order was read and passed and sent up for concurrence.

The following Joint Order: (S. P. 589)

ORDERED, the House concurring, that the Legislative Finance Officer, the Director of Legislative Research, and the law and Legislative Reference Librarian, or their assistants if any are unable to attend be and hereby are authorized, during the current biennium, to attend the conferences of the National Legislative Conference, and that they be reimbursed for their necessary expenses.

Came from the Senate read and passed.

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

The following Joint Order: (S. P. 590)

ORDERED, the House concurring, that the Speaker of the House, the President of the Senate and the Majority and Minority Leaders and Assistant Leaders of the House and Senate, be and hereby are authorized during the current biennium to attend the conferences of the National Conferences of State Legislative Leaders, and that their necessary expenses be paid from the Legislative Appropriation.

Came from the Senate read and passed.

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

The following Joint Order: (S. P. 591)

ORDERED, the House concurring, that the President of the Senate and not exceeding 6 members of the Senate designated by him, and the Speaker of the House and not exceeding 6 members of the House designated by him and one full-time staff person to be selected by both the President of the Senate and the Speaker of the House, be and hereby are authorized during the current biennium to attend the conference of the National Legislative Conference and National Conference of Commissioners on Uniform State Laws; and be it further

ORDERED, that the necessary expenses of the President of the Senate and the Speaker of the House of Representatives and the members appointed respectively by them be paid from the Legislative Account; and be it further

ORDERED, that the Secretary of the Senate and the Clerk of the House of Representatives are authorized during the current biennium to attend the National Legislative Conference and meetings of any committee thereof on which they may serve; and be it further

ORDERED, that the Secretary of the Senate and the Clerk of the House of Representatives be reimbursed for their necessary expenses.

Came from the Senate read and passed.

In the House, the Order was read.

Mr. Hewes of Cape Elizabeth offered House Amendment "B" and moved its adoption.

House Amendment "B" (H-808) was read by the Clerk and Adopted.

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

Mr. BERRY: Mr. Speaker, Ladies and Gentlemen of the House: I have been attempting to have an amendment prepared for this order, and the intention of my amendment would be that the members of the Democrat party in the House meet in caucus and select the people they would like to see go to the legislative conference and the Republicans would do likewise. The same thing would happen in the Senate. I guess that explains the intent of my amendment, and I would like to offer that amendment and perhaps maybe if somebody would be willing to table this long enough, we might possibly meet in caucus and discuss this and see whether or not this is a good idea.

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

Mr. MILLS: Mr. Speaker, I move that this be tabled until later.

The SPEAKER: The Chair will order a vote. The pending question is on the motion of the gentleman from Eastport, Mr. Mills, that this Order be tabled pending passage and later today assigned. All in favor of that motion will vote yes; those opposed will vote no.

A vote of the House was taken.

Thereupon, Mr. Martin of Eagle Lake requested a roll call vote.

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

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

The SPEAKER: The pending question is on the motion of the gentleman from Eastport, Mr. Mills, that this matter be tabled pending passage and later today assigned. All in favor of that motion will vote yes; those opposed will vote no.

#### ROLL CALL

YEA — Albert, Berry, P. P.; Bowie, Call, Connors, Curran, P.; Davies, Dow, Durgin, Gould, Gray, Hennessey, Hunter, Hutchings, Ingegneri, Jackson, Jensen, Kany, Kauffman, Kelley, Laffin, Mackel, Mahany, McMahon, Mills, Mitchell, Morin, Nadeau, Pelosi, Perkins, T.; Post, Raymond, Rollins, Shute, Silverman, Stubbs, Tarr, Tierney, Torrey, Wilfong.

NAY — Ault, Bachrach, Bagley, Bennett, Burt, G. W.; Berube, Birt, Blodgett, Boudreau, Burns, Bustin, Byers, Carey, Carpenter, Carroll, Carter, Chonko, Churchill, Clark, Cooney, Curran, R.; Curtis, Dam, DeVane, Doak, Drigotas, Dyer, Farley, Farnham, Faucher, Fenlason, Finemore, Flanagan, Fraser, Garsoe, Gauthier, Goodwin, H.; Goodwin, K.; Greenlaw, Hall, Henderson, Hewes, Higgins, Hobbins, Kelleher, Kennedy, LaPointe, LeBlanc, Leonard, Lewis, Lizotte, Lunt, MacEachern, Martin, A.; Martin, R.; Maxwell, McBreairey, McKernan, Miskavage, Morton, Najarian, Palmer, Pearson, Perkins, S.; Peterson, P.; Peterson, T.; Pierce, Powell, Quinn, Rideout, Rolde, Saunders, Smith, Snowe, Spencer, Sprowl, Susi, Teague, Theriault, Tozier, Twitchell, Tyndale, Usher, Wagner, Walker, The Speaker.

ABSENT — Connolly, Cote, Cox, Dudley, Hinds, Hughes, Immonen, Jacques, Jalbert, Joyce, Lavery, Lewin, Littlefield, Lovell, Lynch, MacLeod, Mulkern, Norris, Peakes, Snow, Strout, Talbot, Truman, Webber, Winship.

Yes, 40; No, 86; Absent, 25.

The SPEAKER: Forty having voted in the affirmative and eighty-six in the

negative, with twenty-five being absent, the motion does not prevail.

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

Mr. CAREY: Mr. Speaker and Members of the House: A little earlier we had this order and we discussed it and we were looking for at least more membership in the House and maybe somebody could explain.

Thereupon, the Order received passage as amended in non-concurrence and sent up for concurrence.

The SPEAKER: The Chair recognizes the gentleman from York, Mr. Rolde.

Mr. ROLDE: Mr. Speaker, I move we reconsider our action and hope you all vote against me.

The SPEAKER: The gentleman from York, Mr. Rolde, moves that we reconsider our action whereby the Order received passage as amended in non-concurrence. All in favor will say yes; those opposed will say no.

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

The following Joint Order: (S. P. 592) ORDERED, the House concurring, that the State Budget Officer be and hereby is directed to furnish to the Legislative Finance Officer copies of all departmental budget requests and all information and data relating thereto submitted to him by all State departments, commissions and agencies as soon as same come into his possession.

Came from the Senate read and passed.

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

The following Joint Order: (S. P. 593)

ORDERED, the House concurring that the State Law Librarian be directed to forward bound copies of the Legislative Record to members of the Senate and House, and to the Secretary and Assistant Secretary of the Senate, and the Clerk and Assistant Clerk of the House, at their home addresses.

Came from the Senate read and passed.

In the House, the Order was read.

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

Mr. SUSI: Mr. Speaker, Ladies and Gentlemen of the House: I think this legislature has done a remarkable job in cutting the costs on printing, and for those who have been responsible, I think we owe them all a debt, but possibly we can trim it some more by putting a list out here and letting those who want these bound copies of the Legislative Record sign the list. I know I wouldn't sign it, perhaps there are others who wouldn't sign it. Perhaps we could save even more. I would offer a motion and I certainly wouldn't feel badly if I am voted down on it but at least it is an idea to think about that we indefinitely postpone this order in the hopes we can do this.

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

Mr. FINEMORE: Mr. Speaker, Ladies and Gentlemen of the House: I have every record of the sessions I have been here, which was quite a ways back, and I wouldn't take a lot of money for them. They are the greatest things to look back through and read, see what someone has said some day or see how they voted and I don't know how Mr. Susi feels, in fact, I would even pay for mine rather than lose them. If I had to pay for it, I would pay for it because they are worth a lot to me.

ladies and gentlemen of this House, and I think the freshmen will find they are worth a lot to them. Every motion is in that there, everything that is in that big book right there, is in there, the roll calls and everything, so I hope you do not vote for indefinite postponement of this item.

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

Mr. SUSI: Mr. Speaker, Ladies and Gentlemen of the House: I note from the look on the Speaker's face, he is hoping I would withdraw my motion, but I still think the idea is okay and I believe that we could still accommodate Mr. Finemore and those who want the record. My suggestion was that there be a list out here and those who want them sign the list and it might be that half of them wouldn't have to be shipped. It must be quite expensive to get these prepared and distributed. I certainly don't intend to be an obstructionist but I thought perhaps we could obtain some more savings.

(Off Record Remarks)

Mr. SUSI: Mr. Speaker, I will withdraw my motion to indefinitely postpone.

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

Mr. GARSOE: Point of information, Mr. Speaker, it says that the librarian be directed "to forward".

The SPEAKER: But not necessarily mail.

Thereupon, the Order received passage in concurrence.

The following Joint Order: (S. P. 594)

ORDERED, the House concurring, that there be prepared after adjournment of the present session, by the Legislative Information Officer, a Register of all the Bills and Resolves considered by both branches of the Legislature, showing the history and final disposition of each Bill and Resolve and that there be printed 600 copies of the same. The Legislative Information Officer shall mail a copy of the Register to each member and officer of the Legislature and the State Law and Legislative Reference Library shall receive such number of copies as may be required.

Came from the Senate read and passed.

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

Committee on Judiciary reporting "Leave to Withdraw" on Resolution, Proposing an Amendment to the Constitution to Provide a Non-jury Trial for Petty Criminal Offenses (S. P. 15) (L. D. 89)

Came from the Senate with the Report read and accepted.

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

#### Divided Report

Majority Report of the Committee on Judiciary reporting "Ought to Pass" on Resolution, Proposing an Amendment to the Constitution Limiting the Right to Trial by Jury in Criminal Prosecutions to only those Instances in which the Accused may be Imprisoned or Suffer Loss of Liberty or be Fined more than Five Hundred Dollars (S. P. 329) (L. D. 1115)

Report was signed by the following members:

Messrs. CLIFFORD of Androscoggin

COLLINS of Knox

MERRILL of Cumberland

— of the Senate.

Mrs. MISKAVAGE of Augusta



Messrs. HEWES of Cape Elizabeth  
HUGHES of Auburn  
HOBBS of Saco  
SPENCER of Standish  
McMAHON of Kennebunk  
PERKINS of South Portland  
BENNETT of Caribou

— of the House.

Minority Report of the same Committee reporting "Ought Not to Pass" on same Bill.

Report was signed by the following members:

Messrs. HENDERSON of Bangor  
GAUTHIER of Sanford

— of the House.

Came from the Senate with the Majority "Ought to Pass" Report read and accepted and the Bill passed to be engrossed as amended by Senate Amendment "A" (S-333)

In the House: Reports were read.

Mr. Spencer of Standish moved the House accept the Majority "Ought to Pass" Report in concurrence.

Mr. Henderson of Bangor moved the Bill and all accompanying papers be indefinitely postponed.

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

The gentleman may proceed.

Mr. HENDERSON: Mr. Speaker, I will just speak briefly on this: unless it is necessary to go on and on about this. We have dealt with this issue twice before in this House and we have dealt with it very soundly and I don't think we have to spend a lot more time on this again today. The last time as Mr. Carroll says, this little chestnut was around, it was six months incarceration, now it is three months incarceration without a jury trial. It seems to me that we've already made our position pretty clear that we are not going to erode our right to a jury trial in this state and I hope that you will vote to indefinitely postpone L. D. 1115.

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

Mr. SPENCER: Mr. Speaker, Ladies and Gentlemen of the House: I would just like to briefly explain what the issue is here. The majority of the Judiciary Committee reported favorably on a bill which limited the right to jury trial to offenses which could be punishable by at least one day in jail and if the offense was punishable only by a fine, the majority of the committee reported out this measure which provided that there was no right to a jury trial where the only penalty was a fine.

The chairman of the committee sponsored a piece of legislation which said there was no right to a jury trial for any crime which was punishable by less than six months in prison. The committee did not go along with that and that bill has been killed in this body. We reported out this bill guaranteeing the right to jury as long as there was one day of imprisonment and an amendment was put on in the other body saying that if the offense was punishable by less than three months, he would not have the right to jury trial.

The purpose of this bill is to eliminate jury trials on truly petty offenses which are punishable only by a fine and not by any imprisonment. In order to accomplish the intent of the majority of the committee, which is to achieve that result, it will be necessary to vote against the motion to indefinitely postpone, to vote in

acceptance of the committee report and then to indefinitely postpone the Senate Amendment.

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

Mrs. KANY: Mr. Speaker and Members of the House: First of all, I would like to apologize to my definitely close friend Mr. Spencer for not having gotten to him some material that I just got when the session reconvened recently and I did get to some of the other members of the Judiciary Committee with it, but I did ask for a ruling from the Attorney General's Office regarding the amendment, and it definitely was felt that it was in violation of the 14th Amendment of the United States Constitution.

I also question the bill as a whole. Here we just passed the Criminal Code and it seems to me that offenses such as prostitution, petty crime, which is still a crime under the new Criminal Code, would certainly come under this whole thing and we all of a sudden are amending the Criminal Code here before we even put it into effect when we know that there is one major problem with the Criminal Code which we are not attempting to take care of now. I really hate to see a bill such as this go through and I urge you to support the motion of Mr. Henderson of Bangor. I apologize once again to Mr. Spencer for not giving him the information I had.

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

Mr. PERKINS: Mr. Speaker and Members of the House: In an effort to answer the question which has just been asked, no, this does not affect the Criminal Code. This bill provides, in those instances where the only penalty is a fine, that one need not necessarily be entitled to a jury. That is what the basic bill is all about and as Representative Spencer indicated, an amendment was placed on this in the other body which would indicate that if a 90 day sentence in a county jail was rendered, that too was the type of an offense that did not need to have a jury.

The majority of the committee did not feel that a jury is necessarily necessary when there is nothing more than a fine. They would not go along with the provision that whenever an individual was incarcerated, that he should be denied the right of a jury. There is a difference of opinion about that among the legal profession. The high court of the State of Maine seems to feel that it would be fine so long as one had no more than six months to spend in jail that he likewise need not to have a jury. We in this body, last week I guess it was, decided very definitely that we felt that an individual that was to be incarcerated for a period of six months, and I think it can be implied from that, that if for any period of time, should be entitled to a jury. Now, that is regardless of anyone's personal feelings, that is what this body said and I agree wholeheartedly with Representative Henderson when he suggests that perhaps it was wrong for a member of the other body to insert an amendment on this particular bill that would in a way appear to be sneaking onto this bill what we had taken care of last time and now try to get it through in a watered-down version.

If we accept the majority report, we will be accepting the fact that we feel that one should not necessarily be entitled to a jury trial where he is merely to be fined and not incarcerated and that means that

whenever the penalty of the offense requires a fine, that he would not be entitled to a jury. If there is a penalty provision that says he may be incarcerated, then he would be entitled to a jury.

I would hope that we would accept the majority report. This body will make up its mind in a few minutes whether it wants to go along with that. If it is not right for this time, so be it. I think it is time and I would hope that we would accept the majority report and then do away with the amendment as introduced in the Senate.

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

Mrs. MARTIN: Mr. Speaker, Ladies and Gentlemen of the House: I don't know too much about the law, but is it right that if a man asks for a jury trial, he is entitled to it as far as the laws of this country go?

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

Mr. HEWES: Mr. Speaker and Members of the House: In response to the question, under our Maine Constitution, that is the existing law. This L. D., L. D. 1150, because of the congestion in the courts at the present time, the length of time to get a jury trial would change that as it applies to offenses which have fines, very minor fines of up to \$500. This only limits it, only includes relatively petty matters, so this L. D. proposes to change the constitutional right, as you say, to a trial by jury.

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

Mrs. MARTIN: Mr. Speaker, it still takes the freedom away from the individual right of a person if he asks for one and he doesn't get it. I think he is entitled to his rights whoever he is and whatever the crime is, how little it is, if he wants a jury trial, he should be entitled to it.

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

Mr. BURNS: Mr. Speaker, Ladies and Gentlemen of the House: Quite frequently, I have been quite perturbed at the results of juries. Being a law officer, you are biased, you go in with the pre-conceived notion of what justice should be, but I would not, under any circumstances, stand here and vote for the doing away with the jury in any way, whether it is just a fine, whether it is a prison sentence or not. Even with the fine, you have a criminal record. I want that 12 people there if they are going to try me.

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

Mr. PERKINS: Mr. Speaker and Members of the House: Perhaps I should have explained just one reason why there are many of us who feel that the jury should be eliminated from those petty types of offenses.

Unfortunately, what has developed in our criminal justice system is a procedural delay that it is being employed as a means of destroying justice and, unfortunately, it happens to be a part of our system whether we like it or we don't, and too many times a jury trial is requested for no other purpose than for a delay, ultimate dismissal or some form of plea bargaining. That is our system and we have got to live with it and I don't deny maybe that is what we want, but that is the problem that has developed and in many cases that has clogged our courts to the extent that many of those in the legal

profession have felt that if — there are those who don't because they use it as their ploy, but there are some in the legal profession that feel that if we could sort of eliminate or skim off those where it is strictly a petty matter, that in this instance would only require a fine in the ultimate instance and there is a decision that would be rendered. If a person wants a trial, he will have a trial before a court of law, but that he cannot take and inquire that it be tried by a jury of 12 people, where there is such a cost to the State of Maine or that it becomes almost prohibitive and the judge naturally will sit and say, I think it's going to cost the State of Maine so many thousands of dollars to provide for a trial for this individual who is standing there knowing full well I realize this when the only fine I can give him is \$20, or \$25 or \$50 and I, as a judge, what economically is best for the State of Maine. Wouldn't it be better to dismiss this case, let him go about his way and let him smile and I take my lumps? So that is the reason for it, whether we enjoy it or like it or we don't.

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

Mr. DAM: Mr. Speaker, Ladies and Gentlemen of the House: I would hope we would go along with the motion of the gentleman from Bangor on the status of indefinite postponement of the bill.

I think Mr. Burns hit it pretty well when he said, regardless of the outcome, you would still have the record against you. Well, I think anybody, when they go into court before a judge, if they are innocent, they should have every tool at their disposal to prove their innocence, and if I were being taken into court on a case where I was innocent, I would like to have a jury trial. I don't think the mere fact that it is going to cost me \$500, if I am found guilty by one man, should enter into it or not. I think the thing is that one person could make a mistake, but when you are before a jury, I have always thought it was a pretty fair system and I think you have a lot better chance if you are innocent, to prove your innocence before a jury than you are before a one-man system. I also feel that this is just another attempt to erode our justice system in the State of Maine.

Now, the last gentleman who spoke, the good gentleman Mr. Perkins, said cost to the state. Well, if it is such a cost to the state and if we are worried about cost, why don't we just up the fines a little bit to try to offset these costs, then we wouldn't have this problem, but I don't think you can put dollars in front of justice. I don't think you can weigh one against the other. I think our court system, even though it may be backlogged and overloaded and overworked, as the lawyers will tell you, that I don't know, but I think it's still one of the best systems around, and I think to start doing away with one little piece at a time is the wrong thing. I think anyone is entitled to a trial before a jury. This is the right they have and why take this right away? It is true, it would have to be a constitutional amendment, but you send this out to the people, how many people are really going to understand the issue any more than they are going to understand the issue of the tax bill that we are going to send out under referendum that we passed earlier today?

I would ask you to support the motion of indefinite postponement.

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

Mr. GAUTHIER: Mr. Speaker, Ladies and Gentlemen of the House: The reason I signed the minority report was that I felt that your civil rights were being taken away from you. I feel that you are the one who is being tried and you should have the right, as you have at the present time, that is to decide for yourself if you want the jury to try you or the judge. So I hope that you will vote to indefinitely postpone this bill.

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

Mrs. KANY: Mr. Speaker, may I pose a question through the Chair to the gentleman from South Portland, Mr. Perkins? I guess he isn't in his seat, maybe I can pose it to another member of the Judiciary Committee and that is, how many criminal offenses not punishable by imprisonment or the loss of liberty and for which there is no fine or maximum fine exceeding \$500 would call in this category? I question how much expense would be involved. Prostitution is the only one I can think of off hand, just quickly, after trying to remember what the Criminal Code that we just enacted involved, and I have a feeling it would not involve a great deal of expense to the state to allow these jury trials.

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

Mr. HEWES: Mr. Speaker and Members of the House: In response to your question, there are very few, but there are many ordinances in cities; jay walking for example, littering. There are minor ordinances in towns that we are concerned with but actually a person is entitled to a jury trial for littering presently. As you know, the courts, instead of going through the jury trial, they work somehow to dismiss it. We're not enforcing some of these minor petty offenses because the person is entitled to a jury trial, he says "I want my jury trial or else" and eventually he gets it dismissed or something of that nature. That is why I think we should pass this constitutional change.

Mr. Dam of Skowhegan requested a roll call vote.

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

Mr. JOYCE: Mr. Speaker, Ladies and Gentlemen of the House: I could have almost lived with this bill, but I've got to rise and ask that you support the motion before this House now for indefinite postponement. Since we are going into the business of do-it-yourself law enforcement, you certainly wouldn't want to put that suspect on a shoplifting case at the mercy of one person. It bothers me when we get people trying to bend the constitution, give away some of these rights and I urge that you vote for indefinite postponement.

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

Mr. MILLS: Mr. Speaker, Ladies and Gentlemen of the House: I am totally opposed to this form of bill. I believe in a jury trial, even though at times it may be expensive. In this bill here, as it is written and drafted, I don't see anything but the lawyers trading in the court room before the trial is held. This can be down to two lawyers and a judge from the way they are going now. I think it's a very dangerous bill and I support the indefinite postponement.

The SPEAKER: The Chair recognizes the gentleman from Solon, Mr. Faucher.

Mr. FAUCHER: Mr. Speaker, Ladies

and Gentlemen of the House: I believe there is a lot of confusion here. We, in the Legal Affairs Committee, were ordered to study rural crime in the State of Maine last year and we did this. We went all around the state and found out that the people in the State of Maine wanted this bill. It is not an attorney's bill because I would like to commend the attorneys on this committee, the Judiciary Committee, who voted "Ought to Pass" on this bill.

This Resolution which we now have before us presents a unique opportunity for us to do more to combat the incredible increase of fine than any other measure we have considered this session. Forty-eight of our states in the federal court system have long recognized that a jury trial is not feasible for every petty crime. Certainly, the State of Maine is not wealthy enough to have a jury trial for every petty crime. We have gone too far in turning over the operation and control of our courts to the whims of the criminal.

I want to point out that every single Justice of the Supreme Judicial Court favors this change, and I want to make it clear by stating outright that I have the utmost respect for the legal profession. Unfortunately, my view in this matter is not shared by the majority of the people I represent. Just as the public image of politicians is smeared by the actions of a few bad apples, so, too, the integrity of the legal profession is brought in now by the action of a small minority of attorneys who refuse to recognize their duties as officers of the court.

The purpose of this bill now before you is not to attack the present jury trial procedure. There will still be jury trials available for all serious crimes. It is only the misdemeanors where the penalty is not more than 90 days and not more than \$500 which will be tried before a single judge sitting without a jury.

Can any one of us say in all honesty that our judicial system, as it now functions in the State of Maine, is dispensing justice when so many of those accused of crime are never brought to trial, when so many of those accused who are finally brought to trial after months, yes, even years of delay, are released because time has eroded the evidence and misplaced the witnesses? Is this a justice in which we, in our Constitution, have guaranteed our citizens? I submit it is not.

Because of the log jam in our courts, we now find ourselves involved with a sick and perverted distortion of justice, a system that prays upon the weak, the helpless, the poor in our society, yet works well to the advantage of the accused who has the financial resources to hire an attorney and pay for the legal footwork necessary to delay and delay and to delay justice, and may I remind you, ladies and gentlemen, justice delayed is justice denied. The poor man cannot afford to take advantage of this situation but the wealthy man can.

I was brought up with the very strong belief in our system of government, in our system of justice, a system that presumes innocence of the accused, a system that would insure equal rights protection and equal justice for all who comes within its bounds. I have always understood, perhaps incorrectly, that it is the duty of the defense attorney to insure that the defendant receive a fair trial, that the procedure within the law and the rights of the accused are protected, as they must be if they are to remain a nation and a state subject to the rule of law, not the rule of man. I do not believe that it is the duty of

the defense attorney to secure the release of his client, if the weight of the evidence is such that an acquittal would be unlikely, the defense attorney must delay, postpone, delay by any means available so that the witnesses may move away, or become otherwise unavailable or the mere passage of time may erode the case for the state. No, Mr. Speaker, I cannot believe that this is the way in which our system of justice is meant to function, for if that is the case, we are no longer subject to the rule of law but we have abandoned the law in our search for justice and turn instead to man. This is indeed a tragic situation.

We have an exact and accurate record of the abuse of the disrights of jury trials kept by Superior Courts with the year 1974. More than 4800 persons accused of crime requested a jury trial and then removed their case from the district court to the superior court. But do you know how many of these persons requesting a jury trial actually went ahead with having a jury trial in superior court? Less than 3.6 percent, or exactly 174 persons of the more than 4800.

Mr. Speaker, I am sorry for our state, I am sorry for our people that we have not corrected this unequal situation, and I am sorry for the small minority of attorneys who so distort our system to their own advantage. I wonder what they say to the face they see in the mirror when they shave. Do they tell themselves that they have served justice, do they rationalize their perversion of our judicial system with high minded phrases and pious grattitudes, or are they honest enough to admit to themselves they are mercenaries, vultures feasting upon the misfortune of our citizens and growing fat while justice dies? Mr. Speaker, I don't know how the members of this small minority of bad apples live with themselves, how these people face themselves. I guess I really don't care.

I do know that I have to live with myself and I have to face myself in the mirror each morning when I shave. I am going to support the enactment of this amendment and in doing so, I will be confident by this simple act of voting that I will be doing more for the cause of justice, more for the rule of law as opposed to the rule of man that I have done before or could ever do with any measure before this session.

The SPEAKER: The Chair recognizes the gentleman from Rockland, Mr. Gray.

Mr. GRAY: Mr. Speaker and Men and Women of the House: I think we have had, I counted them the other day, something like 50 bills concerning constitutional amendments, and I have seen this House pass on bills before whose constitutionality were in question, but I wonder if the people who developed this particular bill had any understanding whatsoever of our Constitution and I always like to use this as a guideline. Article 14 of our Constitution says that "no state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States, nor shall any state deprive any person of life, liberty or property without due process of law nor to deny any person within its jurisdiction the equal protection of the laws." Then, if you go back to Article 6 of the Constitution, it says, "in all criminal prosecutions the accused shall enjoy the right to a speedy and public trial by an impartial jury of the state and district wherein the crime shall have been committed." The only thing that I can draw from the debate that I've heard on the floor today is that we seem to have

priced justice out of existence, so I might pose a question, What price is justice now in the State of Maine?"

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

Mr. WILFONG: Mr. Speaker and Members of the House: I rise again on a point of civil liberty. I am a little bit upset. We continue to talk about eroding our civil liberties. We have to operate on a theory. That is what we are doing with our system of government, operating on a theory and whether it works properly or not, whether it always works to perfection, is something that we all have to judge for ourselves, but we have to operate on that basic theory still. I don't think that we can erode the civil liberties, take away the right of jury trial and not do ourselves irreparable harm because where do we stop? Maybe in ten years they come along and say that they are going to incarcerate somebody for a year and if it is under a year, we are going to allow this to be decided by one man. I don't think it is right.

I don't like the idea of streamlining our government for efficiency. That is not the way it was set up. It was set up and intended to operate so that we had justice in this country, not so we can have it streamlined. If we are going to streamline it, why do we bother having the legislature, and why do we bother having jury systems and judges and so forth? Why not just have an individual make the decisions? Why don't the judges make the decisions on all cases brought before them? I am sorry, but I think we have to go back to theory. If it is not working, then we are not working according to the theory. Let's try and work with the theory.

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

Mr. CAREY: Mr. Speaker, Ladies and Gentlemen of the House: This is a bill which is very similar to the one that both Mr. Faucher and I had introduced that was killed a very short time ago. I noticed that the attorneys looked a little more favorably on this bill than they did on the last one.

Mr. Wilfong from Stow has asked us to go back to basics and everything, and that is exactly what the Legal Affairs Committee did all last summer when they went from town to town and solicited through a series of nine public hearings throughout the state. This is one of the biggest items that the people wanted. The biggest item that they wanted was restitution, and this was the second biggest item on their list. I would certainly hope that in support of those very people who took the time to attend those public hearings, you would vote to accept the majority report on this particular matter.

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

Mr. SPENCER: Mr. Speaker, Ladies and Gentlemen of the House: I would just like to point out the letter from the Attorney General's Office, which was referred to by Mrs. Kany, refers only to the Senate Amendment, which the majority of the Judiciary Committee is opposed to and opposed in deciding on the majority report.

The purpose of this legislation, and it is not something that I want to bleed and die over, but at the present time, if you get stopped for not having a life preserver in your canoe, one for each person, or if you get stopped for burning in a rubbish barrel without having the proper gravel area

around the barrel, or if you get stopped for driving while barefoot, all of these kinds of offenses, you are entitled to a jury trial. Well, as a practical matter, the effect of that is that the lawyer, if no lawyer is hired, the case goes to the district court and it is heard by a judge and the determination is made. If you hire a lawyer, he moves the case up to Superior Court and demands a jury trial. This is a way of delaying the proceeding and in most cases you never actually request the jury trial finally, because you couldn't, with a straight face, go through a jury trial on an offense this trivial.

I think that this is an effort by the Judiciary Committee to respond to the problems that do exist with our court system. The proposal was recommended by the Trial Court Revision Commission and the Supreme Court of the United States has held that the right to trial by jury is not constitutionally required for offenses which are punishable by less than six months imprisonment. The Judiciary Committee did not accept that and we felt that if there was any imprisonment involved at all, the right to trial by jury ought to be afforded. We did feel that the right to a jury trial on these very petty offenses, and I would correct my earlier remark to point out that the traffic offenses are no longer included here, but it would include such things as burning rubbish without a permit. If a dairy farmer did not have one light in his barn for every three cows, any of these kinds of offenses which do exist in Maine Statutes now have a jury trial and this would eliminate that right. I think that it is a matter of balancing the interest in a jury trial on those kinds of offenses against the problem of delay and the problems of clogging up the courts. In my own balancing process, I came out in favor of allowing this thing, as long as imprisonment was not involved.

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

Mr. MCKERNAN: Mr. Speaker, Ladies and Gentlemen of the House: I would like to say just a couple of words. I think I would definitely oppose the Senate Amendment because that really speaks to confinement for any kind of conviction. That is why I am going to support today the Majority "Ought to Pass" Report, because I think that is a valid distinction to make between confinement or incarceration and a fine. Therefore, I intend to support the Majority "Ought to Pass" Report and I don't think that it is really depriving anyone of their liberty. There have been numerous court decisions which have said that nobody can be put in jail for failing to pay a fine; therefore, there is no worry about someone being put in jail if the most that could happen to them upon conviction would be a fine.

I would support the Majority "Ought to Pass" Report and ask for a roll call.

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

Mr. WILFONG: Mr. Speaker, Ladies and Gentlemen of the House: I have a question I would like to pose to Mr. Spencer, if I could. Are these offenses, such as he mentioned, barefoot driving and so forth, is that a criminal offense. If these are criminal offenses and you have a right to a jury trial, then why don't we change some of those laws around, instead of taking the rights of having a jury trial with fines and so forth, are those criminal offenses or why is it that you would have a jury trial for something so minor as that?

What would be the necessity of taking away a constitutional amendment when perhaps we could make those misdemeanors?

The SPEAKER: The gentleman from Stow, Mr. Wilfong, poses a question through the Chair to the gentleman from Standish, Mr. Spencer, who may answer if he so desires.

The Chair recognizes that gentleman.

Mr. SPENCER: Mr. Speaker, Ladies and Gentlemen of the House: In response to the question of the gentleman from Stow, I was in error when I used driving while barefoot as an example, because the traffic offenses have been, in effect, decriminalized. There are a great many petty criminal offenses which are still criminal offenses, and I think that it is a valid observation that you could in effect do what we have done with marijuana, which is to decriminalize these small offenses. One problem with doing that is that when you make it a civil offense rather than a criminal offense, you then change the burden of proof from proof beyond a reasonable doubt to prove by a preponderance of the evidence. So by moving out of the criminal justice system, you make it easier for people to be convicted because you don't have to prove it beyond a reasonable doubt.

I think that you could approach the question by decriminalizing a great many of the minor offenses which are now criminal offenses which just involve the payment of a fine. I think it is a matter of judgment as to how you proceed on that.

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

Mr. BURNS: Mr. Speaker, Ladies and Gentlemen of the House: I have a question for Mr. Spencer. Since when have they stopped using trials for civil cases?

The SPEAKER: The gentleman from Anson, Mr. Burns, poses a question through the Chair to the gentleman from Standish, Mr. Spencer, who may answer if he so desires.

The Chair recognizes that gentleman.

Mr. SPENCER: Mr. Speaker, Ladies and Gentlemen of the House: They certainly use trials and you also have the right to request a jury. What I was saying is that in the determination as to whether or not you are guilty of the offense or in a civil case as to whether you are liable, the test in a civil case is the question of a preponderance of the evidence, where as in a criminal case you have to be proved guilty beyond a reasonable doubt. That is the point I was making.

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. Henderson, that the House indefinitely postpone Resolution Proposing an Amendment to the Constitution Limiting Right to Trial by Jury in Criminal Prosecutions to only those instances in which the Accused may be Imprisoned or Suffer Loss of Liberty or be Fined more than Five Hundred Dollars, Senate Paper 329, L. D. 115 and all accompanying papers. All in favor of that motion will vote yes; those opposed will vote no.

#### ROLL CALL

YEA — Albert, Bachrach, Berry, G. W.; Berry, P. P.; Berube, Birt, Bowie, Burns, Bustin, Call, Carroll, Carter, Chonko, Clark, Connors, Connolly, Cooney, Cox, Curran, P.; Dam, Davies, DeVane, Doak, Dow, Drigotas, Fenlason, Finemore, Flanagan, Fraser, Gauthier, Goodwin, H.; Gray, Henderson, Hennessey, Ingegneri, Jalbert, Joyce, Kany, Kauffman, Kelleher, Kennedy, LaPointe, LeBlanc, Leonard, Lewis, Lunt, MacEachern, Mackel, Mahany, Martin, A.; McBreaity, Mills, Mitchell, Morton, Nadeau, Pearson, Pelosi, Peterson, P.; Peterson, T.; Post, Powell, Quinn, Raymond, Rolde, Saunders, Strout, Stubbs, Tarr, Teague, Theriault, Tozier, Tyndale, Wagner, Walker, Wilfong.

NAY — Ault, Bagley, Bennett, Blodgett, Boudreau, Carey, Carpenter, Churchill, Curran, R.; Curtis, Durgin, Dyer, Farley, Farnham, Faucher, Garsoe, Gould, Greenlaw, Hall, Hewes, Higgins, Hobbins, Hunter, Hutchings, Jackson, Jensen, Kelley, Laffin, Lizotte, Lovell, MacLeod, Martin, R.; Maxwell, McKernan, McMahon, Miskavage, Morin, Najarian, Norris, Perkins, S.; Perkins, T.; Pierce, Rideout, Shute, Silverman, Smith, Snowe, Spencer, Sprowl, Susi, Tierney, Torrey, Twitchell, Usher.

ABSENT — Byers, Cote, Dudley, Goodwin, K.; Hinds, Hughes, Immonen, Jacques, Laverty, Lewin, Littlefield, Lynch, Mulhern, Palmer, Peakes, Rollins, Snow, Talbot, Truman, Webber, Winship.

Yes, 75; No, 54; Absent, 21.

The SPEAKER: Seventy-five having voted in the affirmative, fifty-four in the negative, with twenty-one being absent, the motion does prevail.

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

Mr. HENDERSON: Mr. Speaker, Ladies and Gentlemen of the House: Having voted on the prevailing side I now move reconsideration and hope you all vote against me.

The SPEAKER: The gentleman from Bangor, Mr. Henderson, now moves that the House reconsider its action whereby this bill was indefinitely postponed. All in favor of that motion will say yes; those opposed will say no.

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

Sent up for concurrence.

Bill "An Act Creating the Passamaquoddy Hydro-electric Tidal Power Authority" (S. P. 551) (L. D. 1916) which was Indefinitely Postponed in the House on June 13.

Came from the Senate with that Body having Adhered to its former action whereby the Bill was passed to be engrossed.

In the House:

Mr. Mills of Eastport moved the House insist.

Mr. McKernan moved the House recede and concur.

Mr. Mills of Eastport requested a division on the recede and concur motion.

The SPEAKER: The pending question is on the motion of the gentleman from Bangor, Mr. McKernan, that the House recede and concur. All in favor of that motion will vote yes; those opposed will vote no.

A vote of the House was taken.

Mr. McKernan of Bangor 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 Bangor, Mr. McKernan.

Mr. McKernan: Mr. Speaker, Ladies and Gentlemen of the House: I will be brief. I think that we really should recede and concur today because we really have not done much in the energy field, and although I think we all realize that Passamaquoddy is a big issue, this bill, L. D. 1916, I don't know if very many of you have read it or not, but it sets up an authority which will work in conjunction with the Canadian Government if treaties are entered into, as I understand it, enabling us to do so. We want to try to keep as many avenues open as possible. I think we have all been reading about the problems, the Canadian Government is doing everything possible to try to stymie our efforts. In fact, they are now talking about, as I understand it, trying to set up some kind of tidal power project further up into Canada which would leave us totally out in the cold.

I would hope that we would recede and concur so that we can be in a position, if we can enter into any types of treaties with the Canadian government, to act with them to the best interest not only of the people of the State of Maine but also, hopefully, to get some Canadian cooperation in trying to solve some of our energy problems here.

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

Mr. MILLS: Mr. Speaker, Ladies and Gentlemen of the House: I would have to take issue with the gentleman's speech for the very simple reason that ten years ago I went into this in depth, tried all the avenues there were to get some cooperation, couldn't find any.

Now he has talked about the Canadians. You have already read in the paper how the Canadians want to deal with us on oil, how they want to do on Pittston. Now, just stop and think about what this plan calls for. There is only one dam on the American side, there are seven on the Canadian side. When this is built, who will control it? It will be the American money building it; it will be the Canadian authorities controlling it. Now, until there is a hard and fast treaty agreement between Canada and the United States, to pass anything like this at this time is going to foist the bill of millions and millions and millions on the taxpayer of Maine, because there is no guarantee of federal money, either American or Canadian, there is no guarantee, outside of \$186,000 that has been asked for in Congress at the present time to have the Army engineers update the plans and specifications with modern machinery and so forth.

This is a very dangerous bill. If we pass this here — and remember this, I am totally in favor of a tidal power project, but I don't want to see us go into any trap or pitfall that is going to load millions on to the Maine taxpayer. Therefore, I hope you will vote along with me.

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

Mr. FARLEY: Mr. Speaker, Ladies and Gentlemen of the House: I would hope that you would recede and concur today. This

bill here, the one version now is Report A or B. I can't remember, to be honest with you, at this point. We have transferred and passed one in one body and another one in this body.

The Committee Report, I think, was split on Passamaquoddy. Six of us signed Representative Kelleher's report and six of the other members signed the bill that is before you today. The reason I supported Mr. Kelleher's bill originally was the version you have before you, to be quite frank about it there were some changes made at the last minute that incorporated a bill that is still on the table unassigned, which I wasn't very happy with the sponsor of the particular we have here.

However, I was given the impression from the Energy Committee, that if this was the sole report, it probably would have been a 11 to 2 or 12 to 1 report. It is a good piece of legislation. Passamaquoddy is on the minds of the Federal Government again. This legislation would be saying in essence that the Legislature in the State of Maine, their support is behind the construction of the Passamaquoddy Tidal Power project. In the bill, it has a section that deals with the problems between the United States and Canada, and I would urge the House today to support the motion to recede and concur.

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

Mr. KELLEHER: Mr. Speaker, Ladies and Gentlemen of the House: I also urge the House to recede and concur. This document, 1916, is somewhat similar to the other document that I put my name on in the committee. In my opinion it needs one or two amendments, which I certainly would offer in this House tomorrow, but I would hate to see this bill die at this time. I would hope that you would support Mr. McKernan's motion to recede and concur.

The SPEAKER: The Chair recognizes the gentlewoman from Newcastle, Mrs. Byers.

Mrs. BYERS: Mr. Speaker, Ladies and Gentlemen of the House: I would also urge you to support this Passamaquoddy bill. We have talked about Passamaquoddy and this is our chance to do something about it.

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

Mr. MILLS: Mr. Speaker, Ladies and Gentlemen of the House: They tell you this has been changed around to some degree. Well, just think about this, the territorial limits of the Passamaquoddy Hydro Electric Tidal Power Authority shall comprise and include the following towns and plantations in the County of Washington, State of Maine, Whiting, Trescott, Lubec, Edmunds, Dennysville, Pembroke, Perry, Eastport, Robbinston and Calais. That is the density of population in Washington County. If this thing goes through under the title of authority, which may read on your own, they have unlimited authority to issue bonds, notes, and what have you. There is no recourse to any action they may take as an authority. I say it is far and away to fair a time to put anything like that on a citizen of Maine.

The SPEAKER: A roll call has been ordered. The pending question is on the motion of the gentleman from Bangor, Mr. McKernan, that the House recede and concur on Bill "An Act Creating the Passamaquoddy Hydro-electric Tidal Power Authority", Senate Paper 551, L. D. 1916. All in favor of that motion will vote yes; those opposed will vote no.

## ROLL CALL

YEA — Bachrach, Berry, P. P.; Birt, Boudreau, Byers, Carpenter, Connolly, Cooney, Cox, Curtis, Dyer, Farley, Farnham, Faucher, Flanagan, Goodwin, H.; Gray, Greenlaw, Hewes, Higgins, Hobbins, Hutchings, Ingegneri, Jackson, Jensen, Kelleher, Laffin, LaPointe, Maxwell, McBreairty, McKernan, McMahon, Miskavage, Mitchell, Morin, Norris, Perkins, S.; Pierce, Quinn, Saunders, Shute, Spencer, Strout, Teague, Tierney, Torrey, Tozier, Tyndale, Wagner, Wilfong.

NAY — Albert, Ault, Bagley, Bennett, Berry, G. W.; Berube, Blodgett, Bowie, Burns, Bustin, Call, Carey, Carroll, Carter, Chonko, Churchill, Clark, Conners, Curran, P.; Dam, Doak, Dow, Drigotas, Durgin, Fenlason, Finemore, Fraser, Garsoe, Gauthier, Gould, Hall, Henderson, Hennessey, Hunter, Jalbert, Joyce, Kany, Kauffman, Kelley, Kennedy, LeBlanc, Leonard, Lewis, Lizotte, Lovell, Lunt, MacEachern, Mackel, MacLeod, Mahany, Martin, A.; Martin, R.; Mills, Morton, Nadeau, Najarian, Pearson, Pelosi, Perkins, T.; Peterson, P.; Peterson, T.; Post, Powell, Raymond, Rideout, Rolde, Silverman, Smith, Snowe, Sprowl, Stubbs, Susi, Tarr, Theriault, Twitchell, Usher, Walker.

ABSENT — Cote, Curran, R.; Davies, DeVane, Dudley, Goodwin, K.; Hinds, Hughes, Immonen, Jacques, Laverty, Lewin, Littlefield, Lynch, Mulkern, Palmer, Peakes, Rollins, Snow, Talbot, Truman, Webber, Winship.

Yes, 50; No, 77; Absent, 23.

The SPEAKER: Fifty having voted in the affirmative, seventy-seven in the negative, with twenty-three being absent, the motion does not prevail.

Thereupon, the House voted to adhere.

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

Mr. MILLS: Mr. Speaker, Ladies and Gentlemen of the House: Having voted on the prevailing side, I now move for reconsideration and hope you vote against me.

The SPEAKER: The gentleman from Eastport, Mr. Mills, having voted on the prevailing side, now moves the House reconsider in action whereby the motion will say yes; those opposed will say no.

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

Bill "An Act to Establish Minimum Warranty Standards for New Residential Dwellings" (H. P. 575) (L. D. 710) which was passed to be Engrossed as amended by Committee Amendment "A" (H-720) in the House on June 16.

Came from the Senate with the Bill Indefinitely Postponed in non-concurrence.

In the House:

Mr. Dow of Gardiner moved the House recede and concur.

Mrs. Boudreau requested a vote on the recede and concur motion.

The SPEAKER: The Chair recognizes the gentleman from Woolwich, Mr. Leonard.

Mr. LEONARD: Mr. Speaker, Ladies and Gentlemen of the House: I look at this particular legislation, which is the warranty standards for new residential dwellings, with a very jaundice eye because I have been in that business for some time. Frankly, on the surface, I don't know what problems might crop up in a year or two, or whatever, but on the

surface this is a very good piece of legislation. I realize that it also adopts the overcoat by reference, but I think that is fair.

What I classify as good builders in this state, have a gentleman's agreement upon sale many times where they guarantee or warranty a building that they sell for a year's period of time, and being the gentlemen that they are, they live up to their commitments.

This bill is not intended for them, it won't hurt them. It is for people who moved into this state and make a killing on a small subdivision with many houses and promptly disappear. I think it is necessary legislation and I favor it and I hope that we defeat the motion to recede and concur and that we insist.

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

Mr. DAM: Mr. Speaker, Ladies and Gentlemen of the House: I hope that we would vote to recede and concur and I ask that when the vote is taken that it be taken by the yeas and nays.

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 in favor of a roll call will vote yes; those opposed will vote no.

AS 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 Gardiner, Mr. Dow, that the House recede and concur on Bill "An Act to Establish Minimum Warranty Standards for New Residential Dwellings", House Paper 575, L. D. 710. All in favor of that motion will vote yes; those opposed will vote no.

## ROLL CALL

YEA — Albert, Ault, Bagley, Bennett, Berry, G. W.; Berry, P. P.; Birt, Blodgett, Call, Carey, Carroll, Carter, Churchill, Curtis, Dam, DeVane, Doak, Dow, Farnham, Faucher, Fenlason, Finemore, Fraser, Garsoe, Gould, Hall, Hewes, Hunter, Hutchings, Kauffman, Kelley, LeBlanc, Lewis, Lizotte, Lovell, Lunt, MacEachern, Mackel, MacLeod, Mahany, Martin, R.; Maxwell, McBreairty, Miskavage, Morton, Norris, Pearson, Perkins, S.; Perkins, T.; Peterson, P.; Post, Raymond, Rideout, Shute, Silverman, Snowe, Sprowl, Strout, Stubbs, Susi, Teague, Theriault, Tozier, Twitchell, Usher.

NAY — Bachrach, Berube, Boudreau, Bowie, Bustin, Byers, Carpenter, Clark, Conners, Connolly, Cooney, Cox, Curran, P.; Davies, Drigotas, Durgin, Dyer, Flanagan, Goodwin, H.; Gray, Greenlaw, Henderson, Hennessey, Higgins, Hobbins, Jackson, Jalbert, Jensen, Joyce, Kany, Kelleher, Kennedy, Laffin, LaPointe, Leonard, Martin, A.; McMahon, Mills, Mitchell, Morin, Nadeau, Najarian, Pelosi, Peterson, T.; Pierce, Powell, Quinn, Rolde, Saunders, Smith, Spencer, Tarr, Tierney, Torrey, Wagner, Walker, Wilfong, The Speaker.

ABSENT — Burns, Chonko, Cote, Dudley, Farley, Gauthier, Goodwin, K.; Hinds, Hughes, Immonen, Ingegneri, Jacques, Laverty, Lewin, Littlefield, Lovell, Lynch, McKernan, Mulkern, Palmer, Peakes, Rollins, Snow, Talbot, Truman, Tyndale, Webber, Winship.

Yes, 64; No, 58; Absent, 29.

The SPEAKER: Sixty-four having voted in the affirmative, fifty-eight in the

negative, with twenty-nine being absent, the motion does prevail.

The Chair recognizes the gentleman from West Gardiner, Mr. Dow.

Mr. DOW: Mr. Speaker, Ladies and Gentlemen of the House: Having voted on the prevailing side; I now move, we reconsider and hope you vote against me.

The SPEAKER: The gentleman from West Gardiner, Mr. Dow, having voted on the prevailing side, now moves the House reconsider its action whereby it voted to recede and concur.

The Chair recognizes the gentleman from York, Mr. Rolde.

Mr. ROLDE: Mr. Speaker, Ladies and Gentlemen of the House: I hope you will indeed vote to reconsider. This was a good bill that we voted for the other day. It simply would give some protection to home buyers. I mentioned the other day that my family has been in the building business for many years and always very proud of the work that we did. We would stand by our work, this would give guarantees up to 18 months. I hope we will reconsider and then stick by our former vote.

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

Mr. DAM: Mr. Speaker, Ladies and Gentlemen of the House: I would hope we would stand by the action we have just taken and vote not to reconsider. I think there was concern for protection of homeowners and I am sure that the good committee that is going to study, Judiciary, this summer, the provision of the lien law, I think that maybe this could have been added into this bill. I don't think this is really concerned with protecting the homeowner. I think it is merely concerned with setting up the open door for another bureaucracy in Augusta and this is why I hope that we would still maintain our position where we have receded and concurred.

The SPEAKER: The pending question is on the motion of the gentleman from West Gardiner, Mr. Dow, that the House reconsider its action whereby the House voted to recede and concur. All in favor of that motion will vote yes; those opposed will vote no.

A vote of the House was taken.

64 having voted in the affirmative and 57 having voted in the negative, the motion did prevail.

Mr. Dow of West Gardiner requested a roll call vote on the pending motion to recede and concur.

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

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

The SPEAKER: The Chair recognizes the gentlewoman from Portland, Mrs. Boudreau.

Mrs. BOUDREAU: Mr. Speaker, Ladies and Gentlemen of the House: We passed this bill in here a few days ago. It went to the other body and they did their usual job like on some of the bills we send down. We need this bill and its very minimum standards.

I can show you letters from people who are having trouble. I have got one from a woman had had a \$30,000 house built. In a month, the cellar was all cracked up and she complained and they said, that is,

nothing unusual, a big puddle of water on the cellar floor at all times, the bathtub wouldn't hold water, the corners of the rooms came apart. She spent over \$3,000 of her own money trying to repair it. She had no satisfaction whatsoever. She had no recourse. Finally, she went to the people who held the mortgage on the property and they decided they would buy it back from her, very kindly charging her a 6 percent brokerage sale. They would patch it up, paint it up and sell it to someone else, and the next person will have the same trouble.

I think if we had a well-built house in the first place, if the builder knew he had some responsibility, these problems would not exist. We have many good builders, and they are willing to guarantee their houses, but not all builders are good builders, not all builders belong to the association. That is why this bill is needed. I ask you to defeat the motion to recede and concur.

The SPEAKER: A roll call has been ordered. The pending motion is to recede and concur. All in favor of that motion will vote yes; those opposed will vote no.

#### ROLL CALL

YEA — Berry, G. W.; Berry, P. P.; Birt, Blodgett, Byers, Call, Carey, Carter, Curtis, Dam, DeVane, Doak, Dow, Farnham, Faucher, Finmore, Fraser, Gould, Hewes, Hutchings, Kauffman, Lewis, MacEachern, Mackel, Maxwell, McKernan, Mills, Miskavage, Morton, Norris, Pearson, Perkins, S.; Perkins, T.; Post, Shute, Snowe, Sprowl, Strout, Stubbs, Susi, Teague, Torrey, Tozier.

NAY — Albert, Ault, Bachrach, Bagley, Bennett, Berube, Boudreau, Bowie, Burns, Bustin, Carpenter, Carroll, Chonko, Churchill, Clark, Connors, Connolly, Cooney, Cox, Curran, P.; Davies, Drigotas, Durgin, Dyer, Fenlason, Flanagan, Garsoe, Gauthier, Goodwin, H.; Gray, Greenlaw, Hall, Henderson, Hennessey, Higgins, Hobbins, Hunter, Jackson, Jalbert, Jensen, Joyce, Kany, Kelleher, Kelley, Kennedy, Laffin, LaPointe, LeBlanc, Leonard, Lizotte, Lunt, MacLeod, Mahany, Martin, A.; Martin, R.; McBrairty, McMahon, Mitchell, Morin, Nadeau, Najarian, Pelosi, Peterson, P.; Peterson, T.; Pierce, Powell, Quinn, Raymond, Rideout, Rolde, Saunders, Silverman, Smith, Spencer, Tarr, Theriault, Tierney, Twitchell, Usher, Wagner, Walker, Wilfong, The Speaker.

ABSENT — Cote, Curran, R.; Dudley, Farley, Goodwin, K.; Hinds, Hughes, Immonen, Ingegneri, Jacques, Lavery, Lewin, Littlefield, Lovell, Lynch, Mulkern, Palmer, Peakes, Rollins, Snow, Talbot, Truman, Tyndale, Webber, Winship.

Yes, 43; No, 83; Absent, 25.

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

Thereupon, the House voted to insist.

Bill "An Act to Provide for Licensing of Sternmen on Lobster and Crab Fishing Boats" (H. P. 1676) (L. D. 1923) which was enacted in the House on June 16.

Came from the Senate Indefinitely Postponed in non-concurrence.

In the House: On motion of Mr. Greenlaw of Stonington, the House voted to recede and concur.

The following papers appearing on Supplement No. 4 were taken up out of order by unanimous consent:

#### Committee of Conference Report:

Report of the Committee of Conference on the disagreeing action of the two branches of the Legislature on Bill "An Act to Aid Small Municipalities to Comply with Statutes Concerning the Protection and Improvement of Air" (H. P. 1191) (L. D. 1487) ask leave to report; that the Senate recede from its action whereby it Passed the Bill to be Engrossed; recede from its action whereby it adopted House Amendment "A" (H-405), as amended by Senate Amendment "A" thereto (S-239); recede from its action whereby it adopted Senate Amendment "A" to House Amendment "A"; indefinitely postpone House Amendment "A"; adopt Conference Committee Amendment "A" (S-334), submitted herewith; and Pass the Bill to be Engrossed, as amended by Conference Committee Amendment "A"; that the House recede from its action whereby it Passed the Bill to be Engrossed; recede from its action whereby it adopted House Amendment "A"; indefinitely postpone House Amendment "A"; and Pass the Bill to be Engrossed, as amended by Conference Committee Amendment "A"

Signed:

Messrs. COLLINS of Knox  
TROTZKY of Penobscot  
O'LEARY of Oxford

— of the Senate.

Messrs. SMITH of Dover-Foxcroft  
PETERSON of Caribou

— of the House.

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

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

The House voted to recede from its action whereby the bill was passed to be engrossed and from the adoption of House Amendment "A" and the Amendment was indefinitely postponed.

Conference Committee Amendment "A" (S-334) was read by the Clerk and adopted in concurrence.

The Bill was passed to be engrossed as amended by Conference Committee Amendment "A" in concurrence.

Report of the Committee of Conference on the disagreeing action of the two branches of the Legislature on Bill "An Act Amending Laws Relating to Hospitalization of the Mentally III" (S. P. 368) (L. D. 1204) ask leave to report; that the Senate recede from its action whereby it Passed the Bill to be Engrossed; recede from its action whereby it adopted Committee Amendment "A" (S-195); adopt Conference Committee Amendment "A" (S-337) to Committee Amendment "A", submitted herewith; adopt Committee Amendment "A", as amended by Conference Committee Amendment "A", thereto; and Pass the Bill to be Engrossed, as amended by Committee Amendment "A", as amended by Conference Committee Amendment "A", thereto, that the House recede from its action whereby it Passed the Bill to be Engrossed; recede from its action whereby it adopted Committee Amendment "A", as amended by House Amendment "B" (H-681) thereto; recede from its action whereby it adopted House

Amendment "B" to Committee Amendment "A" and indefinitely postpone same; adopt Conference Committee Amendment "A" to Committee Amendment "A"; adopt Committee Amendment "A"; as amended; and Pass the Bill to be Engrossed, as amended by Committee Amendment "A", as amended by Conference Committee Amendment "A", thereto in concurrence.

Signed:  
Messrs. COLLINS of Knox  
BERRY of Androscoggin  
HICHENS of York  
— of the Senate.  
Messrs. TIERNEY of Durham  
BURNS of Anson  
— of the House.

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

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

The House voted to recede from its action whereby the Bill was passed to be engrossed; receded from the adoption of Committee Amendment "A" as amended by House Amendment "B" thereto; receded from its action whereby House Amendment "B" to Committee Amendment "A" was adopted and the Amendment was indefinitely postponed.

Conference Committee Amendment "A" to Committee Amendment "A" (S-337) was read by the Clerk and adopted.

Committee Amendment "A" as amended by Conference Committee Amendment "A" thereto was adopted.

The Bill was passed to be engrossed as amended in concurrence.

The following Communication:  
THE SENATE OF MAINE  
AUGUSTA  
June 19, 1975

Honorable Edwin H. Pert  
Clerk of the House  
107th Legislature  
Augusta, Maine  
Dear Mr. Pert:

The Senate today voted to Adhere to its action whereby it Indefinitely Postponed Bill, "An Act to Establish the Citizen Woodcutting Act" (H. P. 1228) (L. D. 1754):  
Respectfully,

Signed:  
HARRY N. STARBRANCH  
Secretary of the Senate

The Communication was read and ordered placed on file.

The following Communication:  
THE SENATE OF MAINE  
AUGUSTA  
June 19, 1975

Honorable Edwin H. Pert  
Clerk of the House  
107th Legislature  
Augusta, Maine  
Dear Mr. Pert:

The President today appointed the following members of the Senate to the Committee of Conference on Bill, "An Act to Allow Municipal Approval of Routine, Great Ponds Permits" (H. P. 662) (L. D. 836):

Senators:  
TROTZKY of Penobscot  
COLLINS of Knox  
GRAHAM of Cumberland  
Respectfully,

Signed:  
HARRY N. STARBRANCH  
Secretary of the Senate

The Communication was read and ordered placed on file.

The following Communication:  
THE SENATE OF MAINE  
AUGUSTA  
June 19, 1975

Honorable Edwin H. Pert  
Clerk of the House  
107th Legislature  
Augusta, Maine  
Dear Mr. Pert:

The President today appointed the following members of the Senate to the Committee of Conference on Bill, "An Act to Extend the Jurisdiction of the Human Rights Commission to Grievances of Ex-offenders" (H. P. 1114) (L. D. 1416)

Senators:  
SPEERS of Kennebec  
CLIFFORD of Androscoggin  
JACKSON of Cumberland

The President also appointed the following members of the Senate to the Committee of Conference on Bill, "An Act Relating to Political Fundraising by State Employees" (H. P. 1382) (L. D. 1686):

Senator:  
CORSON of Somerset  
COLLINS of Knox  
CARBONNEAU of Androscoggin  
Respectfully,

Signed:  
HARRY N. STARBRANCH  
Secretary of the Senate

The Communication was read and ordered placed on file.

The following Communication:  
THE SENATE OF MAINE  
AUGUSTA  
June 19, 1975

Honorable Edwin H. Pert  
Clerk of the House  
107th Legislature  
Augusta, Maine  
Dear Mr. Pert:

The President today appointed the following members of the Senate to the Committee of Conference on Bill, "An Act to Change the Participation of Employees in the Classified Service in Political Campaigns" (H. P. 1041) (L. D. 1331):

Senators:  
CORSON of Somerset  
COLLINS of Knox  
CARBONNEAU of Androscoggin

The President also appointed the following members of the Senate to the Committee of Conference on Bill, "An Act Relating to the Dredging, Filling or otherwise Altering Coastal Wetlands" (H. P. 590) (L. D. 730):

Senators:  
TROTZKY of Penobscot  
HUBER of Cumberland  
BERRY of Androscoggin  
Respectfully,

Signed:  
HARRY N. STARBRANCH  
Secretary of the Senate

The Communication was read and ordered placed on file.

Majority Report of the Committee on State Government reporting "Ought to Pass" as amended by Committee Amendment "A" (S-338) on Bill "An Act Concerning Appointments to all Regulatory Boards and Commissions" (S. P. 106) (L. D. 361)

Report was signed by the following members:  
Messrs. CURTIS of Penobscot  
GRAHAM of Cumberland  
— of the Senate.

Mrs. SNOWE of Auburn

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

— of the House.  
Minority Report of the same Committee reporting "Ought Not to Pass" on same Bill.

Report was signed by the following members:  
Mr. WYMAN of Washington  
— of the Senate.

Mr. STUBBS of Hallowell  
— of the House.

Came from the Senate with the Majority "Ought to Pass" as amended by Committee Amendment "A" (S-338) Report of the Committee read and accepted and the Bill passed to be engrossed as amended.

In the House: Reports were read.  
On motion of Mr. Cooney of Sabattus, tabled pending his motion to accept the Majority Report in concurrence and tomorrow assigned.

Bill "An Act Designating the Bureau of Taxation as the State Revenue Bureau and to Correct Errors and Inconsistencies in the Property Tax Laws" (H. P. 110) (L. D. 156) which was passed to be Enacted in the House on March 27.

Came from the Senate with Engrossment reconsidered and the Bill passed to be engrossed as amended by Senate Amendment "B" (S-339) in non-concurrence.

In the House: On motion of Mr. Finemore of Bridgewater, the House voted to recede and concur.

Bill "An Act to Create the Commission on Governmental Ethics and Election Practices" (S. P. 581) (L. D. 1935) which was passed to be Engrossed in the House on June 18.

Came from the Senate passed to be Engrossed as amended by Senate Amendments "A" (S-322) and "B" (S-340) in non-concurrence.

In the House:  
On motion of Mr. Birt of East Millinocket, the House voted to recede from passage to be engrossed.

Senate Amendment "B" (S-340) was read by the Clerk and adopted in concurrence.

The Bill was passed to be engrossed as amended by Senate Amendment "B" in non-concurrence and sent up for concurrence.

Bill "An Act to Extend the Effective Date for Regulations Concerning Solid Waste Disposal" (H. P. 1746) (Presented by Mr. Peterson of Windham) (Approved for introduction by a Majority of the Committee on Reference of Bills pursuant to Joint Rule 10)

Under suspension of the rules, the Bill was read twice, passed to be engrossed without reference to any Committee and ordered sent forthwith.

Mr. Birt of East Millinocket presented the following Joint Order and moved its passage: (H. P. 1740)

WHEREAS, The Legislature has learned of the Outstanding Achievement and Exceptional Accomplishment of Charles R. LaRouche, Esq. and of his Retirement from the Office of the Attorney General of the State of Maine

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

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

The Order was read and passed and sent up for concurrence.

Mr. Cooney of Sabattus presented the following Joint Order and moved its passage: (H. P. 1741)

WHEREAS, Legislative Joint Standing and Select Committees are being asked to investigate many matters on behalf of the Legislature; and

WHEREAS, such investigations frequently require taking testimony from witnesses; and

WHEREAS, there is a need to develop uniform rules of procedure for conducting complex investigations in which a committee is delegated the power to subpoena witnesses; and

WHEREAS, witnesses called to testify in such investigations must be able to rely on certain procedures and rights in terms of their appearances before such committees; and

WHEREAS, such rules must be carefully considered in order that the best interests of legislative committees and witnesses appearing before such committees will be served; now, therefore, be it

ORDERED, the Senate concurring, that the Legislative Council be authorized, through the Joint Standing Committee on State Government to study the establishment of uniform rules of procedure for legislative committees which have been delegated the subpoena power and uniform rights for witnesses required to testify before such committees; and be it further

ORDERED, that the Department of the Attorney General be respectfully requested to cooperate with the committee and provide such technical assistance as the committee deems necessary; and be it further

ORDERED, that the Council report the results of its findings together with any proposed recommendations and necessary implementing legislation to the next special or regular session of the Legislature; and be it further

ORDERED, Upon passage in concurrence, that suitable copies of this Order be transmitted forthwith to said agencies as notice of this directive.

The Order was read and passed and sent up for concurrence.

Mr. Pearson of Old Town, presented the following Joint Order and moved its passage: (H. P. 1742)

WHEREAS, The Legislature has learned of the Outstanding Achievement and Exceptional Accomplishment of Eloise Myers of Old Town Upon Her Retirement after 20 Years of Dedicated Service as an Educator at Old Town High School

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

Order and direct, while duly assembled in session at the Capitol in Augusta, under

the Constitution and Laws of the State of Maine, that this official expression of pride be sent forthwith on behalf of the Legislature and the people of the State of Maine.

The Order was read and passed and sent up for concurrence.

Mr. Peterson of Windham presented the following Joint Order and moved its passage: (H. P. 1743):

WHEREAS, The Legislature has learned of the Outstanding Achievement and Exceptional Accomplishment of Nelson Wagner for his Yankee Ingenuity and Long Labor as Coordinator for the Rebuilding of Babb's Bridge

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

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

The Order was read and passed and sent up for concurrence.

Mr. Peterson of Windham presented the following Joint Order and moved its passage: (H. P. 1744)

WHEREAS, The Legislature has learned of the Outstanding Achievement and Exceptional Accomplishment of the Windham Historical Society for its Spirited Efforts in Rebuilding Babb's Covered Bridge, one of Maine's Historical Landmarks

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

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

The Order was read and passed and sent up for concurrence.

Mr. Carpenter of Houlton presented the following Joint Order and moved its passage: (H. P. 1745)

WHEREAS, The Legislature has learned of the Outstanding Achievement and Exceptional Accomplishment of Paul McGillicuddy Named Houlton's Outstanding Citizen for 1975

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

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

The Order was read and passed and sent up for concurrence.

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

Bill "An Act Relating to Valuation of Shares of Joint Owners of Property and to Disposition of Joint Property on Death of a

Joint Owner" Committee on Judiciary reporting "Ought to Pass" as amended by Committee Amendment "A" (H-811)

On the objection of Mr. Martin of Eagle Lake, was removed from the Consent Calendar.

Thereupon, the Report was accepted and the Bill read once. Committee Amendment "A" (H-811) was read by the Clerk and adopted.

Under suspension of the rules, the Bill was read the second time, passed to be engrossed as amended and sent to the Senate.

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

An Act Relating to the State Truth-in-Lending Act (H. P. 1722) (L. D. 1941) (Emergency)

Tabled — by Mr. Bowie of Gardiner Pending — passage to be enacted.

Mrs. Byers moved the matter be tabled for one legislative day.

Mrs. Clark of Freeport requested a vote on the motion.

The SPEAKER: The pending question is on the motion of the gentlewoman from Newcastle, Mrs. Byers, that this matter be tabled pending passage to be enacted and tomorrow assigned. All in favor of that motion will vote yes; those opposed will vote no.

A vote of the House was taken.

53 having voted in the affirmative and 39 having voted in the negative, the motion did prevail.

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

Bill "An Act to Increase Certain Hunting and Fishing License Fees" (H. P. 464) (L. D. 566) (C. "A" H-369) (S. "B" S-273)

Tabled — June 18, by Mrs. Najarian of Portland.

Pending — Adoption of Committee Amendment "B" (H-784).

On motion of Mr. Rolde of York, tabled pending the adoption of Committee Amendment "B" and tomorrow assigned.

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

House Report—"Ought to Pass" as amended by Committee Amendment "A" (H-785) - Committee on State Government on Bill "An Act to Create the Department of State Police" (H. P. 1469) (L. D. 1813)

Tabled — June 18, by Mr. Rolde of York.

Pending — Acceptance of the Committee Report.

Thereupon, the Report was accepted and the Bill read once. Committee Amendment "A" (H-785) was read by the Clerk.

Mr. Burns of Anson offers House Amendment "B" to Committee Amendment "A" and moved its adoption.

House Amendment "B" to Committee Amendment "A" (H-812) was read by the Clerk.

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

Mr. BURNS: Mr. Speaker, Ladies and Gentlemen of the House: This adds to the duties of the commissioner that he actually seek cooperation between the departments and all law enforcement agencies in the state.

There are three distinct criminal investigating bodies within the state, the state police, the county sheriff departments and the municipal police departments. I believe that the



commissioner should be attempting, as much as possible, to get these different departments coordinated. They are not and I do not want them under one boss, by no means do we want a police state, but we do want them working together. There is talent out there being wasted because of the jealousy between the departments. Lets get this jealousy wiped out and get them going on the same track.

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

Mr. THERIAULT: Mr. Speaker, I hate to have this go by without having a chance, to have looked this thing over. I would like to have it tabled for one day.

Thereupon, on motion of Mr. Rolde of York, tabled pending the adoption of House Amendment "B" to Committee Amendment "A" and tomorrow assigned.

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

An Act to Amend the Maine Housing Authorities Act by Creating a Loans-to-Lenders Program and Making Changes to Improve the Efficiency of Using Federal Housing Funds (Emergency) (S. P. 286) (L. D. 1002) (H. "A" H-734) to C. "A" S-235)

Tabled — June 18, by Mrs. Najarian of Portland.

Pending — Passage to be Enacted.

This being an emergency measure and a two-thirds vote of all the members elected to the House being necessary, a total was taken. 101 voted in favor of same and 6 against, and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

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

An Act to Amend the Air Pollution Standards to Expand the Definition of Treatment and to Affirm that Projects Meeting State Air Quality and Emission Standards will not Significantly Deteriorate Existing Air Quality. (S. P. 443) (L. D. 1503) (C. "A" S-275)

Tabled — June 18, by Mr. Rolde of York.

Pending — Passage to be Enacted.

On motion of Mr. Rolde of York, tabled pending passage to be enacted and tomorrow assigned.

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

An Act Concerning the Registration and Operation of Snowmobiles. (H. P. 845) (L. D. 1030) (H. "B" H-641)

Tabled — June 18, by Mr. Rolde of York.

Pending — Reconsideration. (Returned by the Governor without his approval.)

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

Mr. MCBREAIRTY: Mr. Speaker and Members of the House: I had a speech prepared here, but I guess I will discard it and just use a little of my presentation.

The Governor's objection is in the third paragraph. It says, "This legislation, in effect, would allow snowmobiles to be operated along the roadways of this state, a situation I feel would create a dangerous situation both for snowmobile operators and drivers of other vehicles on the road. Many snowmobile operators share my concern."

I am going to read one letter from John Benoit that went to the Governor's office in support of this bill, and I hope you can make your decision from this letter. It said, "Mr. Ralph Lowe, Executive

Department, State House, Augusta, Maine: L.D. 1030, An Act Concerning the Registration and Operation of Snowmobiles. Dear Ralph: Earlier today, you asked me to explain the effect of L.D. 1030 would have upon existing laws relating to snowmobiles, especially concerning Section of the bill relating to the 300 and 500 yard provision. You advised me that Representative McBreairty, the sponsor of L.D. 1030, provided you with copies of correspondence this office has written to the legislature concerning the distance provision in the bill. A letter to Representative McBreairty dated June 6 and a letter to Senator Speers dated June 9, in those correspondence I stated that L.D. 1030 makes Maine law more specific to the extent present law contain no limitations as to the maximum distance a person may operate a snowmobile on a portion of the public way.

"The provisions of 12 M.R.S.A., 1977, permit a person to operate their snowmobile on the right of way when crossing public ways, sidewalks, bridges, culverts, underpasses, overpasses, present law only specifies that the person shall operate the snowmobile along the public way for the purpose of crossing the enumerated land features, provided they are crossed as directly as possible. Often the meaning of the words as directly as possible is left to the discretion of the law enforcement officers, a result that seems required by reason of the language of the law as now written. L.D. 1030 intends to amend 1977 so that a person desiring to cross a public way, sidewalk or culvert must not travel in the public way for a distance in excess of 300 yards. The law will continue to state that the crossing must be done by traveling in the public way only the distance necessary to traverse the public way, sidewalk, etc. The 500 yard provision pertains to crossing of bridges, overpasses or underpasses. The legislature has determined that the difference in yardage is necessary in order that persons be permitted to cross certain longspanlandfeatures.

"A second significant result of the enactment of L.D. 1030 would be the validation of 12 M.R.S.A., 1980. At the beginning of the legislative session, we stated our opinion that the present provisions of 1980 were unconstitutional to the extent that reciprocity was granted to Vermont residents, to the exclusion of residents in Massachusetts, Connecticut. The Bill amends 1980 to take care of this presently invalid statute." "In conclusion L. D. 1030 intends to make a statute more specific in its terms and to validate a reciprocity provision."

With this letter from John Benoit, I feel that if the Governor hadn't been in such a hurry to reach California, he might have read this letter and wouldn't have vetoed this bill. I hope that you people will stand behind me today and send this to the other body and hope they might do the same.

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

Mr. CARPENTER: Mr. Speaker, Ladies and Gentlemen of the House: Representative McBreairty has got no idea that I was going to speak today, but I alerted him to something last week that I think all the members of this House should know.

I was sitting out here one day before the snowmobile bill was enacted by this body. It was early in the morning and I heard

Representative McBreairty having quite a discussion with another gentleman about the bill. As it turns out, apparently it was this same gentleman who was passing out literature down at the other body, literature that the gentleman from Perham, Mr. McBreairty contends is not truthful. This is where a lot of the controversy came up about this bill. Well, I had occasion last week to be down in one of the offices on the second floor regarding a bill of mine, and before this bill was even enacted by the 107th Legislature, this same man was down there lobbying against the bill.

Representative McBreairty has just told you the facts of the matter, and if you want to be beaten by one man who saw that he was getting beaten up here, he went down to the second floor and he has beaten us, temporarily at least, down there, and I don't think this is right. I came up and I told Mr. McBreairty what was going on down there, and I didn't honestly think it would have any effect. I stood in the corner down there and listened to that man talk, and some of the things he said were not true. He didn't know who I was and as a matter of fact, I don't know as he even saw me. I walked in behind him. After he left, I asked the gentleman in the office, will Representative McBreairty have equal time to plead his case when and if this bill is enacted — Oh certainly, certainly. But I just wanted to let you know what went on behind the scenes on this bill, and this was before this bill was ever enacted by either body of this legislature.

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

Mr. KELLEHER: Mr. Speaker, I would like to pose a question to the gentleman from Perham, Mr. McBreairty. I can't find my roll call, what was the roll call on this in the House when we enacted it?

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

Mr. MCBREAIRTY: Mr. Speaker, it was 126 to 15.

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

Mrs. BERRY: Mr. Speaker, I had to vote against this because my constituents before and I feel that I must do that at this point.

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

Mr. BERRY: Mr. Speaker, Ladies and Gentlemen of the House: I, too, shall vote to sustain the veto of the Governor. I live in York County, and I have had many complaints from people down there on this bill and their main complaint is that under Maine law right now, if a person lives in New Hampshire or Massachusetts, that person has to register a snowmobile before they can run it in the State of Maine, or at least that is true for the State of Massachusetts and I am not sure about New Hampshire. Under this bill, if this bill passes, the person who lives in New Hampshire will no longer have to register their snowmobile to come into the State of Maine, due to an agreement whereby we can go to Massachusetts and run our snowmobiles without registering.

I doubt if many people in York County are going to run down to Massachusetts to run their snowmobiles. However, the reverse of that situation is very likely to occur. In my town and in several of the other towns in my area, the people have built very good snowmobile trails, and this is what they are concerned about. They

really don't want people coming up here from Massachusetts and running over those trials and doing whatever they want to, and that is why I shall vote to sustain the veto.

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

Mr. McBREAIRTY: Mr. Speaker, presently, we have reciprocity between New Hampshire, Vermont, Quebec and New Brunswick. I have several legal opinions that plainly state that this is definitely unconstitutional because it isn't equal protection under the law. When we came in here last fall, every one of us stood up and raised our right hand and we swore to uphold the Constitution of Maine and the United States. The only way we can do so is to continue to run this bill through this legislature.

I am going to go into a little bit of detail on this highway thing. Presently, under our present law, a 14-year-old youngster can cross this overpass right out here by the Senator Motel legally. The big complaint on this whole thing has been that we are allowing 300 yards. We are not, we are restricting them to 300 yards. Now, as this statement from John Benoit says, there is no limit on the amount you can ride. You can cross culverts as long as you do it as directly as possible and stay on the right-hand side of the road, and there are millions of culverts. I could ride from here home, as long as I said I was crossing culverts and every few feet I would be crossing one.

The SPEAKER: The Chair recognizes the gentleman from Solon, Mr. Faucher.

Mr. FAUCHER: Mr. Speaker, Ladies and Gentlemen of the House: As far as I am concerned, I am going to override almost every one of the vetoes from the Governor. I feel that if the gentleman was a diplomat on the second floor, he would call the sponsor of the bill and say, we are having trouble with this bill, why don't you bring it back or call it back from the Governor's office. This is what I see wrong with the bill, why don't you try to correct it, let's work together.

I had a bill vetoed and he never called me. I haven't heard anybody that was called to the second floor and being told of doing this so I am going to try to override every one of these vetoes.

The SPEAKER: The pending question is, shall this Bill become law notwithstanding the objections of the Governor. This requires a two-thirds vote of those present. According to the Constitution, the yeas and nays are ordered. All in favor of this Bill becoming law notwithstanding the objections of the Governor will vote yes; those opposed will vote no.

#### ROLL CALL

YEA — Albert, Ault, Bennett, Berube, Blodgett, Boudreau, Burns, Bustin, Carey, Carpenter, Clark, Connors, Connolly, Cooney, Cox, Curran, P.; Curtis, Davies, DeVane, Doak, Drigot as, Durgin, Faucher, Fenlason, Finemore, Flanagan, Fraser, Garsoe, Gauthier, Goodwin, H.; Gould, Gray, Greenlaw, Henderson, Hennessey, Hewes, Higgins, Hobbins, Hunter, Jackson, Jalbert, Joyce, Kany, Kelleher, Kelley, Kennedy, Laffin, LaPointe, LeBlanc, Leonard, Lewis, Lizotte, Lunt, MacEachern, MacLeod, Mahany, Martin, R.; Maxwell, McBreairty, McKernan, McMahon, Mills, Miskavage, Morin, Morton, Nadeau, Najarian, Norris, Palmer, Pearson, Pelosi, Perkins, S.; Perkins, T.; Peterson, P.; Peterson, T.; Pierce, Post, Powell,

Quinn, Raymond, Rideout, Rolde, Saunders, Silverman, Smith, Snowe, Spencer, Stubbs, Tarr, Teague, Theriault, Tierney, Torrey, Tozier, Twitchell, Usher, Wagner, Walker, Wilfong, The Speaker.

NAY — Bachrach, Bagley, Berry, G. W.; Berry, P. P.; Bowie, Call, Carroll, Carter, Churchill, Dow, Dyer, Hutchings, Mitchell, Shute, Sprowl.

ABSENT — Birt, Byers, Chonko, Cote, Curran, R.; Dam, Dudley, Farley, Farnham, Goodwin, K.; Hall, Hinds, Hughes, Immonen, Ingegneri, Jacques, Jensen, Kauffman, Laverty, Lewin, Littlefield, Lovell, Lynch, Mackel, Martin, A.; Mulkern, Peakes, Rollins, Snow, Strout, Susi, Talbot, Truman, Tyndale, Webber, Winship.

Yes, 100; No, 15; Absent, 35.

The SPEAKER: One hundred having voted in the affirmative and fifteen in the negative, with thirty-five being absent, the Bill does become law notwithstanding the objections of the Governor.

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

Bill "An Act to Establish Rules for Legislative Investigating Committees" (H. P. 898) (L. D. 1085)

Tabled — June 18, by Mr. Rolde of York.

Pending — Passage to be Engrossed.

Mr. Birt of East Millinocket offered House Amendment "A" and moved its adoption.

House Amendment "A" (H-789) was read by the Clerk and adopted.

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

Subsequently, Mrs. Kany of Waterville moved the House reconsider its action whereby the Bill was passed to be engrossed.

On motion of Mr. Rolde of York, tabled pending the motion of Mrs. Kany of Waterville to reconsider and tomorrow assigned.

Mr. McKernan of Bangor moved the House reconsider its action whereby Bill "An Act Revising the Lobbyists Disclosure Procedures" (S. P. 150) (L. D. 513) was passed to be engrossed.

On further motion of the same gentleman, tabled pending his motion to reconsider and tomorrow assigned.

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

Bill "An Act to Authorize the Board of Environmental Protection to Regulate the Anchorage of Tankers in Casco Bay" (H. P. 1700) (L. D. 1933)

Tabled — by Mr. LaPointe of Portland.

Pending — Passage to be Engrossed.

On motion of Mr. Mulkern, the Bill was passed to be engrossed as amended by Committee Amendment "A," as amended by House Amendment "A" thereto and sent to the Senate.

On motion of Mr. Palmer of Nobleboro, Adjourned until nine-thirty tomorrow morning.