

MAINE STATE LEGISLATURE

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Legislative Record

OF THE

One Hundred and Seventh Legislature

(First Special Session)

OF THE

STATE OF MAINE

1976

KENNEBEC JOURNAL
AUGUSTA, MAINE

HOUSE

Thursday, February 19, 1976

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

Prayer by the Reverend Arthur Durbin of Waterville.

The journal of yesterday was read and approved.

Papers from the Senate

Bills from the Senate requiring reference were disposed of in concurrence.

**Study Reports
Agriculture**

Committee on Agriculture to which was referred the study relative to Maine's potato licensing and bonding laws and the effect on the Maine potato industry, pursuant to S. P. 530 of the 107th Legislature, have had the same under consideration, and ask leave to submit its findings and to report that the accompanying Bill "An Act to Promote the Sale of Maine Potatoes" (S. P. 701) (L. D. 2220) be referred to this Committee for public hearing and printed pursuant to Joint Rule 3.

Came from the Senate with the Report read and accepted and the Bill referred to the Committee on Agriculture and Ordered Printed.

In the House, the Report was read and accepted and the Bill referred to the Committee on Agriculture in concurrence.

Committee on Agriculture to which was referred the study relative to Maine's potato licensing and bonding laws and the effect on the Maine potato industry, pursuant to S. P. 530 of the 107th Legislature, have had the same under consideration, and ask leave to submit its findings and to report that the accompanying Bill "An Act to Revise the Potato Licensing Law" (S. P. 702) (L. D. 2221) be referred to this Committee for public hearing and printed pursuant to Joint Rule 3.

Came from the Senate with the Report read and accepted and the Bill referred to the Committee on Agriculture and Ordered Printed.

In the House, the Report was read and accepted and the Bill referred to the Committee on Agriculture in concurrence.

Messages and Documents

The following Communication:

STATE OF MAINE

MAINE STATE RETIREMENT SYSTEM
AUGUSTA, MAINE

Honorable James B. Longley
Governor of Maine

State House, Augusta
Members, 107th Legislature

Dear Governor Longley and Members of the Legislature:

In accordance with the provisions of 5 M.R.S.A. Section 1005, the Trustees of the Maine State Retirement System herewith submit an annual report and review of the financial condition of the System for the fiscal year ending June 30, 1975. Also included are reports of the Actuary, the Executive Director, the Investment Consultant, and the Group Life Insurance Underwriter.

The System is administered by a Board of Trustees — seven in number: three members appointed by the Governor with the advice and consent of the Council; one member elected by the Maine Teachers' Association; one member elected by the

Maine State Employees Association; one member appointed by the governing body of the Maine Municipal Association; one member, who is a recipient of a retirement allowance through the Maine State Retirement System, selected by the foregoing members of the Board.

Of continuing concern to the Board is the status of funding for the "non-contributory" teacher group. After an actuarial review of this situation, the Board voted to request funding through the Executive and Legislative Budgets; however, in both the Executive and Legislative Budgets this item was deleted.

Steps were taken during the year to strengthen the System's investment performance which resulted in the release of one investment manager, and a review has been started for the purpose of determining the type of managers and investment mix which will be employed. Subsequent to the close of the fiscal year, the Board did employ Massachusetts Financial Services, Inc. to manage a segment of the bond portfolio which heretofore had been managed by the Standard & Poor's InterCapital, Inc.

The Board of Trustees gives the highest attention to the management of the System's investments. Quarterly performance measurement reports are reviewed by the Board in detail with the investment evaluation representative, and semiannual meetings are held with portfolio managers of the several segments of the fund, at which time the past performances are reviewed and the managers' investment strategies are explained.

The Trustees employed an independent actuarial firm (Towers, Perrin, Forster & Crosby, Inc.) for the purpose of reviewing the funding adequacy and the actuarial assumptions, which are presently being used for the System. This study and review was still in progress as of June 30, 1975.

Very truly yours,

Signed:

WILLIAM G. BLODGETT
Executive Director

For: Board of Trustees,
Maine State Retirement System

The Communication was read.

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

Mr. LYNCH: Mr. Speaker and Members of the House: I would like to read the third paragraph of this communication.

"Of continuing concern to the Board is the status of funding for the 'non-contributory' teacher group. After an actuarial review of this situation, the Board voted to request funding through the Executive and Legislative Budgets; however, in both the Executive and Legislative Budgets, this item was deleted."

This has been a continuing concern of mine since I have been in the legislature. I have been disturbed by the granting of benefits from the retirement system without adequate funding and I think this is something that this legislature and the succeeding legislatures have to keep in mind in order to keep this a good, strong fund.

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

Mr. HEWES: Mr. Speaker and Members of the House: I, too, had the same questions that the gentleman from Livermore Falls, Mr. Lynch, has, and I

wonder if there is any bill pending now that would take care of this fund so that it would be actuarially sound?

Over the years, we have allowed special benefits for people who have not paid into the pension fund and it is going to catch up with us sometime. I hope we will try to do something, if not this session, next year.

Thereupon, the Communication and accompanying papers were placed on file.

**Petitions, Bills and Resolves
Requiring Reference**

The following Bill and Resolve were received and, upon recommendation of the Committee on Reference of Bills, were referred to the following Committees:

Bill "An Act to Provide Relief from the Burden of the State Uniform School Tax" (Emergency) (H. P. 2055) (Presented by Mrs. Mitchell of Vassalboro)

Committee on Reference of Bills suggested the Committee on Education.

On motion of Mrs. Mitchell of Vassalboro, referred to the Committee on Taxation, ordered printed and sent up for concurrence.

Local and County Government

Resolve, for Laying of Additional County Taxes for the Year Nineteen Hundred and Seventy-six and to Authorize Certain Reallocations to Conform with Line Budget Statutes (H. P. 2053) (Presented by Mr. Carpenter of Houlton)

(Ordered Printed)

Sent up for concurrence.

Study Report

Health and Institutional Services

Mr. Goodwin from the Committee on Health and Institutional Services to which was referred the study relative to Promote the Development of Small Group Homes for Mentally Retarded Individuals pursuant to H. P. 1724 of the 107th Legislature, have had the same under consideration, and ask leave to submit its majority findings and to report that the accompanying Bill "An Act to Promote the Development of Small Group Homes for Mentally Retarded Individuals" (H. P. 2058) (L. D. 2228) be referred to this Committee for public hearing and printed pursuant to Joint Rule 3.

Report was read and accepted, the Bill referred to the Committee on Health and Institutional Services, ordered printed and sent up for concurrence.

Orders

Mr. Bagley of Winthrop presented the following Joint Order and moved its passage: (H. P. 2054)

WHEREAS, The Legislature has learned of the Outstanding Achievement and Exceptional Accomplishment of Charlene Harrington Maine Apple Queen for 1976

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

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

The Order was read.

(On motion of Mr. Bagley of Winthrop, tabled pending passage and later today assigned.)

Mr. MacEachern of Lincoln presented the following Joint Order and moved its passage: (H. P. 2056)

WHEREAS, The Legislature has learned of the Outstanding Achievement and Exceptional Accomplishment of Cynthia Jean Olivieri of Lincoln Chosen 1975 Maine Winter Festival Queen by the Moosehead Lake Region Chamber of Commerce

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. Burns of Anson presented the following Joint Order and moved its passage: (H. P. 2057)

WHEREAS, the question of the proper taxation policy for Maine has often dominated the 107th legislative session; and

WHEREAS, the Governor's Tax Policy Committee, composed of persons experienced in tax policy and broadly representative of Maine citizens, was charged to study Maine's tax policy and, following its charge, held numerous deliberations during the fall of 1975; and

WHEREAS, the Governor's Tax Policy Committee submitted to the Governor, on November 17, 1975, a number of recommendations concerning what the committee called "important interim and fundamental tax policy directions for the State of Maine;" and

WHEREAS, it now remains for the Legislature to act upon these recommendations; now, therefore, be it

ORDERED, the Senate concurring, that the Joint Standing Committee on Taxation shall conduct a thorough study of the recommendations of the Governor's Tax Policy Committee, with emphasis on the drafting of proposed legislation embodying those recommendations for consideration by the next regular session of the Legislature; and be it further

ORDERED, that the Joint Standing Committee on Taxation shall complete this study no later than October 1, 1976, and shall submit to the Legislative Council by October 1, 1976, the report of its study and complete and final copies of any proposed legislation recommended by that study.

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

On Motion of Mr. Albert of Limestone, it was

ORDERED, that Patrick Jackson of Yarmouth be excused February 19th and 20th for personal reasons.

Under suspension of the rules, the Chair laid before the House the following tabled and later today assigned matter:

Joint Order relative to Charlene Harrington, Maine Apple Queen for 1976 (H. P. 2054)

Tabled — by Mr. Bagley of Winthrop

Pending — Passage

The SPEAKER: The Chair would ask the gentleman from Poland, Mr. Torrey and the gentleman from Winthrop, Mr. Bagley, to please escort Charlene Harrington to the rostrum to address the members of the House.

Thereupon, Miss Charlene Harrington was escorted to the rostrum by Mr. Torrey of Poland and Mr. Bagley of Winthrop, amid the applause of the House, the members rising.

Miss CHARLENE HARRINGTON: I am happy to be here. Thank you very much for this warm welcome. This is my fifth appearance, and I was just crowned the 14th of January. I have had a good time since I was crowned. I have been to the Pomological Society's Banquet, I was at Mr. Torrey's Grange in Turner, I was at the Miss Maine USA Pageant and Monmouth Grange here. I hope that I can do a good job this year representing the Pomological Society in my title and the State of Maine when I go to the national pageant in October. (Applause)

Thereupon, Miss Charlene Harrington was escorted from the Hall by Mr. Torrey of Poland and Mr. Bagley of Winthrop, amid applause, the members rising.

Thereupon, the Order received passage. By unanimous consent, ordered sent forthwith to the Senate.

(Off Record Remarks)

House Reports of Committees Ought to Pass Printed Bill

Mr. Drigotas from the Committee on Taxation on Bill "An Act to Revise Definition of 'Case' Under Sardine Tax Law" (H. P. 1971) (L. D. 2160) reporting "Ought to Pass"

Report was read.

On motion of Mr. Drigotas of Auburn, the Report was accepted, the Bill read once and assigned for second reading tomorrow.

Divided Report

Majority Report of the Committee on Judiciary on Bill "An Act Relating to Public Inspection of Certain Juvenile Court Records" (H. P. 1881) (L. D. 2059) reporting "Ought Not to Pass"

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. SPENCER of Standish
HENDERSON of Bangor
HUGHES of Auburn
PERKINS of South Portland
HOBBINS of Saco

— of the House.

Minority Report of the same Committee reporting "Ought to Pass" as Amended by Committee Amendment "A" (H-909) on the same Bill.

Report was signed by the following members:

Messrs. BENNETT of Caribou
HEWES of Cape Elizabeth
McMAHON of Kennebunk

— of the House.

Reports were read.

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

Mr. SPENCER: Mr. Speaker, Ladies and Gentlemen of the House: I move acceptance of the Majority "Ought not to pass" Report and would speak briefly to my motion.

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

The gentleman may proceed.

Mr. SPENCER: Mr. Speaker, Ladies

and Gentlemen of the House: The purpose of this bill is to open certain juvenile records to public inspection and publication where a juvenile is involved in a homicide or a Class A crime.

The majority of the Judiciary Committee felt that the bill ought not to be passed at this time, primarily because there is a commission now studying the whole area of juvenile law and it doesn't seem wise at this time to enact changes in the laws affecting juvenile court procedures until that commission has had an opportunity to complete its study and present a report to the legislature.

There is also some concern that under the criminal code a Class A crime is defined as any crime which involves either sexual relations or sexual acts with a child under 14, even if the other party involved is also of a similar age.

I think there was substantial feeling on the Judiciary Committee that it would be a mistake to allow offenses of that kind to be publicized in the press where there were two very young children involved. It is a difficult area, and I think there is some merit to the idea as it relates to homicide, but the general feeling of the committee was that it would be better to hold off on this, not change the law at this time and let the Blue Ribbon Commission on Juvenile Law complete its work.

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

Mr. DeVANE: Mr. Speaker and Members of the House: I got a note off late. I had intended to rise and move acceptance of the Majority Report.

I would like to thank the entire Judiciary Committee for listening to this bill seriously and considering the rights and needs of society as well as the individual, because the court's first responsibility is to society, being society's institution.

I should like to thank the three members who signed the minority report and I should like to thank the several members of that committee who came to me and said that if it were not for a Blue Ribbon Commission studying the matter, they would have signed what is now the minority report. I will watch with great interest to see if in fact our elected officials can, on their own devices, arrive at a good public policy and if in fact that policy concurs with what we paid I believe \$38,000 for.

The proposal that when juvenile courts address what amounts to substantial and serious crime, I should like this House to know and those members of the committee that did not make the one or two sessions in which I had an opportunity to talk to the whole committee, the value of the proposal, it seems to me, is that the public would thereby know that disposition was, in fact, being made in this case and what disposition. I will await with great interest the results of the juvenile study commission.

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

Mr. McMAHON: Mr. Speaker, Ladies and Gentlemen of the House: First, let me say how disappointed I am that the gentleman from Ellsworth has decided not to defend the proposition that he originally advanced to the Judiciary Committee and that I and the other two signers of the minority amendment obviously support.

It seems quite unwise to me, as an individual legislator, to wait for the juvenile study committee to make this policy decision for us. This legislature

makes policy decisions, not study committees. I supported this amendment solely because of its merits. The public should be able to find out even about juvenile convictions for serious offenses, and I regret very much the gentleman from Ellsworth, in effect, withdrawing his bill at this particular time.

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

Mr. DeVANE: Mr. Speaker and Members of the House: The gentleman from Ellsworth fully appreciates, looking at the report, the futility, and it is only for that reason and other matters before us that my best efforts went before the committee.

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

Mr. JOYCE: Mr. Speaker, Ladies and Gentlemen of the House: I, too, took that journey before the committee and I explained to them in a few moments of how this here is truly a Mother's Bill. Look at it, what do we have for a present law? The judge and the judge alone has the final say in whose name is to be released in juvenile cases. Why should we tamper with such a good system?

I had seen all kinds of problems with this bill. It is very rare, I found over the years, that a person arrested on a particular charge finally ended up in court on another charge. In other words, a Class A crime charge under this bill, which I feared, under a Class A crime a juvenile's name would be spread in the local press. Two weeks later, when he had his day in court, the charge would be reduced to a B or a C crime, and I urge you to vote with the minority.

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

A vote of the House was taken.

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

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

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

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

Mr. HENDERSON: Mr. Speaker, Ladies and Gentlemen of the House: I am one of the three members of the Judiciary Committee who are also members of the commission we established last year, the commission to revise the statutes relating to juveniles. That commission includes not only the three members of the Judiciary Committee but many members of the public, including police officers, parole officers, lawyers, judges in an advisory capacity and many others.

Several years ago, if the proposal that Mr. DeVane had brought before the committee was brought, and I think it might have even been, I would have been opposed to it on the grounds that the current system ought to be left well enough alone. Some of the information has been brought to my attention that a national commission on juvenile justice standards has made some preliminary conclusions

which indicate that some of the thoughts that Mr. DeVane has expressed maybe ought to be integrated into our juvenile justice system, maybe there should be some changes in the proceedings. However, there are many different kinds of alternatives in those proceedings and there are many different ways we can go.

So, although I oppose the bill, I try to make it very clear to Representative DeVane, that I do not necessarily oppose the concept; I may or may not, I am not sure yet. We haven't gotten all our information.

I also would agree that it is certainly not the role of any study commission to make policy decisions for this body. What I think might be its role is to present the body with information and with recommendations about changes in the juvenile justice system. At that point, hopefully those recommendations will be comprehensive and then we can have a broader basis on which to make a decision. We may want to make this change for Class A crimes or we may want to make it for Class B and C crimes or we may want to make some other kind of arrangements.

We have set about to codify all the juvenile laws in the state, bring them all together so we can find out what they really are. It is hard to know. Also, all these administration regulations, also to look at the way these kind of things have been done in different states, try to see if we can improve our existing system.

I really would plead with you to let the commission report to the 108th Legislature with some information and at that time I hope we can make a better judgment than we are able to make at this time. I am not sure how I would like this to go myself. If at that time the full House feels that we still ought to go ahead with this, then fine, but I hope you will give us a chance to work out some of the details and present you with some of the information before we take what might be a major step.

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

Mr. PERKINS: Mr. Speaker and Members of the House: I would just like to explain my particular position on this bill and perhaps give you a little bit of background as to the present laws governing juveniles. I would initially say that I am not adverse to the concept of publication of offenses committed by juveniles. The present bill, the amended bill, I consider it to be a bad, primarily in the form with which we have it before us today more than anything else.

First of all, a juvenile, when he commits a crime, goes before the court and the court has to make a decision as to whether or not the criminal activity that is alleged to have been conducted by the juvenile is serious enough that the juvenile should be treated as an adult and held for a probable cause hearing. If the court makes that decision, that the crime is severe enough, then the matter will become public because the individual juvenile is to be treated as an adult. And once the child is treated as an adult, the matter is treated as a crime committed by anyone and then that becomes public information. So, consequently, there is a present move by which a juvenile may have his name published in a newspaper once the crime is committed and the court determines that he will be treated as an adult. And it doesn't matter whether it is murder or burglary, aggravated assault or what have you, regardless of the crime.

Secondly, this bill as before you says that when such record pertains to a conviction or acquittal of criminal homicide, etc., conviction is the magic word in this particular bill.

A juvenile is charged with a juvenile offense and if found guilty is convicted of a juvenile offense. He is never convicted of the crime that was the substance of the juvenile offense for which he was convicted. Consequently, the bill, if we pass it, and, again, I don't particularly have any hangup, but if we do pass it, it is going to be a bad bill and the courts are going to sit there and say that a juvenile is never convicted of a crime except as an adult. Therefore, there is no application to this particular law.

Thirdly, it says "or acquittal." Well, I am of the opinion that a juvenile, if acquitted of a crime, should not necessarily have that matter published. There are certain cases where a juvenile commits a horrendous crime, so to speak, in terms of the activity or behavior may have amounted to a charge of murder. That one particular child, it may be just as well, I don't know, that his name not be published for many reasons, his brothers and sisters in school, etc.

I am reminded of a case in South Portland, and I asked the Attorney General's Office concerning it, of a child not charged with murder but charged with a juvenile offense which was comprised of the offense of murder, and I asked the Attorney General's Office if in his opinion he thought that particular matter should have been published. He said, no, he did not, because of psychiatric evaluations that were conducted on the child both here in Maine and in Boston. He reminded me, and I am aware of it, that there are many instances of children who are committing crimes, and I am thinking of crimes other than Class A crimes such as aggravated assault or burglary; these are not Class A crimes, but there are those children who are committing those crimes constantly, day after day, and they are in the boy's training center, the girl's training center, primarily boys, and they are out and they are back. I personally have represented one that I can think of that I would have no qualms if they published his name every day of the week; I think it might do him some good. I am also aware of another child I represented on an assault charge and I am not sure it would have done any good to publish his name.

I didn't intend to get up here and make this a long spiel. When I looked up on that board, I was quite surprised, frankly. I am just convinced that this particular bill is a bad bill. I think that certain verbiage could be enacted into law that would provide for taking care of those instances where juveniles are convicted of a juvenile offense where the conduct is of the type and the child is a consistent behavioral problem, that the court should make a finding that that child's case will be published. I am not certain but what we might place a duty and obligation upon the courts and judges who hear the juvenile cases, in every case that they make a finding at the time they hear the case that that particular child's matter will or will not be published, regardless of the particular offense.

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

Mr. DUDLEY: Mr. Speaker and Members of the House: Just so I won't sound like the voice of indecision, I support the minority report of this bill. You are

going to hear arguments both for and against, but I am for the bill because the people I represent are for it, and that is what I am here for. I talked with numerous people in my area in regard to this bill, or they came to me, and they said it was a good bill, and they have had a lot of experience like the gentleman who was on the police force who spoke to you from Portland.

Some of the people that served on that committee, like the one who just spoke, the gentleman from Bangor, Mr. Henderson, admitted he was the voice of indecision, he hadn't made up his mind, he didn't know. Well, I am not a voice of indecision, I will have you know, I know where I stand and I am for the minority report.

I value the gentleman from Cape Elizabeth, Mr. Hewes', opinion on this and I noticed he signed it "ought to pass", it being a very valuable opinion and I know he weighed it carefully and he valued the bill based on its merits. This, to me, has a lot of value. In other words, I am going to support a man that I know is not a voice of indecision. He signed it because it was a good bill. I am for the bill because the people I represent are for it. For that reason, I want you all to know why I pressed the red button.

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

Mr. McMAHON: Mr. Speaker, Ladies and Gentlemen of the House: Very briefly, I will try to address myself to some of the comments that were made. I don't suppose any of us had any idea that the debate on this bill would become quite as prolonged as it has.

First of all, it is interesting to me to see that everybody seems to like the concept. Most of those who have spoken, however, don't like the way we propose to implement that concept. If you like the concept, I would ask you to keep the committee amendment and minority report alive and those of us who perhaps will offer changes tomorrow might be given an opportunity to do so. One of those changes might be the subject that the Representative from South Portland addressed himself to, and that is the striking of the words "or acquittal."

I want to tell you the reason why the words "or acquittal" were included in the committee amendment. They were to provide a vehicle for a person to exonerate himself or herself if that vehicle was necessary.

The other point I would like to address myself to that I remember was stated here on the floor was that comment made by the gentleman from Portland. He presented the same arguments before the committee and they were arguments that I did not accept then and still do not, the argument that when a person is accused of a crime, receives the publicity, and then through plea bargaining or some other nefarious method of our judicial system, the particular charge is reduced. That is true: that happens all the time in our system. However, the amendment, the bill, talks about the juvenile court record. It has no control over the charge or the publication of the charge. That is not what we are talking about. We are talking about the record.

To conclude and repeat what I said initially, I believe very sincerely that this legislature and this body, if we feel we should make a policy decision along the lines proposed in this amendment, we should do so. I am sure the juvenile study

commission is doing a fine job, but I do not accept the idea that we should allow a study commission to do our thinking for us.

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

Mr. JOYCE: Mr. Speaker and Members of the House: I get greatly disturbed up here when we try to change a part of our system that has worked so well over the years. We have good judges in the State of Maine and they have done a commendable job in this area. I urge you to vote yes in favor of the majority report.

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

Mr. DeVANE: Mr. Speaker and Members of the House: A not too unfamiliar quote: "A wily lawyer who could confuse and complicate a summer day."

I would say a few and direct and simple words. The citizens of the State of Maine are of the opinion, generally, that the juvenile law provides a system whereby adolescents do things which adolescents do are brought to justice.

You go out on the street in that great City of Portland, as Mr. Joyce did for a number of years, and you ask people what the juvenile courts do, what matters they address, and they will tell you that they don't know. Go out on the streets in Eastport and ask people what the juvenile courts do. Mr. Joyce is correct, the juvenile courts do a commendable job and the public does not know it.

There is harm to be done to individuals if this or a more acceptable form of this proposal is accepted. There is harm to be done to individuals, and I will lament it. I have probed about what that harm would be, but I am suggesting to you, the greater harm would be done to the whole society than to an individual.

Society doesn't care about peeking in juvenile's bureau drawers to see who has what your grandparents call dirty pictures, but people like to know who shot at them and what disposition was made of the matter.

The original L. D. addressed itself to multiple offenses and as one legislator, I was more concerned with the matter of repeated offenses until the attorneys pointed out to me, some of the members of the Judiciary Committee, that the courts are not in communication with one another, that a juvenile could be tried in Portland, in Bangor and in Presque Isle within the same year, and the courts wouldn't necessarily know it. Well, if you get a speeding ticket, the courts necessarily know it from Kittery to Fort Kent, from Rangeley to Eastport, but I succumbed to that argument, said, fine, perhaps that would be a burden upon the courts, sir, to expect the juvenile court, which is nothing more than a district court, can convene for a more relaxed procedure and unnecessary one. Perhaps that would be costly to have the courts keep a cross reference.

I was perfectly content to look at the report in the probabilities of passage and save this body time, but I am not content to accept some of what has been said here. There is always harm in accusation. I see little harm in the matter of an acquittal being made public.

Once again, if you look at the matter simply, if somebody is accused and found innocent, it seems to me not very harmful to them to make the matter known. If somebody is convicted, juvenile or adult, it

seems to me simple justice that the matter be known and it may be well for society.

At the Judiciary Committee hearing, somebody said to me, my God, have you read the criminal code. I said, yes sir, once, have you? He said he had a number of times. I wasn't being funny, he had. I read it once and decided that the lawyers were questioning all of what is meant and I wasn't about to pretend any expertise, I don't have it and most of us don't. But the propositions in it addressed society and a suggestion that we shouldn't change anything in society would leave us as far back as you would like to go until nobody made any changes.

It is a simple proposition, sir, and not hard to handle. If an individual is harmed, as we are all harmed by accusations, if they are acquitted, the matter should be public; if they are convicted, society has a right to know what disposition was made of the matter.

The suggestion was made to me that my God, a Class A crime. Two children do something which is unbecoming and are taken to court — I suggest to you that most of the police of this state have entirely too good judgment to do that, but when a 17-year-old adolescent molests a 6-year-old and the matter is handled as a juvenile offense for the second time, it seems to me the people in the neighborhood might like to know. Now, that is unfortunate and that is difficult and that is very sad.

I did not parade to the Judiciary Committee a very well known case where a person who had been charged repeatedly in the State of New York, and I do not mind citing a New York case, since the committee cites to me everything around the country, where somebody with repeated offenses got a security job and committed some horrendous crimes.

I don't think this will pass. Had nobody else raised to speak against it in what I think an uninformed way, I wouldn't have myself, but there is merit in the simple proposition that the public thinks the juvenile court proceeding is a fairly minor thing, and if the juvenile courts in this state treat of homicide in Class A offenses, there is great merit in the matter being public and I acknowledge some unfortunate circumstances for a few individuals, but I believe society would benefit.

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

Mrs. KANY: Mr. Speaker and Members of the House: Most people nowadays have come to the conclusion that some criminals cannot be rehabilitated, but to give up on a juvenile would be a shame. To brand that juvenile with the public brand of a criminal, you just may be giving up any hope of rehabilitation. I am sure that poor self image and the public image would carry over to any younger children in the family, too. I just ask you, what on earth is to be gained? Just to sell a few more newspapers?

I urge you to vote in favor of the Majority "Ought not to pass" Committee Report and in favor of the motion before us.

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

Mr. CARPENTER: Mr. Speaker, Ladies and Gentlemen of the House: I rise to support the minority report for a couple of reasons. One, the gentleman from Kennebunk, Mr. McMahon, asked permission to keep this bill alive to perhaps take care of some of the problems

that other members of the Judiciary Committee have. I certainly hope that when you are thinking about this bill while the debate goes on, you consider it on the merits of the one or two lines contained in the bill and not vote against this bill simply because there is a blue-ribbon commission currently studying this problem.

We saw by way of illustration, my point, we saw the criminal code, which is a massive piece of legislation, go through this body with only questions raised on two particular issues, and this type of a blue-ribbon panel, while well intentioned as they may be, their report, I feel, is quite often treated this way.

I would hope that you wouldn't kill this bill simply because there is a commission studying it. I am sure the commission is studying a lot more than this one particular area that is dealt with in this bill and would just ask the support to keep the bill alive so the gentleman from Ellsworth or the gentleman from Kennebec can amend it at a later date.

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

Mr. CALL: Mr. Speaker, Ladies and Gentlemen of the House: You will recall, Mr. Speaker, that one of the four bills that I presented before the so-called screening committee, which was rejected, was one very similar to this bill. In fact, my original thought was one exactly like this, but I toned it down. Still, it didn't have any clout with the screening committee.

Now, I missed the hearing on this L. D. 2059, mainly because I wasn't looking for it for the simple reason that I figured if my bill wasn't an emergency, neither was this one.

The bill which I finally came up with would have permitted the victim of a transgression by a minor to learn the identity of that minor. I might insert right here that I have been thinking of this situation for years, even before I took steps to present some sort of legislation.

Years ago, the names of juveniles were revealed and often those juveniles never got in trouble again, because the juvenile tried hard and successfully to live down his disgrace. I know of many instances right in my own community of just that. The name was in the paper even though the boy or girl was well under the age of 17 and definitely a juvenile. You never saw the name again because those children became pillars of society and were given responsible jobs for the simple reason that they were so ashamed of themselves that they made it their business to live down the disgrace. Today, there is no deterrent action, so the juveniles are repeaters and justice is not served well.

When I first mentioned my plans to authorities in Lewiston, particularly our police chief, I was confronted with the situation of the parents and the brothers and the sisters. Well, now let me step over to something else. There is something that bothers me greatly in this general situation and it is this — we will pick up a newspaper tomorrow and we will see where a juvenile and an 18-year-old were arrested for breaking into a business establishment and stealing a lot of goods.

Okay, let's explore this, and I have seen it happen and so have some of the former police officials in this body. The burglary was planned by the juvenile. The 18-year-old came from a good family, never was in trouble before. His name gets in the paper but the juvenile, who has been in trouble time and time again, and even, the next door neighbors don't know when

he is in trouble with the police, his name isn't mentioned, and I might add that that 18-year-old has parents and brothers and sisters, too.

Now, relative to these so-called study commissions. More times than not, they leave much to be desired. And oh yes, while I was investigating the possibility of a bill like this, they kept telling me, you know, there is a study commission going on, there is a commission, they are studying this. Well, I said even though they are, I want to go through with it. So after talking with the chief, I talked at length with the juvenile officer in Lewiston and we came up with this business of letting somebody who has been the victim of a theft by a juvenile learn that juvenile's name.

As it has been said by another member of this House, for goodness sake, don't we have a right to know who took a shot at us even though it was a child? You talk about the right to know. Great scott, it is very ironic; that right to know business is a lot of hog-wash.

I think I have made myself clear. Mr. Speaker, as I said, I didn't know that I was going to talk on this bill, and I think the others who have taken the same stand as I have, they have proved their point, but let me say something else, and this shouldn't hurt my story. There is a personal touch to this. Last summer when Mrs. Call and I were at our summer place, the phone rang and it was a Lewiston police. We want you to come in, your house has been broken into. We want you to see if anything has been stolen. So, we went in town and I called the police and they told me to talk with lieutenant so and so and that the next day I would be told who the culprit was, that there probably would be a court session and I would testify and I certainly would know what happened. What it apparently was, some kid who had shoveled snow for me had told some kid that at 118 Pine Street the back hall was full of soda pop. These kids came and they broke in there. I was told that there had been others, even police commissioners who have wanted to know the names of juveniles and they can't. I think this situation has been covered pretty thoroughly this morning and it is some that if it isn't settled now will have to be in the near future, I am sure, study commission or no study commission.

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

Mr. ROLDE: Mr. Speaker, Ladies and Gentlemen of the House: I don't want to prolong this debate, but I did want to put in one of my own experiences in regard to this bill.

As a layman, when I first heard of this particular idea, I thought it was a very good idea and I couldn't see any particular harm in it. Then one night recently, I spent a night riding around with the Brunswick police on their patrol. This took place in Brunswick shortly after an incident in which a juvenile had been arrested for shooting at some people. I actually assumed that the police officers would be very much in favor of this type of bill and I discussed it with them. To my complete astonishment, they were very strongly opposed to the publication of even this juvenile's name who had been arrested for the shooting. Their principal reason was touched upon by the gentlewoman from Waterville, Mrs. Kany, they were very concerned about the effect on the other children in the family and the other members of the family.

I hadn't totally made up my mind until, in the beginning of the debate, the gentleman from Portland, Mr. Joyce, also a veteran police officer, arose to oppose this bill, and I feel that if the police themselves, at least the ones I have spoken to, don't feel this is a good measure, I will go along with a veteran police officer like Mr. Joyce today.

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

Mr. PEAKES: Mr. Speaker and Members of the House: I would move at this time to recommit this bill to the committee and have them make the amendments to it so it is in a posture where we can really vote on it.

Thereupon, on motion of Mr. Peakes of Dexter, the Bill was recommitted to the Committee on Judiciary and sent up for concurrence.

(Off Record Remarks)

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 to Increase the Number of Trustees of Nasson College" — Committee on Education reporting "Ought to Pass" (H. P. 1852) (L. D. 2021)

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

Consent Calendar Second Day

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

Bill "An Act to Clarify the Laws Relating to County Budgets" (C. "A" H-903) (H. P. 1818) (L. D. 1976)

Bill "An Act Amending the Charter of the Caribou Hospital District" (H. P. 2005) (L. D. 2184)

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

Passed to Be Enacted Emergency Measure

An Act Delaying the Effective Date of the Maine Criminal Code in Order to Allow Sufficient Time for Necessary Revisions (S. P. 704) (L. D. 2227)

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. 116 voted in favor of same and 3 against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

By unanimous consent, ordered sent forthwith.

Passed to Be Enacted

An Act to Include Grain in Weight Tolerances for Certain Vehicles Operated on State Highways (H. P. 1887) (L. D. 2065)

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

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

Mr. PETERSON: Mr. Speaker, I move that this item and all accompanying

papers be indefinitely postponed and when the vote is taken, I request it be taken by roll call vote and I would speak briefly to my motion.

The SPEAKER: The gentleman from Windham, Mr. Peterson, moves that this Bill and all accompanying papers be indefinitely postponed.

The gentleman may proceed.

Mr. PETERSON: Mr. Speaker, Men and Women of the House: It disturbs me greatly to have a bill like this before us after the law that we changed has only been in effect four months. I cast no aspersions on the grain industry for wanting this tolerance, but it is a special interest group which gained an increase in the weights of 7 to 8 percent in the regular session and now they are back for another 10 percent.

When I was in the 106th Legislature, I voted against the truck weight bill but it passed. There was a repeal referendum and the people of Maine voted in referendum to repeal the truck weight law that was passed by the 106th Legislature. The voters of the state clearly spoke out on the issue. They did not want truck weights increased. Yet, we come back and we forget the mandate of the people. Unless it is a tough issue, we say, let's sent it out for referendum. Yet, when something has been out to referendum, we fail to heed their direction. They do not want an increase in the truck weight bill.

I find myself today with a strange ally with the Commissioner of Transportation, Roger Mallar, whom I am often on the opposite side of the fence from. He is opposed to this kind of legislation. In a letter today, he indicates that there are already too many commodities contained in the tolerance provision when initiated, and this is just another attempt to diminish the effectiveness of the truck weight law that we passed.

I would hope that this legislature would want to maintain some credibility with the public in dealing with an issue that they have clearly voiced their opinion on. I would hope today that we would overwhelmingly defeat this motion and be done with it.

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

Mr. JENSEN: Mr. Speaker, Ladies and Gentlemen of the House: I would hope you would endorse and support the motion made by the gentleman from Windham, Mr. Peterson. For the record and for those of you who may not have read it, I would like to read into the record the letter distributed this morning by me from Commissioner Mallar to members of the 107th Maine Legislature regarding L. D. 2065.

"As a result of the comments made on the floor of the House in debate over this subject legislation, I would like to attempt to clarify some of the issues in regard to commodities currently included in the law under the 10 percent tolerance provision. I can assure you that none of the commodities contained in the tolerance provision were initiated, supported, endorsed or passed into legislation or signed into law by the Maine Department of Transportation.

"It is the feeling of this Department that there are excessive commodities already included in the tolerance provisions and we would welcome the elimination of those products for which weight can be reasonably predicted. Realizing the difficulty of eliminating something that has already been established into the law,

we have found little recourse but to attempt to discourage the inclusion of any additional, unnecessary commodities with the thought that two wrongs don't make a right. Very truly yours, Roger L. Mallar, Commissioner of the Maine Department of Transportation."

This bill, as has been said earlier, is very clearly a special interest bill. It is very clearly, to my way of thinking, directly opposed to what the people of Maine voted about a year and a half ago. The people of Maine voted on a truck weight law. Now, you can argue various specific items and what the people were for or against in terms of totals, but I think it is pretty clear that overall the people were saying that they didn't want bigger trucks, didn't want heavier trucks. I think with the election of the gentleman on the second floor, and for that matter, some of us, it was made fairly clear people also don't want to have to pay more taxes for unnecessary services.

If you increase truck weights, what you are doing, you are forcing increases in taxes to pay for increased maintenance in increased deterioration of our road system. Our bridges are already in bad shape; our roads are not in the greatest shape. The heavier trucks are going to tear them apart much, much quicker.

Last October, a law went into effect that this legislature passed to change the truck weight law to institute a comprehensive truck weight piece of legislation. It increased some weight; it decreased others, it changed the fine structure and, more importantly, most importantly, it placed controls on the trucking industry so that they would pay attention to the law.

In the process of doing this, we gave a 7 to 8 percent increase in truck weights to all commodities, including grain. Now, just a few short months later, they are coming back and asking for more. I noticed something that was distributed this morning from my good friend Mr. Tozier's community dealing with how the trucks go out during the day, on a winter day, and they are supposedly legally loaded. They go out and 10 miles down the road a storm starts and weight gets added on. Well, I would remind the members of this House that in addition to the truck weight increase which we gave them last year, there already is a law enforcement tolerance on the books. In addition to the weights that are listed in the law, they are also allowed to carry 2,000 pounds more to cover water, rain and things of that sort that might add onto the truck's weight in the process.

I have been told by some people in the enforcement arm of the state police that many of the grain haulers and, for that matter, others, when they leave after they have loaded their trucks, they load them by weight, they sell them by weight, they give them two slips. One slip is the legal weight that they are allowed to carry and another slip is the weight that they are selling by. It seems to me that when somebody stops them, they try and give them the legal weight, but when they go to sell the grain, they give them the weight that is actually there.

Mr. Speaker and Members of the House, I certainly hope you will go along with the indefinite postponement of this bill.

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

Mr. JALBERT: Mr. Speaker, for the reason stated before, I ask to be excused from voting.

The SPEAKER: The gentleman from

Lewiston, Mr. Jalbert, is excused pursuant to House Rule 19.

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

Mr. KAUFFMAN: Mr. Speaker, Ladies and Gentlemen of the House: We have debated this bill several times. I compliment Representative Jensen. For an individual who a few months ago knew nothing — and I a few months ago knew nothing — and I say nothing — about truck weights, all of a sudden he has become an expert. And as far as Representative Peterson goes, I don't think he has read the bill.

This bill, if you read the Statement of Fact, simply states that this act includes the words grain and special weight tolerances for certain vehicles operating on state highways in order to compensate the poultry and dairy industry, which has been hard hit by price increases. I think the Statement of Fact is the merit of this bill and I urge you to defeat the present motion.

The SPEAKER: The Chair recognizes the gentleman from Mexico, Mr. Fraser.

Mr. FRASER: Mr. Speaker, Ladies and Gentlemen of the House: We have heard talk this morning about special interests and maybe this is a special interest, but there is not a law on our books that doesn't have special interests for somebody so I don't think in this case it is any different.

We have heard talk about increasing weights on the highways; this will not increase weights on the highways that are not already there. We just added one more commodity which was thought to be included when we added farm products to the bill. It was later found out that farm products did not include grain for some reason. Perhaps because it has been processed, it is not farm products anymore.

We had this letter this morning from my good friend and gentleman, Mr. Mallar, and I mean that in all sincerity, but this letter came from this same gentleman, who before our committee, last regular session when we tried to pass a bill which wouldn't have 90,000 pounds on the road with a 10 percent tolerance, he said before our committee, this bill is a bill that gentlemen can live with.

The one that we are talking about this morning is 10,000 pounds lighter than that, so if you can live with a 90,000 pound bill with 10 percent tolerance, I am sure we can live with a 80,000 pound bill without those 10 percent tolerances.

I hope you will go along with the vote you had before.

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

Mr. FINEMORE: Mr. Speaker, Ladies and Gentlemen of the House: To correct and explain one statement that the gentleman from Portland, Mr. Jensen, said, he said you get two weight slips. This is true, sometimes you do, but this is so that you can show your load weight and your truck after it is unloaded so they can tell the amount of the product that you are going to get paid for. It has nothing to do with what you have on overload or underload.

A day like yesterday, any truck, grain truck, pulp truck, an empty truck even, can pick up 1500 to 2000 pounds weight on a day like yesterday, and this is no joke. I saw one truck loaded with dry lumber that was weighed at the place where it was loaded. I saw that truck drive into Mattawamkeag some years ago and he

was overweight, where when he left the place of loading he was underweight. He knocked the ice off just one side, not both sides of the truck but one side of the truck, and he found that it made 990 pounds difference, so they let him pass by.

You notice this morning on our desks a little piece here distributed here by Mr. Tozier, this is true, if you look at it, where the ice load builds up. A day like yesterday is an exception, of course, I will admit, you don't have it every day, but I will tell you right now, there is no one overloading right now, even up in our county of Aroostook where they are always saying that we are noted for overloading. There is not much overloading today. The courts are not bothered with them. We are staying within the new law you gave us last year and I hope the grain trucks can get the same thing. I believe if the law was interpreted, as it reads now, properly, and I say properly and meaning it from the bottom of my heart. I don't think we would need this bill, because I think grain is a grain product, a farm product. It doesn't come from anywhere else.

We are allowed to haul chips today and chips aren't in a satchel form when they left the woods, they are in logs and they are chipped.

I hope this morning you will vote against the motion to indefinitely postpone.

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

Mrs. BERRY: Mr. Speaker, Ladies and Gentlemen of the House: I would just like to correct one thing that Mr. Peterson said, that the voters of Maine, through referendum, did not vote on any such bill as we have before us now; they voted on a weight of 100,000 pounds and there is some difference between that bill and the one we have today.

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

Mr. ROLLINS: Mr. Speaker, Ladies and Gentlemen of the House: I hope you will do one thing this morning when we are talking about weights. I hope you will weigh the good judgment and common sense of our Chairman of Transportation against the opposition.

The SPEAKER: The Chair recognizes the gentleman from Unity, Mr. Tozier.

Mr. TOZIER: Mr. Speaker, Ladies and Gentlemen of the House: Due to the late hour of us getting out of here last evening and the icy roads, I have to apologize. I spent the night with my good friends Mr. MacEachern and Mr. Usher and I am not too sharp this morning. I never roomed with two owls before, but I am sharp enough to know that we passed this bill two times in this House and I would appreciate it if you would go along with the vote against the indefinite postponement.

Mrs. Berry gave a very good presentation of it the other day and you should know perfectly well by now, if you know her, that she would not mix apples with oranges.

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

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

The SPEAKER: The pending question before the House is on the motion of the gentleman from Windham, Mr. Peterson,

that An Act to Include Grain in Weight Tolerances for Certain Vehicles Operated on State Highways be indefinitely postponed. Those in favor will vote yes; those opposed will vote no.

ROLL CALL

YEA — Bachrach, Berry, P. P.; Boudreau, Carter, Chonko, Clark, Connolly, Cox, Curran, P.; Davies, DeVane, Dow, Farnham, Garsoe, Goodwin, H.; Goodwin, K.; Greenlaw, Hall, Henderson, Hinds, Hobbins, Hughes, Ingegneri, Jackson, Jensen, Joyce, Kany, Kelleher, LaPointe, Laverty, Lunt, Martin, A.; McBreairty, McMahon, Mitchell, Mulken, Nadeau, Najarian, Pearson, Pelosi, Perkins, S.; Peterson, T.; Post, Snow, Susi, Talbot, Tierney, Tyndale, Usher, Wagner, Wilfong, Winship.

NAY — Albert, Ault, Bagley, Bennett, Berry, G. W.; Berube, Birt, Bowie, Burns, Bustin, Byers, Call, Carey, Carpenter, Churchill, Connors, Cooney, Cote, Curran, R.; Dam, Doak, Drigotas, Dudley, Durgin, Dyer, Farley, Fenlason, Finemore, Flanagan, Fraser, Gould, Gray, Hennessey, Hewes, Higgins, Hunter, Hutchings, Immonen, Jacques, Kauffman, Kelley, Kennedy, Leonard, Lewin, Lewis, Lizotte, Lovell, Lynch, MacEachern, Mackel, MacLeod, Martin, R.; Maxwell, McKernan, Mills, Miskavage, Morin, Morton, Peakes, Perkins, T.; Peterson, P.; Pierce, Powell, Quinn, Raymond, Rideout, Rolde, Rollins, Saunders, Shute, Silverman, Smith, Snowe, Sprowl, Strout, Stubbs, Tarr, Teague, Theriault, Torrey, Tozier, Twitchell, Walker, Webber.

ABSENT — Blodgett, Carroll, Curtis, Faucher, Gauthier, Laffin, LeBlanc, Littlefield, Mahany, Norris, Palmer, Truman.

EXCUSED — Jalbert.
Yes, 53; No, 84; Absent, 12; Excused, 1.

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

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

An Act to Establish Assessments upon Certain Public Utilities and to Authorize Use of the Funds Generated by those Assessments to Pay Certain Expenses of the Public Utilities Commission (H. P. 1910) (L. D. 2097) (C. "A" H-893)

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.

(Off Record Remarks)

On motion of Mr. Palmer of Nobleboro, Recessed until twelve o'clock noon.

After Recess
12:00 noon

The House was called to order by the Speaker.

Orders of the Day

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

Bill, "An Act to Revise the Laws Relating to Funding of Public Schools" (Emergency) (H.P. 2020) (L.D. 2196) (H "C" H-880)

Tabled — February 11 by Mr. Greenlaw of Stonington.

Pending — Motion of the same gentleman to reconsider indefinite

postponement of House Amendment "B" (H-877)

Thereupon, Mr. Greenlaw of Stonington withdrew his motion to reconsider indefinite postponement of House Amendment "B"

Mrs. Najarian of Portland offered House Amendment "O" and moved its adoption.

House Amendment "O" (H-920) cosponsored by the gentleman from Nobleboro, Mr. Palmer, was read by the Clerk.

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

Mrs. NAJARIAN: Mr. Speaker, Ladies and Gentlemen of the House: House Amendment "O" is comprised of the compromise which was worked out by the leadership on the method of financing of our school funding for the next year.

I apologize for the delay in getting it all together, but it is finally here and I think most of you know what is in it because you have been briefed in your caucuses, but I will try to go through it, what the provisions are, as best I can. I have only had it a half hour myself.

The first section change deals with the amendment which Representative Greenlaw presented to L.D. 2031 yesterday and was accepted by this House.

The next section puts back in the language "increased by 6 percent," which was in L.D. 1452, and this is how we allocated the extra \$2 million that we are putting back into education.

Next section deals with the Commissioner of Education, who will submit to the legislature his requests in funding levels for education in the future.

The next change deals with section 3748, and that simply deletes the language dealing with proration for special education. It avoids deficits and it removes the language saying that the commissioner shall prorate if the units exceed their estimates.

On debt service, debt service, as I understand it, is in three parts and the other two parts are based on base year but the principal and interest costs shall be based on current year.

The next section dealing with 3748 restores again the 6 percent language and relates to adjusting those units below state average coming up one third each year — that is the original language of 1452 restored.

The next change deals with leeway, it changes it from L.D. 2196 at \$95 for 2 mills to \$90 for 2 mills. It will be \$45 instead of \$47.50.

The next change deals with the ceiling. It puts the ceiling back in, except the emergency clause at the end of the bill will lift that ceiling for one year, until June 30, 1977.

The next provision in section 3748 is for transportation on a 10-90 level. Unexpended balances, the next change, the commissioner is authorized to apply all unexpended balances to the major capital fund in the non-lapsing account.

The next provision, the uniform tax rate shall be 13 mills beginning July 1, 1976 and shall be applied to state valuation of each municipality and property in the unorganized territory.

The following sections deal with taking care of deficits. Section 6, Title 36, is increasing the cigarette tax 2½ mills, which comes out to 5 cents on each package of cigarettes until January 1, 1977, when this will be removed, ten months, with an automatic expiration

date, and the rest all deals with the cigarettes, just that provision.

The next provision is a 26 percent surcharge on our present income tax structure to raise a dollar-for-dollar switch from lowering the mill rate to 13 mills and funding it at the level of \$262,000.

The emergency clause says that this act shall take effect July 1, 1976, except Sections 3 and 5. Section 3 deals with the present local leeway, which is a \$125 for 2 mills; that will stay in effect for the remainder of this school year. Section 5 establishes the mills at 13 mills and Section 3750 deals with the moratorium on school construction. The other deals with the ceiling, I believe.

That is basically the changes that are made. It is funded at a level of \$262,500,000. The 13 mills would raise a \$118,000 in property tax; the general fund would provide \$144,543,000 and the difference would be made up with the 26 percent surcharge on the income tax. That would take care of school funding for next year plus our deficits in leeway.

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

Mr. FINMORE: Mr. Speaker, Ladies and Gentlemen of the House: I thought when this was talked over, I just heard a little bit about it yesterday and today, and on Page 12 of the bill, it says place a 26 percent surcharge on personal income tax effective January 1, 1976. Well, I thought it was going to be just for one year. It is going to be indefinite. I was misinformed. The other one was for nine months, the cigarette tax is for nine months time.

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

Mr. BAGLEY: Mr. Speaker, Ladies and Gentlemen of the House: I dare say that I am one of 149 people in this House who find some fault with this bill. I heard one person say he wouldn't vote for a bill that had a tax on cigarettes. I heard someone else, even though he had agreed that it would benefit his community to cut the property tax and increase the income tax, say he would not vote for an income tax. In my particular case, I find that while this decrease of a mill and a half or so on the property tax will take care of the 10 percent increase on transportation, special education and vocational education, the drop of the leeway to \$90 will cost my town quite a number of thousand of dollars and will increase my property tax.

Nevertheless, it seems to me that we have gotten to the stage where we are, that it is time we forgot the particular things that we cannot agree with and we went along with this thing to get it out of the way so we can go on with the rest of our business.

The SPEAKER: The Chair recognizes the gentleman from Nobleboro, Mr. Palmer.

Mr. PALMER: Mr. Speaker, Ladies and Gentlemen of the House: The bill we have before us this afternoon, admittedly, as Representative Bagley has said, is not a perfect bill. It represents hours and hours of work on the part of many, many people and I am sure that I say that it represents also many, many compromises which had to be made in individual thoughts and ideas about the funding of education.

I have cosponsored this amendment, this bill, because I believe the time has come and we in the legislature have to do something to get off dead center. We are a separate and co-equal branch of government; we have a responsibility to

let it be known what we think, what our philosophy is.

The door is always open, of course, to compromise and we have been doing this. I think many of you know that I have tried very diligently to work with the Governor, not only in the level of funding but also on the shifting of the tax burden. I respect his opinions today, even though he has closed the door on the shift of the taxation burden. I respect him just the same as I respect many of you who differ with some of the compromises made in this bill. But we cannot go on another week or two working hours and hours a day trying to devise a method which is going to satisfy everyone because there will be no method, there would be no bill which would satisfy everyone.

I have many, many things about this which I personally would not have in my own bill if I were able to pass it, but I reluctantly say that the time has come for us to do something in this House. I believe today we should put aside our petty differences and at least move this on along the way as a vehicle which we may move to the other body and from which we can get reactions from the public. We have to do something, because doing nothing, I can assure you, will be much worse than doing nothing.

I appeal to you today to realize that we as a co-equal branch of government have a responsibility, that time of decision is here. I believe that we should look very carefully at it and put aside the smaller things which separate us for the larger things which we know must be done.

I hope we will pass this on today and move on to funding of our education problem.

The SPEAKER: The Chair recognizes the gentlewoman from Bridgton, Mrs. Tarr.

Mrs. TARR: Mr. Speaker, I would like to pose a question through the Chair to Mr. Palmer. Did you or didn't you say yesterday that the tax would be for a year?

The SPEAKER: The gentlewoman from Bridgton, Mrs. Tarr, has posed a question through the Chair to the gentleman from Nobleboro, Mr. Palmer, who may answer if he so desires.

The Chair recognizes that gentleman.

Mr. PALMER: I assume you mean the cigarette tax?

Mrs. TARR: No, I mean income tax.

Mr. PALMER: No, I said the cigarette tax would be for that period of time necessary to fund the deficit.

Mrs. TARR: I think I am getting some double talk.

The SPEAKER: The gentlewoman would please restrict her remarks through the Chair and the gentleman from Nobleboro does have the floor at the moment.

The Chair recognizes the gentleman from Nobleboro, Mr. Palmer.

Mr. PALMER: Mr. Speaker, Ladies and Gentlemen of the House: I am sorry there is some misunderstanding on the point that the funding for a year or whatever a part of a year was necessary on the 5 cent tax on cigarettes was to cover the deficit which we now have, but the income tax, very definitely, is a shift of the burden from the property tax to the income tax and it is meant to stay that way. It is a shifting of the burden from one tax to another and would remain that way.

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

Mr. INGEGNERI: Mr. Speaker, Ladies

and Gentlemen of the House: I rise rather regretfully to say that this amendment which you are looking at is a monstrosity.

I have been fortunate and I have been gratified and almost proud to have seen a great deal of interest among the members of this House in some kind of tax revision and, yes, I use the word tax reform. I proudly claim ownership to something that was going to accomplish that to a certain extent.

And what do I see here? I see here something which justifies the Governor's suspicions. The Governor has said that when you started to fool around with the shifting of income tax, you would come up with something which would put an undue, disproportionate burden on the low-income and the middle-income people.

What do we have here? We have a so-called ideal situation and it is very desirable, to a great extent, which is a shift from the property tax, which is called regressive, to the income tax, but my gosh, did it have to be a shift like this?

We hear about all of these compromises that have been worked out. We hear about these agonizing sessions that went on for five and six hours. Tell me something, do you have to go into an agonizing session of five and six hours to come out with this broad, blunt, cynical smacking of 26 percent as a surtax on the lowest income up to the highest income? I tell you that a kid in the 8th grade, 14 years old, could have come up with that formula inside of 10 minutes, so don't give me the stuff that they looked at every single aspect of this very complex situation. All they did was deal out the cards and watch out who was dealing from underneath the deck, that is what happened. And in this poker game that went on in this sanctum sanctorum, the ones that got rooked were not the poker players, they were the suckers out in the general population.

I have talked about income tax and I don't know if you are seeing this bit of a best seller which has come out — 20 to 11 — there has been a great drain on this, which in my tax bill, my proposed tax bill, I don't say all the admirers alone asked for this bill, probably there was a lot of detractors, too, but I am saying that there was a great deal of interest in these graduated, progressive rates which I worked out.

Let me tell you what this so-called compromise does, it adds 26 percent on the lowest taxable income bracket. If you take the \$2,000 taxable income bracket or you take the \$4,000 taxable income bracket, and conceivably this is a family of four, let's say they make about \$7,000 or \$8,000 or a little bit over, if they pay \$40 now, this surtax adds on, of course, \$10 plus. If they pay \$110 now, this surtax adds on \$28.60. If they pay \$170 now, it adds on \$44 and a \$20,000 taxable income, it adds on a \$110 or more.

It may be nice to relieve the burden on the property taxpayers, but conceive of this going up higher and higher and higher and then conceive of the person owning a property of \$10,000 or \$20,000, getting a one mill rate reduction, one mill rate relief and consider, if you will, what wouldn't work out for somebody with a home valued at \$60,000. What this comes down to is that some little guy working in the mill is going to pay 26 percent more on his small income tax but all of these little helots at the base of the pyramid are going to be chipping in their nickels and dimes and dollars so somebody with a nice piece of property can save \$500 or \$600.

I am for a shift to a certain extent, but I

want it to be tied in with a genuine reform and revision of the income tax, not the old tired, inequitable law we have and then just slapping on 26 percent. I won't even touch on the cigarette tax, just dwell on this so-called 26 percent and it isn't even a one-shot deal. If it were a one-shot deal, I wouldn't buy it.

I ask you, and I don't know what the alternatives are, people tried to tell me, if this goes down the drain, what have you got left? You have got left \$260 million. You are at the mercy of the Governor. You have 1452. I don't know what we have left, I don't know what the alternatives are, but I know one thing. I won't vote for this, and I ask you that this be indefinitely postponed.

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

Mr. FINEMORE: Mr. Speaker, Ladies and Gentlemen of the House: I do not care to debate the gentleman from Bangor by any means, but if you ever heard a whitewash — I have been strictly against this from the very start, any income tax whatsoever, and I said I wouldn't vote for it but, ladies and gentlemen, after hearing that, I will vote for this bill.

Everything he said, 90 percent of what he has told you here today is incorrect. I am not an authority on income tax but I know what 26 percent means on anyone who gets \$10,000 salary and maybe is going to pay on \$2,000, which most of them do today. This doesn't touch hardly any people in the State of Maine. This tax probably would hit me maybe a little, but it won't hurt me one bit. I think right here if you listen to that, you are listening to a bunch of junk, because I have figured income tax, not like this gentleman because he can out debate me by far, he knows income tax by far better than I do, but I do know how to pay income tax. I have had the honor of doing it since 1937 and I don't regret it one single bit, because if you are not paying income tax, you are not making any money.

You let someone stand up and say, I am not paying any income tax or some saying I am paying income tax, it hurts me, it shouldn't hurt them. If you are paying a \$1,000 income tax or \$10,000 income tax, you sure as the world are getting somewhere in this world today. If I can't pay this 26 percent, I might as well go home and sit down and lock the doors and look out the window, have someone bring my mail, because this 26 percent won't hurt any one of us in this House. It won't hurt half as much as 2 mills on our property tax, unless you are up in a real, real big bracket, maybe, \$50,000 or \$75,000. If you are up in that bracket, you can pay it anyway.

I say today, let's not listen to him and I would ask for a roll call when we vote on the indefinite postponement motion. I hope you vote against that and go along with this amendment. But the one thing I will say, in this amendment, as we go along with these 19 amendments we have here before us today, which I have right here, when we vote on them today, I hope we do not touch anything.

I have figures here that this bill at the present time will bring in \$262.6 million. If it does, we are financing education properly. Maybe, it is \$2 million more than the man down in the front office wants but if he turns it down, we will pass something probably that will be worse, so probably he had better accept it.

As I understand from the Speaker, I just

wrote him a note, it will bring in \$262.6 million and this is one way to cover it. We don't want a broad income tax. I don't mind a cigarette tax, I don't smoke myself but some of my family does, but that is a sin tax so let them put it on.

I will go along with this bill just for that one reason. I will vote for it and be proud to vote for it and I hope you will all go along and vote against the indefinite postponement of this bill.

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

Mr. DeVANE: Mr. Speaker, if it is not out of order, I would direct a question through the Chair to Mr. Palmer. On the earlier question of Mrs. Tarr as to whether this was a one-year tax, the section says that a tax of 26 percent on 1976 income, it seems to be that we each will get 1976 income only once. It would seem to me that is a single-year tax so it would have to be addressed again later. My understanding of it would be that if it would say annual income or something different but the section reads, an additional tax of 26 percent of the tax imposed on the entire taxable income for the calendar year of 1976, which I think we will all only get once?

The SPEAKER: The Chair recognizes the gentleman from Nobleboro, Mr. Palmer.

Mr. PALMER: Mr. Speaker, Ladies and Gentlemen of the House: I am extremely sorry about the misunderstanding again on the matter of the income tax but at no time in the debate on this amendment, or on any other amendment, when we have talked about transferring the tax burden from property to income and we have been talking about transferring it for a period of one year, the whole theory behind this thing is that we are saying, rather than have the uniform property tax keep on going from 13½ to 14½ to 15 and 16 and we are rolling it back and taking an equal amount of dollars and transferring them over to the income tax. At no time do I recall in any debate did we discuss that as being a one-year effect. It was to do it to place the burden on a broader base tax and to stop the ever increasing rise in the uniform property tax. That is why, for example, on this particular amendment we have the rates rolled back from what it was before, to see actually that the local community would be paying less than they were paying before.

I am sorry because of the misunderstanding, but I don't believe there were very many people who knew that we were talking about a permanent transfer of the tax burden from the property tax to an income tax.

While I am on my feet, I, too, want to take issue with the good gentleman from Bangor. I think he has really thrown up a big whitewash job here today on this income tax.

I want to tell you that last Saturday afternoon a workman in my area came to my home, he had read in the paper where I had come out for a transfer of the burden from the property to the income tax. He said, I came up to personally tell you I favor that approach. I want to prove my point. He brought his income tax return. The man had a wife and two children and he made \$9,335 this past year. He paid the State of Maine \$71 in income tax, of which he got a refund of \$66. If he has to pay a surcharge of 26 percent, I don't really think it is going to bother him much.

The SPEAKER: The Chair recognizes

the gentleman from Waterville, Mr. Carey.

Mr. CAREY: Mr. Speaker and Members of the House: The gentleman from Nobleboro, Mr. Palmer, has apparently cleared up the problem of where he stands on that, and I would ask a direct question through the Chair, if I might, Mr. Speaker, to the gentleman from Nobleboro, Mr. Palmer, to the gentleman from York, Mr. Rolde. About a month ago, I recall reading in the paper, and it was fairly common knowledge, every effort was going to be made by leadership to go through the programs to see if we could find the money somewhere within the existing programs. To my knowledge, no effort has been made. I will dig out the clippings. To my knowledge, no effort has been made to find the money any place, to try to set priorities within the areas, and I would like to know from either gentlemen in the corner if in fact an effort has been made to find some money?

The SPEAKER: The Chair recognizes the gentleman from Nobleboro, Mr. Palmer.

Mr. PALMER: Mr. Speaker, Ladies and Gentlemen of the House: I find it strange that I am the buffer here in the debate on this amendment, which I must confess to you, I was one of the last to buy. However, since I did buy it and I am here to present it, I will try to answer questions. I will repeat once again what I said, that I bought it because I feel that we all have little areas of concern and we have to bury some of those in the interest of the total program.

Now, to get back to the gentleman from Waterville, let me say this to you, that there is very definitely going on right now, both in the Executive Department of this State House and in the committees involved, Appropriations and so forth, efforts to find out programs which can be cut. But I would remind the gentleman, too, that in addition to the education funding bill which we have before us, there are other issues involving money that are going to come before this special session of the legislature. I hope that we are very successful in finding programs we can cut, I hope there are areas where the budget can be cut and I am sure it can be cut. I am sure there are other areas where that can be applied before we get through here. We haven't addressed ourselves to many other problems which we were called in here to face. So we are facing here now just the one problem, and I hope we can face the one problem, and certainly you have the opportunity today because you have in one bill the total package which everyone wanted. Whether you believe it or not, there it is, and we are talking about education, nothing else, no other programs, no other considerations.

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

Mr. ROLDE: Mr. Speaker, Ladies and Gentlemen of the House: To further answer the gentleman from Waterville, I think the statement he was reading concerned the problems the Governor was having with the revenue estimates in his budget and the fact that the state budget was in the red. It was not addressed specifically to the education budget.

I would also point out to the gentleman from Waterville that since the Commissioner of Education certified that the sum necessary for education in the state was \$272 million and this amendment calls for \$262 million, there is, in effect, a

cut of \$10 million that has been accomplished.

I would also, trying to answer the gentleman from Ellsworth, Mr. DeVane, and I am not a taxation expert, but in the next section of the amendment, section 11, talks about fiscal year tax determination. Perhaps some member of the Taxation Committee could understand that better than I could, and perhaps that does answer the gentleman's question.

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

Mr. BERRY: Mr. Speaker, Ladies and Gentlemen of the House: I am not going to support this amendment or any of the other amendments or the bill with or without any amendments. The bill that I would have supported has gone, perhaps, somewhat down the same path that Mr. Call's chicken bill went a session ago.

I think Mr. Ingegneri has got an interesting plan and it is a concept that I certainly could endorse and I think it is long overdue. I think a lot of people in the State of Maine do agree that an income tax is a broad-base tax and probably is a very equitable tax, but I don't think that applies the way the rules are written now. I think probably the way the Maine State Income Tax is administered is regressive to a point.

If I look back over the houses and the families that are in my district, I know of not very many wealthy people, and the few wealthy people who do live in that district or own property in that district are from out of state. They would pay no income tax here anyway. The rest of the people that do live in the district, probably nearly every household has two working people in it. My own has four. If I had a choice right now, the way the present income tax is structured, of paying an increased property tax or an increased income tax, I most assuredly would pay the increased property tax because it is the easiest way out for me or for my family.

I will use myself as an example because I am probably right now the only one that I know of in that area that has four working members of the family, but I do know of many families that have three working members and I know of a great many that have two working members, and I submit to you that an income tax increase would affect those people far more than a property tax increase.

The SPEAKER: The Chair recognizes the gentleman from Nobleboro, Mr. Palmer.

Mr. PALMER: Mr. Speaker, Ladies and Gentlemen of the House: I think perhaps one of the things and the simplest answer to always overlook is the question of funding this for one year. The question was brought up by the gentleman from Ellsworth, Mr. DeVane, and also by the gentleman from Bridgton, Mrs. Tarr. If you look at the bill beginning on the bottom of page 5, you will read, on the top of page 6, "Uniform property tax rates shall be 13 mills for the period beginning July 1, 1976 and ending June 30, 1977. The rates shall be applied with the state valuation of each municipality and property in the unorganized territory."

I think the thing we have to remember is that the legislature will, by the changes we have made in this law, annually set the uniform tax rate. When we set the uniform tax rate, be it 13, 14 or 15, we look at the funding, how much money has been appropriated and you have to make up the difference somewhere, so in this particular case, the uniform property tax being at 13,

the level of the income tax was to transfer the burden to the income tax. It is set for a year because when we meet again, we will again be faced with problems of shall the uniform property tax remain at 13 or shall it go to 13½ or 14. You then address that problem as to how you spread that burden the next time you resolve another education budget.

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

Mr. LYNCH: Mr. Speaker, Ladies and Gentlemen of the House: Quite definitely, if you are working, if you have two or three members in your family working, you would benefit by holding the property tax as it is or even with a slight increase rather than move to the personal income tax. But how about the person who is on fixed income? How about the person who is working on minimum wages with a large family and apparently pays little or any income tax? Where does he get hit with the property tax?

I think you have to look at this in a broad perspective and not from your own narrow, parochial view.

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 address, for just a moment, the question of the income tax that was raised first by Representative Ingegneri. He has, in effect, criticized the portion of this amendment that deals with the increasing income tax as being too regressive, and that implies that the present tax, before the amendment, is regressive, which is true. Inasmuch as I was involved in the effort which led to the adoption of the income tax, I would like to make an explanation to you here now as to why this was regressive. I am in sympathy with the viewpoint of Mr. Ingegneri in the hope that we can make our state income tax more progressive. So I do agree with him in his attitude.

The reason we do have a regressive income tax now is that we have a different cast of characters here. Several years ago when we were involved in this effort to get a state income tax on the books, I feel that we were most fortunate to get one with a graduated scale at all, considering the circumstances under which we worked. So, that is how we happen to have an income tax today which is somewhat regressive.

As to why in my opinion it is reasonable that we should adopt this amendment with the provisions of the income tax that it has in it, I would explain this way, that if we were to get involved with the question as to what is a reasonably progressive income tax, we could go into a week or two of debate on this issue. It is a very vital issue.

We have a commitment from the Executive Office that tax reform is in the works. I know I certainly am interested in tax reform. If I am around here, I want to work at that and I hope we can have an even better tax structure here in Maine. We do have a good report to base our efforts on from the Tax Commission, so when the time comes, I believe we can deal with this.

So briefly, I believe that there is perhaps a failing in this amendment, in the bill that is before us, along with a great many that we disagree with, but we have been thrashing around the question of educational financing for several weeks. It was one of the prime issues that we came into this special to resolve. Each of us had

individual ideas about how they should be done. I think leadership of the two parties have given us great latitude, given us the opportunity to explore each of these considerations and to see how much support we could get from our fellow legislators. Now, I believe that we have, as has been said before, come to a time of decision. I don't think we can any longer afford the luxury of thinking that we sit here having an option open to us between the legislation that is before us and what we want. I think too many of us are thinking that way. I think the real choice that we have here today is between the legislation that we have on our desks and are considering this moment, and nothing.

We have had many explanations as to what is wrong with the legislation that is before us. Let's consider for a moment what is wrong with doing nothing. If we do not address and make a positive resolution of this question of educational finance, then I believe that the people in Maine have been served notice that we are insufficient to meet the responsibilities of the legislature, that as we have been charged, we are a bunch of cheap politicians who are just playing all the ends and can't do a productive piece of work. Well, I don't believe that is so. I believe we can be productive. I think today is the day to be productive, take a bill that is to each of us imperfect but crucifies none of us. It isn't that bad on any of us. Our leadership of both parties have made a sincere effort to resolve a very difficult issue, they have brought that to us and they have said, "This is the best we can do." I believe we have a clear-cut responsibility now to endorse this effort and go on record as taking a positive action on educational financing, one of the prime reasons for our being here.

I hope that we give support to this bill.

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

Mr. HENDERSON: Mr. Speaker and Members of the House: I do agree with almost everything that Mr. Susi just said, and I would like to pose a question through the Chair to him or anyone else who could answer it, and that is, since Mr. Ingegneri's proposal is still a live wire and if we do pass this bill which talks about a surcharge on the income tax, if at a later time during this session we reform the income tax, will not this proposal reflect that reform, which I hope we act on, in a graduated way? It is a bit of a rhetorical question. If that is wrong, maybe someone can answer. And if that is so, I hope that we can proceed to pass this bill with this provision in it, which at least relates educational financing more toward the income tax. At a later time, we can debate the degree to which that tax ought to be graduated.

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

Mrs. KANY: Mr. Speaker and Members of the House: I support Mr. Finemore and Mr. Palmer on this amendment. There are many things I would like to see changed, too, but I really have to go along with it.

I was just looking at the tax rate on individuals under Title 36, and it does appear to me that this is quite progressive and would be at least helpful and not that regressive. A taxable income of \$3,000, this is taxable, remember, we aren't talking about net income, somebody who just has a net income of \$3,000, we are talking about taxable income, and it is the taxable

income which would receive that 26 percent surcharge.

To get to a \$3,000 taxable income now, under our existing law, someone would be paying \$40 in tax annually. With the 26 percent surcharge, their tax would only go up \$10.40, to a total of \$50.40. Let's take somebody with a \$15,000 a year income. Their present tax would be \$430 and that would go up \$111.80, to \$541.80. I maintain to you that this is basically progressive and under the circumstances I certainly am willing to go along with this.

I certainly agree with Representative Ingegneri and hope that we can go through our tax laws and make them even more equitable and fair.

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

Mr. DUDLEY: Mr. Speaker and Members of the House: I do understand about the 26 percent and I do have some reservations. I would like to vote for this bill this afternoon. I am having a hard time to make myself press the right button. However, what bothers me, it looks to me like by this 26 percent — someone may tell me that I am wrong, but as I see it, if we vote for this 26 percent, we are already voting for a raise for more school teachers, because they have already prepared their budgets and it is figured into this.

What about state employees? Are we going to have to raise it another 26 percent or what? In other words, I am not ready to vote at this minute to give school teachers a raise and people in the school personnel and forget about state employees and other people, other segments we are here, trying to represent. I raised a family and I wouldn't buy one pair of shoes and tell the rest to go barefoot. This is troubling me. I still think, and I listened to the gentleman, that he hasn't been given a chance to do what he thinks he can do and I haven't heard anyone talk about eliminating any services. We are all trying to find money and we don't care whose pocket we are picking or which one, but nobody in this whole house have I heard tell about we have got services we are trying to sell the people in my district that we don't need and we don't want. Nothing has been done about that; nothing has been done about telling these people about all the services they must have to be an accredited school. This bothers me too, because they are being told they have a lot of things they don't want, also, and these cost money.

Basically, this is the question that I ask the House. Are we raising the school teachers' pay and not going to raise the others by this method?

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

Mr. SMITH: Mr. Speaker, Ladies and Gentlemen of the House: This is probably the most difficult set of circumstances that I have seen for the legislature in the six short years that I have been here. We have on the one hand legislators who have fought for a long discussed and established now principle for equal education, equal taxation. We have on the other hand, legislators who are committed to notions of local control, who would like to repeal the uniform property tax. We have a governor who is reacting adversely to everything that we seem to suggest up here. I can't remember a time when we have really had it any more difficult than it is right now, but somehow I think that this will make us better legislators if we can handle this problem. I think we can handle it, because the compromise which has

been hammered out, and I was there for part of the hammering at the request of leadership, is not an easy package for any of us to swallow.

For those who are purists on equal education opportunity and on tax equity, there are concessions. There are concessions in terms of ceilings; there are concessions in terms of a tax structure. For those who want to eliminate the property tax altogether, they have to make a concession. It is not eliminated but, yet, it must be better for them by the lower property tax rate that is suggested here.

I think Representative Susi has said much when he said that if we fail to act, and this really is our only vehicle left, if we fail to act I think we are going to have to go home and say, well, we couldn't handle the toughest issue in six years. Maybe it is the toughest issue in twenty years. Those who have been here twenty years might be able to say that. We couldn't handle it. Nope, we had to turn it right over to the Governor and say, Governor, you prorated and you impose a property tax increase of 14½ mills. And what is the Governor going to say, he is going to say, look, it isn't my fault that I had to impose a 14 3/4 mill rate, the legislature had an opportunity to do something about it. They had a bill right before them that was drafted by their leadership, Democrats and Republicans alike, from the House and from the Senate, and they said, no. They had an opportunity to do something about it. They tied my hands and I have to do it.

There is no way that we are going to come away from this and not be criticized. But we are in a business where we have exposed ourselves voluntarily to criticism and we have told the people, we are capable of going down there and making tough decisions, and there is never going to be a tougher one than you are faced with here today. The issues are clearcut and everybody has laid them out. Yes, we can purists on tax policy. Representative Ingegneri is going to have his day in court and I am going to support him, but this is not a tax reform proposal and it is too much to ask of it under these difficult circumstances.

We don't have time right now to reform all the tax structure of the State of Maine, meaning the income tax structure, but we can do it and we will do it eventually.

I want to thank the leadership of this legislature for doing the work that it has for us. I am proud of them; I know what they went through because I personally sat there for a portion of that time. That was the most difficult session that I have ever seen, and I think that we are going to be very foolish as legislators if we don't accept that leadership which we elected.

So I hope, even though I don't like all the provisions, and I am sure every one of you can pick it apart. I hope that you will accept what they have offered you today, because it is really our best chance.

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 Stow, Mr. Wilfong.

Mr. WILFONG: Mr. Speaker, I wish to pair my vote with the gentleman from Portland, Mr. Jensen. If he were here, he

would be voting nay and I would be voting yea.

The SPEAKER: The gentleman from Stow, Mr. Wilfong, wishes to pair his vote with the gentleman from Portland, Mr. Jensen. If the gentleman from Portland, Mr. Jensen were here, he would be voting nay and the gentleman from Stow, Mr. Wilfong would be voting yea.

The pending question is on the motion of the gentleman from Bangor, Mr. Ingegneri, that House Amendment "O" be indefinitely postponed. All in favor of that motion will vote yes; those opposed will vote no.

ROLL CALL

YEA — Berry, P. P.; Berube, Birt, Burns, Call, Carey, Carter, Chonko, Churchill, Connors, Connolly, Cooney, Cote, Cox, Curran, P.; Dam, Davies, Dudley, Dyer, Farley, Goodwin, H.; Goodwin, K.; Gray, Hewes, Higgins, Hinds, Hobbins, Hunter, Immonen, Ingegneri, Jacques, Jalbert, Kauffman, Kelleher, LaPointe, Laverty, Leonard, Lewis, Lizotte, Lovell, MacEachern, MacLeod, McBreairey, McMahan, Morin, Mulken, Pelosi, Perkins, S.; Peterson, P.; Peterson, T.; Pierce, Post, Raymond, Rideout, Shute, Silverman, Snow, Stubbs, Talbot, Teague, Tierney, Torrey, Tozier, Truman, Twitchell, Tyndale, Webber.

NAY — Albert, Ault, Bachrach, Bagley, Bennett, Berry, G. W.; Blodgett, Boudreau, Bowie, Bustin, Byers, Carpenter, Clark, Curran, R.; DeVane, Doak, Dow, Drigotas, Durgin, Farnham, Fenlason, Finemore, Flanagan, Fraser, Garsoe, Gould, Greenlaw, Hall, Henderson, Hennessey, Hughes, Hutchings, Jackson, Joyce, Kany, Kelley, Kennedy, LeBlanc, Lewin, Littlefield, Lunt, Lynch, Mahany, Martin, A.; Martin, R.; Maxwell, McKernan, Miskavage, Mitchell, Morton, Nadeau, Najarian, Norris, Palmer, Peakes, Pearson, Perkins, T.; Powell, Quinn, Rolde, Rollins, Saunders, Smith, Snow, Spencer, Sprowl, Strout, Susi, Tarr, Theriault, Usher, Wagner, Walker, The Speaker.

ABSENT — Carroll, Curtis, Gauthier, Laffin, Mackel, Mills.

PAIRED — Jensen, Wilfong.

Yes, 67; No, 74; Absent, 8; Paired, 2.

The SPEAKER: Sixty-seven having voted in the affirmative and seventy-four in the negative, with eight being absent and two paired, the motion does not prevail.

Mr. Connolly of Portland offered House Amendment "A" to House Amendment "O" and moved its adoption.

House Amendment "A" to House Amendment "O" (H-921) was read by the Clerk.

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

Mr. CONNOLLY: Mr. Speaker and Members of the House: The purpose of this amendment is to take the special education account, which in the amendment we just passed, would be prorated at 90-10, 90 percent state's share and 10 percent local share, and make it 100 percent state share. The reason that I do that is because the special education program that is being run in the school systems is very close and dear to me, because a number of people that not only are constituents of mine, but that are friends of mine, have children who have been directly benefitted through this program, and I have come to understand a lot about how it works. The way that you would think that the special education

program should operate would be that parents of children who are classified or called exceptional children would bring that to the attention of the superintendent for teachers within the school system and then those children, because the law has been mandated, would be helped by that program. But in effect, the way the law works, it is that teachers and superintendents identify the children and then those children are helped. And the fear that I have that if we go to 90-10 is that in some communities, probably not in Portland, but some of the smaller communities that aren't as well off financially as Portland are not going to make an effort to help all of the children that need to be helped in this program because they need to keep local expenses down.

The issue is a very simple one, whether the state should pay the full cost of a mandated program or whether the local communities should be required to pick up 10 percent of a mandated program.

I would ask for the yeas and nays on it, Mr. Speaker.

The SPEAKER: The Chair recognizes the gentleman from Nobleboro, Mr. Palmer.

Mr. PALMER: Mr. Speaker and Members of the House: As much as I appreciate the comments of the gentleman from Portland, Mr. Connolly, and his feelings concerning this matter, I think it is only right that we should say that there were many others, too, who wanted to fund 100 percent on transportation. And in hammering out this agreement, everybody had to take his licks, and I think if we start opening up the wedge now, we are just spoiling what perhaps could be a very good compromise.

I am sure that many here would like to get 100 percent for some other programs and they have had to take their back seat to that program and I think we will have to do that.

The SPEAKER: The Chair recognizes the gentleman from Danforth, Mr. Fenlason.

Mr. FENLASON: Mr. Speaker, Ladies and Gentlemen of the House: I would like to speak briefly about this 90-10 as it applies to the three categorical sections, namely, transportation, special ed and vocational ed. The committee gave this consideration a lot of thought. The reason, basically, behind this allocation of 90-10 is that it was felt that over the state, and I want to emphasize over the whole state, we had a lot of abuse in this spending. It was further felt that if the individual towns, be they big or small, had the very small part of 10 percent in authorizing the items under these programs, they would think very carefully before they authorized a large expenditure, and I am certain that most of the towns would actually save in spending by having to put their own 10 percent into these programs.

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

Mr. CONNOLLY: Mr. Speaker and Members of the House: In response to the remarks of Mr. Fenlason, I would just say that the special education program is a mandated program. It says that every child who is an exceptional child has to be helped by the state. The only way that a town can save money under that mandated program is to not help children within that community who are exceptional or special children, that is the only way.

The SPEAKER: The Chair recognizes

the gentleman from South Berwick, Mr. Goodwin.

Mr. GOODWIN: Mr. Speaker and Members of the House: I am going to vote for this amendment. Let me explain to you why. I have discussed this with the Commissioner of Education and they realize we have a problem the way the bill is set up. They feel they can handle it, but I would rather see this enacted into law this way.

The way the bill is now, it allows 100 percent reimbursement for tuition programs and 90-10 reimbursement for programs run by your administrative districts for special ed, and the 100 percent is reimbursed on a current-year basis. What this means is, if a district opts for tuitioning their students out to educable or trainable classes or to programs such as Bancroft, North, Sweetser or Spurwink, they are going to get a hundred percent reimbursement on that tuition for the current year. If they run their own programs for the educables and their trainables, whether they run their own special classes or they mainstream them into the existing programs, they are only going to get 90 percent.

I think what we are doing, if we do not pass this amendment, is that we are developing a potential for a deficit or for proration on your special ed estimates. I don't think this is fair. The way the bill is presently set up it is not fair for a district which has already developed their own special ed programs and are only going to get reimbursed 90 percent as opposed to a district that has opted to tuition their students out to trainable or educable classes.

I would hope that you would support this amendment. If you don't, I think we are going to run into some serious problems on down the line and I think we are going to be putting ourselves into a position where we are going to be in another deficit situation.

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

Mr. ROLDE: Mr. Speaker, Ladies and Gentlemen of the House: In response to the gentleman from South Berwick, we discussed this particular problem with the Commissioner of Education the other day and the Commissioner, under the law, will review all the cases that go to special ed tuition. So I don't feel, and he does not feel, that the fears of the deficit being incurred in this account will actually take place.

I agree with the gentleman from South Berwick and the gentleman from Portland, Mr. Connolly, I would like very much to see a hundred percent state reimbursement for special education. However, that will mean adding an additional million dollars to this bill, and that was the problem that we came up against. We would all like to see it reimbursed a hundred percent. In fact, this last year, many people are not aware it was not reimbursed at 100 percent. Because of the deficit in the account that was prorated back to the town, actually the cities and towns only received 81 percent.

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

Mr. GOODWIN: Mr. Speaker and Members of the House: I think your problem is, though, I think you will find some districts received a hundred percent reimbursement while other districts only received 81 or 82 percent, depending on how they were taking care of their problem.

I concur with the gentleman from York, and I have discussed this with the Commissioner of Education also, the problem is that some districts — what is going to happen here is that the districts that are presently tuitioning all their students out are not going to go to their own special ed programs, or if the commissioner develops two separate guidelines, what they are going to do is they are going to force those districts that are now using tuition programs to withdraw their support from those tuition programs and a lot of good programs run by private associations are going to be going down the drain.

I will give you a really good example: It is not in my district. There is a school for the Katahdin Friends of the Retarded in East Millinocket which handles your trainable students from that whole Millinocket area. If the commissioner guidelines, he could very well force those districts to run their own trainable classes, thereby closing down that particular school. If he does not, then he is going to be opening up the opportunity for a lot of other schools that aren't using that to send their students there. He is going to be caught in the middle on this. And the only way to get around it is to pass 100 percent tuition, 100 percent funding for all special ed programs and not to divide in two the way the bill has it now.

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

Mrs. MORIN: Mr. Speaker and Members of the House: I hope you do accept this amendment. What Mr. Rolde says, I do have a solution. I have an amendment coming in, supposedly in four minutes, that would generate \$1.2 million on pipe tobacco and cigars that could pay for that extra.

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

Mr. LYNCH: Mr. Speaker and Members of the House: I hate to see amendments being added to this bill. Once you open the door, the next will be transportation and then vocational education. Then there will be a change in the leeway, a change all the way along the line, and before we get through, we will be up \$272 million and have lost all that we put into it so far.

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 adoption of House Amendment "A" to House Amendment "O". All in favor will vote yes; those opposed will vote no.

ROLL CALL

YEA — Bennett, Berube, Blodgett, Boudreau, Call, Carey, Carter, Clark, Connolly, Cote, Cox, Curran, P.; Davies, DeVane, Dow, Farley, Farnham, Flanagan, Goodwin, H.; Goodwin, K.; Hobbins, Ingegneri, Jacques, Jalbert, Kany, Kelleher, LaPointe, Laverty, Lewis, Lizotte, MacEachern, Martin, A.; Martin, R.; Mitchell, Morin, Mulkern, Nadeau, Norris, Pearson, Pelosi, Peterson, T.; Raymond, Saunders, Shute, Silverman, Spencer, Strout, Stubbs, Talbot, Tierney, Tozier, Wilfong.

NAY — Albert, Ault, Bachrach, Bagley,

Berry, G. W.; Berry, P. P.; Birt, Bowie, Burns, Bustin, Byers, Carpenter, Chonko, Churchill, Connors, Cooney, Curran, R.; Dam, Doak, Drigotas, Dudley, Durgin, Dyer, Fenlason, Finemore, Fraser, Garsoe, Gould, Gray, Greenlaw, Hall, Henderson, Hennessey, Hewes, Higgins, Hinds, Hughes, Hunter, Hutchings, Immonen, Jackson, Joyce, Kauffman, Kelley, Kennedy, LeBlanc, Leonard, Lewin, Littlefield, Lovell, Lunt, Lynch, MacLeod, Mahany, Maxwell, McBreairty, McKernan, McMahon, Miskavage, Morton, Najarian, Palmer, Peakes, Perkins, S.; Perkins, T.; Peterson, P.; Pierce, Post, Powell, Quinn, Rideout, Rolde, Smith, Snow, Snowe, Sprowl, Susi, Tarr, Teague, Theriault, Torrey, Truman, Twitchell, Tyndale, Usher, Wagner, Walker, Webber, The Speaker.

ABSENT — Carroll, Curtis, Faucher, Gauthier, Jensen, Laffin, Mackel, Mills, Rollins, Winship.

Yes, 52; No, 89; Absent, 10.

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

Thereupon, House Amendment "O" was adopted.

Mr. Farnham of Hampden offered House Amendment "N" and moved its adoption.

House Amendment "N" (H-918) was read by the Clerk.

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

Mr. FARNHAM: Mr. Speaker, Ladies and Gentlemen of the House: I am not going to talk to you for a half hour because I spoke on this same subject yesterday. I am concerned about the transportation of children. We cut this down to 90 percent and what is going to happen, we are going to have school buses restricted to main roads, we are going to have five and six year old children walking a mile or two in 20 below zero weather, and it just isn't the right thing to do. I urge you to take this into serious consideration.

I would ask for a roll call.

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

Mr. LYNCH: Mr. Speaker, I would like to indefinitely postpone this amendment. It has a price tag of a million and a half. We have just agreed to an amendment that added over \$800,000, and we are gradually working our way up to \$272 million if we don't knock these off.

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

Mr. FINEMORE: Mr. Speaker, I would request a roll call on indefinite postponement.

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

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

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

Mr. JALBERT: Mr. Speaker, I don't want to delay anything, but I haven't got the amendment. This calls from 90 to 100 percent for transportation, right?

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

Mr. LYNCH: Mr. Speaker, that is what the amendment says.

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

Mr. NORRIS: Mr. Speaker, Ladies and Gentlemen of the House: We are talking about taxes here and where are we going to pay for these services, because we are going to have to pay for a hundred percent transportation of children during the next fiscal year? It doesn't make any difference what we do with this bill, you are going to have to transport all of the children, and what we are talking about here is whether the state pays a hundred percent of their share or whether you put 10 percent of the state's share back on the local property taxpayer.

All we are talking about here, and I am in favor of Mr. Farnham's amendment, is where it is going to be paid for, that small portion, that we will be moving back onto the property taxpayer.

We just adopted an amendment that shifts some of the responsibility to the income tax and we just defeated an amendment that would have kept us on that level at 100 percent of the special education and now we are talking about transportation. So, I would hope you would go for this amendment, vote against indefinite postponement and leave this very important part of education — that is getting the students to and from the schools and to their activities and have the state fund their fair share of it under the original bill.

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

Mr. LYNCH: Mr. Speaker, Ladies and Gentlemen of the House: There has been a cry throughout most of the state for more local control. How can you get more local control than by giving the power to make decisions on the local level, whether they want to transport, whether they want to buy buses, whether they want to do anything? How can you get any more control back into a community than by saying your tax dollars are going into this, your property tax dollars? Your income tax dollars are going into this, and when you hit people in the pocket book, you are going to get their interest and their concern and they are going to take an interest in what is going on in their school system.

If they want the transportation, if they want to spend more money on schools, if they want to take advantage of the reduction in the uniform property tax, it is well within their province to make those decisions.

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

Mrs. BERRY: Mr. Speaker and Members of the House: I think some people perhaps are forgetting that the state has mandated districts and some of us are transporting our children up to 30 miles. As I asked in the caucus the other day, what are we going to do, take them at 27 — 10 percent of 30 would be three miles, or are we going to leave them three miles from school?

This isn't a problem of our local towns. We have to transport these children that come from a distance. We are responsible for them. I just don't see how anybody that is mandated to transport children are going to cut down any. I just don't understand this.

The SPEAKER: The Chair recognizes

the gentleman from Hampden, Mr. Farnham.

Mr. FARNHAM: Mr. Speaker and Members of the House: I would like to speak just a moment on this local control business. A town I represent, Plymouth, has no school. Every child must be transported into Newport. There is nothing they can do under local control is going to correct that situation.

The Town of Winterport is in an SAD. Every high school student must be transported. There is nothing they can do about it. The state condemned their high school years ago and they were forced into a district, that is it.

I have the Town of Newburg. Six grades go to a school in Newburg, but 95 percent of those children have to be transported because the school is located on a main artery and you can't put kids on a main highway with pulp trucks and all kinds of heavy traffic going by. So, every one of their students from the sixth grade up has to be transported into Hampden.

We can't dictate where people live yet, or I hope not. We have twenty-five or thirty miles of rural road and they are scattered all over and it takes buses to pick them up. Sure, at one time we had nine little rural schools in Newburg, every child could walk to school, but they have all been done away with. They were practically mandated out of existence. Sure, I believe in local control where the local authorities can control, but this is a subject they cannot control.

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

Mr. SILVERMAN: Mr. Speaker, Ladies and Gentlemen of the House: If we are going to talk education, we are going to talk that students must get to that school to be educated. So one of the most essential parts of education is transportation. Because of rules and regulations and mandated programs, if you were to build a new high school like we have in our area, you will go five or six miles outside of the community. To do that, you are going to have more costs for transportation. And if Augusta is to make these regulations and mandate these locations, I am quite sure that Augusta would be willing to at least pay for the necessary transportation to get the students to and from their schools.

Also, I recognize when you say the rural areas, at many times the extra cost that they are going to bear is a much larger percentage of their budget than other areas. Therefore, if we are going to go along with this bill for education, I am quite certain they should go along with allowing schools a hundred percent cost for transportation, because without transportation, you are not going to have students in your schools, and I believe the local communities shouldn't have to bear the cost which we have mandated out of Augusta and which we have guaranteed in 1994 one hundred percent.

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

Mr. MORTON: Mr. Speaker, Ladies and Gentlemen of the House: I was in favor of Mr. Connolly's amendment but I voted against it. We have a proposition here that is bigger than any one of these amendments and I do not wish to jeopardize the big bill.

I would certainly like to see a hundred percent of transportation paid. I would like to a hundred percent of special ed paid. I would like to see a hundred percent of

vocational ed paid, because, actually, in our SAD, the way we are set up with one of the original vocational setups, we are under the old system where the expenses are not pooled for all the schools. Not only will we receive this 10 percent reduction, but we will also be picking up the full tab for the maintenance of the buildings, which will not be covered under the new alignment with 90-10.

These are trade-offs and this is the point, and this afternoon is the time when you have to make these political trade-offs and these judgments count. We are shooting for the big bill. We have reduced the mill rate to 13 mills, and that certainly is going to have a big impact on the total bill that the towns will have to raise. I am not sure how this is going to offset for the communities that I represent, but I urge you not to vote for this amendment, no matter how strongly your heart tells you you are for it.

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

Mr. LYNCH: Mr. Speaker, Ladies and Gentlemen of the House: There has been much talk about mandating transportation. I think the fault lies that the local districts have taken advantage of a hundred percent funding and gone overboard. I don't accuse any one district, I say across the state, and I say so because in fiscal 1976 to fiscal 1977, transportation operating costs are costing the state more than \$2 million more. Now, where do we draw the line? I think we have to draw the line by getting some input from local dollars to get some control over this.

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

Mr. STROUT: Mr. Speaker, Ladies and Gentlemen of the House: I had two points that I would like to make this afternoon. One is, it is my understanding that this 90 percent will be funded at the preceding year's level of funding for transportation to a district. We are faced in our district with a problem of coming up with a three-year contract that expires this year. We are looking at a transportation budget of \$146,000, with a possible increase of \$18,000 with the new contract, so if you take 10 percent off the present budget of \$146,000, this brings us down to \$131,000. This means that in our district alone, we have to pick up the difference between \$165,000 and \$131,000, which is \$25,000 for transportation alone. This, in a sense, means with a valuation to a district of \$16,900,000, is almost a 2 mill rate increase for transportation alone. With the leeway provision being dropped to my district \$41,000, this means an additional 2½ mill increase at the local level, so we are talking a remote situation in a remote rural area that is going to be faced with a 4 to 5 mill rate at the local level to fund a minimum education program for the next fiscal year.

There is one other point on this transportation that I would like to bring out. I have asked this question before, I don't have a clear answer. We have students in our town that are attending a private school. My question is, if the state is going to fund it at 90-10, when the town meetings are called in these areas, and there is going to be a provision in the town article to fund a private school student for this 10 percent cost and the people in these communities, which I suspect will vote against this, who is going to pick up this 10 percent? Will it be the private school or will it be the individual on his own or will

the individual's parents have to transport some of these students that I am talking about 25 or 30 miles to the Bangor Baptist?

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

Mr. NORRIS: Mr. Speaker, very briefly, I would like to commend the leadership for their fine compromise but I would like to address myself to my good friend Representative Morton from Farmington and say that one of the reasons that I am for this amendment is that I think this is the very thing that will give us horses enough to put this through. I am afraid that you are going to lose some people that you wouldn't have with you ordinarily, or won't have with you, if you don't go for this amendment, because there are some people from the rural areas that can't or feel they can't stand to fund 100 percent of the transportation. So I would hope that my good friend and his good friends would give some serious thought to the idea of really meeting a compromise and moving ahead.

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

Mrs. MARTIN: Mr. Speaker, Ladies and Gentlemen of the House: Today, I am going to speak differently than these people have.

I used to live about a mile and a half out in the country and I used to walk to school, back and forth, sometimes even went home for lunch, we had an hour and a half. My children lived a mile and a half away from school, they walked to school. Today, these kids, high school, junior high school, they all ride the buses. I don't mind the little ones riding the buses because of the traffic, but these kids, if they walked a little bit more, they might stimulate their brains a little.

Mr. Lynch of Livermore Falls was granted permission to speak a third time.

Mr. LYNCH: Mr. Speaker, Ladies and Gentlemen of the House: I think the point was made that you are going to lose votes if you don't eliminate the 90-10. If you don't pass the compromise bill, what assurance do you have that you are going to get even 90 percent if you don't take action in this legislature?

The SPEAKER: The pending question before the House is on the motion of the gentleman from Livermore Falls, Mr. Lynch, that House Amendment "N" be indefinitely postponed. A roll call has been ordered. Those in favor will vote yes; those opposed will vote no.

ROLL CALL

YEA — Albert, Ault, Bachrach, Bagley, Berry, P. P.; Birt, Boudreau, Bowie, Bustin, Call, Carey, Chonko, Cooney, Curran, P.; Curran, R.; Dam, Davies, DeVane, Doak, Drigotas, Dudley, Durgin, Dyer, Fenlason, Finemore, Flanagan, Fraser, Garsoe, Goodwin, K.; Gould, Gray, Greenlaw, Hall, Henderson, Hennessey, Hewes, Higgins, Hinds, Hughes, Hunter, Hutchings, Jackson, Joyce, Kany, Kauffman, Kelley, LeBlanc, Leonard, Lewin, Lewis, Lizotte, Lovell, Lunt, Lynch, MacEachern, Mackel, MacLeod, Mahany, Martin, A.; Martin, R.; Maxwell, McBreairty, McKernan, McMahon, Miskavage, Mitchell, Morin, Morton, Mulkern, Nadeau, Najarian, Palmer, Peakes, Pearson, Perkins, S.; Perkins, T.; Peterson, P.; Peterson, T.; Pierce, Post, Powell, Quinn, Raymond, Rolde, Smith, Snow, Snowe, Spencer, Sprowl, Susi, Talbot, Tarr, Teague, Theriault, Tierney, Torrey, Tozier,

Truman, Twitchell, Tyndale, Usher, Wagner, Walker, Webber.

NAY — Bennett, Berry, G. W.; Berube, Blodgett, Burns, Byers, Carpenter, Carter, Churchill, Clark, Conners, Connolly, Cote, Cox, Dow, Farley, Farnham, Hobbins, Immonen, Ingegneri, Jacques, Jalbert, Kelleher, Kennedy, LaPointe, Laverty, Littlefield, Norris, Pelosi, Rideout, Saunders, S Shute, Silverman, Strout, Stubbs, Wilfong.

ABSENT — Carroll, Curtis, Faucher, Gauthier, Goodwin, H.; Jensen, Laffin, Mills, Rollins, Winship.

Yes, 104; No, 36; Absent, 10.

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

The Chair recognizes the gentleman from St. Agatha, Mr. Martin.

Mr. MARTIN: Mr. Speaker, I would like to change my vote from nay to yea.

The SPEAKER: The Chair would state the vote has been announced.

Thereupon, Mr. Finemore of Bridgewater moved that the House reconsider its action whereby House Amendment "N" was indefinitely postponed.

The SPEAKER: The gentleman from Bridgewater, Mr. Finemore, having voted on the prevailing side, now moves the House reconsider its action whereby this amendment was indefinitely postponed. All in favor will say yes; those opposed will say no.

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

The SPEAKER: The pending question before the House now is on passage to be engrossed as amended by House Amendment "C" and House Amendment "O".

Mr. Kelleher of Bangor requested a roll call on passage to be engrossed.

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 member's present having expressed a desire for a roll call, a roll call was ordered.

The SPEAKER: The Chair recognizes the gentlewoman from Newcastle, Mrs. Byers.

Mrs. BYERS: Mr. Speaker, Ladies and Gentlemen of the House: I voted for some of the amendments to this bill, and I agree with Mr. Palmer, that we all must compromise from time to time. However, I now must vote against this bill because we are not dealing with the problem, only with the consequences of the problem. The uniform property tax is the problem, I cannot vote to raise any taxes until we have dealt with that problem.

Mr. Smith has explained to us that if we do not pass any legislation, the Governor could raise the mill rate; that is the problem. This power was granted to the Executive Branch by the passage of the uniform property tax. Now, if we do nothing, yes, the Governor does have the power to raise taxes or to prorate and cut expenses. Before the uniform property tax, he would have had to work within the budget that was given him.

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

Mrs. MITCHELL: Mr. Speaker, Ladies and Gentlemen of the House: I must make

one comment. The power rendered to the Governor was rendered by this body and it goes to him only by default, if we fail to act by April 1.

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

Mr. WILFONG: Mr. Speaker, I would like to pair my vote with Mr. Jensen from Portland. If Mr. Jensen were voting, he would vote yes; and I would be voting no.

The SPEAKER: The gentleman from Stow, Mr. Wilfong wishes to pair his vote with the gentleman from Portland, Mr. Jensen. If Mr. Jensen were voting, he would be voting yes; Mr. Wilfong would be voting no.

The pending question is on passage to be engrossed. All in favor of this Bill being passed to be engrossed as amended by House Amendment "C" and House Amendment "O" will vote yes; those opposed will vote no.

YEA — Albert, Ault, Bachrach, Bagley, Bennett, Berry, G. W.; Boudreau, Bowie, Bustin, Carpenter, Clark, Cooney, Cox, Curran, R.; DeVane, Doak, Dow, Drigotas, Durgin, Dyer, Farnham, Fenlason, Finemore, Flanagan, Fraser, Garsoe, Gould, Greenlaw, Hall, Henderson, Hennessey, Higgins, Hughes, Immonen, Jackson, Joyce, Kany, Kelley, Kennedy, LeBlanc, Lewin, Littlefield, Lunt, Lynch, MacEachern, Mahany, Martin, A.; Martin, R.; Maxwell, McKernan, Miskavage, Mitchell, Morton, Nadeau, Najarian, Norris, Palmer, Peakes, Pearson, Perkins, T.; Powell, Quinn, Rolde, Smith, Snow, Spencer, Sprowl, Susi, Tarr, Theriault, Usher, Wagner, Walker, The Speaker.

NAY — Berry, P. P.; Berube, Birt, Blodgett, Burns, Byers, Call, Carey, Carter, Chonko, Churchill, Connors, Connolly, Cote, Curran, P.; Dam, Davies, Dudley, Farley, Faucher, Goodwin, H.; Goodwin, K.; Gray, Hewes, Hinds, Hobbins, Hunter, Hutchings, Ingegneri, Jacques, Jalbert, Kauffman, Kelleher, LaPointe, Lavery, Leonard, Lewis, Lizotte, Lovell, Mackel, MacLeod, McBreairty, McMahon, Morin, Mulkern, Pelosi, Perkins, S.; Peterson, P.; Peterson, T.; Pierce, Post, Raymond, Rideout, Saunders, Shute, Silverman, Snowe, Strout, Stubbs, Talbot, Teague, Tierney, Torrey, Tozier, Truman, Twitchell, Tyndale, Webber.

ABSENT — Carroll, Curtis, Gauthier, Laffin, Mills, Rollins, Winship.

PAIRED — Jensen, Wilfong.

Yes, 74; No, 68; Absent, 7; Paired 2.

The SPEAKER: Seventy-four having voted in the affirmative and sixty-eight in the negative, with seven being absent and two paired, the Bill is passed to be engrossed as amended.

By unanimous consent, ordered sent forthwith to the Senate.

(Off Record Remarks)

On motion of Mrs. Najarian of Portland,
Adjourned until twelve o'clock noon
tomorrow.