

# 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, March 18, 1976

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

Prayer by the Reverend H. Travers Smith of Waterville.

The journal of yesterday was read and approved.

**Papers from the Senate  
Divided Report**

Majority Report of the Committee on Taxation reporting "Ought to Pass" as amended by Committee Amendment "A" (S-437) on Bill "An Act Relating to Definition of Retail Sale under Sales and Use Tax Laws" (S. P. 669) (L. D. 2128)

Report was signed by the following members:

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

Messrs. SUSI of Pittsfield  
COX of Brewer  
MORTON of Farmington  
MULKERN of Portland  
MAXWELL of Jay  
— of the House.

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

Report was signed by the following members:

Mr. JACKSON of Cumberland  
— of the Senate.

Messrs. DRIGOTAS of Auburn  
TWITCHELL of Norway  
FINEMORE of Bridgewater  
IMMONEN of West Paris  
DAM of Skowhegan  
— of the House.

Came from the Senate with the Majority "Ought to Pass" Report as amended read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (S-437).

In the House: Reports were read.

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

Mr. DRIGOTAS: Mr. Speaker, Ladies and Gentlemen of the House: I move acceptance of the Minority "Ought not to pass" Report in non-concurrence.

If you will look at the L. D., you will find in the Statement of Fact that there is no price figure, but in Committee Amendment "A", there is a price figure involved close to a quarter of a million dollars. At this stage in our financial status, I think it is an unwise thing to grant this exemption.

I urge support of the "ought not to pass" report.

The SPEAKER: The gentleman from Auburn, Mr. Drigotas, moves that the House accept the Minority "Ought not to pass" Report in non-concurrence.

The Chair recognizes the gentleman from Rockland, Mr. Gray.

Mr. GRAY: Mr. Speaker, Men and Women of the House: Probably there should be some facts pointed out here before we vote on this bill.

Maine has long exempted products that become part of or are consumed in the manufacturing process. An exception to this rule has been fuel oil and electricity consumed in the manufacturing process.

You will recall that during the regular session we corrected one of these inequities by exempting that part of electricity used in the electrolysis process, which the Sobin Chemical Corporation uses to manufacture certain chemicals,

the logic being that this electricity was consumed in the process and a part of the electricity became part of the final product.

Cement manufactured at the Thomaston plant is made from a complex formula. It includes a mixture of many different substances, including sulfur, which is introduced in the process by fuel oil being burned at a high temperature. This burning process whereby the sulfur becomes a part of the product is taken into account the same way other tax exempt chemicals are. That is to say that if no sulfur were picked up from the burning of the fuel oil, sulfur would eventually have to be added in a separate step and sulfur added in any other form would be exempted from the sales tax. However, these compounds that make cement can only be formed by the burning in a kiln at extremely high temperatures.

There is no method known today whereby these compounds can be formed without actually coming in direct contact with a flame, so it should be made clear that this bill exempts only that fuel oil that is used in the manufacturing process and that this oil is stored and inventoried separately. Fuel oil to heat the plant or offices will be taxed.

There are nine other states that currently have cement manufacturing operations. Maine is the only state that taxes this bunker C oil, so I would ask today that you vote against the pending motion and vote in favor of the majority report so that perhaps once again we can make Maine cement competitive with Canadian cement.

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

Mr. MORTON: Mr. Speaker, Ladies and Gentlemen of the House: I hope you will vote down the "ought not to pass" report on this bill and consider the "ought to pass" report.

I put on my engineering hat when I went to this hearing, and I will admit that I went to the hearing with a preconceived notion that I could not be convinced that this particular burning of fuel in the manufacture of cement was part of the process, but I can be wrong and I was wrong that time.

I voted to pass this bill out "ought to pass" on the basis of consistency. If you will read the statute as it presently exists, and it has been on our books I don't know how long, but it is a tax policy of the State of Maine to say that retail sales do not include the sale of tangible personal property which becomes an ingredient or component part of, or which is consumed or destroyed or loses its identity in the manufacture of tangible personal property, and it goes on.

Frankly, I almost think that the law, as it is presently written, would cover the situation for the cement plant down here, but that is not the way the ruling is at present, and we need legislative direction to instruct the Taxation Department how to treat the product and the materials that go into the product that are manufactured by this plant.

There is no question in my mind, and I challenge anybody to come up with a different answer to this. There is no question in my mind but that the fuel oil used in the manufacture of this cement does go into the product and to a greater extent than the electricity used in the manufacture of chlorine at the Sobin

Chemical Plant and that it is used up in the process and loses its identity.

If we are going to be consistent with our laws, if we are going to treat all manufacturing processors equally in this state, regardless of whether they spend huge amounts of money on wood and turn it into paper or relatively modest amounts of money on oil which ends up in the product, the application of the law should be the same. It is irrefutable that the sulfur in the fuel oil and the ash in the fuel oil become ingredients of the final product. It is indisputable that the oil loses its identity in the manufacture of this product, and even though it is a relatively small part, it ends anywhere from a half of one percent to a maximum of two percent of the oil in the product, the fact remains that it is there. So under the policy that we have established for many years — I don't say many because I don't know how many — but which is presently on our books, it is only consistent to specifically direct the Taxation Department to exempt the fuel oil that is used in this way.

I want to point out to you that this fuel is metered separately from oil that is used to drive the plant machinery, provide power for the plant, this is measured separately for this process, and just as the electricity that went into the Sobin Chemical Plant's operation is metered separately and is not included with that that burns their lights and runs their motors and pumps, so this oil is kept separate and does go into the product and it is entirely inconsistent to penalize this company if we are going to have this kind of a tax policy on our books.

Whether or not we continue to do this sort of thing for all manufactured products is an entirely different question. We are not addressing that at this time, but we are addressing the fairness of how this corporation works. So I hope that you will turn down this motion to accept the "ought not to pass" report so that we can move on to the "ought to pass" report.

Mr. Finemore of Bridgewater requested a roll call vote.

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

Mrs. LEWIS: Mr. Speaker, Ladies and Gentlemen of the House: If you remember when we were debating whether or not we would override or sustain the Governor's veto on the Sobin Chemical Company's plea for tax help, I said at that time that I was very much in favor of sustaining that veto, and I guess there were only four others in the House who felt likewise, but at that time I said if anybody needed help, I think it would have been this particular company that manufactures cement. However, I don't feel that at this time we can possibly afford to give anybody in this state any kind of a tax break. We just don't have the money. In fact, I wish that we could repeal the action that we took on the Sobin Chemical Company.

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

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

The SPEAKER: The pending question is on the motion of the gentleman from Auburn, Mr. Drigotas, that the Minority "Ought not to pass" Report be accepted in non-concurrence. All in favor.

of that motion will vote yes; those opposed will vote no.

#### ROLL CALL

**YEA** — Berry, G. W.; Berry, P. P.; Berube, Burns, Byers, Call, Carpenter, Carter, Cooney, Davies, Drigotas, Durgin, Farley, Finemore, Garsoe, Goodwin, K.; Henderson, Hewes, Hutchings, Immonen, Jacques, Kauffman, Laffin, LaPointe, Leonard, Lewis, Lizotte, Lunt, Lynch, Mackel, Martin, A.; Martin, R.; Mitchell, Morin, Nadeau, Perkins, S.; Peterson, T.; Raymond, Rideout, Saunders, Snowe, Spencer, Strout, Tarr, Theriault, Tierney, Tozier, Truman, Twitchell, Wilfong.

**NAY** — Albert, Ault, Bachrach, Bagley, Bennett, Birt, Blodgett, Boudreau, Bowie, Bustin, Carroll, Chonko, Churchill, Clark, Conners, Cote, Cox, Curran, P.; Curran, R.; Curtis, Dam, Doak, Dow, Dudley, Dyer, Fenlason, Flanagan, Fraser, Gould, Gray, Greenlaw, Hall, Hennessey, Higgins, Hinds, Hughes, Hunter, Ingegneri, Jensen, Joyce, Kany, Kelleher, Kelley, Kennedy, Laverty, LeBlanc, Lewin, Littlefield, Lovell, MacEachern, MacLeod, Maxwell, McBreaarty, McKernan, McMahon, Mills, Miskavage, Morton, Mulkern, Najarian, Norris, Palmer, Pearson, Pelosi, Perkins, T.; Peterson, P.; Pierce, Powell, Quinn, Rolde, Rollins, Shute, Silverman, Smith, Snow, Sprowl, Susi, Talbot, Teague, Torrey, Tyndale, Usher, Walker, Webber, Winship, The Speaker.

**ABSENT** — Carey, Connolly, DeVane, Farnham, Faucher, Gauthier, Goodwin, H.; Hobbins, Jackson, Jalbert, Mahany, Peakes, Post, Stubbs, Wagner.

Yes, 50; No, 86; Absent, 15.

The **SPEAKER**: Fifty having voted in the affirmative and eighty-six in the negative, with fifteen being absent, the motion does not prevail.

Thereupon, the Majority "Ought to pass" Report was accepted in concurrence and the Bill read once. Committee Amendment "A" (S-669) was read by the Clerk and adopted in concurrence and the Bill assigned for second reading tomorrow.

#### Non-Concurrent Matter

Bill "An Act to Remove the Minimum Mandatory Tax from the Railroad Excise Tax Formula" (H. P. 2003) (L. D. 2179) which Bill and accompanying papers were indefinitely postponed in the House on March 9, 1976. (Motion to reconsider having failed).

Came from the Senate, passed to be engrossed as amended by Committee Amendment "A" (H-952) and Senate Amendment "A" (S-432) in non-concurrence.

In the House:

Mr. Maxwell of Jay moved that the House recede and concur.

Thereupon, Mr. Higgins of Scarborough requested a roll call vote.

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

Mr. **FINEMORE**: Mr. Speaker, Ladies and Gentlemen of the House: I suppose a lot of people in this House are wondering why I asked for a roll call on the last bill we voted on, and I am going to explain to you why I did this and why I hope you will go along with receding and concurring, the motion of Mr. Maxwell.

We had a bill before us where the amendment calls for \$225,000, the bill we just went by, it is not before us now but you can speak on it, I believe. It called for

\$225,000. This bill that we are on now calls for \$143,000, it did until this amendment came on this morning. This amendment came on this morning and takes off the escalating feature of the law of one fourth of one percent stays on the books, no loss of revenue in the first biennium.

The only real good year they ever had for the last 15 or 20 years, one railroad sold a branch to the CP what was known as the Vanceboro Branch, which gave them a big profit and they paid the tax. I believe that when this bill was passed there was no corporation taxes; since that time there has been a corporation tax.

Now, to get down to my reason for asking for a roll call on the passage. You have two gentlemen in this House, the gentleman from Farmington, Mr. Morton, and the gentleman from Pittsfield, Mr. Susi, have continually worked against this bill because it costs \$143,000 for businesses that aren't making a profit, businesses that aren't being subsidized by the federal government, they are working against it. When you get your roll call, you will notice they voted here to give this company that has always paid a dividend who, with the exception of one year, as I understand, over the past 20 years has made money in the State of Maine, and considerable amounts of money in the State of Maine, and here they are this morning voting to give them \$225,000 tax relief and have been voting against the bill that will give the most deserving corporations in the State of Maine a tax relief of \$143,000, which they don't get under this new amendment. I hope this morning you will take this under consideration.

I believe we come here to vote fair and square on every bill that is before us. I don't believe we have the authority or right, working for our constituents, to say that we will vote for this one and let that one go. I think this morning that the thing we should do on this floor is go along and recede and concur with the Senate and see if we can't help these railroads.

Again, I will repeat, they are, they are getting absolutely no federal government subsidy and they are probably the only two or three railroads in the whole United States that aren't. Again, I hope you will stop and think that the ones that have fought against this the hardest is the gentleman from Farmington, Mr. Morton, and the gentleman from Pittsfield, Mr. Susi. I think they are not standing firm on what their constituents send them here for. I hope you will go along with recede and concur.

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

Mr. **SUSI**: Mr. Speaker, Ladies and Gentlemen of the House: The last speech obviously begged questions and explanation as to why you would vote for the last bill and not this one. I think explanations have been given rather clearly that under the existing Maine law I am satisfied that this corporation has a claim against the state just as Sobin Chemical did. Now, I believe that, if you don't believe that, it is okay. I don't believe that they are going to receive the benefits of it because we can't finance it. I couldn't in good faith vote against their case when we had gone on record in other instances of granting relief to industry when certain materials are used up in the manufacturing process — enough of that.

As to where we are right now on this bill, the motion is recede and concur. That has preference, so we have to vote on that. A

motion to indefinitely postpone would not be accepted right now.

This amendment that has been attached to the bill provides that the accelerating feature in the present law would be removed. Now, what does that mean? It means that when a railroad, under the present law, exceeds \$3 million, roughly, per year in net income, then they go up into a higher bracket. Up to \$3 million it is a quarter of one percent and that figures to around \$150,000 for all of the railroads in Maine per year. That is the level of taxation now on this excise tax which is an 'in lieu' tax that takes the place of the property tax on the 'right-of-way' here in the State of Maine.

If you will remember, I made representations to you here on the floor that in my opinion, and substantiated it by records from the Maine Central Messenger, this particular railroad, in my opinion, is heading into a period of good earnings. According to their own figures, they are going to have considerably increased traffic beginning right now, and over the next several years I would expect that they would do very well.

The amendment that has been attached would seem to confirm what I explained to you, because they have taken the position now that they don't want to have to pay an increase tax when their earnings exceed \$3 million which, to me, is a pretty firm indication that they plan to be making more than \$3 million or else they wouldn't be putting on this fight to gain the benefit. So, I hope that you will vote against recede and concur and will vote to adhere to this bill so that we can be done with it.

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

Mrs. **KANY**: Mr. Speaker and Members of the House: I hope that you will support Representative Finemore's motion to recede and concur. I don't know if you have all looked at that Senate Amendment which comes to us in non-concurrence, but the amendment that the Senate has put on, the statement of fact — let me call your attention to it, the filing number is S-432. The Statement of Fact says, "This amendment will result in an excise tax which is equivalent to the present tax rate of one quarter of one percent of gross transportation receipts." At the time the present excise tax formula was enacted by the Maine Legislature, the state had no corporate income tax. Railroads in Maine are now subject to the corporate income tax, as well as sales tax and local property tax on all buildings and all property outside the right of way. This tax will amount to approximately \$150,000 in annual revenue to the state based on the tax estimated for 1975.

Once again, I hope that you will support Representative Finemore in the recede and concur motion.

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

Mr. **MORTON**: Mr. Speaker, Ladies and Gentlemen of the House: My name has been brought directly into the debate, so I feel as though it is incumbent on me to make some remarks.

First of all, I hate to point this out, but the gentleman from Bridgewater is somewhat mistaken this morning. I am sure you will recall that when this bill came through the House and when you read the committee report, you found my name on the "ought to pass" report of the

original bill. I supported the original bill, and the reasons I gave were that it did provide a direct opportunity for the State of Maine to say something to the railroads when in their ordinary years they have very little extra income. What this did was to finally, after 40 or 50 years of tax reduction on this in-lieu property tax called the railroad excise tax, which had dwindled down from 5 percent of their gross receipts to a quarter of one percent of their gross receipts, what this bill originally really did was remove from them the burden of paying even that one quarter of one percent. In 1974, the latest figures that were then available, that figure amounted to approximately \$150,000.

In the context of a half billion dollar state annual budget, \$150,000 is not important, except to the people who are having to pay it, and therefore I felt that was a reasonable route to take. Why did I feel that way? Because still left in the bill, still left in the law as it exists on the books at the present time, there is a clause which the railroads, as they made this incremental change in their property tax on a declining basis over the years, since the 20's, in 1961 did get put on the railroad excise tax legislation a clause which recognized their ability to pay. It recognized that there were years in which railroads did have a lot of problems but that in years when they did have a good year, it wouldn't be unreasonable to ask them to contribute something to the economy of the State of Maine. So, the clause was put in and it is a stop-gap clause or an escape clause, whatever you want to call it, that if they make 5 3/4 percent on their investment, they will pay at the rates which have been in force for many years.

The year when that took place was 1974. It was the first year that it had taken place for any of the major railroads in the state for a long time. I hope you will recall, in the material that I used in the debate during the regular session on this bill that there is a small railroad, one which we have heard reference to in this session. A bill went through the other day for the Belfast and Moosehead and I think if you will examine the record and I think my recollection is correct, the Belfast and Moosehead, which admittedly is a short railroad and does not have the same percentages applied to it on a maximum basis as do the major railroads, but it had to pay on the increased figures during 1972-73, if my recollection is correct, because they did have a good year. Admittedly, the dollars involved are nowhere near the five, six or seven hundred thousand that the Maine Central was concerned about in 1974.

So, the law as it presently exists, and has existed since 1961, says that if, and only if, a railroad has a good year and makes good money, they will pay in the area of the four and five, and it all depends on the volume of their good year, and if they have a real good one the percentage goes up, they will pay on the volume and will pay a higher percentage.

What does this amendment do, ladies and gentlemen? I hope you have read it. This amendment completely turns around the impact of the taxes. I ask you in all good common sense, did you ever hear the major industries in this state with their very well paid lobbyist coming in here and lobbying to kill a bill or to kill that portion of a bill which would save them \$150,000?

This is one of the slickest maneuvers that I have ever seen. What major industry ever came into this legislature and lobbied for a procedure that would cost them \$150,000 a year? You just haven't seen it. What this amendment will do is make them pay the quarter of one percent, but it removes entirely any reference to a higher percentage when they have a good year.

Because that retainer was retained in the law when I signed this report out of committee and was retained in the law when I stood up here in the House and explained my actions, I voted in favor of the bill. This slick maneuver I am completely opposed to. I was willing to give them direct relief but I don't think it is right to completely relieve the railroads of the possibility, if they do have a good year — the gentleman from Bridgewater pointed out they haven't had a good year except one. Great. I am sorry that they don't have good years. I wish they had them every year. But in the years that they do, I don't think it is anything more than reason that they should pay their share.

I am entirely opposed to this amendment and, hence, since this amendment is the bill, I am entirely opposed to the bill because the bill has been completely changed since it went through the committee process. I hope I have made myself clear. I think this is one of the slickest maneuvers I have ever seen tried and I hope you will not be taken in by it; therefore, I hope you will not vote to recede and concur.

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

Mr. MAXWELL: Mr. Speaker, Ladies and Gentlemen of the House: Perhaps I ought to go a little bit further this morning and explain why this bill. It is the result of an order that was passed here in the House and then in the Senate back in April of 1975 to study the tax situation of the railroads. We had several meetings, we had a good committee. It happened to have been chaired by myself, Vice Chairman was Senator Collins, and we thought we had turned out a very good piece of legislation. I still think we have.

If you look at the amendment, you will discover that it is signed by Senator Collins. He and I have discussed this and we have discussed it with some of the people from the railroad very frankly, but we feel that it is all right. We have no fault to find with it and they are willing to go along with it.

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

Mr. HUGHES: Mr. Speaker, Ladies and Gentlemen of the House: I served as a member of that study committee last summer, and interestingly enough, the idea which is now before us in the amendment, that is the bill which is now before us, was never suggested in any of those meetings. It certainly is a surprise to see it conceived in the other body and sent back here as the bill.

I would join Mr. Morton's comments and hope that you would defeat the motion to recede and concur.

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

Mr. PERKINS: Mr. Speaker, Ladies and Gentlemen of the House: I would like to inquire, if I might, as to whether or not there are any railroads that lie wholly within the State of Maine, and if they do not, then I am not sure why the first paragraph of this amendment is needed.

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

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

Mr. FINEMORE: Mr. Speaker, Ladies and Gentlemen of the House: In answer to the question, the CP pays in the State of Maine and they don't lie wholly in the State of Maine.

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

Mr. MORTON: Mr. Speaker, Ladies and Gentlemen of the House: I would like to address that question. If the gentleman will — this is in the present law and it is designed to be all encompassing, so they split the mileage in the State of Maine and the railroads have to report each year their total mileage and that mileage which is in the State of Maine, and it is only on that mileage on which this bill applies.

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

Mr. PERKINS: Mr. Speaker, Ladies and Gentlemen of the House: I understand that the present law pertains to railroads but under the present law, there is no reference to railroads wholly within the State of Maine. That language is not incorporated. If they are being taxed on the gross transportation receipts earned within the State of Maine, which is the second paragraph, and there are no railroads operating wholly within the State of Maine, then I don't see the need for the first paragraph.

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

Mr. HIGGINS: Mr. Speaker, Ladies and Gentlemen of the House: I would like to address a little bit what the gentlewoman from Waterville, Mrs. Kany, alluded to. In the Statement of Fact of the amendment, which is not the bill, it says that when this excise tax law was passed, there was no corporate income tax and therefore this is a good reason why we should now reduce this stepped-up increase, or stepped down, whichever the case might be, however you want to look at it.

I might also remind this House that at this particular time there are thousands of other corporations that are paying corporate tax and property tax and whatever that were not paying taxes when this bill was passed also. We have not seen any relief for them.

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

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

The SPEAKER: The pending question is on the motion of the gentleman from Jay, Mr. Maxwell, that the House recede and concur. All in favor of that motion will vote yes; those opposed will vote no.

#### ROLL CALL

YEA — Albert, Bagley, Bennett, Birt, Boudreau, Bowie, Bustin, Byers, Call, Carey, Carpenter, Churchill, Connors, Cote, Curran, R.; Curtis, Dam, Dudley, Farnham, Faucher, Finemore, Gould, Hennessey, Hewes, Kany, Kauffman, Kelleher, Kelley, Laffin, Laverty,

Littlefield, Lizotte, Lovell, Lunt, MacLeod, Mahany, Martin, R.; Maxwell, McBreaarty, Mills, Najarian, Palmer, Perkins, T.; Peterson, P.; Pierce, Smith, Snow, Teague, Truman, Twitchell, Usher, Walker, Winship.

**NAY** — Ault, Bachrach, Berry, G. W.; Berry, P. P.; Berube, Blodgett, Burns, Carroll, Carter, Chonko, Clark, Cooney, Cox, Curran, P.; Davies, Doak, Dow, Drigotas, Durgin, Dyer, Farley, Fenlason, Flanagan, Fraser, Garsoe, Gauthier, Goodwin, H.; Goodwin, K.; Gray, Greenlaw, Hall, Henderson, Higgins, Hinds, Hobbins, Hughes, Hunter, Hutchings, Immonen, Ingegneri, Jackson, Jacques, Jensen, Joyce, Kennedy, LaPointe, LeBlanc, Leonard, Lewin, Lewis, Lynch, MacEachern, Mackel, Martin, A.; McKernan, McMahon, Miskavage, Mitchell, Morin, Morton, Mulkern, Nadeau, Norris, Pearson, Pelosi, Perkins, S.; Peterson, T.; Post, Powell, Quinn, Raymond, Rideout, Rolde, Rollins, Saunders, Shute, Silverman, Snowe, Spencer, Sprowl, Strout, Susi, Talbot, Tarr, Theriault, Tierney, Torrey, Tozier, Tyndale, Wagner, Webber, Wilfong.

**ABSENT** — Connolly, DeVane, Jalbert, Peakes, Stubbs.

Yes, 53; No, 92; Absent, 5.

The **SPEAKER**: Fifty-three having voted in the affirmative and ninety-two in the negative, with five being absent, the motion does not prevail.

Thereupon, on motion of Mr. Susi of Pittsfield, the House voted to adhere.

#### Non-Concurrent Matter

Bill "An Act to Require Home Health Care Coverage to be Offered in all Health Care Policies and Contracts" (H. P. 2088) (L. D. 2247) on which the "Leave to Withdraw" Report of the Committee on Business Legislation was Read and the Bill, Recommended to the Committee on Business Legislation in the House on March 17, 1976.

Came from the Senate, with the "Leave to Withdraw" Report of the Committee on Business Legislation read and accepted in non-concurrence.

In the House: On motion of Mrs. Clark of Freeport, the House voted to recede and concur.

#### Orders

Mrs. Goodwin of Bath presented the following Joint Order and moved its passage: (H. P. 2212)

**WHEREAS**, the 107th Maine Legislature recognizes the importance of volunteer service in providing for the needs of Maine people; and

**WHEREAS**, Maine citizens over age sixty constitute a valuable resource to their communities, a resource which is often neglected; and

**WHEREAS**, the Retired Senior Volunteer Program, as one of the ACTION volunteer projects, has mobilized more than 2,500 senior volunteers in community service during the past three years; and

**WHEREAS**, Retired Senior Volunteers currently provide better than 304,000 hours of volunteer service to Maine communities per year; and

**WHEREAS**, these dedicated senior volunteers have given of themselves freely and without pay in pursuit of those services; now, therefore, be it

**ORDERED**, the Senate concurring, that the Legislature designate Thursday, March 18, 1976 as Retired Senior Volunteer Day and extends its thanks to those many

senior volunteers in recognition of their services; and be it further

**ORDERED**, that the Legislature accepts the kind invitation of the Retired Senior Volunteer Program to visit with representatives of that program in the rotunda alcove from 8:00 a.m. to 2:00 p.m. on March 18, 1976 and to enjoy coffee and home-made baked goods prepared and served by Retired Senior Volunteers; and be it further

**ORDERED**, that upon passage in concurrence, the Clerk of the House shall send a suitable copy of this Order to Leonard Nemeth, Director of Volunteer Services of the Bureau of Maine's Elderly, for appropriate transmission to the Retired Senior Volunteer Program.

The Order was read.

The **SPEAKER**: The Chair recognizes the gentlewoman from Bath, Mrs. Goodwin.

Mrs. **GOODWIN**: Mr. Speaker, Men and Women of the House: I hope you will all join me today in paying tribute to the members of the Retired Senior Volunteer Program. As you see in the order, there are more than 2,500 senior volunteers in communities throughout the state. These are people who are working in their communities helping others and whose only reward is the reward which comes from service to other people. I hope that you all will, if you have not already, go down near the post office and have a cup of coffee and homemade cookies. I hope you will join me and pay respect to these fine senior citizens of the State of Maine.

The **SPEAKER**: We have a number of people from the RSVP in the gallery from eastern Maine, the Aroostook Chapter, the Western Maine, the Mid-coast, Ken-Set and Cumberland-York. Could they all please stand and be recognized by the members of the House. (Applause, the members rising.)

On behalf of the members of the House, we welcome you here today. We most certainly will join you at some point during the day, and we appreciate the free coffee. That is one of the very few things we are getting free around here these days.

Thereupon, the Joint Order received passage and was sent up for concurrence.

By unanimous consent, ordered sent forthwith to the Senate.

Mrs. Clark of Freeport presented the following Joint Resolution and moved its adoption: (H. P. 2213) (Cosponsor: Mr. Jensen of Portland)

Joint Resolution in Support of World Whale Day

**WHEREAS**, it has come to the attention of the Legislature that many species of whales are in grave danger of extinction because of the vast numbers being taken by whaling fleets; and

**WHEREAS**, it is estimated that at present one whale is killed every fourteen minutes; and

**WHEREAS**, this wanton slaughter is unnecessary and cruel and threatens to destroy an intelligent race of sea mammals which have an important part in God's creation; and

**WHEREAS**, the United Nations has issued a mandate calling for a total moratorium on whale killing; and

**WHEREAS**, it is clear that Maine, whose motto is "Dirigo," must be in the forefront of the protest against the slaughter of whales; now, therefore, be it

**RESOLVED**: That we, the Members of the 107th Legislature in Special Session:

assembled, do hereby protest the unjustified killing of whales and urge that appropriate action be taken at all levels of national, state and local government to end this slaughter; and be it further

**RESOLVED**: That the Legislature of the State of Maine join in support of World Whale Day, April 27th, and urge the citizens of Maine to resolve to take what steps they can to end the killing of whales; and be it further

**RESOLVED**: That upon passage, suitable copies of this Joint Resolution be sent to the Maine Congressional Delegation, the Save the Whale Fund, Project Jonah and the George C. Soule School in Freeport, Maine.

The Resolution was read.

The **SPEAKER**: The Chair recognizes the gentlewoman from Freeport, Mrs. Clark.

Mrs. **CLARK**: Mr. Speaker, Men and Women of the House: The joint resolution before us is the result of citizen participation in the process of our economy and our society. The young people from the George C. Soule School, who are serving as honorary pages today, and those who were with us as guests and honorary pages a week ago today, have been involved in a project in natural resources and in their state government processes to secure the passage of this joint resolution. They have studied the situation of whales throughout the world and the nation, they have circulated petitions in the Freeport area, and they have come to their Representative seeking the attention of the legislature.

I hope you will join with me in passing this joint resolution unanimously today in acknowledgement and honor of the participation of the young people in the democratic processes of our state.

Thereupon, the Joint Resolution was adopted and sent up for concurrence.

By unanimous consent, ordered sent forthwith to the Senate.

Mr. Rolde of York presented the following Joint Order and moved its passage: (H. P. 2214)

**ORDERED**, the Senate concurring, that the Joint Standing Committee on Education report out a bill providing a means of approving emergency school construction projects for the remainder of the biennium.

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

Mr. **ROLDE**: Mr. Speaker, Ladies and Gentlemen of the House: In the education bill that we just passed, as you may remember, there is a moratorium on school construction. However, there was an amendment that was accepted in the bill that would allow the school board to approve projects on an emergency basis. However, the Commissioner of Education felt that he really should have some statutory guidance on exactly what an emergency is, so he requested that I put in this order. I have discussed it with the House and Senate Chairmen of the Committee on Education, and they agree that the order is necessary, so I hope you will pass this today.

Thereupon, the Order received passage and was sent up for concurrence.

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

Mr. Drigotas from the Committee on Taxation on Bill "An Act to Provide for Registration and Identification of

Recreational Watercraft in the Saco River Corridor and to Provide Operating Revenues for the Saco River Corridor Commission" (Emergency) (H. P. 1922) (L. D. 2110) reporting "Ought Not to Pass"

Was placed in the legislative files, without further action pursuant to Joint Rule 17-A and sent up for concurrence.

#### Ought to Pass with Committee Amendment

Mrs. Chonko from the Committee on Labor on Bill "An Act to Charge Supplemental Benefits for Dependents to the General Fund Account of the State Unemployment Trust Fund" (Emergency) (H. P. 2117) (L. D. 2266) reporting "Ought to Pass" as Amended by Committee Amendment "A" (H-989)

Report was read and accepted and the Bill read once. Committee Amendment "A" (H-989) was read by the Clerk and adopted and the Bill assigned for second reading tomorrow.

#### Consent Calendar First Day

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

Bill "An Act Concerning the Workmen's Compensation Statutes" — Committee on Labor reporting "Ought to Pass" as Amended by Committee Amendment "A" (H-988) (H. P. 2046) (L. D. 2218)

Bill "An Act Concerning the Seining of Mackerel in the Territorial Waters of Washington County" — Committee on Marine Resources reporting "Ought to Pass" as amended by Committee Amendment "A" (H-991) (H. P. 2157) (L. D. 2291)

No objections having been noted, the above items were ordered to appear on the Consent Calendar of March 19, under listing of 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 Require Annual Governor's Report on Employment and the Economy" (S. P. 720) (L. D. 2256)

Bill "An Act Relating to the Formation of Political Parties and to Political Designations" (C. "A" H-985) (H. P. 1960) (L. D. 2140)

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

#### Tabled and Assigned

Bill "An Act to Increase the Efficiency of the Investigation and Prosecution of Fraud against the State" (Emergency) (H. P. 2155) (L. D. 2290)

On the request of Mr. Talbot of Portland, was removed from the Consent Calendar.

(On motion of the same gentleman, tabled pending acceptance of the Committee Report and tomorrow assigned.)

#### Passed to Be Engrossed Amended Bill

Bill "An Act to Allow the Board of Environmental Protection to Grant Limited Variances to Statutory Time Schedules" (Emergency) (H. P. 1950) (L. D. 2136) (C. "A" H-984)

Was reported by the Committee on Bills

in the Second Reading, and read the second time.

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

Mr. PETERSON: Mr. Speaker, Men and Women of the House: I missed yesterday's session when the committee report was accepted, but I would like to explain my reason for being in the minority on the acceptance of this bill.

There are presently 23 pulp and paper mills in the state, 19 of which have complied with the October 1, 1977 deadline for the termination of disposal into our rivers in the State of Maine. This deadline was set by the legislature in 1967, so they were given almost a decade, nine years, to meet this deadline. Those on the Kennebec River have known for 16 years, since 1960, that the October 1, 1976 deadline would be effective.

It seems to me that we ought to at least take time to commend the 19 industries who have taken the economic hardship to comply with the law and to put themselves at a competitive disadvantage by not dragging their feet but by complying with the law and making these expenditures and by putting forth the large amount of money that it takes to operate these treatment plants.

Statler Industry on the Kennebec River has complied with the law, Keyes Fibre on the Kennebec has complied with the law, Eastern Fine on the Penobscot has complied with the law, St. Regis on the Penobscot has, Great Northern on the Penobscot River has complied, Owens, Illinois has complied, International Paper on the Androscoggin River has complied, Oxford Paper on the Androscoggin River has complied, Pejepsot has complied, U. S. Gypsum, Frazier Paper, which had the latest deadline, 1969, on the St. John River has already complied, Marcal Paper Company, Little Androscoggin River, has complied, S. D. Warren on the Presumpscot River has complied.

I am not aiming any critical remarks at Scott paper, because Scott was the one that wanted this legislation. They are in a situation where they may meet the October 1, 1976 deadline, but they are afraid if they don't, some environmentally oriented group will bring some form of legal action to force the Board of Environmental Protection to seek an injunction to stop the effluent from pouring into the Kennebec River. I don't think this would ever happen, I don't think that any court of law would allow this to happen, but when we pass this legislation, we open up all of these rivers until the federal deadline of July 1, 1977.

The reason that I speak today is that I filled out a questionnaire by a government student, and he asked in that questionnaire, how effective is the legislature as a policy-making body? Well, the legislature as a policy-making body, to me, has not done very well. They set a policy in 1967 and one in 1960 that the rivers in Maine would be clear of pollution. Yet, today, because the deadline is near, we are going to grant an across the board exemption to industries who may have dragged their feet.

To me, turning back this kind of public policy is not proper, so I only bring it to the legislature's attention that we are a policy-setting body and that when we, after nine years of having a policy in force, just because we get near the deadline and somebody may not make it — in fact, they are going to make it; if they don't make it

there will be no real hardship. There is only one company that is not going to make it, and that is the Lincoln Pulp and Paper on the Penobscot River, and it won't be able to get a variance under this law because it won't have a treatment plant 75 percent completed.

I don't really know what we are doing. It is only surmised that Scott Paper might not meet the deadline; yet, we are going to open up a number of water bodies for nine more months. This exemption or this variance procedure does not accrue to individual homeowners, to residential properties or to commercial properties, only to industrial users.

I will make no particular motion at this time because of the overwhelming roll call vote on this yesterday, but I thought that there should be some remarks on the record as to what this legislature is doing in regard to cleaning up our rivers and streams. And what we are doing, we are pushing the policy of cleaning up our rivers and streams back nine more months.

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

Mr. DOAK: Mr. Speaker and Members of the House: I think perhaps I had better rise today and explain my position on this, because I am assuming that some of the members of this House might think that I am playing political games and being a little devious in offering an amendment at this time, and I would at this time, Mr. Speaker, offer House Amendment "A" to L. D. 2136 and move its adoption.

House Amendment "A" (H-987) was read by the Clerk.

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

Mr. DOAK: Mr. Speaker, Ladies and Gentlemen of the House: The other day, perhaps on the committee report, you read my name on the "ought to pass" majority report. I have looked into this matter considerably further since that time and have attempted to meet a middle ground and to meet the problem which these industries may be facing by offering this amendment. At the same time, keeping with Mr. Peterson's statement of this legislature's integrity as to what they set for policies and how responsible it may be acting sometime in the future, I am hoping with this amendment to also address that.

The fact is that this amendment does give an extension to the industries who have said in testimony before the Natural Resources Committee that they believe they can meet the October 1, 1976 deadline, but they say the only reason they may not be able to is because of strikes, delay in delivery of materials or materials not being plentiful enough to proceed and finish, and I believe that. There is always that possibility, and I also believe that these industries who are putting a lot of money into treatment plants should have some consideration of this fact, even though, as Mr. Peterson states, it was back in about 1967 that they realized that they were going to have to be doing something about that.

What I am proposing here is simply to extend this deadline of October 1, 1976 to January 31, 1977. This, in essence, will give them four months extension of time rather than nine. It will preserve the integrity of the legislature to a certain degree and will also come into a time when I would expect that we would be in session in the 108th by January 31. So, therefore, with the legislature being in session in January of 1977, if in fact the delays that they are

looking at might happen, strikes, fires or lack of materials, delay in delivery of materials, if this in fact does happen, then they certainly can come to the legislature with reasonable reasons for asking for further delay, and I suspect that this legislature, in its wisdom, would grant that.

Therefore, I would hope that you would adopt this amendment today to preserve the integrity of this legislature to a certain degree, to provide some further protection for the environment of these rivers and streams and also to carry out a policy which our predecessors have put into effect.

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

Mr. DAM: Mr. Speaker, Ladies and Gentlemen of the House: I would just like to say that I could fully support the amendment that has been offered by Mr. Doak and it would then, as he said in the amendment, if there are any problems that arise, it would allow the next session of the legislature to look into those problems. I think this is a very good amendment and I would hope the House would go along with it because it would tighten up the bill but at the same time it would not cause any undue hardship on the industry that needs a variance.

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

Mr. CARTER: Mr. Speaker, Ladies and Gentlemen of the House: It is with reluctance that I rise. I, too, am concerned about the integrity of the legislature but I think in the current legislation before us, the legislature is amply protected because the legislation is strictly permissive.

Mr. Peterson has pointed out the fact that any group might intervene before the courts, and certainly, if I were an investor and had upwards to \$200 million invested in a plant trying to comply with the law, I certainly would be very uneasy if such a thing was pending over my head. I think Scott Paper, in asking for this type of protection, is well within its rights and it behooves us to stand behind them.

Scott Paper happens to be the main employer in my community and currently there is no provision in the law that would allow the DEP to extend the operation of the plant should any unforeseen circumstances such as a prolonged strike or unnecessary delay in delivery of materials occur. If that were the case, then the plant in Winslow could be closed down and I assure you, ladies and gentlemen, that it would cause quite an economic hardship in the Central Maine area, because the payroll in itself exceeds a million dollars a week.

I would hope that you would go along in postponing this amendment and go along with the bill as it was originally presented yesterday.

Mr. Speaker, I move that we indefinitely postpone this amendment and ask for a division.

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

A vote of the House was taken.

Thereupon, Mr. Pierce of Waterville requested a roll call vote.

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

volving. 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 Waterville, Mr. Pierce.

Mr. PIERCE: Mr. Speaker, Ladies and Gentlemen of the House: I would like to give you just a little bit of background on this bill, and I think I could speak on it if I had to for about a half an hour, but I won't do that.

Between last session and this session, there were several lobbyist and several other groups that asked me to sponsor legislation and to each and every one of them, I gave two answers, either no or maybe. When Scott Paper came to me and asked me to sponsor this, I gave them a maybe, because I feel that this session should deal only with emergency legislation. When they asked me to sponsor it, I said, I will look into it, it sounds reasonable but I am not going to give you a yes. I told that to the head of Scott Paper Company. I went to the Environmental Protection Agency and I talked to Bill Allen there about this and I was then satisfied that this was proper legislation.

What I asked in this bill was that this legislature — and the wording was, "shall grant a variance of up to nine months." The committee changed this to "may grant a variance." I didn't know if that was strong enough, but Scott Paper said, okay, we will accept that.

I am overwhelmed really that there is more than two votes up there against this. This company, all they ask is that we say that the Environmental Protection Agency 'may' grant a variance of up to July of 1977, which is the federal deadline. It just brings the state in line with the federal deadline. That is all they ask. For a \$200 million investment, I think that is a pretty reasonable request.

I would hope today that this legislature would give overwhelming support to this and other companies who are investing that amount of money in the State of Maine and not put them on a January or February or any other deadline, but we bring them in line with the federal deadline. And I ask you to look at the bill, it says they have to be 75 percent complete, they have to have their contractual and financial commitments in order, etc., etc. This is the most reasonable bill that I have ever seen, I can't believe that people are opposed to this. I would hope today that we would give overwhelming support to defeat this amendment and give this company and others who are investing in the State of Maine the opportunity to do so and not tie their hands.

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

Mr. SILVERMAN: Mr. Speaker, Ladies and Gentlemen of the House: One of the major problems we have in the State of Maine today is the attraction of new jobs in the private sector. One of our major industries is the pulp and paper industry. I would hope that when the vote is taken on this measure that we can agree with Mr. Carter and Mr. Pierce, that Maine might change its image, that we are not going to continually say no to industries that are willing to invest \$200 million into our state, provide jobs and give taxes that might provide other services which we need.

You might be anti-business to some

degree but not to the point where you are going to deny the future generations a chance to be employed.

This is very picayune to vote against this bill, and I would hope that when the vote is taken, it can be said that the Maine House of Representatives is willing to say yes to Scott Paper Company in their willingness to invest in Maine, their willingness to provide jobs in Maine and our willingness to not over regulate them and go against business opportunities in Maine and the image that has cost us so many jobs in the past.

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

Mr. PETERSON: Mr. Speaker, Men and Women of the House: I spoke early this morning to put some remarks on the record. I don't think anybody is speaking anti-industry this morning. I am willing to support the amendment because I think it is a reasonable amendment. It gives them until, and it gives the next legislature an opportunity to act if there are problems that are not attributable to Scott Paper.

Now, we have got 32 pulp and paper plants in this state; 19 of them have complied with the law. It is likely that the other three of the four that are in trouble right now will comply, will make it, it is only a slight possibility that Scott might not be able to meet the July 1, 1976 deadline.

Nobody wants to hurt employment and nobody wants to be anti-industry. But, let's be reasonable, there is only a slight chance they might not make the deadline, yet we are willing to roll back that deadline nine months just because there is a slight chance, and that is what the Scott Paper Company lobbyists have indicated, only a very slight chance that they might not meet the deadline. This is not a vote for or against industry, this is a vote for a reasonable compromise on allowing an industry who has invested a lot of money, give them an additional four months. I will support the amendment so that if there are problems the next legislature can deal with it. But, why give a blanket rollback on a policy that was set by a prior legislature? Look at the companies that have complied, they are at a competitive disadvantage. They made the capital expenditures, they are presently paying the operating expenditures. What about the investors of those companies who in good faith have invested their money? They are paying their hard dollar to meet this deadline and they met it. I don't see this as an anti-industry vote, it is a vote for a reasonable compromise. It gives them an additional four months. So, I see no problem with it and I hope you would support the amendment.

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

Mr. DAM: Mr. Speaker, Ladies and Gentlemen of the House: The other day when this bill came up for acceptance of the committee report, I was very strongly in favor of accepting the committee report. I don't think I have changed my position from the other day to today. I don't think I have changed my position from the first time I came down here to today in being in favor of industry. If I had, I would not have sponsored the bill in the regular session to allow Scott Paper to transport tree length logs, which is now a law and is allowed.

I really can't stand here and tell you that I am positive that Scott Paper is going to be out of business if they don't get the bill without Mr. Doak's amendment, I don't



believe that. I believe that Mr. Doak's amendment is not an anti-industry amendment. I think he gives them the four months' time instead of nine. I think it will allow the next session of the legislature to look at the problem when it comes before them and see whether they want to go any further or whether they don't want to go any further.

While I am really pro-industry, I also have quite a feeling about what we should do with the environment. I don't think we should put any company out of business to protect the environment without giving them a chance to keep that business flourishing. I think you have always got to have a little pressure saying, keep moving but move at a fairly normal pace. But, to just grant nine months blanket variance, I don't buy this. I would have bought this before the amendment, but this is a good amendment that Mr. Doak has put on.

Now, if they can't meet that deadline by January 31, 1977, the next legislature will be in session and I am sure that another variance, another bill can be put through giving them a six month or a five month or a nine month extension at that time. But to me, and I am speaking now of the Scott Paper Plant in Skowhegan, they are progressing and they are progressing very well. I have no doubt in my mind that this amendment will not hurt them at all. If it does not hurt the plant in Skowhegan, it will not hurt the plant in Winslow.

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

Mr. DOAK: Mr. Speaker, Ladies and Gentlemen of the House: All I would like to say is, I am not a pure environmentalist, as some might have me be, I am for industry. I am not opposed to providing as many job opportunities as we possibly can in the State of Maine. However, I do believe what people tell me when they tell me things in public hearings and in testimony and, therefore, I felt that this amendment would cause Scott Paper nor any other industry any problem at this time. They said that there was a great possibility they would be accomplished by October 1, 1976. I believe that. I believe that they are attempting to do it and I think that they wouldn't be down here saying that they were if they hadn't.

The other thing that Mr. Silverman has said, that you would be voting against industry if you vote for this amendment, I would say that Mr. Silverman's statement was in error. You are not voting against industry or against providing jobs in the State of Maine, you are just making industries that are in the State of Maine and those that might come in be accountable to the State of Maine and to the legislature of this state for their actions and for the manner in which they conduct their business in this state, and I think that is the legislature's business.

Therefore, I would hope that this amendment would be accepted.

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

Mr. PIERCE: Mr. Speaker, Ladies and Gentlemen of the House: I would just point out to you that my friend Mr. Peterson was on the wrong end of an 11 to 2 report. I suppose one way to kill this bill is to vote for the amendment. I submit to you that it is just unbelievable to me that we would kill this bill or that we would amend this bill. 113 people to 7 yesterday accepted it, and it allows the Board of Environmental Protection, it says that they "may", they may grant a variance up to July, 1977 if

they see fit. If we can't do that for an industry that is spending \$200 million in the State of Maine, then I think we are in a sad state of affairs.

I hope you will vote yes to indefinitely postpone this amendment and not try to kill this bill.

Mr. Doak of Rangeley was granted permission to address the House a third time.

Mr. DOAK: Mr. Speaker, Ladies and Gentlemen of the House: I am sorry to do this. I usually don't like to speak even once on a bill, but this one I do feel that I have some background in it and I think that this is a reasonable thing. As far as Mr. Pierce's concerns are concerned, I would like to have him assured that as a signer of the Majority "Ought to pass" Report, I am not trying to place this bill in jeopardy. I am not trying to place it in a position where it can be killed. I am trying to put it in a position where everybody's integrity can be preserved and place it in a position whereby it can sail through both of these bodies and be passed and allow these companies to do this and if they have a problem allow them to continue and grant variances.

As to the "may" or "shall" portion of this bill. Yes, "may" is a permissive type of statement, but the fact is that we were told in our hearings that the DEP could probably handle this administratively without this bill. Now, if the DEP were considering doing this without the bill, then I would suggest to you that I wouldn't be worried about having the word "may" in there.

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

Mr. CARTER: Mr. Speaker, Ladies and Gentlemen of the House: I would like to rebut two points that have been made, one from my good friend from Skowhegan, Representative Dam, who claims that this would be a blanket variance. I beg to disagree with him. If he would look at the next to last paragraph in the bill, it says that variances shall be issued for a term certain not to exceed July 1. This is permissive and is not a blanket variance.

To take issue with my good friend Mr. Peterson, who states that for those 19 firms who have complied, 19 paper industries who have complied with the 1960 law, that they would be at an economic disadvantage. I also beg to disagree with him, because according to the terms of the bill, any firm to be granted a variance must have 75 percent of its financing arranged and certainly borrowing today as borrowing ten years ago, the economic disadvantage is on the other foot.

I would hope that you would go along with my motion to indefinitely postpone this amendment.

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

Mrs. KANY: Mr. Speaker, Ladies and Gentlemen of the House: I am from Waterville, as some of you may know, and, also represent quite a few workers from Scott Paper, but I am willing to go along with this amendment, just as Mr. Dam is, who also represents many people who are presently working for Scott Paper. It sounds like a reasonable amendment, and the 108th session of the legislature could address this particular problem if there were major problems that existed at that time. It looks like a reasonable amendment and I hope that you go against the motion to indefinitely postpone.

The SPEAKER: The Chair recognizes

the gentleman from Orland, Mr. Churchill. Mr. CHURCHILL: Mr. Speaker, Ladies and Gentlemen of the House: I think one thing we have possibly overlooked or are overlooking is that the economy in the paper industries has changed since this 1960 law was passed.

I am not so concerned about Scott Paper Company, but as Mr. Peterson mentioned, there are 19 who have conformed to the regulations, or will have by the deadline, and Scott Paper is one more. But the other three possibly may not be in the financial circumstances that Scott Paper is, and I am wondering if anyone knows just where these other three industries are, if one might be Lincoln and the Brewer mill, some of these where it is impossible for them to meet that deadline. This would be of more concern to me than Scott Paper Company right at the present time.

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

Mr. PETERSON: Mr. Speaker, Men and Women of the House: In reply to Mr. Churchill's question, the four pulp and paper companies that may have a problem are Lincoln Pulp and Paper, Diamond International on the Penobscot, Georgia Pacific on the St. Croix and Scott Paper, the one we have been discussing this morning, on the Kennebec River.

The Department of Environmental Protection feels that Diamond International, Georgia Pacific and Scott Paper will most probably meet the October 1, 1976 deadline and there really are no serious problems with those three. There is only one plant that has a serious problem and that is Lincoln Pulp and Paper on the Penobscot River, and their problem is that they changed consulting engineers during the course of planning a treatment plant and the decision to change engineers resulted in some major changes in the plan and, therefore, it delayed their time schedule and they probably won't meet the 1977 deadline. So it really is one company who is in real trouble out of the 24. The other 3 are most probably going to meet the present deadline and definitely would meet the four-month issue that the amendment addresses, and if they didn't, then the 108th Legislature could do something about that, but Lincoln Pulp and Paper made a policy decision of their own to switch engineering firms, and the new engineering firm has changed plans and they are the ones that are in the most serious trouble.

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

Mr. ROLDE: Mr. Speaker, Ladies and Gentlemen of the House: I have a question I would like to pose. In the bill it says, "Variances shall be issued for a term certain not to extend past July 1, 1977." Since we are arguing over an amount of time that would be granted, would this not be up to the Department of Environmental Protection or the Board of Environmental Protection to decide how much time would be allowed to any of these single companies?

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

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

Mr. CURRAN: Mr. Speaker, Ladies and Gentlemen of the House: That is the way I interpret the bill, that it is up to the board. They can grant a month, two months or three months, but there is a limit.

Therefore, I don't think we need this amendment.

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

Mr. MCBREAIRTY: Mr. Speaker and Members of the House: I did not intend to speak on this bill, so I will be very brief. This bill only allows the DEP to do, if they wish, what they admit they will have to do anyway.

The amendment cuts the time very short. I don't believe nine months is too much time to give. If in four months we have to consider this again, it will be at a considerable expense both to the taxpayers and to the industry.

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

Mr. NORRIS: Mr. Speaker, I would address a question through the Chair, since my good friend from Windham, Mr. Peterson, says that Lincoln is the only industry here that he feels would be really affected by this — how many jobs would that mean in the Town of Lincoln if that mill were forced to close? Could anyone answer that for me?

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

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

Mr. MACEACHERN: Mr. Speaker, that would be approximately 600 people in the mill, plus peripheral employment in the woods, trucking and so forth.

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

Mr. PETERSON: Mr. Speaker, in response to the question posed by Mr. Norris, the Lincoln Pulp and Paper Company will not derive any benefit from this particular piece of legislation, because this particular piece of legislation, says in order to be granted an exemption from the 1976 deadline, your treatment facility has to be 75 percent complete and you must have entered into contractual relations and in other criteria. They have met the contractual relations criteria, but there is no way that they can meet that pivotal 75 percent completion of a treatment facility plant, and I understand that DEP's action will be to go to court when they go by the deadline and what they will ask for a fine will be the operating expenditure which Lincoln Pulp and Paper would be making if they had a completed treatment facility. But this bill does not benefit Lincoln Pulp and Paper. If it is passed in its present form or even if it is amended, because they can't meet that deadline.

It is a hardship case, but I know that nobody will be put out of work because of this problem. The company will be fined, though, for violating the law if the courts see fit to do that.

Mr. DAM of Skowhegan was granted permission to speak a third time.

Mr. DAM: Mr. Speaker, Ladies and Gentlemen of the House: Now I have gone off the amendment and I have got concern for the bill. I know nothing about Lincoln or their paper mill, but I would strongly suggest that if anybody here coming from that area is concerned with the Lincoln Paper Mill and 600 jobs which has just been brought out that they would lose if they did not get the variance, and since it has just been brought out that DEP will take them to court and ask for a fine, I would suggest that someone who is

concerned with the Lincoln mill table this bill for one day so that they can take out this restriction of 75 percent completion and put it down to where at least we can keep Lincoln Paper Mill running until somebody gets back here. We know it is not going to happen in January, because we don't get functioning in January, we get functioning about March or April and when the warm weather gets here, May, June and July, then we really start to move. I would suggest that this be tabled for one day and the bill be amended to keep Lincoln in business.

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

Mr. PEARSON: Mr. Speaker, I move this be tabled one legislative day.

Mr. Pierce of Waterville requested a vote on the tabling motion.

The SPEAKER: The pending question is on the motion of the gentleman from Old Town, Mr. Pearson, that this matter be tabled for one legislative day. All in favor will vote yes; those opposed will vote no.

A vote of the House was taken. 35 having voted in the affirmative and 89 having voted in the negative, the motion did not prevail.

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

#### ROLL CALL

YEA — Albert, Bagley, Bennett, Berry, G. W.; Berube, Birt, Boudreau, Bowie, Burns, Bustin, Byers, Call, Carey, Carpenter, Carter, Churchill, Connors, Cote, Curran, P.; Curran, R.; Dam, DeVane, Dow, Drigotas, Durgin, Dyer, Farley, Farnham, Faucher, Fenlason, Finemore, Flanagan, Fraser, Garsoe, Goodwin, H.; Gould, Gray, Hall, Hennessey, Hewes, Higgins, Hinds, Hobbins, Hunter, Immonen, Jensen, Joyce, Kauffman, Kelley, Kennedy, Laffin, Laverty, LeBlanc, Lewin, Littlefield, Lizotte, Lovell, Lunt, Lynch, MacLeod, Mahany, Martin, A.; Martin, R.; McBreairty, McKernan, Morin, Mulkern, Norris, Palmer, Peakes, Pearson, Pelosi, Perkins, T.; Peterson, P.; Pierce, Quinn, Rideout, Rolde, Rollins, Saunders, Shute, Silverman, Snowe, Sprowl, Strout, Susi, Tarr, Teague, Theriault, Tierney, Torrey, Tozier, Truman, Twitchell, Usher, Webber, Wilfong, Winship.

NAY — Ault, Bachrach, Berry, P. P.; Blodgett, Carroll, Chonko, Clark, Connolly, Cooney, Cox, Curtis, Davies, Doak, Gauthier, Goodwin, K.; Greenlaw, Henderson, Hughes, Hutchings, Ingegneri, Jackson, Jacques, Kany, Kelleher, LaPointe, Leonard, Lewis, MacEachern, Mackel, Maxwell, McMahon, Miskavage, Mitchell, Morton, Nadeau, Najarian, Peterson, T.; Post, Raymond, Smith, Snow, Spencer, Talbot, Tyndale, Wagner.

ABSENT — Dudley, Jalbert, Mills, Perkins, S.; Powell, Stubbs, Walker. Yes, 98; No, 45; Absent, 7.

The SPEAKER: Ninety-eight having voted in the affirmative and forty-five in the negative, with seven being absent, the motion does prevail.

The Chair recognizes the gentleman from Old Town, Mr. Pearson.

Mr. PEARSON: Mr. Speaker, what I want to know is, if the amendment doesn't pass, would it give Lincoln Pulp and Paper

a longer period of time in which to meet the requirements?

The SPEAKER: The gentleman from Old Town, Mr. Pearson, has posed a question through the Chair to anyone who may care to answer.

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

Mr. DOAK: Mr. Speaker and Members of the House: In answer to Mr. Pearson's question, first of all, the amendment did not pass. The answer to the question is that they will receive five more months. They will go to the federal deadline, which is July 1, 1977. But as has been stated in the past, there is a great possibility that they will not be able to comply by that time and therefore, if that is a federal statute, then the state will no longer have any jurisdiction over that.

Mr. Spencer of Standish requested a roll call vote on passage to be engrossed.

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

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

The SPEAKER: The pending question is on passage to be engrossed as amended by Committee Amendment "A" of House Paper 1950, L. D. 2136, Bill "An Act to Allow the Board of Environmental Protection to Grant Limited Variances to Statutory Time Schedules." All in favor will vote yes; those opposed will vote no.

#### ROLL CALL

YEA — Albert, Bagley, Bennett, Berry, G. W.; Berube, Birt, Blodgett, Boudreau, Bowie, Burns, Bustin, Byers, Call, Carey, Carpenter, Carroll, Carter, Churchill, Clark, Connors, Cooney, Cote, Cox, Curran, P.; Curran, R.; Curtis, Dam, DeVane, Doak, Dow, Drigotas, Durgin, Dyer, Farley, Farnham, Faucher, Fenlason, Finemore, Flanagan, Fraser, Garsoe, Gauthier, Goodwin, H.; Goodwin, K.; Gould, Gray, Greenlaw, Hall, Hennessey, Hewes, Higgins, Hinds, Hobbins, Hunter, Hutchings, Immonen, Ingegneri, Jackson, Jacques, Jensen, Joyce, Kany, Kauffman, Kelley, Kennedy, Laffin, Laverty, LeBlanc, Leonard, Lewin, Lewis, Littlefield, Lizotte, Lovell, Lunt, Lynch, MacEachern, Mackel, MacLeod, Mahany, Martin, A.; Martin, R.; Maxwell, McBreairty, McKernan, Miskavage, Mitchell, Morin, Morton, Mulkern, Nadeau, Norris, Palmer, Peakes, Pearson, Pelosi, Perkins, S.; Perkins, T.; Peterson, P.; Pierce, Post, Powell, Raymond, Rideout, Rolde, Rollins, Saunders, Shute, Silverman, Snowe, Sprowl, Strout, Susi, Talbot, Tarr, Teague, Theriault, Tierney, Torrey, Tozier, Truman, Twitchell, Usher, Walker, Webber, Wilfong, Winship.

NAY — Ault, Bachrach, Berry, P. P.; Chonko, Flanagan, Henderson, Hughes, Kelleher, LaPointe, McMahon, Peterson, T.; Spencer, Tyndale, Wagner.

ABSENT — Connolly, Davies, Dudley, Jalbert, Mills, Najarian, Quinn, Smith, Snow, Stubbs.

Yes, 126; No, 14; Absent, 10.

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

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

Mr. NORRIS: Mr. Speaker, having

voted on the prevailing side whereby this Bill was passed to be engrossed, I now move for reconsideration and hope you vote against me.

The SPEAKER: The gentleman from Brewer, Mr. Norris, moves the House reconsider its action whereby the Bill was passed to be engrossed. All in favor of reconsideration will say yes; those opposed will say no.

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

Sent up for concurrence.

#### Finally Passed Constitutional Amendment

Resolution, Proposing an Amendment to the Constitution to Increase the Bonding Limit on Maine Veterans' Mortgage Loans from \$2,000,000 to \$4,000,000 and to Decrease the Bonding Limit of the Maine School Building Authority from \$25,000,000 to \$10,000,000 (H. P. 2171) (L. D. 2295)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being a Constitutional Amendment and a two-thirds vote of the House being necessary, a total was taken. 100 voted in favor of same and 4 against, and accordingly the Resolution was finally passed, signed by the Speaker and sent to the Senate.

#### Passed to Be Enacted Emergency Measure

An Act Concerning Ice Fishing on Sebago Lake (H. P. 1918) (L. D. 2106) (C. "A" H-961)

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. 115 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.

#### Emergency Measure

An Act to Amend the Uninsured Motorist Law (H. P. 2178) (L. D. 2298)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure and a two-thirds vote of all the members elected to the House being necessary, a total was taken. 112 voted in favor of same and 9 against and accordingly the Bill was passed to be enacted, signed by the Speaker, and sent to the Senate.

#### Orders of the Day

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

House Divided Report — Majority (7) "Ought Not to Pass" — Minority (4)

"Ought to Pass" — Committee on Veterans and Retirement on Bill, "An Act to Base Adjustments of Teacher and State Employee Retirement Allowances on the Consumer Price Index" (H. P. 1799) (L. D. 1958)

Tabled — March 16 by Mr. Theriault of Rumford.

Pending — Motion of the same gentleman to accept the Majority "Ought not to Pass" Report.

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

Mr. INGEGNERI: Mr. Speaker, Ladies and Gentlemen of the House: I rise to oppose the "ought not to pass" report. This is a bill which I presented after having

been informed of the desires of many thousands of retired teachers and retired state employees.

Somebody said that I introduced some interesting legislation but that it was usually legislation that had complications in it and some esoteric professional facts. Well, I don't think that there is anything that is very confusing or very complex about this bill. What this bill purports to do is to tie adjustments into pensions of retired teachers, retired state employees and retired employees of participating local districts to raises in the cost of living index rather than to a general wage increase when it is enacted by the legislature.

There has been no wage increase granted to the state employees, as we know, since April of 1974. Since that time, the cost of living has gone up by something like 24 percent. Between the time of October 1, 1969 and the present, there has been a rise in the cost of living of almost 46 percent. During that time, successive wage adjustments have amounted to only 22.5 percent, leaving a lag of almost 23 percent.

Before I go any further, I would like to explain as simply as possible, what the consumer price index is, which is also referred to often as a cost of living index. The consumer price index is not a new gimmick. It has been taken through the Bureau of Labor Statistics Department for the past 50 years. The consumer price index is a statistical measurement of changes in prices of goods and services bought by urban wage earners and clerical workers. It covers such items, but it is not limited to them, as food, clothing, autos, homes, mortgage interest, house furnishings, house supplies, drugs, physician services, dental services, barber services, almost anything that has an impact on the consumer's standard of living. It was originally applied to an average family, which was designated as 3.7 persons, and later, in 1962, it was enlarged to take in also single people.

Someone said that the consumer price index was not an accurate gauge because there was a difference between different parts of the country. The Bureau of Labor Statistics has divided this country into four categories of cities; these go to 2,500 to 50,000 and a category of 50,000 to 200,000 and the two highest are over 250,000 and up to 6 or 7 million, such as in New York.

The prices of all goods and services are collected on a monthly basis from most of these cities and they are studied by the Bureau of Labor Statistics. Some of the smaller cities report on a quarterly basis and all of these figures are carefully compiled through investigations and an average is reached. This average is generally conceded to be pretty exact, as exact as any average can be.

The latest base figure for the consumer price index was 1967, which was taken as the norm, or 100 percent. Since that time, the consumer price index has gone up to 159.3. That does not mean a 60 percent increase, because those are points. The way the percentage is taken, it is taken by a formula which reduces that 60 percent to a percentage of 100 and, at the present time, it is a relatively simple algebra formula, that I hesitate to give, but let's say that it would be less than the point rise. If there was to be a point rise of 5 or 6 percent since last August, that might translate into a 4 percent increase.

This formula has been used by the federal government with regard to their

pensions, and what this bill would do is that every time the consumer price index, from the last base month was to increase 3 percent and was to stay at 3 percent for three months, then on the first day of the 3rd month, it would be treated and adjusted. When the price increase went up to 3 percent, the important thing is that it has to stay at that point or go higher for three successive months, and that is a built-in thing against any severe ups and downs.

With regard to the employees, the retired employees of the state, as I said, there has been no change since April of 1974. I believe that this particular way of adjusting pensions is a more humane manner in which to do it, it is more predictable, it is less sensitive to political pressure, and I think it takes away from this legislature, or any leaders in this legislature, a kind of an olympian decision as to how much the retired person needs to cope with the increase in the cost of living.

I might point out to you, and I hate to point this out because it is rather a ghoulish statistic, how many retired persons since April of 1974, who saw their purchasing power eroded, how many of them have survived to this day when there is imminent, perhaps, a wage increase? How much better would it have been to have had them see what possible adjustment they would get by seeing what the rise in the cost of living was month by month? I think that this would have been a fairer way of doing it than to have them wait and wait for that pot at the end of the rainbow.

I might point out that I believe that I think this is fiscally responsible, because the effect of this formula would not necessarily coincide with any other general wage increase. What I mean by that is that there would be a leap-frogging effect. Once this formula went into effect, it could be, after a general wage increase, and from that wage increase up to the point where it would be triggered, the intervening time would see the retirement fund get extra money in because of merit increases and because of any general wage increases which the legislature might vote. Then the triggering would go into effect and for a time there would be perhaps a little bit greater depletion than contribution in, but after the adjustment was made and a successive wage increase came about, then at that particular time, of course, there would be more plowing in.

I might point out that the teachers have been receiving wage increases, not by action of the legislature, but by negotiations at the local level and this, from my own experience as a member of the Bangor School Board, has been on almost a yearly basis and since April of 1974, the fund has seen the beneficial effects of the extra contributions from those wage adjustments and yet there has been no adjustment in the pensions since April of 1974.

So, I would urge you to accept the "ought to pass" report on this bill. I have prepared an amendment which will make it probable, or I should say it would insure that any wage increase which is immediately imminent would not be affected by this. This amendment would make my bill effective 90 days after the close of the session or immediately after the enactment of a pay raise. Also, it would permit the participating local districts to come in just as they come in now in any general wage adjustment. So I urge you to support the "ought to pass" report.

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

Mr. LYNCH: Mr. Speaker, I would like to ask Mr. Ingegneri a question. He says teachers have received substantial salary increases which means greater contributions to the retirement system. Aren't these contributions only what is required to fund the accrued liabilities for these teachers when they retire in later years and should they be dissipated now in some other form?

The SPEAKER: The gentleman from Livermore Falls, Mr. Lynch, has posed a question through the Chair to the gentleman from Bangor, Mr. Ingegneri, who may respond if he so desires.

The Chair recognizes that gentleman.

Mr. INGEGNERI: Mr. Speaker, I assume that those increased contributions, if you get an increase of \$1,000 and you are contributing 6 percent in the fund, obviously you would be contributing 6 percent on that extra \$1,000 so there would be some more funds going in and a time when there would be a demand on the fund, of course, with all of these teachers or any other employees would be sometime in the future, based on their average 3 years or whatever the formula is, and I understand that that balance would be maintained.

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

Mr. GARSOE: Mr. Speaker, Ladies and Gentlemen of the House: Mr. Lynch has put a finger on an important fact, that it is these increased contributions that make the fund fly for the day when the people who are making these contributions retire on pensions that are increased because these earnings are up.

I would hope that you would accept the majority "ought not to pass" report. We have a stable retirement fund here for the very reason it is not being invaded by what I would characterize as federal gimmickery. If we keep this kind of thing up, these automatic hikes, we are going to see the Maine Retirement System end up in the same situation that Social Security is today.

So, I would hope that we would accept the majority "ought not to pass" report, realizing that there is contemplated a 6.4 percent increase in an across-the-board concept that will impact on the retirees as it has in the past and not start branching out into adventures of this type.

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

Mr. THERIAULT: Mr. Speaker, Ladies and Gentlemen of the House: Our primary purpose in signing the "ought not to pass" report is to keep the retirement system financially sound. We feel that the only way that this could be accomplished was to tie increased benefits to retirees on the basis of the input into the system.

In answer to the question that Mr. Lynch posed, any increase into the system also increases the system's liability, so it puts us in the hole, in a way, if we tie our increases to the retirees to that, but that is the only fair way to do it. If we increase the retirees to the consumer cost index, we lose control of outgoing funds. It could very well happen that the consumer cost index would be going up much faster than input into the fund. This is just what has happened in recent years and caused overlay on federal civil service personnel pensions to jump 500 percent in the last 10 years. We certainly feel that it is much

better to get a smaller check regularly rather than have an increase and at a later day get no check at all.

We cannot compare the Maine State Retirement System to the federal system. The federal system is now facing grave fiscal problems and I will quote from an article that was in the Lewiston Sun, January 20, 1976, and was written by Paul Scott. "The exploding costs of pensions for federal employees and the military has created one of the most pressing and unsolved fiscal problems facing the returning Congress. The pensions now costs the federal government an estimated \$17 billion annually and are growing like Topsy. There is a growing belief among veteran lawmakers that pension costs, unless limitations are placed on them, will soon be completely out of control. In principle, the civil service workers and the government share pension costs, each contributing 7 percent of worker's pay. In practice, however, increases in benefits and efforts to reduce vast unfunded liabilities have pushed the government's share of civil service costs close to 17 percent of payrolls.

"In the Maine State Retirement System, the employees pay 6½ percent and 7½ percent. The state, however, with the same problem as the federal government on unfunded liability, is paying, as its share, from 10½ percent to as high as 28 percent for state employees. For the teachers, the state pays 9.61 percent.

"As a starter, congressional committees have identified two features of the federal system that accounts for sharply rising pension costs and which would have to be changed if current pension systems are to be brought under control. These are the mechanisms that automatically increase pensions of government employees in step with inflation and unusually liberal retirement benefits for government workers. Federal pensions are raised automatically when consumer price index jumps 3 percent or more above this level at the time of the previous cost of living increases and holds there for three consecutive months."

In order to have no one accuse me of reading this out of context, there is another paragraph here that says, "Checks to beneficiaries are altered to reflect the increase two months later. Then to repay them for the purchasing power of alleged loss in the five months wait, an additional 1 percent increase, known as the kicker, is tacked on pensions."

We do not want to get the Maine State Retirement System in the situation the federal system finds itself. The federal system, when it reaches bankruptcy stage, needs only to borrow more funds and increase the national debt. In Maine, it is not that simple. If we reach such a situation, it could very well mean the failure of the whole system. People who are retired could very well lose their monthly checks. Those who have been contributing for years might very well have nothing for their retirement years.

Just because we are against passage of this bill does not mean we do not want to give retirees a raise. We have another bill in committee which will permit a raise within the capabilities of the fund. It will give the retirees an increase within the capabilities of the fund if there is no general increase for the state employee. If there is an increase for state employees, no matter how it is given, we will make some arrangements so that retirees will get a comparable increase. By this I mean

that the law now says that if the state employees get a general increase, then the retirees get a comparable increase, but the way the thing has been going on, you may not realize it, but the employees have been getting increases, there have been merit increases, increases in promotions, so there has been an increase and if there is an increase given during this session, it could very well happen that based that way so that it wouldn't be called a general increase. If it does happen, we hope to make some arrangements so that the retirees will get a comparable increase.

We agree that the present method used for giving increased benefits to retirees is not a good one and should be changed. We are now trying to find some method where increases would be more in keeping with the input into this system.

We know that the present Maine State Retirement System is composed of 60 percent teachers and 40 percent state employees, plus 213 participating districts. We also know that over the past two years teachers have increased their contributions by about 14 percent. The state employees also have increased their contributions, but at this time, we do not know by what percent. The law, as it now stands, permits an increase to retirees only when there is a general increase for the state employee.

I hope, for the sake of the financial soundness of our system, that we vote "ought not to pass" on this.

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

Mr. COX: Mr. Speaker, Ladies and Gentlemen of the House: I have been following the remarks of Mr. Theriault rather closely here, and he states that even if a raise is not granted to the state employees, which if the raise is not granted, funds an increase in the incoming funds will not be very great at least. There still appears to be capacity within the system to grant some sort of an increase to the retirees which implies that the fund is not, at present, in serious difficulty, which makes it seem to me that if we grant this, there would still be plenty of time to make some adjustment in the raising of the funds for the retirement system if such a proposal as Mr. Ingegneri has put forth does pass.

Now, I would like to elaborate, briefly, on some things which was contained in Mr. Ingegneri's presentation and that is the passage of this bill would in the future remove the determination of increases in retirement pensions from the vagaries of political factors which have delayed the pay raises for the state employees. I urge its passage.

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

Mr. LYNCH: Mr. Speaker, Ladies and Gentlemen of the House: I have followed the retirement system rather closely since I served on the committee. Looking over the legislation that has been enacted by past legislatures, I have been greatly disturbed by the willingness to give but the reluctance to fund.

I am disturbed by this bill here. As you were told it is very easy to understand, it is tied to an index. I would like to point out to you that tied to an index, over which we have no control whatsoever, brings us very close to the school funding law which had a formula over which we had no control and which got us into all sorts of trouble.

To keep a good, sound, solvent state retirement system, you ought to keep,

within the control of the legislature, any changes in funding or benefits.

I would like to go into the directors report for just a few things. I spoke once before about the non-contributory teachers. In this report the director says, "Benefit payments in excess of funding provisions amounted to \$63,224,966 as of June 30, 1975." This is one example where the legislature, over a period of years, has provided benefits to 2,330 non-contributory teachers. This is an indication of what happens when you give and don't take the money out of your pocket to fund it.

I would like to show that the total reserves of the system as of June 30, 1975 were \$198,474,230, an increase of \$86,842 during the fiscal year. I would also like to point out that contributions by the state and members of the retirement system amounted to approximately \$47 million. During the year we paid out a little more than \$44 million in benefits. I would also like to point out that payments to retired persons increased \$6,815,823 over the previous fiscal year.

I think you have to keep in mind all of these things when you are enacting any legislation that in any way impacts on the state retirement system. I would hope that you would keep the controls within the confines of legislative activity.

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

Mr. POWELL: Mr. Speaker, Ladies and Gentlemen of the House: I am glad that Mr. Lynch and Mr. Theriault brought up some of these points because I intended to cover them too. Actually, they are arguing for Mr. Ingegneri's bill, I think.

For instance, the fact that retirees get no raise unless there is a general raise given to all state employees. Now, we had the actuary into our committee recently, as Mr. Theriault says, state employees average three percent a year in raises. While this has been happening for the last two years, retirees got nothing. This point that Mr. Ingegneri made is still there, the retirees are 22½ percent behind the cost of living rise since 1974.

I also want to remind you that old teachers, those on the \$100 a month and old legislators have had no raises either and that is down to \$100 a month, no matter how much time they put in. Now, the actuary also told us that this fund plans to realize 6½ percent a year. Now, this doesn't mean maybe much to you, but for the last year that I have figures on, the fund rose by over five percent. Now, that fund rise — this gets down where we live — was \$9,386,916, that was a 5.05 percent rate of return.

Now, the committee has a bill that Mr. Theriault mentioned and they plan on this bill to give a little bit of a bandaid to the retirees maybe this July, that is if you approve the bill of 4 percent. Some old soul on \$100 a month will get \$4 a month more. Someone on \$200 a month will get \$8 a month more. If that is the kind of thing we want to pass, why, so be it.

Then they plan that next year, we might be able to give them 3 percent more.

Now, let me give you two other statistics. Mr. Lynch gave you some, he worries about the fund. Well, I have been retired seven years and I don't worry about the fund that much. I just went back in statistics to get these figures. In 1965, June 30th, the fund at that time, was \$94 million plus, now that is ten years ago; in 1975, it was \$193 million. That is almost a \$100 million rise in ten years. With these facts

in mind, I don't think we need to worry that much about the fund.

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

Mr. THERIAULT: Mr. Speaker, Ladies and Gentlemen of the House: In answer to some of Mr. Powell's questions or maybe his suggestions on the rise in the fund of \$100 million; for every dollar we get into the system, we also get the liability for that dollar. In other words, if there is an increase in salaries, and thereby increasing the injection into the fund, there is that much more liabilities that we get into.

About the raise that we plan on giving, there was a question asked about how could the fund afford this? Our funds are all invested and the reason why we will have some funds to be able to give out the raises, as Mr. Powell said, 4 percent probably this year and another 3 percent next year is from that investment. Now, I want you to understand that this 4 percent and 3 percent may not be very much but, don't forget, in this bill that we are now discussing, that there will be no raises, no raises whatsoever until November of this year and if they get one then it will be necessary for them to have a cost of living to go up at least 3 percent. So, I, therefore, feel that the best thing that we can do for the fund is to say that this bill will not pass.

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

Mrs. KELLEY: Mr. Speaker, Ladies and Gentlemen of the House: I am a member of the Veterans and Retirement Committee and I signed the "ought to pass" report. I had a few remarks that I was going to make but I think that Mr. Ingegneri has covered them very well.

I hope that you will vote for the "ought to pass" report and when the vote is taken I would ask for the yeas and nays.

The SPEAKER: The gentlewoman from Machias, Mrs. Kelley, requests when the vote be taken it be taken by the yeas and nays.

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

Mr. LEONARD: Mr. Speaker, Ladies and Gentlemen of the House: Very briefly, a big problem here today is — well we have some differing opinions, certainly in the Retirement Committee and the Retirement Committee is certainly charged with advising this legislature of the correct approach or correct action we should take on any particular bill so as not to jeopardize the integrity of the retirement fund. The report was passed out seven to four, seven saying that we will possibly jeopardize the fund. I don't think anybody is really saying we are going to jeopardize the fund or damage the fund but seven people on the committee are saying that, ladies and gentlemen of this house, if you pass this bill, then the legislature, at that point, and the retirement committee and the retirement board have lost control of the monies that will be going from the fund. We are not saying that if you pass the bill the fund is going to go bankrupt, but we fear that and we think there are other tools that can be implemented and I would like to hope that we can implement them right off and hopefully we can have something come out of committee right off that will give you another vehicle or another alternative to choose from. I was, quite frankly, against having this bill reported out this early because I wanted to at least

present to this body an alternative to Mr. Ingegneri's bill.

I think everyone on the committee wants to give the retirees a raise, and certainly that raise will be forthcoming if the fund can stand it. Beyond that, we realize, frankly that the triggering mechanism that is now in existence is inadequate, it is not correct and I think many of the reasons for its inadequacy have been mentioned already.

I believe that, if not this year, that next year, we will come up with a triggering mechanism that will be effective and won't jeopardize the fund and it will eventually work to everybody's benefit, including the retirees.

The consumer price index does not bear any relationship to the input of the fund. Some people will say it does, it does not. It is something that comes out of Washington, it says what the cost of living is and I would like to suggest that the state employees and the majority of employees in this state have not kept up with the costs of living, in the last two or three years. Our buying power is significantly less than it was, three or four years ago.

Mr. Powell said that there was a 22 percent in the CPI from 1974 to 1976, 22 percent. Can you imagine if we had implemented the CPI, Consumer Price Index, back in 1974 and that had been taking effect at that time and we had a 22 percent drain on the fund from that point to this point, can you imagine what would have happened to the fund? Now, chances are that is not going to happen in the future unless we get to be a — have some socialized medicine like Great Britain and things that, certainly we are headed in that direction but the idea is to stay away from that, to let us come up with a new triggering mechanism which we are very, very much concerned with and we will come up with something but we just feel that this is not the vehicle to use because it does present a potential hazard to the fund.

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

Mr. LYNCH: Mr. Speaker, Ladies and Gentlemen of the House: I would like to ask the committee a question. In the retirement report, will they comment on June 30, 1974 to June 30 of 1975 total assets decreased \$12,744?

The SPEAKER: The gentleman from Livermore Falls, Mr. Lynch, poses a question through the Chair to any member of the Veterans and Retirement Committee who cares to answer.

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

Mr. MORTON: Mr. Speaker, Ladies and Gentlemen of the House: I regret exceedingly that I can't respond directly to the gentleman's question because I don't have the statistics in front of me, my only assumption has to be that it depends on the security values of the fund.

But, Mr. Speaker, while I am on my feet I would like to debate the bill.

The SPEAKER: The gentleman may continue.

Mr. MORTON: Mr. Speaker, Ladies and Gentlemen of the House: You heard very well elucidated the problems involved with this bill. I think the only thing that I would like to, — two or three things I would like to emphasize, — first of all, this bill definitely takes the State of Maine out of control of the benefit payments from the retirement fund. You completely relinquish that control and turn it over to a federal labor bureau and contrived figure.

I know the gentleman from Bangor has great faith in federal statistics and I can't argue with him, of course. The consumer price index may not be a new gimmick but it surely is a new gimmick with respect to the Maine retirement fund. It introduces a non-controllable factor into the payment of benefits. I do not necessarily believe that the federal price index accurately reflects the ups and downs of Maine's economy even though it may be very accurately contrived. This would be enough to make me completely unhappy about this bill.

I would like to direct your attention to a couple of other points about the bill that haven't been talked about. Everyone talks about the CPI. In the second section of the bill and in the third section of the bill we begin to get adjustments, not necessarily related to the CPI but to the federal retirement allowance. I hope you folks all realize how generous the federal government is. If the federal price index goes up, then federal benefits from their retirement funds go up 133 percent, or in other words, a third more than the price index. If in paragraph three, the last sentence says, "Any increase granted to federal retirees, shall be granted retired state employees, teachers and beneficiaries of either." So, if you tie this in with the language in this bill to the benefits paid state retirees, not only do you go up for the CPI but you also go up with the federal retirees plan which is a third greater than the CPI. This particular problem is called to our attention by the actuary whom the committee asked for information. I would like to read a statement that the actuary made on February 5th, in reply to inquiry from the committee. I want you to listen to the statement because I am going to read it just as he wrote it, then I am going to paraphrase it. He said, "If such a change were made," now he is talking about the change in the CPI, "there would be no increase contributions required under the retirement system unless future changes in the consumer price index are at a greater rate than such general salary adjustments." Well, that is sort of a negative way of saying it. I would like to say it in a positive way. If such a change were made there would be increased contributions required under the retirement system if future consumer price indexes are at a greater rate than such salary adjustments. The information is that nobody can tell about this thing and that is what I think you should be concerned about. Are you willing to turn this state retirement benefit payment system over to a federally constructed index? I certainly am not. I think it would be highly irresponsible to turn out this bill and I feel that we should move that this bill — is a motion in order to indefinitely postpone the bill.

The SPEAKER: The motion would be in order.

Mr. MORTON: I would like to move that we indefinitely postpone this bill and all accompanying papers.

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

The Chair recognizes the gentlewoman from Kittery, Mrs. Durgin.

Mrs. DURGIN: Mr. Speaker, Ladies and Gentlemen of the House: I understand there is another bill coming out of committee and I would like to hear the debate on that before I vote on either one of them. I wish someone would table this, unassigned.

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

Mr. INGEGNERI: Mr. Speaker, Ladies and Gentlemen of the House: In the first place, Mr. Morton brought up that real bugaboo, the federal add-on. When the cost of living goes up 3 percent and there is a federal pension adjustment triggered off, it is true there is a 1 percent add-on to compensate for the lag before the adjustment goes into effect.

I would like to state, categorically, that perhaps that that was the way it appears in the original drafting of the bill and you must take my word for it. As I said before, I have prepared an amendment which does not include the federal 1 percent add-on. It definitely states that when it reaches 3 percent over the previous base month and stays at that 3 percent or more for three successive months, that will be the adjustment, there is nothing about an add-on.

There was some remarks made by Mr. Powell. I would not go into that same area because Mr. Powell did an excellent job, but Mr. Theriault talked about — he confused the increase in the fund, which Mr. Powell was referring to, to contributions. I think the figures are quite clear. In market value, between 1965 and 1975, there was an increase from \$94 million-something to \$193 million. That means that the security in which the fund has invested by market value went up almost \$100 million.

The same figures which Mr. Powell quoted from also contained a reference to "book value." The book value of the securities in which the fund has invested rose from \$96 million to \$188 million. What is book value? Book value of a corporation or an individual proprietorship would be the division of all its assets, what its assets amounted to, and in some respects, the book value is a more impressive figure than the market value. The market value is where someone is willing to bid for a security; the book value, which I referred to, indicates that net worth collectively of all of the corporations or whatever entities the fund has invested in and the rate of return is the earnings, the yield by interest or by dividends of the fund. As Mr. Powell so well pointed out, there was an increase in the rate of earnings.

There were some remarks made as to the liquidity, the danger to the fund. This is a pretty scientific age. We are asked to entrust the adjustment for these people who have been waiting for an adjustment due to ravages of inflation to what? What is the alternative wisdom to the collective wisdom of the Bureau of Labor Statistics which collects statistics from all over the country? I must say I have a great deal of respect for Mr. Theriault, but I do not place his judgment for the next two years over that of the Bureau of Labor Statistics.

As for the astronomical flights that the consumer price index may take, I would like to point out that it is very possible, perhaps even probable, that over the next two years the retiree may not even do as well as a politically inspired wage increase enacted in this house. For example, in December, the cost of living went up .4 percent, four-tenths of one percent; in January, the cost of living went up two-tenths of one percent, and at that rate of growth, it would take a year to reach about 3 or 4 percent increase in the cost of living. It might not even make the 3 percent rise in the cost of living.

Mr. Fred Berry, who has assisted me with the bill, is a teacher representative

on the retirement board. He has sent out 4,000 letters to retired state employees. He received 2,000 replies, which is a remarkable percentage of replying, and of those 2,000 replies, he informed me, overwhelmingly, these people wish to have their pensions adjusted from time to time according to the rise in the cost of living and not according to a vote of the legislature, which gets pressured every two or three years to catch up.

Now, we talk about the responsiveness to the cost of living, this is one response to the cost of living. The response of the legislature two years later is another response to the cost of living, and Mr. Theriault has come up with a third response to the cost of living, his judgment of what the cost of living increase is going to be this year and next year.

You talk about the integrity, the surplus of the fund, you can have this fund increase its surplus not only the excellence of its investment and contributions but also by just passing a law that there will never be an adjustment to a pension, which is what used to be in the old days. Somebody gave up hard-earned dollars in a time when the dollar had a good purchasing power and he thought he had something for his older days and then he found out that the purchasing power of that dollar was completely eroded. Why haven't we gotten around to adjustments one way or another? I say that the wage adjustment formula may have been all right, at least, it was a step in the right direction, it showed some kind of sensitivity to the cost of living outdistancing a pension. I say that there is more to it than just comparing one percentage point against another. There is a humaneness that has to be considered here. Think of those people, as Mr. Powell said, on \$100 a month, who have been waiting by holding on by their fingernails to a cliff, you might say, waiting for us in our collective generosity, our collective wisdom, to come reluctantly around to the point of granting a general wage increase, and this is the way they will be able to eke out a better living.

I heard on television the other night a woman talking about what she does with her \$250 a month, and she reeled off all the things that she had to pay, the rent, the fuel, the electricity, the telephone to stay in contact, to stay alive, and then what is left over, where she has to exercise some kind of judgment she said, the non-essential, as she put it, was food. This is what happens in many cases with regard to the old people. Perhaps you may accuse me of erring a little bit generously on the side of the little bit of a gamble, but I would rather take that position and know that this legislature is determined that no retiree shall be ground down bit by bit, month by month, to a level of poverty.

I ask that the motion to indefinitely postpone this bill be defeated.

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

Mr. THERIAULT: Mr. Speaker, Ladies and Gentlemen of the House: I don't remember saying anything about the increase of the cost of living. I would never try to compete with my friend Mr. Ingegneri on anything financially. I didn't intend it. If there was anything said when I was talking about projecting the increase in the cost of living, I am sorry, because I didn't intend it to be that way.

I am afraid that Mr. Ingegneri is trying to put words in our mouths here in saying that we seem to be against increases for

the retirees. We certainly are not. To top it off, he implies that his way of doing it would give them increases — in one breath he says that and the next one, he says there is a possibility that there would be no increase in the cost of living, so if there was no increase, then they would get no increase. The retirees would get no increase.

Also, as I told you one time, in any case here will be no increases for retirees under this bill until November. We feel that even though our bill that will be coming up soon might not be giving them a big increase, we will give them everything that we can safely do within the capabilities of the fund. We think at this time it would be about 4 percent, with 3 percent next year.

I want to emphasize that we are not trying to hurt anybody and I also want to emphasize that as far as I am concerned, I want to be sure that all of you understand that I am for the retirees. I want them to get everything that they can, but I want to be sure that they can get that every month and not only for a few months at an increased rate or a few years at an increased rate and then, at the very least, have to cut it down.

The SPEAKER: The Chair recognizes the gentlewoman from Bath, Mrs. Goodwin.

Mrs. GOODWIN: Mr. Speaker, Ladies and Gentlemen of the House: I rise to oppose the motion to indefinitely postpone because I don't believe that the fortunes of Maine's retired teachers and retired state employees should rise and fall with fortunes of the current state employees. They have for the past two years and you can see the results for yourselves.

Many of our retired teachers and retired state employees are living on the minimum retirement benefit of \$100 a month. I don't know if they are living, they are barely existing, and if they want to do anything besides this \$100 a month, they are forced to turn to Supplemental Security Income. Although Supplemental Security Income is a good program and it is trying to get away from the connotation of welfare, to many older people, that is, exactly what it is, and I don't think that we should be forcing those, who have spent perhaps 40 years teaching our young people, to turn to welfare in order to survive in their remaining years.

I think that I personally would rather pay more now into this system, if that is what would be necessary, so that I could be assured that when I am old that I will be able to live a life of dignity. There are thousands upon thousands of senior citizens in this state who are living below the poverty line, and I think this is a start to bring them up where they belong, something that they can look to, that they know is coming to them and I think there would be many more people who would be willing to pay more in the system and I hope that you will not indefinitely postpone this bill today.

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

Mr. MORTON: Mr. Speaker, Ladies and Gentlemen of the House: I would call to your attention that the gentlewoman from Bath has brought an entirely new matter before the house, and that is the willingness of the state employees to pay more into the system. That is not before you and we have addressed this informally many times to state employees. Basically,

you can well imagine what the answer to that question is.

What you are talking about here is forcing the State of Maine to go away from its own devices and move to a federally chartered index, you turn the problem over to that, it is a formula basis, you will no longer have control of funds. That is the key issue here and that is what you ought to be voting on this morning. Do you want to retain control or turn it over to a formula?

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

Mr. LYNCH: Mr. Speaker, Ladies and Gentlemen of the House: I would like to echo the remarks of the lady from Bath. If you are sincere in your desire to help the retirees to secure greater benefits, then I think you ought to fund it. It is very easy to give benefits and say it will come out of the retirement fund. It is very easy to go that route until the retirement fund is in difficulty. If you are sincere, put a money package on the bill and do it the right way.

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

Mr. LEONARD: Mr. Speaker, Ladies and Gentlemen of the House: I was concerned about an increase with the state employees in the deduction to make up for any deficits that we might incur as a result of this, and I asked a few. I would say that the response I got — the question was phrased this way: would you object to, for increased benefits possibly in the future, increased deductions in your paychecks for the retirement system? They said, and I will paraphrase it, they are getting sick and tired of trying to eat benefits. I think their objection is quite well taken. They don't want to have any more deductions because they barely are able to live on what they have.

The SPEAKER: The pending question before the House is on the motion of the gentleman from Farmington, Mr. Morton, that this bill and all its accompanying papers be indefinitely postponed. Those in favor will vote yes; those opposed will vote no.

Thereupon, Mrs. Goodwin of Bath 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. Those in favor of 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 and voting having expressed a desire for a roll call, a roll call was ordered.

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

Mr. GARSOE: Mr. Speaker, Ladies and Gentlemen of the House: As we get ready to vote on this, I would only repeat that if we are doing this to be humane to retired individuals, we are on the wrong track. I would think an adventure of this type would strike fear into the heart of everyone who depends on this heretofore reasonably well run fund for this. I just want this body to know that the language governing the impact of the general pay raise on retirees is being carefully worked out so that whatever is done in this session for a general pay increase will be reflected in the retirees' benefits.

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

that this bill and all its accompanying papers be indefinitely postponed. A roll call having been ordered. Those in favor will vote yes; those opposed will vote no.

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

Mrs. KELLEY: Mr. Speaker, I would like to pair with Mrs. Byers. If she were here, she would be voting yes; I would be voting no.

The SPEAKER: The gentlewoman from Machias, Mrs. Kelley wishes to pair with the gentlewoman from Newcastle, Mrs. Byers, Mrs. Byers would be voting yes, if she were here and Mrs. Kelley would be voting no.

#### ROLL CALL

YEA — Bagley, Birt, Blodgett, Bowie, Call, Carey, Carter, Curran, R.; Doak, Drigotas, Dudley, Dyer, Farnham, Fraser, Garsoe, Hewes, Higgins, Hinds, Hunter, Hutchings, Jackson, Jensen, Kany, Laverty, Leonard, Lewis, Lizotte, Lynch, Mackel, MacLeod, McBreairty, McMahon, Morin, Morton, Nadeau, Norris, Palmer, Perkins, S.; Peterson, P.; Raymond, Rideout, Snowe, Sprowl, Strout, Susi, Teague, Theriault, Torrey, Truman, Twitchell, Tyndale, Walker, Webber.

NAY — Albert, Ault, Bachrach, Bennett, Berry, G. W.; Berry, P. P.; Berube, Boudreau, Burns, Bustin, Carpenter, Chonko, Churchill, Clark, Connors, Connolly, Cooney, Cote, Cox, Curran, P.; Curtis, Dam, Davies, Dow, Durgin, Farley, Faucher, Fenlason, Finemore, Flanagan, Goodwin, H.; Goodwin, K.; Gould, Gray, Greenlaw, Hall, Henderson, Hennessey, Hobbins, Hughes, Ingegneri, Jacques, Joyce, Kauffman, Kelleher, Kennedy, Laffin, LaPointe, LeBlanc, Lewin, Lovell, Lunt, MacEachern, Mahany, Martin, A.; Martin, R.; Mills, Miskavage, Mitchell, Mulhern, Najarian, Peakes, Pearson, Pelosi, Perkins, T.; Peterson, T.; Post, Powell, Quinn, Rolde, Rollins, Saunders, Shute, Silverman, Smith, Snow, Spencer, Talbot, Tarr, Tierney, Tozier, Usher, Wagner, Wilfong, Winship.

ABSENT — Carroll, DeVane, Gauthier, Immonen, Jalbert, Littlefield, Maxwell, McKernan, Pierce, Stubbs

PAIRED — Byers, Kelley.

Yes, 53; No, 35; Absent, 10; Paired, 2.  
The SPEAKER: Fifty-three having voted in the affirmative and eighty-five in the negative, with ten being absent and two paired, the motion does not prevail.

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

Mr. HEWES: Mr. Speaker, it is my understanding that a roll call has been requested on acceptance of the minority report, and I certainly hope that you will vote not to accept this bill. The purpose of it is to help the retirees.

Last night, we met with some of the state employees and they want more money, not to have money taken out of their paychecks. As I look at L. D. 1958, in the statement of fact, it says: "There will be no state funds required for this act." Now it is going to cost somebody something and if it is not going to cost the State of Maine anything, then it is going to cost present state employees who are paying into the retirement fund. So I sincerely hope that you don't take from the present state employees by making them pay into the retirement fund to keep this retirement fund a solid fund.

The SPEAKER: The pending motion is not on the minority report. The pending motion is the motion that had been made.

by the gentleman from Rumford, Mr. Theriault, so the pending motion is to accept the majority "ought not to pass" report when we will be voting.

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

Mr. KAUFFMAN: Mr. Speaker, I would like to pose a question to somebody from the retirement committee. It is my understanding, and I may be wrong, that the participation in the retirement fund for state employees is optional. Can someone answer that for me?

The SPEAKER: The gentleman from Kittery, Mr. Kauffman, has posed a question through the Chair to anyone who may answer if they so desire.

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

Mr. THERIAULT: Mr. Speaker, I think that is wrong. I think all of them have to go into this system, except elected officials.

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

Mr. KAUFFMAN: Mr. Speaker, Ladies and Gentlemen of the House: A few years ago, I was working for the State of Maine, and I was asked if I cared to join the retirement fund, at which time I said, yes, because I thought it was like putting money in the bank. They must have changed the rules since five years ago.

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

Mr. LYNCH: Mr. Speaker, Ladies and Gentlemen of the House: I am sure that you realize that in passing this bill, you are committing yourself to any appropriation measures coming out requiring money for the retirement system and there will be money demands.

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

Mr. INGEGNERI: Mr. Speaker, Ladies and Gentlemen of the House: I must again refer to the excellent presentation of my good friend Mr. Powell. He referred to the increase in the market value of securities, I referred to the increase in the book value to securities and Mr. Powell referred to the almost \$10 million in earnings every single year, an increase over previous years. This is where the integrity of the fund is. I don't believe that you are facing any kind of an Armageddon, or whatever you want to call it.

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

Mr. MORTON: Mr. Speaker, Ladies and Gentlemen of the House: I think everyone here should realize that the benefits that are paid to retirees from the retirement fund come from three sources. They come from the pay-in of state employees and they come from the interest that is earned by the securities that the retirement fund has invested. They do not come from the principal of the fund. The principal may go up and it may go down, and I am sure you all know it went down with a bang a couple years ago, 18 months ago, and it was really on a slide. Thank goodness the market has come back again. But the earnings of the fund do not necessarily follow the market, thank goodness. So the earnings were there when the market went down; the earnings are still there when the market is up. But that has no relationship to the pay-in to the fund which funds to pay out the benefits.

I think you want to be very careful how you address that. The fact that the fund

may have increased its asset value in the last 12 months markedly is great, but I also want you to remember that it increased that from a very low value, a very heavy loss that it incurred in the previous 12 months. It is only the income from the fund which provides money for the benefits.

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

Mr. LYNCH: Mr. Speaker, Ladies and Gentlemen of the House: You have heard mentioned several times now the growth, from about \$90 million to \$190 million in assets. How about the growth in the unfunded liability? Instead of a growth of three times, it is almost a growth of ten times to just under one half billion dollars, spelled with a 'B', one half billion that the State of Maine is committed to put into this fund over the next 30 years or so, all because the legislatures in the past have been very generous in giving benefits without putting any dollars behind it.

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

Mr. BIRT: Mr. Speaker, Ladies and Gentlemen of the House: I agree completely with the gentleman from Livermore Falls, Mr. Lynch, and he hit on one of the major points that we should seriously consider. There is an unfunded liability in this fund at the present time of approximately half a billion dollars, and if you want to take your report, on page 9, it figures at the present rate it will take 27.7 years, with no changes of any sort at all in the benefits, to catch up to the point where, we will have this unfunded liability liquidated, and at the same time, because of the formulas developed, we are finding that the state contribution is going up about fifteen to eighteen hundredths of one percent per year, and in 27 years the state will be paying into the fund about 16 or 17 percent of the entire payroll of teachers and employees. If we add any more benefits, it is just going to prolong the situation, and to accept the "ought to pass" report on this bill today would be a mistake.

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

Mr. POWELL: Mr. Speaker, Ladies and Gentlemen of the House: To answer the last two gentlemen, the unfunded liability goes back to before 1942 in the case of the state employees, before 1947 in the case of retired teachers, and a lot of that unfunded liability is due to the fact that former legislators who draw \$100 a month never did pay in any part of that that really amounted to much to fund the fund, and then the fact that the legislatures in the past, as Mr. Lynch said, have not put up an extra cent to fund that liability before 1942 and 1947. I don't think this is the question we are trying to answer here.

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

Mr. LEONARD: Mr. Speaker, Ladies and Gentlemen of the House: I am disappointed, very frankly, because I worked on the committee, I know Mr. Theriault did and other members, all members for that matter, and we have tried to present to this body — well, we really haven't presented you another alternative, but I think we have given in our argument sound facts, the fact that the consumer price index has no relationship whatsoever to the retirement fund. That is a fact.

On the other side, those who advocate using the consumer price index, the only fact they could come up with is that we haven't given the retirees a raise in the last couple years. We all know that is a fact, but I feel fairly confident standing here today, and I can tell you that I am one on the committee that will pass out a bill to give the retirees a raise this year. But when we give that raise and vote that raise out, it will be with an eye towards the fund and an eye towards not jeopardizing raises next year, the year after and the year after that. That is all we are concerned with. And when I mentioned it to teachers, state employees, these retired people who are requesting a raise, when we mention it to them, they say, yes, we agree, we don't want to jeopardize the fund, you know what is best. Seven of us, I say, know what is best. I can say that the people who are intimately involved with the fund agree with us; they do not agree with the four who signed it out the other way.

We don't want to jeopardize the fund. We went to great measures last year to pass a reform bill in order to maintain the integrity over a long period of time, and here we go now, going right back to our old ways of building in potential disasters. We will come up with a raise this year, we will come up, I hope and I will work and I commit myself to that, that I will work towards coming up with a new vehicle for giving retiree increases, but that vehicle will be one that is geared directly to the integrity of the fund.

I hope you accept the majority "ought not to pass" report.

The SPEAKER: The Chair recognizes the gentlewoman from Bath, Mrs. Goodwin.

Mrs. GOODWIN: Mr. Speaker, Men and Women of the House: It was said a few minutes ago that state employees, when asked if they would be willing to contribute more, said that they are tired of eating benefits. Well, I submit to you that there are many senior citizens out there in the state who are barely eating at all. I think that if state employees were to really stop and think about it — naturally, if you ask the question, do you want more withheld from your check, everybody is going to say no. But if you are 20 or 30 or 40 and you stop and think about it, or if you follow me around sometime this summer and this fall, you read my mail, you see the people I see, you will be terrified about growing old, and I want to start planning for the future now, even if it should end up costing me more. Perhaps we will find that this will end up costing us more, but at least I will have a life of dignity in my later years.

The SPEAKER: A roll call has been requested. For the Chair to order a roll call, a roll call was ordered.

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

Mrs. KELLEY: Mr. Speaker, I would like to pair with Mrs. Byers. If she were here, she would be voting for the "ought not to pass" report and I would be voting for the "ought to pass" report.

The SPEAKER: The gentlewoman from Machias, Mrs. Kelley, wishes to pair with the gentlewoman from Newcastle, Mrs. Byers. If the gentlewoman from Newcastle, Mrs. Byers, were present, she would be voting yes; and if the gentlewoman from Machias, Mrs. Kelley, were voting, she would be voting no.

The pending question is on the motion of the gentleman from Rumford, Mr. Theriault, that the House accept the



Majority "Ought not to pass" Report. All in favor of that motion will vote yes; those opposed will vote no.

#### ROLL CALL

YEA — Ault, Bagley, Berry, G. W.; Birt, Blodgett, Bowie, Call, Carey, Carroll, Carter, Conners, Curran, R.; Doak, Drigotas, Dudley, Dyer, Farley, Farnham, Fraser, Garsoe, Gould, Hewes, Higgins, Hinds, Hunter, Hutchings, Jackson, Jacques, Jensen, Kany, Kelleher, Lavery, LeBlanc, Leonard, Lewis, Lizotte, Lovell, Lunt, Lynch, Mackel, MacLeod, McBreairty, McMahon, Morin, Morton, Nadeau, Norris, Palmer, Perkins, S.; Perkins, T.; Peterson, P.; Raymond, Rideout, Snowe, Sprowl, Strout, Susi, Teague, Theriault, Torrey, Truman, Twitchell, Tyndale, Webber.

NAY — Albert, Bachrach, Bennett, Berry, P. P.; Berube, Boudreau, Burns, Bustin, Carpenter, Chonko, Clark, Connolly, Cooney, Cote, Cox, Curran, P.; Curtis, Dam, Davies, Dow, Durgin, Faucher, Fenlason, Finemore, Flanagan, Goodwin, H.; Goodwin, K.; Gray, Greenlaw, Hall, Henderson, Hennessey, Hobbins, Hughes, Ingegneri, Joyce, Kauffman, Kennedy, Laffin, LaPointe, Lewin, MacEachern, Mahany, Martin, A.; Martin, R.; Mills, Miskavage, Mitchell, Mulkern, Najarian, Peakes, Pearson, Pelosi, Peterson, T.; Post, Powell, Quinn, Rolde, Rollins, Saunders, Shute, Silverman, Smith, Snow, Spencer, Talbot, Tarr, Tierney, Tozier, Usher, Wagner, Walker, Wilfong, Winship.

ABSENT — Churchill, DeVane, Gauthier, Immonen, Jalbert, Littlefield, Maxwell, McKernan, Pierce, Stubbs.

PAIRED — Byers, Kelley.

Yes, 64; No, 74; Absent, 10; Paired, 2.

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

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

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

Bill, "An Act to Provide for more Effective Debt Management and for more Effective Administration of the State's Development Financing Capability" (H. P. 1816) (L. D. 1974)

Tabled — March 16 by Mr. Cooney of Sabattus.

Pending — Passage to be Engrossed

On motion of Mr. Rolde of York, retabled pending passage to be engrossed and specially assigned for Monday, March 22.

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

An Act Relating to the Initiative and Referendum Processes (Emergency) (H. P. 2027) (L. D. 2203) (C. "A" H-954), (S. "A" S-426)

Tabled — March 17 by Mr. McKernan of Bangor.

Pending — Passage to be Enacted.

On motion of Mr. Spencer of Standish, under suspension of the rules, the House reconsidered its action whereby the Bill was passed to be engrossed.

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

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

House Amendment "A" to Committee

Amendment "A" (H-992) was read by the Clerk.

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

Mr. SPENCER: Mr. Speaker, Ladies and Gentlemen of the House: This amendment would take care of the problem which we mentioned yesterday where all five people who originally were included in the application for a petition had to take the appeal. This would allow any one of the five or any signatory to the petition to take the appeal in the event that the petition were denied.

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

Mr. HENDERSON: Mr. Speaker, I would pose a question to the sponsor of this amendment, and that is if he could just outline exactly what would happen if a voter took an appeal, was in the process of that appeal and then fell ill or died or somehow was unable to continue it. Exactly what would happen thereafter?

The SPEAKER: The gentleman from Bangor, Mr. Henderson, has posed a question through the Chair to the gentleman from Standish, Mr. Spencer, who may answer if he so desires, and the Chair recognizes that gentleman.

Mr. SPENCER: Mr. Speaker, if there were only one person out of the 30,000-odd people who were required to take the appeal and he took the appeal, was the only one taking it and he died, then his estate would have the option of pursuing the appeal if they chose to. But I think chances are fairly good that they wouldn't, but under this amendment, any group of people who wanted to take the appeal could do so, so I would expect that in a normal case, you would have a number of people who signed the petition joining the appeal so that if one of them was run over by a truck, the others could continue the appeal.

Thereupon, House Amendment "A" to

Committee Amendment "A" was adopted.

Committee Amendment "A" as amended by House Amendment "A" thereto was adopted in non-concurrence.

The Bill was passed to be engrossed as amended by Committee Amendment "A" as amended by House Amendment "A" thereto and Senate Amendment "A" in non-concurrence and sent up for concurrence.

Mr. Farnham of Hampden was granted unanimous consent to address the House.

Mr. FARNHAM: Mr. Speaker, Ladies and Gentlemen of the House: Last night, I happened to be watching TV and there was a young lady in Portland speaking before a rather large audience. She spent a great deal of time trying to indoctrinate the group in the Communist philosophy and this is her right. I would never deny it. But all I could think of during that period was how fortunate that with her philosophy she lived in this country where she could get up and spout her poison. For if she were in the country whose philosophy she endorses, she would be in a Siberian prison camp the next day.

#### (Off Record Remarks)

On motion of Mr. Jackson of Yarmouth, Adjourned until twelve o'clock noon tomorrow.