

# 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**

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## HOUSE

Wednesday, March 24, 1976

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

Prayer by the Reverend David Glusker of Augusta.

The journal of yesterday was read and approved.

Papers from the Senate  
Divided Report

Majority Report of the Committee on State Government on Bill "An Act Revising Lobbyist Disclosure Procedures" (S. P. 622) (L. D. 1954) reporting "Ought to Pass" in New Draft (S. P. 765) (L. D. 2312)

Report was signed by the following members:

Messrs. CURTIS of Penobscot  
GRAHAM of Cumberland

— of the Senate.

Mrs. SNOWE of Auburn  
Mrs. KANY of Waterville

Messrs. COONEY of Sabattus  
FARNHAM of Hampden  
PELOSI of Portland  
CARPENTER of Houlton  
LEWIN of Augusta  
WAGNER of Orono  
QUINN of Gorham

— of the House.

Minority Report of the same Committee reporting "Ought to Pass" in New Draft under New Title Bill "An Act to Require Registration and Reporting of Professional Lobbyists" (S. P. 766) (L. D. 2313) on the same bill.

Report was signed by the following member:  
Mr. WYMAN of Washington

— of the Senate.

Came from the Senate, with the Minority "Ought to Pass" Report accepted and the New Draft passed to be Engrossed as amended by Senate Amendment "C" (S-466)

In the House: Reports were read.

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

Mr. COONEY: Mr. Speaker, I move acceptance of the Majority "Ought to pass" Report.

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

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

Mr. McKERNAN: Mr. Speaker, Ladies and Gentlemen of the House: I would oppose that motion. I think that we in the state and all citizens in the State of Maine would be better served by rejecting this motion and accepting the minority report.

Before I go on much further, I want to explain my involvement in this bill. If you recall, we had some problems last year with the lobbyist bill which we passed in the regular session, even before we found out that we had repealed it. One of the major things we found was wrong with it was when the Speaker attempted to discuss health care in his county with an expert in that field and found out through an opinion from the Attorney General's Office that it was improper for that person to discuss the matter with the Speaker unless he registered as a lobbyist. So it is my understanding that it was at that point that the Speaker decided that something should be done about the law that we passed in the last session.

It is my further understanding that he and Senator Merrill from the other body got together to attempt to draft a bill that would in fact cure some of the problems and the defects in the bill we originally passed. It was at that point that we also found out that we had inadvertently repealed the bill anyway. But undaunted and despite that, the Speaker still went ahead and tried to come up with a better draft

so that we wouldn't just reenact the bill that we passed in the last session.

It was right before the public hearing that the draft was finally completed and Senator Merrill and the Speaker asked me if I would go down and speak in favor of the draft that Senator Merrill was presenting to the State Government Committee. I did go down and testify and I have been trying to follow the issue through the numerous drafts that have been flying across the desks of the members of the State Government Committee.

As I said, I am supporting the minority report and there are some reasons why. I would like to read you briefly a paragraph and a half out of something I had distributed yesterday from the American Civil Liberties Union. I might add, parenthetically, that I did get a copy back on my desk with a note on it saying "Another waste of the taxpayers' money." I would suggest that anytime one is attempting to protect First Amendment rights of freedom of speech, putting information on desks of legislators is certainly not a waste of money and in fact is something that we all should take rather seriously. I think it is one of the most important rights that we have in the Constitution.

But reading from the testimony of a member of the American Civil Liberties Union before Congress concerning lobbying bills, I would just like to read you one paragraph in which this member of the American Civil Liberties Union states as follows:

"In our judgment, every individual or organization exercising the right to petition the government, be it a commercial, environmental, religious, good government or civil liberties point of view, reflects a special interest and nobody has a monopoly on what is the public interest. Indeed, we believe that the real public interest can only be determined after all those so-called special interests, which, in the best democratic tradition, will and should often disagree are heard."

Now, the American Civil Liberties Union concludes that "The ACLU does not oppose per se responsible legislation addressed to specific lobbying abuses. Indeed, it may well be that specific legislation is appropriate to deal with such potential abuses of the payment of monies or other things of value by a lobbyist to a public official or the deliberate misrepresentation by a lobbyist with respect to who he or she represents or to deliver a misstatement and information by a lobbyist to an official, among other similar abuses."

I think that is the point we have reached here in the State of Maine, that the public demands and we as legislators should demand that there be registration of lobbyists and that there be reasonable regulations so that we as legislators can find out and the people of this state can find out what money is being spent to influence our decisions over here. But we have to be careful. As the American Civil Liberties Union says, we have to make sure we don't overregulate and we don't therefore create a so-called chilling effect on the rights of people to exercise their First Amendment rights of freedom of speech and to petition their government.

I would hope that you would not accept the majority report, that you accept the minority report as the more reasonable approach to regulating the lobbyists in this state.

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

Mr. QUINN: Mr. Speaker, Ladies and Gentlemen of the House: The question before us is one of two bills, and many of the points raised by the gentleman from Bangor, Mr. McKernan, are correct. When you start dealing with First Amendment freedoms, you have a great deal of difficulty, and when you attempt to regulate what is essentially a proper expression of opinion or attempt to influence legislation, you

have a good deal of trouble in accomplishing this regulation.

There are two bills here, one is the retailed version of the one we did pass last year and which did have some trouble with it. The other one is a brand new one.

Not addressing who prepared any of the bills, since I don't think this is germane, I think we should discuss what are in the bills if you are going to deal in any manner of sense, if you are going to deal properly with the kind of thing Mr. McKernan just talked about.

Essentially speaking, there are three differences between the bills you have before you, and all three of those differences boil down to what would have to be classed as loopholes through which lobbyists can escape.

In the bill recommended by the majority of the committee and which is the best product the committee could turn out — it represents about 10 drafts of work and consultation with lobbyists and consultation with lawyers — we require that work done in research or in preparation of actual lobbying activities be reported. The other bill, suggested by the one minority member, does not require that. Let me give you an example.

In the 106th Legislature, the Portland Water District obtained a new charter through this legislature. It was a major piece of legislation, ran to over 30 pages, took a great deal of work in preparation and time. Since I have had some curiosity about the activities of the Portland Water District, I went to their lobbying report and I discovered that they paid \$865 in fees to obtain that charter. I submit that has to be an all-time bargain for a major piece of legislation which was before committee three different working sessions and one formal public session, which required the services of a lobbying firm which announces that it charges \$60 an hour for its time, and one of the major legal firms in Portland.

What had happened, of course, is that the overwhelming majority of the work which was performed for the Portland Water District was simply classed under legal fees and not reported as such. All the reports included that we had access to here was the amount of time that the lobbyists actually spent either on the floor or before committee. So we felt in our committee, at least 12 of us did, that that kind of activity is most certainly properly reportable under lobbying activities.

The second major difference between the two bills is that under the one suggested by the minority member, a lobbyist who is in fact a partner of a law firm which are themselves acting as lobbyists does not have to report his income obtained as a part of the law firm. I think that the implications of this are immediately obvious. The major committee report of 12 members required that this be done.

The other differences between the bills are essentially minor in nature. The majority report requires that \$500 income shall be the limit at which you report lobbying. The one reported by the one minority member says "eight hours in a given month."

We used the \$500 figure in an attempt to let the small or the occasional or the volunteer lobbyist escape. The one minority member felt that we should catch anybody who is here, regardless of what they do. I don't think it is necessary.

There is one other minor report about which news makes some comment but which is not terribly important in our opinion. In our report, we require that the lobbyists report their expenditures. In the other bill reported by the minority member, they do not have to report their expenditures in detail. Frankly, I don't think it is a terribly important item, but I do feel, if it is to be addressed, it should be done.

As far as the other smoke screen given by the

gentleman from Bangor, when he quotes the history of the trouble we had with the previous bill, this boils down very simply to who can speak before us without being classed as a lobbyist, and I think it is important to read from the bill that we propose. It says, and this is the majority of the committee. It describes lobbying as an attempt to influence legislative action. Then it goes on to say, lobbying shall not include a communication by any individual acting solely on his own behalf, or an individual who receives compensation or reimbursement of less than \$500, or any communication made by a person in response to an inquiry or request for information by an official of this branch or any communication of a person in religious society exercising his religion. We on the committee feel that that allows more than adequate opportunity for First Amendment freedoms, that it will in no way interfere with the rights of people to petition for grievances or express their opinion before this legislature, and we feel that the one bill reported by the one minority member is a deliberate attempt by professionals, who know how to put these things in the laws, to make some escape from the rather stringent reporting procedures in the majority report.

To state it very simply, the majority report is a tougher one, it is that simple, and I urge you to support the majority report.

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

Mr. DUDLEY: Mr. Speaker and Members of the House: I have listened with great care to what the gentleman has just said; however, I don't agree with him. I don't think it covers in some areas as much as the final report signed by one Senator.

First of all, I have had some experience with lobbyists down through the years here. I remember once a group of people were trying to divide the town of Enfield into two parts and their lobbyist worked probably a year preparing this bill at great expense. I understand it was somewhere around \$30,000. Then, of course, they lobbied here before this House and I think a lobbyist should report what he lobbied here. But I think in preparing the bill, it took a long time, that is not part of it, that is a legal fee. What I am trying to say is that we have got to divide what is a legal fee and what is lobbying.

Many of these bills put in by water districts and what have you have taken a long time a lot of hours to prepare, and I draw a line between preparing the bill and being here lobbying. It is distinctly a different area.

The other part that I like about the final report signed by one Senator is that it takes in everybody. I think if we are going to pass a law, we just can't pass it to say certain people are going to report. I want them all to report. I don't care if it is only \$2. I don't like these laws that cover just certain people, and for these reasons, I hope we finally take the time and not be hasty about this and pass the report that was signed by the single Senator. I think he has good judgment. He must have, because he sees the bill as I see it, that everybody should be covered.

Having been around here and dealt with these people a lot longer than some of you people, I think I do have some judgment on this, whether you do or not. And having had some experience with how long it takes to prepare a bill, I have been working on one myself for a long time and it is a bill which you will be seeing before you in a little while. I traveled in several countries observing how they did it, and if I had been a lobbyist, and I suspect that could have been charged up to lobbying, preparing the bill which has taken me some time to do. I dare say just writing on it in the last six months, different parts of it and traveling to see what different

people do, had I been a lobbyist, that would have been part of my lobbying. I don't think lobbying starts until you get here and start trying to tell people your version.

I understand quite seriously that there should be a marked distinction made between lobbying and preparing a bill. A legal fee is one thing, but being here to lobby is strictly a different thing.

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

Mr. QUINN: Mr. Speaker, Ladies and Gentlemen of the House: Without taking issue with the remarks of the gentleman from West Enfield, he raises essentially two points. The first one is, he disagrees with the idea of having to report activities not directly connected with the third floor of this House. That is a valid position, one he may well take and one which I would not challenge on its merits of truth or value, it is a matter of opinion — you pay your money, you take your choice.

But he did raise another point which I want to make very clear in your mind. When he urges you to pass the bill written "by the other Senator," he infers that he will catch everybody. Believe me, that is not so, that bill will catch fewer people and require less reporting than will our bill. That is a matter of fact. I invite you to read the two bills. The majority report is the tougher of the two bills, let there be no mistake about it.

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

Mr. COONEY: Mr. Speaker, Ladies and Gentlemen of the House: I am not going to deal with the extreme detail of this bill in my remarks. This report you see before you is the tenth or eleventh draft of this bill that the State Government Committee has produced. We have agonized over this for week after week after week in trying to produce a bill which addressed the problems that were created by the past lobbyist law and still balance the civil liberties rights with our legitimate right to know what dollars are being used to influence public policy in the legislature.

The majority report is a tighter, more comprehensive report, pure and simple. The minority report is a sellout. The lobbyists will be able to drive a Mack truck through it. It is better than no lobbyist law and I will support it if that is what you feel is necessary. It goes a long way toward meeting our needs, but we are not going to get as accurate a report under that law as we will under the majority proposal. So it is up to you. I think we have our public trust to keep. The public wants to know as fully as possible, as fully as we can constitutionally make possible what money is being spent to influence us.

I happen to feel that that money doesn't influence us and that we make up our own minds free of that influence, but we have a responsibility to show the public every day that those lobbyists and the money they spend are not having an inordinate influence upon us. So, I firmly support the majority report. It addresses the balance between civil liberties and the need to know. It addresses the problems that were in the previous law and it goes a long way to simplify for each lobbyist the actual report they must file, so I urge your support of the majority report.

I request a roll call vote.

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

Mr. MCKERNAN: Mr. Speaker, Ladies and Gentlemen of the House: I can't resist responding to the gentleman from Sabattus, his remarks that the majority report is in fact a tighter law. The majority report exempts religious societies, it exempts county officials and it exempts municipal officials from having to register when they come over here to try to

influence our votes and are being paid to do so. I ask you whether that is a bill that doesn't have any loopholes?

Let me give you an example. If you remember, back about 10 months ago we went through this same debate on whether or not people who are paid by religious groups or societies to come over here and influence legislation that is going to directly affect their religious groups, or that they feel is going to directly affect their groups, whether they should be exempted? We voted that they shouldn't. If they are paid to be over here to express a point of view, they ought to register just like everybody else. Well, now, in this bill, which is the tight one, in the majority report, that exemption is back in there.

Let me give you an idea of the language. It says, any communication by an individual officially representing a recognized religious society, when the communication is solely to protect the constitutional rights of the members of a society, to freely exercise their religion. People are over here doing that, supposedly won't have to register.

I say, first of all, what is a recognized religious society? We have seen a lot of publicity recently on a lot of the fundamentalists and splendor groups from religious societies. How many of those are recognized religious societies? Secondly, and I think more importantly, what communication is solely to protect the constitutional rights of the members of that society to freely exercise their religion? Who is going to make the determination, the Secretary of State on whether or not he is speaking in a constitutionally protected area? I think that constitutional rights ought to be asserted and protected in all instances by the court. That is who makes the decisions.

We can't do anything in this legislature to violate the constitutional rights of religious groups. So, why do they need to have a lobbyist over here anyway, unless they are trying to protect themselves from non-constitutionally protected areas, like their own political beliefs or their own beliefs on the way government ought to be run. I think they have a perfect right to be here, just as everyone else has a right to be here to petition their government, but we ought to know what is going on.

An example, one church group has somebody here, their legislative liaison, who is in the halls, appears at hearings, to protect their religion. He is also the guy who has been running around and badgering the State Government Committee to put this exemption back in. Shouldn't he have to register if he is going to be doing that? Allowing him an exemption from registering, I don't believe, is one of his societies religious beliefs that is protected under the First Amendment.

Another provision of this tight bill that doesn't allow any loopholes. Take a look in the definitions and you will see that a person does not include, who has to register, any county or municipality, a person representing, being paid to be over here by a county or a municipality. We have just been through that with the educational funding bill.

The Town Manager of the Town of Castine has a perfect right to be over here and I want to make it clear that I am not saying that he was over here lobbying or anything else, but what I am saying is that everybody knows that the Town Manager of the Town of Castine had a pretty deep interest in that education bill. He had a particular point of view that he was trying to express and convince other legislators to go along with, and there are some of us here in this legislature who don't think that view was necessarily best for the people of the State of Maine. It may have been for the Town of Castine and I have no doubt that there was, but the point is, if somebody like that can come over here trying to influence legislation while he is being paid by that town, he

ought to register just like everyone else, because that is a group that is trying to influence legislation and being paid to do so.

I feel the same thing about counties. As I said, this is the bill that really tightens up the law and there are three exemptions right there in the minority report.

The other point that I want to make, which I think may have been sort of hazy in the gentleman from Gorham's description of the research and drafting provision — that is Section 317A of the majority report. I think you ought to realize exactly what that provision says. It says that a lobbyist would have to report any money he or she receives for lobbying including but not limited to research, drafting, consultation, etc. First of all, there is a question of what is "but not limited to?" If a person is doing some provision where they would be representing the beer and wine wholesalers as Executive Secretary or what — is the money received for that, is that supposed to be included in these reports? I for one would hate to be convicted of not reporting the "but not limited to" and that is what can happen under this law. There is a criminal penalty. Somebody can be convicted because he didn't report the "but not limited to," because it wasn't listed here and he didn't know what it was. So, there is that problem, but that is just a picky language problem that can be corrected.

The problem I really have with this, I give you a personal example. Our law firm in Bangor does no lobbying. However, we do represent Bangor-Hydro. I don't do any of that work, so I can't really give you a concrete example. But, for instance, what if one of our law partners drafted some detailed piece of legislation to be introduced in the legislature for some reason for Bangor-Hydro? Was paid \$5,000 because it took so long? Under this bill, does this have to be reported? That's right, everybody is saying, yes, it should be. It doesn't have to be. We don't lobby for Bangor-Hydro, we are not a lobbyist, that is legal work. Alright, I think Harold Beckett lobbies for Bangor-Hydro, should he have to report that? He didn't have anything to do with it, so the only person you are hitting under this is the person who actually does the legal work and happens to also lobby, so there is that inconsistency also.

Again, even more importantly than that, I think you have to look at what we are trying to do. What we are trying to do here is to find out how much money is being spent to influence legislation. Whether a bill is drafted in an hour and has all sorts of loopholes or whether it is drafted over five days for \$2,500 has absolutely no bearing on the legislative process. The money we want to find out about is after the bill is before us or while it is being presented to us, how much money is being spent actually contracting legislators. That is what the definition of lobbying is in both bills — to spend money and time spent directly communicating with members of the legislative branch. That is what we want to find out. It doesn't matter to us how much time they spend talking to their clients. We want to know, what are they doing over here to influence our votes? That is what the public wants to know.

I think you can see that it is not as rosy as everybody seems to be saying about this majority report. There are provisions in this which I think go against what we want to do here in the legislature in order to protect the people's right to know about what is being spent over here and I think the minority report does that.

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

Mrs. KANY: Mr. Speaker, Ladies and

Gentlemen of the House: Representative McKernan did raise a lot of questions which should be answered. I would draw your attention to Page 2. Representative McKernan only read part of that sentence, for instance, about the religious official being excluded under the definition of lobbyist, and the rest of that sentence goes on to say that if that religious official is not acting solely just to protect his religious rights and an instance of this might be, say, if we were forcing everybody in the State of Maine to have TB tests and a Christian Scientist felt that that would be an invasion upon their religion, then that individual would be exempted. The rest of the sentence says that the religious official would not be exempted if he were lobbying to seek economic advantage or benefit for the religious society and in this particular case, as an example of a Christian Scientist official, if he were lobbying here just so that the Christian Scientists would not all have to pay for Blue Cross and Blue Shield privileges if they were employees of the State of Maine, then he would not be exempted. We did, definitely, address this particular question and we really tried to split that fine line between preserving an individual's right to practice their religion and lobbying.

As Representative McKernan said earlier, the Civil Liberties Union has taken an interest in this whole issue nationally and in various other states and we are all very much aware of this First Amendment problem. The reason that we can't have an extremely simple bill is because when you go into lobbyist disclosure, you are hitting two First Amendment rights that are kind of clashing head-on. One, of course, is the freedom of individuals, as citizens, to petition their government and the other right, which is also a First Amendment right, which is being clashed with, is the freedom of the press, which has normally been interpreted by the supreme court as freedom of access to information. That is the citizen's freedom of access to information. We felt that if we tried to get too simple a bill, we would end up with something very simplistic and we certainly were very much aware of all that those who are particularly interested in Civil Liberties of their concerns here. We made sure that we did not include indirect lobbying, we made sure that the registration fee was not too high, that it would cover only the cost of administering this particular law so that it would not be denying anyone the privilege of lobbying or the right to lobby, which is their definite right. So we were all very much concerned with these things which have been brought up.

You have so many things in there, Representative McKernan, that I can't remember all of them to address. I guess you kind of ended up by talking about the time. You felt something about that \$500 was perhaps too high and that perhaps time was a better way of measuring the lobbyist, I am not quite sure. The reason we did put that \$500 limit, and this law would only go into effect when \$500 was spent on lobbying, was so we wouldn't include the people who just lobbied for a very short period of time, might come down one day or two, or call the Speaker or call yourself or anyone else, just a few times.

I would like to say one thing, and that is that the lobbying definition which has been so objected to and which the Attorney General had ruled as being too all encompassing was, basically, the same definition that had been on the books since 1954, so that was not something that we of the 107th should feel ashamed to have included. But we did work very hard on this bill and I think most of you would be pleased with the exclusions and the way that we looked at the civil liberties and really attempted to draw that fine line between those two clashing First Amendment rights.

The SPEAKER: The Chair recognizes the

gentleman from Ellsworth, Mr. DeVane.

Mr. DEVANE: Mr. Speaker, Ladies and Gentlemen of the House: The reason that the gentlelady from Waterville, I think, has difficulty responding to the many articulate and legitimate objections of the gentleman from Bangor, is that the majority report seeks to draw fine lines, as she put it, that Solomon couldn't draw were he with us.

I would offer to you what the lobby does. The lobby is the proponent of the point of view in the interest of what are called private interests, not all special. I hope that if anybody who hears this discussion today and doesn't know what a range of organizations and groups employ lobbyists, that they go to the Secretary of State's Office and see what we are talking about. Every special interest isn't a money interest. Every vested interest isn't a money interest, some of the vested interests of this state have two feet and sometimes all four in the public trough and they register and they are lobbyists.

I would suggest to this House what the lobby does. The lobby urges the membership to take a point of view, that it take a particular action, and I would suggest to you that the most important thing is what the lobby doesn't do. The lobby doesn't vote.

Despite what the man on the street thinks, the lobby never passed or killed a bill. The membership passes or kills a bill. Now that, I think, is the key of the whole business, and I suggest to you, as a member of this body, I do not give a hoot to whom the rest of you respond. I have never gone to my constituents and said, my God, the lobby killed this. I would be embarrassed if they were dumb enough to believe it. When any citizen of this state says to me, what happened to so and so, I say the membership killed it, and each member responded for their own reasons.

I have never seen such solemn nonsense that goes in relation to the lobby. The lobby does not vote. There hasn't been one iota of difference in the activity of the lobby here since we haven't had a lobbyist disclosure bill. If there is, I don't perceive it. If anything goes on that this naive member does not see, it went on before, it is going on now and it will go on after and if anybody knows of sub rosa activities of the lobby, as was suggested in the regular session, I wish they would be specific because we would all resent that.

The plain and simple facts are, and with the apologies of the State Government Committee, before whom I have appeared and said this, the general public, because of the over-emphasis and the foolishness which is entertained in the legislature about the lobby, is reported by the press and the general public frankly thinks the lobby is down here twisting arms or wining and dining or whatever they are doing. The lobby down here, as I said to the State Government Committee, is snigger than a country parson, as they should be. The lobby does not vote.

The lobbyist disclosure bill which was passed by this legislature last year was repeatedly described in the press of this state as a tough, new lobbyist disclosure bill and the fault, I say to you, in that instance, lies with the press, because it should have been described as a ridiculous bill. Even an incompetent court would have thrown that out. I, for one, wish it hadn't been repealed and would have enjoyed watching our court pretend to be Solomon and then decide that in fact it is unwarranted.

If there is a member of this body that feels intimidated or has ever been intimidated by a lobbyist, I wish they would send me a note. I will become concerned about the lobby when somebody tells me something the lobby is doing that isn't public. I will become concerned about the lobby and who does what when a single

member says to me, I am frightened by so and so.

Now, I have tried for three days, first time to lobby — toughest thing in the world, try to talk to your neighbor and change their minds — I wouldn't do it for love nor money, but I will tell you that if a member of this body feels that they are intimidated or coerced by a member of the lobby, I would like to know about it and I will sign any bill, including hanging.

Here is a note and it says: "Here is a note." All right, seriously, is there a member that would put up a microphone? Who is frightened? Now, I get a microphone up. I don't know a member here who is intimidated, who is unduly influenced or think they are. "Charlie Cragin frightens Judy Kany." I didn't think it was possible, even for Charlie Cragin. I thank you for the note and I will address that point. If there are members here that are frightened by Mr. Cragin, it is because Mr. Cragin represents a client, who can get an awful lot of response.

I am not surprised when the gentleman from Westbrook the Republican, so frequently joins with Democrats and Republicans who are from papermaking communities. Isn't it amazing that the gentleman from Yarmouth and the gentleman from Stonington so often are responsive to the State Lobstermen's Association? Isn't it amazing? Isn't it amazing that this member so often responds to the view of the State Publishers and Broadcasters? Incredible! Isn't it amazing that Mr. Day observes that a number of teachers in here had a point of view consistent with the Maine Teacher's Association? My gosh! There is more solemn nonsense spoken here and transmitted to the public of this state about the role of the lobby and the disservice.

What is going on in this legislature for a year and a half has not changed the lobby, will not change the lobby, it simply has changed the public's perception of what the lobby does to the membership and the membership, by being overly concerned, has done the legislature harm. I was angered and embarrassed to be asked at the end of the last session if I had a new cottage and, by God, I resent that.

I would ask you to reject the majority report because, once again, it is not as ridiculous as the bill that was passed last time but it is as unlikely to do anything productive, and I would ask you to join with the gentleman from Bangor and reject it.

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

Mr. HENDERSON: Mr. Speaker, Ladies and Gentlemen of the House: Other than the last few words that the gentleman spoke, I do agree with most of what the gentleman from Ellsworth indicated, that we are responsible for anything that is passed or killed in this House because we push the switches and lobbyists didn't vote.

However, one of the things that the lobbyists do is draft bills. In fact, they drafted, as I understand it, unless someone can correct me, one of our dean lobbyists drafted the minority report, or most of it. We pass a lot of complicated legislation in this place which we are not sure what was in there and what little changes were made, and I think this is directly related to the comments I made the other day with respect to our compensation and our staff. We push the button, but we have to rely on people for information and we have to try to understand what is in the written in the legislation.

I think it is only reasonable that we, as well as the public, know not only what we spend for legislative assistance to address legislation, but who else is drafting the legislation. If I am incorrect about the minority report, maybe someone can change my mind.

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

Mr. GAUTHIER: Mr. Speaker, Ladies and Gentlemen of the House: I would like to reply to Mr. DeVane, when he, as a young legislator, tells us here that the lobbyists have no control of this House, they don't vote, they probably don't vote, but I will tell you one thing, I have been here 13 years and they have had a lot of control. In fact, a lot of bills were passed that both leaders, majority and minority leaders never thought that the lobbyists could pass in this House. In fact, I was called in the corner here several years ago, and in that corner, there was the majority floor leader at that time, the gentleman that was in charge of the campaign for Mr. Ford who resigned recently, I don't remember his name, but he was there in that corner and he was a very strong Republican, he wasn't a Democrat, called me in there and several others who were Democrats, and also Emilien Levesque was there, both of them leaders, and he made the statement, not a Democrat made the statement, but he made the statement — he said we are trying to pass honest bills here for the people of this state but he said, boy, the lobbyists are much stronger than we are.

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

Mr. WAGNER: Mr. Speaker, Ladies and Gentlemen of the House: The gentleman from Ellsworth speaks of solemn nonsense, of cabbages and kings, I would not be so bold as to suggest that he may be in danger of speaking some solemn nonsense himself, because like him, I do not fear any lobbyist in the House but I am in somewhat of a state of trepidation at the prospect of getting not a note from that gentleman but a letter.

We have spent a good deal of time, we have gone through 10 drafts on this bill in State Government Committee, I support the majority report. I think the gentleman from Ellsworth presents a very valid philosophy and one which really should be the question here, whether you feel that in exercising your First Amendment rights of communication, the citizens and paid servants for those citizens, should have free access to the legislature with or without public scrutiny. I think that there is no question they should have that access, they should be able to hire representation, the best that they are able to afford, but I think that the public has a right to know what they are doing and who is doing it. Mr. DeVane feels that this makes no difference how much money is spent or what particular attorney or representative for a concern or an individual is spending that money.

I feel the overwhelming sentiment of the public, rightly or wrongly, whether it has been fanned by the press or whether it is artificial or a real concern, they have a perception that the "lobby" is affecting our decisions and often improperly. I don't necessarily share that view, but I think that the public, in having that view, has a right to see who is spending the money and to be able to make their own judgment, if they are that concerned.

The gentleman from Bangor is concerned about exemptions for religious institutions, and I can understand his concern in light of recent events in the queen city. We listened to this — this is a very difficult question like all these questions that address lobbying, whether you should bend a little farther to give to be doubly sure that you protect the rights of freedom of religion and freedom of communication.

I think, though, in the final analysis, I have no qualms about these exemptions, I certainly do not support a Swiss Cheese approach, which allows attorneys or lobbyists to exclude from their accounting any drafting or research time because this may not represent a direct contact

with the legislator but it certainly represents a capability that reflects the financial support and drafting a bill carefully and doing research on the bill, does represent a financial capability that the average citizen does not have and I think the public has a right to know where that is coming from and who is employing him.

That is all this bill is. It does not in any way interfere with anyone's right to communicate with their legislator, it simply makes that process visible. I urge you support the majority report.

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

Mr. GAUTHIER: Mr. Speaker, Ladies and Gentlemen of the House: The Republican Majority floor leader at that time I mentioned a few minutes ago just came to mind; he was Harry Richardson from Portland.

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

Mr. KAUFFMAN: Mr. Speaker, Ladies and Gentlemen of the House: I have heard considerable debate in regard to this lobbyist bill. It seems that certain members of this legislature are very much concerned over the amount of money the lobbyists pay. However, this is all on record down in the Secretary of State's Office and other than the news media, who check at the end of the session, there hasn't been a half a dozen people down there to check that account.

I support the minority report.

The SPEAKER: The Chair recognizes the gentleman from Brunswick, Mrs. Bachrach.

Mrs. BACHRACH: Mr. Speaker, Ladies and Gentlemen of the House: When it is claimed that the lobbyists don't influence the legislature, I would like to point out that we have just spent a whole hour discussing legislation, chiefly due to the fact that the lobbyists have presented an alternative bill, and I would hesitate to pass a bill which, everyone knows, has been written by the lobbyists, for the simple reason that I think people are suspicious that one shouldn't write one's own legislation.

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

Mr. MCKERNAN: Mr. Speaker, I would like to pose a question to any member of the State Government Committee, whether or not this certain lobbyist that helped draft this bill didn't in fact help draft both drafts and that they are almost identical?

The SPEAKER: The gentleman from Bangor, Mr. McKernan, has posed a question through the Chair to any member of the State Government Committee.

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

Mr. QUINN: Mr. Speaker, Ladies and Gentlemen of the House: I will answer the question — indulge me just one second. I don't feel that who wrote the bill is really at issue, but for fact of the matter, the committee report is the common cause boiler plate law, which is in existence in Rhode Island, in New York, in Texas, in modified form in California, it is essentially the same law that was proposed by the common cause people, who are themselves lobbyists, by the way, a year ago tailored to meet the circumstance in Maine and further tailored to take care of the peculiar objections which arose as the result of the fact that we felt that we were imposing on some private people. As far as I know, the minority report was written fully and completely by Senator Wyman.

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

Mr. SMITH: Mr. Speaker, Ladies and Gentlemen of the House: I have hesitated to get involved with this. As a matter of fact, up until yesterday, when I started talking with people who were involved with both these drafts, I had

no intention of getting involved in this because I was not familiar with the provisions of the law.

However, I think it is important, from an overall point of view, to end up this session with a satisfactory lobbyist disclosure bill, and it is from that point of view that I stand up here today before you, to bring your attention to a couple of important matters that the gentleman from Bangor, Mr. McKernan, has touched upon, which are, in fact, legitimate concerns that every member of this body, I think, should think about.

I would like, first of all, to call your attention to the majority report, which seems to be the one that at this point at least seems to be most favored, L.D. 2312, and I would like to call your attention on Page 6 to Section 320, which is entitled Penalty, Subsection 2, which is headed Fine and Imprisonment. I will read it to you: "The penalties for wilfully or knowingly failing to file a registration or a report as required by this chapter or for violating Section 319, shall be a fine of not more than \$1,000 or imprisonment for more than 11 months, or both." This, clearly, is a very strong criminal penalty.

I would like to have you flip back to Page 5, under the reporting section, Section 315, and we can either take Section A or B — taking Section B as an example, let's drop down to the second sentence which says, and these are outlining those matters which must be reported: "Such expenditures shall be itemized" — talking about expenditures to be reported — "by amount of expenditure, date of expenditure and the purpose of expenditure" — and then the clause — "including but not limited to" — that is the most important one — "meals, lodging, travel and other expenses."

Now, the Maine Constitution in Article I, Section 6, states: "In all criminal prosecutions, the accused shall have the right to be heard by himself and his counsel, or either, at his election"—and then it says — "to demand the nature and the cause of the accusation."

Going back to Page 5, the phrase "including but not limited to," when stacked up against the constitutional provisions would clearly be unconstitutional. The gentleman from Bangor has used the phrase, and it is a technical phrase that lawyers use, "chilling effect" and I think it may have been lost on many people. That is a phrase that the court has used to indicate that civil liberty First Amendment rights have been violated and have over-turned a great number of such statutes. I have no doubt but when the supreme court of this state stacks this statute and these provisions up against this Constitution, you are going to end up with no lobby disclosure law, at least in the reporting section.

Now, the gentlewoman from Waterville, Mrs. Kany, shocked me a moment ago, and I may have misheard her, because she said that these provisions of this law, if I understood her correctly, were lifted from a previous disclosure law in the state. (She said she did not say that and I will discontinue the argument at this point, then).

So I think regardless of what bill we enact here today, we are going to have to take a very close look, because we are going to be without a lobbyist disclosure law if we take the majority report as written. I have looked at the same provision in the minority report and that does not violate that section of the Constitution, and I think we are going to have to have some work to do on this bill if we accept the majority report today.

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

Mr. JALBERT: Mr. Speaker, Ladies and Gentlemen of the House: I have been a member of this body since 1945. From 1933 through 1936,

I worked for a governor, let's say that I was an errand boy between the Governor's Office for about 2½ years and this body, I speak this morning, because yesterday, there apparently is a series being made by a newsman concerning lobbyists and their activities and legislators and their activities. And so that I might repeat some of the answers that I gave to the questions that were posed to me.

I am not going to say that back in 1933 to 1936, or when I first got here, that we had bad legislators, but I will tell you this right now, that in those days, if you didn't have a lobbyist with you or if they decided to go against you, you were dead gone. They knitted themselves together into a ball and they were power.

I think today what we are doing, actually, and I have lived half of my life from here, I have got to know, unless I am a total idiot, somewhere along the line, what I am talking about, and I submit to you that we are actually today pointing the finger at ourselves. There are times in caucuses, particularly, not very much on the floor of the House because I have broken all records in the last session for staying in my seat, but I can't stay in my seat when I feel that this body that I love from my heart, not only be abused but abuse itself. I would like to have you people here who have been influenced because of lobbyists twisting your arms or cajoling you or pestering you, I would like to have you raise your hands, those of you whose minds have been changed. You can't raise your hand for a very good reason, in that there has been many times that I have been driven up a wall because of lengthy debates on things that were absolutely needless and useless. It reminded me of me back 25 or 30 years ago, and that is why three years ago I took all the records of the legislature and gave them away to a library to hide.

The fact of the matter is, you are not influenced because as long as I have been here, I have never seen or thought that I would be part of a body that would be so conscientious, hard working and honest as this group here, and I don't ask for any favors too much around here. I don't think that there are five of you who could raise your hands today to see that at any time since the last session has started, have I come up to you to ask you to vote for or against a bill that I am interested in? If I can't do it from the committee room, then I can't do it here.

It amazes it so often how many times we have argued a 12 to 1 report. That is the reason we have 17-A, if you can't convince anybody on a committee, or one or two people on a committee out of 13, what is the use of battling it out here?

The strange part of it is this. I witnessed last night, among ourselves, the biggest lobby job since I have been here on a bill that hardly meant anything, a liquor bill. I didn't care how I voted for the bill. I went to the chairman of the committee, the good gentleman from Jay, and I said to him, look, we are trying to help a nice fellow here, he is interested in this bill, would you lay off a little bit. He said, I won't say another word. I never saw a lobby job done so fast for a person within this House, because he wanted to either pass or kill a bill, but he wanted us to go with him and we went with him, believe it or not, not for the bill, we went with him because we liked him, at least that is the way I voted.

Believe me, nobody, if you took the whole lobby and brought them in this room, if the Speaker broke down the rule and said the lobbyists could come in, if they all came in together, they could never begin to do the job in 45 minutes that was done here last night by us.

I get tired sometimes, I run out of steam and I say I am all done and then somebody says to me, you are all done when you die, and I guess

that is right. Don't indict yourselves; nobody bugs you, nobody can con you into voting, no lobbyist can do it.

I have gone to one lobbyist, the Honorable Dana W. Childs, a former Speaker of the House, who I recommended to my employer to hire, and the only reason I went to him was because I know he said he would steer me straight. I have gone to him, said, Dana, if I vote on this thing, am I in any way, shape or manner in conflict? I have gone to the Speaker and have asked to be excused and he has excused me. There are times when I have excused myself when I didn't have to.

But I don't want to lie. What record I have got that is any good, I want to keep, because I love this House. I might argue with some of the members, but I love the membership of this House and I have a tremendous amount of respect for their integrity. They are not getting conned by the people out there. The people out there are conning the people who are hiring them. That is the fact of the matter.

Actually, I have been accused of some of the young members not liking me because I was friendly with lobbyists. I asked a lobbyist last session one time, how about taking me out to eat, and he told me to get lost, so I took him out and it makes that even.

Do not indict yourselves, and that is exactly what you are doing. This body here, and I can speak from experience, this is the best session. These members are the best members I have ever served with. I am not saying other legislatures haven't been good, but this one here rates number one. There is no use in my trying to lobby anybody, and I am supposed to be pretty good at it. You couldn't con nine tenths of you people with a sledge hammer. What difference does it make what there is on the books. I am going with the Wyman Report.

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

Mr. SUSI: Mr. Speaker, Ladies and Gentlemen of the House: My personal position on this is that when we get down to the wire, I am going to support whatever bill we have before us, but that is not saying that I don't have a choice between the two bills, I certainly do have.

Going into this, the one thing that I was hoping we could retain through the whole process is the ability to determine, after the legislation is adopted, how much money is being spent on any particular issue so if an issue comes before a session and we want to know how much beef there is behind it, you can find out what the stakes are in the game, then you know pretty much how important the game is. If that legislation would make it possible for me to go to the Secretary of State's Office and determine whether it is ten, twenty, thirty or forty thousand, how much is being spent on that issue, then I would have been happy. But under the minority report, that wouldn't be possible, because under it, each of these legislative agents would, on his own, be able to determine what percentage of his fee is attributable to research, to drafting, in contrast to the effort that he makes to affect the legislation. What also raised a question in my mind is whether calls made out of his office to hometown business people or whatever couldn't perhaps conveniently be classified as research.

My point is, even after this, you won't be able to tell how much money is being spent on these issues, and I feel this is a serious deficiency in the minority report.

Statements have been made here this morning that would lead you to believe that the effect of the lobby in the legislative process here is minimal. I don't concur with that at all. The accusation has been made that the employers of the lobby are conned rather than us, and that

may be true in some instances, I don't doubt that it is. But by and large, the sharpest business people in this state spend literally hundreds of thousands of dollars each session on lobbying efforts and if these expenditures through the years hadn't paid off, I am sure that they would have discontinued the high level of expenditures in this area.

I have noticed a change in the pattern. It is very clear to me that the lobbying efforts are going away from the House. There isn't the concentrated lobbying effort in the House that there used to be. It is concentrated in other areas. I would say the combination of two things has happened — a minimizing of the effort on the House and an overall increase in the overall effectiveness of the lobby in the legislature. I think they are concentrating more on the committees and other areas of the legislature.

I don't think that we have any occasion today to come to the very comfortable conclusion that the lobby is dissipating, that it no longer is a viable part of the legislative process. This isn't true, it is still around and is very effective right today.

Our present situation, we have a choice between the minority and majority report. If we support the majority report, 11 to 1 majority report, and in my opinion, the majority report represents considerable more legislative input. I think the minority report represents considerable more lobbyist input. I believe that we could reasonably support the majority report, go to a committee of conference and perhaps stiffen up a little bit the provisions of the minority report, and I think we might have a passable lobbyist bill coming out of this session.

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

Mr. DeVANE: Mr. Speaker, Men and Women of the House: This member supports, vehemently, disclosure by lobbyists.

I would respond to comments by four members of this House. To Mr. Gauthier I would say, the lobby is as strong as the membership is weak. It is as futile to determine one's own influence as it is one's own popularity. The membership decides who influences them. I cannot conceive that people do not understand that we each are sovereign and decide who shall influence us.

To Mr. Wagner, I should remind that gentleman that I appeared before the State Government Committee and asked the State Government Committee to put in the lobbyist disclosure bill a provision that every penny that is spent by a person hired to influence legislation, that every penny that they might spend to entertain, to accommodate a member of this legislature be disclosed — a cup of coffee, lodging, that is what the public is thinking about and that, sir, should be disclosed and with criminal penalty.

I care not one way or the other if a lobbyist's salary is disclosed, because I care not if somebody gets paid \$100,000 or if they are a penniless volunteer, their opinions are equal and the value of them is equal. I care not what anybody pays their lobbyists. I am perfectly willing to see it public, but it doesn't change their effectiveness. I shouldn't think. If you care more for the opinion of somebody highly paid than somebody unpaid, I suggest that there is something wrong with your thinking, and that provision should have been the critical provision and not what is in the bill.

I would say to Mrs. Bachrach and to Mr. Susi, of course the lobby influence is the legislation. That is what they are here to do, that is what they do, but the membership decides to whom they shall respond, I hope.

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

Mr. GOULD: Mr. Speaker and Members of the House: Very briefly. I favor the minority report because I think it is the best thing since tranquilizers, and after talking to some of the lobbyists, anyone needs tranquilizers.

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

Mr. JALBERT: Mr. Speaker and Members of the House: You are perfectly right as far as time is concerned, and I admit that I am one of those who has come to you and said, what are we going to do to speed this up. I want to go home too, but there are times when you have to get up and speak.

If the gentleman from Pittsfield, Mr. Susi, ever agreed with me, there would be coronary number two, as far as I am concerned. You know, last Sunday I was speaking with a mutual friend of all of us and the gentleman from Pittsfield's name came up and of course I started out and I didn't cut loose and breathe for about seven and a half minutes. When I got through talking, my wife said, Louis, is that the nice man you speak about to me, Mr. Susi from Pittsfield, that you tell me you like so much? Is said, that is the same guy.

But you know, the funny part about it is, he was once a good floor leader of the opposition party, and I have seen him go up and ask lobbyists for advice.

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

Mr. GAUTHIER: Mr. Speaker, Ladies and Gentlemen of the House: Just a few words. I don't want to delay the session, but in answer to Mr. DeVane, I would like to say to Mr. DeVane that this is his first session and the committee came out 11 to 1, and I think I would respect their views on this.

The SPEAKER: The Chair recognizes the gentleman from Auburn, Mrs. Snowe.

Mrs. SNOWE: Mr. Speaker, Ladies and Gentlemen of the House: I am not going to attempt to address the role of the lobbyist this morning in regards to this legislature. I think that has been done sufficiently. I guess at this point what I am going to do is at least draw the differences between the two bills on which we will be basing our decision.

In the majority report, we use the eight hours for the determination of whether or not one is a lobbyist, we use the \$500 figure and the minority report uses the eight hour determination.

In our bill, the majority report, we exclude county and municipal officials. The minority report does not. In our bill, we do include lobbying before a committee, testimony before a committee; the minority report does not. I think that is a major loophole. Oftentimes lobbyists spend a lot of time before a committee.

Also, in the majority report, a lobbyist includes an individual who is a partner, associate member or employee of a partnership firm, corporation or professional association which has been employed for lobbying when such individual is acting for the lobbyist in representing the employer. Our bill includes such an individual; the minority report does not our bill excludes religious organizations; the minority report does not.

I think it depends at this point which things could be tightened in the bill. I think that is all that matters here this morning.

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

Mr. LOVELL: Mr. Speaker, Ladies and Gentlemen of the House: I have a great deal of respect for the gentleman from Dover-Foxcroft, Mr. Smith, and in his talk he stated that the majority report was unconstitutional, so we need to vote for the minority report. Now, in the years I have been here, I have never had a lobbyist buy me a cup of coffee or sandwich or anything at all. I say, let's vote on this thing. We

have talked long enough on it. Let's vote and let's get the minority report passed.

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

Mrs. KANY: Mr. Speaker and Members of the House: I just wanted to reply to that. I discussed this with Representative Smith outside, and his whole objection, that was page 5, under expenditures, "including but not limited to" and I am sure that he or anyone else would be perfectly happy with it if that were amended out on the second reading by a House amendment.

Representative Smith, when he discussed the whole business of penalties, didn't really stress the fact that the penalties would only come into effect any time when people wilfully and knowingly filed incorrect information or wilfully or knowingly failed to file a registration report, and this is very important language legally, in that it is pretty hard to ever find someone wilfully and knowingly doing something. It is just a failure to act; in other words, no one would ever be penalized, but they would have to wilfully and knowingly fail to do something. I would like to make that very clear.

Right now, we have no lobbyist disclosure law. I don't really care if we have one, to tell you the truth. Our whole committee has been working on this for so long that I am sure most of us feel this way. I don't even know if it is all that important to have one, but if we are going to put something on the books, why don't we put on something fairly good.

We have had a lobbyist disclosure law on the books for about 20 years, up until now, now we don't have one. So this is not some new item that has just come up during the 107th. This is old stuff, and if we want a law on the books, why don't we have a good one; otherwise, let's just leave it the way it is now and not bother to have any at all.

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

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

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

Mr. CARPENTER: Mr. Speaker, I wish to pair my vote with the gentleman from Mapleton, Mr. Rideout, if I were voting on this issue, I would be voting yes; if he were here and voting, he would be voting no.

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

#### ROLL CALL

YEA — Bachrach, Bennett, Berry, P. P.; Berube, Blodgett, Boudreau, Carroll, Carter, Chonko, Clark, Connolly, Cooney, Cox, Curran, P.; Davies, Dow, Farnham, Flanagan, Gauthier, Goodwin, K.; Greenlaw, Henderson, Hennessey, Hinds, Hughes, Hunter, Ingegneri, Jacques, Jensen, Joyce, Kany, Kennedy, Laffin, LaPointe, Martin, A.; Martin, R.; Mills, Mitchell, Morin, Mulkern, Nadeau, Najarian, Peakes, Pelosi, Post, Powell, Quinn, Raymond, Shute, Snowe, Stubbs, Susi, Talbot, Tozier, Tyndale, Usher, Wagner, Wilfong, Winship.

NAY — Albert, Ault, Bagley, Berry, G. W.; Birt, Bowie, Burns, Bustin, Byers, Call, Churchill, Conners, Cote, Curran, R.; Curtis, Dam, DeVane, Doak, Drigotas, Dudley, Durgin, Dyer, Farley, Fenlason, Finemore, Fraser, Garsoe, Goodwin, H.; Gould, Gray,



Hall, Hewes, Higgins, Hobbins, Hutchings, Immonen, Jackson, Jalbert, Kauffman, Kelleher, Kelley, Laverty, LeBlanc, Leonard, Lewin, Lewis, Littlefield, Lizotte, Lovell, Lunt, Lynch, MacEachern, Mackel, MacLeod, Mahany, Maxwell, McBreairty, McKernan, McMahon, Miskavage, Morton, Norris, Palmer, Pearson, Perkins, S.; Perkins, T.; Peterson, P.; Peterson, T.; Pierce, Rolde, Rollins, Saunders, Silverman, Smith, Snow, Spencer, Sprowl, Strout, Tarr, Teague, Theriault, Tierney, Torrey, Truman, Twitchell, Walker, Webber, The Speaker.

ABSENT — Carey, Faucher.

PAIRED — Carpenter, Rideout.

Yes, 59; No, 88; Absent, 2; Paired, 2.

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

Thereupon, on motion of Mr. Dudley of Enfield, the Minority "Ought to pass" Report was accepted in concurrence and the New Draft read once. Senate Amendment "C" (S-466) was read by the Clerk and adopted in concurrence and the New Draft assigned for second reading tomorrow.

#### Non-Concurrent Matter

RESOLVE, to Reimburse the Town of Waldoboro for Assisting in the Capture of Escapees from the Maine State Prison in Thomaston (H. P. 1807) (L. D. 1966) on which the Minority "Ought to Pass" Report of the Committee on Legal Affairs was accepted and the Bill Passed to be Engrossed in the House on March 23, 1976.

Came from the Senate with the Majority "Ought Not to Pass" Report of the Committee on Legal Affairs Read and Accepted in non-concurrence.

In the House:

The SPEAKER: The Chair recognizes the gentleman from Waldoboro, Mr. Blodgett.

Mr. BLODGETT: Mr. Speaker, it is apparent that the members of the other body are unable to recognize a good and fair bill when they see one. I move to insist and ask for a Committee of Conference.

Thereupon, the House voted to insist and ask for a Committee of Conference.

#### Orders

Mr. Theriault of Rumford presented the following Joint Order and moved its adoption: (H. P. 2239) (Cosponsor Mr. Fraser of Mexico)

WHEREAS, The Legislature has larned of the Outstanding Achievement and Exceptional Accomplishment of The Panthers of Rumford High School Douglas Roberts; Andrew Shorey; Timothy Ziko; Jack Kaubris; Matthew Kaubris; Robert Reid; Chris Gorham; Timothy Shea; David Gerrish; Michael Fraser; Peter Carignan; John Zinck; James Puiia, Manager; Vincent Martin, Assistant Manager; Kelly Gorham, Mascot-Manager And Their Coach, John Shaw And Assistant Coach, Rick Milliken New England Basketball Champions For 1976

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

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

The Order was read.

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

Mr. THERIAULT: Mr. Speaker and Members of the House: The members of this wonderful team who you have just heard named are now in the balcony and I would like to ask

them to stand and be recognized. (Applause, the members rising.)

I would further like to say that one of the members of that team happens to be the grandson of our own Mr. Emile Fraser.

The SPEAKER: The Chair would make a couple of comments, if he might. Yesterday, Mr. Theriault indicated that his starting to feel ashamed for having to put in so many orders honoring Rumford High for its many accomplishments. For this one, we congratulate you, since you have brought honor not only to yourself and to your school but also to the entire State of Maine. The order from the gentleman from Rumford, to which I referred earlier, dealt with the Gymnastics team of your high school, and for that we congratulate you and appreciate your being here with us today.

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

Mr. THERIAULT: Mr. Speaker, you made a big error. You said I was ashamed — not ashamed, embarrassed, never, never ashamed.

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

Mr. ROLLINS: Mr. Speaker, Ladies and Gentlemen of the House: I, too, am proud of the boys on the basketball team from Rumford High School. We have another member of this House who is graduate from Rumford High School, and I will let her speak for herself.

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

By unanimous consent, ordered sent forthwith to the Senate.

Mr. Burns of Anson presented the following Joint Resolution and moved its adoption: (H. P. 2238)

Joint Resolution On The End of Log Driving In The State Of Maine And On The Demise Of The Kennebec Log Driving Company

WHEREAS, during the summer of 1975 Maine's last log drive took place on the Kennebec River; and

WHEREAS, during this drive over 220,000 cords of fir and spruce were driven over 100 miles down river from Moosehead Lake to Winslow; and

WHEREAS, the Kennebec Log Driving Company, which is one of the last log driving companies in the United States and which, since 1835, has driven logs from the upper Kennebec River downstream to saw mills and paper mills, ceased river operations with the end of this last log drive; and

WHEREAS, log drives on the Kennebec are a nostalgic part of Maine history, recalling the days of dynamite, bateaux, peaveys, log rafts, log booms, pickpoles, picarons and towboats; and

WHEREAS, log drives on the Kennebec recall most vividly the fabled rivermen of the past, giants in caulked boots who leaped nimbly from jam to jam in order to skillfully pry loose the key log which sent the whole mass tumbling down river as the driver leaped to safety; and

WHEREAS, log drivers are now faded into the river mist to return only when drives are recreated along this glistening waterway by loggers of the past telling their grandchildren "how it really was when great rivermen had a place to be great;" now, therefore, be it

RESOLVED: That we, the Members of the Senate and House of Representatives of the 107th Legislature, join this moment to recall these days of the last log drive and the many that preceded it and in so doing pause to commemorate this colorful and lasting episode in Maine's history; and be it further

RESOLVED: That we note with pride the long history of the Kennebec Log Driving Company and note with sadness the passing of the last river operations of that company; and be it further

RESOLVED: That upon passage in concurrence, the clerk of the House shall send suitable copies of this resolution to the Kennebec Log Driving Company, the Scott Paper Company and the Hudson Pulp and Paper Corporation in honor of the occasion.

The Resolution was read.

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

Mr. BURNS: Mr. Speaker, Ladies and Gentlemen of the House: It is sad to introduce this order in this bicentennial year. Log driving in Maine is as old as this country. Most every brook, stream and river in this state has been used as an inexpensive and available form of transportation, carrying millions of logs and cords of pulpwood to the factory. The history of the State of Maine could be written just by following the history of the river drives.

The Kennebec Log Driving Company is not a new name in the halls of this House. They were constituted by the Maine Legislature in January 1835. In researching this order, I found that my sixth great grandfather was one of the signers of the original petition, and each generation thereafter has worked for them.

If you happen to be in the upper part of the Kennebec River Valley this summer, please pause and reflect, it will be a scene that you will see no more.

The SPEAKER: The Chair recognizes the gentleman from Millinocket, Mrs. Laverty.

Mrs. LAVERTY: Mr. Speaker, I would like to thank Mr. Burns for presenting this joint resolution, in that I come from the log driving country on the Penobscot. I was brought up in the Great Northern Paper Company country where the log drive was part of our lives and we hate to see this era go. Thank you, Mr. Burns.

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

By unanimous consent, ordered sent forthwith to the Senate.

#### Later Today Assigned

Mr. Leonard of Woolwich presented the following Joint Resolution and moved its adoption (H. P. 2235)

Joint Resolution concerning the Desirability of Repealing The Safe Water Drinking Act enacted by Congress as PL 93-523

WHEREAS, the 93rd Congress of the United States has enacted Public Law 93-523, cited as the "Safe Drinking Water Act;" and

WHEREAS, this Act regulates all public water supplies including those which are not operated by a water utility; and

WHEREAS, the Act requires the State of Maine to enact complicated, complex, unnecessary and expensive legislation by July 1, 1977; and

WHEREAS, if the State fails to enact legislation deemed appropriate by the Environmental Protection Agency, all suppliers of water in Maine will be subject to the regulation of regional offices of the Environmental Protection Agency; and

WHEREAS, such regulation is not needed in the State of Maine, and

WHEREAS, the law will result in increased cost to the citizens of Maine, outweighing any benefits; now, therefore, be it

RESOLVED: That we, the Members of the 107th Maine Legislature now assembled in special session, hereby respectfully request and urge the Maine Delegation to the Congress of the United States to convince their colleagues of the necessity of repealing Public Law 93-523, and to work toward securing repeal of this Act as soon as possible; and be it further

RESOLVED: That duly attested copies of this Resolution be immediately transmitted to those congressional delegates with our thanks for their prompt attention to this important matter.

The Resolution was read.

On motion of Mr. Leonard of Woolwich, tabled pending adoption and later today assigned.

Mr. Birt of East Millinocket presented the following Joint Order and moved its passage: (H. P. 2237)

WHEREAS, the Department of Inland Fisheries and Wildlife undertakes a wide range of biological research; and

WHEREAS, the research division is responsible for the improvement, propagation and maintenance of all forms of wildlife and fish; and

WHEREAS, these activities have an impact on the lives of all Maine people; now, therefore, be it

ORDERED, the Senate concurring, that the Joint Standing Committee on Fisheries and Wildlife shall review the content and expected application of research carried out by the research division of the Department of Inland Fisheries and Wildlife, and shall review the capabilities, plans and needs of that division; and be it further

ORDERED, that the committee shall complete this study no later than 90 days prior to the next regular session of the Legislature, and submit to the Legislative Council within the same time period its findings and recommendations including copies of any recommended legislation in final draft form; and be it further

ORDERED, that upon passage of this Order in concurrence, the Clerk of the House shall forward a suitable copy of this Order to the Senate and House chairmen of the committee. The Order was read.

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

Mr. BIRT: Mr. Speaker, Ladies and Gentlemen of the House: This is an order that arose out of a study that the Performance Audit Committee did last summer. We have had one bill that came out of this study relative to the financing of the department. But during the discussion, we had some requests and information to do a further study on the biological research and the biologists and we decided that this was probably a little bit beyond the scope of what we in the committee were capable of doing, but we did feel that it should be looked into. As a result, this order came out of that committee and we are referring this to the Department of Inland Fisheries and Wildlife and the Fish and Game Committee to make a more extensive review of this entire program.

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

Mrs. Hutchings of Lincolnville presented the following Joint Order and moved its passage: (H. P. 2243)

WHEREAS, The Legislature has learned of the Outstanding Achievement and Exceptional Accomplishment of Kenneth Urquhart of Lincolnville who has achieved the honor and distinction of Eagle Scout in Troop 244, Hope-Lincolnville of the Pinetree Council of The Boy Scouts of America

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

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

The Order was read.

The SPEAKER: The Chair recognizes the gentlewoman from Lincolnville, Mrs. Hutchings.

Mrs. HUTCHINGS: Mr. Speaker, Ladies and Gentlemen of the House: Kenneth Urquhart of

Lincolnville is being honored today as attaining the highest rank of boy scouting, that of Eagle Scout. He is the first from Lincolnville to earn this honor. His Scout Master, Mr. James Calahan of Camden, has kindly supplied me with some background information of Ken's achievement.

It was early in 1972 that Ken Urquhart began his scouting career as a member of the Hope-Lincolnville Troop 244 which, incidentally, is the only one in the state to be included in two counties. On December 22, 1975, he earned his Eagle Scout rank, awarded at a Court of Honor January 19, 1976.

I would like to speak of some of the work involved in attaining this highest rank in scouting. Ken earned 24 merit badges, including those in categories of citizenship, in community, in nation and in the world. He also earned one in camping, having completed a 50-mile hike, camping out in excess of 60 nights, plus attendance at summer camp for at least a week each summer. He received badges in emergency preparedness, environmental science, personal fitness and cooking, and has earned 10 skill awards. He has completed three major community service projects of his own choice.

During this time, he has served as patrol leader and assistant patrol leader. He also actively taught younger scouts many of the scouting skills in which he has become proficient. And last, but not least, Ken Urquhart has maintained excellent school ranks and held part time employment after school, nights and weekends.

Ladies and gentlemen, it is with great pleasure and pride that I am privileged to have Ken Urquhart here today and to honor him in this legislature. (Applause)

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

Mr. Torrey of Poland presented the following Joint Resolution and moved its adoption: (H. P. 2236)

#### IN MEMORIAM

Having Learned of The Death of Edward F. Sawyer of Mechanic Falls former Town Manager and Outstanding Citizen

The Senate and House of Representatives of the State of Maine do hereby extend their sincere heartfelt condolences and sympathy to the bereaved family and friends of the deceased; and further

While duly assembled in session at the State Capitol in Augusta under the Constitution and Laws of the State of Maine, do herein direct that this official expression of sorrow be forthwith sent to the family of the deceased on behalf of the Legislature and the people of the State of Maine.

The Resolution was read and adopted and sent up for concurrence.

Mr. Talbot of Portland was granted unanimous consent to address the House.

Mr. TALBOT: Mr. Speaker, Ladies and Gentlemen of the House: A short while ago, I sponsored in this House a memorial in behalf of the death of a giant of a human being, a black American, Paul Robeson. Today, I would like to read into the record, for my behalf and your behalf, a short letter which I received today from the Paul Wilson Achieves, Inc. "Dear Mr. Talbot: Deepest thanks for your kind letter of February 12 and the accompanying resolution of condolence from the House of Representatives of the State of Maine. Please convey the family's deep appreciation to the other member of the House. Sincerely yours, Paul Robeson Jr."

#### House Reports of Committees Ought to Pass in New Draft New Draft Printed

Mrs. Clark from the Committee on Business Legislation on Bill "An Act Concerning the

Geologist and Soil Scientist Certification Act" (H. P. 1993) (L. D. 2182) reporting "Ought to Pass" in New Draft Under New Title Bill "An Act Relating to the Geologists and Soil Scientists Certification Act" (H. P. 2240) (L. D. 2322)

Report was read and accepted, the New Draft read once and assigned for second reading tomorrow.

#### Divided Report

##### Tabled and Assigned

Majority Report of the Committee on Fisheries and Wildlife on Bill "An Act to Clarify the Fish and Game Laws" (H. P. 1933) (L. D. 2121) reporting "Ought to Pass" as amended by Committee Amendment "A" (H-1049)

Report was signed by the following members:

Mr. PRAY of Penobscot — of the Senate.

Messrs. DOW of West Gardiner  
TOZIER of Unity  
MacEACHERN of Lincoln  
USHER of Westbrook  
MARTIN of St. Agatha  
MILLS of Eastport

— of the House.

Minority Report of the same Committee reporting "Ought to Pass" as Amended by Committee Amendment "B" (H-1050)

Report was signed by the following members:

Messrs. McNALLY of Hancock  
GRAFFAM of Cumberland

— of the Senate.

Messrs. CHURCHILL of Orland  
PETERSON of Caribou  
WALKER of Island Falls  
KAUFFMAN of Kittery

— of the House.

(On motion of Mrs. Najarian of Portland, tabled pending acceptance of either Report and tomorrow assigned.)

#### Consent Calendar

##### First Day

##### Later Today Assigned

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

(H. P. 1965) (L. D. 2154) Bill "An Act to Repeal Certain Statutory Provisions for the Licensing of Boarding Homes and Day Care Facilities" Committee on Health and Institutional Services reporting "Ought to Pass" as amended by Committee Amendment "A" (H-1056)

On the request of Mr. Goodwin of South Berwick, was removed from the Consent Calendar.

Thereupon, the Report was accepted and the Bill read once. Committee Amendment "A" (H-1066) was read by the Clerk.

On motion of Mr. Goodwin of South Berwick, tabled pending adoption of Committee Amendment "A" and later today assigned.

#### 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 Amend the Procedures of the Maine Labor Relations Board" (C. "A" H-1022) (H. P. 1961) (L. D. 2148)

On the request of Mr. Tierney of Durham, was removed from the Consent Calendar.

Thereupon, the Report was accepted and the Bill read once. Committee Amendment "A" (H-1022) was read by the Clerk and adopted and the Bill assigned for second reading tomorrow.

Bill "An Act Clarifying the Use of the Mental Health Improvement Fund" (H. "A" H-1024) (H. P. 2068) (L. D. 2238)

Bill "An Act to Incorporate the Frye Island

Municipal Services Corporation" (Emergency) (C. "A" H-1026) (H. P. 2109) (L. D. 2263)

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

Bill "An Act Relating to Town Ways" (C. "A" H-1028) (H. P. 1920) (L. D. 2108)

On the request of Mr. Henderson of Bangor, was removed from the Consent Calendar.

Thereupon, the Report was accepted and the Bill read once. Committee Amendment "A" (H-1028) was read by the Clerk.

Mr. Henderson of Bangor offered House Amendment "A" to Committee Amendment "A" and moved its adoption.

House Amendment "A" to Committee Amendment "A" (H-1070) was read by the Clerk.

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

Mr. HENDERSON: Mr. Speaker, Ladies and Gentlemen of the House: This bill, its primary objective is to deal with the problem of town ways which have been lost through the records that might have been established hundreds of years ago and are difficult to find, no one knows where they are and then the possibility of a developer coming in this small town, going up on the back ridge and his finding out that there is such a town way and demanding that it be opened up at the expense of the town.

This bill would say that if those ancient town ways hadn't been used or in any way maintained by the towns for, I think it is 30 years, those are in effect discontinued so that the town is not liable for these invisible ways that someone might remember and require that the town rehabilitate.

However, this House Amendment will also say that these abandoned, discontinued ways, would not be completely out of the control of the municipality, in that the local legislative bodies may vote to open these up for recreational uses. They don't have to, but if they would like to use them for hiking paths or ski trails or whatever, the towns would not lose the right to these old roads, that they could be used for that purpose.

On motion of Mr. Dam of Skowhegan, tabled pending adoption of House Amendment "A" to Committee Amendment "A" and later today assigned.

Bill "An Act Exempting Public Accountants and Certified Public Accountants From the Insurance Consultant Law and Deleting the 3-Year Limitation on Applications for Permits to Practice Accountancy" (C. "A" H-1037) (H. P. 2084) (L. D. 2262)

Bill "An Act to Provide a Procedure for Establishing Additional Exceptions for the Definition of Rental Units and to Clarify the Procedure for the Appointment of a Rent Control Administrator or Board under the Municipal Rent Control Act" (C. "A" H-1040) (H. P. 2099) (L. D. 2259)

Bill "An Act to Promote the Sales of Maine Potatoes" (C. "A" S-457) (S. P. 701) (L. D. 2220)

Bill "An Act to Revise the Potato Licensing Law" (C. "A" S-458) (S. P. 702) (L. D. 2221)

No objections having been noted, the House Papers were passed to be engrossed and sent up for concurrence and the Senate Papers passed to be engrossed in concurrence.

Bill "An Act to Amend the Employment Security Laws" (C. "A" S-453) (S. P. 691) (L. D. 2210)

On the request of Mr. Tierney of Durham, was removed from the Consent Calendar.

Thereupon, the Report was accepted in concurrence and the Bill read once. Committee Amendment "A" (S-453) was read by the Clerk

and adopted in concurrence and the Bill assigned for second reading tomorrow.

Bill "An Act to Require the Employment Service to Provide Services to High School Students" (C. "A" S-456) (S. P. 719) (L. D. 2255)

No objection having been noted at the end of the Second Legislative Day, was passed to be engrossed in concurrence.

Bill "An Act to Revise Requirements for Permanent Markers Under the Land Subdivision Laws" (C. "A" S-451) (S. P. 717) (L. D. 2268)

On the request of Mrs. Najarian of Portland, was removed from the Consent Calendar.

Thereupon, the Report was accepted in concurrence and the Bill read once. Committee Amendment "A" (S-451) was read by the Clerk. Senate Amendment "B" to Committee Amendment "A" (S-453) was read by the Clerk and adopted in concurrence. Committee Amendment "A" as amended by Senate Amendment "B" was adopted in concurrence and the Bill assigned for second reading tomorrow.

Bill "An Act to Assure Resources for the Resolution of Disputes" (C. "A" S-455) (S. P. 666) (L. D. 2296)

No objection having been noted at the end of the Second Legislative Day, the Bill was passed to be engrossed as amended in concurrence.

Bill "An Act to Promote Efficiency in Maine State Government" (C. "A" S-450) (S. P. 699) (L. D. 2223)

On the request of Mr. Kelleher of Bangor, was removed from the Consent Calendar.

Thereupon, the Report was accepted in concurrence and the Bill read once. Committee Amendment "A" (S-450) was read by the Clerk and adopted in concurrence and the Bill assigned for second reading tomorrow.

Bill "An Act Relating to the Refund of Fees on Certain Unused Semitrailer Registrations" (Emergency) (C. "A" S-449) (S. P. 649) (L. D. 2066)

No objection having been noted at the end of the Second Legislative Day, the above item was passed to be engrossed as amended in concurrence.

#### Passed to Be Engrossed

Bill "An Act Concerning the Salary of Knox County Register of Probate and Clerk Hire and Legal Fees of the York County Treasurer" (H. P. 2230) (L. D. 2318)

Was reported by the Committee on Bills in the Second Reading, read the second time, passed to be engrossed and sent up for concurrence.

#### Second Reader Indefinitely Postponed

Bill "An Act Regulating Water Well Drilling" (H. P. 2231) (L. D. 2319)

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

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

Mr. BERRY: Mr. Speaker, Ladies and Gentlemen of the House: This bill first came to my attention several years ago, and I think it has been before us every session that I have been here, or some variation of it. I was opposed to it in all of the other sessions and I still am, and I would like to explain some of the reasons why.

My basic reason is that it is what I would call an industry lockout, and I mean by that, anybody wishing to go into the well drilling business after this becomes effective, sometime in 1977, would have to serve an apprenticeship with a well driller, provided that

he could be hired by one, for a number of years, then pass an examination to drill wells. We already have several situations like that in the State of Maine, the electricians operate in that fashion, the plumbers do, and those probably are areas that should be regulated, although I don't think drilling water wells is one area that should be regulated or even could be effective-ly.

At one time, I did assist a person drilling water wells, quite a few years ago, and I can assure you, it is not something that would be easy to regulate.

I called Mr. Hoxie, who is the Director of Health Engineering Department in the Department of Human Services yesterday, and I discussed this bill with him to some length. Mr. Hoxie informed me that they aren't having any problems with the drilled wells. Most of the problems are with the dug wells, the shallow wells, and he said, if you want to regulate something, regulate those. That is where the problem is.

He also suggested that it might be more feasible, if people do think well drillers in the State of Maine are abusing the customers, the best solution to the problem might be to create a statute that would make the well driller purchase a bond, and I am inclined to agree with him. I think if you do feel that these people are not responsible and you want to make them more responsible, make them buy a bond. If they don't live up to the contract that has been written with the customer, it is very simple.

I also discussed portions of the bill with Mr. Hoxie, and I asked him, what do you think the definition of a well means as outlined in this bill? He told me that he thought that definition included every type of well, drilled and otherwise. That is the way he read it. He later called the Attorney General's office and somebody in the Attorney General's Office said they weren't sure but they thought maybe it only applied to drilled wells. So I went a little further and I called six well drillers last night and I asked them what they thought this meant. Part of them thought it meant drilled wells and part of them thought it meant all kinds of wells. And while I had the six well drillers on the phone, I asked them how they felt about the bill. Four of them didn't like it, two of them did like it and very candidly told me over the phone they liked it for the reason that sooner or later it would eliminate some of their competition.

If you will note on Page 3 of the bill, paragraph 2, it states, and this is talking about private wells, your own private well. "Said person shall not be exempt from rules and regulations promulgated pertaining to standards of well construction." If you wanted to do anything to your own well on your own property, you would have to do it in accordance with rules and regulations that are not yet drawn up.

I am not going to go on to any great length, Mr. Speaker, but I think while I am here, I will move the indefinite postponement of this bill and all its accompanying papers.

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

The Chair recognizes the gentlewoman from Freeport, Mrs. Clark.

Mrs. CLARK: Mr. Speaker, Men and Women of the House: Again you have before you a redraft of a measure which was submitted to the Committee on Business Legislation and reported out with a unanimous "ought to pass" report.

Indeed, the gentleman from Buxton, Mr. Berry, has alluded to the fact that this bill, in many forms, has been before us before, and he is correct. As a matter of fact, L. D. 2018, which was introduced into the special session of this

legislature, represents the fifth time that this bill has been introduced, and the redraft, L. D. 2319, no more resembles the first introduced bill than 'the man in the moon.'

L. D. 2319 is the result of a concerted study on behalf of the Committee on Business Legislation, input from the Department of Geology, with Mr. Brad Caswell, who is State Geologist, input from the Representative from Bar Harbor and the Representative from Waldoboro, Representatives Blodgett and MacLeod, Mr. Ira Goodwin, who is President of the Maine State Well Drillers Association and a number of interested business people who have come before the committee.

The bill, L. D. 2319, does not in fact exclude people in this state from following what are considered healthful, safe water provisions in the drilling of wells. L. D. 2319 is an explicit bill, and I refer you to page 8 and the Statement of Fact. The Statement of Fact reads: "The purposes of the new draft are as follows: To transfer the administration of the Water Well Drilling Board from the Bureau of Geology to the Department of Business Regulation, to transfer the power to suspend or revoke licenses from the board to the Administrative Court, with due process, to restrict the rule-making powers of the board, to reduce the experience required for licensed drillers, to make well-completion reports optional rather than mandatory and to generally clarify the wording of the original bill, L. D. 2018."

I would refer you specifically to those sections in the bill, namely, Section 7, item 2 at the top of the page, which is something new in the history of the State of Maine, explicitly stating those criteria which will be included in reports which are submitted to the state agencies. This is a first for this legislature and we feel, on the Committee of Business Legislation, that this will clarify those money areas of administrative law which have caused such great confusion and/or frustration on behalf of the citizens of the state.

I would seek your support in defeating the pending motion on the floor for indeed this is a good bill.

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

Mr. DUDLEY: Mr. Speaker and Members of the House: I do dislike to have to speak to you so many times in the same day but I support this measure to indefinitely postpone. I don't want any more boards here, I don't want to buy any more buildings and I don't want to construct any more around this complex. We tend to, year after year, lean in that direction. Number one, this on page three, Water Drilling Board, down at the bottom of the page a little further, you will see that they get \$25 a day for travel and so forth, this all comes out of the people that I represent, their pockets. I am not going to talk long because the hour of lunch is near.

On page four at the bottom of the page, this is the thing that really bugs me and it will really bug the people that I come from because there is one thing they can still do free, is dig a hole in the ground and get some water, but they can't after this bill passes. Let me read to you on page four, the bottom page, no water well shall be constructed, enlarged — enlarged mind you, even enlarge your well — or deepened except as provided in this chapter unless done by a well driller licensed by the board. Now, I think this is a bit ridiculous and the people I represent, I know, would too because that is one thing they can still do is breathe a little free air and dig a hole in the ground and get some water, and we can send it down here and be tested. If there is anything we don't need is another board and some more construction around this complex.

I hope you will support the motion of the gentleman that sits in front of me, Mr. Berry,

and indefinitely postpone this measure and the sooner the better.

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 try to answer a few of the questions that have been posed here today. First of all, by the good gentleman Mr. Dudley, this board is a board that the industry itself from at least what we can tell from their representatives wholeheartedly endorses. The board is funded by dedicated revenues paid in by the licenses, not paid by the people of this state nor is it taken out of the general fund of the tax dollars of the rest of the people of this state.

He has tried to lead you to believe that a private individual on the bottom of page four, cannot deepen his own well or enlarge it or whatever, but if you will look on page three of the exact same bill, under Exclusions, item two, says nothing in this chapter shall prevent a person from constructing enlarging, deepening or otherwise altering a well on property, which such a person owns or leases. Now anybody that owns their own well can go out and do whatever work that they want to do on it.

Mr. Berry, in that same section that I just referred to, had some problems with the rules and regulations that are promulgated by this board. Our committee has worked diligent hours, I think, in designing some sort of a board that would be fair to all those that are concerned. It has two master drillers on it, two members of the establishment, so to speak, and a consumer member. I don't think that this industry should be any different than the industry of electricians or plumbers or whatever, we are talking about a water supply here for people who are going to drink it. We are talking about someone who builds a house, who invests anywhere from \$500 to \$5,000 in a well and a water supply. If that water supply is no good, then he is out and if this particular contractor who has performed a service for this particular individual is insolvent or irreputable, then he is out his money and he doesn't have any recourse. We heard in committee of people who were going into this business and doing shoddy work and those people have no recourse whatsoever.

I am not saying that this is going to stop all shoddy workmanship done in this state. All it is asking is, that people who perform this service register, that they at least take some kind of an examination, and pass it. I don't think that this is an industry lockout.

If the gentleman from Buxton has problems with the definition of drilled wells as to what that exactly means, I am sure that can be amended with the help of the Attorney General's Office.

I might also add when you talk about this board I, as I am sure a lot of you, have had trouble with rules and regulations promulgated by boards or administrative officials or commissioners or whatever and I think if you read over on page four, item four, under rules and regulations, you will see that the Committee on Business Legislation has tried to give those people who are going to be affected by this act a good deal of input and information as to just where they will stand under these rules and regulations. All the licensees will receive notice prior to any hearing that is going to be held with an agenda enclosed and the proposed rules or regulations that they expect to be taken up at that time. It also provides that, after that hearing, a copy of all rules and regulations adopted by the board shall be sent forthwith to all persons licensed and registered under this chapter.

There is a 30 day waiting period that gives these people the opportunity to give further input, if for one reason or another, they were adversely affected at that hearing and were not

able to attend or want to take legal action. I think that is a far cry from some of the administrative boards and the rules and regulations that are promulgated by other boards in this state.

I think it just plainly boils down, ladies and gentlemen, to the fact that should we let just anyone enter this field of well drilling since it is a vital field and everyone of us drinks water every day and I don't know how many here are on wells, I know I am not, but I may well be eventually, and I just think the question is, should we just by random sample allow people to enter this profession any more than we allow electricians or plumbers from entering this profession without the proper credentials, proper education or at least expertise, and that is what this is talking about expertise.

I think this is a good bill and I have worked to the best of my ability to see that it is not unfair to the people that it is regulating nor to the people of the State of Maine.

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

Mr. MacLEOD: Mr. Speaker, Ladies and Gentlemen of the House: I just would like to explain my position in being involved with this piece of legislation. In my terms here in the House, I think that it is safe to say that I listened to the "A" bill for well drilling a number of times or possibly as many times as Representative Berry has. These have been defeated in the past for some small quirk. One time it was because it included the dug wells. Now Mr. Berry alludes to the fact that dug wells are a problem in our state. I think there are many in the well drilling business and many of us would agree this is true.

This bill is a start, at least, to try to put this operation under some form of regulation. I think my main concern was, and I got interested not for my area but from another area in the state, a well driller who happens to be a very personal friend of mine over the years called me up one evening and he said, "Jim, we are looking for a sponsor for a bill to try to help our industry get organized and do something about this situation that exists in the state today." Many of my close seatmates are looking at me kind of quizzically, how did I get involved in establishment of another bureau here in Augusta, and goodness knows, I certainly have indicated that I am not adding too many more bureaus. These are existing agencies which are getting together with the well drillers to try to have some type of recourse if you get a bad well drilled. They can't, and I don't think it is humanly possible, I am no authority on well drilling and I am not going to try to be here this morning, but there would be recourse if you get a bad job done, faulty piping, or whatever is done in well drilling, I also know that at the hearing on the original bill which, I guess the committee felt was too wordy and was making a mini-bureaucracy out of the Geology Department but you will have to admit the Geology Department very closely is interested in our soil structure in the state and our supply of water and this and they are the ones that are getting the complaints from the homeowners and especially the small ones calling up, where do I go when I get a bad job done and apparently there is no place they can go. It can be worn out in the courts because a lot of these small owners aren't able to pursue it because it is too expensive so this was a legitimate attempt on behalf of a good portion of the industry. I won't say that every one of them goes along with the plan but, at the original hearing that we had in the regular session, a great many well drillers showed up, as a matter of fact, the room was packed, there was one dissenting member because he didn't want to pay as big a fee as some of the larger well drillers. I can see that, if I have got four rigs and a little fellow has only got one, why does he have to pay as much? I think the committee has taken care of that. This is a rewrite, within the committee, they have worked many hours on it and they took it, they saw fit to take it out of Geology and

put it over under the Department of Business Regulation, where right now your plumbers are and all this type of thing, electricians, you have to have union men now to install plumbing and this type of thing. I realize that I dislike over-regulation but I feel that the well drillers have requested this for four different sessions that I know of and it has been defeated for just these same arguments that I am hearing now and I feel that the state organization of well drillers felt that there should be something.

In other words the way it stands right now, as I understand it, Don Hall and Jim MacLeod tonight can go out and purchase a well drilling rig and go drilling wells and nobody has anything to say how we drill them, what they look like or what type of work we do.

I would hope that you could support this piece of legislation on behalf of the industry and the consumers of the State of Maine.

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

Mr. DOAK: Mr. Speaker, Ladies and Gentlemen of the House: I will be brief. I do have some experience with driven wells and shallow wells in my profession as a, not a union plumber but a plumber in the State of Maine, I am not unionized yet and hope I never have to be.

I think some of the fears as to dug wells should be eased, I don't see any reason for objecting to it. This is not going to affect the dug wells because it states on page 2, in section 4, well means any artificial excavation drilled. No one drills a dug well, we dig them. Therefore, I think that would allay some fears in that respect.

The one thing that I would like to see done in this bill, however, would help some of the people in the state and that would be on the report section on page 7, where it says, well completion reports and it says "may" submit. I would like to see that mandatory, it has been removed. The reason I would like to see it mandatory, for my own benefit more than anybody else perhaps, but for other plumbers who do work and do service work on driven wells and that is that many times the customer does not have the depth of the well, the input of the well and if we had some central place that we could call and find out the depth of the well and such, then we would be able to serve that customer a little bit better.

I am sure there is some reason for the "may" being in there rather than "shall" and I suspect that Mrs. Clark will let me know. It certainly would be nice to have some central area where by the people that do work on these wells could call up and find out the depth of the well and the input of the well so that we could then be a little bit more efficient in our working with them.

I would speak in favor of this bill, rather than the indefinite postponement because I think that these people who like to be licensed would like to be regulated.

The other thing that I have to say is that I have had a personal experience with a well driller in this state who did a bum job for a party in my community and I have blackballed that man in my area as much as possible ever since, because he never did reappear, he never did try to give the customer any restitution at all, the court just kept on carrying it along and this guy got off scott free and he got a whole boodle of money out of my community from a guy that couldn't afford it and the fellow finally had to have another well drilled on account of it. I think if we have some regulations whereby this gentleman could have his license taken

away from him, perhaps he would be a little bit more careful next time.

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

Mrs. CLARK: Mr. Speaker, Ladies and Gentlemen of the House: In response to the gentle inquiry from the honorable gentleman, Mr. Doak, regarding item 2 on page 7, where it reads, a registered well drilling contractor "may" submit to the board a report on forms designed by the board etc. The reason the Committee on Business Legislation used the word "may" instead of "shall" is that currently the well drillers in this state are complying with requests from the Bureau of Geology to submit well drilling reports about 87 percent and we felt, as a committee, that it is not necessary when well over 80 percent of the industry are already complying that we mandate that aspect. We are sure that they will comply. Specifically, since the issues which will compile the report are itemized as you see them on page seven.

There is a need, ladies and gentlemen of the house, for some basic uniform construction standards of drilled wells in this state. Drilled wells do represent an enormous investment on behalf of Maine citizens and this bill addresses that issue and concern.

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

Mr. SHUTE: Mr. Speaker, Ladies and Gentlemen of the House: I think we, in the legislature, can enact any laws necessary to regulate this business without forming any commission board or what have you.

I know the people in my area are quite disturbed at the legislature for forming so many boards and commissions and then giving those boards and commissions the authority to promulgate rules and regulations, because that is where the problem comes in.

We have no idea what kind of rules and regulations this commission is going to come up with and I think before we enact any legislation giving commissions the authority to promulgate rules and regulations, we should see those.

We had this bill in the Legal Affairs Committee either one or two sessions ago and, after reading this bill, I don't see that there is any great improvement over the previous bills that we have had in Legal Affairs on this same well drilling — forming a board for well drillers.

I agree with Mr. Dudley's remarks on Section 4885. That section reads, "no water well shall be constructed, enlarged, deepened, except as provided in this chapter." I would presume that would mean that you must meet all the rules and regulations promulgated by this board, even if this well is on your own property and you are doing the work yourself.

Then it goes on to say, "unless done by a well driller licensed by the board." I don't think people ought to have to hire a licensed well driller when they are doing something to their own well on their own property. So, for that reason I will go along with the motion of the gentleman from Buxton, Mr. Berry.

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

Mr. LYNCH: Mr. Speaker, Ladies and Gentlemen of the House: We have, over many years taken steps to enact legislation to protect people from making unwise moves. I think there are two areas that we have enacted some legislation and we ought to enact more. One is in the septic sewer system and the other is in water well drilling to protect the people from making expenditures of large sums of money, money that many people, especially in the rural areas cannot expend unwisely. I support the bill.

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

Mr. PEAKES: Mr. Speaker, Ladies and Gentlemen of the House: This is an area that we worked very, very hard on. We had good participation from the well drillers and we learned a great deal about the industry. I, as an attorney, have been aware in my community and other communities of much litigation in this area.

I think that these well drillers have an honest desire to improve their industry, to make it more accountable to the people, and I hope you will go along and defeat the motion to indefinitely postpone.

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

Mr. HIGGINS: Mr. Speaker, Ladies and Gentlemen of the House: In reference to dug wells, as opposed to drilled wells, this was a question that we had in committee and one which we addressed and felt that it would be pretty tough to regulate dug wells. This is where we get into the area that Mr. Shute is talking about and Mr. Dudley is talking about, of a person who wants to do the work themselves, hire an independent contractor maybe or just a guy that owns a tractor to come in and dig a well for him and he buys the tiles himself and puts them in the ground. That is no way, I don't believe, without over-regulating that you could possibly register or regulate what these people would be doing. That is an infringement upon them. So, what we are saying is, if a person is going to drill a well on his property, that person must be qualified. Now, there is nothing here that prevents him from digging a well himself, buying the tile and putting it in. But, there is no way that that individual in his own house is going to drill a well without hiring a contractor unless he happens to be a contractor himself, he doesn't have the equipment to drill a well, you have got to have a machine that costs in the neighborhood of \$200,000.

As far as the board goes, if you are going to set up regulations or licensing, who would you rather have do the promulgations of rules, a commissioner of one or a board made up, as I said before, of two drillers, a consumer, and two people, one I think from the Transportation Department and one from Health and Welfare. I am not sure, because we cut two out of the seven. At any rate, there are two members from the drilling profession on the board and one consumer and I think this is fairer than having it tucked in to the Department of Geology or Health and Welfare or wherever else the bureaucrats want it. I think this board is going to give them a fair hearing and is not going to institute any rules that are going to be unfair to the people that they are representing.

So, I would hope that you would not indefinitely postpone this bill today. When the vote is taken, I request the yeas and nays.

The SPEAKER: The gentleman from Scarborough, Mr. Higgins, requests a roll call.

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

Mr. COX: Mr. Speaker, Ladies and Gentlemen of the House: I hesitate to rise for this purpose but I did detect an inaccuracy in one of the statements of the gentleman from Scarborough and this was that a person could not drill a well on their own property without a piece of equipment that would cost probably \$200,000. I have seen at least one of these pieces of equipment that a person can buy for his own use that looks to me as if it would probably only cost a few hundred dollars. I have seen them advertised in the past, now, I can't guarantee that these pieces are available at the moment but I have seen them.

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

Mr. DAM: Mr. Speaker and Members of the House: Since the debate has started and they have gone back and forth over this on private wells this is where, I think, I have a concern for the people especially that live in my area.

On Page 3, the good gentleman from Scarborough, Mr. Higgins, read only part of Section 2. In Section 2 it says, "nothing in this chapter shall prevent a person from constructing or enlarging or deepening or otherwise altering a well on property on which such person owns or leases." Then comes the little sleeper. "Such persons shall not be exempt from the rules and regulations." They can do the digging but they are going to do it, even on their own property, according to the rules and regulations even if they are going to use the water themselves.

The other thing that bothers me is the word "drill" and Mr. Doak had a few words to say on that, saying it is quite well spelled out what is drilled and what is dug. Well, in my area, and I am sure in other areas of this state, that many water systems use points. For you people that don't know what a point is, it is a 42 to 48 inch pipe with a mesh or screen on a point and it ranges from anywhere from an inch and a quarter up to four inches which you can buy for standard your own work. Most people in homes use inch and a half, in commercial establishments, if they are not drawing much over 1000 gallons an hour, they will run two two-inch points, three feet apart. In order to put these points down and get water the simplest method is to take the old fashioned post hole digger that the farmer used to put his posts in on his land and go down until you come to the fine sand or fine water saturated sand that would be down maybe six, eight or ten feet, sometimes twelve and thirteen feet, below the top of the surface of the earth. Then you hook your pipe together, put that pipe in the hole, get someone to hold a wood block, which is the old fashioned method, and the other man swings a sledge hammer and drives the point down. If you are alone, you can butt a rig or make a little rig with an oversized pipe loaded with lead and you can work it down yourself by dropping the lead weight on top of the pipe.

This brings to my mind a question, is not boring with a post hole digger actually drilling? Is this digging or is this boring or is it drilling? It is not spelled out in this bill. I can see this bill is just like some of the bills we have passed in previous session, we go home, we think we passed something good to help the people, finally it comes back to haunt us, that we really passed something that will hurt the majority of the people.

I would say today, why should not the well drillers support this bill? Anytime you regulate any industry, and I think we have seen this more on the federal level with the gas and oil industry than we have from any other industry, the prices go up. Who pays those prices? You do, the individual, the homeowners.

When you regulate well drilling, it is almost like saying that the legislature is unionizing that industry. They are making that industry a super-professional organization so they can get together and more effectively do their price fixing. When we get into price fixing, there again, who pays the bill? The homeowner.

It is true, there may be some need for regulations, but I have not heard of too many problems in my area, in fact, I have heard of none, and I serve as a plumbing inspector, I serve also as a building inspector for my town. I also serve some parts of the unorganized territory of this state and I have heard of no problems. They can be regulated without creating another board, setting up another bunch of offices, putting more people on the state payroll and putting a greater burden on

the people who are paying the bills, and that is the private homeowner. I hope today that you people would support the motion for indefinite postponement of this bill.

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

Mr. BOWIE: Mr. Speaker, I wish to be excused from voting pursuant to House Rule 19.

The SPEAKER: The gentleman from Gardiner, Mr. Bowie, is excused pursuant to House Rule 19.

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

Mr. PEAKES: Mr. Speaker, Ladies and Gentlemen of the House: I think sometimes that we would still have the square wheel. I heard this same speech by Mr. Dam on various other matters and I am not surprised.

I think in the hearing that we went back and forth on these various things, and I think this is an honest effort on behalf of the well drillers to clean up their industry and to have accountability.

On this committee, as Mr. Higgins mentioned, there will be five members, including the Director of Health Engineering, Department of Human Services or its designee. There will be the Director of the Bureau of Geology, Department of Conservation, or its designee. There will be two well drillers and there will be a consumer member, and I would think that this type of board, the makeup, would prevent any unnecessary regulations and any unfair practices in this agency.

I sincerely hope that we will move forward and defeat the motion to indefinitely postpone.

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

Mr. BERRY: Mr. Speaker, Ladies and Gentlemen of the House: I will be as brief as I possibly can. I think one of the questions you have got to ask yourselves, if you are indeed trying to make a decision on which way to go on this bill, is, do we currently have great abuse in the well drilling field? That is the question I asked Mr. Hoxie. I work side by side with well drillers almost every day of the week when I am not here. I don't see this abuse. Mr. Hoxie said, no, the abuse is not there. The abuse is with the dug well, which this bill doesn't even address.

My good friend Mr. MacLeod mentioned that anybody — in fact, I think he mentioned Mr. Hall could go out and buy a well drilling rig and go into business with no knowledge at all of the business. True, Mr. Hall can, if he has got money enough and is willing to dump enough money into a well drilling rig. Mr. Higgins says \$200,000; I think he is a little high, I think maybe for \$125,000 you could buy a well drilling rig. But I submit to you, anybody that is not sincere in going into the well drilling business would not go out and spend \$125,000 just to fly in and out of places all over the State of Maine.

I also asked the well drillers, do you know of any areas of abuse in drilled well construction? All six of the drillers that I called said, very, very few. One man said he knew of two instances where he called them a fly-by-night that moved through the state — two instances. The other five didn't know of any.

I don't see any need of regulating any business in this manner. I know that the Bureau of Geology is interested in this bill. They see it as a means of getting information free. I discussed this with a well driller, one of the largest in southern Maine, by the way, and when the Speaker gets the bill for the phone call, I expect I will be discussing something with him, because this went on for probably half an hour. He said, we are not going to supply that information, whether it says 'may' or 'shall'. We are not going to go home at night and fill out endless forms. We already have enough paper work to do. He was afraid that if it says 'shall' or says

'may', this next year it will say 'shall', which probably it will. I am not concerned with that. He said, I don't see how the Bureau of Geology can rely on this information anyway, even if we do supply it. He said, in most cases it will be inaccurate. We certainly are not going to put information on a piece of paper if we go out and drill a well, that probably the casing doesn't end up in ledge. He said, do you think that any well driller is going to put that on paper and send it to the Department of Geology? I said, no, I didn't think they would. He said, no, we are not.

The information that is being asked for on page 7 is absolutely worthless, and I submit to you that if the Bureau of Geology can use any of that information at all, it is going to be totally inaccurate.

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 Mr. Berry of Buxton, that L. D. 2319, and all accompanying papers be indefinitely postponed. All in favor of that motion will vote yes; those opposed will vote no.

#### ROLL CALL

YEA — Albert, Bennett, Berry, G. W., Berry, P. P.; Berube, Birt, Burns, Bustin, Call, Carpenter, Carroll, Carter, Chonko, Churchill, Cote, Cox, Curran, R.; Curtis, Dam, Davies, Dow, Drigotas, Dudley, Durgin, Farley, Faucher, Fenlason, Finemore, Flanagan, Garsoe, Goodwin, H.; Goodwin, K.; Gould, Gray, Greenlaw, Hall, Henderson, Hennessey, Hewes, Hobbins, Hutchings, Ingegneri, Jacques, Jensen, Joyce, Kany, Kauffman, Kelleher, Kennedy, Laffin, Laverty, LeBlanc, Leonard, Lewin, Lizotte, Lovell, Lunt, MacEachern, Mackel, Mahany, Martin, R.; Maxwell, McBreairty, McMahon, Mills, Mitchell, Morin, Nadeau, Pearson, Pelosi, Peterson, P.; Peterson, T.; Post, Powell, Quinn, Raymond, Rollins, Saunders, Shute, Silverman, Spencer, Sprowl, Strout, Stubbs, Talbot, Tarr, Tozier, Truman, Tyndale, Usher, Wagner, Walker, Webber, Wilfong, Winship.

NAY — Ault, Bachrach, Bagley, Blodgett, Boudreau, Byers, Clark, Connors, Connolly, Cooney, Curran, P.; DeVane, Doak, Dyer, Farnham, Fraser, Higgins, Hinds, Hughes, Immonen, Jackson, Kelley, LaPointe, Littlefield, Lynch, MacLeod, Martin, A.; Miskavage, Morton, Mulkern, Najarian, Norris, Peakes, Perkins, S.; Perkins, T.; Pierce, Rolde, Snow, Snowe, Susi, Theriault, Tierney, Torrey, Twitchell.

ABSENT — Carey, Gauthier, Hunter, Jalbert, Lewis, McKernan, Palmer, Rideout, Smith, Teague.

EXCUSED — Bowie.

Yes, 95; No, 44; Absent, 10; Excused, 1.

The SPEAKER: Ninety-five having voted in the affirmative and forty-four in the negative, with ten being absent and one excused, the motion does prevail.

Sent up for concurrence.

Bill "An Act Providing for the Collection of Motor Vehicle Use Taxes" (H. P. 2232) (L. D. 2320)

Bill "An Act Relating to the Priority of Attorneys' Liens in Regard to Allegedly Stolen Property" (H. P. 2234) (L. D. 2321)

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

On request of Mr. Rolde of York, by un-

animous consent, unless previous notice was given to the Clerk of the House by some member of his or her intention to move reconsideration, the Clerk was authorized today to send to the Senate, thirty minutes after the House recessed for lunch and also thirty minutes after the House adjourned for the day, all matters passed to be engrossed in concurrence and all matters that required Senate concurrence; and that after such matters had been so sent to the Senate by the Clerk, no motion to reconsider would be allowed.

Mr. Fraser of Mexico was granted unanimous consent to address the House.

Mr. FRASER: Mr. Speaker, Ladies and Gentlemen of the House: It was discovered in the other body a while ago that one of the names of the boys was left off that list and I had it corrected in there and I would like to have it corrected in here. This boy's name is Mike Arsenault, and I would like to also have it put on the Order before it is mailed to him.

The SPEAKER: The Chair will inform the gentleman that we can reprint the Order.

(Off Record Remarks)

On motion of Mr. Rolde of York,  
Recessed until two-thirty in the afternoon.

After Recess  
2:30 P.M.

The House was called to order by the Speaker.

Bill "An Act to Enable Counties to Hire County Administrators" (H. P. 2092) (L. D. 2251)

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

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

Mr. CARTER: Mr. Speaker, I offer House Amendment "A" and move its adoption.

House Amendment "A" (H-1051) was read by the Clerk.

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

Mr. CARTER: Mr. Speaker, Ladies and Gentlemen of the House: It was evident to me in the last session, and I am sure to many of you, that the counties in the State of Maine were experiencing all types of problems, mainly in the financial area and in the administrative area and it was apparent that we either abolish the county government or strengthen its position. We seem to have taken the route for reform and I offer this amendment in that spirit.

This amendment is permissive and it would allow the county commissioners that are really sincere and want reform to hire administrative assistants. This amendment would provide for streamlining of county government, provide the reform that we are all looking for and it would certainly improve the efficiency of the counties.

It was done, as I said before, in a true spirit of reform and if the county commissioners are really sincere and they really want reform, this is one way they can do it and, at the same time, without increasing the burden on the taxpayer by they themselves taking a cut in salary. Since they are going to be relieved of their duties, most of them, the salaries that they are now receiving will be excessive. The salary proposed is in line with many commissions and boards and councilmen that are serving under manager-council form of government across the state. I would hope that you would go along with this amendment and support it.

The SPEAKER: The Chair recognizes the gentleman from Falmouth, Mr. Snow.

Mr. SNOW: Mr. Speaker, Ladies and

Gentlemen of the House: I rise in opposition to this amendment. The gentleman from Winslow, Mr. Carter, and I see eye to eye about the need for reform in county government, I am sorry that we do not agree on this amendment.

This bill is one of three, which is the product of a special county government reform study committee of which I am a member. One of the other bills, which calls for annual county budgets, the House acted favorably on yesterday. The third bill has yet to come before us.

In the instance of this bill, Mr. Carter's amendment would reduce the honorarium of the commissioners, should they hire a county administrator. The logic of this is very easy to understand. If they have an administrator, their duties will be less than they were before. However, the bill also contains a provision that if the commissioners choose to hire an administrator and it is optional, then the administrator will also perform the duties of county clerk.

Now, the salaries of county clerks throughout the state range, I understand, from \$4,000 or \$5,000 to close to \$12,000. Obviously, this is a cost which would no longer be borne by the county. I also feel that Mr. Carter's amendment will tend to deter the employment of county administrators, because I don't imagine that many commissioners will cut their own pay to hire one. Yet, the need in some counties is quite obvious and perhaps quite pressing.

In the county from which I come, which is Cumberland County, the budget is \$2 million or more in the course of the year. To illustrate perhaps some the need for some of this, I would just cite one item, which goes back a little while, you may have read about it in the paper. In this instance, the jail administrator or cook purchased strip sirloin steak at about \$3 a pound to feed the inmates in jail. It seems to me that if the county had business management, this type of thing would be less likely to occur.

I hope you will not adopt the gentleman from Winslow, Mr. Carter's amendment and, Mr. Speaker, I would ask for a vote.

The SPEAKER: The Chair recognizes the gentleman from Orland, Mr. Churchill.

Mr. CHURCHILL: Mr. Speaker, Ladies and Gentlemen of the House: I certainly hope that everyone will support Representative Carter's amendment because it only stands to reason that if the county commissioners are only required to meet once a month and they are receiving anywhere from — I haven't seen this last salary scale, but from \$1200 to a few thousand dollars, \$4,000 to \$5,000 for county commissioners, especially the chairman, it is no more than natural for them, if they can hire a county administrator for \$16,000 a year or even \$12,000 a year, to get out of doing their own duties, they wouldn't have to meet. Right now, the county commissioners sometimes meet once a week or twice a month, instead of once a month and if they can have an administrator, this wouldn't be required of them. It is no more than fair, if county government is in favor of strengthening county government without putting another layer in there, then they should at least sacrifice part of their pay if they are not going to be required to be there at all the meetings. I think if we want to be sincere about streamlining county government, then county government should accept the decrease in the county commissioners salaries.

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

Mr. HIGGINS: Mr. Speaker, I have a question along the same lines — I think the amendment is a good one but I think Mr. Snow has posed a question and probably answered it himself — if you say to these commissioners that if you hire an administrator, then you are going to cut your salary. My question, I guess, maybe gets down to the crux of the bill. Can a

legislative delegation order, under this bill, the county commissioners to hire an administrator? If they appropriate money to hire an administrator, do the county commissioners have to do so?

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

Mr. DAM: Mr. Speaker, the answer is no.

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

Mrs. NAJARIAN: Mr. Speaker, Ladies and Gentlemen of the House: I rise to support the amendment offered by Mr. Carter. I know that in Cumberland County we have three commissioners, I think they are paid around \$5,000 or \$6,000 and they meet once a week. This bill provides that if they hire a county administrator, that the county commissioners will be paid \$25 per diem for every day that they attend a meeting.

Last regular session, I sponsored a bill to provide that the clerk of courts would be an appointed official rather than an elected official and in that bill was the provision that the counties could use the court clerk as county clerk. Mr. Snow brought out the fact that the county administrator could do the work that the county clerk is now doing and thereby save money, but they don't even need a county clerk now. In the first place, they can use the court clerk as their county clerk.

I think it is a very good bill. I think the commissioners are overpaid now for the kind of work they do and I hope you will support Mr. Carter's amendment.

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

Mrs. MARTIN: Mr. Speaker, Ladies and Gentlemen of the House: This is my committee. I am not the boss of it but this is my committee, and I support Mr. Carter's amendment. I can tell you one thing, in answering Mr. Snow, if the commissioner gets \$5,000 a year and had been on the job, the people in the jails wouldn't have been eating \$3 steaks.

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

Mr. DAM: Mr. Speaker, Ladies and Gentlemen of the House: I have no hangup on this bill at all. This bill, as Mr. Snow told you, was the result of the Joint Select Committee Study on County Government, but I do take exception when certain people get up and tell how they sponsored a bill and what their bill did when it does not do that.

We had three bills before us in the regular session that dealt with the judicial process in the State of Maine. I understand there is still a conflict in some of the bills as far as the date but that has nothing to do with the county government part.

If one of these bills was the bill that the good lady from Portland, Mrs. Najarian, sponsored, this is all well and good, but the bill that got passed does not say that the clerk of courts can serve the commissioners. This very body created a new position on the county level and created the position of county clerk. When they took the county clerk, the clerk of courts, off the ballot and put them as appointed positions to be appointed by the court system. Under the old system, before this legislature made a change, when the clerk of courts was elected by the people, that clerk of courts not only served in the judicial process but it also served as the county commissioner's clerk for the county commissioner's court, but this very body created a new position. The clerk of courts cannot serve as the county commissioner's clerk. We have already taken care of that last year.

What this bill would do — we already have the clerk, we authorized the counties to hire them, it has been in the budget for the various counties — all this would do would say that if the

commissioners choose to have an administrator, they shall not hire the clerk.

Whether this bill passes or not is no great hurrah or hullabaloo because they can use that clerk, they can designate a title for it, so what? The only thing is, there are no restrictions, there is no qualifications, there is nothing written into it. So if this is the way you want your government to run, vote for the amendment. The county commissioners are not up tight on it, the county government is not up tight on it because they will survive and they will keep their clerk, except their clerk won't have a title of administrator, that is all it amounts to.

The SPEAKER: The pending question before the House is on the adoption of House Amendment "A". Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

Mr. Dam of Skowhegan requested a roll call.

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 will vote yes; those opposed will vote no.

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

The SPEAKER: The pending question before the House is on the adoption of House Amendment "A" to L.D. 2251. Those in favor will vote yes; those opposed will vote no.

#### ROLL CALL

YEA — Albert, Bagley, Bennett, Berry, P. P.; Berube, Birt, Blodgett, Boudreau, Bowie, Burns, Call, Carter, Chonko, Churchill, Clark, Connolly, Cooney, Curran, P.; Davies, DeVane, Doak, Drigotas, Dudley, Durgin, Dyer, Farley, Farnham, Fenlason, Finemore, Flanagan, Garsoe, Goodwin, H.; Goodwin, K.; Gould, Gray, Hall, Hennessey, Hewes, Higgins, Hobbins, Hunter, Hutchings, Jackson, Jacques, Joyce, Kany, Kauffman, Laffin, LaPointe, Laverty, Leonard, Lewin, Lewis, Littlefield, Lovell, Lunt, Lynch, MacEachern, Mackel, MacLeod, Mahany, Martin, A.; Maxwell, McBrearty, McKernan, McMahon, Mills, Miskavage, Mitchell, Morin, Morton, Mulkern, Nadeau, Najarian, Norris, Peakes, Pelosi, Perkins, S.; Perkins, T.; Peterson, P.; Post, Powell, Quinn, Raymond, Saunders, Shute, Silverman, Smith, Snowe, Sprowl, Strout, Susi, Tarr, Teague, Tierney, Torrey, Tozier, Tyndale, Usher, Wagner, Walker, Wilfong, Winship.

NAY — Ault, Bachrach, Berry, G. W.; Bustin, Byers, Carpenter, Carroll, Connors, Cote, Cox, Curran, R.; Curtis, Dam, Dow, Faucher, Fraser, Greenlaw, Henderson, Hinds, Hughes, Immonen, Ingegneri, Jalbert, Jensen, Kelleher, Kelley, Kennedy, Lizotte, Martin, R.; Pearson, Peterson, T.; Rollins, Snow, Spencer, Talbot, Theriault, Truman, Twitchell, Webber.

ABSENT — Carey, Gauthier, LeBlanc, Palmer, Pierce, Rideout, Rolde, Stubbs.

Yes, 103; No, 39; Absent, 8.

The SPEAKER: One hundred three having voted in the affirmative and thirty-nine in the negative, with eight being absent, the motion did prevail.

Thereupon, the Bill was passed to be engrossed as amended by House Amendment "A" and sent up for concurrence.

Bill "An Act to Provide Funds to the Department of Inland Fisheries and Wildlife" (S. P. 718) (L. D. 2254)

Was reported by the Committee on Bills in the Second Reading, read the second time and passed to be engrossed in concurrence.

Bill "An Act to Permit Local Plumbing Inspectors to Approve Repairs to Existing Septic Systems" (H. P. 2206) (L. D. 2306)

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

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

Mr. HENDERSON: Mr. Speaker, Ladies and Gentlemen of the House: I understood there was to be an amendment prepared and I hope that someone might be able to comment on that possibility.

Mr. Wilfong of Stow offered House Amendment "A" and move its adoption.

House Amendment "A" (H-1076) was read by the Clerk.

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

Mrs. MORIN: Mr. Speaker, I would like to ask what that amendment does?

The SPEAKER: The gentlewoman from Old Orchard Beach, Mrs. Morin, has posed a question through the Chair to anyone who may care to answer.

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

Mr. WILFONG: Mr. Speaker, Ladies and Gentlemen of the House: This is a bill that basically allows the certified Maine plumbing inspectors the opportunity to grant a variance of sorts to members of the public who are requesting that their present existing sewerage systems — let's assume, for example, that you have a sewerage system that is malfunctioning and you need to have it repaired. As the law is presently written, you have to have a soils analysis and you have to go through a lot of rigamarole that I don't think you should have to go through and what this would do, it would allow the local plumbing inspectors, who are certified by the state, to waive the soils analysis test and save you \$50. They are perfectly capable people to do this, and if it is going to be near a well or near a boundary, you still are going to have to go to DEP, but as long as it is not going to interfere with anyone's property or any one's well, then that plumbing inspector is going to be able to issue that permit to repair your existing system and it is going to save you \$50 and a lot of hassle.

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

Mr. BOWIE: Mr. Speaker, Ladies and Gentlemen of the House: This bill and the amendment, as near as I can determine, would completely do away with our present plumbing code in this area of our private sewerage systems.

My good friend Mr. Wilfong from Stow did bring up the matter of a malfunctioning system. Under the present law, you still can replace your own pipe, your own tank, but the drainage field or leaching field is what made it malfunction? I don't think that a local plumbing inspector can determine what made it malfunction. In the old days, we use to have a percolation test but it was found that this wasn't an effective way to determine how many feet of drainage field for so many people in a house, and I think the present method of a soils analysis is probably one of the best methods of determining how many feet of leaching bed we need for a given area in the State of Maine. This is one of the best methods that I have seen, and I am not in the business but I have a lot of people that I know who are in the business.

I think that giving a local plumbing inspector this much authority is going to take us right back to the old days, and I am talking about the old days when a plumbing inspector did not know, had no way of knowing with the old percolation method just how many feet you really had to have.

I think that a lot of the problems we have with malfunctioning fields today is due to the old method. If you go out and you check the new systems that have been put in with the soils investigations, proper amount of drainage beds, whether they be underground or they be the new

mound system, I just think we have come a long ways and I don't think that when you are dealing with a person's sewerage system that \$50 or \$60 or \$80 to have it properly installed really is going to make that much difference.

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

Mr. PETERSON: Mr. Speaker, Ladies and Gentlemen of the House: I would like to read you the first sentence of the amendment. Remember, this is discretionary with the licensed plumbing inspector who is certified by the state. "When the plumbing inspector finds upon site inspection that compliance with existing regulations or ordinances requiring soil analysis would result in unnecessary and undue hardship by reason of site conditions, lot size or impracticability, a waiver from the regulations or ordinances may be granted when the waiver will not result in a violation of other regulations or ordinances adopted pursuant to the plumbing code."

I was one of the members of the 106th Legislature that voted to adopt the plumbing code, which does go to the soils analysis and is much better than percolation tests. This still applies to new housing, that you are going to have to have a soils analysis, but there are a lot of people who have lived in homes for a number of years whose septic systems haven't kicked up for 10 or 15 years, and the only thing that is wrong with that system is that it is plugged up. The leach field is filled with solids. That fill can be replaced without endangering the well distance or the lot distance, and this says that the plumbing inspector will only do it if this will not violate any other provision of the code. What we are trying to do is protect homeowners who have existing systems which have been functioning properly, for a number of years, allowing them not to have to pay for this site investigation which ranges from \$50 to as much as \$175 or \$200.

What happens, people say, let's have the soils analysis so we won't get pollution, but we are getting pollution now because people will not go through the added expense of getting the soils analysis and so they allow their systems to continue to malfunction. This is running into the lakes and ponds. I think this is going to help local plumbing inspectors find people who have malfunctioning systems, and this is only discretionary with the plumbing inspector. If he decides that it is going to violate some provision of the plumbing code, he refers it to Augusta. This is only when, in his common sense, and believe me, they are making discretionary calls all the time, they are the ones who have the discretion to determine whether or not your system is in compliance with the plumbing code.

We have narrowly defined a set of circumstances in which a licensed plumbing inspector may grant the waiver for the soils or site investigation. This is not an attempt to cause more pollution. You know where I stand in terms of the environment. This is not an attempt to undermine the plumbing code but it is an attempt, I think, to strengthen it.

I would appreciate your support in the adoption of the amendment.

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

Mr. DAM: Mr. Speaker, Ladies and Gentlemen of the House: Maybe I shouldn't get involved in this one, because I suppose someone could holler conflict because I serve as a plumbing inspector for the town of Skowhegan, as I have said before, and parts of the unorganized territories in the State of Maine. But in this amendment, when you get down to the words, "which would result in unnecessary and undue hardship by reason of site conditions, lot size or impracticability, a waiver from the regulations may be issued by



the local plumbing inspector," it doesn't say anything in there about doing away with the soil analysis, but evidently this is the intent of the gentleman from Windham, Mr. Peterson.

I would like to get into the record that under the present law, already the Department of Human Services has instituted a procedure or a process where they have selected different areas of the state, and the local plumbing inspector may grant that waiver which is being asked for in this part of the amendment. If it works out well, and it is only a test now, it will be expanded to cover the whole state and all plumbing inspectors in the state.

There is a provision in the waiver system that is set up now, where the municipal officers are involved, and of course the homeowner is involved, and abutting landowners, if there would be any chance of contamination of their wells or water course flowing across their property. Also, it is very clear that you must inform the homeowner that it is a waiver, he will sign it, he understands fully what is happening and what is going on, and he assumes the responsibility, the responsibility to an extent. While this amendment here says the plumbing inspector shall be immune from any liability, I would call your attention to that it is not only the plumbing inspector but it is your municipality. Court cases in the State of Maine, recent court cases, involving the Town of Richmond and the Town of Chelsea, the court has ruled that when the plumbing inspector did not do his job, the municipality would go in and redo the systems at municipal expense. Municipal expense is only one thing, taxpayers' money.

In one instance, there were 23 malfunctioning septic systems that are on record in court cases. It has been in the KJ and it is on record in H&W. This amendment, while I understand what the gentleman is trying to get at, does not do what he thinks it is going to do. It will cause problems for the municipal officers. As Mr. Bowie said, you might as well wipe out the plumbing code, and as you go back to the plumbing code as enacted by this legislature, you will see where it says that on any existing construction, if the lot size is too small or putting in an approved system would cause an undue financial hardship on the owner or the soil is not exactly right — now this can be in clay, so we rule that out entirely — but if there is any chance that a system will function and function at all, the department will issue a waiver. And when the department issues a waiver, it is a lot better than when the local plumbing inspector goes in and commits your municipality to paying for any malfunction that might occur after he gives that waiver.

If you people want to do anything with this bill at all, I would suggest there be some work done on the amendment so that the homeowner would be well informed as to what type of system he is getting, the fact that he might be spending eleven or twelve hundred dollars and two months later turn around and be spending it again, and I am sure that the lending institutions of this state would tighten up quite considerably on lending money if a person, such as myself, was going to go out and make a site analysis. There is a lot of difference between inspecting the sewerage system, whether it be internal plumbing or subsurface disposal systems, than doing the actual soil investigation. Soil investigators are trained, they are certified, they are licensed and recognized by the Department. While some soil investigators are restricted only to certain areas of the state, and by that I mean some of them, even though they are licensed to do soil investigations in general, they are not permitted to move into the shoreland zoning area of the state—

The SPEAKER: The Chair would advise the gentleman that the only matter before this body is the adoption of House Amendment "A" and

would he kindly restrict his remarks to the adoption of House Amendment "A".

Mr. DAM: If that plumbing inspector is involved in this amendment and the plumbing inspector has no knowledge of soil, this would be like saying that any person here can practice medicine and open up an operating room and be immune from any damages that they cause.

This is a bad amendment the way it is, and if you people want to do something, then I suggest maybe it could be tabled and be reworked to try to do what Mr. Peterson wants done.

The SPEAKER: The Chair recognizes the gentleman from Augusta, Mrs. Miskavage.

Mrs. MISKAVAGE: Mr. Speaker, Ladies and Gentlemen of the House: This amendment only confirms the fact that this bill appears to be one of those 'city slicker versus the country cousin' type of legislation and it would benefit residents of rural areas as opposed to those who live in urban areas.

The City Engineer of Augusta takes the same position that Mr. Bowie and Mr. Dam take. He said, among other things, if this bill is passed, it could be a step backward. If it is enacted, it could bypass the soils investigation process where an existing system malfunctions. Most malfunctions are systems installed under the percolation test procedure. A soils analysis is most desirable, if not imperative.

A local plumbing inspector approving repairs to existing septic systems, without using the current procedure, would certainly leave himself open for litigation should the system fail again. This not only leaves the local plumbing inspector liable, but would also leave his employer, namely, the local municipality also liable.

A local plumbing inspector's duty or function is to enforce the state or local plumbing codes. This bill would put the local plumbing inspector in a position of enforcing or reviewing his own work.

The SPEAKER: The Chair recognizes the gentleman from Orland, Mr. Churchill.

Mr. CHURCHILL: Mr. Speaker, Ladies and Gentlemen of the House: I hate to contradict the good lady sitting next to me, but on the first page of this amendment it says: "The owner or the family dwelling to whom the waiver is granted shall sign a waiver of liability on a form provided by the plumbing inspector."

I certainly favor this amendment. It is only to try to get at a few elderly people and a few people in the rural areas, and to oppose this bill would be like opposing motherhood. There are instances, I have had one in my area that the lady lives on \$2,000 or \$2,400 a year, and the code enforcement officer has informed her, and the soil scientist, that it will cost her between three and five thousand dollars just to construct a holding tank which will have to be pumped out because her lot is only 200 feet square. When the original septic tank was installed, naturally, years ago they only put in about two or three lengths of pipe running out of the septic tank. Well, naturally after several years, this is boiling up on top of the ground. There is no doubt in my mind but what this woman could have someone with a backhoe come in and install a leach field 20 by 40, with gravel, hay and such, etc., whatever is required in the plumbing laws, and she could improve this. But no, because the soil scientist came in and tested it, and he only charged her \$45 plus the cost of the backhoe digging three or four holes in back of the house, and he told her, no, you have to have a holding tank installed, either that, or in something like a half a mile she can put in a sand filter and chlorinate the water from this and run it into the bay if she can get a variance. Either way, it is out of this woman's reach to install either of these things, so she is going to be forced off her place because it would be cheaper for her to let

the town rent somewhere for her and let her live in a rent somewhere.

Out in the country and in the rural areas there are many places where there is no reason why we couldn't make an improvement. The local plumbing inspector knows these instances and could grant variances to allow these people to improve their leach fields. I don't think it would hurt anyone except the plumbing inspectors that would oppose this and the code enforcement officer in the built up areas, the urban areas, because possibly it might be running down onto some neighbor's lawn or in back of their house. I can understand this part. But this is up to him to judge whether they can make this improvement, and out on farms, where there is a hundred acre farm, there is no reason why you couldn't install a leach field without having a soil scientist come in.

I have a paper right here that quotes the price of \$64 for doing this. I have figures quoted as high as \$145, and we have heard them up to \$200 for the backhoe coming in and making these tests, and then they will say, your soil isn't any good anyway. I really think we could make some improvements here and allow a few variances that would help these elderly people living on fixed incomes a great deal.

When the vote is taken, I want it taken by the yeas and nays.

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

Mr. DOAK: Mr. Speaker and Members of the House: I perhaps should disqualify myself from voting on this issue because it may seem that I would be making an extra nickel on this as a master plumber for many years.

I am going to have to oppose this bill and this amendment, even though I know that it is trying to address a problem which is a serious problem in the State of Maine. I realize this because I am dealing with it regularly and I certainly would like to do something to help these people that have these problems, but at the same time, I am not about to place myself in the position where I am going to hurt these people by letting them do something that is going to be detrimental to their health and to their ability to live in a healthy environment and take care of themselves properly.

Also, I would hate to be the one that would say, yes, go ahead, we can do this or that and then find out that it isn't going to work. They have cost themselves two or three hundred dollars and they wound up with something that lasted three or four months. I ask you, did we hurt them more by letting them go ahead and cost them this extra amount of money, or would it have been better to have had a proper job done in the first place?

I am not going to speak very long on this, because I know the Speaker is very anxious to get this session on and I am too, and I don't want to stay here all night any more than anybody else. But I am concerned about this because we do have this plumbing code and we had it for reasons, and it is for the service and protection of people in this state. Certainly, there are going to be people objecting to it because it is causing them inconvenience and is causing them problems, and I know this. But before you vote on this, I would like you to answer these questions for yourself. Who will be liable when the plumbing inspector designs the system and it fails? Who is going to be hurt? The plumbing inspector, the municipality, the property owner, answer that for yourself.

Shall the homeowner be left with the cost of a second improper installation? He very possibly could be. How much is the plumbing inspector going to charge for this site evaluation? He gets paid by a permit fee from the state when he gets a permit. How much is he going to charge

to come out and design a system and evaluate that possibility and that malfunction?

Right in this past year there have been about 50 people who are soils analysts and soil scientists who were not qualified to do soils analysis and site inspection. Right now, I don't know how many plumbing inspectors are in the State of Maine. I think there is perhaps one local plumbing inspector in the State of Maine that is certified to do a soils analysis in a site location deal.

I think it is a bad bill and I would hope that you would defeat this amendment so that I could indefinitely postpone this bill and all its accompanying papers and get on with the business.

One more thing before I quit. The Department of Health and Human Services do have a waiver of conditions which they were going to put into effect and were going to put out as of April 1. When this bill started coming in, they decided to hold up on it because they didn't know where we were going with it and what was going to happen, so therefore they have held up on it. I think it is a good piece of literature, I think it is a good piece of business, I think it is going to keep this plumbing code intact and I think it is going to serve the people of the State of Maine very well.

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

Mr. NORRIS: Mr. Speaker, Ladies and Gentlemen of the House: I hope you wouldn't indefinitely postpone this amendment or this bill, because I have had some little knowledge and have been acquainted with some of the systems that the code puts forth and the Department of Human Services says you must have, and they can't make their minds up. They tell me now that the mound system is out, that they have had so many problems with it where people who have built homes anywhere from twenty to a hundred and fifty thousand dollars are told now that the mound system doesn't work, that everything is going to have to be a trench, it is going to have to be at least 75 feet long, so if a fellow has bought a lot in an area that he hasn't got at least 300 feet to operate with, he is going to be in trouble. So when the professionals can't determine what they are supposed to put in, and I include with that the soil scientists and the engineers and the plumbers, God bless them, but they can't tell you right now, if you call the Department right now and ask them which type of system you are supposed to use, you will get a lot of jargon and then they will come out and tell you to put in a trench system. As far as they know right now, that is the way to go, as far as they know, but they are not absolutely positive.

I would hope that the people with their present homesteads in the country, the retirees, such as Mr. Churchill mentions, will be given a chance to continue on and live the way they have the last 50 years or 70 years in their own little bailiwicks, and if their septic system breaks down, they will have a chance to have it repaired and have a government inspector look at it and tell them it is all right for them to live there the rest of their life, the next 5 or 1 or 2 or 3, whatever it may be.

The SPEAKER: The Chair recognizes the gentleman from Waldoboro, Mr. Blodgett.

Mr. BLODGETT: Mr. Speaker, Ladies and Gentlemen of the House: I think we have had a number of issues brought forward here that are not really germane to the amendment, that I assume we are discussing at this point. I would urge you, however, to adopt the amendment and then go on to adopt the entire bill.

A couple things that we ought to consider, though, in this entire operation, and that is the comments made as far as the Department of Health and Welfare promising to make some changes to accommodate some of the problems that now exist in the state.

Last year, during the regular session, we discussed this same problem with the members of the Department of Health and Welfare, and at that time they promised that they were going to make some changes if we didn't make any changes in the plumbing code. Well, here we are one year later, and here we are getting the same promises again. Some of these comments that we are getting from them are opposed to what the opponents of this bill would stand for. For example, they are willing to waive such things as having the field being closer to the well, closer to the property lines, these things which presumably we would be opposed to. I say this whole business is just trying to put us off, hoping that we are not going to lose them any business at all.

This bill simply allows repairs to existing systems. If you have a piece of pipe that gets broken, you cannot fix it without a soils test, without permission from the people in Augusta. That just does not make sense to those of us living in these rural areas that these simple repairs cannot be made. It makes no sense whatsoever.

I would urge you to vote in favor of the amendment and then for the bill.

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

Mr. DAM: Mr. Speaker, I realize you would like to get along with the business, and we all would, but I feel I must correct a couple statements that the good gentleman from Waldoboro made. I can't sit here and hear statements made that I know are not correct. Number one, the department is not hedged on implementing the voluntary waiver form. I have used this for seven months. Other plumbing inspectors in this state have used it. The department is now satisfied that this will work and they are ready to go statewide with the program, but there is a lot of difference between their program and what is in this amendment. In their waiver system, there are safeguards. This has nothing. It says in here that the waiver will be filed. It doesn't say where it is going to be filed; it says it will become a matter of public record. Everything is public record in a municipality when it pertains to the people, so it is public record, but where is it going to be for the people to look at. If anybody wants to do something, if they are concerned in the small communities, why wasn't this limited to communities of less than 2,500? Why was it stuck on all communities saying that they can do this. If this is done, you might as well wipe out the code, forget it, and you will have more pollution and more problems than you have ever seen. The department has moved, they have made the recommendation, they have worked on it seven months and it is there for the state now. They are ready to implement it.

If the plumbing inspector in Waldoboro, Mr. Blodgett's district, didn't get approved to issue the waivers while they were in the experimental stage, then that is something else, but many, many plumbing inspectors did, over a hundred got the chance to use the waiver system and try it out. It has worked and it is going to go statewide.

Actually, there is no need for this bill. In the existing law, as I said before, an undue hardship, a small lot size, this is all taken care of because it says right in the existing law that the variance shall be granted, not may, it says it shall be.

Mr. Doak of Rangeley moved the previous question.

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

A vote of the House was taken, and obviously more than one third of the members present having voted for the previous question, the motion is entertained. The question now before the House is, shall the main question be put now? This is debatable with a time limit of five minutes by any one member. All those in favor of the main question being put now will vote yes; those opposed will vote no.

A vote of the House was taken.

72 having voted in the affirmative and 11 having voted in the negative, the main question was ordered.

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 Stow, Mr. Wilfong, that House Amendment "A" be adopted. All in favor of that motion will vote yes; those opposed will vote no.

#### ROLL CALL

YEA — Albert, Ault, Bagley, Bennett, Berry, G. W., Berry, P. P., Berube, Blodgett, Boudreau, Burns, Byers, Call, Carpenter, Carroll, Carter, Chonko, Churchill, Connors, Cote, Curran, P.; Curtis, Davies, DeVane, Drigotas, Dudley, Durgin, Farley, Fenlason, Finmore, Flanagan, Garsoe, Goodwin, H.; Goodwin, K.; Gould, Gray, Greenlaw, Hall, Henderson, Hennessey, Hewes, Higgins, Hinds, Hobbins, Hughes, Ingegneri, Jackson, Jacques, Joyce, Kauffman, Kelleher, Kelley, Kennedy, Laffin, Leonard, Lewis, Littlefield, Lizotte, Lunt, Lynch, MacEachern, Mackel, MacLeod, Martin, A., McMahon, Mills, Mitchell, Morin, Morton, Mulhern, Nadeau, Najarian, Norris, Pelosi, Perkins, S.; Perkins, T.; Peterson, T.; Pierce, Post, Powell, Quinn, Rolde, Rollins, Saunders, Shute, Silverman, Snow, Snowe, Spencer, Sprowl, Strout, Susi, Talbot, Tarr, Teague, Theriault, Tierney, Torrey, Tozier, Twitchell, Tyndale, Usher, Wagner, Walker, Webber, Wilfong, Winship, The Speaker.

NAY — Bachrach, Birt, Bowie, Bustin, Clark, Cox, Curran, R.; Dam, Doak, Dow, Dyer, Farnham, Faucher, Fraser, Hunter, Hutchings, Immonen, Jensen, Kany, LaPointe, Lavery, Lewin, Lovell, Martin, R.; Maxwell, McBreairty, McKernan, Miskavage, Peakes, Pearson, Peterson, P.; Raymond, Stubbs, Truman.

ABSENT — Carey, Connolly, Cooney, Gauthier, Jalbert, LeBlanc, Mahany, Palmer, Rideout, Smith.

Yes, 107; No, 34; Absent, 10.

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

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

Mr. AULT: Mr. Speaker, Ladies and Gentlemen of the House: This is a bad bill. The plumbing code went into effect on July 1, 1974, and it has made a heck of a lot of difference as far as the State of Maine is concerned, being a state of lakes, etc. This piece of legislation is going to repeal the plumbing code, as far as I am concerned. It is going to allow the local plumbing inspector to go in, design a drainage field and inspect his work and charge the homeowner a fee of \$28, and he is not going to be liable for this system.

Another problem with this bill in its present condition is — Mr. Speaker, you sponsored a bill in the 106th that required mandatory zoning 250

feet back from any waterway, I believe. There is a requirement in that law that there shall be a soils analysis prior to approval of any sewerage system within the 250 foot zone. You now have a conflict.

I move indefinite postponement of this bill and all its accompanying papers.

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

A vote of the House was taken.

35 having voted in the affirmative and 79 having voted in the negative, the motion did not prevail.

Thereupon, the Bill was passed to be engrossed as amended by House Amendment "A" and sent up for concurrence.

Bill "An Act to Establish a Division of Travel Information" (Emergency) (H. P. 2022) (L. D. 2201)

Bill "An Act Relating to Location of State Liquor Stores" (H. P. 1805) (L. D. 1964)

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

#### Second Reader

#### Tabled and Assigned

Bill "An Act Relating to Residency for the Purposes of Municipal Relief of the Poor" (S. P. 738) (L. D. 2288)

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

(On motion of Mr. Lizotte of Biddeford, tabled pending passage to be engrossed and tomorrow assigned.)

#### Amended Bills

Bill "An Act to Prohibit Payment of Dependency Allowance to Persons with a Spouse Employed Full Time" (H. P. 2118) (L. D. 2267) (C. "A" H-1029)

Was reported by the Committee on Bills in the Second Reading, read the second time, passed to be engrossed as amended and sent up for concurrence.

Bill "An Act Relating to Voting Places in Certain Unorganized Townships" (H. P. 1982) (L. D. 2151) (C. "A" H-1003)

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

Mrs. Boudreau of Portland offered House Amendment "A" and moved its adoption.

House Amendment "A" (H-1053) was read by the Clerk and adopted.

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

Bill "An Act Appropriating Funds for the Purchase of Town Histories" (H. P. 1949) (L. D. 2135) (C. "A" H-1027)

Was reported by the Committee on Bills in the Second Reading and On motion by Mr. Martin of St. Agatha, 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-1061) was read by the Clerk and adopted. Committee Amendment "A" to House Amendment "A" thereto was adopted.

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

Bill "An Act Relating to Teacher

Employment" (S. P. 640) (L. D. 2029) (C. "A" H-459)

Was reported by the Committee on Bills in the Second Reading.

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

Mr. HIGGINS: Mr. Speaker, Ladies and Gentlemen of the House: I have a couple of questions in reference to this bill. I am not an arbitrator and I am not a teacher, and I guess I have a little trouble deciding or understanding exactly what "just cause" means. Also, I am interested in the fact of why we are reducing probation from three years to two years and is not, in fact, just cause a stronger bargaining point or whatever for teachers in their contracts? If we are throwing out tenure, then is not this amendment, which I guess is now the bill, going to throw all teacher contracts into the hands of an arbitrator and thereby remove it from the school boards? I would like to have those answered.

The SPEAKER: The gentleman from Scarborough, Mr. Higgins, has posed a question through the Chair to any member who may answer if they so desire.

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

Mrs. MITCHELL: Mr. Speaker, Ladies and Gentlemen of the House: The committee amendment is now the bill, as the gentleman has said. It does not throw out teacher tenure.

Half the teachers in this state are covered by collective bargaining or approximately half and half are not. This simply gives the teacher the choice. If they prefer to organize for collective bargaining, they may do so, and it makes clear what has been a gray area in the collective bargaining position due to a court case in Winslow, when the court said that the teacher tenure law superseded the ability to negotiate just cause into one's contract. This proposed statute change would say that the collective bargaining units have the right to negotiate just cause into their contracts. In terms of reducing the probationary period, the members of the committee felt that two years was an adequate time for teacher probation.

Thereupon, the Bill was passed to be engrossed as amended and sent up for concurrence. (Later Reconsidered)

Bill "An Act to Temporarily Exempt Property Owners On Islands In Casco Bay from Certain Waste Discharge Compliance Requirements" (S. P. 708) (L. D. 2235) (C. "A" 452)

Was reported by the Committee on Bills in the Second Reading.

On motion of Mr. Peterson of Windham, 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-1065) was read by the Clerk.

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

Mr. PETERSON: Mr. Speaker, Ladies and Gentlemen of the House: This bill, "An Act to Temporarily Exempt Property Owners on Islands in Casco Bay from Certain Waste Discharge Compliance Requirements," has been expanded to cover the whole coast and not just the island dwellers of Casco Bay. Other people along the coast may face the same difficulty that the dwellers in Casco Bay may experience.

This amendment would extend the time for which people who have entered into a licensing procedure with DEP, it would give them an extra amount of time. Certain people have sought licenses and are making attempts to install

systems which would properly function on the island. This bill is giving an extension to people where it is physically impossible to meet the requirements of their deadline of July 1, 1976. This moves that deadline back to 1977, the same as we did for Scott Paper, and it pertains to all the islands and it also allows those people who are trying to comply with the law an additional amount of time.

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

Mr. KAUFFMAN: Mr. Speaker, I would like to pose a question through the Chair to anyone who might answer it. Does this include all towns on the coast who have sewerage systems going into the rivers?

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

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

Mr. PETERSON: Mr. Speaker, Ladies and Gentlemen of the House: This does not pertain to anyone other than a person who owns a dwelling on the island, it does not interfere with the other deadlines that have been set by the state. This does not move back the period of time in which municipalities would have to comply with the law.

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

Mr. KAUFFMAN: Mr. Speaker, Ladies and Gentlemen of the House: If that is the case, I am opposed to this amendment. We have several homes in my area which has dumped into the river for years. The physical and geographical location of these homes makes it impossible for them to put a septic tank in and I know the town, maybe in a hundred years, they might be able to get a sewer down in that particular area. I think if this is going to apply to one certain area of the state, it should apply to all areas.

The SPEAKER: The Chair recognizes the gentleman from Waldoboro, Mr. Blodgett.

Mr. BLODGETT: Mr. Speaker, Ladies and Gentlemen of the House: In an attempt to try to answer Mr. Kauffman's question, it wouldn't interfere at all with these people. In fact, it would grant an extension of the closing date and should help these people that you speak of who have problems rather than restrict them. It would be to your benefit to support this.

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

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

Bill "An Act Relating to Costs in Contested Cases and Depositions in Probate Court" (S. P. 709) (L. D. 2236) (C. "A" H-454)

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

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

Mr. McMAHON: Mr. Speaker, Ladies and Gentlemen of the House: I would like to move indefinite postponement of this bill.

I realize the difficulty that I might have in rising to talk about the last item on this particular section of our calendar and I would tell you at the outset that I am also the lone minority signer on the Judiciary Committee's report on this bill, so I guess I am saying to you that if I lose this effort, I am going to understand why.

However, I feel duty-bound to call your attention to this bill and to discuss it with you. I am talking about L. D. 2236 and Committee Amendment "A" to that, which is under filing number S-454. I strongly oppose this bill, because I

believe that this bill, if it is enacted into law, will result in more parties challenging more wills, since under the provisions of this bill, contestants can do so, knowing that the attorneys' fees for either party may be paid out of the estate.

The committee amendment does attempt to minimize this problem and perhaps resulted from comments that I made in the committee when we were discussing this bill. The committee amendment says that "such costs and fines may be denied by the court to any party whose contentions the court finds to be frivolous or entirely without merit." I feel that most attorneys' fees, most contests, would be allowed, because probate judges, in my opinion, would be extremely reluctant to interfere in the appeals process in the case of contested wills.

I would sincerely urge you to consider very seriously that in this bill we are putting into public law something that is not now codified. When you are planning your estate and draft a will and designate a person to be the executor of your estate, you expect that person to defend that will and to carry out the terms of that will when you die. However, I do not believe that you expect your estate to pay the attorneys' fees of those people who might contest your will whether or not they win their appeal.

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

Mr. SPENCER: Mr. Speaker, Ladies and Gentlemen of the House: The reason that the Judiciary Committee reported this out "ought to pass" is that there are many situations where the intent of the testator is legitimately at issue. For example, if you have somebody who does not possess their full faculties in their last days, they may have written two wills and there may be a question as to which is the valid will. There may be a situation of undue influence where an elderly person is persuaded in the last moments to write his children out of his will by someone that is close to him.

What this provision does, it allows the court, where there is a legitimate contest as to the intent of the deceased, to pay the expenses of both contesting sides, and if you write it so that only the executor gets his attorneys' fees paid for, you might create a situation where somebody who, in effect, forced an older person to sign a will against their will but the executor would have his attorneys fees paid, whereas the children were not able to have the expenses paid.

The law has always been understood to be that where there was a legitimate contest, the court could award attorneys' fees to both sides. This bill now provides, with the committee amendment, that if the claims of one party are frivolous, then the court would not award the attorney's fees. But the problem is, if you don't pass this bill, you are never sure, where there is a legitimate question as to the intent of the testator, you are not sure whether awarding the attorneys' fees to the person that he intended to leave his property to or to the person that he did not intend to get it. The assumption that the executor is always carrying out the intent of the testator is simply not one that would stand up.

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

Mr. FARLEY: Mr. Speaker, Ladies and Gentlemen of the House: I think the bill here is attempting to ruin a whole bushel of good apples to get at one bad apple. The cliché in these legislative halls, in an attempt to kill a bill is call it a lawyer's bill, but I assure you today this bill here is a lawyer's bill, it is a bad bill, and it ought to go down.

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

Mr. PERKINS: Mr. Speaker, Ladies and Gentlemen of the House: The good gentleman just said that a lawyer's bill rarely has much

success when it is put in that light. I have to admit that this is really a lawyer's bill. However, the question is, in regard to this bill, who gets the benefit, because it requires a lawyer's services in order for the goodness of this bill to really show.

The case that brought this particular matter to light was one, as I recall, in which two wills were drawn within short order of each other, one in which the testator, individual, had left everything to his or her children. A second one that was drawn subsequently, which left all of the estate or a majority of the estate to one particular individual, who had given kindness to the testator in one form or another and the circumstances, as I recall it, there was a question as to the mental capacity of the testator as to whether she, — I think she had even had psychiatric help or care — and the children had a right to question whether that last will which, incidentally, is the one which should prevail always, where there is no undue influence, as to whether or not the last will should be allowed for probate, cutting them out entirely from the estate and I submit to you, that if anyone of us decide to draw our wills and we were in some manner incapacitated as a result of old age or what have you and someone chose to finagle and have us sign an instrument to be our last will and testament and that will become the one that is allowed in which all of our estate was sidetracked to someone other than our children, we would be very upset and we would want some means or ability to contest that, some means of being able to prove that that second will was, in fact, drawn and signed through some undue influence on the part of the beneficiary.

Everyone assumed in the legal profession that in that situation it was proper for the children to contest the second will and attempt to have the first will allowed. In doing so, the cost, in order to have this done, including witness fees, depositions to learn the truth, attorneys' fees, would be a part of the cost of the estate because the individuals themselves did not have those funds available, and that includes the attorney who was representing the estate that is originally on file, or meaning the second one, so we don't know at this point who is right, but regardless of that, it was assumed that the counsel fees and costs of court to be paid out of the estate.

That case, when it went to the Supreme Judicial Court of the State of Maine, the law court, in its wisdom, indicated that there was no statutes specifically granting that authority to take care of the costs of the depositions or the costs of the attorneys in carrying the case to the law court and that is the reason that bill is here before you today.

It will merely put on the books what has been a practice, whether rightfully or wrongfully. I suggest to you that I certainly would want to have the cost taken out of my estate in order to prove which was the effective instrument that was drawn, which was the proper one drawn and I would not object to that being done. Maybe you can say that is because I am a lawyer, but I would think, whether I was or I wasn't, that I would want that done.

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

Mrs. MORIN: Mr. Speaker, Ladies and Gentlemen of the House: I hope you do indefinitely postpone this bill. We really do not need the bill in the statutes. If a will is contested and if this person does win his case, he can then pay his attorney fees out of proceeds anyhow.

The SPEAKER: The Chair recognizes the gentleman from Franklin, Mr. Connors.

Mr. CONNORS: Mr. Speaker, Ladies and Gentlemen of the House: Perhaps you know that there is a committee that has been set up

and have been studying over a two-year period the complete revision of our probate laws here in the State of Maine. That report will be out and be in front of the 108th Legislature in the special session and, therefore, I support the motion of indefinite postponement.

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

Mr. MILLS: Mr. Speaker, Ladies and Gentlemen of the House: I would call your attention in the named body under Section 551 on the fourth line down "to be paid out of the estate in controversy as justice requires." The purpose of this thing is now carried backwards in your statement of fact. This bill provides this authority in line with long established practice in Maine's probate courts, provides clarification as to what type of other costs the public probate court may award, but this is just simply setting up an instrument, in legal form, whereby if somebody dies and they haven't left a will and there is a lot of money involved, the lawyers can really bleed that thing down to zero.

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

Mr. HEWES: Mr. Speaker, Ladies and Gentlemen of the House: It is with sincere trepidation that I speak after that remark and the one of the gentleman from Biddeford, Mr. Farley. You know, lawyers represent clients, clients who want services rendered. Supposing you change doctors in the course of your treatment, shouldn't the initial doctor that treated a person receive payment also? I, personally, don't get involved in this type of litigation, I have never had a contested will case in my 22 years of practice. Maybe some day I will. It had been the practice, as the gentleman from South Portland and the gentleman from Standish both said, for attorney's fees to be awarded by probate courts in contested matters up until this decision of last year by our supreme court.

Our Probate Court Justice is the Honorable Dana Childs. He testified before us urging passage of this particular bill. As the gentleman from Kennebunk said, he wanted stipulations that no frivolous, worthless, meritless, claimants would have their attorney fees paid and, as a result, the amendment, Committee Amendment "A" was added.

It seems to me that this is a fair bill, it places with the discretion of the probate court judge the payment of fees. I hope you will oppose the motion of the gentleman from Kennebunk to indefinitely postpone.

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

Mr. McMAHON: Mr. Speaker, Ladies and Gentlemen of the House: In response to the good gentleman from South Portland, I would call your attention to the portion of the decision in the Fenwick Case, which is the case which the good gentleman was referring to on which this bill was based. I am reading a portion of the decision. "It was nowhere demonstrated, however, that the subject" (I am deleting the name) "took any affirmative action in securing his large inheritance." There was no evidence that he suggested the testamentary scheme which Mrs. Fenwick directed her attorney to implement. In fact, there was evidence that Mrs. Fenwick had made her decision to execute a new will immediately after her husband's death, before her nephew became deeply involved in managing her affairs. Further, the new will contained bequests to two beneficiaries not included in the earlier document. The court went on and said in its decision — however, keeping in mind that the trial justice had an opportunity to observe the demeanor of the various witnesses, including that of the subject, we cannot say that his decision not to draw such an inference — and that

would be an inference of undue influence and that inference was not drawn by the trial judge — the law court said we cannot say that that decision was erroneous.

I think we are touching the tip of an iceberg and as the good gentleman from Franklin said, hopefully, in the 108th Legislature and I personally hope that I am here, since this is an area I would like to be involved in, we are going to be discussing the whole subject of probate reform.

I would like to read portions of an article from a Readers Digest reprint to you that might indicate to you the magnitude of this iceberg and perhaps the reason for my concern. The spring of 1971, while helping to persuade the Idaho Legislature to adopt the most thorough probate reform legislation ever devised in the United States, Representative Mel Hammond gave details of two outrageous Idaho estate settlements that he had investigated. One, the McCutchen estate began as a simple \$181,000 bequest by a man to his widow. Before it was finally settled, it had been nicked for 13 percent of its value, some \$24,000 in perfectly legal attorney and bank executor fees and other expenses.

The second case, after 11 years, the Spencer estate still wasn't settled, and in that time, the lawyers and bank executors had managed to extract more than \$48,000 in fees with no settlement in sight. One legislator suggested that the state's lawyers had informally adopted Idaho's own state motto "esto perpetua", which means "endure forever".

Since this is an area that I am not at this point in time terribly expert in, I sent copies of this bill to several of the attorneys in my district. One gentleman, the only gentleman who responded at all, specializes in probate work and I would like to read, with your indulgence, most of the letter that I received, dated March 12th from the firm of Reagan, Ayer, & Adams in Kennebunk. "Dear Jim: I received your note regarding the bill, regarding allowance of attorney fees in probate matters. After rereading the Fenwick Case, I cannot say that my position has changed. Just because the appellants were not successful in validly contesting the will of Mrs. Fenwick, does not, in my mind, give rise to a reason for therefore paying out of her estate the expenses and attorneys' fees for the contestant. If these contestants felt that they had a meritorious case, they had every right to pursue it and pay their own attorneys fees one way or the other.

"Of course, had they been successful, they would have received money from the estate from which to pay the fees. Now, that they are unsuccessful, they still expect the same benefits as if they had been successful. I think this case is the same as the others that I mentioned in our past conversations and does not convince me that the rules should change."

I could go on with the balance of this letter but I won't, suffice it to say that I do hope that you adopt the motion of indefinite postponement. If there is any merit at all to be extracted from this bill, then the other body can do it when the bill arrives down there.

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

Mr. MILLS: Mr. Speaker, Ladies and Gentlemen of the House: In reply to my good friend Representative Hewes, I would still say that this bill guarantees an attorney fee from somebody else's dead money.

The SPEAKER: The Chair will order a vote. The pending question is on the motion of the gentleman from Kennebunk, Mr. McMahon, that this Bill and all accompanying papers be indefinitely postponed in non-concurrence. All in favor of that motion will vote yes; those opposed will vote no.

A vote of the House was taken.

81 having voted in the affirmative and 7 hav-

ing voted in the negative, the motion did prevail.

Sent up for concurrence.

On motion of Mr. Birt of East Millinocket, the House reconsidered its action of earlier in the day whereby Bill "An Act Relating to Location of State Liquor Stores," House Paper 1805, L. D. 1965, was passed to be engrossed.

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

House Amendment "A" (H-1052) was read by the Clerk and adopted.

The Bill was passed to be engrossed as amended by House Amendment "A" and sent up for concurrence.

#### Orders of the Day

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

Bill, "An Act to Establish the Dates of Legislative Sessions and to Clarify Laws Relating to Expenses of Legislators" (S. P. 663) (L. D. 2087) — In the Senate, passed to be engrossed as amended by Committee Amendment "A" (S-435) as amended by Senate Amendment "A" (S-440), thereto

Tabled — (Till later today) March 23 by Mr. Blodgett of Waldoboro.

Pending — Passage to be Engrossed as amended by Committee Amendment "B" (S-435) as amended by House Amendment "C" (H-1036) thereto, in non-concurrence.

Mr. Silverman of Calais offered House Amendment "F" to Committee Amendment "B" and moved its adoption.

House Amendment "F" to Committee Amendment "B" (H-1046) was read by the Clerk.

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

Mr. SILVERMAN: Mr. Speaker, Ladies and Gentlemen of the House: An explanation of House Amendment "F", it is an amendment to lay some type of control on the length of the statutes, allowing a hundred days for the first regular session, 50 days for the second regular session. This means a possibility of 20 to 26 weeks, according to how many days we are going to have in each week for the first session and just half that for the second session.

I do believe there should be some control feature on this bill, and I do believe that this is a very liberal type of control feature.

Also, in this amendment there is an extension of eight legislative days, if so voted on by the legislature. With that, I would ask you to adopt this.

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

Mr. SUSI: Mr. Speaker and Members of the House: I oppose this amendment and I move for its indefinite postponement and would explain my reasons.

The SPEAKER: The gentleman from Pittsfield, Mr. Susi, moves the indefinite postponement of House Amendment "F" to Committee Amendment "B".

The gentleman may proceed.

Mr. SUSI: Mr. Speaker and Members of the House: I have no opposition to the hundred days, I have no opposition to the 50 days, I have no opposition to the two-thirds vote for the extensions, but I do stand opposed to the exact limit on the extension, the five days and the three days. We have no opinion after we have used up the five and three, as I understand it. So we put a definite cloture date on a session.

Well, let's consider the situation we find ourselves in right here today. We are coming into the end of a session. If you make any trim-

mings out of a session, it is going to be out of the end of a session and not the middle of a session, we agree on that. All right, if it is going to be the end of a session, it is a situation like we are in here now where we have a lawyer, we have a plumber's bill, we have got one and another and to each of these bills, there are people who recognize the importance of them and we are spending 15 minutes, a half hour and it is adding up to eight or nine hours a day.

The way to shorten the session up is to cut back at the end of the session, and the way you do that is to go from 9 hours to 12 hours, to 14 hours. I am going to ask you right now, do you want to go 14 hours a day or 16 hours? That is what you are voting for if you vote for this amendment, because don't think that this device brings us a new leadership that is going to be more responsible than the leadership that we have now. I have no question about the quality of our leadership. I think they are as committed as any of us. Unfortunately, we don't all march to the same drummer, so we don't proceed in this democratic process with everyone working in cooperation with everyone else. Yet, this is the process that we are in, and I for one am happy with it. It is the best we can do. It takes time, and to put a definite cloture date on a session I think is a terrible mistake and I hope you vote for the indefinite postponement.

The SPEAKER: The Chair would advise the members of the House that the amendment offered by the gentleman from Calais, Mr. Silverman, was House Amendment "F" to Committee Amendment "B" and not House Amendment "F" to the Bill. Therefore, in order for the gentleman to introduce his amendment, the rules must be suspended in order to proceed any further, in order to reconsider whereby this body voted to adopt Committee Amendment "B". The Chair will order a vote. All those in favor of the rules being suspended will vote yes; those opposed will vote no.

A vote of the House was taken.

38 having voted in the affirmative and 56 having voted in the negative, the rules were not suspended.

Thereupon, the Bill was passed to be engrossed as amended by Committee Amendment "B" as amended by House Amendment "C" in non-concurrence and sent up for concurrence.

On motion of Mr. Lynch of Livermore Falls, the House reconsidered its action of earlier in the day whereby Bill "An Act Relating to Teacher Employment," Senate Paper 640, L. D. 2029 was passed to be engrossed as amended by Committee Amendment "A".

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

Mr. GARSOE: Mr. Speaker, Ladies and Gentlemen of the House: I appreciate the action of the gentleman from Livermore Falls. I was out of my seat at the time and had planned to call this piece of legislation to your attention.

If I can just back up a little bit to some of the conversations we have had in here relating to collective bargaining and point out to you that the bill is no longer before us, it is the amendment. The bill, as I understand it, came in to repeal what I guess we commonly call the Teacher Tenure Law. But the amendment now directs itself to reducing the number of years of probation that is to be served as a maximum by a teacher and extends itself really into the area of collective bargaining by saying that just cause for dismissal or nonrenewal may be a negotiable item in accordance with the procedures set forth in Title 26.

This has occupied a great deal of time in negotiations between school boards and teacher associations, and up until just recently, teacher associations have been very successful in forc-

ing school boards to write into their contracts a "just cause provision."

No one could really argue that if someone is dismissed that it should indeed not be for just cause, but we have been completely unsuccessful in attempting to substitute words such as capricious, arbitrary, words that were very clearly defined, an act that had to be proven. The problem with just cause, once it has been put into a contract, is that any such action of nonrenewal or dismissal by a teacher then becomes subject to the grievance procedure. Now the individual has two routes of action, either the statutory provisions or the just cause provision.

This has gone into quite a few contracts, and one of the reasons that it has gone into some contracts, you might say willingly, has been the fact that after you have seen repeated instances where arbitrators come in and force boards to put these in the contracts, there is a tendency among others not to go that route, not to keep up the fight, so there have been instances where it has been agreed to by school boards. But the end result is that when a teacher is dismissed by a local school board, a grievance is filed and another area of review comes into play. A hearing is held and, as the gentleman from Durham said, an out-of-state arbitrator, in most instances, sits and casts judgment, reviews the judgment of the school board and makes a determination whether or not this dismissal was indeed for just cause.

Now, just cause means what the reviewer wants it to mean. It comes out of his background, out of his philosophy, out of his standards and it is a real threat to the local control that a school board was elected to effect. The values of a community — I think the language in the statute refers to fitness to teach. This is fitness to teach in the judgment of people who have been elected to operate the school boards, who have been elected to set the standards for the school board. So, there has been this erosion through the device of collective bargaining over the years.

The school boards are beginning to come of age, they are fighting back, and one school board took this subject to court, and in the Superior Court of the State of Maine, it was judged that an arbitrator exceeds his authority when he forces a school board to write this into their contract. This is under appeal to the Supreme Court of the State, and I think this in itself should be a reason that we wouldn't start passing legislation such as this.

I am going to move for the indefinite postponement of this bill and its accompanying papers when I get through. I would hope you would give some consideration to this.

I would like to take you back to the 106th Legislature when school boards were before this body attempting to modify the collective bargaining law. He is not in his seat, but I know he won't challenge my statements, but the distinguished gentleman from Augusta advised those of us who supported these modifications not to come whining to the legislature for things we couldn't win at the table. I want to turn that around now and suggest that we shouldn't condone this coming to the legislature for things that can't be won in the courts. I think I have given you the basis for my feeling, that if you believe your locally elected school board should, indeed, pass its judgment on the dismissal of a teacher, subject to the review of our courts, our courts which have set precedents, which are operated on precedent, which give us a continuing body of review, if you believe that should be continued, then I think you will support my motion, because to allow this to pass means that ad hoc arbitrators, a different one in every situation, will be coming in to review the decisions of your local school boards.

Mr. Speaker, I do move for the indefinite

postponement of this Bill and all its accompanying papers.

The SPEAKER: The gentleman from Cumberland, Mr. Garsoe, moves that this Bill and all its accompanying papers be indefinitely postponed in non-concurrence.

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

Mr. BAGLEY: Mr. Speaker, Ladies and Gentlemen of the House: I am in sort of a peculiar position in regard to this bill. The original bill, as you all know, was to repeal the present tenure law. Well, while I was superintendent of schools in Island Falls, back in those dim, distant days when teachers and superintendents were still speaking, I was chairman of the Maine Teachers Association Legislative Committee, and I came down here and did my best and actually succeeded in getting through this so-called tenure law, this continuing contract law. You know, the prime opponents of this continuing contract law in 1950 were the superintendents and the State School Board Association. Now we find that when we want to repeal it, the people that want to keep it are the State School Boards Association and the superintendents. I don't know why both sides have suddenly swapped.

I do want to take issue with the statement from the gentleman from Cumberland in regard to this court case. Actually, what happened was that the court ruled that because of our present continuing contract law, this just cause thing was not valid, not that anybody didn't have any right to come in and tell people what is what, if the two sides agreed to have an arbitrator, the arbitrator could do anything as long as it didn't violate the law. It violated the present continuing contract law according to that court decision which, as already as been said, is under appeal at the present time. We don't know what the result may be.

The point that the teachers have in regard to this thing, about 50 percent of the teachers are under contracts that refer to this just cause, about 50 percent are not. I think South Portland is the biggest place that does not have that and there are many of the smaller places that don't. But the point of the teachers is, if a teacher is fired, the teacher is fired by the school board. Then the continuing contract law says that a teacher may file for an appeal and that appeal is held before the school board. In other words, the school board is accuser. The school board is also the judge and jury in the case. That is the whole reason why the teachers want this just contract thing and in many cases have had it approved by the school boards, even though, as was said, this court case has held that due to our present continuing contract law, that was not valid.

All this does is to amend the law to add on the fact that if teachers and school board members have agreed to a just cause, that takes precedence. Otherwise, the present continuing contract law takes precedence. I hope you do not vote for indefinite postponement.

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

Mr. GARSOE: Mr. Speaker, Ladies and Gentlemen of the House: The repeal of the tenure law is not what you are being asked to vote on right now. That was the original language; that is not what we are talking about now. And I would observe that perhaps one reason that there is a shift in attitudes, and I think that is perfectly permissible under any circumstances, is that we have had a collective bargaining situation develop since this law was put on the books. So I think that should be understandable.

The fact that the gentleman speaks of, about half of our teachers being under this clause, I thought I had discussed but will mention it again, is yes, some of these have been shoved on

by arbitrators and others, school boards seeing it being done all around them, school boards have reluctantly agreed to write this into their contracts.

If we were facing the complete surgical decision of repealing the tenure law and leaving the protection of teachers to their union contracts, we would have a more clear-cut decision, but passing this piece of legislation is going to provide not only legislation coming in while the matter is under consideration by the courts, it is going to leave a double route that can be taken, depending on the intent of the individual. I don't think this makes good legislation.

I would hope that you would defer any action on this, at least until the courts have acted.

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

Mr. PERKINS: Mr. Speaker, Ladies and Gentlemen of the House: One of the main reasons why this special session was called was because of school funding. One of the biggest items in school funding is the teacher salaries. Therefore, I would find myself today on the side of the gentleman from Cumberland, Mr. Garsoe, and agree with him that we should not hurry into passing something that would remove or dilute more local control.

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

Mr. TIERNEY: Mr. Speaker, Men and Women of the House: I can't resist this opportunity to watch how the arguments have been turned by history and respond to my good friend from Cumberland's argument about how we shouldn't touch this issue now because it is before the courts.

If you recall, perhaps, since he came here in the 106th, as I did, in the very first days of the 106th Legislature, we had a governor's veto override to act on, and at that time, the arguments by those people asking us to sustain the governor was that we shouldn't deal with this issue because it was currently before the supreme court. I think the good gentleman voted to override it at that time. I was wondering why his change of position now.

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

Mr. GARSOE: Mr. Speaker and Members of the House: Merely to answer the question, I had forgotten all about that.

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

Mr. DOAK: Mr. Speaker, I have a question I would like to pose through the Chair. As a school board member, if we were in the negotiation process and an arbitrator now were called in, if this amendment passes, could the arbitrator then say that just cause will be in your contract and it is not negotiable any further?

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

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

Mr. GARSOE: Mr. Speaker, I would say yes, or we wouldn't need this legislation, because we have got to realize that the courts have now said that an arbitrator exceeds his authority when he orders a school board to put this into the contract, he has exceeded his authority.

I can see that the defense is that we have a tenure law protecting the rights of an individual teacher in this situation and that this, I suppose, must have been the basis for the court decision. So if this is passed, you are going to create a great deal of chaos, because school boards, obviously, are going to resist. Now that the superior court has acted, they will continue to resist the efforts to have this put into a contract.

I hope that has answered your question. I would say that if this were passed, then you can

expect to heighten the level of activity at the bargaining table.

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

Mr. BAGLEY: Mr. Speaker, Ladies and Gentlemen of the House: I may be wrong, and I stand corrected if I am, but I think this court decision was not in regard to putting this matter of just cause into a contract. The decision of the court was in regard to what an arbitrator said in regard to actually firing a teacher, not this matter of whether just cause should go into a contract or not. The school board fired the teacher. The teacher repealed under the just cause contract. The arbitrator found for the teacher. Then the thing went to court and the court said the arbitrator had exceeded his authority because we have a present continuing contract law that is supposed to protect the teacher.

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

Mr. LYNCH: Mr. Speaker and Members of the House: Two comments. We reduced the probationary period from three to two years. I think it is a step in the right direction. If a teacher is going to be acceptable in any system, he ought to be thoroughly judged in two years, but the difficulty has been that over the years school boards, superintendents, have been lax and have allowed unacceptable teachers to be worked into the system and then can't get rid of them.

Just cause for dismissal or nonrenewal may be a negotiable item. That is a local concern. If teachers in a local unit want just cause, they can negotiate for it. If they don't want it, they can object to it.

Mr. Garsoe of Cumberland was granted permission to address the House a third time.

Mr. GARSOE: Mr. Speaker and Members of the House: I will be very brief. I can understand the gentleman from Winthrop's confusion, but I am going to correct him. This is before the courts in at least two appeals. The one I am referring to is Winslow, where the court said an arbitrator exceeded his authority in ordering this to be put into a contract. It is under appeal in Lubec, it is under appeal in Boothbay Harbor. I think this will give you some background as the magnitude of what we are being asked to do here today.

I hadn't addressed myself to the subject of probationary service. I felt that was a peripheral item as regards the impact of the bill. I think that that is of slight enough consequence not to, I hope, affect your vote on this matter. I have tried to keep my remarks to the heart of this bill, which is this situation that is not going to enhance the relationship between boards and associations.

The SPEAKER: The Chair will order a vote. The pending question is on the motion of the gentleman from Cumberland, Mr. Garsoe, that this Bill and all its accompanying papers be indefinitely postponed in non-concurrence.

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

Mr. COX: Mr. Speaker, I ask to be excused pursuant to House Rule 19.

The SPEAKER: The Chair would inquire from the gentleman from Brewer, Mr. Cox whether he is a probationary teacher?

Mr. COX: No, Mr. Speaker, I am not.

The SPEAKER: The Chair will rule that the Chair will not excuse him, since this bill would only directly affect him if he were a probationary teacher and that ruling applies for all other teachers within the body.

Thereupon, a vote of the House was taken. Mr. Kelleher of Bangor requested a roll call vote.

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

those desiring a roll call vote will vote yes; those opposed will vote no.

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

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

Mr. SPENCER: Mr. Speaker, I ask to be excused under Rule 19, in that one of the partners in my law firm represented the Winslow School Board in the case which this bill would reverse.

The SPEAKER: The Chair would inquire whether the revenues from the law court case —

Mr. SPENCER: They affect my law firm's income.

The SPEAKER: Do they affect the income of the legislator?

Mr. SPENCER: Mr. Speaker, I am paid by the law firm whose income —

The SPEAKER: The Chair would therefore allow the gentleman from Standish, Mr. Spencer, to be excused pursuant to Rule 19.

The SPEAKER: The pending question before the House is on the motion of the gentleman from Cumberland, Mr. Garsoe, that this Bill and all accompanying papers be indefinitely postponed in non-concurrence. All in favor will vote yes; those opposed will vote no.

#### ROLL CALL

YEA — Ault, Berry, G. W.; Berry, P. P.; Bowie, Burns, Byers, Carroll, Conners, Curtis, DeVane, Doak, Dudley, Durgin, Garsoe, Gauthier, Gray, Higgins, Hunter, Hutchings, Immonen, Jackson, Kauffman, Leonard, Littlefield, Lizotte, Lovell, Mackel, MacLeod, Maxwell, McBairty, McMahon, Morin, Norris, Perkins, T.; Peterson, P.; Sprowl, Strout, Tschell, Tarr, Torrey, Tozier, Truman, Twitchell, Tyndale, Wagner, Walker, Webber.

NAY — Albert, Bachrach, Bagley, Bennett, Berube, Birt, Blodgett, Bustin, Call, Carpenter, Carter, Chonko, Churchill, Clark, Connolly, Cooney, Cote, Cox, Curran, P.; Curran, R.; Davies, Dow, Drigotas, Farley, Fenlason, Finemore, Flanagan, Fraser, Goodwin, H.; Goodwin, K.; Gould, Greenlaw, Hall, Henderson, Hennessey, Hewes, Hobbins, Hughes, Ingegnieri, Jalbert, Jensen, Joyce, Kany, Kelleher, Kelley, Kennedy, Laffin, LaPointe, Laverty, Lewin, Lewis, Lunt, Lynch, MacEachern, Mahany, Martin, A.; Martin, R.; McKernan, Mills, Miskavage, Mitchell, Morton, Mulkern, Nadeau, Najarian, Peakes, Pearson, Pelosi, Peterson, T.; Pierce, Post, Powell, Quinn, Raymond, Rolde, Rollins, Saunders, Shute, Silverman, Snow, Snowe, Stubbs, Talbot, Teague, Theriault, Tierney, Wilfong, The Speaker.

ABSENT — Boudreau, Carey, Dam, Dyer, Farnham, Faucher, Hinds, Jacques, LeBlanc, Palmer, Perkins, S.; Rideout, Smith, Usher, Winship.

EXCUSED — Spencer.

The SPEAKER: Forty-seven having voted in the affirmative and eighty-eight in the negative, with fifteen being absent and one being excused, the motion does not prevail.

Thereupon, the Bill was passed to be engrossed as amended in concurrence.

The Chair laid before the House the Second Item of Unfinished Business:

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

Tabled — (Till Later Today) March 23 by Mr. Rolde of York.

Pending — Motion of Mrs. Berube of Lewiston to Reconsider Adoption of House Amendment "B" (H-1030)

The SPEAKER: The pending question before the House is on the motion of the gentleman

from Lewiston, Mrs. Berube, that the House reconsider its action whereby House Amendment "B" was adopted. All in favor of that motion will vote yes; those opposed will vote no.

A vote of the House was taken.

Thereupon, Mr. MacEachern of Lincoln requested a roll call vote.

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

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

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

Mr. DeVANE: Mr. Speaker, Ladies and Gentlemen of the House: I would ask you to resist and reject the motion to reconsider and to exercise the same judgment you had when it was put on.

The SPEAKER: The Chair recognizes the gentleman from Lewiston, Mrs. Berube.

Mrs. BERUBE: Mr. Speaker, Ladies and Gentlemen of the House: I would ask that you vote to reconsider so that we can have an opportunity to postpone Mr. DeVane's amendment.

First of all, I would remind everyone that this was a unanimous committee report. Secondly, there is an immediate need of the additional investigators and prosecutors which would be accomplished by this bill. They would be needed in order to go after the fraud cases in the Human Services program, namely, vendor fraud cases.

Now, Mr. DeVane's opposition seems to be to the bill because we are retaining one position in the Human Services. The reason for that is simply to qualify this fraud unit investigation for federal funding. Now, if we delete the position from Human Services, there will be no federal funding available, or if there would be, it would take many, many months. The way we are doing it, it would be available immediately.

I have said before, there is an immediate need of these positions and I don't feel that we should procrastinate any longer.

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

Mr. DeVANE: Mr. Speaker, Ladies and Gentlemen of the House: Very briefly. In direct response to the very able lady, it was the unanimous committee report when the amendment went on. That has not changed. The reference to 'they' is, in fact, to one person and it is not a question of retaining somebody in Health and Welfare, it is a question of somebody going from the Fraud Investigating Unit housed in the Department of Audit either to the Attorney General's Office or to Human Services. It isn't really a question of retaining.

The matter of federal funds, is, I believe — I am looking for Mr. Hinds, who has had some interest in this matter — the federal funds, as I understand it, will be available, it may be more difficult, it may be more tedious, but the first opposition was that there would be no federal funds. It has come to light, I think, that there would be, through a longer procedure, and I would pray to God that the federal government never passes a law which would give a bonus of dollars to legislators that would wear funny hats, because I think some would wear them.

Federal money is important, I think perhaps, in major projects, maybe for highways, maybe for airports, but when we reach down to a single position in a single department and justify what we are doing for some federal dollars, we are in fact encumbering ourselves in a useless way.

The SPEAKER: The Chair recognizes the gentleman from Brunswick, Mrs. Bachrach.

Mrs. BACHRACH: Mr. Speaker, Ladies and

Gentlemen of the House: I appreciate this business of a federal fund to a certain extent, but I think there is another factor in this reassignment which hasn't been considered. A lot has been said about keeping the unit in one place but, as a matter of fact, the breakdown, as far as we have been able to tell from the study we did last summer in the fraud investigation procedure, has been that there hasn't been very good communication between the Attorney General's Office and what is now the Human Services Department.

It became pretty apparent to us that if we were going to have a really efficient procedure whereby the cases were identified, investigated and then action was taken, that to have at least one of the fraud investigators which, under the federal grant procedure, would actually be four investigators in the Human Services Department, where they would have easy access to all of the files and materials on the cases, would in fact facilitate the investigation on the spot and the communication with the Attorney General's Office.

Therefore, I would urge you to defeat the amendment which, in effect, negates the intent of the committee and pass the bill as originally proposed.

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

Mr. NORRIS: Mr. Speaker, Ladies and Gentlemen of the House: I see that Mr. Hinds isn't in his seat. I did serve on this committee and I was one of the signers of the unanimous "ought to pass" report. I did not serve on the subcommittee, but I know that they did spend several months, as the members have reiterated before this House.

I do know one thing for certain, that regardless of where this position goes today on this amendment, the gentleman will end up in the Department of Human Services because he is going to go there anyway. The only difference between the amendment and the bill in its original form is the fact that if we pass the bill as originally written there is no question, there is no waiting, the federal government will pay half of his salary. I guess that is exactly boiled down logically to what we are talking about, because the gentleman will go to Human Services, and if he does go to Human Services, when he goes, I should say, the federal government will pay half of his salary.

That is the whole story in a nutshell. It was done with a lot of thought and a lot of consideration and after a lot of agonizing thought. So I would hope that you would reconsider today and let the federal government, without any question, you understand, pay half of this person's salary.

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

Mrs. NAJARIAN: Mr. Speaker and Members of the House: I guess I am a little confused by Mrs. Bachrach's last statement, because she was talking about that the bill transferred investigators from the Department of Audit to the Human Services Department. As I read the bill, it concerns itself with four positions. It transfers the director to the Human Services Department but the investigators go to the Attorney General's Office, and the secretary will go to the Attorney General's Office.

The preamble to the bill states that "wherein the investigation and prosecution of fraud perpetrated against the state is currently carried out by several state agencies in a fragmented and inefficient manner," — that is one of the justifications for passing the bill. The positions being considered in this bill are now all in the Department of Audit, they are not fragmented, as stated in the emergency clause, and to place one position in one department and three positions in another department seems to me to be doing exactly what the emergency bill

intended to avoid, and that was fragmentation.

The Statement of Fact says that the Director of Fraud Investigation is placed in the Department of Human Services to investigate active fraud, but the two investigators are left in the Attorney General's Office. That doesn't make a whole lot of sense to me.

Mr. DeVane's amendment would transfer all the positions to the Attorney General's Office. As I understand it, they can still get the federal money, the Attorney General can assign investigators to the Department of Human Services and they would still receive federal money and the same purpose, it seems to me, that the Performance Audit Committee is trying to accomplish would be accomplished through Mr. DeVane's amendment and all of these members of the Fraud Investigation Unit would be in one department, which is what the preamble to this bill states is the intention, or the reason why the bill is being introduced.

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

Mr. HEWES: Mr. Speaker, Ladies and Gentlemen of the House: In answer to the good lady's question, as I understand it, the federal money would funnel to the state through the HEW, the federal agency of Health, Education and Welfare. It is their practice not to fund money into departments such as the Attorney General's Office in any one of the 50 states. Instead, they funnel their money into departments such as our Department of Human Services. I think it is for that reason that the committee's proposal was proposed.

When the inspector of HEW makes his periodic inspections, he wants to make sure that the federal funds are spent not for tarring roads or Sea and Shore Fisheries matters, but he wants to make sure the money is spent for human service matters. As I understand it, if this man in charge of the Fraud Squad is in the Department of Human Services, it will be easy for this inspector from HEW to check the records.

It is strictly for federal funds, as I see it, the reason the committee came out with the report that it did. I hope you will vote with the good lady from Lewiston, Mrs. Berube, to reconsider.

The SPEAKER: A roll call has been ordered. The pending question is on the motion of the gentleman from Lewiston, Mrs. Berube, that the House reconsider its action whereby House Amendment "B" was adopted. All in favor of that motion will vote yes; those opposed will vote no.

#### ROLL CALL

YEA — Albert, Bachrach, Berry, G. W.; Berube, Birt, Boudreau, Chonko, Clark, Cox, Curran, P.; Curtis, Dam, Dow, Dudley, Faucher, Finemore, Garsoe, Goodwin, K.; Henderson, Hewes, Hutchings, Kennedy, LaPointe, Laverty, Lewis, Lizotte, Lovell, Lynch, Mahany, Martin, A.; McBreairey, McMahon, Mills, Morin, Morton, Norris, Peakes, Quinn, Saunders, Shute, Silverman, Snow, Snowe, Spencer, Stubbs, Susi, Talbot, Tarr, Teague, Theriault, Torrey, Truman, Twitchell, Wagner, Walker.

NAY — Ault, Bagley, Bennett, Berry, P. P.; Blodgett, Bowie, Burns, Bustin, Byers, Call, Carpenter, Carroll, Carter, Churchill, Conners, Connolly, Cooney, Curran, R.; Davies, DeVane, Doak, Drigotas, Durgin, Farley, Farnham, Fenlason, Flanagan, Fraser, Gauthier, Gould, Gray, Greenlaw, Hall, Hennessey, Higgins, Hobbins, Hughes, Hunter, Immonen, Ingegneri, Jackson, Jensen, Joyce, Kany, Kauffman, Kelleher, Kelley, Laffin, Leonard, Lewin, Littlefield, Lunt, MacEachern, Mackel, MacLeod, Martin, R.; Maxwell, McKernan, Miskavage, Mitchell, Nadeau, Najarian, Pearson, Pelosi, Perkins, T.; Peterson, P.; Peterson, T.; Pierce, Post, Powell, Raymond, Rolde, Rollins,

Sprowl, Strout, Tierney, Tozier, Usher, Webber, Wilfong, Winship.

ABSENT — Carey, Cote, Dyer, Goodwin, H.; Hinds, Jacques, Jalbert, LeBlanc, Mulkern, Palmer, Perkins, S.; Rideout, Smith, The Speaker.

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

Thereupon, the Bill was passed to be engrossed as amended by House Amendment "B" and sent up for concurrence.

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

An Act to Require an Annual Governor's Report on Employment and the Economy (S. P. 720) (L. D. 2256)

Tabled — (Till Later Today) March 23 by Mrs. Najarian of Portland.

Pending — Passage to be Enacted.

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

Mr. FINEMORE: Mr. Speaker, Ladies and Gentlemen of the House: I request suspension of the rules for reconsideration.

The SPEAKER: The gentleman from Bridgewater, Mr. Finemore, moves that the rules be suspended for the purpose of reconsideration. The Chair hears objection and the Chair will order a vote.

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

Mr. FINEMORE: Mr. Speaker and Members of the House: I withdraw my motion to suspend the rules.

The SPEAKER: The gentleman from Bridgewater, Mr. Finemore, withdraws his motion to suspend the rules.

The gentleman may proceed.

Mr. FINEMORE: Mr. Speaker, Ladies and Gentlemen of the House: I have been here almost 12 years and it is the first time I have asked for suspension of the rules and it is not for myself. It is definitely not for myself. I have been requested to do this. I did the checking on my own, it took a little time, not a great deal of time, not as much as some of the debate here today, and I found that this amendment that I wanted to put on this bill is necessary to make it save money for the state and save time for the Governor, it is a simple amendment, but I will withdraw my motion and let the bill go on its way. I do think it is an odd way to challenge it, and I never before requested suspension of the rules.

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

Mr. CONNOLLY: Mr. Speaker, Ladies and Gentlemen of the House: First, I would apologize to the gentleman from Bridgewater, Mr. Finemore. The only reason that I objected was because I wanted to try to save the bill in its present form, and it is my understanding that the reason he wanted suspension of the rules was so he could move it back to put an amendment on it.

Just let me explain to you the issue, because I understand the gentleman from Brewer Mr. Norris is considering moving indefinite postponement of the bill. This was one of the bills that come out of the Jobs Committee and received the unanimous support of the Jobs Committee and also received the unanimous support of the State Government Committee. It is a minor piece of legislation, but what it tries to do is place some burden upon the executive branch to deal with the question of unemployment in the state and it requires the governor to issue an annual report on employment and the economy.

The objections that Mr. Finemore had, and the reason that he wanted to amend it, was that he felt that there was already a report being is-



sued through the Department of Manpower Affairs. I tried to explain to him that this report would ask for more than that which is included in the report that Mr. Levesque supplies to us. It seems to me that we should require the governor to deal with the issue of unemployment and that is why we wanted to try to keep the bill in its present form.

I don't have any objection at all to debating the amendment that Mr. Finemore wanted to put on, but the reason that I objected was to just try to save the bill in its present form.

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

Mr. FINEMORE: Mr. Speaker, Ladies and Gentlemen of the House: I was not changing any part of the section the last speaker suggested. I was not changing anything. I was just changing the wording and where the report was coming from. With that I will close.

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

Mr. NORRIS: Mr. Speaker, Ladies and Gentlemen of the House: I held this bill up because I wanted to look at it and then there was an amendment talked about and apparently the amendment is not going to be presented now. I really believe in what the gentleman from Portland is trying to do and I have no quarrel with him and I believe in what his committee is trying to do. But I am concerned about just putting another bill, another law, on the books, that really won't do anything, in my opinion. It just won't do any more than have another law on the books that won't provide any real useful purpose to anyone. That is my feeling on it and I know how the gentleman feels.

Everyone said I was going to move indefinite postponement, I am not going to move indefinite postponement. I am going to ask for a division on the passage and I am perfectly willing to listen to any more debate on the thing, but in my own mind, I can't see that the bill will accomplish anything for the citizens of the State of Maine at this time.

The SPEAKER: The pending question is passage to be enacted. All in favor of passage to be enacted will vote yes; those opposed will vote no.

A vote of the House was taken.

67 having voted in the affirmative and 26 having voted in the negative, the motion did prevail.

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

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

Bill, "An Act Relating to the Registration of Voters." (H. P. 2039) (L. D. 2212)

Tabled — (Till Later Today) March 23 by Mr. Higgins of Scarborough.

Pending — Motion of the same gentleman to Reconsider Acceptance of the Majority "Ought Not to Pass" Report.

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

Mr. HIGGINS: Mr. Speaker, Ladies and Gentlemen of the House: I have no notions of delaying the apparent death of this bill, but I did see it was a divided report on the calendar yesterday, 8 to 5, and I had received some correspondence from my town's people that they were in favor of this. When I saw it go without debate, I wondered what the problem was. Since then I have talked with people who even signed the "ought to pass" report and they have assured me, I guess, that the bill is no good and so if they signed it out "ought to pass" and then think then it isn't that great, then I guess it isn't that great, so I withdraw my motion.

The SPEAKER: The gentleman from Scarborough, Mr. Higgins, withdraws his motion to reconsider.

Sent up for concurrence.

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

House Divided Report — Majority (9) "Ought Not to Pass" — Minority (2) "Ought to Pass" as Amended by Committee Amendment "A" (H-1007) — Committee on Labor on Bill, "An Act Relating to the Effective Date of Each Individual Establishing a Benefit Year under the Unemployment Law" (Emergency) (H. P. 2145) (L. D. 2285)

Tabled — March 22 by Mr. Mills of Eastport.

Pending — Acceptance of Either Report.

On motion of Mr. Mills of Eastport the Minority "Ought to Pass." Report was accepted.

The Bill was read once. Committee Amendment "A" (H-1007) was read by the Clerk and adopted, and the Bill assigned for second reading tomorrow.

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

House Divided Report — Report "A" (7) "Ought Not to Pass" — Report "B" (5) "Ought to Pass" in New Draft Under New Title Bill, "An Act to Strengthen Litter Laws and Improve Solid Waste Management in this State" (H. P. 2225) (L. D. 2315) — Report "C" (1) "Ought to Pass" as Amended by Committee Amendment "A" (H-1015) — Committee on Taxation on Bill, "An Act to Improve Solid Waste Management" (H. P. 2090) (L. D. 2249)

Tabled — March 22 by Mrs. Najarian of Portland.

Pending — Motion of Mr. Drigotas of Auburn to Accept Report "A" "Ought Not to Pass".

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

Mr. MCKERNAN: Mr. Speaker, Ladies and Gentlemen of the House: I would oppose the motion to accept the majority "ought not to pass" report on this bill.

I am going to be very brief, I talked too long on a subject earlier today and I think this particular item has been debated in the past, at least the controversial aspect of the bill.

As you all know, this is a bill that came out of a study by the Natural Resources Committee. It dealt with solid waste and litter in this state. It has been reported out by the committee, at least a minority of that committee, in new draft. That new draft contains strengthened litter laws and a returnable beverage container bill, as well as a referendum clause on that section of the bill, to send it out and let the people vote on it.

I don't want to get into specifics of the merits or demerits of the so-called bottle bill. As I have said, we have debated this subject at length in the regular session. It is obvious from the debate that passage of such a bill will reduce litter, reduce solid waste, reduce the amount of energy consumed by the beverage industry and also reduce the cost of beverages to consumers.

We can sit here and haggle over just how much it is going to reduce litter or how much it is going to reduce everything, but I am not sure that serves any purpose.

My feeling on this bill is simply that we have made some mistakes here in trying to convince the people of this state that we are, in fact, acting in their best interest. I think a lot of people feel alienated by the whole political process and government in general.

This is an opportunity to allow the people to vote on something that they are very concerned about and that they favor. I would hope you would not vote to accept the majority "ought not to pass" report and that we would allow this bill to be accepted as Report "B" so the people of the State of Maine could have a chance to vote on whether or not they want returnable containers.

The SPEAKER: The Chair recognizes the gentleman from Orland, Mr. Churchill.

Mr. CHURCHILL: Mr. Speaker, Ladies and Gentlemen of the House: I wholeheartedly support Report "B". This is a question that you must ask yourself, will returnable containers reduce litter? The answer is definitely, yes. It has been proven by the states which now have returnables. Oregon and Vermont now have 75 to 80 percent less litter than they did previously. The savings in container costs are more than enough to offset increases in the handling costs to grocers and distributors. Maine has no beverage container manufacturers, so any decrease in containers manufacturing will not affect Maine labor forces. If anything, jobs should be created to handle the returnables.

The latest poll conducted in Maine indicates that 75 percent of the Maine people favor returnables, so lets pass out this Report "B" and allow the housewives and all the citizens of the state to vote whether they want this bill or not.

The SPEAKER: The Chair would ask the Sergeant-at-Arms to escort the gentleman from Stonington, Mr. Greenlaw, to the rostrum to act as Speaker pro tem.

Thereupon, Mr. Greenlaw assumed the Chair as Speaker pro tem and Speaker Martin retired from the Hall.

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

Mr. MCBREAIRTY: Mr. Speaker, Ladies and Gentlemen of the House: Last year in the regular session, a Joint Order was put through that required the Natural Resources Committee to make a study of solid waste. I am going to read that order.

"WHEREAS, this is an age of increasing scarcity of energy and of natural resources; and

"WHEREAS, the recycling and reuse of consumer and industrial goods is one of the chief methods of conserving the limited supply of energy and natural resources; and

"WHEREAS, the Legislature recognizes that a comprehensive system of recycling and reuse of consumer and industrial goods is only economically feasible on a state-wide scale; and

"WHEREAS, such recycling and reuse would also have the advantage of significantly decreasing the amount of litter which presently despoils Maine's natural beauty; now, therefore, be it

"ORDERED, the Senate concurring, that the Legislative Council is authorized, through the Joint Standing Committee on Natural Resources, to study the economic, social and environmental feasibility of instituting a state-wide, comprehensive system of recycling consumer and industrial goods and materials; and be it further

"ORDERED, that the experience of other states, especially Massachusetts, in attempting to establish a state-wide system of reuse and recycling be studied in an effort to learn from the efforts of others; and be it further

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

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

The Natural Resources Committee met several times at a considerable expense to the taxpayers of this state. Public hearings were held on three Comprehensive Solid Waste bills which were intended to give the legislature a choice of three different price ranges. I think the intent of the study order was much broader

than to bring back a warmed-over version of Jock's last year's bottle bill. I strongly believe that Committee Report C will do more for all solid waste and litter, than a well-drafted bottle bill. I think it will be a great waste of the thousands of dollars of taxpayers' money put into the solid waste study, if you accept this bottle bill you have before you today.

I strongly feel it is terribly wrong to use a several thousand dollar study order to circumvent Rule 28 and allow anyone to bring back a last year bottle bill in this special session.

I am going to go through this bill that you have before you as briefly as possible. On the first page, I think it is section 2, it makes very unfair competition because it says that the agencies must buy or purchase equipment that has parts to recycle, this could mean a typewriter key or a button, it could force the agencies to buy from a company.

On Page 2, subsection 4, this exempts motorcycles, farm implements and snowmobiles from section 7, which is terribly wrong, because they can litter from snowmobiles and motorcycles just as well as any other equipment.

On Page 5, Section 2273, does absolutely nothing because it says that they "may," if they have the money, do such and such and certain things. On Page 6, Definition, this does nothing for wine, liquor bottles in any way.

Now we get down into a refund value. All this bill says is that you have to have a refund value. It does not in any way say that you have to charge this refund value. When you take Section 1863, saying that all you have to have is a refund value, you don't have to charge it, then you go down to Section 1866, it says that you can refuse the returned bottle, so this bottle bill, the way it is written, does absolutely nothing with dealers, and distributors against the bill and saying that they don't have to ask for a refund value and they don't have to accept the bottles or give it back, it does nothing.

It says in Subsection 3 of 1866, that one cent will be paid to the dealer for handling. The one cent that is being paid to the dealer for handling will amount to \$4 million. Also, the slippage of the bottles that won't be returned will amount to another \$2 million, so there is a price tag on this bill of \$6 million.

The last page of flip tops and detachable plastic container carriers, there is absolutely no lead time. When this becomes law, I don't know what they will do with all these flip top cans that will be left on hand.

Several weeks ago, in order to get first-hand information on how well Vermont's bottle bill was cleaning up the litter along the highways, I spent a good part of my weekend in Vermont. Between Lancaster, New Hampshire and St. Johnsbury, Vermont. I picked up three large trash bags of litter. A good part was New Hampshire bottles, brought in New Hampshire by Vermont people, and thrown out in Vermont.

Believe me, Vermont's bottle bill is still just as controversial as L. D. 1994 is here in Maine. While in Vermont, I visited a farm, small restaurant, a home, a Mom and Pop country store, two supermarkets, and filling stations. I talked with waitresses, customers in stores, State Police, and finally with a District Highway Engineer. Everyone seemed anxious to express their opinion of the bottle bill. I have several written testimonies, one from the highway engineer, I am going to read.

"Dear Sir: The State of Vermont has in recent years, passed a "Bottle Bill" aimed at reducing the litter on state highways. Since it is part of my duty to maintain the state highway, which includes the collection of trash along side the roadways, I offer my personal observations in favor of, and objections to, our present legislation.

"It has been our observation, the number of glass containers has been reduced noticeably.

However, we do have some Vermont beverage bottles, a great deal of containers from other states or Canadian provinces, ferrous and non-ferrous metals, and paper of every description. In general, while the volume of bottles has been reduced somewhat, the volume of trash is noticeably the same.

"Secondly, the cost of trash removal before the "Bottle Bill" was in the vicinity of \$16,000 for the 300 miles of state highway we patrol. Granted, we have experienced higher operating costs in the last few years, but last year our cost was \$18,000, with the "Bottle Bill" in effect. So, no saving in money was affected in maintenance.

"Third, in this section of the state, it is the universal opinion that the retail stores suffer greatly from the loss of business to New Hampshire, for without the taxes on containers and the lower cost of gasoline, it is more profitable to shop across the line for all the weekly groceries. It is evident the stores suffer in Vermont and are gaining in New Hampshire. We, therefore, lose income taxes and business taxes, but also gasoline taxes which pay for our roadside litter program.

"Since my viewpoint is provincial, I would suggest you contact Mr. John A. Durkee, Maintenance Management Engineer, Vermont Department of Highways, Montpelier, Vermont 05602, who would have a broader state-wide assessment and state-wide cost figures on litter collection.

"I am sincerely sorry I was unable to meet with you on February 7th, but I did appreciate your call and admire your perseverance to resolve the problem in your state."

A copy of this letter went to Mr. John Durkee and I tried to reach him. I reached his assistant and to be fair, he did say that it did help somewhat more further inland but still it did not help on the other litter.

I have a statement here that says that Governor Thomson of New Hampshire publicly states opposition to the beverage law. The Governor publicly thanked those people in Montpelier who continue to pass such legislation as the deposit law that drives business out of Vermont into his state and he hopes that they keep on re-electing those people who do so much for New Hampshire instead of considering the needs of their own state.

The Governor also stated that should a New Hampshire legislature consider a deposit law, it would stop at his desk. This clearly indicates that Governor Thomson would veto any New Hampshire deposit law and there is a clear reason for this. The following represents the latest data regarding tax receipts. In the State of Vermont, from September 1, 1973 to October of 1974, our state has lost \$340,000 in beer and excise taxes over the preceding year. In the same period, New Hampshire, picked up about the same amount.

After visiting Vermont and Canada and getting the information I did, I can, in no way, vote for any bottle bill.

This bottle bill, if it did work, with the one cent for handling, and the slippage, or the bottles that will be broken or never returned, has a price tag to the consumer of about \$6 million. Four million will go to the retailer and two million will go to the distributor. This is over \$5 million more in cost to the consumer than the Natural Resources Committee Report C.

I believe we already have driven enough business to New Hampshire and Canada.

One thing I feel many times is done here in Augusta is when the legislature finds a problem, they over-react. If you had a headache, you wouldn't take aspirin, bufferin and anacin all at the same time. I am sure you all realize that an overdose could be fatal, which would be much worse than the headache you started with.

I hope you might first take a couple aspirin by seriously considering Report C. This way, we won't risk a fatality. In two or three years, if our problem isn't taken care of, we can increase the dosage by adding a bottle bill.

I think a good example of how a great problem can sometimes be solved by a very inexpensive simple method, is the way the fatality rate was decreased on our highways. For years we tried many complicated expensive methods. Finally, the energy crunch came, we decreased the speed, and now we are saving thousands of lives.

I urge you to kill this bottle bill, and if you want to really work on recycling and cleaning up our litter, consider the Natural Resources Committee Report C.

Report C is the only bill left to come before you that will generate any money to work on our solid waste and litter problems as a whole by educating and helping towns with recycling and solid waste problems and better state-wide clean-up programs. All I ask is that you give Report C a chance.

When the committee reports back to the legislature in 1978, as the bill calls for, if I am still here, I will be one of the first who will be willing to try something else if we still haven't taken care of the problem.

This last weekend, I drove 30 some miles from my home, I went into Canada. I went across from Van Buren into St. Leonard. I bought a case of coke, which I have under my desk right now. I paid \$4.31 for this case of coke. In Van Buren, just across the bridge in the United States, the price was \$5.25. If you add the cost of the handling, add the deposit, you will drive the price up in Van Buren to \$6.89. This is a difference of \$2.58. We have a Canadian border that nearly surrounds us — you take the New Hampshire and Canadian border that nearly surrounds us and if we pass a bottle bill, we will drive thousands of dollars of business to Canada and New Hampshire.

Mr. McKernan of Bangor requested a roll call.

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

Mr. PETERSON: Mr. Speaker, Ladies and Gentlemen of the House: I want to go on the record in support of Report B, which is the minority "ought to pass" report. I won't take too much time on this because I think the pro's and con's of this were well debated in the regular session and the arguments are familiar but one of the pressing things that the Natural Resources Committee found was that a large portion, at least 20 percent of the solid wastes that goes into our local dumps, our solid landfills, are bottles and beverage containers. There has to be an incentive for our society to reuse and recycle beverage containers and other articles that are in commerce, and this bill will go a long way towards getting our citizenry to thinking in terms of reusing and not just burying and wasting.

This bill creates an incentive for people to return beverage containers. It also assists in reducing the volume of solid waste that is generated by our dumps. If we can reduce that volume, it means less land that we are going to have to use to bury our solid waste. It is essential that we take some step.

Now, this bill is a lot less than the Natural Resources Committee passed out as a study report — it is a lot less. It was steered to Taxation because one of the studies had a two-cent disposal charge which was considered to be a tax and that any new tax in this legislature would have rough sledding. So that provision has been taken out of this legislation.

I think that what we have is something less than what I would like to see, but I think it gets us headed in the right direction. It may seem discriminatory that we pick on the beverage

container, but it is one of the items that is most frequently along our roadsides and which contributes greatly to the amount of solid waste that we have to bury. If there is any way that we can reduce that cost to the property taxpayers of your communities, I think this is one of the ways, because we are going to be reducing the total volume of solid waste that goes into our dumps.

The SPEAKER pro tem: 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 pro tem: The Chair recognizes the gentleman from Perham, Mr. McBreaity.

Mr. McBREAIRTY: Mr. Speaker and Members of the House: I have here a report that was given to me yesterday. It is a little hard to understand why I was given this report, because it was given to me by a fellow who three weeks ago was a hundred percent in favor of the bottle bill and this doesn't seem to add any strength to it.

This is an environmental protection publication in the solid waste management series. This was drafted by Mr. Loeb. He is with the Resource Recovery Division Office of Solid Waste Management Programs, U.S. Environmental Protection Agency. I am just going to pick a few subjects as briefly as I can from this. It says: "The actual number of litter beverage containers declined from a monthly average of 12,721 before the law to 4,191 after the law, a decrease of 67 percent or more than 8,500 a month. Although beverage containers in litter since enactment of the law, 26 percent were deposit containers. The remainder were non-returnable, presumably purchased outside the state.

"Price increases from 20 to 40 cents per case were later passed on to consumers. One distributor increased prices by 35 percent per case on February 21, 1974, five months after implementation of the act, and others followed soon after. The increase is said to cover one cent, the 24 cents per case handling charge that distributors must allow by law to pay for the increased handling costs, in addition, 6 to 16 cents per case to cover distributor increased handling costs. Additional increase may occur at the retail level.

"Beer prices: Price increases occurred as soon as the legislation became effective. Wholesalers increased prices from 40 to 60 percent per case. This increase was said to cover (1) the 24 percent per case handling charge paid to the retailer and (2) an additional 16 to 36 cents per case for costs of handling by the wholesaler. Retail stores added up to 15 cents per case as a handling charge above the 24 cents per case required by the law from the wholesaler.

"The state attorney investigated the reasons for these price increases. No charges were filed.

"In the case of the soft drink prices, various costs were increased during this time and, therefore, the price increases could not be attributed to any single cause.

"In summary, price increases occurred both for beer and soft drinks. The prices of soft drinks increased 20 to 40 cents per case, while the price of beer per case jumped almost immediately, September 1, 1973, by around 60 cents per case. This is in addition to the 5 cents for bottle deposits or \$1.20 per case the consumer must initially give.

"The State of Vermont has had about a 10 per-

cent decline in projected overall tax receipts for fiscal year 1974. Data on sales, specifically since September 1973, when the law went into effect, were not generally available. An exception was dated from the Coca Cola Bottling Company, which accounts for slightly one fourth of coca cola sales in Vermont or about one twelfth of the total soft drink market. Their sales for September through August 1973-74 show a three and one tenth percent decline compared with sales for the same month in 1972-73. For the year 1973, the company reported a 10 and 8 percent increase in sales. The Coca Cola Bottling Company of Burlington accounting for slightly less than half of coca cola sales reported a 6 percent sales decline for the 1973 year.

"It is obvious that beer sales in Vermont declined about 10 percent in the first year in sales. On May 1, 1973, four brewers representing eight brands chose not to renew their certificates of approval for Vermont's sales.

"One final comment is required concerning the impact of the price increase on the sales of beer. Even before the law, due to Vermont taxes, beer was cheaper in adjacent states. The Vermont tax per case was about 57 cents, compared with about 10 cents for New York, 17 cents for Massachusetts and 27 cents for New Hampshire. Vermont retailers, by law, cannot sell beer below their cost to bring people into their stores. New Hampshire retailers, near the border, can and do run specials on beer. In fact, one survey, only one, show a 47 percent decline. Budweiser brand, beer sales in Vermont near the New Hampshire border during the first four months of the law, was affected compared to the previous year."

I am not going to take any more of your time, but I could read you many more sections that would go right along with what I have already read.

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

Mr. McKERNAN: Mr. Speaker, Ladies and Gentlemen of the House: Just to clear it up for the members, Report A is the "ought not to pass" report. I would oppose that.

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

Mr. MORTON: Mr. Speaker and Members of the House: I just want to make sure everybody does understand that 2249 that is posted on the tote board there is really not the bill we should be looking at. We should be looking at 2314, 2315, in that area, which are Reports A and B of 2249.

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

Mr. ROLDE: Mr. Speaker, I would like to pair my vote with the gentleman from Mapleton, Mr. Rideout, if he were here, he would be voting yes and I would be voting no.

The SPEAKER pro tem: The gentleman from York, Mr. Rolde, wishes to pair his vote with the gentleman from Mapleton, Mr. Rideout. If Mr. Rideout was here, he would be voting yes and the gentleman from York, Mr. Rolde would be voting no.

At this point, Speaker Martin returned to the rostrum.

SPEAKER MARTIN: The Chair would thank the gentleman from Stonington, Mr. Greenlaw, for acting as Speaker pro tem.

Thereupon, Mr. Greenlaw of Stonington was escorted to his seat by the Sergeant-at-Arms and Speaker Martin resumed the Chair.

The SPEAKER: A roll call has been ordered. The pending question is on the motion of the gentleman from Auburn, Mr. Drigotas, that the House accept Report A, "Ought Not to Pass."

All in favor of that motion will vote yes; those opposed will vote no.

#### ROLL CALL

YEA — Albert, Berube, Boudreau, Call, Connors, Curtis, Dam, Drigotas, Durgin, Farley, Faucher, Fraser, Kauffman, Kelleher, Kelley, Lewis, Lizotte, Lunt, Lynch, MacLeod, Maxwell, McBreaity, Morin, Norris, Pearson, Perkins, T.; Peterson, P.; Raymond, Talbot, Tarr, Theriault, Truman, Twitchell, Walker, Webber.

NAY — Ault, Bachrach, Bagley, Bennett, Berry, G. W.; Berry, P. P.; Birt, Blodgett, Bowie, Burns, Buslin, Byers, Carpenter, Carroll, Carter, Chonko, Churchill, Clark, Connolly, Cooney, Cox, Curran, P.; Davies, DeVane, Doak, Dow, Dudley, Farnham, Fenlason, Finemore, Flanagan, Garsoe, Gauthier, Goodwin, H.; Goodwin, K.; Gould, Gray, Greenlaw, Hall, Henderson, Hennessey, Hewes, Higgins, Hobbins, Hughes, Hunter, Hutchings, Immonen, Ingegneri, Jackson, Jensen, Joyce, Kany, Kennedy, LaPointe, Laverty, Leonard, Lewin, Littlefield, Lovell, MacEachern, Mackel, Mahany, Martin, A.; Martin, R.; McKernan, McMahon, Mills, Miskavage, Mitchell, Morton, Nadeau, Najarian, Peakes, Pelosi, Perkins, S.; Peterson, T.; Pierce, Post, Powell, Rollins, Saunders, Shute, Silverman, Smith, Snow, Snowe, Spencer, Sprowl, Strout, Stubbs, Susi, Teague, Tierney, Torrey, Tyndale, Usher, Wagner, Wilfong, Winship, The Speaker.

ABSENT — Carey, Cote, Curran, R.; Dyer, Hinds, Jacques, Jalbert, Laffin, LeBlanc, Mulkern, Palmer, Quinn, Tozier.

#### PAIRED — Rideout, Rolde.

Yes, 35; No, 10; Absent, 13; Paired, 2.

The SPEAKER: Thirty-five having voted in the affirmative and one hundred one in the negative, with thirteen being absent and two paired, the motion does not prevail.

On motion of Mr. Susi of Pittsfield, the House accepted Report B "Ought to pass".

Thereupon, the New Draft was read once and assigned for second reading tomorrow.

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

House Divided Report — Majority (10) "Ought Not to Pass" — Minority (3) "Ought to Pass" in New Draft (H. P. 2224) (L. D. 2314) — Committee on Taxation on Bill, "An Act to Provide Funding for Action on Solid Waste Litter" (H. P. 2091) (L. D. 2250)

Tabled — March 22 by Mrs. Najarian of Portland.

Pending — Acceptance of either Report.

On motion of Mr. Drigotas of Auburn, the Majority "Ought not to pass" Report was accepted and sent up for concurrence.

The Chair laid before the House the fourth 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 22 by Mr. Cooney of Sabattus.

Pending — Passage to be Engrossed.

On motion of Mrs. Najarian of Portland, retabled pending passage to be engrossed and tomorrow assigned.

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

Joint Order Relative to study of several county jails. (H. P. 2218)

Tabled — March 23 by Mr. McKernan of Bangor.

Pending — Motion of Mr. Farley of Biddeford to indefinitely postpone.

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

Mr. TALBOT: Mr. Speaker, Ladies and Gentlemen of the House: I was sort of waiting to find out why who was going to bring up what concerning this order. It was tabled yesterday. I really don't find any fault with that tabling motion. I was sort of interested in finding out what different people had done insofar as yesterday and today is concerned with this bill before I made any motions or before I did any debating.

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

Mr. ROLDE: Mr. Speaker, Ladies and Gentlemen of the House: I basically support this order of the gentleman from Portland, Mr. Talbot. I think it probably is a very good idea that we do look into our county jails. However, I was a little bit disturbed yesterday by some of the remarks he made about conditions in York County and the York County sheriff. I did, following the tabling of this order, talk to the sheriff, tried to get a better picture of what actually had happened in the particular situation down there, and the sheriff told me he would be very happy to talk to Representative Talbot on it and I believe Representative Talbot did call the sheriff. The sheriff himself felt that he would be very willing to have any of his conduct investigated and he felt that there was no wrongdoing in what had gone on in the jail and most of our problems in York County have been because of the conditions in the jail, which has now been condemned and closed.

Basically, I would have no objection to the gentleman's order, but I did feel that perhaps he went a little bit too far in some of his remarks.

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

Mrs. BERRY: Mr. Speaker and Members of the House: I did contact the Department of Corrections this morning, and they do make these inspections of the county jails three or four times a year and they are cracking down somewhat on them. As I said yesterday, they have been in Somerset County and we practically had a law suit, the result of which we have done some improvements on the jail. In fact, I guess from what he said, he considers Somerset County the best county jail in the state and even went as far as to say that the meals were practically excellent. But he did say that they are trying to improve the jails and if they are inspecting the jails three or four times a year, I see no reason why this order needs to be and I would go along with the indefinite postponement.

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

Mr. TALBOT: Mr. Speaker and Members of the House: I will try to clear up some of that. I did talk to the Representative from York, Mr. Rolde. I did call Sheriff Dutremble and I did talk to him about some of the remarks that I made and what I was trying to do with this order. He agreed with what I was trying to do with the order. I told him that if I had made any derogatory remarks against him personally that I was sorry and I would apologize on the floor sincerely to anybody that I have made a derogatory remark about.

I am upset, mainly with that particular situation because it dealt with a man who had epilepsy and he died after having two epileptic seizures. Why I was so concerned with that and am still concerned with that is the fact that I, myself, am an epileptic and have been so since I was in junior high school. I have been through petit mal and grand mal and seizures and that kind of thing and I have been through the medication aspect of dealing with epileptics, and I also realize and I hope you realize too that 90 percent of the people that are in charge of not only county jails but city jails and state institutions know very, very little about what epilepsy

is or how to control it or what to do in case somebody does have epilepsy. So that case has upset me and I think it should upset everybody in this House. Therefore, I am primarily concerned with our jails and what our county jails are doing insofar as inmates and their incarceration is concerned.

As far as some of the other jails, I checked out the Penobscot County jail, because the gentleman from Hampden, Mr. Farnham, said that they had an excellent jail. Well, I don't think it is excellent, but I checked it out and found out that they were in pretty good shape. There are only one of the jails in this state, and I think there are 14, that are in good shape.

Now, let me get back to the question asked by the last speaker about the inspection of jails. First of all, and I want to make this clear, and if I am repeating myself, I wish somebody would say so, but nobody has any control over our county jails — nobody does, except for the sheriff. The Department of Mental Health and Corrections does have a jail inspector and they can set standards, but that is it. They have no control over county jails whatsoever. The Attorney General's Office has no control over county jails.

Let me go another step further. When the Attorney General went to investigate the deaths of those people who have died in our county jails in the last few months, the sheriff could have told those people to get out, we don't want you here, we don't want you inspecting our jails. That disturbs me. The fact is that the county commissioners have control over county jails only through the budget. In other words, there are 14 autonomous bodies out there that are controlled only through the sheriff and I think somehow, somewhere, we should be doing something about that, whether we have to go through this legislature or some sort of legal binding action to take care of that.

I want to make this perfectly clear, there are problems in our county jails and it is a long and drawn process. I am not saying that I put the sole blame for that on Mental Health and Corrections, because I think to a certain extent, to some extent, they have tried. I don't think they have tried hard enough and I don't have that much faith in them and what they have already done, but I do think that this body has got to take some kind of action now to look at that whole area of county jails, whether it is giving medication, drugs, authority, whether it is inhumane conditions that now prevail in most of our county jails, that entire area must be looked into. I am saying that it doesn't have to be the committee which I have suggested in this order. I don't care whether it is the County Government Committee, I don't care whether it is Health and Institutional Services, but I am just saying, somebody from this body has got to take that kind of action.

I would hope that you would vote against the indefinite postponement so that you can pass this order.

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

Mr. FARLEY: Mr. Speaker, Ladies and Gentlemen of the House: I am opposed to this order for the simple reason that the gentleman from Portland went on yesterday and expounded about the conditions in the York County jail. The fact is, we don't have a jail. If he wants to investigate or do some research work on the Cumberland County jail, let the order read so, but if he wants the order to use as a headhunt for every county jail, then let the order read that way too, because that is all that he wants.

The SPEAKER: The Chair recognizes the gentleman from Falmouth, Mr. Snow.

Mr. SNOW: Mr. Speaker, this is perhaps an inquiry. The legislature constituted a select committee to study county government and

county government reform. Some of what the Representative from Portland, Mr. Talbot, is talking about, specifically the authority of the county commissioners, the authority of the sheriffs, the administration of jails are in a sense part of the work which this committee, which is still in existence, can study and perhaps would study.

My question is, can his order be referred to this committee?

The SPEAKER: The Chair would answer in the affirmative, since the other order has not been responded to at this time. The Chair would see no reason why it could not be done.

Mr. SNOW: Mr. Speaker, would a motion to so refer it be in order?

The SPEAKER: The Chair would inform the gentleman that if he wished to refer it to a different committee than what the present order calls for, the order introduced by the gentleman from Portland, Mr. Talbot, would have to be amended to so reflect that.

Mr. SNOW: Mr. Speaker, we would be happy to prepare an amendment if someone would be kind enough to table this.

Thereupon, on motion of Mr. Rolde of York, tabled pending the motion of Mr. Farley of Biddeford to indefinitely postpone and tomorrow assigned.

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

Bill, "An Act to Redefine the Administration of Medication in the Nursing Practice Act" (H. P. 1934) (L. D. 2122)

Tabled — March 23 by Mr. Goodwin of South Berwick.

Pending — Adoption of Committee Amendment "A" (H-1025)

On motion of Mrs. Post of Owls Head, retained pending the adoption of Committee Amendment "A" and tomorrow assigned.

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

Bill, "An Act to Revise the Statutes Concerning Alcoholic Beverages" (H. P. 2223) (L. D. 2311)

Tabled — March 23 by Mrs. Najarian of Portland.

Pending — Passage to be Engrossed.

Mr. Pierce of Waterville offered House Amendment "A" and moved its adoption.

House Amendment "A" (H-1048) was read by the Clerk.

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

Mr. PIERCE: Mr. Speaker, Ladies and Gentlemen of the House: I might mention first, there are several amendments to this bill; in fact, they are "A" through "G". We are going to try to take them right in order so that they should be easier for you to follow.

This first amendment, the primary portion of it deals with the sales of food, with alcohol restricted. There is one product coming out on the market, perhaps two, which has up to 1.7 by volume equivalent of alcoholic content. This is this product which I have here. It is a little rum cake, and actually I kind of laughed the first time the enforcement division showed it to me, but when they analyzed it, they found that four of these is equal to two cans of beer. So what this amendment does is simply make sure that it is sold in licensed premises throughout the state and cannot be sold to minors.

Thereupon, House Amendment "D" was adopted.

Mrs. Boudreau of Portland offered House Amendment "B" and moved its adoption.

House Amendment "B" (H-1062) was read by the Clerk.

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

Mrs. BOUDREAU: Mr. Speaker and

Members of the House: In case they can't find the amendment, all this does is change the ID charge from \$3 to \$2.

Thereupon, House Amendment "B" was adopted.

Mr. Maxwell of Jay offered House Amendment "C" and moved its adoption.

House Amendment "C" (H-1066) was read by the Clerk.

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

Mr. MAXWELL: Mr. Speaker, Ladies and Gentlemen of the House: I just want to read the Statement of Fact. "The present statute permits the State Liquor Commission to meet 50 times per year for payment purposes." The figure 30 in the bill is a misprint.

Thereupon, House Amendment "C" was adopted.

Mr. Jensen of Portland offered House Amendment "D" and moved its adoption.

House Amendment "D" (H-1072) was read by the Clerk.

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

Mr. JENSEN: Mr. Speaker and Members of the House: This amendment simply places the position of the Director of Alcoholic Beverages in the same position as most other directors in all policy-making departments in the state, making it coterminous with the governor.

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

Mr. PIERCE: Mr. Speaker, Ladies and Gentlemen of the House: You see before you several amendments here today, some of which I think strengthen this bill and basically most of which I agree with or can go along with. This one, however, I cannot and I will tell you why.

I agree with the philosophy behind this bill that the director would have his term coterminous with the governor, but this is something that we never addressed in committee when we were talking about this bill and it is something that never got a hearing. We are talking about the livelihood of an individual, and to be more specific, this is Mr. Ingraham, and those on the committee will tell you probably that nobody argues longer or harder with Mr. Ingraham than do I, but I don't think that this is the proper vehicle to put this bill in. I think this should be a separate bill presented before the next legislature and, therefore, I would move indefinite postponement of this amendment.

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

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

Mr. JENSEN: Mr. Speaker, Ladies and Gentlemen of the House: I would hope that you would vote against indefinite postponement and vote in support of my amendment.

This amendment, like most of those offered, of course did not receive a public hearing, that is true. This bill which is presented to us, L. D. 2311, in fact does deal with this matter. It does say, as does the present law, that the position shall be continuous, which means, basically, you have a policy-making decision maker, a policy maker and of civil service. Now, that is somewhat ironic and is something which is quite unusual in state government. Most all policy makers, in fact, are put in such a position so that they are up and they are appointed by the governor or by some of his people under him on some sort of regular basis, generally being coterminous with the governor. It seems to me that this position ought to also be coterminous.

If you will note, the way the amendment is worded, it is worded in such a way that this will not affect the present Director of Alcoholic Beverages until the present governor is out of office or until he gets reelected. At that point, he will have the opportunity to appoint anyone

he wishes. It seems to me you are not affecting the livelihood of somebody who is in there presently in that sense. The gentleman who is in there presently had a history where he was originally chairman of the State Liquor Commission, he then became director of the Bureau of Alcoholic Beverages, later turned his position into a civil service position. Since then, he has done a wide variety of things and has done a heck of a lot to try and change the state liquor laws. In many cases, what he has attempted to do is increase his own power at the expense of the State Liquor Commission.

One of the things I think is very important when you are doing things of this sort is make it very clear who is responsible to whom. One of the things that would be done by making this position coterminous with the governor is make it very clear that on policy issues the policy makers are to make that choice, i.e., the State Liquor Commission and the Department of Finance and Administration, through its head, whoever that may be, presently John O'Sullivan.

In fact what you are doing, you are giving the elected officials and their appointees power over their own policy makers. That, I think, is extremely important and I hope you would vote no.

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

Mr. PIERCE: Mr. Speaker and Members of the House: I would just like to address a couple of points. First of all, if you read 2311 and compare it to the present laws or the original draft, this very, very much diminishes the power of the Director of Alcoholic Beverages. We have shifted the power to the State Liquor Commission, where I believe it belongs. The Director was quite upset about this and offered us, in fact, a series of amendments to this bill, which was unanimously turned down by the committee. This goes a long way in shifting the power to where it belongs.

I would take objection with my friend from Portland, Mr. Jensen, because when I look at these other amendments, every single one of them did come up in the hearing, about election day, about 30 or 50 meetings for the Liquor Commission, every single one of them was discussed, but we never talked about declassifying a state employee's job. I think this is a very important departure from the rest of these amendments and I would gladly support a bill in the next session of the legislature to do this, but adding it onto this vehicle I think is very improper.

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

Mr. MAXWELL: Mr. Speaker, Ladies and Gentlemen of the House: I would like to read just a paragraph in number 2311. It has to do with the director of the Bureau of Alcoholic Beverages. "Appointment: The Commissioner of Finance and Administration, with the advice and consent of the State Liquor Commission, shall appoint a Director of the Bureau of Alcoholic Beverages, whose term of office shall be continuous, subject only to removal for cause by the commission and the Commissioner of Finance and Administration." This means that he can be replaced at any time they don't think he is doing his job.

"The salary of the Director shall be fixed by the Governor. In appointing a Director, consideration shall be given to the following qualifications: Sound judgment, practical experience and ability in merchandising, executive administration, salesmanship and sound business principles. The Director shall not be a member of the Commission." I would hope very much that you do indefinitely postpone this amendment.

The SPEAKER: The pending question is on the motion of the gentleman from Waterville,

Mr. Pierce, that House Amendment "D" be indefinitely postponed. All in favor of that motion will vote yes; those opposed will vote no.

A vote of the House was taken.

74 having voted in the affirmative and 13 having voted in the negative, the motion did prevail.

Mr. Faucher of Solon offered House Amendment "E" and moved its adoption.

House Amendment "E" (H-1078) was read by the Clerk.

The SPEAKER: The Chair recognizes the gentleman from Solon, Mr. Faucher.

Mr. FAUCHER: Mr. Speaker, Ladies and Gentlemen of the House: What this amendment does, it says that no alcoholic beverages will be sold on general election day or during a primary until the polls are closed.

Thereupon, House Amendment "E" was adopted.

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

Mr. MARTIN: Mr. Speaker, Ladies and Gentlemen of the House: As I glance through this L. D. 2311, on Page 15, half way across the page, I notice Section 12, Subsection 201-A, and I also remember a similar bill that the other body killed last year in the regular session, and that was L. D. 966. That was, in fact, defeated in the other body and it is identical to Section 12, and I would, therefore, Mr. Speaker, ask the germaneness of this section.

Mr. Speaker, I would postpone my motion. I understand there are two or three other amendments to be added to this bill.

The SPEAKER: The gentleman from St. Agatha, Mr. Martin, withdraws his objection to the question of ruling at this point in time.

Mr. Higgins of Scarborough offered House Amendment "F" and moved its adoption.

House Amendment "F" (H-1086) was read by the Clerk.

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

Mr. HIGGINS: Mr. Speaker, Ladies and Gentlemen of the House: If you will read the Statement of Fact, this amendment proposes to inform the municipalities of applications for special agency stores. Presently, municipalities are not required by law to be notified about special agency store locations, and a proposed site or sites could have an adverse effect on a municipality.

This amendment does not do exactly what I originally planned on doing, but after having talked with several of the esteemed members of the Liquor Control Committee, I decided to water it down a little bit.

Very simply, what this does is, after applications are made to the Liquor Commission for an agency store in a municipality, this mandates that the Commission will then inform the local officials as to who is applying.

I would like to relate a little bit of a story to you, if I might, as to what happened in Scarborough. After they closed the liquor store in Scarborough, applications were made available to local businessmen for an agency store. One of those people that applied was a store that was directly across the street from the high school and the junior high school, our complex. While they met all the criteria of being at least 300 feet away from the school's front door, I guess they measure from the front door, the citizens of Scarborough were quite upset and rightfully so. When I called here in Augusta to find out information regarding this, I wanted to know how many other stores there were and Mr. Ingraham informed me that he didn't feel that he should have to give that out to me. I don't think that is right. I think the people in a municipality that are going to be affected by the agency store should have the right to know who has applied and give them time to reply to the commission, since there is no public hearing, at

least time to reply to the commission in writing their thoughts on whether any of those stores would be detrimental to that town.

There was a great deal of citizen input into this and there was a petition that went around and they got some thousand or so signatures on it and it was forwarded here to the State House, to the Liquor Commission, rather, and after I called Mr. Ingraham back again, he assured me that because of the citizen input, they would not put the store there. But the fact is, they could have put the store there and municipal officials would not be aware of any other locations that were available and they wouldn't have had sufficient time to present any case against.

I would rather have the municipalities have veto power over where that store is going to be, but according to several people who are on the second floor, in the Attorney General's Office, they happen to think that that possibly would be unconstitutional or something like that. But at least this gives the municipality the opportunity to have that available to them, and I would hope that you would go along with this amendment.

Thereupon, the House Amendment "F" was adopted.

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

Mr. SPENCER: Mr. Speaker, I would like to pose an inquiry through the Chair to anyone on the committee that might answer. In this bill, as I understand it, there is a \$25 increase in the fee for grocery stores that sell beer. There is a reduction in the wine license for grocery stores and my question is, if we are changing around the fee, is there any change in the total revenue and should there be a fiscal note?

I also have a second question which I would like to pose to anyone on the committee that might answer. As the law now exists, a store which has groceries pays a \$100 fee to sell beer. A store which doesn't have \$1,000 worth of groceries in stock pays a \$200 fee. In my district, the effect of that is that Batches Take Out in Baldwin pays \$200, whereas the grocery stores pay \$100. The smaller store seems to be paying twice as big a fee. My question really is, what is the rationale for the different charge between the two different kinds of stores?

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

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

Mr. PIERCE: Mr. Speaker, Ladies and Gentlemen of the House: To answer the gentleman's questions, this section of the bill, quite naturally, I am sure, was one of the ones with which we wrestled long and hard.

Presently, the beer license is \$100 and a wine license is \$200. We certainly could find no rationale for that, because stores naturally make more money from beer than they do from wine, so we lowered the wine license \$75 and upped the beer license to make them both even, to \$125.

The rationale behind why a store with groceries pays less than a store without groceries is, of course, that a store without groceries does not have to go to that extra expense of stocking their shelves and going through that whole process that a store with groceries does have.

The same rationale is used that a hotel, for instance, that does sell food has a cheaper license than a hotel that doesn't bother to sell food.

Mr. Garsoe of Cumberland offered House Amendment "G" and moved its adoption.

House Amendment "G" (H-1087) was read by the Clerk.

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

Mr. GARSOE: Mr. Speaker, Ladies and Gentlemen of the House: This clarifies the language in Section F on Page 3 relative to a

municipal golf course and further stipulates that any municipality or county desiring a license on behalf of such an operation would submit this request to the State Liquor Commission to avoid any possibility of a conflict of interest.

Thereupon, House Amendment "G" was adopted.

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

Mrs. LEWIS: Mr. Speaker, Ladies and Gentlemen of the House: I wanted to ask a question, not about this amendment but the one before, but it came too quickly. I wondered if the committee had given any consideration to charging a fee to sell beer or to sell wine on either the volume of sales or the square footage of the stores? It seems to me that should have been considered when we are talking about these fees. Had that been considered at all?

The SPEAKER: The gentlewoman from Auburn, Mrs. Lewis, has posed a question through the Chair to anyone who may care to answer.

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

Mr. PIERCE: Mr. Speaker, Ladies and Gentlemen of the House: In answer to the lady's question, yes, that was considered, and I think most of us felt that that would be the most desirable, but we found by talking with the Department of Taxation and so forth, it was just logistically so difficult and cumbersome that it would be impossible to do.

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

Mr. MARTIN: Mr. Speaker, at this point, I would again request a ruling under Joint Rule 21 in reference to Section 12, again on page 15 of this bill.

The SPEAKER: Based on the information available to the Speaker, reading from the Committee on Liquor Control and the order which created the order that directed the study, the Liquor Control Committee was directed by the legislature to study, and I quote, "to review the procedures, regulations and statutes governing the issuance of liquor licenses and the qualifications of liquor licensees."

I read again from the report, "The Committee on Liquor Control broadened the scope of the study to include an evaluation of all liquor laws which are complicated in some case and cumbersome to apply. The committee has undertaken a comprehensive analysis of liquor statutes and, as proposed, the general revision of the statutes."

The Chair therefore would rule that since the bill before us contains a provision which was not in fact ordered by the order which was passed by both Houses but was the result of the Liquor Committee, extending its study into other areas, the Chair would rule that that section of the bill before this body is in violation of the Joint Rules. The Chair would rule, therefore, that the matter dealing with clubs, services of private clubs regulated under that Section 16, is in violation of the rules.

There are two options available at this point, based on my ruling; one is that it be tabled so that that section may be eliminated or, second, I will return the matter to the Committee on Liquor Control.

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

Mr. PIERCE: Mr. Speaker, I would move that this item lie on the table two legislative days.

The SPEAKER: The pending question is on the motion of the gentleman from Waterville, Mr. Pierce, that this matter be tabled pending passage to be engrossed as amended and specially assigned for Friday, March 24. All in favor of that motion will vote yes; those opposed will vote no.

A vote of the House was taken.

35 having voted in the affirmative and 47 having voted in the negative, the motion did not prevail.

Thereupon, on motion of Mr. Rolde of York, tabled unassigned pending passage to be engrossed as amended.

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

Bill, "An Act to Revise and Clarify the Freedom of Access Law" (H. P. 2226) (L. D. 2316) (H "A" H-1034) (H. "B" H-1044)

Tabled — March 23 by Mr. Rolde of York.

Pending — Passage to be Engrossed.

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

Mr. PEARSON: Mr. Speaker, as a matter of courtesy to Representative Hobbins and Representative Rolde, I move that this lie on the table for one legislative day.

Thereupon, on motion of Mr. Rolde of York, tabled pending passage to be engrossed and tomorrow assigned.

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

Bill, "An Act to Redefine 'Subdivision' in the Site Location and Development Act" (H. P. 1979) (L. D. 2169) (C. "A" H-1000)

Tabled — March 23 by Mr. Rolde of York.

Pending — Passage to be Engrossed.

On motion of Mr. Rolde of York, retabled pending passage to be engrossed as amended and tomorrow assigned.

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

Bill, "An Act Providing for a Comprehensive State-wide Program of Primary Prevention of Alcohol and Drug Abuse and other Forms of Socially Disruptive and Potentially Self-destructive Human Behavior" (H. P. 1800) (L. D. 1959) (C. "A" H-1006)

Tabled — March 23 by Mr. Norris of Brewer.

Pending — Passage to be Engrossed.

Thereupon, on motion of Mr. Norris of Brewer, was passed to be engrossed as amended by Committee Amendment "A" and sent up for concurrence.

Bill, "An Act Enabling Municipalities to Conduct Soil Tests to Determine Feasibility of Solid Waste Disposal Sites" (Emergency) (H. P. 1948) (L. D. 2134) (C. "A" H-993)

Tabled — March 23 by Mrs. Najarian of Portland.

Pending — Passage to be Engrossed.

On motion of Mrs. Bachrach of Brunswick, under suspension of the rules, the House reconsidered its action whereby Committee Amendment "A" was adopted.

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

House Amendment "A" to Committee Amendment "A" (H-1063) was read by the Clerk.

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

Mrs. BACHRACH: Mr. Speaker and Members of the House: This is a very simple amendment which increases the distance between a residence and the place where a soil test may be taken. Then I would ask to have this tabled one day for debate, because there are people who wanted to discuss it.

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

The Bill was passed to be engrossed as amended and sent up for concurrence.

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

An Act Regarding the Rights of Students at the University of Maine in the University Bargaining Process. (H. P. 1966) (L. D. 2155) (C. "A" H-977)

Tabled — March 23 by Mr. Rideout of Mapleton.

Pending — Passage to be Enacted.

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

Mr. MacEACHERN: Mr. Speaker, I move that this matter be indefinitely postponed.

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

Thereupon, Mr. Davies of Orono requested a vote on the motion.

Mr. Dam of Skowhegan requested a roll call vote.

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

Mr. MCKERNAN: Mr. Speaker, Ladies and Gentlemen of the House: I hope that you defeat the motion to indefinitely postpone this bill. This is a bill that has been going through the process quite easily so far, by a large majority, it is a bill that a lot of time was spent on, not only by people who are interested in the bill at the University of Maine but also by the labor committee, also by all factions at the university, administration, faculty and students. The bill has been significantly amended. It no longer requires that members of the student body participate in the collective bargaining, it is just that they have a right to be informed. The trustees, the faculty, the students have all agreed on this. I think we should send it on its way and not indefinitely postpone it.

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

Mr. ROLDE: Mr. Speaker, Ladies and Gentlemen of the House: I agree with the gentleman from Bangor, Mr. McKernan. I hope you will vote against indefinite postponement. This bill does represent a significant compromise on the part of the students. It is a very reasonable bill and I hope you will support it.

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

Mr. KELLEHER: Mr. Speaker, Ladies and Gentlemen of the House: Based on the overwhelming vote this bill seems to have been getting since it has been going through the legislative process, I would like to know what new information anyone has that they could enlighten the House with to support the motion to indefinitely postpone?

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

Mrs. LEWIS: Mr. Speaker, Ladies and Gentlemen of the House: I think I have some new information, although it is really old information, because last year there was a bill that came to the Education Committee that would require us to have a student as a member of the board of trustees of the University of Maine. We turned the bill down unanimously in the committee because a student presently can serve as a trustee of the University of Maine. In fact, one member of our body, the gentleman from Auburn, Mr. Hughes, was a trustee of the University while he was a student. So inasmuch as a student can be a trustee, we saw no reason to mandate such a thing. Presently, a student can still be a trustee. I see no reason for this bill whatsoever.

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

Mr. KELLEHER: Mr. Speaker, I would like to thank the gentlelady from Auburn, Mrs. Lewis, she is right, that is old information.

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

Mr. HUGHES: Mr. Speaker and Members of the House: I, too, would like to thank the gentlelady from Auburn, but unfortunately she is not correct. The bill did not receive a unanimous "ought not to pass" report last year. In fact, it was passed by this House and only defeated in the other body. Therefore, I hope this House will again assume that posture and approve this bill.

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

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

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

Mr. STROUT: Mr. Speaker, I would like to pair my vote with the gentleman from Gorham, Mr. Quinn, if he were present, he would be voting no and I would be voting yes.

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

#### ROLL CALL

YEA — Byers, Call, Conners, DeVane, Dudley, Durgin, Farnham, Fraser, Immonen, Kauffman, Leonard, Lewis, MacEachern, Peterson, P.; Tarr.

NAY — Ault, Bachrach, Bagley, Bennett, Berry, G. W.; Berry, P. P.; Berube, Birt, Blodgett, Boudreau, Bowie, Burns, Carpenter, Carroll, Chonko, Churchill, Clark, Connolly, Cooney, Cox, Curran, P.; Curtis, Dam, Davies, Doak, Dow, Drogotas, Fenlason, Finemore, Flanagan, Garsoe, Goodwin, H.; Goodwin, K.; Gould, Gray, Greenlaw, Henderson, Hennessey, Hewes, Higgins, Hobbins, Hughes, Hunter, Hutchings, Ingegneri, Jackson, Jensen, Kany, Kelleher, Kelley, Kennedy, LaPointe, Laverty, Littlefield, Lizotte, Lovell, Mackel, MacLeod, Mahany, Martin, A.; Martin, R.; Maxwell, McBreairty, McKernan, McMahon, Mills, Miskavage, Mitchell, Morin, Morton, Nadeau, Najarian, Norris, Peakes, Pearson, Pelosi, Perkins, S.; Perkins, T.; Peterson, T.; Pierce, Post, Powell, Raymond, Rolde, Saunders, Shute, Silverman, Snow, Snowe, Spencer, Sprowl, Stubbs, Teague, Theriault, Tierney, Truman, Twitchell, Usher, Walker, Wilfong, Winship, The Speaker.

ABSENT — Albert, Bustin, Carey, Carter, Cote, Curran, R.; Dyer, Farley, Faucher, Gauthier, Hall, Hinds, Jacques, Jalbert, Joyce, Laffin, LeBlanc, Lewin, Lunt, Lynch, Mulkern, Palmer, Rideout, Rollins, Smith, Susi, Talbot, Tozier, Tyndale, Wagner, Webber.

PAIRED — Quinn, Strout.

Yes, 15; No, 103; Absent, 31; Paired, 2.

The SPEAKER: Fifteen having voted in the affirmative and one hundred three in the negative, with thirty-one being absent and two paired, the motion does not prevail.

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

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

Mr. LaPOINTE: Mr. Speaker, I move reconsideration that we just passed and hope that everybody votes against me.

The SPEAKER: The gentleman from Portland, Mr. LaPointe, moves that the House reconsider its action whereby the Bill was passed to be enacted. All in favor will say yes; those opposed will say no.

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

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

An Act to Regulate Drinking Water (S. P. 687) (L. D. 2198) (C. "A" S-431)

Tabled — March 23 by Mr. Kelleher of Bangor.

Pending — Passage to be Enacted.

On motion of Mrs. Berry of Madison, under suspension of the rules, the House reconsidered its action whereby the Bill was passed to be engrossed.

The same gentlewoman offered House Amendment "A" and moved its adoption.

House Amendment "A" (H-1058) was read by the Clerk.

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

Mr. HENDERSON: Mr. Speaker, Ladies and Gentlemen of the House: I wonder if there could be a bit of explanation, especially as it relates to seasonal agricultural laborers. To what extent is that being exempted? What is the consequence of that?

The SPEAKER: The gentleman from Bangor, Mr. Henderson, poses a question through the Chair to anyone who cares to answer.

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

Mrs. BERRY: Mr. Speaker, Ladies and Gentlemen of the House: The federal law will state that this would be 60 days, and that is what I am asking. I am concerned with this because of the harvest labor. In defining the public water supply it refers to anyone — regularly serves an average of at least 25 individuals daily for at least 30 days out of the year. In harvest labor, we might have 25 persons today and less tomorrow and you run anywhere from serving meals to occasional meals or just perhaps having water in the field, and they would come under the same set up as public water systems. It would seem that with the rigamarole that we are going to have to go through with this bill, this shouldn't have to come under this. Many times, probably 99 percent of the time, this water supply would be the same supply that the family, the farmer uses 365 days out of the year. It just seems as this would not be necessary to have this for this type of work.

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

Mr. HENDERSON: Mr. Speaker, Ladies and Gentlemen of the House: Sorry, I am somewhat concerned about this. I just don't understand the consequences of it, quite frankly, and pursuant to your admonition, if you don't understand it, vote against it. I may have to do that, but I would hope if someone else is concerned that this might be opening up something undesirable, I would hope they would table this for one day.

Mr. Rolde of York moved that the matter be tabled one legislative day.

Mr. Leonard of Woolwich requested a vote on the tabling motion.

The SPEAKER: The pending question is on the motion of the gentleman from York, Mr. Rolde that this matter be tabled pending adoption of House Amendment "A" and tomorrow assigned. All in favor of that motion will vote yes; those opposed will vote no.

A vote of the House was taken, 75 having voted in the affirmative and 18 having voted in the negative, the motion did prevail.

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

An Act Relating to the Formation of Political Parties and to Political Designations. (H. P. 1960) (L. D. 2140) (C. "A" H-965)

Tabled — March 23 by Mr. Palmer of Nobleboro.

Pending — Passage to be Enacted.

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

Mr. PERKINS: Mr. Speaker, Ladies and Gentlemen of the House: Since this is a rather extensive bill and it has been whizzing along through on a unanimous committee report, I am wondering if somebody from the committee might explain this bill in respect to what it does and how it compares to the present law insofar as the formation of political parties?

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

The Chair recognizes the gentlewoman from Portland, Mrs. Boudreau.

Mrs. BOUDREAU: Mr. Speaker, Ladies and Gentlemen of the House: L. D. 2140 outlines two procedures by which the third party might organize. If you are looking at the bill, Section 321 just sort of grandfathers in our two present parties, outlines what we have to do.

When you start with Section 322, that is the first procedure that can be used to organize a new party. That is organization about a candidate. If you had a candidate who received two percent of the vote in the preceding gubernatorial or presidential election, you could organize a party around that candidate. The first thing you would have to do is file a declaration of intent at least 180 days before the primaries, designating the name that you are going to use for your party, the name of the candidate for governor or for president, the signed consent of the candidate that you are organizing the party about. After you have filed your intent, you may enroll voters in that party, then you proceed the same as either of the present parties do. You hold your municipal caucuses prior to April 1, that is all you have to do to get your name on the ballot for the primary election, but you must hold a convention, but that can be up until August 1. If you do that, that completes one procedure.

The second procedure is, if you do not have a candidate who had received two percent of the vote, you can organize a new party by petition. You follow the same procedure, you file your declaration of intent, you designate the name of the party, only in this case, you would furnish the name and addresses of the vote or one of the group of voters who file the intent. After you file your intent, you circulate your petitions, and these must be signed by voters who are not enrolled in a party. You file that with the Secretary of State 180 days before the primary. Then you have your municipal caucus, your convention, you are on the ballot. Those are the two procedures used.

Okay, say you go through the election and in the general election your candidate or your party do not receive two percent of the vote. Then you would have to start all over again.

If you enroll in the new party and they do not receive two percent of the vote, you would then be considered as a non-enrolled voter. The only other changes in the party designation, you cannot use the State of Maine or any abbreviation thereof or any designation that contains more than three words. That is about it.

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

Mr. HEWES: Mr. Speaker, Ladies and Gentlemen of the House: I thank the gentleday from Portland. I have a question on this two percent of the vote. Does this have to be a statewide election or could you have somebody running perhaps in a county or a local legislative district and a representative of that party receive more than two percent of the vote but on the statewide geographic area would not receive the two percent?

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

Mrs. BOUDREAU: Mr. Speaker, it has to be a gubernatorial or presidential.

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

Mr. PERKINS: Mr. Speaker and Members of the House: I do appreciate the explanation given by the gentlewoman from Portland, Mrs. Boudreau: however, I am not entirely sure that she answered the question in respect to how it compares to present law as it may appear for purposes of a party now or having the ability to form — a group having the ability to form a party now. How does this law compare to the present law?

Secondly, am I correct in understanding that this would mean because a group is unlikely to have had a candidate prior in time in order to form the first section in respect to declaration of intent, then it would require 5 percent of the number of voters that had voted for the governor in the last election, and would that approximate 60,000, under the present situation, unenrolled individuals would have to sign those petitions? Are we not thereby effectively eliminating any possible third party?

I would go on to say that as I read that section of 326, I am not entirely certain when it says "A voter who is enrolled in a party which failed to fill the requirements of Sections 322 and 323, or which is disqualified pursuant to Section 324, shall be considered as an unenrolled voter for all purposes." What does "for all purposes" mean?

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

Mrs. BOUDREAU: Mr. Speaker and Members of the House: The answer to the first question, in our present law, there is no procedure to form a third party. In fact, they can't form one.

What does "be unenrolled for all purposes" mean? When the new party has been formed, they are enrolling voters. Say they call in the Women's Party. They go through the November Election. Their candidate does not receive two percent of the vote, so they are no longer considered a party, but you do not want these people to be unable to vote in future elections, so you would treat them just like an independent voter so that if they wanted to enroll in the Democrat or Republican party, they could.

Thereupon, on motion of Mrs. Najarian of Portland, tabled pending passage to be enacted and tomorrow assigned.

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

Bill, "An Act to Clarify Various Statutes Relating to Superior Court Fees and Costs" (Emergency) (H. P. 1866) (L. D. 2037) (C. "A" H-1016)

Tabled — March 23 by Mr. Rolde of York.

Pending — Adoption of House Amendment "A" (H-1055) to Committee Amendment "A" (H-1016)

On motion of Mr. Birt of East Millinocket, retabled pending the adoption of House Amendment "A" to Committee Amendment "A" and tomorrow assigned.

On motion of Mrs. Post of Owls Head, Adjourned until nine-thirty tomorrow morning.