

MAINE STATE LEGISLATURE

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Legislative Record

OF THE

One Hundred and Seventh Legislature

(First Special Session)

OF THE

STATE OF MAINE

1976

KENNEBEC JOURNAL
AUGUSTA, MAINE

HOUSE

Tuesday, March 30, 1976

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

Prayer by the Reverend Daniel C. Tuttle of East Winthrop Baptist and Manchester Community Church.

The journal of yesterday was read and approved.

Messages and Documents

The following Communication:

March 29, 1976

To Members of the House of Representatives and Senate of the 107th Legislature:

I am today returning without my signature and approval H. P. 1858, L. D. 2026, "An Act Creating the Maine Railroad Equipment Authority".

I am disapproving of this legislation for the following reasons:

(1) I feel this is special interest legislation and could have an unfavorable impact on the State's credit for the benefit of one industry at the expense of all the people of the State of Maine. However, you should also be advised that there has been an expression that "no noticeable impairment of the State's credit rating would result". As this does not completely eliminate the possibility the question still remains.

(2) Even though the industry to be aided is an honorable one, the percentage factor included in the bill awards inefficiency and wastefulness and could invite the possibility of corporate maneuvering at the expense of the taxpayers and citizens of this State. This is so because the eligibility is dependent on and limited to earnings of less than 5 1/4 percent on investment of railroad property.

(3) There is no provision included in the legislation that places a ceiling on the amount of bonds that may be issued.

Finally, in addition to the foregoing... it has also been suggested "that experienced bond counsel review the bill to determine if adequate safeguards for investors are provided"... because this also suggests the State might be deemed, even in part, as a guarantor, I respectfully request that this veto be sustained.

Very truly yours,

Signed:

JAMES B. LONGLEY
Governor

The Communication was read and ordered placed on file.

The SPEAKER: The pending question now before the House is, shall this Bill "An Act Creating the Maine Railroad Equipment Authority," become law notwithstanding the objections of the Governor?

(On motion of Mrs. Najarian of Portland, tabled pending consideration and later today assigned.)

Orders

Mr. Pearson of Old Town presented the following Joint Order and moved its passage: (H. P. 2261)

WHEREAS, The Legislature has learned of the Outstanding Achievement and Exceptional Accomplishment of Bernard A. MacKenzie of Old Town Retiring After Forty-one Years of Public School Teaching

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

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

forthwith on behalf of the Legislature and the people of the State of Maine.

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

Mr. Farnham of Hampden presented the following Joint Order and moved its passage: (H. P. 2262)

WHEREAS, the Governor's Economic Advisory Committee has recommended that communications by elected public officials regarding projects or cases before sensitive regulatory and loan granting bodies be made public; and

WHEREAS, Legislative Document 2175, "An Act Requiring Disclosure of Communications Made by Elected Public Officials to Sensitive Regulatory and Loan Granting Governmental Bodies," was introduced into the First Special Session of the 107th Legislature in an attempt to enact this recommendation; and

WHEREAS, the Legislature has concluded that the proposed legislation demanded greater study than was possible in the First Special Session of the 107th Legislature; now, therefore, be it

ORDERED, the Senate concurring, that the Joint Standing Committee on State Government conduct a study of the problem of communications by elected public officials regarding projects or cases before sensitive regulatory and loan granting bodies of this State, with particular attention to the recommendations embodied in Legislative Document 2175; 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 Chairman of the committee.

The Order was read.

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

Mr. FARNHAM: Mr. Speaker, Ladies and Gentlemen of the House: During this current session, the State Government Committee had a bill pertaining to this subject, L. D. 2175, and we felt the bill was very poorly drafted. It covered a great deal more territory than was needed and, furthermore, needed a great deal more study, therefore, this order, and it is one that should not take a great deal of committee time in study during the summer.

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

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

Mr. Dam from the Committee on Local and County Government on Bill "An Act to Give Counties Power to Assess and Collect Their Own Taxes" (H. P. 2128) (L. D. 2275) reporting, "Ought to pass" in New Draft under New Title, Bill "An Act to Allow County Budget Determination at the County Level" (H. P. 2263) (L. D. 2335)

Report was read.

(On motion of Mr. Kelleher of Bangor, tabled pending acceptance of the Committee Report and later today assigned.)

**Consent Calendar
First Day**

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

Mr. Smith from the Committee on Appropriations

and Financial Affairs on Bill "An Act to Make Health Care Projects Eligible for Bonding Under the Maine Municipal Securities Approval Act" (H. P. 1899) (L. D. 2079) reporting "Ought to Pass" as Amended by Committee Amendment "A" (H-1128)

No objections having been noted, the above item was ordered to appear on the Consent Calendar later in today's session under listing of the Second Day.

**Consent Calendar
Second Day**

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

Bill "An Act Providing for Evaluations of Mentally Retarded Persons Residing in Community Residential Facilities" (C "A" H-1118) (H. P. 2069) (L. D. 2239)

No objections being noted, the above item was ordered to appear on the Consent Calendar of Wednesday, March 31 under listing of the second day.

**Second Reader
Later Today Assigned**

Bill "An Act to Revise the Laws Relating to the Maine Traffic Court (Emergency)" (H. P. 2257) (L. D. 2327)

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

(On motion of Mr. Greenlaw of Stonington, tabled pending passage to be engrossed and later today assigned.)

Passed to Be Engrossed

Bill "An Act to Establish a Potato Lien Law" (S. P. 775) (L. D. 2328)

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

Amended Bills

Bill "An Act to Protect Owners and Bona Fide Purchasers of Real Property from Unrecorded Mechanics' Liens and to Protect Them from Double Payment to Contractors and Subcontractors" (H. P. 2126) (L. D. 2274) (C "A" H-1114)

Resolve, for Laying of Additional County Taxes for the Year Nineteen Hundred and Seventy-six and to Authorize Certain Reallocations to Conform with Line Budget Statutes (H. P. 2053) (L. D. 2230) (C "A" H-1124)

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

Amended Bill

Later Today Assigned

Bill "An Act Redistributing the Powers of the Executive Council" (H. P. 1997) (L. D. 2197) (C "A" H-1115)

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

(On motion of Mrs. Najarian of Portland, tabled pending passage to be engrossed and later today assigned.)

Passed to Be Enacted

An Act to Require Registration and Reporting of Professional Lobbyists (S. P. 766) (L. D. 2313) (S. "C" S-466)

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

Mr. Connolly of Portland requested a roll call vote.

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

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

The SPEAKER: The pending question is on passage to be enacted. All those in favor of this Bill being passed to be enacted will vote yes; those opposed will vote no.

ROLL CALL

YEA — Albert, Ault, Bagley, Berry, G. W.; Berry, P. P.; Berube, Birt, Blodgett, Boudreau, Bustin, Byers, Call, Carey, Carroll, Carter, Chonko, Churchill, Clark, Connors, Cote, Cox, Curran, P.; Curtis, Doak, Dow, Drigotas, Dudley, Durgin, Dyer, Farley, Fenlason, Finemore, Flanagan, Fraser, Garsoe, Goodwin, K.; Gould, Gray, Greenlaw, Higgins, Hinds, Hobbins, Hunter, Hutchings, Immonen; Jackson, Jalbert, Jensen, Joyce, Kelleher, Kelley, Laffin, Laverty, LeBlanc, Lewin, Lovell, Lynch, MacEachern, Mackel, MacLeod, Mahany, Martin, A.; Maxwell, McMahon, Mills, Miskavage, Mitchell, Nadeau, Najarian, Norris, Palmer, Pearson, Pelosi, Perkins, S.; Perkins, T.; Pierce, Powell, Raymond, Rideout, Rolde, Rollins, Saunders, Shute, Silverman, Snow, Snowe, Spencer, Sprowl, Stubbs, Tarr, Teague, Theriault, Torrey, Tozber, Truman, Twitchell, Tyndale, Usher, Wagner, Walker, Webber, Wilfong, Winship.

NAY — Bachrach, Bowie, Carpenter, Davies, Farnham, Gauthier, Henderson, Hughes, Kany, Kauffman, LaPointe, Lewis, Lizotte, Peterson, P.; Susi.

ABSENT — Bennett, Burns, Connolly, Cooney, Curran, R.; Dam, DeVane, Faucher, Goodwin, H.; Hall, Hennessey, Hewes, Ingegneri, Jacques, Kennedy, Leonard, Littlefield, Lunt, Martin, R.; McBreairty, McKernan, Morin, Morton, Mulkern, Peakes, Peterson, T.; Post, Quinn, Smith, Strout, Talbot, Tierney.

Yes, 103; No, 15; Absent, 32.

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

Signed by the Speaker and sent to the Senate.

Order Out of Order Tabled and Assigned

Mr. Birt of East Millinocket presented the following Joint Order and moved its passage: (H. P. 2264)

ORDERED, the Senate concurring, that the Joint Rules be amended by adding a new Joint Rule 11A to read as follows:

11A. Legislative studies. Every proposed legislative study, upon majority approval in both Houses, shall be placed on a legislative study table in the Senate until the Joint Standing Committee on Performance Audit reports to the Reference of Bills Committee on the feasibility and costs of that study and the Reference of Bills Committee recommends the study for final approval by majority vote in both Houses of the Legislature.

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

(On motion of Mr. Birt of East Millinocket, tabled pending passage and tomorrow assigned.)

Orders of the Day

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

An Act to Establish a Program to Protect the Clam Fishery from Green Crab Predation (Emergency) (H. P. 2200) (L. D. 2303)

Tabled — March 29 by Mr. Rolde of York.
Pending — Reconsideration (Returned by the Governor without his approval)

The SPEAKER: The pending question before the House is, shall this Bill become law notwithstanding the objections of the Govern-

nor? Pursuant to the provisions of the Constitution, the yeas and nays are ordered.

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

Mr. GREENLAW: Mr. Speaker, Men and Women of the House: I knew when this bill was introduced that it would be subject to a lot of discussion and good nature ribbing, and it certainly has been. I probably would have been better off if I had introduced a bill with the title "An Act Regarding Clam Conservation and deleted any reference to green crabs.

I have been ready to debate this bill at any time, but never did I imagine it would be debated as a result of a gubernatorial veto.

Everyone seems to agree that there is a serious problem with green crab predation and a conservation program ought to be established. The veto message deals with the necessity of this legislation. Please allow me to very briefly outline the problem and indicate why I believe the veto should be overridden.

The alternate warming and cooling of the ocean waters brings different consequences and benefits to various marine species. The warming trend of ocean temperatures over the past five years has resulted in a dramatic increase of the green crab population. Green crabs are a natural predator of the soft-shelled clam.

One of the Department of Marine Resources marine biologists has already indicated that the last three years of juvenile clam stocks have been wiped out. Since it takes three years for a clam to grow to marketable size, the decline in the amount of harvestable clams has not yet been noticed. DMR has developed a method of fencing off selected areas of clam flats to prohibit the green crab from reaching the flats.

Let me just very briefly indicate to you the genesis of this bill and why I think it is important to be placed in Maine Statutes. Last November, I attended a meeting of the DMR advisory council, at which time the then commissioner indicated to the council his concern about the increasing green crab population along Maine's coast and the effect that it would have two or three years down the road on the clam population.

After the meeting, I asked him why the department had failed to take any action on this up to that point. He indicated to me that they had the technology they thought was available to protect the flats from this green crab predation, but it was a rather expensive project and they did not have the funds available in the department.

Shortly after the present commissioner was confirmed and appointed, I met with him one morning and discussed this piece of legislation and we worked out details. When I left, I felt that this bill had his support.

The original bill had a price tag of \$25,000 on it. Although I felt in my own mind that it was a very important emergency piece of legislation, I realized it would be very difficult to have it funded by this legislature because of the fiscal situation we find ourselves in.

It occurred to me that there might be some funds available in a shell fish fund, which derives revenues from license fees. I contacted the commissioner and he said he wasn't sure exactly how much money did exist in the fund, but he would check it out and let me know. On February 10, I received a memorandum from him indicating that the cash balance in the account as of January 1, 1976, was \$107,000. He indicated that the salaries and related expenses and fringe benefits of two employees amount to \$25,000 annually.

At the committee hearing, I suggested that we redraft the legislation in such a manner that it would direct the commissioner to obligate a certain amount of money for this particular project. The legislation was redrafted. The commissioner, to my best recollection, did not

oppose the legislation at that particular time, although he did indicate that it was possible, he thought, for the department to accomplish this same thing through existing legislation.

I believe the committee discussed very briefly one day whether or not this legislation was necessary, and I think it was the common consensus that the legislature or the committee had identified a specific problem they thought was serious enough to address and that the bill ought to be enacted by this legislature. The bill received a unanimous committee report, and with the exception of a question posed by the good gentleman from Scarborough, Mr. Higgins, one day, it received no debate in either House.

It is my understanding that the commissioner of Marine Resources requested that the Governor veto this piece of legislation as it was unnecessary. I think you probably all have read the veto message which the Governor sent us yesterday. The Governor was gracious enough, as he has been on many occasions to me, to discuss this piece of legislation with me. He suggested that it was a management responsibility and perhaps not a responsibility of the legislature to see this program enacted. I respectfully disagreed with him and told him, as I just related, that I thought it was a problem which the Marine Resources Committee had identified and wanted to be certain that the Department of Marine Resources took effective action.

There is one provision in this bill that if the bill is overridden by both Houses of this legislature, that I would attempt to have changed in the Errors and Inconsistency Bill, and that is that the legislation calls for \$25,000 to be obligated annually from the shellfish fund. I would offer an amendment to the Errors and Inconsistency Bill that would change the language to obligating \$25,000 for the calendar year 1976.

I share the concern of the Governor and many of you that the legislature not enact programs which are ongoing without a continual review.

The bill before us today has a provision which directs the Commissioner of Marine Resources to report a year from now to the legislature on the effectiveness of the program and what recommendations he would have, either to continue it or discontinue it. I think with that in mind, I would ask the legislature to carefully consider this proposal, carefully consider the fact that we do in fact have a very serious problem with green crab predation on the coast of Maine as it affects the clam resource and I feel it is a responsible function of this legislature, of any legislature, to direct the department to take the appropriate action to attempt to conserve a very, very critically important resource in the State of Maine.

With that explanation, ladies and gentlemen of the House, I ask your careful consideration to vote yes on the pending motion.

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

Mr. KAUFFMAN: Mr. Speaker, Ladies and Gentlemen of the House: I wholeheartedly agree with Representative Greenlaw in everything he has said. This green crab has gotten to be a problem to our coastal areas. It started, I think, in southern Maine. It not only is ruining the clam industry, it is also ruining the flounder fishing. These crabs can take a bait off the hook and you can't even feel it.

When we had that extremely cold weather a month ago, our clam flats were open. Our clam warden told me he dug down through about six inches of frozen sand and found green crabs still alive and loaded with spawn or eggs or whatever you want to call it. I urge you to let this bill become a law.

The SPEAKER: The Chair recognizes the gentleman from Yarmouth, Mr. Jackson.

Mr. JACKSON: Mr. Speaker, Ladies and Gentlemen of the House: In my mind, there is a comparison here between the farmers and the fishermen, in that when you have a potato field or any field and you have a problem with pests or bugs or locusts or what have you, you try and do something about it.

The green crab eats the small clams, the seed clams, he doesn't affect the big clams. With the warming water, these things breed by the thousands, they follow the tides in and out and they eat the small clams. This is going to happen and the clam industry is going to suffer as it has suffered in the last couple years through the red tide and various other problems. But if we can hold areas in the flats where the clams can still breed, there will be the seed clams when the water is cool again so that the clams can come back quickly and the industry would not be as damaged as it would be had the green crabs had the full run of the flats.

I am personally very distressed by this bill in that we had a very good hearing, the department came in. There was no opposition from the department. In fact, Phil Goggins, who I have known for probably 20 years, is one of the department's head biologists. I knew him back when I was about 10 years old and he was throwing me out of the fish hatchery in Boothbay for doing things I probably shouldn't have done down there, and he came in with sections of the screening and the netting and showed us how this could be used. The screening and netting is put up to exclude the crabs from areas. As I say, they come in with the tide. They get trapped; either kept out by the netting or when they try and leave, they are trapped and the seagulls eat them.

One of the points of the bill that I particularly like. It applies dedicated revenue, money that is already there. This is contrary to the Governor's message. I believe there is some confusion on his part on that. It applies this money and it also requires the towns to come up with either matching money or matching effort. From my point of view, this is very good because it means that when a town goes into a project like this, they have a stake in it and it means that they are going to be interested in seeing that the fencing stays there, that it is maintained, that no one steals it. They have a real stake in the success of the program, and I like this. This is one of the points in the bill that I feel strongly about and was glad to see in there.

From my point of view, we have a need, a danger to an industry that has been beleaguered and has had its problems, this is something we can do for it. The funds are there, the funds are dedicated and ready to go. The towns are not forced into it; they have to come into it of their own free will and they have to put up their own money, and I hope very much that we will override this veto today. I hope we can all have your support on it.

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

Mr. PALMER: Mr. Speaker, I would pose a question through the Chair to someone who will be debating this bill. In the Governor's message, he mentions that Marine Resources already has the authority for this type of program and a program to accomplish exactly the same objectives has been under development by the department for well over one year. Would someone address that, exactly what that program is and how far it is along and what we could expect from that if this did not pass?

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

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

Mr. GREENLAW: Mr. Speaker, Men and

Women of the House: I would like to very briefly respond to the question of the good gentleman from Nobleboro, Mr. Palmer. The problem of green crab predation has been a subject the department has been very much involved in for some 20 years. I think this fencing program is a procedure that has been recently tried, tested and found to be a legitimate way towards protecting the green clams from reaching the clam flats.

I have here in my hand a news release from the Department of Marine Resources that was issued March 10, 1976, approximately a month and a half after the hearing was held on this bill, which announces the implementation of the green crab program and basically, word for word, adopts most of the language in this particular bill. It would be my hope that the department would in fact continue this particular program, but I guess the reason why I feel it is important that this piece of legislation be placed on the statutes is to have them know the legislature is seriously concerned about this problem and they want to make sure the department does in fact pursue this program of attempting to protect the soft shell clams.

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

Mr. HIGGINS: Mr. Speaker, Ladies and Gentlemen of the House: I know this session we have heard a lot about red herrings and I guess now we are going to hear a little bit more about other creatures of the sea.

I think the problem here lies in the fact the Governor is stating that this is a mandated program. I don't believe that it is. We have already seen the Commissioner of Marine Resources has implemented a similar program. My problem with his veto is the fact that even though it is being done now, that does not necessarily mean it will continue in the future. I think it is imperative upon this legislature to have something on the statutes that we can turn to at a later date.

If the green crab problem should disappear for a while and then come back, we will at least have something, and no matter who is the commissioner of Marine Resources, at least the people along the coast — I realize that this doesn't mean much to the people in Aroostook County — but to those of us who live along the coast who do have constituents and people who are involved directly with the clam industry, which is a very big industry along the coast, obviously, we need this legislation. I think the fact that half the funds, or at least the material costs are going to come from the local level, will mean that these programs will be implemented on a very cost effective basis and that they will only be used in areas where it is absolutely necessary. No town is going to obligate funds of their own in areas that are not absolutely necessary.

So as I said before, I hope we will override this veto today. It is said already that the Governor is using this mandation in his veto speech. I would disagree with him very highly, because in the bill it says that the commissioner must first determine that there is a need for this program. I don't think anybody here or any clam digger along the coast is going to want to put up fences to protect green crabs if they are not there. So, I would hope you would go along today and override this veto.

The SPEAKER: The Chair recognizes the gentleman from Owl's Head, Mrs. Post.

Mrs. POST: Mr. Speaker, Men and Women of the House: My concern with this particular veto is that it seems to be setting a precedent for involvement in or perhaps lack of involvement in the legislative process by some of the departments.

What happened is, we had a hearing on this bill. The department was there and they voiced no opposition. There was no opposition at the

hearing. The bill has gone through the entire legislative process with no opposition and no debate. Then, after the bill is passed the department goes to the Governor and asks for a veto and we are faced with overriding it.

I have some concerns with what kind of mechanism we are setting up and what the responsibility of the department is to get involved in legislative process as these things are discussed. I would hope that we might have a relationship where we could work together rather than try to work against each other. I guess for this reason, I would ask that at this point for you to override the veto.

I think the problem is, yes, right now there is a mechanism set up. It was set up only after the hearing was held. We have no kind of commitment that that program is going to continue in the future. I think, as you have heard here today, it is a great need to the people, especially in York County. It is no problem up my way yet, but it certainly is a problem as far as they are concerned.

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

Mr. MACKEL: Mr. Speaker, Ladies and Gentlemen of the House: I am, of course, on the Marine Resources Committee and I voted for this bill, but at this point, I think that I am going to have to split with the other members of the committee.

I do realize that this is a very serious problem. I am not trying to relegate this problem to anything less than the magnitude that we should be addressing it.

I do believe, though, that it is a management problem and one which the commissioner can accommodate. I believe also that the Governor's message constitutes a commitment to implement the program that is set forth within the L. D. So in that sense, I feel that the L. D. has served the purpose that it was designed to do. Therefore, I would suggest that we all sustain the Governor's veto.

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

Mr. MILLS: Mr. Speaker, Ladies and Gentlemen of the House: I am also on that Marine Resources Committee and I know the hours and the effort and the research that has been put into this bill. I also know that this green crab thing is not something to be taken lightly. The destruction that they can do to a clam bed is unbelievable.

Now, this came on the Coast of Maine years ago and is now working its way up the coast. I know that in my whole county, we have an awful lot of clam diggers up there, and they work either one or two tides a day. Now, if this was to be thrown out, this means an awful lot of clam diggers up in the eastern end of Maine, running into the hundreds, will be put out of employment if the green crab gets in up there.

I strongly recommend that we go over the Governor's veto on this matter because, to me, this is one of the strongest conservation measures that this legislature could enact. You are not only conserving the clam future for the State of Maine, but the seeding of clams which could be taken on the eastern end of my county and restored down the lower part of the coast.

This is one of the greatest conservation measures I have ever come across.

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

Mrs. LEWIS: Mr. Speaker, Ladies and Gentlemen of the House: I am looking at the veto message and I am looking especially at the statute that is referred to in it. In reading that statute, it says, "purposes for which the fund may be used." The commissioner may expend any and all of the money in the shell fish fund from time to time for the purpose of restoration, development and conservation of clams. So why isn't it covered? It goes on to list the

other shell fish too, but it would seem to me that it is covered under the legislation, just as the Governor says. He says, "This legislation is considered unnecessary since the department of Marine Resources already has authority for this type of program under this statute I am referring to.

It would seem to me that we should sustain the Governor's veto, inasmuch as we already have a law on the books that says that we can use this money for the conservation of clams.

The SPEAKER: The Chair recognizes the gentleman from Yarmouth, Mr. Jackson.

Mr. JACKSON: Mr. Speaker, Ladies and Gentlemen of the House: I think there is a fine line here. The money can be spent by the department. They could come into a town and they could say, you have a green crab problem, and we will in total fund the fencing of part of your flats.

The commissioner can not require the town to provide matching funds; the bill does require this. If the commissioner decided to, he could expend the whole \$25,000 or he could spend the whole clam fund, I suppose, if he wanted to, to come into an area and fence the whole area. The town would have no direct commitment because the commissioner cannot, on his own executive order or what have you, make the decision that he will require the town to put up half the money. The bill does require that before he can give them any money, the town has to decide to put up half the money. To me, this is a very important point. I like the idea that the town that is going to benefit from this has put something into it and has a definite monetary, or they have put a commitment of work of their own labor putting up the fences and this type of thing. To me, this is where the bill is better than just say the department coming in and doing something.

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

Mr. TYNDALE: Mr. Speaker, Ladies and Gentlemen of the House: I would like to pose a question to any member of the Marine Resources Committee that may wish to answer as to how much would be taken out of the lobster fund. I am not clear on the financing and I am sorry I did not go into the matter as thoroughly as I perhaps would like to. Can someone answer that question for me?

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

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

Mr. GREENLAW: Mr. Speaker, Ladies and Gentlemen of the House: To answer the question of the gentleman from Kennebunkport, Mr. Tyndale, this bill has nothing at all to do with the lobster fund. It will be \$25,000 obligated from the shellfish fund.

Mr. Speaker, if I may continue for just a minute, I would like to indicate to the members of the House that this fencing would not be arbitrarily placed along areas of the coast. The Department of Marine Resources has, in fact, located 82 areas along the coast where clams are harvested that fencing would be feasible.

I would just like, very quickly, to run down the towns those areas are located in so some of you may know if your town is affected. It goes as follows: Kittery, York, Wells, Kennebunkport, Scarborough, Falmouth, Cumberland, Harpswell, West Bath, Phippsburg, Wiscasset, Edgcomb, Westport, Southport, South Bristol, Bristol, Bremen, Waldoboro, Friendship, Cushing, St. George, Owls Head, Vinalhaven, North Haven, Northport, Stockton Springs, Stonington, Deer Isle, Brooksville, Mt. Desert, Southwest Harbor, Hancock and Gouldsboro.

The SPEAKER: The Chair recognizes the

gentleman from Kennebunkport, Mr. Tyndale.

Mr. TYNDALE: Mr. Speaker, Ladies and Gentlemen of the House: I thought I understood that the shellfish fund also included some of the funds from the lobster fund and I thank very much the answer from the gentleman from Stonington.

There is one question which bothers me on this bill. Over the years, the greatest concern that I have had about the clam industry is the red tide. Nothing has been done about that, nothing I can see, as far as the research into the red tide and I think this is one of the big problems of the clam industry. I hope that if this bill does stand, we will address ourselves to this problem also.

The SPEAKER: The Chair recognizes the gentleman from Yarmouth, Mr. Jackson.

Mr. JACKSON: Mr. Speaker, Ladies and Gentlemen of the House: I am very pleased to assure the gentleman that a great deal is being done on the red tide and you may remember from last year with our talk on the Bigelow Laboratory in Boothbay Harbor, which is probably one of the prime cold water laboratories in the East, if not the whole Atlantic Coast, they are doing a lot of research on the red tide and they hope that they will have a solution to it. It is a very complicated problem, but there is work being done and it is being done in Maine and it is being done by the Bigelow Lab.

The SPEAKER: The pending question is, shall this Bill become a law notwithstanding the objections of Governor. According to the Constitution, a two-thirds vote of the members present and voting is necessary to override the objections of the Governor. According to the Constitution, the vote will be taken by the yeas and nays. A vote of yes will be in favor of the bill, a vote of no will be in favor of sustaining the veto of the governor.

ROLL CALL

YEA — Albert, Ault, Bachrach, Berube, Blodgett, Boudreau, Bustin, Byers, Carpenter, Carroll, Chonko, Connors, Cooney, Curran, P.; Curran, R.; Curtis, Davies, DeVane, Doak, Dow, Drigotas, Durgin, Dyer, Farley, Fenlason, Flanagan, Fraser, Goodwin, H.; Goodwin, K.; Gould, Gray, Greenlaw, Henderson, Hennessey, Hewes, Higgins, Hobbins, Hughes, Jackson, Jensen, Kany, Kaufman, Kelleher, Kelley, Kennedy, Laffin, LaPointe, Laverty, LeBlanc, MacEachern, MacLeod, Mahany, Martin, A.; Maxwell, McKernan, McMahan, Mills, Mitchell, Morin, Mulkern, Nadeau, Najarian, Norris, Palmer, Perkins, T.; Peterson, P.; Peterson, T.; Post, Powell, Quinn, Raymond, Rideout, Rolde, Saunders, Silverman, Smith, Snow, Spencer, Sprowl, Stubbs, Susi, Talbot, Tarr, Teague, Theriault, Tierney, Torrey, Truman, Tyndale, Wagner, Walker, Webber, Wilfong, Winship, The Speaker.

NAY — Bagley, Berry, G. W.; Berry, P. P.; Birt, Bowie, Burns, Call, Carey, Carter, Churchill, Clark, Cote, Cox, Dam, Dudley, Farnham, Finemore, Garsoe, Gauthier, Hinds, Hunter, Hutchings, Immonen, Ingegneri, Jacques, Joyce, Leonard, Lewin, Lewis, Lizotte, Lovell, Lynch, Mackel, Miskavage, Morton, Pearson, Pelosi, Perkins, S.; Pierce, Rollins, Shute, Snowe, Teague, Tozier, Twitchell, Usher.

ABSENT — Bennett, Connolly, Faucher, Hall, Jalbert, Littlefield, Lunt, Martin, R.; McBreaarty, Peakes, Strout.

Yes, 94; No, 46; Absent, 11.

The SPEAKER: Ninety-four having voted in the affirmative and forty-six in the negative, with eleven being absent, this Bill becomes law notwithstanding the objections of the Governor.

Sent up for concurrence.

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

Bill "An Act Relating to Persons Residing in

Community Residential Facilities" (H. P. 2142) (L. D. 2282)

Tabled — March 29 by Mr. Goodwin of South Berwick.

Pending — Adoption of Committee Amendment "A" (H-1119)

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

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

HOUSE DIVIDED REPORT — Majority (6) "Ought Not to Pass" — Minority (4) "Ought to Pass" — Committee on Appropriations and Financial Affairs on Bill, "An Act to Prevent Impoundment of Funds" (H. P. 1985) (L. D. 2173)

Tabled — March 29 by Mr. Rolde of York. Pending — Motion of Mr. Smith of Dover-Foxcroft to accept the Minority "Ought to Pass" Report.

On motion of Mr. Smith of Dover-Foxcroft, the Minority "Ought to Pass" Report was accepted and the Bill read once.

Under suspension of the rules the Bill read the second time, passed to be engrossed and sent up for concurrence.

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

Bill "An Act to Implement a Central Licensing Division within the Department of Business Regulation" (H. P. 2153) (L. D. 2294)

Tabled — March 29 by Mr. Cooney of Sabattus.

Pending — Adoption of House Amendment "A" (H-1111) as amended by House Amendment "A" (H-1116) thereto.

Mr. Kelleher of Bangor offered House Amendment "C" to House Amendment "A" and moved its adoption.

House Amendment "C" to House Amendment "A" (H-1135) was read by the Clerk.

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

Mr. KELLEHER: Mr. Speaker, Ladies and Gentlemen of the House: To get to the heart of the matter, this amendment wipes out completely the Running Horse Race Commission in the state. I will tell you why I want to eliminate it. First of all, there is no Running Horse Race Commission in the state and there hasn't been anybody on the commission since 1974. They have no telephone listing, no office money, no help, no funds whatsoever to run a commission. There is absolutely no need for it because nowhere in the state are they now, or to my knowledge, intending to run running horse racing.

There is a Harness Racing Commission in this state that operates that supervises the running of standard bred at harness tracks, but nowhere in the state are they at this time, to my knowledge, planning to run running horse racing. The State Government Committee did a fine job in reorganizing various departments and boards in government, but this was an oversight that I think we should correct. There is no need to keep the laws on the books, it strikes out the complete running horse racing rules. It is not necessary and this certainly will clean up the language on the statutes.

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

Mrs. KANY: Mr. Speaker, Ladies and Gentlemen of the House: Representative Kelleher mentioned the State Government Committee hearing this particular bill. There was interest expressed in the flat racing or running horse racing at that particular time. People were interested in having two races a week at Scarborough Downs and this was without parimutuels or without betting, and it seemed to be almost a kind of amateur thing, 4-

H people and so on I guess there are a lot of running horses in the state. I am really not that familiar with racing and I do have a couple of questions that maybe someone could address.

Number one, if we do away with the Running Horse Commission, would that mean that we would not be allowed to have any running horse races in this state or not?

The second question I had was, perhaps Representative Kelleher or someone else might like to address the possibility of perhaps combining the Running Horse and Harness Racing Commissions. Could someone speak to those two?

The SPEAKER: The gentlewoman from Waterville, Mrs. Kany, poses a series of questions through the Chair to any member of the House who cares to answer.

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

Mr. KELLEHER: Mr. Speaker, Ladies and Gentlemen of the House: In answer to the gentlelady's first question, does this completely eliminate running horse racing in Maine at this time, the answer is, yes. The gentlelady stated that at the State Government Committee hearing there was some interest or that there were some people there speaking in behalf of hoping to start quarter-horse racing in Maine. I might say to the gentlelady from Waterville that quarter-horse racing is somewhat different than running horse racing and I would say that the Committee on State Government would have to put in a bill at the next legislative session or amend the bill that is before this body now to appoint a quarter-horse racing commission. There is certainly a distinction between running horse racing, which is extinct in this state, it is not here at this time, nor is there, to my knowledge, any track in the state willing to operate running horse racing. There may be some interest in quarter-horse racing, but that is an entirely different subject, quite foreign, in my opinion, to standard bred racing or to thoroughbred racing, better known as flat racing.

I would hope that the House would support the adoption of this amendment.

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

Mr. COONEY: Mr. Speaker, Ladies and Gentlemen of the House: Yesterday, Mr. Kelleher asked that someone might table this bill so that he could present his amendment, and I did that as a courtesy to the good gentleman, but today I move the indefinite postponement of this amendment and would speak briefly.

The SPEAKER: The gentleman from Sabattus, Mr. Cooney, moves the indefinite postponement of House Amendment "C" to House Amendment "A".

The Chair recognizes the same gentleman.

Mr. COONEY: Mr. Speaker, Ladies and Gentlemen of the House: The arguments advanced by some of our membership when the central licensing bill came to the floor last week was that it contained a provision having to do with running horse racing, and that, therefore, the whole bill should be defeated. I rose and said that this was the only incongruous thing in the bill and that it would be fine to remove it but not to repeal it. That is what Mr. Kelleher seeks to do today, and that is repeal the Running Horse Racing Commission.

Now, he points out that there has not been any running horse racing in the state but, as a harness racer himself, he would like to preclude the possibility that there ever would be any running horse racing competing with harness racing. I, frankly, don't feel that this legislature should go on record as saying to any group, especially in this case the running horse racing people, that they can never, ever practice their sport in our state. So, I would ask that you do indefinitely postpone this amendment.

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

Mr. LOVELL: Mr. Speaker, Ladies and Gentlemen of the House: I certainly agree with the gentleman from Sabattus, Mr. Cooney. I worked for Scarborough Downs for 20 years when they had flat racing there, from 1950 to 1970, and it brought into the state almost a million dollars a year in revenue. It took us a number of years to pass the bill to get flat racing or the running racing in Maine. I certainly don't want to see it repealed because sometime we might get some out of state person with a lot of money who is foolish enough to come to Maine and invest it and try to make some money out of the racing business, which I don't think he can do, but they tried it before and they might try it again. So, I will go along with Mr. Cooney on indefinite postponement of this amendment.

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

Mr. SUSI: Mr. Speaker, Ladies and Gentlemen of the House: I hope you do support the amendment and wipe out the Running Horse Commission. I would like to explain why I feel this way and why I would recommend it. We don't now have running horses in Maine. We never have had any number of running horses in Maine. We have always had a large number of harness horses. We have approximately 1,000 people who are supporting themselves in the industry now and probably there are three or four thousand harness horses here in Maine. It is a considerable industry.

Why is this Running Horse Commission on the books now and why is it being kept on the books? It is being kept at the instigation of track management, inasmuch as when it comes bargaining time to establish the contracts which would establish a race for the harness horsemen, who are the only people who race here in Maine, so long as this Running Horse Commission exists, same as right now, the managements of certain tracks can use this as a threat over the heads of the Harness Horse Commission saying, if you don't toe the mark, we will bring in running horse people.

There are perhaps enough quarter horses in the State of Maine to make up one field, perhaps eight horses or something like that and it doesn't amount to a hoorah, except that it can be used over and over again so long as there is a Running Horse Commission here in the state as a threat by management over the heads of all of these Maine people who have harness horses and make a living at it. I hope you remove this commission, there is no excuse for having it and if, as the gentleman from Sanford, Mr. Lovell, has indicated, sometime someone stupid enough, to use his expression, to want to come in here and set up a running horse operation, at that time we can look at the proposition and consider the reinstatement of a Running Horse Commission. But now it is used just for a threat on Maine people to keep their wage demands in line. I hope you remove it, it is unnecessary and it has outlived its usefulness.

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

Mrs. CLARK: Mr. Speaker, Men and Women of the House: While I don't have any great amount of energy for this amendment, I must support the pending motion to indefinitely postpone. It had been my intention, prior to the pending motion being stated, to ask for a ruling on the germaneness of House Amendment "C" to L. D. 2294. L. D. 2294 is An Act to Implement Central Licensing, and this amendment would expand that title to include the abolishment of the Horse Racing Commission. It seems to me that they are two separate and distinct topics and nothing would preclude the gentleman from Bangor introducing into the regular session of the 108th a separate bill to eliminate the Horse Racing Commission from the statutes of this state.

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

Mr. KELLEHER: Mr. Speaker, Ladies and Gentlemen of the House: I might remind the good lady from Freeport, Mrs. Clark, that I put a similar amendment on a similar bill in 1973 with the same arguments that I gave here today, and this House passed it overwhelmingly; however it didn't pass the other body. I think this amendment is germane to the bill and I am not sure that the lady raised the question right.

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

Mr. JALBERT: Mr. Speaker, Ladies and Gentlemen of the House: I got up with a tremendous amount of kindness today and I know now why it happened. I am solidly behind Mr. Kelleher, as I am most of the time, but it is one of those rare occasions that I am with the gentleman from Pittsfield, Mr. Susi.

Now, I was one of those who helped to start off the demise of the running race or flat racing commission by voting in the Appropriations Committee to strike out the money for the clerk and for everything else. I voted for flat racing for Maine, and I am not an habitue' of either harness racing nor of the runners. I go to one of the three big races of the year and that is about it. I have yet to go, and I live within a stone's throw of the Lewiston Fairgrounds, I have yet to go last year or this year.

I went to Scarborough Downs once, and I want to tell you now that as far as I am concerned, I voted for the flat racing bill when it first came here, but after seeing what was going on at Scarborough Downs, as long as I am here, I would never vote for flat racing in Maine.

I happen to know that several of the people that were jockeys have been outlawed here, they have been outlawed in several other states. As a matter of fact there used to be a man that ran the racing at Scarborough Downs and his name was One-A-Day Wilson, that was his name all over the country. Believe me, it was one-a-day, one a day for Wilson. I would want no part of running racing in Maine.

The birthplace of harness in the country is here in Maine. I have always had a soft spot in my heart and there might be some of you here from Aroostook County who can remember John R. Braden. I can remember as a youngster going to the Northeastland to a banquet in honor of John R. Braden. I had a brother of mine who brought me, he played in the orchestra, and the horse, the stall was in the banquet hall. I have a soft spot in my heart for harness racing in Maine. I have nothing but bad feeling for the vote and support I gave running racing in Maine, and I wholeheartedly concur with the gentleman from Bangor, Mr. Kelleher, and to my dismay and surprise, I am in total agreement with my real friend from Pittsfield, Mr. Susi.

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

Mr. LOVELL: Mr. Speaker, Ladies and Gentlemen of the House: I hate to disagree with the good gentleman from Lewiston, Mr. Jalbert, but in the 20 years that I was in Scarborough Downs as the racing secretary, he mentioned this Wilson and the various racing secretaries they had at Scarborough Downs and the security agency of Mr. McGuire to start with, a detective from Portland, the security agency plus the horse racing agencies that handled Scarborough Downs, in the 20 years there, I never saw what I thought was a fixed race. I have seen horses break down, I have seen horses that didn't run good on certain days, but people don't feel good on a certain day, like Jim McMahon here today, he has got a cold, he doesn't feel good, so he couldn't probably run so good today as he could some other day. Well, that is the same way with horses.

But at Scarborough Downs we used to handle

as high, on a Saturday night, as \$250,000 handle, which the state got a nice cut from. The state got a much bigger cut from the running races than they did from the trotters or the sulky races.

I would hate to see this taken off the books, it was too hard to get on. I would hate to see it taken off the books because, here again, we might get running races in Maine, and running races are one of the big successes of the State of New Hampshire, why they don't have to have a sales tax and why they don't have to have an income tax is because of the money they take in from the horse races and the dog races. They aren't trotting horses, either, they are the running horses.

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

Mr. WAGNER: Mr. Speaker, Ladies and Gentlemen of the House: I would request that the Chair rule on the germaneness of this amendment.

The SPEAKER: The gentleman from Orono, Mr. Wagner, poses a question to the Chair on the germaneness of House Amendment "C" to House Amendment "A".

The Chair would rule that House Amendment "C" to House Amendment "A" is not germane.

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

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

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

SENATE REPORT — "Ought to Pass" in New Draft under New Title: Bill "An Act Repealing the Expungement Law and Providing for the Control of Access to and Disclosure of Criminal History Record Information" (S. P. 773) (L. D. 2326) Committee on Judiciary on Bill "An Act Repealing the Expungement Law and Providing for the Control of Access of and Disclosure of Criminal History Record Information" (S. P. 730) (L. D. 2273)

Tabled — March 29 by Mrs. Najarian of Portland.

Pending — Acceptance of the Committee Report.

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

Mr. HUGHES: Mr. Speaker, Acting Chairman Spencer of the committee has asked me to inform the body that we found a technical drafting error and we would like to have some more time to draw an amendment, which is now being prepared and I would therefore ask if someone would table this until later in today's session.

Thereupon, the Report was accepted in concurrence, the New Draft read once and assigned for second reading later today.

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

Bill, "An Act to Revise and Clarify the Freedom of Access Law" (H. P. 2226) (L. D. 2316) — In House, Passed to be Engrossed as amended by House Amendments "A" (H-1034), "B" (H-1044), and "E" (H-1110) — In Senate, Passed to be Engrossed as amended by House Amendments "B" and "E" in non-concurrence.

Tabled — March 29 by Mr. Rolde of York.

Pending — Further Consideration.

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

Mr. BURNS: Mr. Speaker, I understand there has been an amendment prepared by Mr. Faucher. He is not in his seat. May this be tabled until later in today's session?

On motion of Mrs. Najarian of Portland, tabled pending further consideration and later today assigned.

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

Bill, "An Act Relating to the Effective Dates for School Lunch Programs and Occupational Safety and Health in Public Employment" (H. P. 2207) (L. D. 2307) (C. "A" H-1106)

Tabled — March 29 by Mrs. Najarian of Portland.

Pending — Passage to be Engrossed as amended by Committee Amendment "A" (H-1106)

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

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

An Act to Require Nursery Schools to Meet Minimum Fire Safety and Health Standards (H. P. 1965) (L. D. 2154) (C. "A" H-1056) (H. "A" H-1075)

Tabled — March 29 by Mr. Leonard of Woolwich.

Pending — Passage to be Enacted.

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

Mr. LAPOINTE: Mr. Speaker, I would humbly request that this be tabled until later in today's session.

On motion of Mr. Carey of Waterville, tabled ending passage to be enacted and later today assigned.

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

An Act Concerning the Salary of Knox County Register of Probate, Deputy Treasurer, Clerk Hire and Legal Fees of the York County Treasurer (H. P. 2230) (L. D. 2318) (S. "A" S-473)

Tabled — March 29 by Mr. Farley of Biddeford.

Pending — Passage to be Enacted.
On motion of Mr. Farley of Biddeford, under suspension of the rules, the House reconsidered its action whereby the Bill was passed to be engrossed.

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

House Amendment "A" (H-1138) was read by the Clerk and adopted.

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

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

Mrs. MARTIN: Mr. Speaker, Ladies and Gentlemen of the House: I am fooled on these bills by a few people on my committee. I just want to go on record that I am against this and I am not going to ask for a roll call so I could put my vote against it but this bill really irks me because I was told one thing and they did something else.

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

House Divided Report — Majority (10) "Leave to Withdraw" — Minority (3) "Ought to Pass" as amended by Committee Amendment "A" (H-1120) — Committee on Agriculture on Bill, "An Act Concerning the Establishment of Minimum Prices of the Maine Milk Commission" (H. P. 1942) (L. D. 2129)

Tabled — March 29 by Mr. Kelleher of Bangor.

Pending — Motion of Mr. Mahany of Easton to accept the Majority "Leave to Withdraw" Report.

On motion of Mr. Palmer of Nobleboro, tabled pending the motion of Mr. Mahany of Easton to accept the Majority "Leave to Withdraw" Report, and later today assigned.

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

Bill, "An Act to Establish a Maine Community Jobs Act" (H. P. 2165) (L. D. 2293)

Tabled — March 29 by Mr. Palmer of Nobleboro.

Pending — Passage to be Engrossed.
Mr. Connolly of Portland offered House Amendment "A" and moved its adoption.
House Amendment "A" (H-1126) was read by the Clerk.

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

Mr. CONNOLLY: Mr. Speaker, Ladies and Gentlemen of the House: I don't intend to speak for a long time, unless there is an extended debate on this, but I would just like to explain to you what this amendment does.

The amendment changes the bill to a resolve and makes the entire legislation very permissive and enabling. The original bill required that a job program be set up through the Commissioner of Manpower Affairs and it established sources of funding that the Commissioner would have to seek out and find to establish the program and set down very definite requirements for the kinds of projects and the kinds of people that would be eligible for the jobs.

At the hearing, a number of questions were raised, principally to the Commissioner of Manpower Affairs, about certain legal questions that had to be resolved before the bill could become law and, consequently, we drafted this resolve which takes care of all the objections that the Commissioner had and it says, in effect, that the Governor may establish a community jobs program if the funding sources mentioned in the bill are available and that if those sources are available, he may seek money from them if he so desires.

I guess the most controversial section in the original bill, was the requirement for an increase in corporate income taxes, and that has been deleted from the bill.

I have spoken with all the members of the Jobs Committee who were involved with this and they agree that this amendment is acceptable. I have spoken to the members of the Taxation Committee who liked the idea behind the original bill but had some problems with the specifics of it and all of them have agreed that the amendment is satisfactory. So with that, I would hope that you would accept the amendment and pass the bill to be engrossed.

Thereupon, House Amendment "A" was adopted.

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

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

Bill, "An Act Relating to the Form of Ballots" (H. P. 2063) (L. D. 2233)

Tabled — March 29 by Mr. Faucher of Solon.

Pending — Passage to be Engrossed.

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

Mr. CAREY: Mr. Speaker, I noticed that the gentleman from Solon, Mr. Faucher, is not in his seat, I know that he wanted to add an amendment to this and I would hope that someone would table it until later today.

On motion of Mrs. Najarian of Portland, tabled pending passage to be engrossed and later today assigned.

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

An Act to Enable Counties to Hire County Administrators (H. P. 2092) (L. D. 2251) (H. "A" H-1051)

Tabled — March 29 by Mr. Birt of East Millinocket.

Pending — Passage to be Enacted.

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

Mr. KELLEHER: Mr. Speaker, could we please table this until later in today's session? I have an amendment and I can't understand why it isn't in the House this morning.

On motion of Mr. Dam of Skowhegan, tabled pending passage to be enacted and later today assigned.

The Chair laid before the House the fourteenth tabled and today assigned matter: Bill, "An Act to Clarify the Retirement Statutes" (Emergency) (H. P. 1860) (L. D. 2027)

Tabled — March 29 by Mr. Palmer of Nobleboro.

Pending — Adoption of House Amendment "B" (H-1133) to Committee Amendment "A" (H-1105)

On motion of Mr. Theriault of Rumford, tabled pending adoption of House Amendment "B" to Committee Amendment "A" and later today assigned.

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

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

Tabled — March 29 by Mr. Goodwin of South Berwick.

Pending — Passage to be Enacted.

On motion of Mr. Goodwin of South Berwick, tabled pending passage to be enacted and later today assigned.

The following papers appearing on Supplement No. 1 were taken up out of order by unanimous consent:

Divided Report

Majority Report of the Committee on Judiciary reporting "Ought to Pass" as amended by Committee Amendment "A" (S-483) on Bill "An Act Relating to Mental Health and Retardation Programs in the Department of Mental Health and Corrections" (S. P. 698) (L. D. 2222)

Report was signed by the following members:

- Messrs. COLLINS of Knox
- CLIFFORD of Androscoggin — of the Senate.
- Mrs. MISKAVAGE of Augusta
- Messrs. PERKINS of South Portland
- SPENCER of Standish
- HEWES of Cape Elizabeth
- HENDERSON of Bangor
- McMAHON of Kennebunk
- BENNETT of Caribou
- HUGHES of Auburn
- HOBBINS of Saco — of the House.

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

Report was signed by the following member: Mr. MERRILL of Cumberland — of the Senate.

Came from the Senate with the Majority Report Accepted and the Bill Passed to be Engrossed as amended by Committee Amendment "A" (S-483).

Mr. Perkins of South Portland moved the acceptance of the Majority "Ought to pass" Report.

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

Mr. LAPOINTE: Mr. Speaker, could a member of the Judiciary Committee explain the bill?

The SPEAKER: The gentleman from Portland, Mr. LaPointe has posed a question through the Chair to any member of the Judiciary Committee who may respond if they so desire.

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

Mr. HEWES: Mr. Speaker. Ladies and Gentlemen of the House: This is a bill that was referred to us from the Committee on Health and Institutional Services and it dealt with the pretrial observations of an individual. Under the proposed amendment that came out of the committee, both a psychiatrist and a psychologist will be designated by the Commission of Mental Health and Corrections to conduct a pretrial observation of any individual relative to whether or not they had the mental capacity to perform a certain crime.

Thereupon, the Majority "Ought to pass" Report was accepted in concurrence and the Bill read once.

Committee Amendment "A" (S-483) was read by the Clerk and adopted.

Under suspension of the rules, the Bill was read the second time and passed to be engrossed in concurrence.

Non-Concurrent Matter

Bill "An Act Relating to Charitable Solicitations" (H. P. 1983) (L. D. 2165) which was Passed to be Enacted in the House on March 29, 1976.

Came from the Senate, under Suspension of the Rules, Reconsidered Passage to be Engrossed, Senate Amendment "C" (S-487) read and adopted, and subsequently failed of Passage to be Engrossed.

In the House: On motion of Mr. Pierce of Waterville, the House voted to insist.

Non-Concurrent Matter

Bill "An Act to Regulate Drinking Water" (S. P. 687) (L. D. 2198) which was Indefinitely Postponed in the House on March 25, 1976.

Came from the Senate with that Body having Insisted on its former action whereby the Bill was Passed to be Engrossed as amended by Committee Amendment "A" (S-431) on March 15, 1976 and asked for a Committee of Conference.

In the House: On motion of Mr. Kelleher of Bangor, the House voted to insist and join in the Committee of Conference.

Enactor Reconsidered

Later Today Assigned

An Act Relating to Property of Survivor where Joint Deposits or Accounts are Involved (S. P. 664) (L. D. 2102) (C. "A" S-460)

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

On motion of Mrs. Clark of Freeport, the House reconsidered its action whereby the bill was passed to be engrossed.

On further motion of the same gentlewoman, 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-1101) was read by the Clerk.

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

Mrs. CLARK: Mr. Speaker, Ladies and Gentlemen of the House: The purpose of the amendment which I am presenting this morning is to include credit union accounts in the inheritance and tax provisions of the bill. This was brought to my attention by the Bureau of Taxation and it is necessary to make this amendment compatible with the statutes as they are today.

Thereupon, House Amendment "A" to Committee Amendment "A" was adopted.

Committee Amendment "A" as amended by

House Amendment "A" thereto was adopted in non-concurrence.

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

Mr. PERKINS: Mr. Speaker, Ladies and Gentlemen of the House: I want to thank Representative Clark for bringing it back to this posture because I think that we should give an explanation of what this bill does.

I think it is a good bill in part, that is the problem that I have with it, I think it is exceptionally good, that insofar as joint accounts are concerned between husband and wife, that upon the death of one or the other the survivor would take all. As you know, under the present law, the survivor, even though husband and wife, gets \$10,000 unless there is a contribution factor.

However, I am deeply concerned about the provision that is added that would state that if an account is held between a parent and child, that \$20,000 will go directly to that child regardless of contribution. Presently, it is \$5,000 and presently there are real problems even with that \$5,000 and I would like to explain why just in case you don't know.

Quite often, elderly people are encouraged by banks to open joint accounts with one of their children as a matter of convenience in case the elderly person is unable to draw on that account. I would suspect that there are probably hundreds and hundreds of joint accounts between parent and child in this state set up solely for that purpose.

The big problem that develops is that upon the death of a parent, I know from the experience of trying to explain as a lawyer to children other than the one in whom that account stands, that \$5,000 goes directly to that child, even though the will itself has indicated that all of the estate will be divided equally among the children and brother two and sister three says, how come, because Mom intended that whatever she had would go to all of us? I have to say, I am sorry about that, but your mother really didn't realize when she set up that joint account that \$5,000 would go directly to brother one, and that is a matter of law that the will cannot in any way change or affect. You should see the squabbles that develop unless brother one is willing to give up that \$5,000 and divide it equally.

Now, in this bill, we have increased that \$20,000 and believe me, that is a big temptation for brother one, who sits there knowing full well that he is going to get \$20,000 right off the top, right out of that account, and no matter what the will says, that is not included for distribution in the estate. With the \$5,000, I have seen many of the children who had the money coming to them say, well, I know, Mom didn't want me to get that \$5,000 so I will divide it equally with brother two and sister three. However, I have to go and say to brother one, but you must remember that that sum of money, \$5,000, and \$20,000 under this bill, is taxable as your interest. Consequently, you are taxable individually on that money and you have to remember that. Also, there is a potential problem of if you give up that \$20,000 or \$5,000, putting it up, that you are subject to a gift tax, the Internal Revenue gift tax, so these factors come into play and it causes brother one to think again about it and under those circumstances, he quite often says, well, I am sorry about that, while I was willing to divide this when I really didn't have to, just chopping it up was one problem but now that you tell me that I have the possible problem of running into the Internal Revenue with a gift tax, or a possible, not only possible but a real problem in that my portion of the estate is going to be greater and therefore I am going to be assessed an inheritance tax greater, I am not sure that I should give that up.

So, while I do like the provision as between husband and wife, because I think it is only fair

that if a husband and wife have a joint account standing in their names together, that whatever they have goes to the other. I am deeply concerned about this section which increases the \$5,000 between parent and child to \$20,000.

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

Mr. FINEMORE: Mr. Speaker, I would like to ask a question through the Chair to Mr. Perkins. How does it leave the spouse to spouse deal now, how many thousand dollars is not taxable?

The SPEAKER: The gentleman from Bridgewater, Mr. Finemore, has posed a question through the Chair to Mr. Perkins if he should care to answer.

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

Mr. PERKINS: Mr. Speaker, in answer to the question, it presently is at \$10,000. Under the law as it presently stands, a husband and wife can have a joint account, aggregate joint accounts, actually you take all of the accounts, you don't just take one, but they can have up to \$10,000 in an account and that will automatically go to the surviving spouse. However, if the surviving spouse has contributed to that account, you deduct that first before you get that \$10,000 exemption.

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

Mr. JALBERT: Mr. Speaker, Ladies and Gentlemen of the House: As you know, I think probably this gets more interesting as it goes along, and I think I ought to sit more in my seat and pay more attention.

I appreciate the gentleman from South Portland, Mr. Perkins' remarks and I respect him as a lawyer and I have heard his version as a lawyer, but I would like to hear somebody else's version that might be involved in other areas than the legal profession, because the way I am hooked in now, and looking things over the weekend and the way I see it — I mean, for health reasons, I have been told and I have, to kind of turn things over a little bit towards my lady. Upon looking over the papers a little further, it almost looks to me that if she ever went before me, I think I probably would have to go to the lawyers to get my weekly allowance. I think I would like to hear from someone, like maybe in the banking business or somebody else besides the good lawyers.

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

Mr. SUSI: Mr. Speaker, I have a question or I guess a couple of questions. Is the content of this bill along the same area as the study that is being made on probate matters and will it be covered in their report, and if that is true, is there anything of an emergency nature that is covered by this bill that we should deal with right now or could we safely leave it until we hear from the study on probate matters?

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

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

Mr. COTE: Mr. Speaker, Ladies and Gentlemen of the House: As a member of that commission, this has been addressed on two or three different occasions by the commission. It is under study. The commission feels that the spouse was not getting enough under the present law and they are addressing change to that. Just what the final outcome will be, I don't know, but I know that this is under advisement now by the probate commission.

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

Mr. PERKINS: Mr. Speaker, Ladies and Gentlemen of the House: I would just like to have you clearly understand, because of some of the remarks, that I am not against this bill, I

don't want to see it die because I am very pleased that the section dealing with husband and wife, if we pass it and it goes into effect, it does mean everything that a husband and wife has will go to the survivor and that part I like very much. I am concerned about that part about the parent and child because this does not and will not affect the purposes of what the parent is trying to do when she or he sets up a joint account with a child, particularly when there is more than one child in the family.

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

Mr. MORTON: Mr. Speaker, I would like to address a question to the gentleman from South Portland, Mr. Perkins. The gentleman has raised a real question in my mind about some of the contents of this bill and I was wondering why the gentleman hadn't perhaps presented an amendment or why someone else on the Judiciary Committee, if that is the committee that heard this, and I presume it is, can't give us some other side of it?

The SPEAKER: The gentleman from Farmington, Mr. Morton, has posed a question through the Chair to anyone on the committee who may care to answer.

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

Mrs. CLARK: Mr. Speaker, Ladies and Gentlemen of the House: This was allowed entrance into the special session by the Reference of Bills Committee and was referred to the Committee on Business Legislation. The original bill is much restricted in its intent and thrust by the committee amendment which was passed out by the Committee on Business Legislation.

At the public hearing last March 17, we had a number of proponents and only one opponent before us. All of the proponents, including the sponsor, were supportive of increasing the allowance between spouses. There was considerable sentiment expressed to increase the amounts in relation to other members of the family and this is in response to, number one, to today's inflation; number two, addressing the fact that, yes, too many of Maine citizens die intestate.

On motion of Mrs. Snowe of Auburn, tabled pending passage to be engrossed as amended and later today assigned.

An Act to Amend the Employment Security Law (S. P. 691) (L. D. 2210) (C. "A" S-453, H. "B" H-1117)

An Act to Require a Majority of Consumer Representation on Governing Boards of Nonprofit Hospital and Medical Service Organizations (H. P. 1865) (L. D. 2036) (C. "A" H-1069)

An Act Relating to Town Ways (H. P. 1920) (L. D. 2108) (C. "A" H-1028, H. "A" H-1070, H. "D" H-1122)

An Act to Redefine "Subdivision" in the Site Location and Development Act (H. P. 1979) (L. D. 2169) (S. "A" S-481 to H. "A" H-1041)

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

The Chair laid before the House the following matter:

Bill "An Act Creating the Maine Railroad Equipment Authority" (H. P. 1858) (L. D. 2026) which was tabled earlier in the day and later today assigned pending the question, shall this Bill become law notwithstanding the objections of the Governor.

On motion of Mr. Rolde of York, retabled pending consideration and later today assigned.

The Chair laid before the House the following matter:

Bill "An Act to Allow County Budget Determination at the County Level" (H. P. 2263) (L. D. 2335) which was tabled earlier in the day and later today assigned pending acceptance of the Committee Report.

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

Mr. WAGNER: Mr. Speaker, I would like to ask through the Chair the content or the thrust of this bill. Could it be explained, please?

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

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

Mr. DAM: Mr. Speaker, Ladies and Gentlemen of the House: This bill was the result of the Joint Select Committee study on county government, and in answer to the question of the gentleman from Orono, Mr. Wagner, the main thrust of this bill is to set up a county finance board, and this would be done according to the various needs in the various counties. Right now, the board is structured as a five-member board, but this would allow for the county budgets to be determined on the county level in your own county and remove them from the legislature. Each county would act on their own county budget with an elected finance board and the commissioners. That is the main thrust of the bill.

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

Mr. WAGNER: Mr. Speaker and Members of the House: I share the previous speaker's concern about the present mechanism for reviewing county budgets. I think the legislative review has been somewhat deficient in the past and certainly needs improvement. However, I am not convinced that this is the proper vehicle to improve upon that. I understand that the Committee on Local and County Government has had a number of hearings around the state which were not too widely attended. I know in my own county a number of municipal officers have very strong feelings on the form of county government and would like to see some changes, particularly in the budgetary area, but people I have talked to feel very strongly that rather than impose another level on this, this bill should have a wide hearing and many alternatives should be examined, possibly expanding the county commissioners, the number of county commissioners or setting up some review board composed of municipal officers themselves or just improving the legislative overview.

There are many alternatives here, and I think until we have a full report from the Committee on Local and County Government under study order examining county government, this would best be postponed until at least the next session and I would move that this bill and all accompanying papers be indefinitely postponed.

The SPEAKER: The gentleman from Orono, Mr. Wagner, moves that this Bill and all its accompanying papers be indefinitely postponed.

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

Mr. DAM: Mr. Speaker, Ladies and Gentlemen of the House: The Joint Select Committee on Local and County Government divided up into several subcommittees. They held public hearings and while it is true what Mr. Wagner said, in some of the counties they were not too well attended, in other counties they were.

We did listen to all the arguments and all the suggestions made, and these were incorporated into the bill.

The thing that bothers me today, and I am not sure, I am not going to state this as a fact, but I don't yet have on my desk a copy of L. D. 2335, and I wonder how many House members actual-

ly have the copy. Has it been distributed yet so they can read the bill?

On motion of Mr. Farnham of Hampden, tabled pending the motion of Mr. Wagner of Orono to indefinitely postpone and later today assigned.

The Chair laid before the House the following matter:

Bill "An Act to Revise the Laws Relating to the Maine Traffic Court (Emergency) (H. P. 2257) (L. D. 2327) which was tabled earlier in the day and later today assigned pending passage to be engrossed.

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

Mr. GOODWIN: Mr. Speaker, I have an amendment being prepared that I would like to have a chance to offer. I hope somebody would table this until later in today's session.

Thereupon, on motion of Mr. Rolde of York, retabled pending passage to be engrossed and later today assigned.

The Chair laid before the House the following matter:

Bill "An Act Redistributing the Powers of the Executive Council" (H. P. 1997) (L. D. 2197) (C. "A" H-1115) which was tabled earlier in the day and later today assigned pending passage to be engrossed as amended.

On motion of Mrs. Najarian of Portland, retabled pending passage to be engrossed as amended and later today assigned.

The Chair laid before the House the following matter:

Bill "An Act Relating to Persons Residing in Community Residential Facilities" (H. P. 2142) (L. D. 2282) which was tabled earlier in the day and later today assigned pending adoption of Committee Amendment "A" (H-1119)

Mrs. Goodwin of South Berwick offered House Amendment "A" to Committee Amendment "A" and moved its adoption.

House Amendment "A" to Committee Amendment "A" (H-1141) was ready by the Clerk.

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

Mr. GOODWIN: Mr. Speaker, Ladies and Gentlemen of the House: I would like to explain the amendment and just very briefly explain what we are doing with this amendment.

First of all, the amendment to the committee amendment just clarifies a section in the committee amendment on the duties, who is responsible for developing plans for the management of personal funds for the mentally retarded in boarding homes. It was unclear in the committee amendment how we had planned to do it.

I would like to explain for a minute, so we all understand what this committee amendment does. I don't want to be accused of trying to slip anything by anybody. This committee amendment is a compilation of two bills that we had before our committee that were a result of a committee study which we are still doing, but these are ideas that we were able to come up with on an interim basis to solve several immediate problems facing people dealing with the mentally retarded in the state right now.

They deal with two bills, L. D. 2228, which was a bill to allow small six bed and under non-profit or profit group homes to go on a cost-plus basis. Right now, through an administrative decision by the Department of Human Services, these homes are limited to a \$200 a month payment for the mentally retarded people that they board. What we would like to do, what the intent of this bill is, is to allow preferably the nonprofit associations throughout the state to develop at a much lower cost than they can now, small homes for six people and under, and by doing

this, one of the biggest problems that we have in this state right now, now that we have passed the special ed bill and we are working with that, is what do we do with the people once they become 20, they become adults. We don't have enough room in Pineland and in Pineland we are gearing up to provide treatment and not residential care. This is the type of idea we have come up with that is going to be able to develop community residential facilities throughout the state. The people would be living in these homes, small group homes. We have a couple operating now that are just barely — they are not even able to eke out a living. People are using up their savings and just not collecting any payment for boarding these people, but they are doing a fantastic job.

We will be able to get away from the large 50 or 60 bed boarding home facilities that are basically nothing more than small warehouses for these people. The associations will be able to set up these homes at a much, much reduced cost. They can build a little cape cod prefab home and house six people with the staff and provide services at their sheltered workshops and things of this nature, and people can live in the communities or where they wish to.

I think it is one of the biggest advances that we will be making in dealing with the mentally retarded for a long, long time.

The rest of the bills deals with another bill we had in here, which was L. D. 2282, and this deals in two parts, one, again, with residential care and it allows associations or groups that want to build a group home, in other words, something bigger than six beds, if they have the money and they feel they can do it, but less than 15, to be licensed under a less restrictive standard as long as the people are ambulatory, in other words, able to take care of themselves, can get out in case of a fire.

At the present time, we have some homes like this that have to be licensed practically as hospitals because of the licensing restrictions that Human Services puts on them now. What we are saying, these will be licensed as a residential dormitory facility, be inspected by the fire marshal and I think this, again, will provide a lot of benefits for the mentally retarded. It will mean reduced costs to the state because it will cost less because the mortgage costs, renovation costs, will be less to the individual building these homes and it will mean they will be able to live with instead of 18 or 20 people to break even, they can break even with 14 or 15 and therefore have a more homelike, less warehouse type atmosphere.

The third problem is those people that are presently in the boarding homes in the state, and some of the boarding homes are less reputable, we have a real problem with the use of the mentally retarded person's personal funds.

All these people that are in these homes that are getting the SSI are getting at least \$25 a month personal spending money. Also, if they are eligible for social security because of their parents or some other reason, they will get \$45 a month, and a lot of this money these people are never seeing. A lot of this money is being commingled with other funds of the mentally retarded people, a lot of it is being used to buy new cars, vans or something for the operators of these boarding homes. What we have done is require, first of all, for every MR that goes in, there will be a plan for the use of his personal funds developed with the after care people or other people of the Bureau of Mental Retardation and this plan will be overseen by the people that are licensing the boarding homes, people from Human Services. Second, it requires all the funds that are expended in behalf of these people to be itemized and that that accounting be checked annually.

This bill is a little bit thicker and a little bit

longer than what I just explained, because what we had to do when we were writing up these bills and trying to place them in Title 22, we had a lot of problems, because Subchapter 5 of Title 22, which is licensing of boarding homes, children homes, drug rehab facilities and all these things was really a scrambled mess and our staff was having a lot of problems trying to put licensing in one subsection and requirements in another and fees in another. So what they did was, working with Human Services, the Attorney General's Office and Dave Silsby's office, they rewrote and reorganized Subchapter 5 of Title 22. There are no substantial changes, they are just changes in terms of referring back to the different sections, and the only changes in the committee amendment are the ones that I explained to you which deal with the two bills that we had.

If there are any questions of anybody, I would be glad to answer them. If not, I would like to move that we accept the report and before I do that, I would just like to explain that these ideas that we developed came from people out in the field generally. Members of our committee have met with people throughout the whole state, from Arrostook County down to York County, from Washington County to Oxford County, and we have talked with the people involved, the people running the boarding and nursing homes, we have talked to the association members that are trying to build the group homes, we have talked to the mentally retarded residents themselves, we have talked to people in Pineland, the after care workers, the social workers, the parents and the friends of these people. We took the problems that they are facing and we have tried to solve some of them.

And as I said, the biggest problem we are facing right now, now that we have special ed in the schools, is what do we do once they turn 20, they are out in the community, we have got to have the residential facilities. We have the payment mechanisms now. We have met with Dave Smith and the people in his department, and we have got assurances and we have worked out the problems with this, that this isn't going to cost any more. We are spending the money already for the people. What we are trying to do is develop the new facilities and these monies will be shifted over.

..If there are any questions, I will try to answer them.

Thereupon, House Amendment "A" to Committee Amendment "A" was adopted.

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

Mrs. BERRY: Mr. Speaker, I would like to know if any change has been made in the conservator end of it and where the conservator takes so much of the patient's money as it is now?

The SPEAKER: The gentleman from Madison, Mrs. Berry, has posed a question through the Chair to anyone who may care to answer.

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

Mr. GOODWIN: Mr. Speaker and Members of the House: No, we didn't deal with that problem. It is a real problem, but it wasn't addressed in the public hearing, first of all, and it wasn't really addressed in the bills we put in. It is a problem we are going to continue working on with our study. We do make reference to guardians and conservators in here when we talk about the mentally retarded, but we don't make any reference, and that may be a problem that the Judiciary Committee is going to have to deal with, because it deals with the assigning of conservators and how much money they are supposed to get out of the estate and things of this nature. But it is a real problem with some of the mentally retarded people, it is a problem with how parents have to — you know, if they want to leave their estate to their children and

there is a guardian for that child already established, it is a problem that we are going to have to get into but we haven't addressed it in this bill.

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

Mrs. BERRY: Mr. Speaker, I have another question I would like to ask. Under Committee Amendment "A", on page 15 under setting up rules and regulations, are these rules and regulations coming back to your committee or to the legislature after they have been set up by the department? Just how is that going to be taken care of?

The SPEAKER: The gentlewoman from Madison, Mrs. Berry, has posed a question through the Chair to the gentleman from South Berwick, Mr. Goodwin, who may answer if he so desires, and the Chair recognizes that gentleman.

Mr. GOOWIN: Mr. Speaker, no, these rules and regulations, page 15, and every other section of this bill other than Section 7904 on page 8 through the end of 7905, and then one other small section dealing with the small boarding homes are all existing law now. We didn't touch or change that at all. On page 15, the rules, the responsibility for day care facilities and rules promulgated exist now. We didn't touch any of that, we just rearranged it so that it all fits in together. We never addressed this in our bills or our public hearings, so all our staff did was just rearrange Subchapter 5 of Title 22 so that it fit in with the bills we were proposing and changed the section so that the licensing sections refer back to their proper section in the fire regulations and that stuff.

What is in here now, what you just mentioned, is already in the existing statutes.

Thereupon, 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 and sent up for concurrence.

The Chair laid before the House the following matter:

Bill "An Act to Revise and Clarify the Freedom of Access Law" (H. P. 2226) (L. D. 2316) — In House, passed to be engrossed as amended by House Amendment "A" (H-1034) "B" (H-1044) and "E" (H-1110) — In Senate, passed to be engrossed as amended by House Amendment "B" and "E" in non-concurrence — which was tabled earlier in the day and later today assigned pending further consideration.

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

Mrs. BOUDREAU: Mr. Speaker, could someone from the Judiciary Committee explain what this does?

Whereupon, on motion of Mrs. Najarian of Portland, retabled pending further consideration and later today assigned.

The Chair laid before the House the following matter:

An Act to Require Nursery Schools to meet Minimum Fire Safety and Health Standards (H. P. 1965) (L. D. 2154) (C. "A" H-1056) (H. "A" H-1075) which was tabled earlier in the day and later today assigned pending passage to be enacted.

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

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

Whereupon, Mr. Goodwin of South Berwick requested a vote on the tabling motion.

The SPEAKER: The pending question is on the motion of the gentleman from Waterville, Mr. Carey, that this matter be tabled pending passage to be enacted and tomorrow assigned.

All in favor of that motion will vote yes; those opposed will vote no.

A vote of the House was taken.

Thereupon, Mrs. Lewis of Auburn requested a roll call vote.

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

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

The SPEAKER: The pending question is on the motion of the gentleman from Waterville, Mr. Carey, that this matter be tabled pending passage to be enacted and tomorrow assigned. All in favor of that motion will vote yes; those opposed will vote no.

ROLL CALL

YEA — Albert, Ault, Bagley, Berry, G.W.; Berry, P. P.; Berube, Blodgett, Bowie, Burns, Byers, Carey, Carroll, Churchill, Connors, Curtis, Dam, DeVane, Doak, Dow, Drigotas, Durgin, Dyer, Fraser, Garsoe, Goodwin, K.; Gould, Gray, Hewes, Hunter, Hutchings, Immonen, Jalbert, Kany, Kelley, Laffin, LaPointe, LeBlanc, Leonard, Lewis, Littlefield, Lizotte, MacLeod, Maxwell, McBreairty, Norris, Perkins, S.; Perkins, T.; Pierce, Shute, Silverman, Snowe, Sprowl, Stubbs, Susi, Teague, Theriault, Torrey, Twitchell, Webber.

NAY — Bachrach, Bennett, Birt, Boudreau, Bustin, Call, Carpenter, Carter, Chonko, Clark, Cooney, Cote, Cox, Curran, P.; Curran, R.; Davies, Dudley, Fenlason, Finemore, Flanagan, Goodwin, H.; Greenlaw, Henderson, Hennessey, Hobbins, Hughes, Ingegneri, Jackson, Jacques, Jensen, Joyce, Kelleher, Kennedy, LaPointe, Laverty, Lewin, Lovell, Lynch, MacEachern, Mahany, Martin, A.; McKernan, McMahon, Mills, Miskavage, Mitchell, Morin, Morton, Mulhern, Nadeau, Najarian, Pearson, Pelosi, Peterson, P.; Peterson, T.; Post, Powell, Raymond, Rideout, Rolde, Rollins, Saunders, Smith, Snow, Spencer, Strout, Talbot, Tarr, Tierney, Tozier, Truman, Tyndale, Usher, Wilfong, Winship.

ABSENT — Connolly, Farley, Farnham, Faucher, Gauthier, Hall, Higgins, Hinds, Kaufman, Lunt, Mackel, Martin, R., Palmer, Peakes, Quinn, Wagner, Walker.

Yes, 58; No, 75; Absent, 17.

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

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

Mr. CAREY: Mr. Speaker, Ladies and Gentlemen of the House: I seem to be a very innocent victim of what is happening here. It seems as though earlier this morning, the gentleman from Portland, Mr. LaPointe, tried to table this while somebody else was doing some work on this matter. I don't even know what this thing does, but Mr. LaPointe was asked to table while two people in this House were trying to do something with this bill. Unfortunately, he had a few words to say before he made his motion, so he was not in a position to table. I got up and tabled for him. I asked to have it tabled again, and since the people I talked to still were working on their problem, I have asked to have it tabled for one legislative day.

Personally, I am getting a little sick and tired of the arrogance that is being shown by some of the chairmen that we have here in that we cannot table matters in this House unless we have the permission of the committee chairmen. The committee chairmen are here, they have one vote, they are like the rest of us in this body. They have no more power than the rest of us in

this body, and if they are unhappy with the way we are doing things, I don't see that one extra day on this particular bill — and I still don't know what it does — I don't see that one extra day is going to be life or death matter.

I would hope, Mr. Speaker, that because there has been intervening debate, maybe another motion could be made.

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

Mr. LEONARD: Mr. Speaker, Ladies and Gentlemen of the House: I would like to extend my appreciation to this body for tabling this matter yesterday. I apologize, I should probably have explained to the body exactly what my problem was. The bill did appear on a supplemental calendar yesterday. I saw it on the Senate calendar and assumed that it wouldn't be before us until today. I had a meeting last night with some nursery school operators trying to work out all of the problems with this particular piece of legislation.

I am not totally convinced that the problems have been worked out at the present time, although one of the crucial problems, I think, has been and I feel that I have a little less objection to the bill as it probably will be passed. Thank you for tabling it. It was my error in not explaining what I was doing, but I felt it would be very difficult to go to the meeting and say, what do you want me to do next year? So I did need that one extra day and I appreciate it.

Just a few things about the bill and the history of the bill. We all know that last year we passed an act to regulate nursery schools, and that is just about the extent of the bill, that is all it said, and we probably all know also that the Department of Human Services came forth and promulgated rules and regulations that completely flabbergasted a goodly portion of the elected body of this House. And with the outcry of the nursery school operators, we had several meetings around the state. I attended two in my area, and they asked that we repeal the rules and regulations.

The committee, upon investigating, found that if we just repealed the licensing procedure, the nursery schools would still come under the Fire Marshal's Office and they would be subject to the life safety code for fire protection, which is the basis of my objection.

I offered an amendment last week on taking the ratio of students from 10 to 1 to no ratio requirement, it is a local matter, local control, and that was rejected, but Mr. Tierney's amendment of 12 to 1 was accepted, and I think that is a little bit better.

But, there are three problems with the bill, at least there is one big problem with the bill and it is on the fire safety code. The committee amendment says that nursery schools that have three to six children in their class will come under what they call the family child day care homes under the life safety code, and that particular section of the life safety code will be applied to those nursery school operators.

Then they go from 7 to 20 children, and they say those nursery schools that have 7 to 20 children will come under the group day care homes. In that section, the life safety code has been enforced.

The third is, any nursery school operators that have over 20 students will come under the child day care centers code under the life safety code, and that, of course, is, frankly, the basis of my objection.

I have just talked to the Fire Marshal's Office. We have had great difficulty getting hold of him, and as I say, he relieves me in one area on the 35 square feet that was going to be required per child, he has now said that that is not true. What he will do is make concessions in that under a child day care center they have sleeping quarters, they have eating quarters and he will take those and subtract them from the

classroom space and he seemed to think the square footage space required for children in the child day care centers was around 20. Whether I agree with that or not, at least it is better than 35.

The problem is that child day care centers are not nursery schools, and here we are in this bill going to enforce child day care center rules and regulations on a nursery school. My feeling, and from what I can find out, the reason the child day care centers' rules and regulations are so stringent, and they are, you should look at them, is because the children continually, in a day's period of time, sleep there, eat there, they are scattered throughout the building and as a result, it probably would be very difficult to manage them, especially if the children were sleeping, it would be very difficult to get them out in case of fire.

In a nursery school, that is not true. It doesn't happen. Therefore, I really don't think that we should be enforcing day care requirements, rules and regulations, on nursery schools, because they really aren't the same.

The Fire Marshal's Office said that he feels concern in this area and he has relieved some of these requirements. The biggest relief I can see in the bill is that instead of in the middle group, the group day care homes, instead of going from 7 to 12 children and using that section from 7 to 12 children, he said from 7 to 20 children, will fall under that particular section. Then, anything over 20 would be child day care. By the life safety code, anything over 12 children would come under the child day care. Well, to me, that is an admission that the rules and regulations definitely aren't applicable to nursery schools right off the bat.

The big concern is the one we argued just the other day is that there is a 1 to 12 ratio of children to student. The life safety code makes absolutely no mention of the child to adult ratio. I have to assume, and no one can rebut me on this, that they are talking in terms of possibly one adult. They are regulating for the worst condition that might exist and then it is up to the local, being us or being the municipalities, to enforce a child to adult ratio that would satisfy our requirements.

The Fire Marshal's Office said, yes, he knew about the one to ten but really didn't take that into consideration when he promulgated or suggested this ratio and suggested these three sections of the law.

I was preparing an amendment and certainly I won't get the chance to offer it because I need two thirds and it won't back up that far, but I think what you are going to find in these rules and regulations, unless there is a considerable amount of discretion used by the Fire Marshal's Office, will not, and I repeat, will not be appropriate to be applied to the nursery schools. I think the committee should, in my own mind, have sat down and written up a set of rules and regulations exactly what would be required of nursery schools to comply with fire safety. I think they should have at that same time taken into consideration this child to adult ratio that they also recommend.

I object to the passage of the bill. I realize that the passage of the bill is probably better than letting the department promulgate what they were going to promulgate, but I think we will be back here next year to straighten out inequities in it and I think that, frankly, there wasn't enough time spent on the bill before its passage.

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

Mrs. POST: Mr. Speaker, Ladies and Gentlemen of the House: I wasn't intending to speak until the last sentence when the comment was made that there wasn't enough time spent on the preparation of the bill. I have to assure

the gentleman that there was a great deal of time involving not only the committee, but the fire marshal came over on at least four different occasions. We had many people involved in nursery school work, both those people who were opposed to the original regulations and those people who were in favor of it. I think of all the bills that were heard before our committee, the most time was spent on this particular bill.

In terms of fire life safety code, what we have done, the fire life safety code, regardless of what the department of Human Services or this legislature does in terms of who can license nursery schools, will say in effect. Right now, nursery schools who are operating are supposed to be inspected under the fire life safety code. All we are doing is relaxing those standards. When we did so, the committee was well aware of the child-staff ratio and what we felt the fire standards had to be if the ten to one or the twelve to one were in effect.

I think the point is, we have a choice before us now. We have a bill before us which licenses nursery schools for fire, health and safety matters only. We had one person appear in testimony who did not think that a nursery school should be licensed for fire, health and safety, even though there were many, many people who appeared in opposition to the regulations that the Department of Human Services have promulgated.

We are not giving the Department of Human Services any power; we are telling them exactly what the regulations are going to be. We have relaxed the fire life safety code to the point where we think it is safe, as does the state fire marshal.

So, the choice we have before us is either passage of this bill or to leave the regulations that are in effect with the Department of Human Services.

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

Mr. FARLEY: Mr. Speaker, Ladies and Gentlemen of the House: I think the gentleman from Woolwich, Mr. Leonard, brought up some very serious problems with this bill here. Frankly I was one who voted against the tabling motion that he tried in this House yesterday. I am sure my views on this bill are quite different from Mr. Leonard's. I just worry or wonder if these rules here, after so many students, that other regulations come into effect, that nursery schools, that is the only one that I am concerned with in the bill, it may become prohibitive for some of the children in nursery schools for those who can't afford to go to nursery school. I have my doubts and I think Mr. Leonard has brought up some good questions here.

If we are going to say one to twelve and actually we mean one to seven, then I think that is something else. After so many students, we get into a different fire standard or safety standards which, again, makes the cost prohibitive for some of the poorer children, and I think we ought to make some changes here to make it acceptable so it wouldn't be prohibitive for these certain children.

We can't postpone the bill. The problem is, if we don't have this bill, the present laws on the books now go into effect which I think are probably worse than what we have in this bill.

I have some very serious questions that I would like to ask members of the committee in regard to some of the remarks that Mr. Leonard has made. If these questions aren't answered on the floor of the House this morning, then I would move that somebody table this for a longer period of time, two days or something.

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

Mr. GOODWIN: Mr. Speaker, Men and Women of the House: First of all, let me apologize to the committee chairman for trying to

steer a unanimous committee report through this House. I didn't realize that so many people objected to someone doing that.

In terms of the bill, Representative Post was right. We have worked on this bill probably two or three days a week in our committee since we got it. We had the fire marshal over many times, we met with people, we had the most diverse opinions in terms of what they wanted to do on that committee.

What we worked out was, first of all, under the life safety code which has been adopted by this state, for a one to seven children, if we went under these rules from one to seven, we would have the very minimal fire safety codes. From seven to twelve, you have a medium, and from twelve on, you have the maximum. What we were saying is, we felt we would be safe with the minimum from one to twenty. Once you get over 20 kids, ages two and a half, three, four five and six, we felt as a committee that you should have a little bit more stringent fire safety regulations in any building that you are going to be operating a nursery home in, and that is what we are saying. We are not trying to put anybody out of business. I feel that we have bent over backwards so that we don't do that.

I am a little scared passing these myself. I am a little worried, but I am hoping that the people of Maine have enough common sense that they will run their programs safely.

If you want to allow 30 or 40 kids in a building, in a room no bigger than a Clerk's office, then you can support what Mr. Leonard is trying to do. All we are saying is that once you get up to 20 kids, you have got to meet a few additional fire safety regulations. We are also saying, but that is not enough, what we are saying is, if your town wants to adopt these regulations then they can and your local fire chief can inspect this and can pass on it, and he can make additional concessions if he wants.

I guess it is a little frustrating when you spend all the time that we did and hassle over this, bring in the people that we did, work out the compromises that we did and then to say that we didn't spend enough time on it. I think that anybody that works on a committee that has spent a lot of time on a bill knows what that feeling is like. Again, I apologize for trying to steer this through. I mean, it was only a unanimous report.

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

Mr. LEONARD: Mr. Speaker, Ladies and Gentlemen of the House: I want to assure the gentleman from Biddeford that that is truly my concern, if we continue to regulate and require, then my concern is that if we require unreasonable requirements of nursery schools or what have you, that we will eventually make it restrictive or prohibitive for people to send their children who might very well be in dire need of that exposure.

I thought that many times that probably if I introduced a resolution or a motion or whatever, I would like to have the red herring adopted as the state fish, because everybody seems to drag one through whenever somebody speaks on something that is either for or against. I am not in favor of putting my child, who goes to a nursery school, where there are 25 children who, quite frankly, would not comply with this piece of legislation and I looked into before I sent my child there. I am not in favor of putting that particular nursery school out of business nor many others that I know of in the same category. I am not in favor of putting everybody in the cloak room in the Clerk's office.

I just want everything, when we pass it, to be reasonable so that this body or this state can function to the maximum advantage of this state population, the residents of this state. I am concerned that maybe we are not doing it

here. I realize it is a futile attempt on my part at this point to try to change that or reverse that trend. I stand here and say that I hope that the fire marshal uses a supreme amount, or considerable amount, of discretion. Quite frankly, I have great fear that we will be back here next year to change this again. I am not in favor of cloak-room nursery school.

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

Mr. LOVELL: Mr. Speaker, Ladies and Gentlemen of the House: I would just like to say, as a member of the Committee on Health and Institutions, this bill got a very complete study. For the nursery children, two and a half to six, definite rules and regulations need to be made. I think that we have made them just as lenient as possible. The minimum standards from the fire commissioner, the standards on just one test on drinking water to make sure if it isn't city water it is out of a well and they carry minimum liability insurance in case of accidents, I think this is a good bill and we studied hard on this bill and I hope you will vote to pass this bill.

The SPEAKER: The pending question is on passage to be enacted. All those in favor of passage to be enacted will vote yes; those opposed will vote no.

A vote of the House was taken.

96 having voted in the affirmative and 5 having voted in the negative, the motion did prevail.

The Bill was signed by the Speaker and sent to the Senate.

The Chair laid before the House the following matter:

House Divided Report — Majority (10) "Leave to Withdraw" — Minority (3) "Ought to Pass" as Amended by Committee Amendment "A" (H-1120) — Committee on Agriculture on Bill, "An Act Concerning the Establishment of Minimum Prices of the Maine Milk Commission" (H. P. 1942) (L. D. 2129) which was tabled earlier in the day and later today assigned, pending the motion of Mr. Mahany of Easton to accept the Majority "Leave to Withdraw" Report.

Mr. Kelleher of Bangor requested a vote on acceptance of the "Leave to Withdraw" Report.

The SPEAKER: The pending question is on the motion of the gentleman from Easton, Mr. Mahany, that the Majority "Leave to Withdraw" Report be accepted. All in favor of that motion will vote yes; those opposed will vote no.

A vote of the House was taken.

Whereupon, Mr. Kelleher of Bangor requested a roll call vote.

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

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

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

Mr. LAPOINTE: Mr. Speaker, Ladies and Gentlemen of the House: This afternoon I would ask you not to accept the leave to withdraw report on this very, very important bill. I would ask you to vote no on the pending motion so that this House would have an opportunity to vote on Committee Amendment "A" which would essentially and very simply, once and for all, send the issue of the retail and wholesale price setting functions of the Maine Milk Commission to a public referendum in the upcoming fall general election.

I think the issue is a simple one. I think that a lot of people in the State of Maine, particularly in the southern part of the state which is the most densely populated part of the state, would like to have an opportunity to vote on this question. So I would implore you this morning not to accept the leave to withdraw motion and I would ask you to accept Committee Amendment "A" which would, in fact, once and for all, send this issue to the people.

There is not an issue that has more residual effect in terms of "what are we going to do about the Milk Commission" type questions when I talk to my people. I think that the measure that we have before us this afternoon is going to provide those people, those consumers who aren't here in these halls today, an opportunity to vote on this very important question. That is the simple issue. So I ask you again, I implore you, those people that I have talked to, do not cave in, do not accept the leave to withdraw motion and I ask you to go along with Committee Amendment "A".

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

Mr. KELLEHER: Mr. Speaker, Ladies and Gentlemen of the House: I urge this House, too, to vote against the leave to withdraw report and just not to regionalize where the milk issue is in southern Maine. We in Central Maine or in North Central Maine, in Bangor, are concerned about it ourselves, and we would like to have an opportunity to vote on it. This is not a regional issue for down in southern Maine. I think it embroils the whole state. I don't want my good friend from Portland to mislead anyone to think this is aimed directly towards the southern part of this state. There are other areas above the Kennebec River, believe it or not, and I would like to have this House know that there is a great general feeling in the Bangor area and in Penobscot County, for that matter, to have an opportunity to vote on this issue equally as well.

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

Mr. MORTON: Mr. Speaker, Ladies and Gentlemen of the House: I am amazed at the vehemence with which a leave to withdraw report is being debated here in the House this morning. Usually leave to withdraw requests are given the courtesy of committee approval. But be that as it may, we have an issue and I think we should discuss it.

Now, I hope you all remember that the Maine Milk Commission is presently composed of non-members of the milk industry, so it can no longer be accused of any partisan leaning in its decisions. We have a commission which is controlling the milk industry now which does not belong to the industry, it represents all the people.

The opponents to this leave to withdraw committee report claim that they don't want to do away with the commission. Ladies and gentlemen, I hope you realize that it is well established that soon after the authority to set retail and wholesale prices is lost in other states, that their milk commissions have become effective in holding producer price levels, because there is no longer any recognition of the cost of processing, and the delicate balance between large volume outfits versus the small ones. Small and medium sized processors are freed out because it is an industry which lends itself to the volume concept, the idea that economy of scale can be appropriate.

Now, it is most significant as you consider this that you be informed that the vast majority of the milk industry in the State of Maine is in favor of the leave to withdraw report, and you would imagine, from the exhortations you heard this morning, that there is a tremendous outcry from the people to bring this to a referendum. Well, I haven't heard it. Has anybody called you up? But, who is in the cor-

ridor out here lobbying against the majority committee report? Two, or at least one, large milk conglomerate from out of the State of Maine — Cumberland Farms. I talked to one of the lobbyists this morning, and I understand that the great Hood Company is also in favor of this. Why are these big conglomerates in favor of doing away with this control? Simply because they are big, because they will be enabled to squeeze out Maine processors. If you squeeze out Maine processors, you will eliminate the market for the products of Maine producers. These Maine producers will then have to sell on the Boston market, and as testimony in many hearings and as testimony on the floor of this House, that price has consistently been lower.

So, that is what you are talking about, ladies and gentlemen, the real destruction of the milk industry in the State of Maine. We will still have some producers who are producing milk but they won't get as much money for it. We won't have very many processors, because they will be squeezed out of business.

So I think that the leave to withdraw report this morning should have your support and that you should not support the lobbying efforts of two large milk conglomerates that are attempting to get this bill back before you.

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

Mr. GAUTHIER: Mr. Speaker, Ladies and Gentlemen of the House: I agree with Mr. Morton. I don't want the big processors from out of state coming in here and knock out our small industry in the milk business, I think we need them badly. Last weekend, I happened to talk with one of our biggest milk processors in York County and he told me that if we are in this situation at the present time, we can thank the present Milk Commission that we have.

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

Mr. KELLEHER: Mr. Speaker, Ladies and Gentlemen of the House: The remarks that the gentleman from Sanford just made, I might remind him that Mr. LaPointe and I — the bill that was passed, we told this House that it wasn't the answer to everything. I didn't vote for the bill in the last session — I might ask the gentleman how he voted?

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

Mr. WAGNER: Mr. Speaker and Members of the House: I listened with interest to the gentleman from Farmington present his very persuasive arguments in support of the present system. I have listened to those arguments before. I listened to the Farm Bureau, at a meeting in East Corinth last year, express their concerns about these small farmers; small dairy farmer competing, if we were to lose the Milk Commission the fears for a federal order coming in and allow turmoil attendant to it.

I am concerned about preserving the small family farm in the State of Maine. I am concerned enough that I have communicated with the Province of Quebec. I have some correspondence from them in both French and English dealing with their approach to this problem, which is similar to the approach that some of the other Canadian Provinces have taken, which is to recognize that the small family farm has an economic problem and they have taken a conscious step to subsidize family farms through funding mechanisms such as we extend to small businesses in this country and the state to direct hundredweight subsidies to milk, I think, in the case of Quebec and I think that is really what we should be addressing here, whether we consider it is in society's interest, in the interest of the State of Maine to preserve a way of life and to preserve the ability for the small farmer to survive. I think that is what we have been doing with the Maine Milk Commission, is kind of an invisible subsidy

here to the Maine farmer. I am not saying that is bad.

I am going to vote against the leave to withdraw report and to put this out to referendum with the hope that a dialogue will develop on this central question, which is the question of what is the future of the small farmer in Maine and what should the state's role be in supporting that? I hope that the dairy industry will use this referendum as a forum to bring that forward and to present this view. I don't think this should be an urban versus rural question, I think it is a question of what is good for the State of Maine.

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

Mr. GAUTHIER: Mr. Speaker, Ladies and Gentlemen of the House: I think Mr. Kelleher kind of misunderstood me. What I was trying to say was that this man was not in favor of the Milk Commission. I think you misunderstood me, sir. If it is going to help these big producers in York County or your county, I think it is going to help our own people. I think the commission — and this is what the gentleman was telling me — that the commission itself was killing the industry. I am going to vote to send it out to referendum. I think, Mr. Kelleher, my dear friend from Bangor, that you misunderstood me.

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

Mr. HENDERSON: Mr. Speaker, Ladies and Gentlemen of the House: I have been one who has heard an outcry, as some people haven't heard it, about what people feel about the Maine Milk Commission. Now, whether they are or are not informed about it, it seems that could be done through the educational process of the referendum. But about several weeks ago, I distributed a questionnaire to my constituents, the respondents were selected as randomly as I could imagine from the telephone book. The responses that I got back, there were about 35 returned, and one of the questions read this way — what changes do you prefer, if any, in the role of the Maine Milk Commission which set the minimum price we pay for milk? A, abolish it; B, make it lower milk prices; or C, let it continue to set whatever prices it feels fair. The response to that was that 77 percent of the people who responded said abolish it outright, another 12 or 13 percent said make it lower the prices, and less than 10 percent said let it continue to set whatever prices it feels fair. That response was really framed to say, look, leave it up to their good judgment to do what is right.

It seems to me it is clear that overwhelmingly, even if this is not terribly representative, when you get 90 percent of the people who are opposed to the commission as it is right now, I think that is at least a justification for trying to confirm whether this is widespread by sending it out to the people and letting them express their opinion after the interests on both sides try to argue their case before them.

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

Mr. CARPENTER: Mr. Speaker, Ladies and Gentlemen of the House: The first thing I would like to do is comment on the questionnaire sent out by the gentleman from Bangor, Mr. Henderson. I would like the questions on the questionnaire to one that I might send out to my constituents saying, would you like to pay less taxes next year?

I mentioned yesterday that this issue of the Maine Milk Commission and the abolition of the commission's price fixing powers, or whatever it is, is a very emotional issue. It is every bit as emotional for me as it is for some of the previous speakers. I think I will try to deal with it objectively.

I had distributed this morning a table showing comparative prices of milk in a store in various areas of the country, 27 cities, 27 areas, and I

would ask you to take a very hard look at that, because that is the bottom line of the whole question. That is a question that very rarely gets dealt with when we walk about the Milk Commission, but there it is, that is the bottom line. What is Mr. and Mrs. Consumer paying in the store for a gallon or half gallon of milk?

My point is, and I stood on the floor of this House and said, if you abolish the Maine Milk Commission on this floor, probably the price of milk in the store is going to drop, but what is it going to be in five years? I have seen some statistics and I was not able to get them prepared for today, but I don't think I have to have them passed out to have you understand what I am talking about. You stop and think about what a half gallon of milk cost you ten years ago, and then you stop and think, how much has labor costs increased? How much has the cost of grain and other food supplements for cattle increased? How much has the cost of stainless steel increased? How much has the cost of a cow increased? I would say, proportionately, all of these and many that I have not mentioned, have increased much more dramatically than the cost of a half gallon of milk in your local supermarkets.

I know a little bit about what I am talking about when it comes to dairy cows. I have seen relatives of mine, close relatives of mine, work many, many years and believe me, it is not an easy business, and I don't know of a dairy farmer in the state that is getting rich. They are barely getting by.

You talk about we are not asking the abolition of the Milk Commission, all we are asking to do is to abolish their retail and wholesale price setting powers. Well, what are you really talking about, folks? Let's not deceive ourselves. We are talking about an indirect method to accomplish something that has not been able to be accomplished directly several times since I have been here in my short two years.

We have a new commission. We had a lot of emotional debate when the price of milk was upped dramatically recently. The chairman of the commission wasn't even in the State of Maine at this time.

We have a new Commissioner of Agriculture who is trying very hard, not a dairy farmer, he is interested in protecting not only the agriculture industry but also the consumers in the State of Maine.

We have a large non-Maine dairy concern who admittedly cannot handle more than 20 to 30 percent of the need of the people of Maine, not more than that percentage of the milk needs of the State of Maine could be handled by these people, the ones out there lobbying against the leave to withdraw report, and I guess I would also have to get back to a little bit of the parliamentary procedure or the courtesy aspect of this. I have seen many, many bills go out of this House, and I know you have, that the sponsor, for one reason or another, has asked permission to withdraw, many bills that I would like to have kept in, and this is one of the very, very few that I can remember being handled in this way. If the gentlemen on the other side of the fence from me on this particular issue felt so strongly about this issue, I would simply ask them, why didn't they have a bill in? I realize under the rules that no bill that was defeated in the last session — I am sure, looking over the bills that I have in front of me, there is some way that if it was this hot an item with them or with their constituents, I am sure they could have found out, rather than to take the gentleman from Poland's bill and amend it.

I would simply ask you to accept the leave to withdraw report.

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

Mr. BERRY: Mr. Speaker, Ladies and Gentlemen of the House: I think there have been a couple of questions that were raised that

should be answered, and I hope to do that. I considered saying a few things about the report and then I thought, why hang the committee's laundry out in front of the House, and decided against that. But since the remarks of the good gentleman from Houlton, I think I am going to have to explain at least some of the things that did happen in committee on this particular bill.

He asked the question, why didn't somebody put in a bill to that effect? I think you remember that Representative Cooney had an order before us not too long ago and the order was defeated. But while that order was before this body, I would like to just quote from the legislative record some remarks made by Representative McKernan. "There is a bill now in which deals with the prices of milk and I think it would probably be germane to amend that bill in order to deal with the question of resale prices that dairies are getting. For that reason, I also hope that you would not vote to pass this order." Okay, that is in this body.

There were also remarks made at the other end of the corridor, and I will quote from the legislative record again. "There is going to be a public hearing scheduled for tomorrow before the Committee on Agriculture. They have the issue before them. The vehicle is in the legislature." I hope, Mr. Carpenter, that that answers your question as to why another bill was not sponsored.

Let's get to the leave to withdraw report. Personally, in the six years I have been here, I have never seen a report come out in this fashion. As you know, when a committee turns out a leave to withdraw report, they generally do that un-animously. If it can't come out that way, it generally comes out as a divided report with an "ought to pass" and an "ought not to pass." This is the first time that I have ever seen a majority "leave to withdraw" report. Whether that is right or whether it is wrong, I am not concerned with. What I am concerned with is the few of the things that happened in the committee that brought this report out in this fashion.

I am going to take you back a few months into the fall when the Agriculture Committee was holding a study session on a bill totally unrelated to the subject before us today. At that particular time, we were under some pressure to turn out the study report — we had several — to turn out that particular study report. The legislative aides were asking that we proceed a little faster if possible. However, a couple of people from Yankee Milk came in and the study stopped right there, and we discussed two or three other measures that were pulled out of these people's pockets that were not even in bill form, just notes written down, and this went on for two hours. I objected to the committee chairman about this to no avail, and when these people left the room, one of the committee members objected along with me and, as a matter of fact, if I recall correctly, the committee even voted whether or not to accept this subject matter that these two people had brought in totally unrelated to the study, and through some more objections, finally the committee decided that, no, this might not be the proper way to go.

I tell you these things simply because I want you to know and to understand that there are these individuals who run around under the guise of protecting the small Maine farmer, which is absolutely a guise, you know who they are protecting just as well as I do. It is that guy in the middle. But these people have sufficient clout with the chairman of the committee so that they can come in and do just about as they please at any time that they want to.

This bill, originally, didn't come out with a majority "leave to withdraw" report. It came out with a divided report, the same as any other piece of legislation. Then it was thought that maybe a leave to withdraw report, with the majority signing it, would have a little more sym-

pathy on the body because people could get up and say, somebody didn't grant me the courtesy of letting me withdraw my bill. Well, that is all right, if you want to buy that. As a matter of fact, I was the one that refused to turn out the leave to withdraw report, and I am not ashamed of that. I was told by two leaders in the legislature that we did have a vehicle, and having been told that, I wasn't about to watch the vehicle disappear out the door through an act of courtesy.

The committee chairman in the other body asked me if I would grant leave to withdraw, and I said, no sir, I am sorry, I will not. I was told I had to, and I said, no, I don't think I do have to. I explained to him that when a bill goes into the legislative hopper, and I am sure he was aware of this, if he isn't, why he hasn't learned much in the length of time he has been here, but I explained to him anyway that once that bill went into that hopper, one-eightieth of that thing belongs to every one of you, just the same as it did me, and I wasn't giving up my right to that one-eightieth and I did not.

I hope, Mr. Carpenter, that explains those questions that you raised earlier.

Now, to get on with the bill. Mr. Morton apparently has drawn some conclusions about what will happen to this bill if it does go out to referendum. Well, I don't know what will happen. I have no idea what the people will elect to do if confronted with the question. I suspect they will do what they think is best, and I suspect that there are enough small farmers in every community in Maine that will be heard from and will have input with their friends and neighbors and if they are successful in convincing the people that this retail price setting power of the Maine Milk Commission should be retained, then it will be. But we have been battling this issue for as long as I have been here and a good many years before that, in fact, about 40 years now, and I would like anybody who signed the leave to withdraw report to tell me, in these 40 years, have we significantly helped the Maine farmer by having price control? I don't think so.

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

Mr. LOVELL: Mr. Speaker and Members of the House: I might say a few words on this bill. I had a bill in the last session of the legislature which was before the Business Committee which I asked leave to withdraw and they wouldn't give it to me. I asked leave to withdraw on the floor of the House and they wouldn't give it to me and the bill passed. So, consequently, I want to bring to you folks mind that we have now passed the 4 billion mark in the population of the world last night, and one of the staples in that diet is milk.

I attended a meeting in Alfred with 19 dairy farmers, and the Sanford Dairy, which is the dairy where these 19 dairy farmers take their milk at that lower price, was losing \$8,000 a month and was going to have to go out of business. The 19 dairies, if they send their milk to Massachusetts, the Yankee milk was going to lose so much on the price, they would be out of business, those 19 dairymen, in a short time.

A good friend of mine, Robert Senesac who ran for the Senate two years ago, he is out of business now. He was all for the Milk Commission, but he is out of business. He was all for abolishing the commission, but he is out of business, he couldn't get money enough for his milk to support his cows. Now he has sold his cows and he is working for the state and government. That is what is going to happen to the dairy farmers.

We need milk in Maine and if the dairy farmer doesn't get a decent, fair price, you're going to lose your dairy farmers. Oakhurst Dairy is losing money. Grants Dairy in Bangor is losing money. They definitely have come out and said so. In my opinion, if you put this bill to

referendum, there is nobody who isn't going to vote for lower price. I know. I have been in business for many years, and people will vote for the lowest possible price regardless of how many people it puts out of business because they want to get things for just as low price as possible. I think the leave to withdraw should be allowed on this bill.

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

Mr. BURNS: Mr. Speaker, Ladies and Gentlemen of the House: Believe it or not, I still have some questions in my mind regarding the milk.

As I understand it right now, the price is controlled by the Milk Commission, that price that is paid to the farmer or the producer. It is also controlled as to what price is paid to the dairy or the processor, and it is also controlled at the store level, or retail level.

In the stores that I have been in, they usually have been selling milk at the exact price indicated by the commission, thereby indicating to me that they are making a profit on their milk or they would be at a higher price. It does not stop them from going up higher.

Unless you can explain to me differently, I cannot see why we cannot let the customers, consumers of Maine, buy milk at a lower price. This may not be true to the entire state, but at least in part of it.

Also, my understanding is of this bill, the only control that we would be removing would be the retail or store price. The farmer would be controlled and the dairy could be controlled.

I am also wondering, if this should go to referendum, maybe we had better put in the amendment to prevent any political message being printed on the milk cartons.

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

Mr. JALBERT: Mr. Speaker and Members of the House: You know, I have never been so confused since I have been here on an issue.

Now, being lobbied doesn't bother me any one way or another. I have been lobbied both ways, lobbied this morning, right now. I don't have any objection to this stuff. There is nothing wrong with that, but by the same token, I had one good milk dealer at home that came to my house. He hires 22 people and he is a thoroughly honest milk dealer, and he talked to me at length about this thing and he told me he was about ready to be swallowed. I have been hearing the arguments of people that I have a lot of faith in both ways. Now I voluntarily, and I find myself in a position — I have been told time and again this bill is going out to referendum, it is all right with me, and I think, if I remember correctly, I told somebody that I would go for that, but I never was told that there was a leave to withdraw report, and I would like to tell the gentleman from Buxton, Mr. Berry, that our rules allow this. It could be 9 or 10 or 11 or 12 to 1, it allows this. It doesn't happen very often, but it allows this, and I am not particularly influenced by the remarks that might concern my very good friend, the assistant floor leader from Bangor, Mr. McKernan, I don't think he is related to Mr. Mason, I don't think he is related to Mr. Reed, I am.

But in this instance here, as foolish as it might sound, I also have gone along on the basis that I would go with the leave to withdraw report, so it puts me in a position, I guess, of voting for the leave to withdraw report and if the amendment is germane and that is submitted, then I will vote for the referendum, and I guess, probably, to keep myself out of trouble and because I don't know where I am anyway, that is what I am going to do.

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

Mr. NADEAU: Mr. Speaker, Ladies and Gentlemen of the House: Representative Jalbert has spoken about being mixed up. Well,

Representative Lovell brought up the name of Robert Senesac who happens to be one of my constituents. He ran for the Senate two years ago. You will notice, about a month ago there was a picture on the front page of the Portland Press Herald of Mr. Senesac putting his cows and selling them. Well, my brother worked for Bob Senesac for two years and he was out of a job. I will tell you one thing, I talked extensively to Bob Senesac, and he wants to do away with the retail price setting levels and he wanted to do away with the Maine Milk Commission, and he was the biggest dairy farmer in my area. So how do you think I feel?

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

Mr. GAUTHIER: Mr. Speaker and Members of the House: I would like to say to my very dear friend Mr. Lovell that I agree in part with him, but also, ladies and gentlemen, we had one dairyman, previous to Mr. Senesac, when you had the strongest Milk Commission, who worked as hard on Mr. Senesac's farm to make a go of it, the Carpenter brothers, I have never seen men work any harder. They were working pretty near 24 hours a day. They were two brothers and they did everything they could to make a go of it before Mr. Senesac bought the farm, and they couldn't make a go of it, they lost everything they had.

But one thing that I am confused with is the same as Mr. Jalbert, because I go to New Hampshire and I don't go to Cumberland Farms, I go to the Roy Brothers, who are dealers, processors, whatever you call them, and they are on the line of Maine and New Hampshire. It is only about 10 or 20 miles from home, and I can come back with a gallon of milk at \$1.45. But when I go to one of my stores in Sanford, the grocery stores, one of them, I don't think he probably follows the commission, but I paid \$1.92 the last time. So I think the people of Maine are asking themselves, why can New Hampshire, 12 miles away, sell it for \$1.45, and not Cumberland Farms, one of the Maine processors, and I paid \$1.92 in Sanford for the same thing.

The SPEAKER: The Chair recognizes the gentleman from Poland, Mr. Torrey.

Mr. TORREY: Mr. Speaker, Ladies and Gentlemen of the House: We have gone around this issue a long way and I don't know as I can answer all the questions, but I will attempt to answer some.

I certainly appreciate the good gentleman from Farmington, Mr. Morton, because his statement very clearly and correctly concerned and defined the issue. He is right on target.

In regard to the gentleman from Orono, Mr. Wagner, and about the subsidy problem, certainly, as I understand it, that is the way the Province of Quebec and maybe other Canadian Provinces are doing it to keep the small family farm in operation or perhaps keep a lot of farms in operation to provide the necessary food that the people there need and the people all over this world in some form or other may need.

As I see it, this may be a question, do we want to keep on with controls and try to keep some regulations, especially in this milk industry, to assure that there will be an abundant supply of good, pure, wholesome milk available at a reasonable price? If you feel that we should have that at a lower price, then perhaps we should be thinking about other food products too, bread, potatoes, apples, anything that the consumer and the family has to buy, if their income is insufficient to take care of the grocery needs, possibly all of agriculture may need to be subsidized.

I can assure you, I won't live to see it, but there are some youngsters, perhaps these Pages here in the front row, will live to see it, that in this nation of the United States, there will be a magnanimous subsidy program, because one of the biggest problems that this nation and the

world is going to face is to have enough food to eat.

I will leave it right there. I don't think that the State of Maine is ready to subsidize any industries, but that is a question for the future.

The good gentleman from Bangor, Mr. Henderson, brought up the fact that he had sent a questionnaire to some of his constituents. I agree with the good gentleman from Houlton, Representative Carpenter, the questions might have been loaded or slanted, and certainly when people are asked their opinion on a price, they are going to go for the lower figure.

I was interested that the good gentleman from Bangor, Mr. Henderson, as a councilman in the City of Bangor, introduced to that city body a proposal to hold hearings in the local area to see if that market area could be deregulated in regards to milk pricing. As the paper reported that I clipped out from the Bangor Daily News, later on said and I will quote, "Councilman Henderson's other proposal to hold hearings on milk prices in the Bangor area also ran into stormy weather and it gained only the support of Councilor Finnegan before it was defeated by the Council." Then it goes on to say that the proposal would have made it possible to have hearings and if the people in that area felt that that was what they wanted, they could petition the Maine Milk Commission and hearings could be held — that is in the law, the regulations, and they could be decontrolled. They could have the free enterprise system on milk prices.

I certainly cannot compete with the eloquence of the good gentleman from Buxton, Representative Berry. He stated quite fairly some of the events that happened in our Agriculture Committee. We did have that situation in a December work meeting where this milk pricing situation was brought up and it was brought up because after the first order that was issued by the newly organized Milk Commission came into effect, it was challenged by the court in Cumberland County. The courts and the lawyers, and the judge that made the decision, ruled that the Milk Commission had not adequately or perhaps intelligently made their decisions and certain words or phrases in the law were not perhaps complied with.

It was the sincere intent of the dairy interests that the bill, law, that we passed in the regular session, clearly had the intent to cover those areas, such as a pass through to the farmer or producer price when the price of milk went up without a hearing, also to cover other areas in regard to dealer costs. It was because of that concern that they felt that the courts weren't interpreting the true intent of the bill and of the Agriculture Committee and of this legislature, of course, that they wanted to see if there was anything they could do about it or get the opinion of the Agriculture Committee. That subsequently led to a proposal, a bill, that was drawn up by the dairy interests. I agreed to submit it and it was a feeling that the bill would clarify the changes made in the milk control act passed in the regular session and it was necessary to have the legislature have it as a vehicle before this special session if subsequent court decisions were not really clear enough to state that they were going along with the intent of the legislation.

Since further court hearings and actions and decisions have been made, it is agreed by dairy farmers, dairy dealers, all farm organizations, and so forth, that this bill is no longer necessary to be before us. With that background, at our final work session of the Agriculture Committee, I requested a leave to withdraw.

If I could just say a word about the question, has milk control, the Milk Commission, helped Maine farmers? Unequivocally, yes, there is no doubt about it. Certainly there are farmers that have gone by the board, sometimes conditions

beyond their control, perhaps illness, severe accident in the family, perhaps catastrophes like fires, perhaps the fact that they are financially unbalanced, they had a great debt load and as the inflation factor increased and the cost of all items purchased increased way beyond the prices received for their milk or any other agricultural products, they were hard pressed to meet their financial obligations, all the necessary expenses and to have an ordinary, or hopefully a decent family living.

So certainly this commission has helped Maine farmers. If we hadn't had it, there would be far less Maine dairy farmers and perhaps that is what we feel they need. But I think the big intent of having the Milk Commission and its controlling power is to look down the road, perhaps further than I can see, but somebody is seeing it, that if we are going to do things for the good of the entire State of Maine and preserve a good, economic base which this dairy industry does provide, certainly we need to give them all the support and protection that is feasible.

If I haven't forgotten, I think there was the gentleman from Anson, Mr. Burns, who asked about the difference in store prices. In this last stormy session of milk prices this last winter when the Milk Commission reversed their legal price up and down, there were many dealers that were really hard pressed, and in certain instances, dealers did attempt and did price their half gallon or gallon of milk in a store, in a market, higher than the minimum price. That was fine if their product was the only milk product that was in that dairy case. But in the large supermarkets where there could be three, maybe five different dealers that had milk in those cases and it was priced, certainly the customer going down that line, no matter if they were looking for the product from the dairy they usually bought from, if that price was two, three or four cents more for a half gallon or a gallon, they bypassed it. Customers are very price-wise and it is well that they should be, so that dairy dealer who had his milk price above the average price, his milk stayed right there.

I have had dealers tell me that storekeepers told them that after a couple days of higher priced milk in their stores, if they couldn't compete with the other dealers, they didn't want their business any more, not to bring any more milk in. So that is the problem, that there was competition right on the dairy shelves.

As I said, if there was just one dairy product there, certainly they could put their price to whatever they saw fit and in many of the outlying markets, smaller stores, they did that, they had to do it, and there was no opposition.

I am certainly opposed to this revised bill, this minority committee report. The Statement of Fact is very admirable. They say they want to preserve milk price controls to protect Maine farmers and they want to help and they want to remove wholesale and retail price controls to provide consumers more prices. That is wonderful if we could do it on all things, but knowledgeable dairy farmers, dealers, farmers organization representatives, economists and agricultural interests from the University of Maine or wherever, unequivocally state that abolishing the retail price fixing mechanism is certainly just a step to abolish the whole commission. If you folks read this milk story which was printed by the Maine Dairy Council, their information is all valid, they got most of the information from the Department of Agriculture, the Maine Milk Commission findings and facts, it gives a complete story in here. I would just like to read a couple lines where it says about removal of Maine retail price controls. It says, "Disastrous price cutting could start among dealers with a few large dealers easing out of business the large segment of smaller Maine

dealers, resulting in a monopoly of one or two large dealers."

Certainly that is what is going to happen. Why are these two large multi-state dealers out here in the halls last week and possibly today with their hired lobbyists and their lobbyists trying to promote this minority report? That is what they want. They want to squeeze out all the small dealers. They want to control the milk in the metropolitan areas. They are not concerned about the milk supply in Buxton or Stow or up in Danforth, perhaps Eastport, they just want to control the milk right up through the Maine Turnpike and all the metropolitan areas nearby.

So, that is going to be the disastrous effect. All these small dealers are going to be squeezed out. The farmers that they buy milk from, they are going to be squeezed out, many of these farmers don't have an opportunity to get on another market, so they are going to be in trouble.

I think I have said enough, but I implore you to support the leave to withdraw motion.

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

Mr. HENDERSON: Mr. Speaker and Members of the House: I would just like to make a few rebuttal comments to the gentleman from Poland, Mr. Torrey. With respect to the Bangor City Council's decision, I would point out that, number one, the issue was very similar to what we have before us, which was merely, in that case, to hold a hearing to let the people express themselves on the issue, and once the information was acquired, the council would then maybe do something else. It was interesting that it didn't even want to go through the process of hearing what the local people wanted to say, which I think is the issue before us here.

Secondly, another argument used, by the way, was that the legislature had before it the opportunity to deal with this problem and that was another reason why the municipality felt that it wasn't proper but rather that it was proper that the legislature deal with this situation.

With respect to the little questionnaire, which is really only a minor item in all this, I would point out again that one of the options that I suggested was that people could choose to make the Milk Commission lower milk prices. That was one of the things that they could have chosen, that is not one of the things that they generally chose. They preferred the option of abolition, which is risky. That means the prices may go down, they may go up, they may reflect the market. What I am trying to say is, I don't think that was an irresponsible response to this questionnaire. They didn't just say lower milk prices, they said, in effect, let the free market deal with that.

Finally, I do agree with my seatmate with respect to subsidies and other help for small farms or farming in this state. I do feel that we have taken one action with respect to the agricultural land and the real estate property tax. We have tried to grant some relief in that direction, and I do think there are other ways to do it, but I do suggest that we take that as an up-front public policy decision rather than as a hidden subsidy.

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

Mr. BAGLEY: Mr. Speaker and Members of the House: I think everything has been said except one, as I have been listening here, and that one factor is, we have a process called a federal marketing order. As long as the state commission is doing the job, the federal government doesn't interfere. Just as soon as we do anything about this state commission, we are likely to be under a federal marketing order. If you will run down through this price list we just got here and compare the prices in New York, Philadelphia and the east market in Virginia,

you will see what happens when you are under a federal marketing order.

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

Mr. GOULD: Mr. Speaker, Ladies and Gentlemen of the House: It seems as though this bill has been milked a great deal and I certainly hope you are ready for this. I think it could become an 'udder' failure. I don't believe, by any means of the imagination, that the outcome is in the bag. With that thought in mind, I would like to say that if the cows knew what was going on here today, they would go on strike and we would have sour milk.

I think the best thing to do is to vote the leave to withdraw and make the cows contented once again.

The SPEAKER: The Chair recognizes the gentleman from Island Falls, Mr. Walker.

Mr. WALKER: Mr. Speaker and Members of the House: With all this milking going on around here, I thought I would get in my ten cents worth. I am a former dairy farmer, but I found out it wasn't worthwhile. I have seen dairy farmers in my area shrink at least 50 percent in numbers. We have a gentleman now who is traveling the country trying to find new industries for our state while the legislature is trying to scuttle one we already have, the milk industry.

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

Mr. BERRY: Mr. Speaker, Ladies and Gentlemen of the House: I will be very brief. We have gone through the sad news of the committee's action and several other things, including what would happen, what wouldn't happen and I don't think that is the question. I think the question, if you have read the amendment, is whether or not you want to send it out to referendum. I think if you are judging what will happen, you are a little premature, because you haven't yet found out what the people are going to say. I think it is very important that it should be sent out, and I would ask that you vote against the leave to withdraw.

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

Mr. ROLLINS: Mr. Speaker, Ladies and Gentlemen of the House: In this House of Representatives, we have people from all walks of life, and amongst them are two farmers who know something about this bill here. We have lawyers, doctors, dentists and everything else here, but we have two farmers: We have listened to one of them this morning, and I never heard a better speech in this House, a more honest, sincere one.

I can't imagine the fault that people find with the price of milk. Maybe I am wrong about this, but I find milk to be the best buy on the market today. When I buy root beer or any other kind of beer, I find I am paying much more than I am for milk, and all this fuss about the milk price just leaves me cold.

The Milk Commission, at the present time, is made up entirely of consumers. I don't know how much farther you can go, excepting to abolish it. We have composed this commission entirely of people who consume milk, and still, the people aren't satisfied.

The gentleman from Buxton, Mr. Berry, and I were two people who vote for the LaPointe bill in a recent session, but I have changed and the gentleman from Buxton has not. The reason that I have changed is because I have been to hearings where the room was full of farmers, farmers who got up early in the morning and came to that hearing and with tears in their eyes implored us to keep the commission. I don't believe all the farmers in the State of Maine are wrong, and I hope you will go along with the leave to withdraw motion.

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

Mr. HUNTER: Mr. Speaker and Members of

the House: I think one thing we haven't mentioned this morning is the quality of our milk today. We are getting the best quality of milk today that we have ever had and, naturally, it is going to cost these producers and dealers and everyone a lot more money to buy all this modern equipment to produce this. I think we are fooling around here with an industry that is worth millions of dollars to this state, so I think we ought to accept the leave to withdraw and maybe we will make it home to see the roses bloom.

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

Mr. CARROLL: Mr. Speaker, I would like to be excused from voting on this under Rule 19.

The SPEAKER: The gentleman from Limerick, Mr. Carroll, is excused under Rule 19.

The SPEAKER: A roll call has been ordered. The pending question is on the motion of the gentleman from Easton, Mr. Mahany, that the House accept the majority "Leave to withdraw" Report. All in favor of that motion will vote yes; those opposed will vote no.

ROLL CALL

YEA — Albert, Ault, Bagley, Bennett, Berry, G. W.; Berube, Birt, Bowie, Call, Carpenter, Connors, Cote, Cox, Curran, P.; Curran, R.; Curtis, Dam, DeVane, Doak, Dow, Dudley, Dyer, Farnham, Fenlason, Finemore, Fraser, Garsoe, Gould, Gray, Hennessey, Hewes, Hunter, Hutchings, Immonen, Jackson, Jacques, Jalbert, Kauffman, Kelley, LeBlanc, Leonard, Lewin, Lewis, Littlefield, Lovell, Mackel, MacLeod, Mahany, Martin, A.; Martin, R.; Maxwell, McBreairty, McMahon, Mitchell, Morton, Palmer, Peakes, Pearson, Perkins, T.; Peterson, P.; Pierce, Powell, Quinn, Raymond, Rideout, Rollins, Saunders, Shute, Smith, Snow, Snowe, Spencer, Sprowl, Strout, Stubbs, Susi, Teague, Theriault, Torrey, Tozier, Tyndale, Usher, Walker, Webber, Wilfong, Winship.

NAY — Bachrach, Berry, P. P.; Blodgett, Boudreau, Burns, Bustin, Byers, Carey, Carter, Chonko, Churchill, Clark, Connolly, Cooney, Curran, P.; Davies, Drigotas, Durgin, Flanagan, Gauthier, Goodwin, H.; Goodwin, K.; Greenlaw, Henderson, Higgins, Hinds, Hobbins, Hughes, Ingegneri, Jensen, Joyce, Kany, Kelleher, Kennedy, LaPointe, Lizotte, Lynch, MacEachern, McKernan, Miskavage, Morin, Mulhern, Nadeau, Najarian, Norris, Pelosi, Perkins, S.; Peterson, T.; Post, Rolde, Talbot, Tair, Tierney, Truman, Twitchell, Wagner.

ABSENT — Farley, Faucher, Hall, Laffin, Lunt, Mills, Silverman.

EXCUSED — Carroll.

Yes, 85; No, 57; Absent, 7; Excused, 1.

The SPEAKER: Eighty-five having voted in the affirmative and fifty-seven in the negative, with seven being absent and one excused, the motion does prevail.

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

Mr. CARPENTER: Mr. Speaker, I now move we reconsider our action whereby we accepted the "leave to withdraw" report and ask everybody to vote against me.

The SPEAKER: The gentleman from Houlton, Mr. Carpenter, having voted on the prevailing side, now moves that we reconsider our action whereby this body voted to accept the "leave to withdraw" report. All in favor of reconsideration will say yea; those opposed will say nay.

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

Sent up for concurrence.

On request of Mr. Rolde of York by unanimous 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.

(Off Record Remarks)

On motion of Mr. Finemore of Bridgewater, Recessed until three-thirty in the afternoon.

After Recess

3:30 P.M.

The House was called to order by the Speaker.

On disagreeing action of the two branches of the Legislature on Bill "An Act to Regulate Drinking Water," (S. P. 687) (L. D. 2198) the Speaker appointed the following Conferees on the part of the House:

Messrs. LEONARD of Woolwich
CAREY of Waterville
GARSOE of Cumberland

The following papers appearing on Supplement No. 2 were taken up out of order by unanimous consent:

From the Senate: The following Communication:

THE SENATE OF MAINE
AUGUSTA, MAINE

March 30, 1976

Honorable Edwin H. Pert

Clerk of the House

107th Legislature

First Special Session

Augusta, Maine 04333

Dear Mr. Pert:

The Senate today voted to Insist and Join in a Committee of Conference on Bill, "An Act Relating to the Geologists and Soil Scientists Certification Act" (H. P. 2240) (L. D. 2322).

Respectfully,

Signed:

HARRY N. STARBRANCH
Secretary of the Senate

The Communication was read and ordered placed on file.

Non-Concurrent Matters

Joint Order Relative to Legislative Budget Committee (H. P. 2248) which was Passed as Amended by House Amendment "A" (H-1102) in the House on March 29, 1976.

Came from the Senate, Read and Indefinitely Postponed in non-concurrence.

In the House: The House voted to insist.

Bill "An Act to Permit Local Plumbing Inspectors to Approve Repairs to Existing Septic Systems" (H. P. 2206) (L. D. 2306) which was Passed to be Engrossed as Amended by House Amendment "B" (H-1127) in the House on March 29, 1976.

Came from the Senate, with that Body having Insisted on its Former Action whereby the Bill and Accompanying Papers were Indefinitely Postponed on March 25, 1976, and asked for a Committee of Conference.

In the House: The House voted to insist and join in a Committee of Conference.

Bill "An Act to Improve Solid Waste Management" (H. P. 2090) (L. D. 2249) on which the House Accepted Report "B" of the Committee on Natural Resources, "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) and Passed the Bill to be Engrossed as Amended by House Amendment "A" (H-1090) in the House on March 25, 1976.

Came from the Senate, with Report "C" of

the Committee on Natural Resources, "Ought to Pass" as amended by Committee Amendment "A" (H-1015) read and accepted, and the Bill Passed to be Engrossed as Amended by Senate Amendments "C" (S-489) and "B" (S-486) as amended by Senate Amendments "A" (S-490) and "B" (S-491), thereto, in non-concurrence. (Committee Amendment "A" (H-1015) having been Indefinitely Postponed.)

In the House:

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

Mr. McKERNAN: Mr. Speaker, I move we recede and concur and would speak very briefly to my motion.

The SPEAKER: The gentleman from Bangor, Mr. McKernan, moves that the House recede and concur.

The gentleman may proceed.

Mr. McKERNAN: Mr. Speaker, Ladies and Gentlemen of the House: After three days of amendments in the other body, I am pleased to report that the good guys are leading three to one.

I would like to explain briefly what these amendments do. Rather than accept the new draft, which we accepted here in this body, the parliamentary wizards in the Senate ruled that the new draft was out of order and therefore we would have to accept the original bill with amendments and end up doing the same thing we have done here simply with a new draft.

At any rate, the version which has come back from the Senate is almost identical to the new draft which we passed, L. D. 2315, with one major change, and that is that no longer do we have permissive refusal by the store owners, unless a redemption center is set up. The reason for that is because there is a constitutional cloud hanging over that particular provision and we figured that we would want to foreclose as many opportunities to attack the bill as possible when it is out to referendum and therefore we decided to go with the original concept of requiring store owners to take the beverage containers back unless they establish a redemption center to serve that purpose.

There is one other amendment which I would like to discuss briefly, the change which was made by the opponents to the bill, and that was changing the wording of the question which the people will be voting on. I don't feel that is a significant change; however, they feel, I suppose, that it gives them a little bit of an advantage. The question which was on the original bill was the question of whether or not the section of the bill which required returnable beverage containers would become law. The opponents to the bill changed that to read, and I quote, "Shall Section 16 of an Act to Improve Solid Waste Management, which section requires a minimum 5-cent deposit on all returnable beverage containers, etc."

My original reaction to that was that I thought it was unfair and therefore misleading and should not go on the bill. However, I do believe, as I said, that it is misleading, it doesn't say anything about the fact that you get that 5 cents back when you return the container. We brought that up to the people who presented this amendment and they had a day to make any changes, but they decided they would rather try to lobby that particular amendment to allow the misleading statement to continue. We decided, rather than to try to fight it here in this body, those of us who supported the bill, I would hope you would go along with me, would just recede and concur and leave that language on there as a symbolic statement of all the misleading statements that are going to occur against this bill between now and next November. I think we might as well point out the distortions right now and go from here.

I would hope that you would recede and concur.

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

Mr. KELLEHER: Mr. Speaker, in looking at this new draft and the amendments that were put on over in the other body, it appears to me that all this is is nothing but the bottle bill that we had before the last session which was rejected. I would like to have a ruling from the Chair on Rule 28 applying to the Senate Amendment as is right now.

The SPEAKER: I am sorry, would the gentleman restate his question.

Mr. KELLEHER: Mr. Speaker, as I look at this bill right now, it looks to me like no more, since it has been amended over in the other body, than the original bottle bill. I would like to know how Rule 28 applies to this document before us today?

The SPEAKER: The Chair would indicate to the gentleman from Bangor, Mr. Kelleher, very much what he indicated to the gentleman from Nobleboro, Mr. Palmer, yesterday, that the rule which was adopted, Joint Rule 28, deals with introduction of bills. The issue of introduction, of course, is the time at which the introduction of a bill would take place. At this point in the process, it is in the amending process of a bill which in fact ends up in the same posture, perhaps, and the Chair is not in a position to rule on that issue.

Besides that, the Chair would rule that Joint Rule 28 does not apply in this instance at this point in time.

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

Mr. FARLEY: Mr. Speaker, I would request a ruling of Rule 21.

The SPEAKER: The Chair would ask the gentleman from Biddeford, Mr. Farley, how he feels Joint Rule 21 applies in this instance.

Mr. FARLEY: Mr. Speaker, on the three-day notice.

The SPEAKER: The Chair would advise the gentleman that that is provided for if the matter is finally rejected and that refers, of course, to the present session of the legislature. That matter has not been finally rejected and therefore Joint Rule 21 would not apply.

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

Mr. FARLEY: Mr. Speaker, was this not rejected in the regular session, this same piece of legislation before us now?

The SPEAKER: The Chair would advise the gentleman that Joint Rule 21 does not deal with special or regular sessions, it deals with the session, and the Chair would so rule.

The Chair recognizes the gentleman from Perham, Mr. McBreairsty.

Mr. McBREAIRTY: Mr. Speaker and Members of the House: This says it comes from the Senate with Report C of the Committee on Natural Resources. Report C was L. D. 2250, so how could it now be 2249?

The SPEAKER: The Chair would announce that the original L. D. is 2249, which was filed under Joint Rule 3, pursuant to the study. That is the bill which was used as the vehicle upon which the amendment was inserted.

The Chair would announce to the gentleman from Perham, Mr. McBreairsty, that the Report from the Committee on Natural Resources basically dealt, and was reported by the gentleman from Orland, Mr. Churchill, dealing with Report B findings, reports that the accompanying bill, L. D. 2249, be referred to the Committee on Natural Resources. Pursuant to that, there were three reports that were filed by the committee on that particular bill, pursuant to the report, Report A, was "ought not to pass" on L. D. 2249; Report B, which appeared in a

new L. D., 2315, and appeared in new draft in new title; finally, Report C of the same bill, which was L. D. 2249, "ought to pass" with committee amendment adopted to it. The bill comes back from the other body with the committee amendment indefinitely postponed and with the Senate having adopted Report C without committee amendment, but the bill in its original form, and then also having adopted Senate Amendment "A" and "B" thereto in non-concurrence. Therefore, for purposes of further clarification, the Chair would announce that what you have in front of you is L. D. 2249 with Senate Amendments "C" and "B" as amended by Senate Amendments "A" and "B" thereto in non-concurrence.

The gentleman may proceed.

Mr. McBREAIRTY: Mr. Speaker and Members of the House: I guess the only thing I would like to say is that I am very disappointed that we spent several thousand dollars of the taxpayers' money on a solid waste study.

We had a bill before us that would have started work on this solid waste problem 90 days after we left if we had adopted it. We end up now with a bill that if we pass it, if the people accept it, we will do nothing until 1978. This will even take away our chance of doing something in the next session.

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

Mrs. MORIN: Mr. Speaker, would a motion to indefinitely postpone be in order?

The SPEAKER: The Chair would answer in the negative.

Mrs. MORIN: Mr. Speaker, will it be at any time before we pass it?

The SPEAKER: The Chair would answer that the motion to indefinitely postpone will be in order when the bill comes back after this body has voted to recede and concur, if that should be the case, when it comes back from the engrossing department.

The pending question is on the motion of the gentleman from Bangor, Mr. McKernan, that the House recede and concur. The Chair will order a vote. All in favor of the motion to recede and concur will vote yes; those opposed will vote no.

76 having voted in the affirmative and 37 having voted in the negative, the motion did prevail.

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

Mr. HIGGINS: Mr. Speaker, having voted on the prevailing side whereby we receded and concurred, I now move we reconsider our action and hope you all vote against me.

Mrs. Morin of Old Orchard Beach requested a roll call on the motion to reconsider.

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 gentlewoman from Old Orchard Beach, Mrs. Morin.

Mrs. MORIN: Mr. Speaker and Members of the House: I hope you do not vote to recede and concur. This was supposed to be a solid waste management litter bill which came out of a study committee. If the sponsors are really serious about the solid waste bill, they would have accepted Mr. Dam's amendment for paper. Everyone knows that paper and card-

board are two of the bulkiest items going to dumps. We already have litter laws that, if enforced, would take care of the situation. I am not naive enough to expect to get anywhere with this, given the fact that it was allowed by leadership and sponsored by leadership and pushed by leadership.

The SPEAKER: A roll call has been ordered. The pending question is on the motion of the gentleman from Scarborough, Mr. Higgins, that the House reconsider its action whereby it voted to recede and concur. All in favor of reconsideration will vote yes; those opposed will vote no.

ROLL CALL

YEA — Berube, Carter, Conners, Curtis, Durgin, Dyer, Farley, Finemore, Gould, Hinds, Immonen, Kauffman, Kelleher, Kelley, Lewis, Lizotte, MacLeod, Martin, R.; Maxwell, McBreaity, Morin, Perkins, T.; Peterson, P.; Rideout, Strout, Theriault, Torrey, Truman, Twitchell, Walker, Webber.

NAY — Albert, Ault, Bachrach, Bagley, Bennett, Berry, G. W.; Berry, P. P.; Birt, Blodgett, Boudreau, Bowie, Burns, Bustin, Byers, Call, Carey, Carpenter, Carroll, Chonko, Churchill, Clark, Connolly, Cooney, Cote, Cox, Curran, P.; Curran, R.; Dam, Davies, DeVane, Doak, Dow, Dudley, Farnham, Faucher, Fenlason, Flanagan, Fraser, Garsoe, Gauthier, Goodwin, H.; Goodwin, K.; Gray, Greenlaw, Henderson, Hennessey, Hewes, Higgins, Hughes, Hunter, Hutchings, Ingegneri, Jackson, Jensen, Joyce, Kany, Kennedy, LaPointe, Laverty, LeBlanc, Leonard, Lewin, Lovell, Lynch, MacEachern, Mackel, Mahany, Martin, A.; McKernan, McMahon, Mills, Miskavage, Mitchell, Morton, Mulkern, Nadeau, Najarian, Norris, Peakes, Pearson, Pelosi, Perkins, S.; Peterson, T.; Pierce, Post, Quinn, Raymond, Rolde, Rollins, Saunders, Shute, Silverman, Smith, Snowe, Spencer, Sprowl, Stubbs, Susi, Talbot, Tarr, Teague, Tozier, Tyndale, Usher, Wagner, Willong, Winship.

ABSENT — Drigotas, Hall, Hobbins, Jacques, Jalbert, Laffin, Littlefield, Lunt, Palmer, Powell, Snow, Tierney.

Yes, 31; No, 107; Absent, 12.

The SPEAKER: Thirty-one having voted in the affirmative and one hundred and seven in the negative, with twelve being absent, the motion does not prevail.

From the Senate: The following communication: (S. P. 779)

United States Senate
Committee on Finance
Washington, D.C. 20510

March 25, 1976

Harry N. Starbranch
Secretary of the Senate
The Senate of Maine
Augusta, Maine 04330
Dear Mr. Starbranch:

Thank you for providing me with copies of the Joint Resolutions adopted by the Maine Senate and House of Representatives protesting and requesting an explanation of the reasons underlying the proposed personnel reduction of Loring Air Force Base.

I appreciate your making the resolution available to me and I certainly share the Legislature's concern over the devastating impact the cutback would have in Maine and, in particular, in Aroostook County. I am enclosing a copy of the letter which the Maine Congressional delegation addressed to Air Force Secretary Reed on March 18 outlining our concerns and requesting detailed information regarding the basis of the preliminary decision and the projected consequences of its implementation.

I look forward to reviewing the Secretary's report and when it arrives I shall be in a better position to determine the most effective course of action to pursue. You may be assured that I

shall do everything I can to forestall or minimize the severe adverse impact on Aroostook County's already depressed economy which would surely accompany the proposed cutback.

With best regards,

Sincerely,
(Signed)

WILLIAM D. HATHAWAY
U.S. Senator

Came from the Senate, read and with accompanying Report ordered placed on file.

In the House, the Communication was read and with accompanying Report ordered place on file in concurrence.

Consent Calendar First Day

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

(H. P. 2010) (L. D. 2192) Bill "An Act To Clarify the Laws Relating to Marine Resources" — Committee on Marine Resources reporting "Ought to Pass" as amended by Committee Amendment "A" (H-1145)

On the request of Mr. Greenlaw of Stonington, was removed from the Consent Calendar.

Thereupon, the Report was accepted and the Bill read once. Committee Amendment "A" (H-1145) was read by the Clerk.

On motion of Mr. Greenlaw of Stonington, tabled pending adoption of Committee Amendment "A" and tomorrow assigned.

Consent Calendar Second Day

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

Bill "An Act to Make Health Care Projects Eligible for Bonding under the Maine Municipal Securities Approval Act" (C. "A" H-1128). (H. P. 1899) (L. D. 2079)

No objection being noted, the above item was passed to be engrossed and sent up for concurrence.

Second Reader Tabled and Assigned

(Item 1) Bill "An Act Repealing the Expungement Law and Providing for the Control of Access to and Disclosure of Criminal History Record Information" (S. P. 773) (L. D. 2326)

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

(On motion of Mrs. Najarian of Portland, tabled pending passage to be engrossed and tomorrow assigned.)

The Chair laid before the House the following matter:

Bill "An Act Relating to the Form of Ballots" (H. P. 2063) (L. D. 2233) which was tabled earlier in the day and later today assigned pending passage to be engrossed.

The SPEAKER: The Chair recognizes the gentleman from Solon, Mr. Faucher.

Mr. FAUCHER: Mr. Speaker and Members of the House: Because of the backlog in the Printing Office, we don't have the amendment on our desks, so I would appreciate it if somebody would table it until later in today's session.

Thereupon, on motion of Mrs. Najarian of Portland, retabled pending passage to be engrossed and later today assigned.

The Chair laid before the House the following matter:

Bill "An Act to Enable Counties to Hire County Administrators" (H. P. 2092) (L. D. 2251) (H. "A" H-1051) which was tabled earlier in the day and later today assigned pending passage to be engrossed.

On motion of Mr. Birt of East Millinocket,

retabled pending passage to be engrossed and later today assigned.

The Chair laid before the House the following matter:

Bill "An Act to Clarify the Retirement Statutes" (Emergency) (H. P. 1860) (L. D. 2027) which was tabled earlier in the day and later today assigned pending adoption of House Amendment "B" to Committee Amendment "A".

On motion of Mr. Theriault of Rumford, retabled pending adoption of House Amendment "B" to Committee Amendment "A" and later today assigned.

The Chair laid before the House the following matter:

An Act Clarifying the Use of the Mental Health Improvement Fund (Emergency) (H. P. 2068) (L. D. 2238) (C. "A" H-1024) which was tabled earlier in the day and later today assigned pending passage to be enacted.

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

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

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

House Amendment "A" to Committee Amendment "A" (H-1142) was read by the Clerk.

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

Mr. GOODWIN: Mr. Speaker and Members of the House: This amendment is to clarify the transitional clause for this bill. The mental health improvement fund, which is an existing fund, presently is handled by the Governor and Council. The changes we have made in this, we are saying that starting with the 108th, the legislature will have a hand in approving broad categories of the use of the mental health improvement fund with the Department of Human Services and the Department of Mental Health and Corrections. This amendment just clarifies that point so that for the next fiscal year the Governor and council will continue, at least until January, to handle the funds and then for the remaining fiscal year, the Governor will and we will start with the 108th in determining the priorities for the use of this fund.

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.

The Chair laid before the House the following matter:

An Act Relating to Property of Survivor where Joint Deposits or Accounts are Involved (S. P. 664) (L. D. 2102) (C. "A" S-460) which was tabled earlier in the day and later today assigned pending passage to be engrossed.

On motion of Mr. Perkins of South Portland, the House reconsidered its action of earlier in the day whereby Committee Amendment "A" as amended by House Amendment "A" thereto was adopted.

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

House Amendment "B" to Committee Amendment "A" (H-1147) was read by the Clerk.

The SPEAKER: The Chair recognizes the

gentleman from South Portland, Mr. Perkins.
Mr. PERKINS: Mr. Speaker, Ladies and Gentlemen of the House: This is in accordance with the debate we had here this morning and my concern in respect to the \$20,000 that was placed in the Committee Amendment concerning the joint accounts held between parent and child. This amendment drops it back to the \$5,000, which presently stands upon the statutes, and while I indicated and still do have concern for the \$5,000, it would at least not change the law in respect to those accounts.

The SPEAKER: The Chair recognizes the gentleman from Kennebunkport, Mr. Tyndale.
Mr. TYNDALE: Mr. Speaker, Ladies and Gentlemen of the House: I just merely want to take this opportunity to commend the Business Legislation Committee on the excellency of their work on this bill. It is a good bill and I hope you will go with it.

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

Mr. PIERCE: Mr. Speaker, Ladies and Gentlemen of the House: I would hope that you would not adopt this amendment today. After Mr. Perkins this morning did bring this matter to our attention, several of us on the committee did get together and discussed this bill further. This was a unanimous report out of our committee, and we found, I think, some real validity in what Mr. Perkins had to say. In the spirit of compromise, we have prepared another amendment which is presently being printed which I think would go a long way for what he wants and would make the bill better.

I would like to point out to you that this bill has been several times before the Committee on Judiciary. It most always has met with an unfair report, I think mainly because most attorneys would oppose this because some that are in joint accounts, as you know, go to the survivor and do not go to probate. Therefore, I think they have been traditionally against this.

I realize that at this time I cannot explain the further amendment, but I wish we would reject this amendment, table this until later in today's session so we might at least look over the other amendment and then adopt what we consider to be the better of the two. I would now move the indefinite postponement of this amendment.

The SPEAKER: The gentleman from Waterville, Mr. Pierce, moves the indefinite postponement of House Amendment "B" to Committee Amendment "A".

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

Mr. MCKERNAN: Mr. Speaker, Ladies and Gentlemen of the House: First of all, in response to my good friend from Waterville, I would just inform him there are usually attorneys on both sides, it all depends on which side you are on whether you are in favor of this provision or not.

In response to his other comment, I would like to say that if the amendment which the committee intends to offer as a House Amendment is going to be to the Committee Amendment, perhaps we ought to table this before we dispose of Mr. Perkins' amendment so that we will have a chance to read what is in the other amendment before we get rid of it.

I would hope someone would table it right now before the vote.

Thereupon, on motion of Mrs. Clark of Freeport, tabled pending the motion of Mr. Pierce of Waterville that House Amendment "B" to Committee Amendment "A" be indefinitely postponed and later today assigned.

The Chair laid before the House the following matter:

Bill "An Act Creating the Maine Railroad Equipment Authority" (H. P. 1858) (L. D. 2026) which was tabled earlier in the day and later today assigned pending the question, shall this

Bill become law notwithstanding the objections of the Governor.

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

Mr. SUSI: Mr. Speaker, Ladies and Gentlemen of the House: I hope you do override the veto. From the veto message, it is apparent that the overriding concern of the Executive Office with this legislation is the possible impairment of the State's credit rating. I read the bill carefully and I checked with state officials on this and I can find no basis for the contention of the Executive Office that this might impair the credit rating of the state. It does offer an advantage to one of our industries, an advantage that I don't believe we should deny them. I hope you vote to override.

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

Mr. JALBERT: Mr. Speaker, may I be excused pursuant to Rule 19?

The SPEAKER: The Chair would inform the gentleman from Lewiston that since the veto mechanism is provided for in the Constitution, there is no way that the Chair can excuse the gentleman from voting.

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

Mr. MCKERNAN: Mr. Speaker, I would pose a parliamentary question. Doesn't the Constitution also provide that the House will establish its own rules?

The SPEAKER: The Chair would respond in the affirmative, but the question on the veto message is quite clear.

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

Mrs. LEWIS: Mr. Speaker, I would like to ask a question, and maybe Mr. Susi or somebody or somebody in Taxation could explain it to me.

In the bill, on the second page under credit of the state not pledged, I know we have in our statutes something that says an industry can use the city's credit rating to borrow money because we have done it in two instances in Auburn, but the city would not be liable if these companies could not sustain themselves. You would only do it with a company that is really in good business shape. We have done it twice. The people in Auburn have voted for it, and if these companies should somehow go under, it would not be an obligation of the city at all. The assets of the company itself would take care of this. Is this the same kind of thing applying to railroads?

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 Pittsfield, Mr. Susi.

Mr. SUSI: Mr. Speaker, the answer is yes, we are extending the same advantage to the railroads with this bill, if it is enacted, as we extend to industry when we use the device which you referred to. This bill doesn't pledge the credit of the state any more than the device that we have used in our communities impairs the community's rating.

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

Mrs. LEWIS: Mr. Speaker, if I may ask one more question. Is the railroad in question, or these railroads, are they in the same kind of financial situation that these industries that we have given this to — could we be as certain that the railroads would not default as we are that these companies wouldn't?

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

Mr. SUSI: Mr. Speaker, this is a subjective judgment, and we have argued this very question on the floor of the legislature. I personally believe that our railroads are in quite sound shape in Maine. I wouldn't hesitate at all to go

on a note with them for three or four hundred dollars. I wouldn't lose any sleep over that.

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

Mr. COONEY: Mr. Speaker, I would add just another point of view to that question, Mrs. Lewis, in that the bill specifically provides that only railroads with a very low profit margin would be eligible for these loans, so it would be your very shakiest railroads to whom we would be extending these services. I would remind the House that this is the same bonding mechanism that was proposed in the Maine Development Authority bill, except that the bill specifically says that no faith in credit would be pledged, although we are still using the state's bonding capacity by issuing these revenue bonds.

So what we are doing for one industry, which admittedly needs some assistance, and not for other industries which I think we would all agree need assistance, is we are saying that we are using the state bonding power to give them tax exempt money, which is going to be cheap money, by which they may either rent or lease the rolling stock and I am not a big businessman myself, but I believe that a businessman makes a determination whether to lease or to rent so that he might pay the lowest or best possible tax. I am sure that the railroad makes that same kind of determination when it decides whether to buy or lease its rolling stock. Not only are we extending a very special interest privilege to one industry, but we are, I think, giving them an opportunity to perhaps avoid some taxation.

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

Mr. JALBERT: Mr. Speaker, you are the Speaker of the House, you have the hammer, and I know you know the rules and I think you know that I know the rules also, but regardless of that fact, Mr. Speaker, I am an officer of a railroad, I am the stockholder of the railroad, and I am in conflict on this bill if I vote either way.

The SPEAKER: The Chair would announce that we are in somewhat of a problem, if the gentleman would refer to the Constitution, and we are presently reviewing it now. The problem is not with the rules, the problem is with the Constitution. In Article IV, Part 3, Legislative Powers, Section 2, it says, when the veto is returned from the Governor, we shall proceed to vote by the yeas and nays and the names of all persons voting in either direction shall be recorded upon the journals of their respective houses. The question basically is whether or not that question supersedes the question which says that each body may make its own rules. If the gentleman will defer for just a few minutes, we are waiting for a ruling from the Attorney General.

House at Ease

Called to order by the Speaker.

Mr. Jalbert of Lewiston was excused from voting pursuant to House Rule 19.

The SPEAKER: The pending question is, shall this Bill become law notwithstanding the objections of the Governor. All in favor of overriding the Governor's veto will vote yes; those opposed will vote no. Pursuant to the provisions of the Constitution the yeas and nays are ordered.

ROLL CALL

YEA — Ault, Bachrach, Bowie, Bustin, Carey, Connolly, Curran, P.; Curran, R.; Curtis, Davies, Fraser, Garsoe, Hennessey, Hewes, Higgins, Kany, Martin, A.; Maxwell, Mills, Morton, Norris, Pierce, Rolde, Smith, Susi, Talbot, Truman, Usher, Webber, Winship.

NAY — Albert, Bagley, Bennett, Berry, G. W.; Berry, P.P.; Berube, Birt, Blodgett, Boudreau, Burns, Byers, Call, Carpenter, Carroll, Carter, Chonko, Churchill, Clark, Connors, Cooney, Cox, Dam, DeVane, Doak,

Dow, Dudley, Durgin, Dyer, Farley, Farnham, Faucher, Fenlason, Finemore, Flanagan, Gauthier, Goodwin, K.; Gould, Gray, Greenlaw, Henderson, Hinds, Hobbins, Hughes, Hunter, Hutchings, Immonen, Ingegneri, Jackson, Joyce, Kauffman, Kelleher, Kelley, Kennedy, LaPointe, Laverty, LeBlanc, Leonard, Lewin, Lewis, Lizotte, Lovell, Lynch, MacEachern, Mackel, MacLeod, Mahany, Martin, R.; McBreairty, McKernan, McMahon, Miskavage, Mitchell, Morin, Nadeau, Najarian, Peakes, Pearson, Pelosi, Perkins, S.; Perkins, T.; Peterson, P.; Peterson, T.; Post, Raymond, Rideout, Rollins, Saunders, Shute, Silverman, Snowe, Spencer, Sprowl, Strout, Stubbs, Tarr, Teague, Theriault, Torrey, Tozier, Twitchell, Tyndale, Wagner, Walker, Wilfong, The Speaker.

ABSENT — Cote, Drigotas, Goodwin, H.; Hall, Jacques, Jensen, Laffin, Littlefield, Lunt, Mulhern, Palmer, Powell, Quinn, Snow, Tierney.

EXCUSED — Jalbert.

Yes, 30; No, 105; Absent, 15; Excused, 1.

The SPEAKER: Thirty having voted in the affirmative and one hundred and five in the negative, with fifteen being absent and one excused, the Governor's veto is sustained.

The Chair laid before the House the following matter:

Bill "An Act to Give Counties Power to Assess and Collect Their Own Taxes" (H. P. 2128) (L. D. 2275) Committee on Local and County Government reporting "Ought to pass" in New Draft under New Title: Bill "An Act to Allow County Budget Determination at the County Level" (H. P. 2263) (L. D. 2335) which was tabled earlier in the day and later today assigned pending the motion of Mr. Wagner of Orono that the Bill and all accompanying papers be indefinitely postponed.

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

Mr. DAM: Mr. Speaker, Ladies and Gentlemen of the House: Now that you all have the bill, I would like to go over some parts of this and explain it and at the same time get this into the record so there will be no misunderstanding from anyone, no matter what you have read in the past put out by various organizations in the state, when they were speaking to L. D. 2275. The bill we have before us today is L. D. 2235. There have been changes made, not only in the title but in the substance of the bill.

This bill came as a result of the Joint Select Committee on County Government, which included the Joint Standing Committee on Local and County Government as well as the sponsors and cosponsors of the bill in the regular session, an act to really abolish county government or reform. We worked on this all summer and this is the result of our labor.

What this does, the primary intent of this bill is to allow each county to approve its own budget on its own county level. Nowhere in this bill does it expand county government in any county beyond what it is right at this minute. Every safeguard has been built into this bill that can be built in, so no county can expand beyond what they are already doing. It does set up a mechanism for a county finance board of at least five members and five districts, and the finance board members would be elected from that finance district that they reside in. It does allow changes to be made in the various counties, so if they would like to still have five districts and two members from each finance district, or three, they could do that. Or they could have more districts so that they could get a better spread of representation over their counties in the larger counties.

On Page 2, the next to last paragraph, there is a limit on any single capital expenditure of the budget that exceeds \$50,000, this has to go out to referendum vote.

Also, under transfer of funds on Page 3, now the commissioners, under the present law, two commissioners, and being a majority of the board of three, can, by written agreement, transfer funds between the line categories of the county budget. Under this bill, it would have to have the approval of the majority of the county finance board as well as that written approval of the majority of the county commissioners.

I think the thing in this bill that has really frightened a lot of people is on Page 3, when we get down into Section 5, and we use the words "authorized expenditures." Well, what this really is is no more than a laundry list that has been put into the bill and everything that appears in this list some county is doing today. We have the exception on transportation, we wrote in a little more protection when it came to the airport, saying that airports could not be expanded or changed in any way unless they had already been approved by referendum in the county.

Now we get down to the real meat of the bill. On Page 4, next to the last paragraph, this I want to make very clear, the next two paragraphs are the heart of the bill as far as the limitations. The county may only raise or appropriate money for a purpose listed under Subsection 1, paragraphs B to F, if the county raised or appropriated that money, which means if that money appeared in the budget of the preceding year. So any money for any service that is not in the budget for 1976, in this budget that is floating between us now, the county cannot go into a new service, only if they go with a county referendum. This is the only way a county can take on a new service, if they have a county referendum.

Now, in number 3, it is powers granted by other statutes. This bill does not take away any power that a county has now. For instance, the County of Kennebec, in the 106th session we authorized the County of Kennebec to operate an ambulance service. Also, back in the 104th, 105th and 106th we authorized, I believe, seven counties to operate a solid waste program within the county. They would still have that right. The County of Penobscot, the only county in this state that has a county park, would still have that right to operate the county park. The County of Somerset, which operates cemeteries, would still retain their right under the existing statute to still operate their cemeteries.

It does not take away, it does not give new powers. There is a limit. It does set a very good system of controlling the budget on the county level. It allows the counties to decide just what kind of a finance board they would like to have in their county, and we realized in committee that there was no way that a committee could sit down and come up with 16 different plans to please 16 different counties. This would have to be done in each individual county. A small county, such as my county, five members might be well and good, in a larger county, such as Cumberland or York, they might want ten members of five districts or they might want ten districts with ten members. This will take the burden, and a considerable burden off the legislature. We have spent a lot of time here just approving county budgets. When it comes right down to it, and I think I can say this and I think it will reflect the feeling of a lot of people, when it comes down to the fact whether York County wants to spend \$2,000 on a social program or Somerset County wants to spend \$5,000 on senior citizens or Cumberland might want to spend \$3,000 on a hot lunch program for senior citizens, I think this is something that should be decided in their own home county instead of tying up 184 people to decide what each individual county is going to do.

This is about all the presentation I have on the bill, but again, I want to say, it does not expand or allow any expansion of county services any

more than they are right at this minute. It does not take away anything that the counties have as of this minute.

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

Mr. KELLEHER: Mr. Speaker, Ladies and Gentlemen of the House: If you would look at Legislative Docket 2335 on Page 2, under Section 252, the next to the last paragraph, the last sentence, is something that you all want to take a good hard look at and it says, "All amendments and budgets shall be adopted only by a majority vote of all members of the County Finance Board and shall be discussed and adopted only after a public hearing." I served on the Towns and Counties Committee and I appreciate the endeavors that the committee has presented in this document for our consideration here today.

I am a member of this house that feels that Towns and Counties Committee is a very important committee in this legislature. I considered it to be an important committee, only after I had a chance to serve on it and see how much time and effort these individual members of this house put in on our 16 respective counties and their budgets. I think it is a necessity, because of the right of redress as members of the legislature or representing towns or representing various constituents of ours who are not satisfied as far as their local county budgets are concerned.

I think that the program that we go through now is presenting the county budgets from the County Commissioners back to the legislature and then back to the legislative process is a good one and it protects, I believe, everybody in this state, an opportunity to either be for or against issues that are in the county budget, but to limit it to a finance board, to limit it to five members and then to limit to the majority of those five members to give the approval to allow the county to set taxes, I think, is irresponsible and I do hope that you support the gentleman from Orono, Mr. Wagner, in his indefinite postponement motion. I request the yeas and nays.

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

Mr. FINEMORE: Mr. Speaker, Ladies and Gentlemen of the House: I am only going to speak for Aroostook County. I hope you will go along with that, I am not telling any other county what to do.

On top of Page 5, the very first thing they start off with, the County Commissioner of all counties may borrow money in anticipation of taxes. Well, that used to be 80 percent, and they have cut it out. Now I don't think any county should be allowed to borrow 100 percent because that has to be paid back in that tax year. It can't go one minute by that tax year. If they borrow 100 percent and there are 30 percent uncollected taxes, which there always are, 20 to 30 percent, how are they going to pay back 100 percent? I disagree with that 100 percent. It should be left at 80 percent.

I have been on the budget for Aroostook County, six different budgets I have worked on, and I mean I have worked on them. I think our Speaker and many more have too. Only once have we ever had any holdup on our budget. Just once in six budgets, that would be 12 years. Other times our budgets have gone and it has been changed in the County Government, they have done it on their own because it was never asked for by the delegation from Aroostook County.

As you go along down in this bill, I find they have made no special time for elections. They can't say when — and this bill doesn't say when they are going to be elected, it says they will be elected for terms of two years in the same manner as town officials, but it doesn't say on what date, it doesn't say whether it is going to be the general election or otherwise. They got their nomination papers, it is quite a thing to do that.

It also says that if a person dies or is removed from office or leaves the district, why there will be an appointment made by the Governor for January. So, therefore, everyone of these is going to take effect in January, which doesn't coincide with anything that goes along in here.

The meetings of legislature doesn't cost anything for these boards, it isn't any additional cost. I think maybe some counties have trouble this year but I don't think there is any need of having quite so many.

Now you will set it up in these districts in Aroostook County at 19,000 per district. Now in the district when you come to the town of Bridgewater, that I am in, would also include Houlton, and 27 more towns and plantations. I tell you ladies and gentlemen, this covers quite a district. It would always be Houlton that would have that member because they would control the vote.

I noticed in district one, Fort Kent, would control the vote, they could have that position as long as they wanted it. When they got down to district two it would be a toss up between Van Buren and Limestone to see who had it. When you come down to district 4 there would be no question, it would be Presque Isle, because those towns would hold 10,000 votes out of 19. I think this is a little too much to ask. I think the bill, as you look through it, even in some other counties, of course I said, I wasn't going in some other county, as you look through it I think it would be ridiculous to pass this bill today. It says effective date, this act will take effect 90 days after adjournment of the legislature only for the purpose of electing members of the County Finance Boards. It shall become effective in all these parts on January 1st in 1977. It doesn't say when these first members are going to be elected or how they are going to be elected other than as selectmen, which the town meeting has already gone by. At which time those elected to the board shall take office provided that the dates for action by the County Commissioners and County Finance Board preparing the 1977 estimates, and approving the 1977 county budget shall be 90 days later than the date set on such action in Section 3. Then it goes on, under fiscal notes, to say that this act will approximately save \$250,000. Well, that is not true, that is a very exaggerated statement.

I noticed that last summer, in studying this bill, and some others, not this alone, I don't suppose I noticed that the County and Local Government Committee spent \$9,320.11. It seems as though we have paid well for this today although I do know and understand that only four went to these different counties to which I admire them for that. I don't think the whole committee should go. This cost of election is going to be a lot of money, there is going to be a lot of printing and if it isn't at the general election, if it happens to choose something besides the general election, it would be a lot more money because in each town, it costs about \$200 to \$230 for the smaller towns, the very smallest towns it costs them for an election, like a general election.

I think this bill, in my opinion, for Aroostook County, I am not speaking for the whole county, they can speak for themselves but for me, I couldn't vote for this bill. I hope you go along with the motion to indefinitely postpone.

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

Mr. HENDERSON: Mr. Speaker, Ladies and Gentlemen of the House: I would like to make a few comments with respect to the comments from the gentleman from Bridgewater. There is a House Amendment, by the way, detailing the time of the election. There was a drafting error in the final version of this bill and you will notice it has now been distributed and you could at least refer to it and see if that solves the problem, ultimately it is 1149, House Amend-

ment "A". In effect, the intention was and the effect of this amendment is, to make the election at the time of the general election in November, every two years. So, there wouldn't be any additional expense other than maybe a few more spaces on a long piece of paper. There wouldn't be no additional expense. This would be a non-partisan election so there is no need to go through the April 1st filing and primary business and all that. The districts are subject to amendment by this house and by members of the counties, if they feel they ought to be more representative. Aroostook County now, as I understand it, has three county commissioner districts and those are much larger than the five finance boards districts. If the Aroostook County people felt they would like to have ten finance districts, that is fine too, it would reduce the number.

I think I would like to make some comments concerning the general principle involved in this bill and other bills that resulted from this \$9,000.11 study or whatever it was. One general principle is this: there were people who were stand patters who would keep county government just as it is, types. There were people who were on the other side of the fence completely which was, get rid of County Government completely. I think even on the study committee there were people on both sides of those extremes to begin with.

As we went around to the counties, in subcommittees, we came to the conclusion that neither one of those extreme positions were something that was best to the people of Maine, and that County Government could potentially provide some good services to the people of this state but not as it is right now. If we tried to maintain County Government just as it is right now, it is going to get further, and further, and further out of date so the time will come in the not too distant future when it will be eliminated completely and there won't be that possibility between the state and the local government.

This is one attempt to bring responsibility back to the local county level and to get it out of the politics of the legislature. It provides for locally elected citizens to be a Finance Board over their county budget. It does not provide one with additional responsibility of what counties can do except it does say that, if the voters of a county decided they do want their county to do something in addition to what it now can do, for instance, possibly, solid waste disposal, a transportation district, whatever they think they can do better than a single community can do, then those voters can, by referendum, give that authority to the county.

There has been some suggestion that councils of government would be a nice alternative to expanding or enhancing the institution of county government and maybe it would be. The fact is, that is a voluntary confederation of communities which exists in one part of this state and hasn't really come into existence in many other parts of this state. Apparently, municipalities have not been willing to get together to solve some of these common problems. In fact, because they haven't, many of the responsibilities have been eroding away from those municipalities and they have not been going to the counties because people feel they aren't capable of dealing with them, they have been going to the state. There have been a lot of suggestions that the welfare system, the general assistance, ought to be taken over by the state, that a lot of environmental regulations ought to be taken over by the state, that taxation ought to be taken over by the state, many of these things are happening. Maybe not all of those that I mentioned, but many of these things are happening because there is no viable alternative. The general attempt of this committee and its various reports is to try to put some political responsibility and administrative capability into the county govern-

ments so that they won't just die off completely as irresponsible pieces of paper but they will be able to do something constructive.

I hope you will seriously consider this and other reports of the study committee.

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

Mrs. BERRY: Mr. Speaker, Ladies and Gentlemen of the House: I would like to correct something that Representative Finemore said and I think he knows what I am going to say. He quoted that this committee spent over \$9,000 doing this survey and this is not so, that amount of money was between two committees. The Regular or the Joint Standing Committee on Local and County Government had three or four other studies in which we were involved in. That was one committee and then this split committee of which prepared this bill and had hearings over the state, was another committee. I would also like to say that I attended four of the hearings and of those four hearings, there was just three legislators present who were not members of the committee. Every legislator in the state had notices of these hearings.

Also, Mr. Finemore was complaining about the districting of Aroostook County. I think that the Clerk has announced that the delegations could meet with the chairman of our committee and also I think they have had two letters in which if they weren't satisfied with the districting that they could change it if they would like. In traveling the state and hearings, those hearings that I attended, except one, which was in Cumberland and that was the first snow storm that we had, we had a good turnout and involved not just county commissioners but involved citizens in the county. Some people are saying these are just the views of the county commissioners and as far as I am concerned, this isn't so. We have had a lot of citizen participation in these hearings and this seemed to be the thing that they mostly were concerned about was the budget coming to Augusta and being cut and slashed and this type of thing. They thought they were perfectly capable in their own counties to make up the budget and approve of it and know more of what was going on than we did here in Augusta.

I would like to have you think of this a while and look over the districting, if you are not satisfied with it, this can be changed. I would ask that you would consider voting to let this committee report go by so that we can study it further.

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

Mrs. KANY: Mr. Speaker, Ladies and Gentlemen of the House: I hope you will go along with the motion for indefinite postponement which Representative Wagner made. I, personally, like the original title of the bill better than the redraft. The original title was "An Act to Give Counties Power to Assess and Collect their own Taxes" and that is basically what this bill does. No one that I know in Kennebec County completely is satisfied with the method of setting the county tax rate. Basically, we, in the legislature, perform this duty. We set the tax rate, but of course, we won't under the new bill, Title 30, Section 252 would be completely repealed and rewritten.

At least some of the county legislative delegations exercised a true line item veto in tearing down county budgets this year. This was, of course frustrating to the elected county commissioners who felt we were completely redrawing their budgets without the benefit of all the public hearings to which they have been a party. We were kind of relocating the commissioners to county administrators just as this bill would in effect do. The county commissioners would now become three county administrators, basically, in each county, the way I look at the bill.

So, almost everyone is looking for a better

system and I appreciate the hard work of the committees which worked on this bill, I know they were searching for a better answer but I don't think this bill provides a better mechanism, it just provides another taxing level in addition to the municipal, the state and the federal level. This bill would grant to the newly established five member County Finance Board the legislature's current authority to set county tax rates. So, regardless of what I personally think of the value of county government, I believe that changes as far reaching as those contained in this bill, which changes county government to this extent should be sent to the voters for consideration if people are indeed interested in a measure of this kind.

I hope that you do go along with indefinite postponement instead.

I certainly would question the fiscal note. It says that approximately \$250,000 would be saved and I really would question that. I mean here we are talking about five county board members and each county receiving a good \$250 per year and that would add up alone, I can't imagine that our savings would be all that great.

Most importantly, I question the Statement of Fact. It says, that this act would not expand the present authority of counties to undertake new functions and personally, if setting a tax rate isn't a new function, I don't know what is.

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

Mr. TALBOT: Mr. Speaker, Ladies and Gentlemen of the House: I also have some problems with the bill but I would like to expand on the gentleman from Waterville, Mrs. Kany, on the fiscal note. This is a question that I was going to ask the chairman of the Local and County Government Committee and I see he is not in his chair, so maybe somebody from the committee itself can answer the question, and that is the savings of the \$250,000. First of all, I don't know where that figure came from. I took that figure and broke it down to 16 counties which leaves each county with approximately a little over \$1,500. Now, if Cumberland County is to save about \$1,500 and they are going to set up a 15 man or 15 member board at \$25 a day — no 15, on page seven it says Cumberland County 15 board members to be elected at large from each of the following districts, that means Cumberland County would set up a 15 member board at \$25 a day which would come to approximately \$375. Now, on Page 5 it states that they will meet no more than ten times a year. If you figure that up by ten times it comes to a little over \$3,750. I don't see where we saving a nickel. I wonder if the chairman of that committee can answer that question?

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

Mr. DAM: Mr. Speaker, Ladies and Gentlemen of the House: I think it is quite evident that when we are referring on any bill to a fiscal note we are talking about state money, what we are going to save the general fund. There are bills go through here that will cost the various communities money that has gone through since the beginning of the legislature but I have yet to see on any bill going through here that will cost the various communities money that has gone through since the beginning of the legislature but I have yet to see on any bill going through anything saying it is going to cost the communities any money. I am speaking about mandated programs. So, this has got nothing to do with the municipal level, this is state money.

Now, I think my good friend, Mr. Talbot mentioned something about \$1,500 in Cumberland County, but if my memory serves me right, there are 16 counties in this state, and if you saved roughly \$250,000 of state money, this would be roughly \$21,000 per county, based on 16

counties. Now, how did we arrive at that figure? We arrived at that figure by the time it took in the regular session to get the budgets out in the 107th, the time it took in the 106th and the 105th, the 104th, the 103rd and down the line and figuring at \$20,000 a day, which is the figure that is always tossed out, what it costs to operate the legislature, this is how we arrived at the money.

While I am on my feet, I would like to say this, that you said you agreed with the good lady from Waterville, Mrs. Kany, on many of her thoughts. Well, I would like to say this, that Mrs. Kany did not even appear at the budget hearing in Kennebec County when the budget was presented, she was away on vacation.

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

Mr. FINEMORE: Mr. Speaker, Ladies and Gentlemen of the House: There is some confusion on how much it would cost. One gentleman says \$1,500 which I know he made a mistake, and I know he sees it now beyond a doubt, but the other gentleman, Mr. Dam, has stated it was \$25,000 to \$30,000, it is only \$15,620 for each county. I am not going to quibble over figures but that is what it figures out.

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

Mr. DEVANE: Mr. Speaker, Ladies and Gentlemen of the House: Mr. Henderson of Bangor is indeed right, I think, when he says that Maine counties should be responsible political units or significant political units or something to that respect. I don't think that this legislative document, if it is approved and becomes law, will do that. I think rather the five member or whatever member finance board will make every significant decision on every significant judgment and then if the commissioners will become a useless appendage and then eventually nobody will want to run for commissioner. Then somebody will be talking about well, let's do away with the commissioners and just have the five finance people, not only set the budget but administer it because the commissioners aren't showing up. It seems to me unfortunate that the powers and the duties that we have given to the county finance board was not given directly to the county commissioners. The county finance board shall have the power and the duty to review, amend, and approve an annual county budget. I am wondering too with some of the sponsors and promoters this bill has, why it doesn't say an annual county line item budget. I would have thought it would. But, at any rate, and to set the salaries of the county commissioners, county treasurer, deputy sheriff, registrar of deeds, judge of probate, so forth, provided such salaries are not less than the amount set forth. Every significant judgment comes from money, what can be done? If a five member district finance board makes these decisions the commissioners, in fact, will have no significant decisions to make.

Now, as a citizen of the state, I would prefer to see these powers given not to a finance board, but directly to the commissioners. But that then raises a very interesting question, I think a constitutional one. If you look at this bill, in the taxing powers, you will see that without reading them, you will see that the bill enumerates. I think, every area under which a county does now spend money, providing for the operation of county government, the administration, if you will, establishing a contributory pension system, providing for the operation of departments of county government, including police and fire, insuring officials and employees and volunteers, obtaining services of county advisory board, public works, providing for buildings, parks, parking places, water, sewerage facilities, bridges, providing for public solid waste disposal areas, providing for cemeteries and on down through Item F and

there are two limitations, but it ends up by saying, performing any of the duties required of it by law, providing also for any operations authorized by law which by their nature require the expenditure of money. That is as broad a taxing power as you can give.

I would point out to you that Article 9, Section 9, of the Maine State Constitution says, I think rather unequivocally and straight forward, the legislature shall never, in any manner suspend or surrender the power of taxation. If that ladies and gentlemen, doesn't give the power of taxation to the counties, I don't know what does.

Once again, I am not opposed to it, but I think if you approach this, then the thing to do is to change the constitution so we can then surrender the power of taxation to the county to which I am not opposed. As far as I am concerned, the commissioners should stand responsible for their own budget and for the administration of them. I think it is unfortunate that county budgets come here because then the commissioners, with whom the public is dissatisfied, suggest that they're powerless as against the legislature, which simply, I think, is not the case. I think there is buck passing, and there shouldn't be. The way it should be handled is the counties, I think, should raise their own monies, spend them, raise the taxes and be responsible. I do not think by statute that we can ignore Section 9, Article 9 of the State Constitution, the legislature shall never in any manner suspend or surrender the power of taxation.

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

Mrs. BACHRACH: Mr. Speaker, Ladies and Gentlemen of the House: To address the last point first, the committee did, in fact, get into the question of whether they could or could not delegate the power of taxation to the counties, and found that under the same circumstances in which they can delegate to the municipalities, they can also delegate to counties. That is not surrendering the power, that is delegation of the power which by statute can be revoked in the same way that we delegate it.

The chief complaint that we all heard as we went around the counties was this business of communication between the legislature and the county. I was under the impression as Mr. DeVane was, I see he doesn't want to hear, that, in fact, it might be better to have a single body, namely a large number of county commissioners who would, in fact, undertake the entire responsibility in order to avoid the potential buck passing which you can have when certain people are doing something and other people are voting on it.

However, there was the question whether the county commissioners should decide how the money should be spent without any oversight. In view of the fact that the municipalities are the ones that raise the money, through their tax on local property taxes, that raise the money that is to go into county budget it seemed as if representation from the local municipalities, by way of course, of not one person from each one, since this is impractical, but by way of regional representatives, would provide the type of oversight that would make everybody feel happier that someone wasn't deciding and expending the funds at the same time.

I would be happy to go the other way actually and have a large number of county commissioners because I do think three is too small to be both a policy making and a financial body, but I would be satisfied to have a larger number of county commissioners do the whole job. I do feel that it is a real bone of contention between the counties and the legislature that the counties decide on what services they need, present the budgets to the legislators and usually, in very short order, the legislators make their decisions, probably under pressure of other

meetings, and say yes, no or maybe without giving it sufficient thought. The assumption was that the finance committee would spend a great deal more time on it. I feel very sorry that the legislators here present who object to this bill, perfectly allowably but they do object to it, didn't appear at the meetings which we held all over the state for the very purpose of hearing on the local level how the people felt about this. We did have some legislators come and they did express their feelings and this was very helpful. We did have many county officials come and express their feelings. My chief regret was we had almost no citizens come and express their feelings on the questions because if does affect them too. The ones that did attend were more than helpful, they had obviously given much thought to the question of county government. We felt that since the towns paid the bills for county government of course, as an assessment on their citizens but essentially it is part of the town budget, that local representatives of the towns might really be more concerned with what went on with the county budget than state representatives.

Lastly, it was thought that many things in this state can better be performed by a collection of communities getting together for services particularly small communities, that county government, after all, was in a position to deliver inter-local or inter-community services better than any other form of government available to us and that an improved form of county government would be the answer to many of our problems. I was sorry that we didn't have more time to address the entire structure of county government in more detail because I feel that this is only part of the problem that the for instance, the power inter-relationship between the sheriff's department and the commissioners and the probate court and so forth should be addressed and, in the next year, our study will continue until the 108th Legislature, and the next year, I hope we will continue on with the study and address these problems more precisely. I do feel that this approach does offer a way of getting real responsibility in regard to county budgets and I would like it if you would give it a try because there has been real dissatisfaction with county government.

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

Mr. DUDLEY: Mr. Speaker, Ladies and Gentlemen of the House: I support the motion to indefinitely postpone and I am glad that I can go along with the lady sitting in front of me, she has left right now, but it is seldom that I can. I can't imagine where the delegation that went around, who they talked to in Penobscot County, I can't find one person in my whole district that would support this piece of legislation, so I feel obligated to indefinitely postpone it and that is what I want to do and I want you to know it.

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

Mr. BERRY: Mr. Speaker, Ladies and Gentlemen of the House: I am not particularly fond of coming down here and wrestling with county budgets, but as an elected legislator, I suppose that is part of the duties that I have to assume and will do that.

I am not happy with the section of this bill that creates a county finance board and I perhaps would like to raise a situation for you to think about. It occurs to me, and this could happen in some counties, one in particular that I know of, whereby five ex-deputy sheriffs could run for a finance board, be supported by a kind of built-in campaign organization, if you want to call it that, get elected, turn around and raise the sheriffs' pay to double what it is now. I don't think that that is a very good policy. If that is not true, I wish somebody would correct me on that.

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

Mr. JALBERT: Mr. Speaker, Ladies and Gentlemen of the House: In answer to my good friend from Buxton, Mr. Berry, the answer to his statement would have to be, to be thoroughly honest, in the affirmative. But by the same token, the answer would also be in the affirmative that we could form economy blocks right here, we can form blocks of one type or another right in this House. It has been done. Some of us have probably been part of it, some of us have organized them. These things can happen.

But one thing that impresses me about this bill is that I have seen more hassling, I have been part of more hassling in the legislature wherein it concerns county government to a point where rather than argue and rather than hassle, I actually refused to go to the meetings of county government, which is not good. I don't think that is doing your job.

I look at the makeup of my own county and it delights me because it gives the towns and the cities the power that they deserve. I have always been very strong in partisan politics as far as Androscoggin County is concerned, because I think that in certain areas, county government is very useful to smaller communities.

I think this bill, like anything else, could be improved upon. Certainly I think we ought to give it a try. It can be amended, it can even be repealed, but I think it is a step in the right direction and I think probably if we did give the thing a whirl, if it didn't work out, we can always amend or repeal.

I would hope that you would go along with this measure.

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

Mrs. SNOWE: Mr. Speaker, Ladies and Gentlemen of the House: I would like to read to you a letter from the Attorney General's Office which, in effect, answers the question of the gentleman from Ellsworth, Mr. DeVane. I think it is a particularly important question and I think this letter should be on record. The questions were raised by the committee and the chairman of the Committee on County Government.

"Your letter of February 10, 1976 poses the question: May the legislature delegate the power to make final approval of county budgets to an elected representative board in each county, if the delegation includes specific revenue raising and expending powers, without a constitutional amendment?"

"We have reviewed the Maine Constitution, and it is the conclusion of this office that no constitutional amendment would be required as a prerequisite to adoption of such legislation.

"The section of the Maine Constitution of most particular concern is Article IX, Section 9, which reads: The legislature shall never, in any manner suspend or surrender the power of taxation. No suspension or surrender of the power of taxation occurs as a result of the change in approval of county budgets from county legislators to county finance committees. The method of budget approval is still subject to control of the legislature.

"As with delegation of budgeting and taxing powers to municipalities, delegation of such power to counties pursuant to legislative enactment remains, in legal contemplation, an Act of the State. Frankfort v. Lumber Co., 128 Me. 1 (1929). In concept no constitutional problem arises from such delegation. In fact, it is similar to delegations which have already been granted to municipalities and school administrative districts.

"Your letter also enclosed proposed legislation to implement the concept addressed in your letter. The effect of the legislation, and par-

ticularly Section 3 thereof, would be to authorize counties to raise or appropriate money for a wide range of generally described governmental purposes.

"The ultimate responsibility to pay for such services, except where funded by federal or state grants, would continue to rest with the municipalities. However, the County Finance Board would effectively establish a tax through the level of program costs it approved.

"In delegating legislative authority, the legislative body must spell out its policies in sufficient detail to furnish a guide which will enable those to whom the law is to be applied to reasonably determine their rights thereunder, and so that the determination of those rights will not be left to the purely arbitrary discretion of the administration. Delegation authority must be particularly clear and specific in tax cases.

"Your proposed bill, and particularly Section 3, should be closely examined to assure that the legislative direction as to finance board appropriation and thus, effectively, taxing authority, is sufficiently specific both as to substance and procedures to avoid any question of inadequate delegation to authority."

I would also like to mention this morning, it was said that the meetings were poorly attended. However, the meetings I did attend, we broke down to sub-committees, I thought they were pretty well attended. If they were not well attended, I don't understand why, because they were well publicized, people had the opportunity to attend these public hearings, we wanted input from citizenry and this was the chance to change our county government structure. This is the attempt that we had hoped to do. I would have preferred waiting until the next session; however, most of the committee members felt that we should do something this session.

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

Mr. NADEAU: Mr. Speaker, Ladies and Gentlemen of the House: I would like to pose a question through the Chair to someone on the committee. I noticed that the number of board members in each county are different and unless I didn't hear it earlier, how was the number like for Cumberland County and Oxford different from other counties?

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

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

Mr. HENDERSON: Mr. Speaker, the original proposal was to have five districts, one member from each district. Then other delegations, county delegations, suggested that it would be more appropriate to have a larger number in their counties. It was twice announced in this House that any county delegation or county members who wished to suggest a different number might do so and that is the reason for the differences — a response, in effect, to the different county delegations.

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

Mr. WAGNER: Mr. Speaker, Ladies and Gentlemen of the House: I had not intended to speak again on this but a couple of things came up that I wanted to mention.

I thank the gentlelady from Auburn, Mrs. Snowe, for her careful address of the constitutional question, and as far as I am concerned, that issue is put to rest. However, my quarrel with this bill, is not a constitutional quarrel, it is more a practical reservation.

The previous speakers have addressed the question of the role of the county commissioners, if this bill were to be passed, and I think that is a very important concern.

I appreciated the remarks of the gentleman on my left from Bangor, Mr. Henderson,

relating to the construction in the constitution of county government, particularly because he is, as far as I know, the only resident, card-carrying, political scientist in the House and therefore understands structures of government.

I would think, then that he, of all people, might be concerned with the direction that the county finance board might go, a five person board. The Local and County Government Committee considered alternatives, I guess, but for one reason or another they were not considered practical, such as an expanded board of county commissioner numbers. Apparently, from what Mrs. Bachrach said, they looked at a panel constituted from municipal officers, and I think this is a good approach. I think if you feel that the present traditional method that has been in force for 156 years in this state is inadequate, as many people do, all of these alternatives should be considered.

I have one fear, that this county finance board would feel that they had to take on administrative roles and could serve as a vehicle to expand into a county legislature. I am familiar with one county, a rural county in Western New York of something of nearly 100,000 people, which established a county charter a few years ago and now has some 30 county legislators serving on part-time positions of \$5,000 each, which means \$150,000. One county can administer various services. If you were to expand this in the State of Maine, that would mean a hundred thousand times 16 counties, this is a considerable cost over the government — that is one concern.

Just two or three other brief comments on the bill itself. I think the districts themselves are somewhat unnatural. In the case of Penobscot County in my district, it is split into two county finance board districts. The town of Orono, which I happen to live in is grouped with Old Town and many, many smaller municipalities, such as Passadumkeag, Edinburg, LaGrange, Alton, unorganized territories, Argyle, Greenbush, GrandFalls Plantation, Greenfield, Milford and I think, as a practical matter, it would be very easy for towns of either Orono or Old Town to dominate these small rural towns and I don't think it would be fair to them to have the possibility of spendthrift, liberal representatives on the finance board representing them and dominating them on that board.

One other measure that concerns me is, the bill calls for ten meetings, a limit of ten meetings for the County Finance Board, and I wonder what would happen if more than ten were necessary. What would happen, would the budget not be approved or considered?

Lastly, the mechanism of the election concerns me a little bit. I may not understand what they mean by these officers being elected and the manner of municipal officers because in Penobscot County and I think in all counties you have cities, towns and selectmen-type of governments and I am not sure how this would happen. I am not sure when the election would be held. It doesn't specify whether it be held in March, October, November, at what time. I guess I would conclude by suggesting that April 1 would be an appropriate day, we could have the election on April Fool's Day.

Mr. MacEachern of Lincoln 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 no.

A vote of the House was taken, and more than one third of the members present having expressed a desire for the previous question, the motion for the previous question was entertained.

The SPEAKER: The question now before the House is, shall the main question be put now? This question is debatable with a time limit of five minutes by any one member. Is it the pleasure of the House that the main question be put now?

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

Mr. DAM: Mr. Speaker, Ladies and Gentlemen of the House: I object to moving the question. I think when I first came down here as a freshman eight years ago, I used this mechanism, but after awhile, you learn that you don't use it, you let everybody speak.

I think there are others that want to speak on this. I think it is an important bill. It is one of the most important that we will have come in before us this session or any session. There has been money spent for a study, subcommittees have traveled across the State of Maine using the taxpayer's money, people have turned out for the hearings and I think that the people that have participated in this, there are others that might want to be heard and there are still others that might want to object. I don't think it is right on something as important as this or right on any question to move the question and cut off debate from those that want to be heard.

They have been elected by their people in their various communities to come down here and represent the people and whether they are for a bill or they are against it, if they want to be heard I think they have that right to be heard. I object to moving the question.

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

A vote of the House was taken.

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 pending question is shall the main question be put now? All in favor of the main question being put now will vote yes; those opposed will vote no.

ROLL CALL

YEA — Bennett, Bink, Blodgett, Boudreau, Byers, Call, Carey, Connolly, Curran, P., Curtis, Davies, Dow, Dudley, Durgin, Dyer, Fanning, Fenlason, Finemore, Fraser, Goodwin, G. Hewes, Higgins, Hinds, Hobbins, Jackson, Jalbert, Jensen, Joyce, Kauffman, LaPointe, Laverty, Lewin, Lewis, Lizotte, MacEachern, Mackel, McMahon, Mills, Pelosi, Perkins, S. Rollins, Stubbs, Tozier, Twitshell, Usher.

NAY — Albert, Bachrach, Bagley, Berry, G.W., Berry, P.P., Berube, Burns, Bustin, Carpenter, Carroll, Carter, Chonko, Churchill, Clark, Connors, Cooney, Cox, Dam, DeVane, Doak, Faucher, Flanagan, Garsoe, Goodwin, K., Gould, Gray, Greenlaw, Henderson, Hennessey, Hughes, Hunter, Hutchings, Immonen, Ingegneri, Kany, Kelleher, Kelley, Kennedy, LeBlanc, Lovell, MacLeod, Mahany, Martin, A., Martin, R., McBreaity, McKernan, Miskavage, Mitchell, Morin, Morton, Nadeau, Najarian, Peakes, Pearson, Perkins, T., Peterson, P., Peterson, T., Pierce, Raymond, Rideout, Rolde, Saunders, Shute, Silverman, Snowe, Spencer, Sprowl, Susi, Talbot, Tarr, Teague, Theriault, Torrey, Truman, Walker, Wilfong, Winship.

ABSENT — Ault, Bowie, Cote, Curran, R.; Drigotas, Farley, Gauthier, Hall, Jacques, Laffin, Leonard, Littlefield, Lunt, Lynch, Maxwell, Mulkern, Norris, Palmer, Post, Powell, Quinn, Smith, Snow,

Strout, Tierney, Tyndale, Wagner, Webber.

Yes, 45; No, 77; Absent, 28.

The SPEAKER: Forty-five having voted in the affirmative and seventy-seven in the negative, with twenty-eight being absent, the main question is not ordered.

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

Mr. JALBERT: Mr. Speaker, Ladies and Gentlemen of the House: The gentleman from Orono, Mr. Wagner, mentioned April 1 or April Fool's Day. I guess he said April 1 is April 1, and he also mentions the fact that what would happen if you would need more than ten meetings? The fact of the matter is, you can have a meeting and then recess that meeting, and you can recess that meeting and you can hold one meeting for four or five months if you want to under the recess rules it is still called one meeting. So that problem could be taken care of.

I look at the makeup of all of the boards of all the counties, particularly my own. In this area here, the way we operate now, the County Government Committee usually takes the majority of the members of each county as the unwritten rule as to how they would go. To control a county within this body in my opinion would be comparatively easier, if it were to be attempted, it would be comparatively easier than to try to control, using my county, five members from the municipality of Auburn and the members from each of the districts in my area and also all of the one representing each of the towns within the county. I just feel it would give some responsibility to the people who are named.

I think it is hard to get people to go to meeting today, but if you give them the official title, if they seek an official title, I think they are duty bound to go to these meetings and they would.

I think the thought might be good to — and this is not in my original thinking — it might be an idea to accept this thing now and it would give us time to discuss it among ourselves or even at the county meetings if need be. I really think that we ought to do that.

I think we are faced here with a very important situation. The hour is getting late. I voted for the previous question because I figured that if the people wanted to have the previous question, so be it. I think probably at times the previous question ought to be made. I really and truly think we ought to go along and accept this thing here and discuss it among ourselves, or within our county groups if we want to, then we have got more than one shot at this thing. I am only suggesting.

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

Mr. PEARSON: Mr. Speaker, Ladies and Gentlemen of the House: I think that this is a good bill, it is not a perfect bill, but it is a good bill, and it is a good attempt to get at a problem that has been nagging, at least the people in my district, for quite some time.

Let me give you a for instance. As a member of the city council for the last six years in Old Town, we have enumerable times asked the county commissioners of Penobscot County when they were going to have a hearing on their budget. Usually the answer would come back to us in the form of, we have decided to raise this much money and you can tentatively set your budget at such and such a figure. Well, with that kind of an answer and that kind of consideration, we become very frustrated. But, nevertheless, we set our goal for raising taxes in Old Town for the county budget at a certain figure and then inevitably, after we have passed the budget in the city, we get another notice from the county commissioners of Penobscot County that we made a mistake, that your taxes are going to be higher, so we had to dip into surplus or contingency funds or one thing or

another in order to come up with the taxes.

If there is one thing that every member of the city council in Old Town have told me time and time again, try to get some local control back on the county budget because we are not getting any answers from the three county commissioners in Bangor.

I would urge you to support the bill. There are some parts of it that perhaps need to be amended. As a matter of fact, they left off part of my district that was the Indian Reservation, but that will be taken care of in second reader.

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

Mr. HUGHES: Mr. Speaker, Ladies and Gentlemen of the House: I didn't want to speak on this but nobody has said what my major objection is. Maybe I am alone on it, but it seems to me that this bill will lead to irresponsibility for this reason. It gives the county board the authority to set taxes but it still requires that those taxes be collected through the towns and cities of this state, thereby burying the burden of that tax decision made by the finance board in the bills of towns and cities and putting the burden on the officials of towns and cities to take the citizen reaction. It is that irresponsibility, that dichotomy. I would favor the thing in theory if, for one reason, there were no finance board but simply an enlarged board of county commissioners and, two, if somehow they had to collect their own taxes. But as long as they are going to piggy-back on the towns and cities, then I couldn't buy this concept.

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

Mr. HENDERSON: Mr. Speaker, Ladies and Gentlemen of the House: In response directly to that comment, right now I would say it would be even more irresponsible in that, in fact it is the legislature that is setting the tax rate that has to be collected through the municipalities.

In addition, I would agree with the gentleman from Auburn and the gentleman from Ellsworth, that personally I would prefer to have seen an enlarged county commissioners do the whole job themselves. That was one point that was considered. Another point was municipal officers being on a board and so forth, as we have mentioned, but this was the compromise that came out of the committee. I think that this is still, even though I couldn't get all that I would have preferred, or something else, this is an acceptable alternative.

There has been a question raised about the election date, and I just want to say it again, apparently people didn't hear it before, that if we do pass this and allow this to go on, there will be an amendment specifying that the election date is the general election date in November. So, I would hope that you would keep this bill alive.

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 Orono, Mr. Wagner, that Bill "An Act to Give Counties Power to Assess and Collect their own Taxes," House Paper 2128, L. D. 2275, and all accompanying papers be indefinitely postponed. All in favor of that motion will vote yes; those opposed will vote no.

YEA—Albert, Bagley, Bennett, Berry, P. P., Birt, Blodgett, Boudreau, Bustin, Byers, Carey, Carroll, Carter, Chonko, Churchill, Clark, Connors, Connolly, Cooney, Cox, Curran, P., Davies, DeVane, Dudley, Durgin, Farnham, Fenlason, Finemore, Flanagan, Goodwin, H.,

Goodwin, K., Hennessey, Hewes, Hinds, Hobbins, Hughes, Hunter, Hutchings, Jensen, Joyce, Kany, Kauffman, Kelleher, LaPointe, Lavery, LeBlanc, Leonard, Lewis, Lizotte, MacEachern, MacLeod, Mahany, Martin, R., McBreaity, McMahon, Miskavage, Mitchell, Morin, Nadeau, Peakes, Pelosi, Peterson, P., Peterson, T., Pierce, Post, Raymond, Shute, Silverman, Smith, Spencer, Sprowl, Strout, Stubbs, Talbot, Teague, Twitchell, Usher, Wagner, Wilfong, Winship, The Speaker.

NAY — Bachrach, Berry, G.W., Berube, Burns, Carpenter, Curtis, Dam, Doak, Dow, Faucher, Fraser, Garsoe, Gould, Gray, Henderson, Higgins, Immonen, Ingegneri, Jackson, Jalbert, Kelley, Kennedy, Lewin, Lovell, Mackel, Martin, A., McKernan, Morton, Najarian, Pearson, Perkins, T., Rideout, Rolde, Robbins, Saunders, Snowe, Susi, Tarr, Theriault, Torrey, Tozier, Truman, Walker.

ABSENT — Ault, Bowie, Call, Cote, Curran, R., Drigotas, Dyer, Farley, Gauthier, Greenlaw, Hall, Jacques, Laffin, Littlefield, Lunt, Lynch, Maxwell, Mills, Mulhern, Norris, Palmer, Perkins, S., Powell, Quinn, Snow, Tierney, Tyndale, Webber.

Yes, 80; No, 43; Absent, 28.

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

Mr. Kelleher of Bangor moved the House reconsider its action whereby the Bill and all accompanying papers were indefinitely postponed.

The SPEAKER: The gentleman from Bangor, Mr. Kelleher, moves the House reconsider its action whereby this bill and all accompanying papers were indefinitely postponed. All in favor of that motion will say yes; those opposed will say no.

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

Sent up for concurrence.

The Chair laid before the House the following matter:

Bill "An Act to Revise the Laws Relating to the Maine Traffic Court" (Emergency) (H. P. 2257) (L. D. 2327) which was tabled earlier in the day and later today assigned, pending passage to be engrossed.

Mr. Bennett of Caribou offered House Amendment "C" and moved its adoption.

House Amendment "C" (H-1160) was read by the Clerk.

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

Mr. McKERNAN: Mr. Speaker, Ladies and Gentlemen of the House: I would like to ask what this amendment does?

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

Mr. BENNETT: Mr. Speaker, Ladies and Gentlemen of the House: In answer to the good gentleman from Bangor, the purpose of this amendment is retracted, actually, in the Statement of Fact, where it says this amendment assures that an officer is able to inspect a drivers license for authenticity. This would take care of the people and the problem of the people who refuse to hand over their licenses to a police officer. An example of this would be a person who merely shows his license through a rolled up car window and refusing to give his license to a police officer. It strikes out the word 'display' and substitutes 'hand over' for inspection.

Thereupon, House Amendment "C" was adopted.

Mr. Goodwin of South Berwick, offered House Amendment "A" and moved its adoption.

House Amendment "A" (H-1144) was read by the Clerk.

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

Mr. GOODWIN: Mr. Speaker, Ladies and Gentlemen of the House: I am sorry to bring this before you today, but I am even sorer that it is in this bill. If you look at the bill on Page 9, Section 39-A, what my amendment does is eliminate the section that is written in there at the end of the paragraph "or unless such person holds a valid Maine operator's license." Somehow, this got into the traffic code. I have asked members of the Judiciary Committee how and why it was put on and I haven't yet got an answer. I would appreciate it if somebody on the committee could answer that.

In the 106th, I introduced legislation to establish motorcycle drivers education training programs. We gave it a two-year extension before it went into effect to provide for the training of the people and the implementation of the program. What has happened, we have trained the people to teach the drivers ed for motorcycle courses, the dealers are ready with bikes to donate to the schools, but the schools have not implemented this. One of the problems has been a problem in implementation between the Secretary of State's office and Department of Education.

Now, what the bill requires, what the law requires as it stands right now, is the exact same thing as what is required of an automobile license. If a kid is 16 years old and he wants to get his automobile license, he has to have automobile drivers education. Then he can get his permit, take his test and get his automobile license. The way the law stands right now, if he is 16 years old and he wants to get his motorcycle license, then he has to have the motorcycle drivers ed and he takes his permit test, and then he takes his drivers test and gets his license.

Now, what this amendment would do in the traffic code is eliminate, in fact, it nullifies the need for motorcycle drivers ed. Now, if a kid is 17, there is no problem, he can get his automobile license or his motorcycle license. The problem is that some of the schools have not implemented this, so you have some 16-year-olds that can't get their motorcycle permit or their license now. That is a real problem and I recognize that and I have worked out an amendment with the Secretary of State and the Department of Education, it has been brought forth to the Judiciary Committee and put on the Errors and Inconsistency bill to push forward again for two more summers, until September 1977, the implementation of this and also would direct the department of Education, Transportation Division, or whatever it is, to work with the schools to develop these programs. I don't know how the Judiciary Committee is going to rule on this, if they are going to report it out or not, but if they don't, I plan to offer it on the floor as an amendment because it is a real problem.

Then I saw this morning. The Secretary of State called me up and said, we are sorry we didn't know this was coming on, and the same with the Department of Education, and I guess I was a little upset at it because I haven't had time to prepare. All my material on drivers ed is home. This has not had a public hearing. It really doesn't deal with the traffic code and so I guess I was a little upset today when I saw this.

Just briefly, if you remember, last Friday there was an article written by George Weir in the Portland paper and I guess it went in the K.J. and the other Gannett papers, explaining the problems that we had in implementing this, the fact of the need for this and everything else. It is really hard to get into this because I don't want to spend a lot of time up here, but what I would like to say is the fact that I think there is a definite need for motorcycle drivers education, there is a definite need for this for new drivers, for young drivers and for anybody that rides a motorcycle. I think this is the way to go rather than mandatory laws like helmets and

lights and everything. As you know, I fought against those.

I think this is the responsible way to go, to provide the education and the opportunity for the education for people to learn how to ride motorcycles. It will also help to lower the insurance costs for people getting their motorcycle licenses. I think in the long run it will provide a lot safer motorcycle accident record. I would just urge you to go along with this.

If we really have a problem, let's bring it back, have a public hearing and get all the facts out and let people deal with this. I really feel that this is an area which the traffic code has not dealt with, there was no public hearing on this. I haven't had a chance to get the defenders out and the information out and I would ask you to go along with my amendment and I would also like to ask if members of the Judiciary Committee could maybe explain this as to why it is in.

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

Mr. HUGHES: Mr. Speaker, Ladies and Gentlemen of the House: I don't blame the Representative for being upset. I would have been, too, if it had been my law which had been so affected. I guess I am even more upset because I am the sponsor of this bill which is now before us.

The Bill, as I saw it drafted, did not have this section in it. Somewhere during the process in the Judiciary Committee it got added. It was not added in any kind of discussion which I ever attended and which I can find any member of this House ever attended. The bill came out in its second draft in the last couple of days and it is there. I found it this morning when Mr. Goodwin pointed it out to me. I am embarrassed that it is there. It makes a substantive change in the law without a hearing, without thorough attention to it, and I hope you will support this amendment which would strike that section.

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

Mr. PERKINS: Mr. Speaker, Ladies and Gentlemen of the House: I do have one question in regard to the amendment, irrespective of the remarks just made by the good gentleman from Auburn. I don't know the answer in regard to those questions he raised, I wasn't there either. But according to this amendment, it would strike all of Section 39-A, which means that whole section would be stricken from the law.

As I understand from the comments made previously, it was not the objection that the whole section pertaining to, but the objection went to the addition of the words "or unless such person holds a valid Maine operators license." So, I am wondering if Mr. Goodwin really intends to delete that whole law. Because if he does and we adopt his amendment, that is what we will have done.

On motion of Mr. Rolde of York tabled pending adoption of House Amendment "A" and tomorrow assigned.

Off Record Remarks

On motion of Mrs. Najarian of Portland,
Adjourned until nine-thirty tomorrow morning.