

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

***One Hundred and Eighth
Legislature***

OF THE

STATE OF MAINE

Volume I

January 5, 1977 to May 25, 1977

KJ PRINTING
AUGUSTA, MAINE

HOUSE

Thursday, May 5, 1977

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

Prayer by the Reverend Victor Musk, Retired Methodist Minister, Augusta.

The journal of yesterday was read and approved.

Papers from the Senate

The following Joint Order, an expression of Legislative Sentiment recognizing that: Mrs. Lenna Mills of Hartland, Maine, celebrated the 100th anniversary of her birth on April 20, 1977 (S. P. 484)

Came from the Senate read and passed.

The Order was read and passed in concurrence.

Reports of Committees

Ought to Pass in New Draft

Committee on Transportation on Bill "An Act to Establish 4-Year Motor Vehicle Licenses" (S. P. 145) (L. D. 386) reporting "Ought to Pass" in New Draft (S. P. 481) (L. D. 1743)

Came from the Senate with the Report read and accepted and the New Draft passed to be engrossed.

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

Divided Report

Majority Report of the Committee on State Government reporting "Ought Not to Pass" on Resolve, Authorizing the Bureau of Public Lands to Convey the State's Interest in Public Lots in the Town of Osborn, Hancock County, Maine, to the Inhabitants of the Town of Osborn (S. P. 225) (L. D. 687)

Report was signed by the following members:

Mrs. SNOWE of Androscoggin

Messrs. COLLINS of Aroostook

MARTIN of Aroostook

— of the Senate.

Mr. VALENTINE of York

Mrs. LOCKE of Sebec

Mrs. KANY of Waterville

Mrs. MASTERTON of Cape Elizabeth

Ms. BACHRACH of Brunswick

Messrs. STUBBS of Hallowell

DIAMOND of Windham

CURRAN of South Portland

— of the House.

Minority Report of the same Committee reporting "Ought to Pass" on same Resolve.

Report was signed by the following members:

Messrs. SILSBY of Ellsworth

CHURCHILL of Orland

— of the House.

Came from the Senate with the Majority "Ought Not to Pass" Report read and accepted.

In the House: Reports were read.

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

Mr. CURRAN: Mr. Speaker, I move we accept the Majority "Ought Not to Pass" Report.

The SPEAKER: The gentleman from South Portland, Mr. Curran, moves that the Majority "Ought Not to Pass" Report be accepted in concurrence.

The Chair recognizes the gentleman from Ellsworth, Mr. Silsby.

Mr. SILSBY: Mr. Speaker, Ladies and Gentlemen of the House: I would request a division, and I would like to address this bill rather briefly.

I was a signer of the "ought to pass" report, one of two signers. L. D. 687 is a very simple bill. It would merely authorize the Bureau of Public Lands to convey to the Town of Osborn

its public lots. Yet, this L. D. raises a fundamental policy question of the State of Maine and therefore is of great importance to me and some other people.

The question has already been resolved. We feel that this is a question that should be looked at again by the legislature, and I will try and review this so that you understand what I am talking about.

The Town of Osborn is a very small town, it consists of 50 people or less. It is a rural community, it is inland, it is not on salt water, it has no fresh water lakes or ponds on its public lots. It only recently became a town in November of 1976 and it lies approximately 20 miles northerly of the City of Ellsworth and approximately three or four miles to the south of the Airline Road in Aurora. It has and has had, since around 1800, two public lots. These are woodlots consisting of one being two miles long and a half mile wide, and the other lot is one mile long and a half mile wide. As I have indicated, these lots are strictly woodlots; they do not lie on any water of any kind.

Historically, when Maine was part of Massachusetts, the Lottery Act of 1786 was passed to encourage the inhabitation and development of the State of Maine. Under the Lottery Act, public lots were reserved in each lottery township of approximately totaling 1,000 acres for the benefits of the inhabitants. Basically, the public lots were reserved from each township for the use by the inhabitants to promote religion and education. The public lots were held in trust by the state and became vested in the municipalities as they became incorporated as towns. Once a town became incorporated, it could do anything it desired with its public lots. Many towns sold their public lots after incorporation to private parties to get the land on the town tax rolls. Towns in the vicinity of Osborn, such as the towns of Aurora, Amherst, Mariaville, Waltham and Clifton, all sold their public lots after incorporation.

Osborn Plantation managed its public lots over the years, paying into the state the income received from selective cutting, the funds being held in trust by the state. The state, in turn, paid Osborn a small amount of interest, 4½ percent average on the trust fund, and the principal of the trust fund, by 1973, was in the amount of \$33,088.08. Upon becoming a town in 1976, the Town of Osborn received a check from the State of Maine in the amount of \$28,361.64; the latter amount being \$1,676.44 less than the town had paid in over the years, the state indicating that the difference was a shrinkage or loss on state investments.

Osborn has had its public lots for over 100 years, and up until the year 1916, it received on the average of about 7 cents per acre per year return on the state invested trust fund and in later years about 20 cents per acre per year. The last cutting on the public lots took place in 1973. In 1973, the state took a new policy position on public lots; namely, that they would no longer become the property of the town upon incorporation but would remain the property of the State of Maine and under state management by the Bureau of Public Lands.

In 1972, prior to this law going into effect, the plantation assessors of Osborn discussed the possibility of becoming incorporated but did not do so. If they had become a town, Osborn would have had its public lots like so many other towns have in the State of Maine. However, due to the mere fact of becoming incorporated after 1973, Osborn is being deprived of its heritage.

The Town of Osborn has actively managed its lots over the years and has kept out trespassers who on occasion have been found cutting on the lots. The town planned, after getting these lots, to have a town forest with selective cutting for residents. Such a plan would certainly be in keeping with the more efficient use of our

natural resources in the energy crisis. However, with all the controls and decision making now in Augusta, the town finds that its plans are of no avail.

The state is justifiably concerned over losing any more land, its greatest resource, and I wholeheartedly agree with the concept. The state is apparently now of the view that more efficient continuity of management exists in Augusta than at the town level. The state is also concerned over setting a precedent in this case and having other newly incorporated towns making a run on the state for their public lots. I understand that there are presently approximately 40 public lots left.

I am wholeheartedly in favor of the state retaining its public lands, but I cannot see breaking a longstanding and established practice such as exists in the case of the public lots. I believe that depriving newly incorporated towns of their public lots amounts to a breach of trust on the part of the state, much akin, for example, to the legislature refusing to provide any inventory tax reimbursement to the municipalities.

The towns are merely political subdivisions of the state. I see no reason why Osborn or any other newly incorporated town should not be given its public lots to manage and hold for public purposes. I would not allow any further sales of public lots by municipalities to third parties, and in this connection, the 1973 law, as I understand it, prohibits towns which still have their public lots from now disposing of them.

The Bureau of Public Lands is certainly trying to do its job; however, in my opinion, it is understaffed and underfunded and does not have the capability of traveling all over the State of Maine to go into these woodland areas and manage the public lots. As you probably noted in the newspapers recently, the Bureau of Public Lands is currently engaged in land swaps of great magnitude and I, for the most part, feel that these are beneficial to the State of Maine, but I am troubled by the possibility of these remote lots, which are in excellent condition, they are prime timber, they have been selectively cut, as I indicated, over a period of years, being swapped off for land in more urban areas.

We all want to get government back to the people, and I feel that this is the perfect opportunity and just what the people want, to have the local control of these lots, especially after they have been doing it for over a hundred years. I believe that the Bureau of Public Lands can serve a useful purpose in supervising the use of other state lands and could also provide guidance to the Town of Osborn in management practices.

As an aside, the Hancock County Regional Planning Commission, in April of this year, voted unanimously in support of this L.D.

I believe the only practical method of handling the public lots and to keep them free from trespassers would be at the local level and that each newly incorporated town should have its lots for public purposes. In this way, the state would lose no further land to private interests and management would be kept at the local level.

I know that the Town of Osborn is very disappointed over losing their lots. I only hope that in the near future the legislature will consider restoring the practice of turning over the public lots to newly formed towns to be held by them in trust for public purposes under supervision of the Bureau of Public Lands. I believe that such action would restore some of the faith that the people of Osborn have lost in their state government.

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

Mr. CONNORS: Mr. Speaker, Ladies and Gentlemen of the House: I also oppose this mo-

tion. The previous speaker has stated about all of it. This Town of Osborn is part of my district, and in talking with a number of the people throughout Osborn and the small surrounding communities, they are very much afraid that these two public lots will be swapped off to the paper companies for land elsewhere. This seems to be the general feeling throughout, and I hope you will oppose the motion of "ought not to pass" and that we can pass this and let Osborn continue to manage those two public lots.

The SPEAKER: The Chair would advise the gentleman from Franklin, Mr. Conners, that the Attorney General has ruled on that matter.

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

Mr. CURRAN: Mr. Speaker, Ladies and Gentlemen of the House: I think one thing to point out here, my colleague, Mr. Silsby, has done an eloquent job in tracing the history of public lots. I think it is important that we point out that in discussing this particular L. D. we did not discuss the entire policy of public lots and whether or not it should be changed from the 1973 law. The emphasis here was put on shall we make an exception for the Town of Osborn in terms of all the other public lots in the state, and the feeling of the committee was that the Town of Osborn has the use, it is going to be managed, there is some income and that if we were to make the exception in this case, come next January, you would have 10 or 12 L. D.'s in here from newly incorporated towns who would want their public lots, and I don't think we have really readdressed the total question of what we want to do with our public lots, if anything, at this time.

I would urge that you accept the Majority "Ought Not to Pass" Report.

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

Mr. PERKINS: Mr. Speaker, Ladies and Gentlemen of the House: I think the gentleman from Ellsworth has reviewed the subject very well for you, and we have heard the Chairman of the State Government Committee review their thinking and the aspect they took on this.

I would only offer to you this observation, that were the Town of Osborn a City of Portland, a City of Augusta, a City of Lewiston, a City of Waterville, this would not have happened. If we are indeed a people's legislature, we will represent the 50 people in the Town of Osborn as we do the people in the City of Portland, the City of Augusta, the City of Lewiston, and perhaps we will reconsider this and face this issue right today head on.

The SPEAKER: The pending question is on the motion of the gentleman from South Portland, Mr. Curran, that the Majority "Ought Not to Pass" Report be accepted in concurrence. All those in favor of that motion will vote yes; those opposed will vote no.

A vote of the House was taken.

Whereupon, Mr. Curran of South Portland requested a roll call vote.

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

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

The SPEAKER: The pending question is on the motion of the gentleman from South Portland, Mr. Curran, that the Majority "Ought Not to Pass" Report be accepted in concurrence. All those in favor of that motion will vote yes; those opposed will vote no.

ROLL CALL

YEA — Bachrach, Benoit, Berry, Boudreau, A.; Brenerman, Brown, K. C.; Bustin, Carey,

Carroll, Carter, D.; Chonko, Clark, Curran, Davies, Devoe, Diamond, Dow, Elias, Flanagan, Fowlie, Goodwin, H.; Goodwin, K.; Green, Hall, Henderson, Hobbins, Howe, Huber, Hughes, Jensen, Joyce, Kane, Kany, Kilcoyne, Laffin, LeBlanc, Lynch, Mahany, Masterton, McHenry, McKean, McMahon, Mitchell, Morton, Nadeau, Najarian, Nelson, M.; Palmer, Plourde, Post, Prescott, Quinn, Raymond, Rideout, Spencer, Stover, Talbot, Teague, Theriault, Trafton, Truman, Valentine, Wood, Wyman.

NAY — Aloupis, Ault, Austin, Bagley, Beaulieu, Berube, Biron, Birt, Boudreau, P.; Brown, K. L.; Bunker, Burns, Byers, Carrier, Carter, F.; Churchill, Conners, Cote, Cox, Cunningham, Drinkwater, Durgin, Dutremble, Fenlason, Garsoe, Gauthier, Gill, Gillis, Gould, Gray, Hickey, Higgins, Hunter, Hutchings, Immonen, Jackson, Jalbert, Kelleher, Kerry, Lewis, Littlefield, Lizotte, Lougee, Lunt, MacEachern, Mackel, Marshall, Martin, A.; Masterman, Maxwell, McBairty, McPherson, Mills, Nelson, N.; Norris, Pearson, Peltier, Perkins, Peterson, Rollins, Shute, Silsby, Smith, Sprowl, Stubbs, Tarbell, Tarr, Torrey, Tozier, Twitchell, Whittemore, The Speaker.

ABSENT — Bennett, Blodgett, Connolly, Dexter, Dudley, Greenlaw, Jacques, LaPlante, Locke, Moody, Peakes, Strout, Tierney, Tyndale, Wilfong.

Yes, 64; No, 72; Absent, 15.

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

The SPEAKER: The Chair would ask the Sergeant-at-Arms to escort the gentleman from Bangor, Mr. Kelleher, to the rostrum for the purpose of acting as Speaker pro tem.

Thereupon, Mr. Kelleher assumed the Chair as Speaker pro tem and Speaker Martin returned to his seat on the floor of the House.

The SPEAKER pro tem: The Chair recognizes the gentlemen from Eagle Lake, Mr. Martin.

Mr. MARTIN: Mr. Speaker, Ladies and Gentlemen of the House: I move that we reconsider our action whereby this body failed to accept the Majority "Ought Not to Pass" Report and would speak to my motion.

The SPEAKER pro tem: The gentleman from Eagle Lake, Mr. Martin, moves that the House now reconsider its action where it failed to accept the Majority "Ought Not to Pass" Report. The gentleman may proceed.

Mr. MARTIN: Mr. Speaker, Members of the House: I use this extraordinary opportunity to address you for the first time on an issue before this body. I do so because in part of my testimony before the State Government Committee and in part as a member of the Public Lands Committee, in full respect of the gentlemen from Hancock County, who represent that county here, and in particular the town of Osborn. I understand and sympathize with them and with the municipal officers of that community, but I would like to very briefly, for those of you who have never been here before, indicate to you the history of the public lands question, because that is basically what we are talking about today, the question of whether or not the state of Maine, the people of Maine shall control the public lots of this state.

The town of Osborn is a recent town. As a matter of fact, a legislature before us gave them that status. Prior to that time, they were not a municipality and therefore were not eligible to receive the public lot anyway.

The argument has been used that the public lot in that community has been well managed, and so it has, but the important thing here is the continuity of that management and the ownership of that management. We have to

make a basic decision here today once and for all as to what we are going to do. Is this going to be considered state land or is it going to be managed, controlled by individual municipalities in this state for their own personal benefits and gains, that of the municipality, of course and not of municipal officers?

Some of you come from municipalities that had public lots and those public lots were sold at public auctions, not for the benefit of the people of Maine. That, I think, is a question we have to ask ourselves this morning.

I represent several plantations in my legislative districts from among the 13 or 14 municipalities, and I represent several towns who have gone through this process, including St. Francis, Allagash, New Canada. Those communities have made the decision that they will become a town and that those lots will remain in the hands and control of the State of Maine. If this legislature in this body believes, as you have indicated earlier by a previous vote, that you think that that ownership ought to change, I feel a responsibility on behalf of those people to introduce legislation to make sure that those plantations and towns now get those public lots back. I think we ought to fully realize the consequences of that vote as we take it today. I think no one should forget the final conclusion. I know that maybe we should have let the vote go this time and maybe, as the gentleman from Lewiston indicated, this bill will go down to defeat tomorrow, but I don't think it is fair to the people of Osborn; I really don't think that it is fair to the people of Maine.

The gentleman from Nobleboro and myself sat on the Committee on Public Lands some four years ago now to try to bring the ownership of the public lots back to the people of Maine. I think we are succeeding. We have four bills in this time. I think the question now is in your hands as to where we ought to go.

I plead with you to reconsider your action and to accept the Majority "Ought Not to Pass" Report.

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

Mr. NORRIS: Mr. Speaker, Ladies and Gentlemen of the House: I have been around here for awhile while this public lot issue has been going on. I think since this law was passed, we have had two or three communities that have been organized under the new law that went through here some four years ago. Everything that the good speaker has said is right, but I question. For hundreds of years before that time when a community organized, these lots became the property of the community that was organized. It became the property of the citizens of that community. They were set aside, as I understand, way back under the charter, for purposes of schools and churches, but the public lots did become the property of the citizens of that community.

In the last three instances, these public lots which, compared to the total amount of public lands and the wildlands in the state, as we all know, there are many many thousands of acres that are wild and will probably remain wild for the next decades, I guess it boils down to the question of whether or not in my mind, in my interpretation, that the people of the State of Maine reside in the cities and towns and hamlets or whether they reside in Augusta, and I would submit this morning that the system wasn't too bad before, that it has just started that the state retain at the state level those lands to be controlled entirely by the state. I would implore you this morning to hold firm and vote no.

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

Mr. LYNCH: Mr. Speaker, Ladies and

Gentlemen of the House: As a member of the Public Lands Committee that undertook the legislation that the speaker was talking about a few minutes ago, I would seriously question if you want to open this program up. We have negotiated transfers of lands around the state. I would like to ask some of the legal experts — suppose a town is incorporated in the future? There is no public lot in that land. Are you going to go back and break up the transfers that have been carried out in the last year or so?

The SPEAKER pro tem: The gentleman from Livermore Falls, Mr. Lynch, has posed a question through the Chair to anyone who may care to answer.

The Chair recognizes the gentlelady from Waterville, Mrs. Kany.

Mrs. KANY: Mr. Speaker, Members of the House: I rise not to answer Representative Lynch's question but to ask you to support the Speaker in this matter. If we allow this bill to become law, we can be assured that numerous other communities will seek the same conveyance of public lots, again at no price. Nothing would prevent those communities from selling off the newly conveyed public lots to anyone for any purpose, house lots or whatever, to raise some revenue for the town and the public lots would be lost forever. I sincerely urge you to support the Speaker on this matter.

The SPEAKER pro tem: The Chair recognizes the gentleman from South Portland, Mr. Curran.

Mr. CURRAN: Mr. Speaker, Ladies and Gentlemen of the House: I would like to reiterate once more, ladies and gentlemen, we did not discuss in the committee the total policy of public lands and whether we should have public lots or not. The issue before us was, shall we make an exception? The majority report is no. If you accept the minority report today, I hope that you will be ready tomorrow to accept all of the amendments that are going to come flying for equal treatment.

The SPEAKER pro tem: The pending question is on the motion of the gentleman from Eagle Lake, Mr. Martin, that the House reconsider its action whereby it failed to accept the Majority "Ought Not to Pass" Report in concurrence. All those in favor of that motion will vote yes; those opposed will vote no.

A vote of the House was taken.

94 having voted in the affirmative and 32 having voted in the negative, the motion did prevail.

Thereupon, on motion of Mr. Curran of South Portland, the Majority "Ought Not to Pass" Report was accepted in concurrence.

At this point, Speaker Martin returned to the rostrum.

SPEAKER MARTIN: The Chair thanks the gentleman from Bangor, Mr. Kelleher, for acting as Speaker pro tem.

Thereupon, Mr. Kelleher returned to his seat on the floor and Speaker Martin resumed the rostrum.

Divided Report

Majority Report of the Committee on Education reporting "Ought Not to Pass" on Bill "An Act to Reorganize the System of Public Post-secondary Education in Maine" (S. P. 95) (L. D. 219)

Report was signed by the following members:

Messrs. PIERCE of Kennebec
KATZ of Kennebec

— of the Senate.

Messrs. LYNCH of Livermore Falls
BAGLEY of Winthrop
WYMAN of Pittsfield
FENLASON of Danforth
BIRT of E. Millinocket
Mrs. BEAULIEU of Portland

Mr. PLOURDE of Fort Kent
Mrs. LEWIS of Auburn

— of the House.

Minority Report of the same Committee reporting "Ought to Pass" as amended by Committee Amendment "A" (S-106) on same Bill.

Report was signed by the following members:

Mr. USHER of Cumberland

— of the Senate.

Mr. CONNOLLY of Portland
Mrs. MITCHELL of Vassalboro

— of the House.

Came from the Senate with the Minority "Ought to Pass" as amended report read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (S-106)

In the House: Reports were read.

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

Mr. LYNCH: Mr. Speaker, I move we accept the Majority "Ought Not to Pass" Report.

The SPEAKER: The gentleman from Livermore Falls, Mr. Lynch, moves that we accept the Majority "Ought Not to Pass" Report.

The gentleman may proceed.

Mr. LYNCH: Mr. Speaker, Ladies and Gentlemen of the House: Before we talk about the legislation that is to be considered this morning which is the amendment which repeals the bill, I would like to call your attention to two sections in the bill. I don't believe you've read them. The Public Law of 1865, Chapter 532, the second sentence in Section 8 says the trustees have this authority and responsibility. "No student shall be admitted into or continued in the college, nor shall any person be employed in any office or service who is not of good moral character and pure life." I wonder if the trustees examine each applicant to the University of Maine as to their character and whether they have had a pure life.

In the same chapter under Section 14, the duties of trustees and teachers — and I cast no reflections on any who have taught in the university system or who are teaching in the university system. "It shall be the duty of the trustees, directors and teachers of the college to appress on the minds of the students the principles of morality and justice and a sacred regard for truth, love to their country, humanity and universal benevolence, sobriety, industry and frugality, chastity, moderation and temperance and all other virtues which are the ornaments of human society" and then it goes on. The bill should have repealed those two sections if it did nothing else.

What we were asked to act on today is the amendment. The amendment repeals everything in the bill and adds Section 1: "The board of trustees shall appoint advisory committees on behalf of the various campuses and such other advisory committees as may appear desirable." Section 2 says "The administrative council shall elect annually one of its members to serve as chairman. The chairman shall present to the chancellor all recommendations from the heads of the campuses. The chancellor shall transmit all such recommendations to the board of trustees." This amendment is not in the best interest of the university.

At present, there are local advisory committees. The amendment would take away from the local campus its faculty students and citizens and place them in the hands of the board of trustees. I ask you, which is the more responsible advisory committee, one that has local input or one that is appointed by a board of trustees? I don't think there is any need of the second section. I urge you to accept the "ought not to pass" report.

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

Mr. DAVIES: Mr. Speaker and Members of

the House: I rise to differ with my good friend from Livermore Falls, Mr. Lynch. When this bill was first presented to the legislature, I was adamantly opposed to it. I felt it took an unnecessary step towards breaking up the university, making it difficult for the university system to operate. However, in the amended form that we have before us today with Senate Amendment 106, I think this is a good bill and it takes two very necessary steps for improving the operation of the University of Maine.

Two of the problems that have existed in the last 10 years with the University of Maine are these: One, the universities have grown somewhat out of touch of the communities that they serve. The second problem is that all too often the university system becomes a little bit too large and it is difficult for those people who are operating at its grassroots level to have direct input with those people who administer the university system.

The amendment we have before us serves both of those purposes. One, it requires that there be established advisory committees on each of the campuses to receive citizen input on the operations and functioning of the university. This gives the local citizenry, people like yourself and me, the people who live in our communities, an opportunity to have input on what they think is wrong with the university and what they think is right with it.

The second section provides that the members of the administrative council, the presidents of the various campuses who all too often find that they have little direct input with the board of trustees and the chancellor's office will be given responsibility and authority to direct their feelings through an elected member of the administrative council to report these findings and feelings to the chancellor and to the board of trustees. This opens up a new avenue of communication that is badly needed in the university system.

We feel the university is a good place, that it can stand for a little bit of improvement and these two provisions will move very closely in that direction. I urge you to oppose the "ought not to pass" report and support the "ought to pass" report as amended.

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

Mr. HUGHES: Mr. Speaker, Men and Women of the House: As some of you may know, I did serve five years as a trustee of the University. That experience gives me a great interest in these kinds of bills.

The sponsor of the bill in the other body was kind enough to share with me some information on the subject and I gave it a lot of thought hoping that I could find a way to support this committee report, but I am afraid I cannot.

The committee amendment has two sections. The first deals with advisory committees and I have no quarrel with that. I think all of our campuses ought to have advisory committees. Most of them do. I have a list of which ones do and which ones don't. Incidentally, the ones which do not seem to be the campuses which have the closest relations with their communities. I think they all ought to and I would have no quarrel with a bill that legislated that although I would hope that the trustees would see it as good advice and just do it voluntarily.

The second section of the committee amendment, however, concerns me greatly. That deals with the administrative council. Some of you may not be familiar with what that agency is. It is a legislatively mandated council made up of the presidents of the various institutions. It was mandated in what we used to call the marriage license which was the legislative bill which brought the university together into one institution. As a compromise to campus presidents who, at that time, opposed the bill to consolidate the university, this administrative

council was created to give them a statutorily mandated body through which they could exercise and give voice to their opinions.

The committee amendment would create a chairman of that administrative council from within the council and would give him the duty of presenting to the chancellor all the recommendations of that council, then obligating the chancellor to present all of those recommendations to the board of trustees whether or not they meet with the chancellor's approval. That, I think, significantly restructures the university. It creates a new level of administration. It creates an administrative council made up of the presidents with a life of their own. Having watched the administrative council work for five and a half years and seeing them essentially as a negative body, a body whose principal concern is divvying up the spoils among eight campuses, I don't think strengthening that level of the university would be a healthy development for the State of Maine. What typically that body does is protect the prerogatives of individual campuses rather than taking an overall look at the needs of the entire state. It is the chancellor's office which has that responsibility and which comes closest to fulfilling it.

I think we are creating or adding to a potential monster by strengthening the administrative council. It is this area of the amendment which I cannot support and, therefore, I have to support the motion of the gentleman from Livermore Falls, Mr. Lynch, and the 10 members of the Education Committee who signed the "ought not to pass" report.

The SPEAKER: The Chair recognizes the gentlewoman from Hampden, Mrs. Prescott.

Mrs. PRESCOTT: Mr. Speaker, Ladies and Gentlemen of the House: I ask you to vote against the "ought not to pass" report so that we can accept the minority "ought to pass" report. There is not much left of this 11-page bill and I didn't support the other 10 pages, but we do have a committee amendment that strikes out everything except what has been referred to on this pink page.

We would be allowing the board of trustees the right to appoint an advisory committee. It gives the administrative council the authority to elect a chairman. The chairman of the administrative council would be responsible for presenting to the chancellor all of the recommendations from the heads of the campuses. Each campus would provide for citizen input and recommendations from the heads of the campuses. Each campus would provide for citizen input and recommendations.

To a very great extent, the burden of this particular education falls in a large part to the trustees who are responsible for defending the standing of the university before the public and the politicians. Even though the trustees are appointed through the political process, their responsibility is to protect the university from the political pressures outside the system as well as for deliberating the elements within.

I would like to point out that there are committees and subcommittees of the board of trustees and these committees make all of the recommendations to the board of trustees itself, but if these committees decide not to bring up an issue before the board of trustees, then the issue may never get there. It may never come before the full board.

There is a definite need to provide for the citizen participation and for an unfiltered flow of information to reach those board of trustees themselves. The Maine citizen who supports your and my university does not have the ability to speak out at those board meetings. This is unfortunate. It is extremely important to study and discuss all of the information before any of those important decisions are made. I ask you to support the minority "ought to pass" report.

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

Mr. DEVOE: Mr. Speaker, Men and Women of the House: I would ask this House to oppose the motion made by the gentleman from Livermore Falls, Mr. Lynch, for the following reasons: The law which created the super university system, so-called, provided for an administrative council, yet in looking at a copy of the duties of the council, I see that there is no provision for any type of organization of the administrative council. I submit to you that section two of the Senate filing paper 106, which is committee amendment "A", which is the bill, simply permits the seven heads of campuses to elect one of their members for a one-year term to serve as chairman. I would think that when the bill was enacted 10 years ago, it was perhaps due to oversight that there was no organization provided for in the original statute.

If I may read briefly a statement of the present law as it relates to the administrative council, the present law states in part "The administrative council shall exercise the following responsibilities to make to the board of trustees through the chancellor recommendations which require board action or pertain to policy development, serve as a clearing house for matters referred to it by appropriate officers of individual institutions, act on matters referred to the council by the chancellor or the board of trustees."

The only change which this bill makes and which I think is very important for this legislature to understand is that it means that the governance of the university is going to be in the board of trustees and that perhaps some recommendations which the chancellor may personally oppose are still going to have a chance to be openly debated by the board of trustees. The way it is operating at the present time, the chancellor can act as a filter, and if the chancellor wishes to oppose a recommendation of the administrative council, it does not have to get out of the chancellor's office to the board of trustees. This amendment would provide that the council may send recommendations to the chancellor from the heads of campuses. And the chancellor shall transmit all such recommendations to the board of trustees.

Men and women of the house, I ask you to consider the import of this amendment. If you support the majority report of this committee, you are in effect saying that you want the chancellor to be the only person who makes recommendations to the board of trustees to be acted upon by the board. If you want the seven heads of campuses through their organization called the administrative council to be able to make recommendations for consideration by the board of trustees, then support the minority "ought to pass" report.

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

Mr. DUDLEY: Mr. Speaker and Members of the House: The gentleman from Orono has just covered this subject so adequate that it leaves very little that I can say, except that I too would ask you to support the minority report. I think if you note, those of us that live near the University of Maine will be quite close in our deliberation this morning.

Let me tell you that my concern dates back to when they consolidated the University of Maine, which I was drastically opposed to, which they told me would work and in my opinion it hasn't. So I suspect this morning I am reminded of a man — they say a man drowning will grab a straw. I am willing to try anything to see if we can't get something that will work a little better there. I hope this amendment will. I am pleased with it. I think it offers something. I won't go into it because the man from Orono has done such an adequate job.

Let me tell you, if this problem existed in your City of Portland or City of Lewiston or where have you that I, too, would listen attentively to what you have to say, as I have and hope you did to the Representative from Orono because they live near the problem; they're acquainted with the problem. They hear it every weekend when they go home. I think we should listen to them. I hope that you will support the minority report.

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

Mr. BAGLEY: Mr. Speaker, Ladies and Gentlemen of the House: With all due deference to the gentleman from Orono, I received a phone call 15 minutes ago stating that the council, the presidents of the branches of the University, met yesterday and voted unanimously that they did not want this bill to pass. They do not want the provision that the several speakers have spoken in favor of. I hope you will accept the majority "ought not to pass" Report.

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

Mr. WYMAN: Mr. Speaker, Ladies and Gentlemen of the House: I was originally very strongly opposed to this bill in its original form, which was to dissolve the university system as we know it and to go to separate campuses. I also was initially opposed to the amendment which strikes out all of the original bill and replaces it with the Committee Amendment "A" which you have in your book. I, as you notice, signed the majority "ought not to pass" report; however, I have changed my position.

The University of Maine means a great deal to me. When I attended the University of Maine at Farmington I was involved in student government there for two years, attended many board of trustee meetings, talked with many of the members of the faculty on all of the campuses and also the presidents of the individual campuses. It pains me a great deal to have to go to the people of Pittsfield, Hartland and Canaan and try to explain to them what the University of Maine is, what it does and how it benefits them, because I am afraid that the people of this state have a misconception of what the University of Maine stands for. At least the misconception is quite prevalent in my district and I think many of you who have rural districts that are away from the major campuses also have encountered some of the same resistance to the University of Maine that I have.

There seems to be a real problem with communication. That is why, in reconsidering, I support wholeheartedly this committee amendment. I believe that it's going to provide the opportunity for the ordinary citizen to have input into the university which he or she supports with their tax dollars. People are very resentful over the perception that they have that the university is simply out of reach of the ordinary citizen, that they have no real control but actually they are asked year in and year out to spend more dollars to support our only public institution of higher education.

With all due respect to those who feel that this is a superfluous amendment, I would urge you to defeat the motion of the gentleman from Livermore Falls to accept the majority "ought not to pass" report so that we may be in a position to adopt the committee amendment, the minority report, so that we can have a better handle and give the citizens more input into the university.

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

Mr. JALBERT: Mr. Speaker and Members of the House: When this bill was first presented, the super university program, at the regular session years ago, I was a strong opponent of it at the special session. I was explained the situation thoroughly and I went along with it. At

times, it certainly hasn't proven to be the perfect system, but when I see a bill that has been presented originally and I read in the bill that this bill probably could conceivably close one of the two programs in the upper part of the state, although there is flexibility, that was quickly added.

I know that this bill originates, laying it right on the line, from some dissidents within the area. We are asked to keep the bill alive for an amendment. The amendment, in the first place, is not a good amendment. It seems that for the last two days I have been at odds with the good gentleman from Pittsfield, Mr. Wyman, for whom I have a great deal of respect, but it is one of those things that we happen not to see eye to eye in a friendly fashion.

This is particularly not a good amendment. I guarantee you that if this bill passes, within a short period of time you would have to choose between the closing of Machias U of M. or Fort Kent U. of M. Coming from this end of the state, I want no part of that at all because this would mean and preclude some of your youngsters from getting higher education.

Mr. Speaker, I move the indefinite postponement of this bill, all reports and accompanying papers and when the vote is taken I ask for the yeas and nays.

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

Mr. DEVOE: Mr. Speaker, Ladies and Gentlemen of the House: I wish to respectfully differ with the gentleman from Lewiston's observations about the various campuses. This bill simply intends to flesh out and elaborate on powers of the administrative council that should have been inserted in the bill years ago. How we have gone 10 years without this question being raised puzzles me. Yet, for the first time, this legislature has a chance to go on record and decide whether or not the chancellor or the board of trustees are running the system.

I view the observations of the gentleman from Lewiston, referring to campuses of Machias or Fort Kent or anywhere else in the state, as being misleading, the last thing in the world that I have when I vote for the minority report on this bill. I am not trying to address myself to the validity of the various campuses. I am simply saying that the president of each campus, if he has and can persuade the administrative council that there is a matter sufficiently important to be addressed by the board of trustees, this amendment will enable that issue to get before the board of trustees.

The president from Machias has just as big a vote on the administrative council as the president of any other campus. The President of Fort Kent has just as big a vote as the president of any other campus. Please, members of the legislature, do not be misled. If we are going to have an administrative council, then let's give it the power to organize itself.

Now, if we may address ourselves very briefly to the question of advisory committees. Two of the campuses presently do not have advisory committees. The University of Maine at Augusta, within the last couple of weeks, has appointed a citizen's advisory council. I suggest to you that if we are crediting the trustees with any sense at all, and I think we are, I think we can rely on the discretion and the good sense of the trustees that where campuses presently have some kind of advisory councils, very likely the board of trustees in their wisdom, after consulting with the leaders of the various campuses, will very likely make the same appointments that the campus heads have already made.

The gentleman from Livermore Falls, Mr. Lynch, implied in his speech that that would not be the case, but I don't think we're crediting the board of trustees with much sense in discretion. I can't imagine the board going out and creating

on the University of Maine at Orono campus, the University of Maine at Portland-Gorham campus, which presently has three ad hoc citizen advisory committees, I can't imagine the trustees overriding the decisions already made by the various campus heads as to membership on the council.

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

Mr. JALBERT: Mr. Speaker, Ladies and Gentlemen of the House: In answer to Mr. Devoe, my definition of misleading is not telling the truth, and my definition of not telling the truth is lying. If Mr. Devoe would care to, we can go downstairs and dig out the records as to when the sponsor of this measure first introduced it as to whether or not he did not make the statement which would indicate the possibility of closing Presque Isle or Fort Kent; however, the flexibility existed. That is the statement I read, that is the statement I remember, but what was not in the statement, however, is which campus would close. I know which campus would close and I don't want that to happen.

If the good gentleman wants to have the House recess or join me in the back, we will go down in the library, I am sure we can find the article, and if we can't find it, I will back up tomorrow, or if we can find it, somebody is going to have to swallow some words.

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

Ms. BACHRACH: Mr. Speaker, Men and Women of the House: I served on a Performance Audit subcommittee which was investigating the university last fall, and I just wanted to communicate the thought that one of the things we found that was somewhat of a problem with the university was that some of the desires of the individual campuses were not getting through the Chancellor's office and acted on. I see this administrative council recommendation by way of its chairman as addressing this problem to a limited extent.

As far as advisory committees on behalf of the campuses are concerned, I think you would find, particularly in the more remote campuses, and I visited Machias and was much impressed with the morale there, that you would not find anyone in the local community who would support closing of any of these campuses. They are a tremendous contribution culturally and in many ways to the more remote areas. It is really the focus of all of their endeavors, adult education and so forth, and I don't believe that the trustees would consider in any way appointing people who would want to close them. I don't think they could find anyone who did in those areas.

Allowing the recommendations of the administrative councils to be passed on to the board of trustees, providing that they must be, might perhaps break a somewhat severe communication block which sometimes occurs.

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

Mr. FENLASON: Mr. Speaker, Ladies and Gentlemen of the House: As I trust everybody knows, we have a fine university system which provides an excellent service for students all over the State of Maine and it does it well.

The original intent of this bill was to break up that excellent system, and it failed. Now we have an amendment in front of us which would try to break up an existing advisory system which is working very well. I strongly support the motion of the gentleman from Lewiston, Mr. Jalbert, that this bill, amendment, and all accompanying papers be indefinitely postponed.

I ask that you realize that it is a very poor policy to get off a winning horse, and I feel that our system is going well. I feel that this bill and this amendment are attempts to break down

our system. Please vote for the motion to indefinitely postpone.

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

Mr. BAGLEY: Mr. Speaker and Members of the House: I just simply want to reiterate a statement I made earlier. The administrative council, all seven members present, voted unanimously yesterday that they didn't want any change in their organization. The people are still talking about the advantages to the administrators. The administrators themselves do not want the bill and I don't think we ought to shove it down their throats.

The SPEAKER: The Chair recognizes the gentleman from Milo, Mr. Masterman.

Mr. MASTERMAN: Mr. Speaker, Men and Women of the House: I rise to support the legislation now being discussed. I feel that the advisory committee can be important to the board of trustees as they make crucial decisions regarding the future of our university. I think this legislation would be a small step in the right direction of opening communication between the board of trustees and the people served by the University of Maine, and I urge you not to support the motion now before you of indefinite postponement.

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

Mr. BIRT: Mr. Speaker, Ladies and Gentlemen of the House: I also was a member of the Performance Audit Committee; it did cover quite a bit of the university system. If you really want an interesting experience sometime and a really satisfying one, you should talk with people within the university system and get their varying views.

In the northern end of the state in the two university segments we have up there in Fort Kent and Presque Isle, they do have administrative councils operating very effectively in which they have citizen input from the local communities, students and faculty. I think probably the one that I thought was working the best was in Presque Isle, and it is a real experience to sit down to a luncheon with people from the business community and be able to see the discussion that goes on.

The administrative councils, there seems to be some thought of mixing the two because the advisory committees that they have in those areas are certainly within the campuses. Presently there are three of them that are operating very effectively and there is the intent to create some more. These are local situations.

The administrative council, as I understand it, if there is a lack of communication between the people on the campuses, the faculty and possibly through to the trustees and the chancellor, the breakdown would seem to be somewhere in the head of the institutions who is serving on the administrative council. The administrative council, as I understand it, and it seems to be indicated here, are the heads of the various seven campuses who meet on a monthly basis with the chancellor and communicate their thoughts to him, and he, in turn, brings them before the trustees. At the monthly trustees meetings, in all the information that I got in some of our participations, particularly on Performance Audit and other discussions I have had, the trustees in their monthly meetings, the members of the ad-

ministrative council, which are the presidents of the various campuses, also sit in with the trustees, they are open to suggestions to the trustees, the trustees meetings are open, the trustees do represent the citizens in the state. I think if we look over the makeup of the members of the board of trustees, we find among them a labor leader, housewife, a retired federal employee, a staff member of a private college, a former president of a large university, a couple of lawyers, a banker, and I don't know, there are probably others, but I think that is a pretty broad coverage as far as various work segments or areas of the state.

As far as the geographical area, you have at least one from the Washington County area, you have one or two from Aroostook County, you have some from Portland, some from Lewiston. I think you have good geographical distribution.

I think we do have citizen input into the university. I think the advisory councils of the various campuses that are under way and the attempts to get others going will work out satisfactorily. From everything I can find out, the administrative council is doing a job, and if the faculty is not able to get their points across, possibly they should have closer contact with members of the administrative council from their particular campus.

I hope you will support the motion to indefinitely postpone the bill and its accompanying papers.

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 Farmington, Mr. Morton.

Mr. MORTON: Mr. Speaker, Ladies and Gentlemen of the House: I hope you will look very carefully at this amendment which, of course, is the bill, as you have been told. I, too, have some reservations about Section 1. It is not a section that disturbs me a great deal, although it does contain the word 'shall' and I tend to dislike the word shall in this kind of an amendment. I would feel as though basically it would clutter up a system that is working pretty well at the present time, but I have real strong feelings about Section 2 which has been discussed somewhat, and I would like to speak to that, refute some of the points that have been made earlier in the debate.

The whole idea that the administrative council does not have input is entirely false. I am told that the administrative council not only has input but participates in some committee meetings of the trustees. So when there is a sub-committee meeting of the trustees working in a certain area, the members of the administrative council who have a problem in that area sit in at the meetings and have input and discuss it directly with the trustees. That is working very well. It is not correct to say that everything is filtered through the chancellor with no opportunity at all for the trustees to have any input — for the administrative council to have any input to the trustees. Sure, it is done in shirt-sleeve sessions, it is done in the complete freedom of a meeting where everybody takes their coats off and gets down and tends to solve the problem. Perhaps officially it goes through the chancellor, but I want you to know in all seriousness that the trustees are well aware of what the problems are at the various campuses.

It has been pointed out today that some of the folks have gotten up and said — the gentledady from South Portland said this allowed this to be done. The gentleman from Orono said that they

may send items to the chancellor. I would point out to you ladies and gentlemen, none of these words are in the amendment.

I think it is important, perhaps, for some of the folks who haven't been around here as long as some of the rest of us to always look at the little words, and the word 'shall' appears in this section three times, if you will notice — the council 'shall' elect a chairman, the council 'shall' present to the chancellor all recommendations and the chancellor 'shall' transmit all such recommendations to the board of trustees.

We are submitting to the university system our mandate that they will run it a certain way. I submit that it has been running very satisfactorily. The people that we are so concerned about this morning, the members of the administrative council, as you have been so well told twice by the Representative from Winthrop, do not want this. The report of the vote was unanimous. That pleases me a great deal. I wasn't sure it would be, but I think that is excellent and it speaks well for the feeling of all of the presidents of the various campuses that they do not want the university system to politicized internally or externally, and that is exactly what this would do.

There is a concern that the so-called elected chairmen would be first of unequals and in his humanness, when he appeared before the trustees, he could not help but push the items which helped his own campus.

This, ladies and gentlemen of the House, is nothing more than a very cleverly constructed end run to accomplish what the sponsor of the original bill failed to do, and that is breaking up the university. This will allow direct communication from individual campuses to the trustees with all that implies for politicizing an internecine warfare within the university system. I urge you, in all sincerity, to support the motion of the gentleman from Lewiston, Mr. Jalbert, to indefinitely postpone this bill and all its accompanying papers.

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

Mr. HUGHES: Mr. Speaker and Members of the House: The gentleman from Farmington has said it well. I can add only three quick items that I think we ought to have under consideration.

First, I ought to remind this body that we have passed a bill which opens up the meetings of the administrative council as well as sub-committees of the board of trustees to public view. That will insure, I think, that if indeed there are strong internal disputes going on within the administrative council, they will surface either through the newspapers which trustees read or through more informal means.

Secondly, the gentlewoman from Hampden, Mrs. Prescott, was concerned that citizens have the ability to appear before the trustees and express their concerns. I agree with that and it certainly is true now. The trustees have a policy that at every meeting everyone who wants to appear may do so, there are no criteria placed upon that, except the one that they apply several days in advance so they can be placed upon the agenda, but I have even seen occasions where they have come into the meeting and been scheduled into the agenda. So there is no difficulty in expressing your concerns directly to the board of trustees.

The advisory council part of this bill is not objectionable; it is the other part that is, and don't be misled by the desirability of having those advisory councils. We can provide them in other ways if we see fit to do so.

My final comment is that the trustees, indeed, have looked at this exact question themselves. I served on the committee for writing new by-laws for the trustees when I was a member. We looked at the relationships of the president to the chancellor and all the various mechanisms that we had for their relationship

and we chose the one that predominates now.

We would be setting up a situation, if we allowed equal access to the board by the presidents and the chancellor, of having to have the chairman of the administrative council sit at one end of the table and the chancellor at the other and the trustees lined up on both sides as citizens who are not paid, who have a scarce amount of time, having to decide which recommendation they are going to accept today. They simply ought not to be expected to put that kind of effort in. They now put in three, four and five days a month for no pay, but to be forced to make decisions and choose between conflicting recommendations of two bureaucracies is more than the citizen board ought to be expected to do and can do intelligently.

I think this bill is unwise and I join with the motion of the gentleman from Lewiston to indefinitely postpone this.

The SPEAKER: A roll call has been ordered. The pending question is on the motion of the gentleman from Lewiston, Mr. Jalbert, that this Bill and all its accompanying papers be indefinitely postponed in non-concurrence. All those in favor of that motion will vote yes; those opposed will vote no.

ROLL CALL

YEA — Ault, Austin, Bachrach, Bagley, Beaulieu, Bennett, Benoit, Berube, Birt, Boudreau, A.; Boudreau, P.; Brenerman, Brown, K.C.; Burns, Bustin, Carter, D.; Chonko, Clark, Cox, Cunningham, Curran, Diamond, Durgin, Dutremble, Elias, Fenlason, Flanagan, Fowlie, Garsoe, Gillis, Goodwin, H.; Goodwin, K.; Gould, Greenlaw, Hall, Henderson, Hickey, Hobbins, Hughes, Hunter, Immonen, Jalbert, Jensen, Joyce, Kilcoyne, Laffin, LeBlanc, Lizotte, Lougee, Lunt, Lynch, Mahany, Martin, A.; Masterton, Maxwell, McHenry, McKean, McMahon, McPherson, Mills, Moody, Morton, Nadeau, Najarian, Nelson, N.; Norris, Peltier, Plourde, Raymond, Rideout, Silsby, Smith, Sprowl, Stover, Tarr, Teague, Theriault, Torrey, Truman, Twitchell, Valentine, Whittemore, The Speaker.

NAY — Aloupis, Berry, Biron, Blodgett, Brown, K.L.; Bunker, Byers, Carey, Carrier, Carroll, Carter, F.; Churchill, Connors, Connolly, Cote, Davies, Devoe, Dexter, Dow, Drinkwater, Dudley, Gauthier, Gill, Gray, Green, Higgins, Howe, Huber, Hutchings, Jackson, Kane, Kany, Kelleher, Kerry, Lewis, Littlefield, MacEachern, Mackel, Marshall, Masterman, McBairty, Mitchell, Nelson, M.; Palmer, Pearson, Perkins, Peterson, Post, Prescott, Quinn, Rollins, Shute, Spencer, Strout, Stubbs, Talbot, Tarbell, Tozier, Trafton, Wilfong, Wood, Wyman.

ABSENT — Jacques, LaPlante, Locke, Peakes, Tierney, Tyndale.

Yes, 83; No, 62; Absent, 6.

The SPEAKER: Eighty-three having voted in the affirmative and sixty-two in the negative, with six being absent, the motion does prevail.

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

Mr. LYNCH: Mr. Speaker, I move we reconsider the action that we have just taken to indefinitely postpone L.D. 219, and I urge you all to vote against me.

The SPEAKER: The gentleman from Livermore Falls, Mr. Lynch, moves that we reconsider our action whereby L.D. 219 was indefinitely postponed. All those in favor of reconsideration will say yes; those opposed will say no.

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

Sent up for concurrence.

Non-Concurrent Matter Tabled and Assigned

Bill "An Act to Revise the Measure of Damages Under the Unfair Trade Practices Act" (H. P. 277) (L. D. 341) which was passed

to be engrossed in the House on May 3, 1977.
 Came from the Senate indefinitely postponed in non-concurrence.

In the House:

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

Ms. CLARK: Mr. Speaker, I move that the House insist and ask for a Committee of Conference.

The SPEAKER: The Chair recognizes the gentleman from Hope, Mr. Sprowl.

Mr. SPROWL: Mr. Speaker, I move that we recede and concur. L.D. 344 is not a good bill and I am glad to see that the body at the other end of the hall has seen fit to indefinitely postpone it.

This is an inflationary measure. It allows the Attorney General to increase his bureaucracy. It would increase the products liability insurance which merchants now carry. What the bill does, it allows the Attorney General to sue for damages — this he already does — but in addition, it allows him to sue for the product as well, that product which may have lost and any other damages caused thereby.

I guess an example of that is, if you buy a refrigerator and it is under guarantee and something goes wrong with it, the Attorney General can act in your behalf and sue to recover damages. This is the way it is now. If this bill passes, the Attorney General or his department would have the additional duties of also suing for the product. In that refrigerator there may be lettuce and milk and other things and this would allow him to sue for those damages.

In my opinion, this is a bad bill, inflationary, would cost the taxpayers money, it makes the Attorney General's Office more like Pine Tree Legal. We have good attorneys in the state. We can hire them to protect our interests and to recover loss. We don't need to build bureaucracy.

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

Mr. MARSHALL: Mr. Speaker, Ladies and Gentlemen of the House: I agree with many of the arguments proposed by Mr. Sprowl and would ask that we defeat his motion to recede and concur. There are instances when you do buy a product and the damage that results from the use of that product warrants the return of not only the cost of that product but any incidental damage that results from it. I would urge that we defeat his motion and go along with the motion of Ms. Clark of Freeport to insist and ask for a Committee of Conference.

Whereupon, on motion of Mrs. Gill of South Portland, tabled pending the motion of the gentleman Mr. Sprowl of Hope that the House recede and concur and tomorrow assigned.

Non-Concurrent Matter

Bill "An Act Concerning the Penalty for Sale of Alcoholic Beverages to Minors" (S. P. 249) (L. D. 758) which was indefinitely postponed in the House on May 3, 1977.

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-84) and asked for a Committee of Conference in non-concurrence.

In the House:

On motion of Mr. Lizotte of Biddeford, the House voted to adhere.

Non-Concurrent Matter

Bill "An Act Permitting Corporal Punishment in Certain Private Schools" (S. P. 181) (L. D. 495) which was indefinitely postponed in the House on May 3, 1977.

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-52) and Senate

Amendment "A" (S-58) in non-concurrence.

In the House:

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

Mr. CONNOLLY: Mr. Speaker, I move that the House adhere.

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

Mr. LYNCH: Mr. Speaker, I move that we recede and concur.

The SPEAKER: The pending question before the House is the motion of the gentleman from Livermore Falls, Mr. Lynch, that the House recede and concur. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

Whereupon, Mr. Birt of East Millinocket requested a roll call.

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

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

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

Mr. WYMAN: Mr. Speaker, a point of information? Would a tabling motion be in order at this time?

The SPEAKER: The Chair would answer in the affirmative.

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

Whereupon, Mr. Morton of Farmington requested a vote.

The SPEAKER: The pending question before the House now is on the motion of the gentleman from Pittsfield, Mr. Wyman, that this matter be tabled for one legislative day. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

29 having voted in the affirmative and 84 in the negative, the motion did not prevail.

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

Mr. BIRT: Mr. Speaker, Ladies and Gentlemen of the House: The reason I would have liked to see the tabling motion develop is that there seems to be some information that possibly this bill is not needed. There was some indication just made Tuesday and there was also some comments to that effect made in the other body. I think because of some unclear situations on this, until all of it could be cleared up, hopefully, some attempt to table did have some merit.

This bill has bothered me a great deal in the sense that I do feel that people who have children attending private schools and the parents of those children have some rights, and many of these parents are sending their children to these so-called christian schools for that particular purpose, that they do have a different style of discipline.

I have had a good deal of correspondence on this particular legislation, and I think I would probably like to read at least one letter and most of them fall into the same general category. These are all well written letters, I think they are sincere letters from concerned parents.

We are writing to ask for your support on the bill, L.D. 495, An Act Permitting Corporal Punishment in Certain Private Schools. Being christian parents, we strongly feel that the state should not meddle into disciplinary affairs of private schools or of parents. Strong discipline is beneficial both in our private schools and in our homes. The passage of this bill will not cost the state or the taxpayer a dime. Please vote with this. Thank you."

I think that this is why these parents are

sending these children to these schools, because they do feel that there is a need or desire this type of discipline.

At the hearing that we had, there were parents who were there, one of whom had three children traveling quite some distance to the school in Bangor. That parent, I understand, is paying something like \$325 a year for that child to attend that school when he could attend a school locally at no cost to the parents, being handled through the tax dollar. If these parents are going to that effort and they all desire this type of a program in which corporal punishment, or the mild chastisement in this area is used, I think they have some honest right to it.

I would hope that you would vote to recede and concur with the other body and we could pass this bill along.

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

Mr. SPENCER: Mr. Speaker, Ladies and Gentlemen of the House: Before we vote on this, I would like to just make a point which has been made several times previously in the debate because I think it resolves this whole question. Section 106 of the code says: "A person to whom such parents, foster parents, guardian or other responsible person has expressly delegated permission to self prevent or punish misconduct is similarly justified in using a reasonable degree of force." An opinion has been requested from the Attorney General's Office as to whether that means that the parent can delegate to the teacher or to the school the right to use corporal punishment. The answer is, yes, and I quote directly from the opinion of the Attorney General's Office, dated May 3, "It is our view that this section does permit a parent to expressly delegate permission to use corporal punishment to punish a person for misconduct to individual teachers or to a school."

I would also read from a letter to the Executive Director of the Northeastern Regional American Association of Christian Schools. The letter is from Joseph H. Brennan. He directs the attention of Mr. Yarnell to Section 106 of the code and points out that this allows corporal punishment if there is a specific delegation from the parent. It seems to me that the code has covered this situation and that where there is some confusion as to what the law is and that as soon as it is made clear what the code now permits, that there is no need at all for this legislation.

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

Mrs. MARTIN: Mr. Speaker, Ladies and Gentlemen of the House: My children went to private schools all through their lives until they got to the secondary schools. They went to Catholic schools. I sent them there to learn their religion because I was not capable of teaching them what I wanted them to know. I did not send them to be punished, I sent them to learn what was supposed to be learned in those schools.

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

Mr. HOWE: Mr. Speaker and Members of the House: The gentleman from Standish, Mr. Spencer, has quoted in part some material that I read into the record a couple of days ago. There is another problem that I think we will run into if we pass the bill as amended by the Senate, because the other body has amended out the word "private" before the word school and put in the word "so-called Christian". It is my own opinion, I have not asked the Attorney General about this point, but it would seem to me that such a law on the books of Maine would very likely be unconstitutional in that the state would be legislating for a religious group and not for the public generally.

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

Mr. WYMAN: Mr. Speaker, Ladies and Gentlemen of the House: In response to the gentleman from Standish, Mr. Spencer's statements, at the hearing on this particular bill, L. D. 495, a great many people came to testify in favor of the bill and on three or four occasions, I asked the people who were testifying, including Mr. Yarnell, if, in fact, under the current law they did already have the authority to use corporal punishment if that was expressly delegated by a parent? Their answer was that the Attorney General's Office had told them no, they did not have that authority. So if there has been in some confusion over this bill, and it is very possible, I can only say and relate to you, in response to the gentleman's statements, that they were told by the Attorney General's Office that they could not use corporal punishment even if they had the written permission of the parent, and that is why I believe the bill was introduced in the first place.

I would hope that you would vote in favor of the motion to recede and concur with the Senate.

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

Mr. BAGLEY: Mr. Speaker, Ladies and Gentlemen of the House: I just want to say in regard to this so-called 'christian' word, these schools call themselves christian schools and there is an association of christian schools and that is the term that applies to them, it isn't something that is used in any other sense at all, it is just simply using their own term in the bill.

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

ROLL CALL

YEA — Ault, Bagley, Bennett, Birt, Boudreau, P.; Brown, K. L.; Brown, K. C.; Burns, Carey, Carrier, Carter, D.; Carter, F.; Churchill, Conners, Dow, Drinkwater, Dudley, Fenlason, Garsoe, Gauthier, Gillis, Gould, Gray, Hickey, Higgins, Hunter, Hutchings, Jensen, Laffin, Lewis, Littlefield, Lunt, Lynch, Mackel, Marshall, Masterman, Maxwell, McBreairty, McKean, Mills, Nelson, N.; Palmer, Pearson, Peterson, Prescott, Quinn, Rideout, Rollins, Shute, Silsby, Stover, Stubbs, Theriault, Torrey, Tozier, Twitchell, Whittemore, Wyman.

NAY — Aloupis, Austin, Bachrach, Beaulieu, Benoit, Berry, Berube, Biron, Blodgett, Boudreau, A.; Brenerman, Bunker, Bustin, Byers, Carroll, Chonko, Clark, Connolly, Cote, Cox, Cunningham, Curran, Davies, Dexter, Diamond, Durgin, Dutremble, Elias, Flanagan, Fowlie, Gill, Goodwin, H.; Goodwin, K.; Green, Greenlaw, Hall, Henderson, Hobbins, Howe, Huber, Hughes, Immonen, Jackson, Jalbert, Joyce, Kane, Kany, Kelleher, Kerry, Kilcoyne, LeBlanc, Lizotte, Lougee, MacEachern, Mahany, Martin, A.; Masterton, McHenry, McMahon, McPherson, Mitchell, Moody, Morton, Nadeau, Najarian, Nelson, M.; Norris, Peltier, Plourde, Post, Raymond, Smith, Spencer, Sprowl, Strout, Talbot, Tarbell, Tarr, Teague, Trafton, Truman, Valentine, Wilfong, Wood, The Speaker.

ABSENT — Devoe, Jacques, LaPlante, Locke, Peakes, Perkins, Tierney, Tyndale.

Yes, 58; No, 85; Absent, 8.

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

Thereupon, the House voted to adhere.

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

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

The SPEAKER: The gentleman from

Portland, Mr. Connolly, now moves that the House reconsider its action whereby the House voted to adhere. Those in favor will say yes; those opposed will say no.

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

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

Mr. JALBERT: Mr. Speaker, Ladies and Gentlemen of the House: While we were debating the University of Maine issue, I made the statement that certain campuses would be combined. The gentleman from Orono, Mr. Devoe, got up, and said "don't be misled." I understand that kind of language, so I figured that I would check a few facts. August 27, 1976, Senator Theodore S. Curtis, Jr. has announced his intention to introduce legislation which will have higher education in Maine advance resolutely to the rear. The Senator told the Legislative Performance Audit Committee that he will sponsor a bill to break up the university system. He will propose six institutions he said, combining the Presque Isle and Fort Kent campuses — just for the record.

I have five various copies from five various newspapers.

Orders

An Expression of Legislative Sentiment (H. P. 1527) recognizing that: Falmouth High School has won the State Mathematics Championship for 1977 at the State Math Meet Presented by Mrs. Huber of Falmouth.

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

An Expression of Legislative Sentiment (H. P. 1529) recognizing that: Bruce Leo of Gray-New Gloucester High School earned the highest individual score in the State Mathematics Championship for 1977.

Presented by Mr. Cunningham of New Gloucester.

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

House Reports of Committees Recommended to the Committee On Election Laws

Mr. Boudreau from the Committee on Election Laws on Bill "An Act to Require Direct Mailing and Verification of Absentee Ballots and Concerning the Marking of Absentee Ballots" (H. P. 452) (L. D. 557) reporting "Leave to Withdraw"

Report was read.

On motion of Mrs. Berube of Lewiston, the Bill was recommended to the Committee on Election Laws and sent up for concurrence.

Referred to the Committee on Liquor Control

Mr. Cote from the Committee on Legal Affairs on Bill "An Act to Provide for Municipal Licensing of Public Dancing and to Authorize Suspension or Revocation of Municipal Licenses for Exhibitions and Amusements" (H. P. 1109) (LL D. 1364) reporting that it be referred to the Committee on Liquor Control.

Report was read and accepted, the Bill referred to the Committee on Liquor Control and sent up for concurrence.

Ought to Pass

Pursuant to Joint Order H. P. 138

Mr. Henderson from the Committee on Local and County Government on Resolve, for Laying of the County Taxes and Authorizing Expenditures of Cumberland County for the Year 1977 (Emergency) (H. P. 1528) (L. D. 1754) reporting "Ought to Pass" — pursuant to Joint Order (H. P. 138)

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

Divided Report Later Today Assigned

Majority Report of the Committee on Judiciary reporting "Ought Not to Pass" on Bill "An Act to Reinstate the Death Penalty" (H. P. 943) (L. D. 1156)

Report was signed by the following members:

Messrs. CURTIS of Penobscot
COLLINS of Knox — of the Senate.

Messrs. NORRIS of Brewer
SPENCER of Standish
DEVOE of Orono
Mrs. BYERS of Newcastle
Messrs. TARBELL of Bangor
HENDERSON of Bangor
HUGHES of Auburn
GAUTHIER of Sanford
HOBBINS of Saco
BENNETT of Caribou

— of the House.

Minority Report of the same Committee reporting "Ought to Pass" on same Bill.

Report was signed by the following member:

Mr. MANGAN of Androscoggin — of the Senate.

Reports were read.

Mr. Spencer of Standish moved that the Majority "Ought Not to Pass" Report be accepted. (On motion of Mr. Palmer of Nobleboro, tabled pending the motion of Mr. Spencer of Standish to accept the Majority Report and later today assigned.)

Divided Report Tabled and Assigned

Majority Report of the Committee on Labor reporting "Ought to Pass" as amended by Committee Amendment "A" (H-269) on Bill "An Act Concerning the Payment of Workmen's Compensation Pending an Appeal to the Supreme Judicial Court" (H. P. 281) (L. D. 375)

Report was signed by the following members:

Mr. PRAY of Penobscot — of the Senate.

Messrs. DUTREMBLE of Biddeford
ELIAS of Madison
McHENRY of Madawaska
LAFFIN of Westbrook
BUSTIN of Augusta
FLANAGAN of Portland

Mrs. BEAULIEU of Portland — of the House.

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

Report was signed by the following members:

Mr. McNALLY of Hancock
REDMOND of Somerset — of the Senate.

Mr. PELTIER of Houlton
Mrs. LEWIS of Auburn
Mrs. TARR of Bridgton

— of the House.

Reports were read.

Mr. Bustin of Augusta moved that the Majority "Ought to Pass" Report be accepted.

On motion of the same gentleman, tabled pending his motion to accept the Majority Report and tomorrow assigned.

Consent Calendar First Day

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

(H. P. 1190) (L. D. 1450) Bill "An Act to Clarify Certain Liquor Laws" — Committee on Liquor Control reporting "Ought to Pass" as

amended by Committee Amendment "A" (H-264)

(H. P. 1191) (L. D. 1439) Bill "An Act to Amend the Charter of the Winter Harbor Utilities District" (Emergency) — Committee on Public Utilities reporting "Ought to Pass"

(H. P. 924) (L. D. 1423) Bill "An Act Concerning Absentee Ballots for Maine Citizens Overseas" — Committee on Election Laws Reporting "Ought to Pass"

(S. P. 347) (L. D. 1175) Bill "An Act Granting the Industrial Accident Commission the Power to Correct Clerical Errors in Certain of its Documents" — Committee on Judiciary reporting "Ought to Pass" as amended by Committee Amendment "A" (S-110)

(S. P. 103) (L. D. 232) Bill "An Act Concerning the Definition of Full-time Local Law Enforcement Officer" — Committee on State Government reporting "Ought to Pass" as amended by Committee Amendment "A" (S-111)

(S. P. 227) (L. D. 705) Bill "An Act Appropriating Funds for Increased Staff and Changing Certain Provisions Relating to the Appointment of the Executive Director of the Maine Labor Relations Board" Committee on Labor reporting "Ought to Pass"

No objections being noted, the above items were ordered to appear on the Consent Calendar of May 6, under listing of the Second Day.

Consent Calendar Second Day

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

(S. P. 289) (L. D. 915) Bill "An Act to Permit 17 Year Olds to Donate Blood Without Parental Consent" (C. "A" S-108)

On the objection of Mr. Carrier of Westbrook, was removed from the Consent Calendar.

Thereupon, the Report was accepted and the Bill read once. Committee Amendment "A" (S-108) was read by the Clerk and adopted and the Bill assigned for second reading tomorrow.

(S. P. 94) (L. D. 218) Bill "An Act Relating to Employee Workmen's Compensation Law" (C. "A" S-105)

(S. P. 25) (L. D. 38) Bill "An Act Relating to Appointment, Duties, Salary and Expenses of Court Reporters" (C. "A" S-104) (Later Reconsidered)

(H. P. 386) (L. D. 476) Bill "An Act to Establish an Environmental Coordination Procedure" (C. "A" H-262)

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

Passage to Be Engrossed

Bill "An Act Concerning the Powers of the Eagle Lake Water and Sewer District" (H. P. 1521) (L. D. 1747)

Bill "An Act Amending the Ambulance Service Law" (H. P. 1523) (L. D. 1748)

RESOLVE, for Laying of the County Taxes and Authorizing Expenditures of Lincoln County for the Year 1977 (Emergency) (H. P. 1524) (L. D. 1751)

RESOLVE, for Laying of the County Taxes and Authorizing Expenditures of Kennebec County for the Year 1977 (Emergency) (H. P. 1526) (L. D. 1753)

Bill "An Act to Resolve Certain Conflicts between the Statutes and the Maine Rules of Evidence" (Emergency) (S. P. 478) (L. D. 1719)

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

Amended Bills

Bill "An Act to Remove the Manufacturer's Excise Tax on Tires from the Sales Tax" (H. P. 339) (L. D. 430) (C. "A" H-209)

Was reported by the Committee on Bills in the Second Reading and read the second time. Mrs. Martin of Brunswick offered House Amendment "A" and moved its adoption.

House Amendment "A" (H-230) was read by the Clerk and adopted.

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

Second Reader Tabled and Assigned

Bill "An Act Requiring the Public Utilities Commission to Order a Community of Interest Study upon Petition by 10% of the Service Customers in a Telephone Exchange and to Promulgate Rules and Regulations Relating to the Establishment of Extended Area Service" (H. P. 650) (L. D. 794) (C. "A" H-254)

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

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

Mrs. MITCHELL: Mr. Speaker and Members of the House: This bill is very important to my municipality, for many of us in Vassalboro must pay a toll call to call our town office. I have some questions about this bill which I should have answered by tomorrow, and I would request that someone table it for one legislative day.

Whereupon, on motion of Mr. Quinn of Gorham, tabled pending passage to be engrossed as amended and tomorrow assigned.

On motion of Mr. Spencer of Standish, the House reconsidered its action of earlier in the day whereby Bill "An Act Relating to Appointment, Duties, Salary and Expenses of Court Reporters" (S. P. 25) (L. D. 38) (C. "A" S-104) was passed to be engrossed pursuant to Consent Calendar rules.

Thereupon, the Report was accepted and the Bill read once. Committee Amendment "A" (S-104) was read by the Clerk.

Mr. Spencer of Standish offered House Amendment "A" to Committee Amendment "A" and moved its adoption.

House Amendment "A" to Committee Amendment "A" (H-268) was read by the Clerk.

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

Mr. SPENCER: Mr. Speaker, Ladies and Gentlemen of the House: This amendment corrects a typographical error in the committee amendment. Two words were left out which would have removed the requirements that a record be kept of criminal proceedings in the State of Maine.

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 assigned for second reading tomorrow.

Passed to Be Enacted

"An Act Relating to Political Fundraising by State Employees" (H. P. 453) (L. D. 558)

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

"An Act Establishing the Offense of Illegal Transportation of Alcoholic Beverages Onto or Off of the Premises of a Licensee Licensed for On-premise Consumption" (S. P. 380) (L. D. 1256)

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

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

Mr. BAGLEY: Mr. Speaker and Members of the House: I am not sure whether I understand what this means or not. I wish you would listen to the reading of it. "Any person who transports alcoholic onto or off the premises of a licensee licensed for the sale of spirituous and vinous or malt liquor or any combination of these liquors to be consumed on the premises shall be guilty of a Class E crime." Now, if I feel a cold coming on and stop at the state store for a bottle of brandy on the way home and I go a little further and I come to a restaurant which has a license to serve beer and I go in and have a ham sandwich, I am transporting that bottle of brandy onto the premises of a licensee. I don't know if there is any problem with that. I don't care either way because I probably won't be transporting much brandy.

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

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

Mr. NADEAU: Mr. Speaker, Ladies and Gentlemen of the House: To answer the good gentleman, what he just said is illegal now. What this does, it says that if you go into a bar and have a drink, it is a Class E crime if you take that drink out with you. Right now, a lot of bartenders are having a hard time. They are trying to stop people from taking liquor out of the bar or the cocktail lounge and they aren't able to stop them. If a liquor inspector is there, he has no way of having law to stop them. This is to prevent them from removing a beer or cocktail from a premise that you buy it from.

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

Mr. SPENCER: Mr. Speaker and Members of the House: Just to reassure Mr. Bagley. I am not sure that it will. Section 2 provided that it is a defense if he gets an authorization from the licensee to bring the bottle of brandy onto the premises.

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

"An Act to Permit Vehicular Traffic to Turn Right at a Red Light" (H. P. 43) (L. D. 60) (C. "A" H-152)

"An Act to Eliminate the Requirement That Persons Over 70 Submit to an Eye Test in Order to be Issued a Complimentary Hunting License" (H. P. 562) (L. D. 679)

"An Act Concerning Cruelty to Animals" (H. P. 581) (L. D. 708) (C. "A" H-206)

"An Act Relating to Location of State Liquor Stores" (H. P. 1123) (L. D. 1341)

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.

RESOLVE, Directing the Commissioner of Transportation and the Secretary of State to Evaluate and Determine the Feasibility of Transferring the Functions of the Motor Vehicle Division of the Department of Transportation (S. P. 174) (L. D. 491)

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

Passed to Be Enacted Emergency Measure

"An Act Reinstating the Malt Liquor License Application Filing Fee" (H. P. 991) (L. D. 1193)

The SPEAKER: The Chair would call your attention to this item. It appeared on the calen-

dar in error. It came in the wrong jacket from engrossing and should have been an emergency enactor.

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure and a two-thirds vote of all the members elected to the House being necessary, a total was taken. 101 voted in favor of same and 2 against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

Orders of the Day

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

Bill, "An Act Authorizing the Commissioner of Public Safety to Appoint and Commission Railroad Policemen and Providing Regulations Pertaining Thereto" (H. P. 790) (L. D. 1014) (H. "A" H-251 to C. "A" H-236)

Tabled — May 3, 1977 by Mr. Tarbell of Bangor.

Pending — Passage to be Engrossed.

Thereupon, 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 second tabled and today assigned Matter:

An Act to Expedite the Collection of Sales Tax on the Rental of Automobiles (H. P. 600) (L. D. 725)

Tabled — May 3, 1977 by Mr. Carter of Bangor.

Pending — Passage to be Enacted.

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

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

House Amendment "A" (H-267) was read by the Clerk.

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

Mr. CARTER: Mr. Speaker, Ladies and Gentlemen of the House: At first, let me say that I am all in favor of L. D. 725. I think it is a good bill and it does increase the revenues of the State of Maine. Unfortunately, the bill, as written, would impose an undue burden on the people of Maine during the first year that it is in effect. The law as it now stands, imposes a sales tax on motor vehicles which are purchased for rental purposes. The rents collected under these vehicles are not subject to sales tax. L. D. 725 would impose a sales tax on the income received from rental vehicles and at the same time would exempt the vehicle itself, at the time of purchase from the state sales tax, recognizing that it would be unfair to impose a tax on both the vehicle itself and the income produced from that vehicle.

Unfortunately, L. D. 725 as written, did not address the problem of the present vehicles owned by the rental companies on which they have already paid a sales tax. Since it obviously was not the intention of this bill to tax both the vehicle and the income from this vehicle, my amendment would prevent this from happening. In effect, it says that the act shall apply to automobiles purchased on or after the effective date of this act. I believe that my amendment is a reasonable solution to the problem at hand and I ask for your support.

Thereupon, House Amendment "A" was adopted.

The bill was passed to be engrossed as amended and sent up for concurrence.

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

House Divided Report — Majority (10)

"Ought Not to Pass" — Minority (2) "Ought to Pass" — Committee on Veterans and Retirement on Resolve, to Increase the Retirement Benefits of Helen B. Pearson (H. P. 1057) (L. D. 1287)

Tabled — May 3, 1977 by Mr. Theriault of Rumford.

Pending — Motion of the same gentleman to Accept the Majority "Ought Not to Pass" Report.

On motion of Mr. Gray of Rockland, retabled pending the motion of Mr. Theriault of Rumford to accept the Majority "Ought Not to Pass" Report and specially assigned for Monday, May 9.

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

House Report — "Ought to Pass" as Amended by Committee Amendment "A" (H-159) — Committee on Education on Bill "An Act to Facilitate Out-of-state Post Graduate Education in Certain Professions" (H. P. 408) (L. D. 502)

Tabled — May 3, 1977 by Mr. Lynch of Livermore Falls.

Pending — Acceptance of the Committee Report.

On motion of Mr. Lynch of Livermore Falls, retabled pending acceptance of the Committee Report and specially assigned for Monday, May 9.

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

Bill, "An Act to Provide County Commissioner Districts in Washington County" (H. P. 1225) (L. D. 1359) — In House, Passed to be Engrossed on April 12. — In Senate, Indefinitely Postponed.

Tabled — May 3, 1977 by Mr. Tierney of Lisbon Falls.

Pending — Further Consideration.

Mr. Gillis of Calais moved that the House recede and concur.

The SPEAKER: The Chair recognizes the gentleman from Roque Bluffs, Mr. Nelson.

Mr. NELSON: Mr. Speaker, Ladies and Gentlemen of the House: This is the same bill that we passed to be engrossed here on April 12. It hasn't been changed in any way. It simply splits Washington County into three districts, county commissioner districts, whereby the candidates running for county commissioner shall live in those districts and be voted on by the people of those districts.

I feel that this is a good bill. I am not going to tell you that 15 other counties in this state already have that districting because I think you already know that. I do, however, urge you to vote against the recede and concur motion so that we may insist and show to the people of the State of Maine and Washington County that we are consistent.

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

Mr. GILLIS: Mr. Speaker, Ladies and Gentlemen of the House: This is the same bill that was passed on April 12 and sent on to the other body. The other body indefinitely postponed this bill and refused consideration. It was returned to this body, I believe, on April 14, in that area, and it has been tabled practically every other day since then.

The reason given for the bill coming out of the committee was part of the comments of my colleague from Machias in that the chairman of the Local and County Government Committee from the other body gave was that the Washington County was considered at the time to be the only county not districted and Washington County should go along with it. This is not reasoning, this is an excuse.

What I would like to do is to take this bill, recede and concur with the Senate, kill the bill

here, and then go back to Washington County and let the people of Washington County reason this out, not bring it out by excuse. Passing something just because everybody else is doing it, that is not reasoning, that is not logic. As I said before, it is nothing but excuse. I ask your support on the recede and concur.

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

Mr. MILLS: Mr. Speaker, Ladies and Gentlemen of the House: I concur with what the gentleman from Calais has said. This is an excuse to do something that the people down there don't want. I have checked on the Republican side and the Democrat side and there is only one small group in Machias that want it that are Democrats.

This goes back a lot further than that. It goes back to the control of Washington County for 100 years by the 12 families down there that had the big money. This is another effort by them, in my opinion, to regain control of the county. If we split it up, Washington County is a long, narrow strip of settlement that runs along Route 1 clean up to Danforth. Under the circumstances, these people here can split this up into three districts and we will go right back to the same conditions that were there when I moved into that county 14 years ago, and that is the controlling of labor by low cost prices. A skilled laborer in those days was getting \$1.25 an hour for a master craftsman. Today, through the efforts of the people down there in uniting and working for themselves, they are up to \$4.50 and \$5.50 an hour. I can see a general loss in that condition if this bill ever goes through.

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

Mr. FENLASON: Mr. Speaker, Ladies and Gentlemen of the House: I want to support the motion of the good gentleman from Calais, Mr. Gillis, to recede and concur. I have done considerable investigating on this bill and I find absolutely no support for it in Washington county. I will grant that Washington county is a little different and we may be the only county which does not want this sort of district. One reason is that it is sometimes difficult to find qualified people to fill the office of county commissioner. The passage of this bill would just put a restriction on the people. The people don't want it, the officials don't want it, and I sincerely hope we will vote to recede and concur.

The SPEAKER: The Chair recognizes the gentleman from Roque Bluffs, Mr. Nelson.

Mr. NELSON: Mr. Speaker, Ladies and Gentlemen of the House: I, too, have done some research on this and I go home and people say, how is your bill doing? I say, well, it is still alive, what do you think of it? I think it is a good idea. Now, they don't embrace this with open arms because the people in Washington County aren't too enthusiastic — I think they accept it.

I am not offering an excuse. I feel that this is a bill that is a good bill. It will prevent a concentration of county commissioners in any one part of our county. This happened a few years ago and it wasn't a good feeling to have all the commissioners coming out of the Woodland into Calais area. This is not good. This would guarantee that the commissioners of the county would have geographical balance. This is all that this does.

Mr. Fenlason, my colleague from over in the Danforth area, he says that we can't find qualified people in any one district. I feel that this is a fallacy. I feel that there are qualified people in all the districts, and as far as being qualified is concerned, a county commissioner is probably just like the rest of us. He has to quantify himself when he goes in there. He has to learn that. Therefore, I would urge you to vote against the recede and concur motion so that we may insist on this bill.

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

Mr. MILLS: Mr. Speaker, Ladies and Gentlemen of the House: For your own knowledge and edification, in Washington county we are a five-man delegation. Four of that delegation have voted against this bill.

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

A vote of the House was taken.

Whereupon, Mr. Nelson of Roque Bluffs 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 Calais, Mr. Gillis, that the House recede and concur. All those in favor of that motion will vote yes; those opposed will vote no.

ROLL CALL

YEA — Aloupis, Austin, Beaulieu, Bennett, Berry, Birt, Boudreau, A.; Brown, K.L.; Brown, K.C.; Bunker, Burns, Byers, Carey, Carrier, Carter, F.; Conners, Connolly, Cote, Cox, Cunningham, Curran, Devoe, Dexter, Dow, Drinkwater, Dudley, Durgin, Elias, Fenlason, Garsoe, Gill, Gillis, Goodwin, H.; Gould, Gray, Hall, Higgins, Huber, Hunter, Hutchings, Immonen, Jackson, Jalbert, Kane, Kelleher, Kerry, Laffin, Lewis, Littlefield, Lizotte, Lougee, Lunt, Lynch, MacEachern, Mahany, Marshall, Masterman; Masterton, Maxwell, McBreairty, McHenry, McKean, McMahon, McPherson, Mills, Nadeau, Nelson, M.; Palmer, Pearson, Peltier, Perkins, Peterson, Prescott, Rideout, Rollins, Shute, Smith, Sprowl, Strout, Stubbs, Talbot, Tarbell, Tarr, Teague, Theriault, Torrey, Tozier, Twitchell, Valentine.

NAY — Bachrach, Benoit, Berube, Biron, Blodgett, Bustin, Carter, D.; Chonko, Clark, Diamond, Dutremble, Flanagan, Fowlie, Gauthier, Goodwin, K.; Green, Greenlaw, Henderson, Hickey, Hobbins, Howe, Hughes, Jensen, Joyce, Kany, Kilcoyne, LeBlanc, Martin, A.; Mitchell, Moody, Najarian, Nelson, N.; Norris, Peakes, Plourde, Post, Quinn, Raymond, Spencer, Stover, Trafton, Truman, Wilfong, Wood, Wyman.

ABSENT — Ault, Bagley, Boudreau, P.; Brenerman, Carroll, Churchill, Davies, Jacques, LaPlante, Locke, Mackel, Morton, Silsby, Tierney, Tyndale, Whittemore.

Yes, 89; No, 45; Absent, 16.

The SPEAKER: Eighty-nine having voted in the affirmative and forty-five in the negative, with sixteen being absent, the motion does prevail.

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

“An Act Concerning the Crime of Prostitution” (H. P. 629) (L. D. 770) — In House, Passed to be Enacted on May 2. — In Senate, Indefinitely Postponed.

Tabled — May 4, 1977 by Mr. Tierney of Lisbon Falls.

Pending — Further Consideration.

On motion of Mr. Quinn of Gorham, retabled pending further consideration and specially assigned for Monday, May 9.

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

“An Act to Increase Flexibility in the

Funding and Operation of the Vocational-Technical Institutes” (H. P. 221) (L. D. 285) (C. “A” H-158)

Tabled — May 4, 1977 by Mr. Lynch of Livermore Falls.

Pending — Passage to be Enacted.

On motion of Mr. Birt of East Millinocket, retabled pending passage to be enacted and tomorrow assigned.

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

RESOLVE, for Laying of the County Taxes and Authorizing Expenditures of Knox County for the Year 1977. (Emergency) (H. P. 1483) (L. D. 1699) (H. “A” H-207)

Tabled — May 4, 1977 by Mr. Henderson of Bangor.

Pending — Final Passage.

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

Mrs. POST: Mr. Speaker, Men and Women of the House: We in the county delegation feel a need to have a meeting on a possible amendment which we may put on this, so I would ask that it be tabled for two legislative days.

Thereupon, on motion of Mr. Henderson of Bangor, tabled pending final passage and specially assigned for Monday, May 9.

The Chair laid before the House the following matter:

House Divided Report — Majority (12) “Ought Not to Pass” — Minority (1) “Ought to Pass” — Committee on Judiciary on Bill “An Act to Reinstate the Death Penalty” (H. P. 943) (L. D. 1156) which was tabled earlier in the day and later today assigned pending the motion of Mr. Spencer of Standish to accept the Majority “Ought Not to Pass” Report.

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

Mr. PEARSON: Mr. Speaker, Ladies and Gentlemen of the House: Pursuant to joint Rule 20 calling for fiscal note, I noticed that this does not have a fiscal note on the bill and Joint Rule 20 says that it shall.

The SPEAKER: The gentleman from Old Town, Mr. Pearson, has posed a question to the Chair in reference to the interpretation of Joint Rule 20 in reference to fiscal note. The Chair would call to the attention of the gentleman from Old Town and the members of the House that at this point the bill, in fact, would be in violation of Joint Rule 20 since a fiscal note will need at some point to be added if it goes any further than today. The fiscal note can be added at second reading. Therefore, at this point, the Chair would rule that the debate on the matter may proceed.

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

Mr. LAFFIN: Mr. Speaker, Ladies and Gentlemen of the House: Most of us who, after long, careful consideration, still advocate capital punishment for the most heinous crimes. We do not do so because we lack compassion and like killing. Most of us have never killed and abhor the very idea of killing. It is because we are compassionate that we advocate the death penalty as a necessary force for the protection of life. We cherish life, liberty, and property and cannot tolerate those who want only to destroy what we revere. We believe killing in self defense and even war is necessary to secure these sacred treasures.

I am convinced that the death penalty serves at least three good purposes: (1) it deters others in capital crimes; (2) it is needed retribution; a catharsis for society's good health, and (3) it incapacitates the criminal and prevents other crimes by him at enormous savings to the taxpayers.

I favor the death penalty because I believe it will save innocent lives. I am convinced from

considered opinions of experts on the subject and studies made that the death penalty can indeed save the lives of innocent people, such as: A seventy-nine year old woman from Falmouth — a woman murdered and her body thrown in the trunk of a car; a twelve year old girl raped from Kennebunk and murdered; an eleven year old boy molested and murdered in Freeport; a police officer murdered, fireman, or a mother, and any other vicious crime that we have had in our state would serve as the greatest deterrent in our society today. Today, there is little to deter criminals from murdering twice, let alone once.

In a mere four years after the U.S. Supreme Court decided 5-4 in mid-1972 that the death penalty was cruel and unusual punishment “in the same way that being struck by lightning is cruel and unusual” because of the arbitrary, discriminatory and capricious way it was being administered. We have now a case Furman vs. Georgia, 408 U.S. 238, June 29, 1972, at least 37 states, 75 percent, and the Congress enacted new statutes in efforts to provide constitutional death penalties for at least some murders.

The people of California even voted 2 to 1 to amend their state constitution to permit capital punishment after its own Supreme Court ruled that their new death penalty law violated it.

In addition, two death penalty acts have passed the Massachusetts legislature only to be vetoed by the governor, despite the fact that, in 1968, Massachusetts voters in a referendum at their general election, voted 2-1 to retain the death penalty. And each house of the Kansas legislature has also passed its own version of a death penalty bill but a conference committee was unable to agree on which version to accept before the legislature adjourned in April, 1976.

It is remarkable that all this happened in only 48 months after Supreme Court's decision of June 29, 1972, and that it all happened voluntarily, without the threat that federal funds would otherwise be withheld.

The American people and their elected representatives were so loud and clear that on July 2, 1976, the Supreme Court commenced our third century by acknowledging “society's endorsement of the death penalty for murder” as an “appropriate and necessary criminal sanction.” The court found that such penalties had never been cruel and unusual punishment per se. Some of the new state laws were held constitutional and others not. Gregg v. Georgia and other cases decided 7-2-76, 44LW 5230, 5256, 5262, 5267, 5281 all refers to the death penalty by the Supreme Court of the United States. But the Court finally recognized that the Fourteenth Amendment — the wellspring of most modern civil rights cases — adopted 77 years after the Eighth Amendment's proscription against cruel and unusual punishment, “contemplates” the existence of the capital sanction by providing that no state shall “deprive any person of life, liberty, or property, without due process of law.” Since 1791, the death penalty has also been clearly approved in the Fifth Amendment's reference to “capital crimes” together with similar deprivation of life language.

Most of us who, after long and careful consideration, still advocate capital punishment for the most heinous crimes, do not do so because we lack compassion or like killing. Most of us have never killed and abhor the very idea of killing. It is the first duty and natural instinct of any living being of society to protect itself from perpetrators; bees are the lovers of honey and make us lovers of flowers. Makers of honey are equipped with vigorous stingers just for that purpose.

Our country spends billions of dollars to arm itself to the teeth against our enemies. This is not intended to say that we all agree on the death penalty. Rather it is an effort to focus on

the hypocrisy of a significant number of citizens who condone abortion but fight the death penalty even for premeditated murder. If they can rationalize the needless killing of an innocent human fetus at any time after conception, an act which until only recently was universally recognized as both criminal and immoral, how can they pretend compassion for a guilty murderer?

At most, no more than 199 people have been executed in this country in a single year (1935). There have been less than 8,000 executions since 1900. But millions of abortions have reportedly been performed since our highest court legalized them in 1973. *Roe v. Wade*, 410 U.S. 179. Incredibly, a mother's right to "privacy," a word not mentioned in the Constitution, is now considered paramount to the right to life of a fetus. A wife may lawfully have an abortion with no due process or representation for the fetus and even without consent of the father to whom she pledged her troth. Thus, I wonder who are the really compassionate in our midst? But the first purpose leaves no room for argument, particularly as to some killers who are no more than vicious animals.

There are many known cases of hesitation to pull the trigger because of fear of the death penalty. Yet most criminologists insist there is no "empirical" proof either supporting or against a deterrent effect. Statistics are inconclusive as to whether there are more or less capital crimes per 100,000 in capital punishment states as compared to non-capital punishment states or in the same state after capital punishment has been abolished or restored. No two states are sufficiently alike in population, climate, geography and other conditions for meaningful statistical comparison. Sociologists maintain that although the murder rate has increased since executions were halted in June, 1972, times have changed, the population has increased and economic, social and political conditions are different.

Obviously, no reliance can be placed on contentions of murderers who were not deterred, that just because they weren't others wouldn't be either. And those of us who for other reasons would never murder, but think the death penalty would not deter us, can't know that at least some others would not be deterred. No one can say how many thousands have been tempted to murder but stopped by fear of the death sentence. How many need be so deterred to warrant the penalty? Perhaps if only one, two or a dozen are deterred for every fifty or hundred executed, the deterrent purpose is adequately served. There is little else to inhibit murderers already suffering life sentences.

But I consider society's need for retribution the soundest purpose of the death penalty. If we want to spend the money, a murderer can be so incapacitated by confinement as to prevent his ever committing another murder. And such confinement for life may be almost as strong a deterrent as execution. To some, even stronger. But regardless of the merits of incapacitation and deterrence, society needs the assurance, that those who commit an irrationally aggravated murder will, in absence of mitigating circumstances, be put to death. The Supreme Court agreed on July 2, 1976:

"In part, capital punishment is an expression of society's moral outrage at particularly offensive conduct. This function may be unappealing to many, but it is essential in an ordered society that asks its citizens to rely on legal processes rather than self-help to vindicate their wrongs.

That was taken from *Gregg v. Georgia*, 44 LW 5230 and if any of you would like to check on that ruling, I am sure you will find it very interesting.

The Court said further that "the decision that capital punishment may be the appropriate sanction in extreme cases is an expression of

the community's belief that certain crimes are themselves so grievous an affront to humanity that the only adequate response may be the penalty of death."

The overwhelming majority of Americans figured by the Gallup Poll figured about 70 or 80 percent when pressed, favor the death penalty. But they would rather not be bothered thinking about it. To most of them capital punishment is a futile and endless argument: a good subject for high school debate. They believe there are many more immediate and important issues. They are content to leave this grave and distasteful problem to professors, newspaper editors, legislators and judges.

Few Americans are sanguinary and probably most don't even consider themselves vengeful. Nevertheless, when a heinous crime occurs in their neighborhood, they normally and quite properly favor execution of the criminal. Few are alone. The closer the relationship to the victim, the stronger the reaction.

Justice requires that we be concerned for the victim as well as the accused. Usually the victim is remembered in his own community. People weep for him there. Time and distance remove the pain and let people forget the victim. That is why the guilty want their trials postponed and transferred to a county as far from the crime as possible. Their idea of a "fair" trial is one in which the victim is forgotten.

I shall always be in favor of the death penalty when vicious crimes happen to the people of our state.

The Constitutionality of capital punishment is no longer in question. In 1976, the United States Supreme Court in *Gregg vs. Georgia* held the death penalty constitutional. The court said: "We hold that the death penalty is not a form of punishment that may never be imposed. . . ." The court went on to say that it favored the constitutional statutes of Georgia, Texas and Florida: states which had adopted a procedure whereby a separate hearing is held after a murder conviction to consider mitigating facts and determine whether capital punishment is applicable in view of the unique set of circumstances of the particular case.

The *Gregg* case reversed the 1972 case of *Furman vs. Georgia* in which the Supreme Court, in a 5-4 split decision, held the death penalty statute in Georgia to be unconstitutional. Even in that case, however, Justice Douglas and others refrained from attacking the constitutionality of the death penalty directly; but rather continuously reiterated the arguments of "cruel and unusual punishment", lack of proven deterrence, and improper and infrequent application. One of the four dissenting justices who favored the constitutionality of the death penalty found it curious, as I did myself, that none of the majority opinions referred to the misery occasioned by the petitioners' crimes. Seemingly, they too had lost sight of the victims and potential victims of such personal violence. In any case, the threshold argument has been resolved. I rather agree with Mr. Justice Powell that the manner of the death penalty's imposition is clearly open to challenge, but it is clear that the penalty is constitutional.

Any compassionate person would prefer the role of an abolitionist in this regard, but this role regretfully must be reserved for a more tranquil, peaceful and law-abiding society. As a citizen, as a person concerned with personal liberty and the sanctity of human life, I suggest that capital punishment should be reinstated and applied in certain well defined instances of premeditated murder.

I find that I cannot in good conscience, to say the least, be opposed to the death penalty because I prize the right of life for all. That we would deny the right of life upon which we place our sacred values to persons found guilty of tak-

ing another life under certain circumstances would seem to me the strongest demonstration we could give to our total society that the inconceivable acts for which they have committed.

We will not be truly free as a people until we can free ourselves from the threats of our own lives. Murder is so common place today that we all have become somewhat brutalized by it. Heinous crimes are no longer considered sensational but rather another story in another day in our lives except for the loved ones that were lost nor is murder any longer the nearly exclusive domain of a combat zone of this world. Today, we can all clearly recognize that anyone's home, on anyone's street, in anyone's neighborhood, whether it is in the city or the suburbs, is a potential target for violence and murder. In a very real sense, we have all become prisoners in a world which seems to tolerate any and in many instances even rewards the violent behavior of criminals.

Are we really, seriously considering a parole for Richard Speck, Charles Manson and others equal of notorious murders and brutal crimes that they have committed? Last year, Speck was eligible for parole after being sentenced for 1400 years. It was not granted but it will undoubtedly come back again. Next year, Charles Manson will be eligible for his parole to be reviewed also. To be sure, there are those who say, let's save \$15,000 a year and release them back on to the streets. They will never do it again. The annual cost is far more important than holding them in prison.

There is, of course, no way we can revive the innocent victims of their unconscionable abuses against the dignity and right to human life, nor is there any way in which we, as a society, can compensate their victims' families. In many instances, these families are not even entitled to the same "enlightened" social programs and educational opportunities as the criminal whose vicious act left them bereft. We can, however, reaffirm our belief in the fundamental right to life and declare to all who wish to share our society that the penalty for the arbitrary taking of another's life will be the most stringent we can impose.

In denying their right to life by the imposition of the death penalty, we also declare as a people that whatever talents they may possess or might have developed during the imprisonment of life, whatever special contributions they might otherwise have made to their fellow man, we choose not to be their beneficiary, for they have paid too high a price.

Retribution alone may seem unworthy but it is in a system of criminal justice that has been long recognized. I strongly urge and support the views of Professor Ernest Van Den Haag of the New York University Law School when he asked this question. "Is human life the protection and the best credible threat to death?" After extensive study, Professor Isaac Ehrlich of the University of Chicago recently concluded, "may have resulted in the average of seven to eight fewer murders in this country for every execution. Despite such compelling arguments as this, however, the deterrent effect of the death penalty cannot be conclusively proven or disproven from a purely scientific standpoint.

To a large segment of the criminal population, the potential threat of the death penalty, when in force, is indeed a deterrent. In a democratic society, we should not discount or ignore the first indice of public sentiment — Legislation enacted by the people's elected representatives — recent legislation in many states have included statutes designed to reinstate the death penalty or to revise such laws in accordance with the supreme court's decision.

I will be the first to admit it has been a tragic fact that the "have-nots" in most of our society

have always been subject to greater pressure to commit crimes, but the fact of life is best corrected not by changing penalties assigned to crime, but by elevating existing social injustice and rectifying the discrimination within the criminal system of justice.

It is my own opinion, it is my own personal belief that we need the death penalty statutes as a deterrent to those considered committing such heinous crimes for the people of Maine to vote on.

Between 1935 and 1965, when the death penalty was enforced nationwide, the number of murders remained fairly constant, between 7,000 and 9,000 a year. The death penalty has been in limbo now since 1966 and the murder rate has almost tripled. There has been an average of 22,500 homicides each year. Also, if the death penalty is only imposed on those who have committed a homicide, it would deter those who commit such crimes as rape and kidnapping from murdering their victims to avoid identification for prosecution.

The U.S. Supreme Court, in upholding this law, said that the capital punishment has been accepted by society as a means of deterring crime and does not violate the eighth amendment ban on cruel and unusual punishment. Therefore, I feel that there is presently a need for the death penalty in our existing society today.

I have a great respect for some of the members of this House I am going to quote what one person had to say and then I am going to quote what another one had to say. This is from the Legislative Record. We are now talking about L. D. 1156, which is the bill before us today. This is a quote from Mrs. Najarian, a Representative from Portland. In her speech she said, "If you think the people prefer our present size, what is there to be afraid of? Send it out and see your opinion upheld. Let's not be cowards. Let's at least put the question before them to decide and come what may. If they vote yes, the reorganization could be of tremendous and far-reaching value to the state. If they say no, we could lay this issue to rest for several decades." That means a lot — we could lay this issue to rest for several decades. The people are speaking here.

I also want to quote the gentleman from Gorham, Mr. Quinn, when he talks on referendum. He said, and I quote, "We are not asking to make the change ourselves. What we are talking about here is a matter of theory of government which the people themselves most certainly should be allowed to make in the referendum next fall. "I thought that those were two very very important statements that have been made on the floor of this House.

We are not asking the members of this house to vote for the death penalty, we are not asking the members of this House to open the gates and start executions. We have a Supreme Court with intelligent men and L. D. 1156 is a guideline by the Supreme Court's own ruling. You're not talking about a first-year, law school student. You are talking about professional men who know the law, who understand the law. I can assure you, ladies and gentlemen, that the Supreme Court of the State of Maine, our highest court in this state, would not allow any executions in this state unless the due process of law took effect. The guidelines of the Supreme Court made that very clear.

There are those who say, well, if the death penalty is not a deterrent, why bother with it? I say to you in return, many millionaires cheat on their income tax, they go to prison but they still cheat on it. Should we do away with it? Should we not have any more income tax laws because they still do it? Should it be abolished because only the rich are convicted and the poor are never convicted?

L. D. 1156 is a stepping stone in the right direction. L. D. 1156 is a piece of legislation that you can be proud to send out to the people. If you oppose L. D. 1156, you are the people. You could have the same chance to vote against a bill in the booth and no one will ever know how you voted.

I have cut out seven pages of my speech this morning to agree with the leadership and the Speaker of this House to not prolong this, but don't think for one minute because I cut down on it that I don't believe in it, because I do believe in it. The people of Maine believe in it. The people of Maine want the death penalty, they want a chance to vote on it. I am asking you members to give them that chance.

The SPEAKER: The Chair would ask the Sergeant-at-Arms to escort the gentleman from Stonington, Mr. Greenlaw, to the rostrum for the purpose of acting as Speaker pro tem.

Thereupon, Speaker Martin retired from the Hall and Mr. Greenlaw of Stonington assumed the Chair as Speaker pro tem.

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

Mr. PEARSON: Mr. Speaker, Ladies and Gentlemen of the House: I have a question I would like to pose through the Chair to the sponsor of this bill. That question is taking in mind the fact of the absolute finality of death, and I am not saying this facetiously either, I would like to know which section of the bill deals with the possibility that an innocent man may be executed. And if it is not dealt with in the bill, how does the sponsor of the bill propose to deal with that possibility that very well might occur?

The SPEAKER pro tem: The gentleman from Old Town, Mr. Pearson, has posed a question through the Chair to the gentleman from Westbrook, Mr. Laffin, who may respond if he so desires.

The Chair recognizes that gentleman.

Mr. LAFFIN: Mr. Speaker, Ladies and Gentlemen of the House: This question has probably been one of the strongest arguments against the death penalty, but we are living in a society today where the laws protect the guilty, they go an extra mile to protect the guilty. They don't say a thing about the innocent. They don't say anything about the people they have murdered, but the courts will protect the guilty.

I say to you that in 1935, when we had 199 executions in this country, not one innocent person has ever been sent to death, and those were the years when they wanted to get rid of all the mobsters and all the gangsters and they were executing them faster than they could take them to court. I say to you, does he really and truly believe, Mr. Pearson, that the people of Maine, the judicial system that we live under, would allow an innocent person to be put to death in 1977? You certainly are smarter than that?

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

Mr. JOYCE: Mr. Speaker, Ladies and Gentlemen of the House: Society has a right to expect that we place the scales of justice in balance. This body in years passed has failed to meet that challenge. The records will show that in the year of 1969, where a very liberal house sat, that an L. D. was introduced to make a life sentence 25 years. The bill, the record shows, came before this House, and that was a dark day. There was an amendment put on that bill to reduce the life sentence, the sentence for murder, to the term of 15 years — 15 years for murder! With time off for good behavior, a person who committed a murder, after that was put in the books, would serve 10 years and 8 months.

We failed the people of Maine on that. I felt I

was personally hurt. I had arrested a man, sent him to prison for murder and met him at midnight out on the street one night. He told me he did about 11 years and was out again. He was one of the fortunate ones. He managed to stay out for a month.

You know, I am concerned about those scales that we have to all look to when we talk about justice. You know, the goddess of justice and she is the one up there that holds those scales up, and if you ever take a good look at her, you will know that beautiful lady is blindfolded, yet she's got the judge to balance. She is a wonderful lady. Greek mythology will tell you that she actually walked on the surf 950 B.C., but crime got so bad during the iron age when they started digging up the earth — she was truly the first environmentalist — she fled, and mythology tells you that she fled up to Mount Olympus but others disagree with that. She couldn't stand the way the world was being run. I wonder what she would have done if she was on this earth in 1969 when in this House here they decided murder was only 10 years and 18 months. What a tragedy! This bothered me.

I can understand when I went out and inquired about this bill that is before us now how there was so much support for it. Even after the criminal code was put in, they are still having problems with murders. I studied it and I studied it depth and I think you have got to agree that I studied it in depth when I went back and studied Greek mythology. You don't go back very much further than that.

Now, what I did, I had two other L.D.'s printed. They are L.D.'s that will change the present law from 30 years in prison to 35 mandatory sentence for a first degree murder. I also prepared an L.D. — both L.D.'s will be here shortly in the next week or so. Second degree murder — 20 to 25 years, but they must serve the 25 years. When my bills come here, I invite people. If they do not think 30 or 35 years is enough, amend my bill, amend it up to 40 or 50 if you want, but let's keep our heads on this one.

I am disturbed by this bill and that is why I rise today, to make a motion of indefinitely postponing this bill and all its accompanying papers.

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

Mr. BURNS: Mr. Speaker, Ladies and Gentlemen of the House: I feel that if I voted for this bill, I would be entering into a conspiracy to cold blooded murder.

I submit to you that death may be a complete escape from punishment. Why else would approximately 154 people in this state commit suicide in 1956.

As a former law enforcement officer, I cannot be a party to the great State of Maine reducing itself to that cold blooded murder. When the vote is taken, I ask for the yeas and nays.

The SPEAKER pro tem: The Chair recognizes the gentleman from Waterville, Mr. Boudreau.

Mr. BOUDREAU: Mr. Speaker, Ladies and Gentlemen of the House: The Catholic Church has always taught people, or at least many priests have always preached in their sermons that we should fight evil with good. Well, I would like to ask the members of this body, how do you fight people who club their victims to death with baseball bats? How do you fight people that stick knives into people 30 or 40 times? How do you fight those kinds of people?

When I was in Florida last year, two houses down from me, two elderly ladies lived there. Their home was broken into and they were clubbed to death. Now, how do you deal with people like that?

When people talk about reverence to life, let's talk about reverence to life, let's talk about the kind of phrases our young people are using to-

day on the streets like blown away, that person is going to waste you, where do people get that kind of attitude about life? The people against this kind of bill are talking about reverence to life?

I would say that it is time we should initiate some kind of legislation where we will have some reverence to life. We will be able to say to someone, if you commit these kinds of acts, you are going to have to take the consequences instead of saying, you must have a mental problem and we are going to have a psychologist look at you and he is going to decide if you have a problem and you are going to go to a hospital for a few years and then we will let you out.

I think the pendulum has swung in the other direction. We have these people who commit these kinds of crimes and they are getting out in five or ten years — the pendulum has gone too far to the other side. I don't know what the answer is, I don't expect you to like the idea of killing people but I am tired of turning the pages of the newspapers of this country every day and seeing headlines "old lady butchered to death", "man stabbed 30 times." I am tired of that and I think something is going to have to be done about these kind of things real soon.

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

Mr. TALBOT: Mr. Speaker, Ladies and Gentlemen of the House: I don't really appreciate talking to an empty House and I didn't really plan on talking on this bill. I guess for the last week I have been telling the gentleman from Westbrook, Mr. Laffin, that I am going to support his bill. He knows better than that and so do I.

I certainly don't believe in capital punishment or the death penalty in this state for several reasons, one being that I don't entirely believe in our judicial system, because over the last couple of years, and especially the last month, I read at least once a week, or maybe twice a month, where somebody is now being released from prison because they were convicted wrongly, because of new evidence they are now being released, because the wrong man has been convicted and the same thing can happen in the State of Maine.

I guess the gentleman from Waterville, Mr. Boudreau, got me on my feet because I think he is entirely on the wrong track. I can answer his question as to how do we fight the people who get stabbed and the people who get clubbed because I, too, am disturbed at the rate of murders in this country and I would answer him by saying that we fight those kinds of conditions with better housing, with better education, with less slums, that is where we start to fight so we won't have the overcrowded jails we do today, so we won't have an issue facing us as a legislature today dealing with capital punishment, that is where we start the fight. There is nowhere in the bill where anybody has expressed that kind of sentiment. It is always after the fact, after somebody has committed murder.

I read an article in last night's paper where a court case was being heard in one of the western states where a step-father and a mother were being tried because they burned the words "I cry" on the youngsters back. That disturbs me also but I think it is time we as a responsible body start looking at the facts beforehand instead of afterward.

I hope you will indefinitely postpone this particular bill.

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

Mr. COTE: Mr. Speaker, Ladies and Gentlemen of the House: Like the gentleman from Portland, Mr. Talbot, I hate to speak to an empty House but the facts are there, I don't even know if we have a quorum.

You might say, how come a mild-mannered man like the gentleman from Lewiston, Mr. Cote, has his name on such a bill. For many years I have heard about the death penalty. For many years I have heard the people on the street talk about it and I decided after Mr. Laffin from Westbrook asked me to put my name on the bill that if there was a referendum on the bill, I would try to help support it, to get it in front of the people.

I think this is one of the most important issues of our day and I feel that the people of this state should have a chance in referendum to vote for or against. To tell you the truth, if I was in the polling booth today, I would be undecided how I would vote on this issue, but because of the importance, because of the things that we read in the papers, because of the comments of the people on the street, I think it is time, on an important issue such as this, to give them a chance to voice their opinion.

The SPEAKER pro tem: The Chair recognizes the gentleman from Millinocket, Mr. Marshall.

Mr. MARSHALL: Mr. Speaker, Ladies and Gentlemen of the House: I made my decision on this issue after much deliberation. I recently distributed in Millinocket 1500 questionnaires to my constituency and contained in that letter was the question dealing with the death penalty here in Maine and of those returned questionnaires to date, the people are favoring the reimposition of the death penalty by almost but not quite a 3 to 1 margin.

As an individual, I would make my decision regarding this issue in a ballot booth in November, but as a legislator today, I make my decision to send this issue to the people for their collective deliberation.

The SPEAKER pro tem: The Chair recognizes the gentlewoman from Hampden, Mrs. Prescott.

Mrs. PRESCOTT: Mr. Speaker, Ladies and Gentlemen of the House: I, too, sent out a survey to 500 people in my district. Over half of those people responded to me and 29 percent of those people said no to the death penalty but 62 percent of my people wanted the death penalty on the ballot.

The SPEAKER pro tem: The Chair recognizes the gentleman from Sangerville, Mr. Hall.

Mr. HALL: Mr. Speaker, Ladies and Gentlemen of the House: I might as well put my four cents worth in. I, too, sent out a questionnaire and it came back the same way.

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

Mr. COX: Mr. Speaker, Ladies and Gentlemen of the House: I feel, despite the empty seats here, that I cannot remain silent on this bill. We are asked to send this out and let the voters make the choice. People refer to the overwhelming number of their constituency that are in favor of it. In many cases, I am willing to follow the opinions of my constituency, but in the words of Martin Luther, no man can command my conscience and 100 percent of my constituents cannot command my conscience on a question like this. Within each of us for as much it is God, there is much of it as man, there is much as a pigmy groping in the mist and there is a small amount of beast in each of us. It is a beast in each of us that gives rise to murder. Some people have more of it than others but the motive for killing a person, whether it be murder or execution, comes from this dark side of man and I feel that in his long progress from brutishness to perhaps his Godself, he has left behind many of the barbarous punishments that have been inflicted in the past.

The time was that the death penalty was inflicted for things like stealing. It reached the point in England at one time where a nine-year-

old boy was hung for stealing a loaf of bread. It is hard for us, and I have to admit that I have no compassion for someone who has committed a brutal murder, however, I think that when the state says that if a person deserves to die, we are simply advancing to the dark side of man, we are perhaps giving a person who decided that the state has failed to punish someone personal justification to take the law into his own hands. Since the state has said that certain people deserve to die, that the state can make this decision that certain people deserve to die, I think this advances the idea that each of us had the right to decide that a person should die. I believe that no person and no group of persons has the right to decide that someone shall die.

The SPEAKER pro tem: The Chair recognizes the gentleman from South Portland, Mr. Howe.

Mr. HOWE: Mr. Speaker, Ladies and Gentlemen of the House: Years ago, society literally got its pound of flesh, not only did society execute murderers, they cut off the hands of robbers. We couldn't stomach that cutting off the hands of criminals anymore, but some of us will propose taking a whole life. There are some people who commit such horrible crimes that they should be locked up for a very long time. Perhaps in some cases, they should even throw away the key.

The gentleman from Portland, Mr. Joyce, the voice of law and order as it were in this House, reassures my faith that there is 'reasonable' left in the conservative community.

Two years ago, I was the chief opponent of the death penalty at public hearing before I was a legislator. I had a long legalistic speech and I have none this year. The referendum provision doesn't change my mind. The death penalty is wrong and I won't vote to let others vote to establish it if I can't vote that way in good conscience myself.

I would suggest to members of this House that they no more flick the switch for this bill than they could personally flip the switch on the electric chair.

The SPEAKER pro tem: The Chair recognizes the gentleman from Biddeford, Mr. Lizotte.

Mr. LIZOTTE: Mr. Speaker, Ladies and Gentlemen of the House: I have very little to say on this bill for the reason that much has already been said. We are concerned with the murderer's fate. I honestly believe that we should be discussing what warning did the victim have. At least in this bill, we are telling the murderer that he is being warned of his penalty.

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

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

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

Mr. COTE: Mr. Speaker, I wish to pair my vote. If the gentleman from Eagle Lake, Mr. Martin was here, he would be voting yes; I would be voting no.

The SPEAKER pro tem: The gentleman from Lewiston, Mr. Cote, wishes to pair his vote with the gentleman from Eagle Lake, Mr. Martin. If the gentleman from Eagle Lake, Mr. Martin were here, he would be voting yes; Mr. Cote from Lewiston would be voting no.

The SPEAKER pro tem: The Chair recognizes the gentleman from Hallowell, Mr. Stubbs.

Mr. STUBBS: Mr. Speaker, I would like to pair with the gentleman from Lisbon Falls, Mr. Tierney. If Mr. Tierney were here, he would be voting yes; I would be voting no.

The SPEAKER pro tem: The gentleman from Hallowell, Mr. Stubbs, wishes to pair his vote with the gentleman from Lisbon Falls, Mr. Tierney. If the gentleman from Lisbon Falls, Mr. Tierney were here, he would be voting yes; Mr. Stubbs from Hallowell would be voting no.

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

Mr. JENSEN: Mr. Speaker, I would like to pair my vote with the gentlewoman from Bethel, Miss Brown. If she were here, she would be voting no and I would be voting yes.

The SPEAKER pro tem: The gentleman from Portland, Mr. Jensen would like to pair his vote with the gentlewoman from Bethel, Miss Brown. If Miss Brown were here, she would be voting no and Mr. Jensen would be voting yes.

The Chair recognizes the gentleman from Springvale, Mr. Wood.

Mr. WOOD: Mr. Speaker, I wish to pair my vote with the gentleman from Kennebunk, Mr. McMahon. If Mr. McMahon was here, he would be voting no and I would be voting yes.

The SPEAKER pro tem: The gentleman from Springvale, Mr. Wood, wishes to pair his vote with the gentleman from Kennebunk, Mr. McMahon. If Mr. McMahon were here, he would be no and Mr. Wood would be voting yes.

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

Mr. LIZOTTE: Mr. Speaker, I would like to pair my vote with the gentleman from Augusta, Mr. Bustin. If Mr. Bustin were here, he would be voting yes and I would be voting no.

The SPEAKER pro tem: The gentleman from Biddeford, Mr. Lizotte, pairs his vote with the gentleman from Augusta, Mr. Bustin. If Mr. Bustin were here, he would be voting yes; Mr. Lizotte of Biddeford would be voting no.

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

Mr. AULT: Mr. Speaker, I would like to pair my vote with Mr. LaBlanc from Van Buren. If he were here, he would vote yes and I would vote no.

The SPEAKER pro tem: The gentleman from Wayne, Mr. Ault, pairs his vote with the gentleman from Van Buren, Mr. LaBlanc. If Mr. LaBlanc were here and voting, he would be voting yes; if Mr. Ault were voting, he would be voting no.

The pending question is on the motion of the gentleman from Portland, Mr. Joyce, that this Bill "An Act to Reinstate the Death Penalty," House Paper 943, L.D. 1156, be indefinitely postponed. All those in favor of that motion will vote yes; those opposed will vote no.

ROLL CALL

YEAS — Aloupis, Bachrach, Beaulieu, Bennett, Benoit, Berry, Berube, Blodgett, Boudreau, A.; Brennerman, Brown, K. C.; Bunker, Burns, Byers, Carroll, Carter, F.; Chonko, Clark, Connolly, Cox, Curran, Davies, Devoe, Diamond, Dow, Elias, Flanagan, Fowlie, Gauthier, Gill, Goodwin, H.; Goodwin, K.; Gray, Green, Greenlaw, Henderson, Hickey, Hobbins, Howe, Huber, Hughes, Hutchings, Immonen, Jackson, Jalbert, Joyce, Kane, Kany, Kelleher, Kerry, Kilcoyne, Lewis, Lunt, Lynch, Mackel, Mahany, Martin, A.; Masterton, McPherson, Mitchell, Moody, Morton, Nadeau, Najarian, Nelson, M.; Norris, Palmer, Peakes, Pearson, Peltier, Peterson, Plourde, Post, Quinn, Raymond, Smith, Spencer, Sprowl, Stover, Talbot, Tarbell, Tarr, Trafton, Valentine, Whittemore, Wilfong, Wyman.

NAYS — Austin, Biron, Birt, Boudreau, P.; Carrier, Carter, D.; Churchill, Conners, Cunningham, Dexter, Drinkwater, Durgin, Fenlason, Garsoe, Gillis, Gould, Hall, Higgins, Hunter, Laffin, Littlefield, Lougee, MacEachern, Marshall, McBreairty, McHenry, McKean, Mills, Nelson, N.; Perkins, Prescott,

Rideout, Rollins, Shute, Silsby, Strout, Teague, Theriault, Torrey, Tozier, Truman, Twitchell.

ABSENT — Bagley, Carey, Dudley, Dutremble, Jacques, LaPlante, Locke, Masterman, Maxwell, Tyndale.

PAIRED — Brown, K. L.; Bustin, Cote, Jensen, LeBlanc, Lizotte, McMahon, Stubbs, Tierney, Wood.

Yes, 87; No, 44; Absent, 10; Paired, 12.

The SPEAKER pro tem: Eighty-seven having voted in the affirmative and forty-four in the negative, with ten being absent and twelve paired, the motion does prevail.

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

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

The SPEAKER pro tem: The gentleman from Brewer, Mr. Norris, having voted on the prevailing side, now moves that the House reconsider its action whereby this Bill was indefinitely postponed. All those in favor will say yes; those opposed will say no.

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

Sent up for concurrence.

The SPEAKER pro tem: The Chair recognizes the gentleman from Biddeford, Mr. Lizotte.

Mr. LIZOTTE: Mr. Speaker, I move we reconsider our action of earlier whereby we voted to adhere on Bill "An Act Concerning the Penalty for Sale of Alcoholic Beverages to Minors," Senate Paper 249, L.D. 758, and I hope you all vote against me.

The SPEAKER pro tem: The Chair recognizes the gentleman from Rockland, Mr. Gray.

Mr. GRAY: Mr. Speaker, Ladies and Gentlemen of the House: I have asked that this bill be held. I think we passed over it rather quickly. The other body has asked for a Committee of Conference, so I would hope that perhaps we might reconsider our action on this bill and have an opportunity to have a Committee of Conference with the other body.

The SPEAKER: The pending question is on the motion of the gentleman from Biddeford, Mr. Lizotte, that the House reconsider its action of earlier in the day whereby it voted to adhere on L.D. 758. All those in favor of reconsideration will vote yes; those opposed will vote no.

A vote of the House was taken.

26 having voted in the affirmative and 54 having voted in the negative, the motion did not prevail.

The SPEAKER pro tem: The Chair recognizes the gentleman from Calais, Mr. Gillis.

Mr. GILLIS: Mr. Speaker, I move we reconsider our action on Bill "An Act to Provide County Commissioner Districts in Washington County," House Paper 1225, L.D. 1359, and ask that you all vote against me.

The SPEAKER pro tem: The gentleman from Calais, Mr. Gillis, moves that the House reconsider its action of earlier in the day whereby it voted to recede and concur on L.D. 1359. All those in favor of reconsideration will vote yes; those opposed will vote no.

A vote of the House was taken.

24 having voted in the affirmative and 68 having voted in the negative, the motion did not prevail.

(Off Record Remarks)

On motion of Mrs. Post of Owl's Head, Adjourned until one-thirty tomorrow afternoon.