

# 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 12, 1977

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

Prayer by the Reverend Anne Stead of the Methodist Church of Milo and Brownville Junction.

The journal of yesterday was read and approved.

**Papers from the Senate**

The following Communication:

May 11, 1977

The Honorable Edwin H. Pert  
Clerk of the House  
108th Legislature  
Augusta, Maine 04333  
Dear Clerk Pert,

The Senate today Adhered to its action whereby it Indefinitely Postponed Bill, "An Act Concerning the Crime of Prostitution" (H. P. 629) (L. D. 770).

Respectfully,

(Signed) May M. Ross  
Secretary of the Senate

The Communication was read and ordered placed on file.

The following Joint Order, an expression of Legislative Sentiment recognizing that:

LYNN WELCH, TERRI BOURKE and KIMBERLY OCHMANSKI of South Portland and THERESA REDMOND of Scarborough have been chosen by Seventeen Magazine to represent Maine at the Tennis Tournament of Champions at Mission Viejo, California, May 17-May 21, 1977 (S. P. 494)

Came from the Senate read and passed.

In the House, the Order was read and passed in concurrence.

**Reports of Committees**

**Ought Not to Pass**

Report of the Committee on Labor reporting "Ought Not to Pass" on Bill "An Act Relating to Maximum Benefits under the Employment Security Law" (S. P. 193) (L. D. 590)

Was placed in the Legislative Files without further action pursuant to Joint Rule 20 in concurrence.

**Leave to Withdraw**

Report of the Committee on Judiciary reporting "Leave to Withdraw" on Bill "An Act to Eliminate the Requirement of the Secretary of State to Maintain a Copy of Murder Transcripts" (Emergency) (S. P. 109) (L. D. 238)

Came from the Senate with the Report read and accepted. In the House, the Report was read and accepted in concurrence.

**Ought to Pass as Amended**

Committee on Appropriations and Financial Affairs reporting "Ought to Pass" as amended by Committee Amendment "A" (S-128) on Bill "An Act to Allocate Money from the Federal Revenue Sharing Fund for the Fiscal Years Ending June 30, 1978 and June 3, 1979" (Emergency) (S. P. 106) (L. D. 235)

Came from the Senate with the Report read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (S-128)

In the House, the Report was read and accepted in concurrence and the Bill read once. Committee Amendment "A" read and adopted and the Bill assigned for second reading tomorrow.

**Divided Report**

Majority Report of the Committee on Judiciary reporting "Ought Not to Pass" on Bill "An Act to Require Certain Criminal Justice Agencies to make Permanent Records of all

Apprehensions and Arrests" (S. P. 258) (L. D. 781)

Mr. COLLINS of Knox  
Mr. MANGAN of Androscoggin  
Mr. CURTIS of Penobscot

— of the Senate.

Mr. DEVOE of Orono  
Mr. HOBBS of Saco  
Mr. TARBELL of Bangor  
Mr. HUGHES of Auburn  
Mr. NORRIS of Brewer  
Mr. BENNETT of Caribou  
Mrs. BYERS of Newcasttle  
Mr. SPENCER of Standish  
Mr. GAUTHIER of Sanford

— of the House.

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

Report was signed by the following member:  
Mr. HENDERSON of Bangor

— of the House.

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

In the House: Reports were read.  
On motion of Mr. Spencer of Standish, the Majority "Ought Not to Pass" Report was accepted in concurrence.

**Non-Concurrent Matter  
Tabled Unassigned**

Bill "An Act to Change the Sales Tax Basis on Fuel Oil from Price to Volume" (H. P. 784) (L. D. 936) which was indefinitely postponed in the House on April 26, 1977.

Came from the Senate with the Majority "Ought to Pass" Report of the Committee on Taxation read and accepted and the Bill passed to be engrossed in non-concurrence.

In the House: On motion of Mr. Tierney of Lisbon Falls, tabled unassigned pending further consideration.

**Non-Concurrent Matter**

Bill "An Act to Authorize a Bond Issue in the Amount of \$2,950,000, for a Fine Arts Classroom Building at the University of Maine at Portland-Gorham" (H. P. 1116) (L. D. 1334) on which the Majority "Ought to Pass" Report of the Committee on Education was read and accepted and the Bill passed to be engrossed in the House on May 10, 1977.

Came from the Senate with the Minority "Ought Not to Pass" Report of the Committee on Education read and accepted in non-concurrence.

In the House: On motion of Mr. Hughes of Auburn, the House voted to recede and concur.

**Non-Concurrent Matter**

Bill "An Act to Permit 17 Year Olds to Donate Blood Without Parental Consent" (S. P. 289) (L. D. 915) which was indefinitely postponed in the House on May 10, 1977.

Came from the Senate with that Body having adhered to its former action whereby the Bill was passed to be engrossed as amended by Committee Amendment "A" (S-108) in non-concurrence.

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

Mr. MASTERMAN: Mr. Speaker, I move that we adhere and would speak to my motion.

The SPEAKER: The gentleman from Milo, Mr. Masterman, moves that the House adhere. The gentleman may proceed.

Mr. MASTERMAN: Mr. Speaker, Ladies and Gentlemen of the House: I think probably this bill might have been presented by the Red Cross in desperation to pick a goodly amount of blood, and I believe that we are all interested in this. But when we go to 17-year-olds without parental consent, I think we are getting ourselves in a dangerous position and I will tell you why.

At the time my son-in-law was doing research at Peter Bent Brigham Hospital and my daughter was fresh out of college and 22 years

old, so I had no way to stop this, they were giving blood because they were paid \$50 a pint and they were giving blood every month, and it wasn't too many months before it caught up with them and they were in trouble. If we pass this bill, there is no reason that the 17-year-olds can't be donating blood when they can be paid for it, and that is the reason that I think we should adhere.

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

Mr. GOODWIN: Mr. Speaker, I move that this lie on the table for two legislative days.

Whereupon, Mr. Carrier of Westbrook requested a vote on the tabling motion.

The SPEAKER: The pending question is on the motion of the gentleman from South Berwick, that this matter be tabled for two legislative days pending further consideration. All those in favor of that motion will vote yes; those opposed will vote no.

A vote of the House was taken.

31 having voted in the affirmative and 55 having voted in the negative, the motion did not prevail.

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

Mrs. TRAFTON: Mr. Speaker, I just wish to correct the information that was just given to you by the gentleman from Milo. As some of you probably know, the Red Cross has taken over the blood program in this state and it is a completely free and voluntary program; no one is paid for giving blood and, in fact, the blood is free to you in the hospital, we only pay a slight processing charge.

I think the real issue here today is how strict is the Red Cross in terms of taking your blood, and I think you should be aware that they have very stringent requirements. They don't look at the age of the person, but what they do look at and which I think is much more important is the overall health of the person. It is very difficult to qualify to give blood. In fact, they only take it on a quarterly basis, so you couldn't give it every month even if you tried to. Not only do they do a medical screening of you, but they also take a test, check for anemia, check your blood pressure, etc. I would admit to this body right here that although I perceive myself as a specimen of health, I have been rejected by the Red Cross to give blood, so I think they are very careful. I would urge you to allow the Red Cross to have the blood from the 17-year-olds.

As Mr. Goodwin from South Berwick mentioned yesterday, they are currently getting approximately 30 percent of their blood from the 17-year-olds, so I don't see this percentage really increasing. This is just to facilitate the 17-year-olds being able to give blood.

As many of you are aware, in your high schools right now, some of the most active volunteers in the blood program are the pep clubs in the high schools, and I think we can allow them that privilege to give blood.

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

Mr. JALBERT: Mr. Speaker and Members of the House: I think I probably have had more experience with giving and having blood given to me, or tossed into me or taken out of me, than probably all the members of this House put together.

Number one, I would like to correct the statement that was just made about the freeness of this situation. When they take it from me and they give it to me, they charge me right through both nostrils. Having the freedom of a 17-year-old in such a dangerous thing, giving or taking a pint of blood is a very dangerous situation, a very, very dangerous thing and it should be gone over very thoroughly by the parents and also with the doctors and discussion and everything else. This is a very, very serious problem we are going into that we know nothing about. We are not here to practice medicine.

I certainly go along with the gentleman from

Milo, Mr. Masterman, on his adhering motion.

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

Mr. GOODWIN: Mr. Speaker, Men and Women of the House: This bill was given a very good hearing before the Health and Institutional Services Committee and was reported out unanimous "ought to pass."

There is a definite need in this state, and it is getting greater as the tourist season comes, for blood. Thirty percent of the blood collected in this state comes from the high schools now. The problem is, as they schedule these blood drives and go to the high schools, they try to pass out these slips to you which are nothing more than a consent release for persons under 18 years of age and they are signed. All they have to do is be signed once and they are kept on file. The problem is that every time an individual, 17-year-old, gives blood, he has to have a copy of this slip and of course these things get lost, they get caught up in the filing procedures in the central office, or what have you, and according to the Red Cross people, they have had a lot of complaints from parents after they have had to go back several times to get these consent slips signed, and they thought they would follow the lead of 39 other states to date that have passed this type of legislation that would allow 17-year-olds to give blood without parental consent.

I think we have to take a look at the total picture here in the state, and what is going to happen this summer and in future years if we can't get enough blood supply? That is what the critical issue is in this whole picture.

Thirty percent, almost one third of all the blood that is taken in this state comes from high schools, and if you are going to hamstring the Red Cross further, we are going to have more and more problems, the blood supply is going to get more critical, it is going to cost more to people in the hospitals, it is just going to create more and more of a hassle. I think this is one chance that we have to ease a very, very critical problem, and I would urge that you do not vote for the motion to adhere, and if I am in order, I would make the motion to recede and concur.

The SPEAKER: The gentleman from South Berwick, Mr. Goodwin, moves that the House recede and concur.

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

Mr. MASTERMAN: Mr. Speaker and Members of the House: I would just like to point out to you that a 17-year-old today is usually in college. That means probably he is not in the State of Maine, therefore, he can get into the situation where he is making a little money on the side giving blood, maybe when he shouldn't. I think if we back up on this and don't stick with the former motion, we are indicating that we want to circumvent the inherent right of the parent to protect and look after their children until they are of age.

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

Mr. HALL: Mr. Speaker, Ladies and Gentlemen of the House: In regard to what my former seatmate just said, Mr. Masterman, I rather doubt if many of the children are in college at 17.

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

Mr. CAREY: Mr. Speaker, Ladies and Gentlemen of the House: I listened to the Chairman of the Health and Institutional Services Committee, and I don't buy the argument about the slips getting lost or what have you. I have a 17-year-old daughter who is in high school. She has to have a slip signed when she goes on a class trip any place. I don't buy the argument on the slips; I have a boy who is in the Cub Scouts, and when they go to one of the buildings within the confines of the City of Waterville, away from the Cub Scout head-

quarters, they have to have a slip signed. So I am not concerned about the slip signing. I am concerned about the fact that I may be losing control of exactly what my kids are doing, and this legislature has done enough of that to us who are parents now. I would hope that we do not continue that way.

The SPEAKER: The Chair recognizes the gentleman from Westbrook, Mr. Carrier.

Mr. CARRIER: Mr. Speaker and Members of the House: A couple of days I moved to kill this bill and we did. Then it went to the other body and, of course, I don't know what their reasons are but I know where it comes from — I have no objection and I never had any disagreement with the Red Cross and that was not the purpose of my making my motion. At the time I did, I truly believed then and I still do, that it is a very dangerous process allowing kids to give blood. We are talking about children, because to restate what I said then, the bill does mention right at the top that it involves children.

I do agree that there is a definite need for blood, but I don't think that we should solve the problem by pouncing on kids to give blood on their own. I have had a call and I have talked with some of the high ones in the Red Cross and they do say there is a need; but after I gave them my arguments, what I believed in, I believe they were satisfied that it was logical and probably practical.

I do say too, in all justice and in all fairness to you people, one of the reasons why this bill was put in was to keep another outfit from Portland operating as a blood bank. I don't know the outfit, I have nothing to do with it, I don't know how they operate, I don't know what their standards are or anything. I do suggest that if there is that type of motive involved in this bill, you had better give it real good consideration.

I think there are three considerations to give. First, we did kill this bill with a 91 to 43 vote. The second one is, I would pay very good attention to what Mr. Masterman has said, because from his own experience, he has talked from his own experience and probably a very hard one to take, and I, for once, say to you, heed the words of the able legislator from Lewiston, because he has been through such experiences, probably many more than we ever want to have. I submit to you that they probably did go to the committee, but I still think it was the wrong committee because I think there are a lot of legal complications involved in this besides the physical harm that it might bring to the individuals involved.

I do hope that you now vote against the motion to recede and concur so we can adhere.

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

Mr. DAVIES: Mr. Speaker and Members of the House: The gift of a pint of blood is the greatest gift that one person can give to another person. I know this experience. I have given blood 60 times, 60 pints of blood, 60 pints that have gone to another individual to keep that person alive, to allow them to survive an operation, to overcome a health problem, to get through a serious time. I would gladly give again and again and I will continue to.

The good gentleman from Lewiston has raised the point that people are paying for blood; this is wrong, it is not true. In the State of Maine, there are fees charged for processing blood, but there is not one cent charged for the purchase of that blood. That should be perfectly clear.

I ran a blood donor program, a blood bank, in Orono for two years. We took a large amount of blood from 17-year-olds, 18-year-olds, 19-year-olds. In fact, if it wasn't for this group of people, there would be a lot of dead people in the State of Maine who are currently alive, but because of that blood they were able to survive and live a normal life. These individuals are capable of giving. There is little or no risk in

giving a pint of blood. They want to do it, and if they are willing to, we should allow them that opportunity. Why should this legislature rush at any of us, stand in the way of an individual wishing to give the greatest gift that one individual can give to another.

I urge you to recede and concur.

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

Mr. JALBERT: Mr. Speaker and Members of the House: I would like to have my good friend from Orono, Mr. Davies, listen when somebody speaks. I said that when I go get blood, and when I go over to have them pull some blood out of me, I pay through both nostrils — that is what I said. If you don't think so, then I will give you the next bill, which will be next Saturday morning.

You are getting into a serious situation here. Before they give you blood, or before they even look at you, they have got to turn around, look at your wrists, see what your name is, see what the number of your room is, see where you are, you get a slip from a 15, 16 or 17-year-old — how do you know where that slip comes from? I am saying to you that I don't want any part of practicing medicine, and I know what I am talking about on this thing. I never held that I thought I was an authority on everything, but for heaven's sake, if I have spent 412 days and nights in a hospital, I have got to know a little something about what is going on over there.

I am telling you, this is a bad, bad piece of legislation in the first place. I hope we reject the motion to recede and concur so that we can adhere, and I request a roll call.

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

Mr. MASTERMAN: Mr. Speaker and Members of the House: I know you didn't want me to rise again, and I will be very brief, but I do have to answer Mr. Hall. I was very fortunate in having two children, two children being one hundred percent of the children that I was gifted with, and they were both in college when they were 17.

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

Mr. DAVIES: Mr. Speaker, very briefly to correct the good gentleman from Lewiston, Mr. Jalbert. He may have paid for the processing of the blood that he received; he never paid one cent for the blood itself.

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

Mr. JALBERT: Mr. Speaker and Members of the House: I just want to set the record straight. I never said or talked about anybody getting any money for blood, I never said that.

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

Mrs. GILL: Mr. Speaker, Ladies and Gentlemen of the House: I think we are getting away from the issue of the 17-year-olds, the money involved. The Red Cross, they are not vultures, they are not trying to take blood from 17-year-olds.

In the initial exam when a person goes in to donate blood, a hemoglobin test is taken immediately. If there is any anemia or anything out of line that shows up in their blood, the Red Cross won't take it, nobody will. The hospitals won't take it.

This 17-year-old group will allow a lot more people to give blood. Their blood is healthy, they are mature, their spleens have developed so that their blood is producing properly. I think that we should recede and concur with the Senate.

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

Mr. PETERSON: Mr. Speaker, Ladies and Gentlemen of the House: Everything that has been said is correct. The point is that this bill usurps the rights of the parents.

The SPEAKER: A roll call has been re-

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

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

The SPEAKER: The pending question is on the motion of the gentleman from South Berwick, Mr. Goodwin, 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, Berry, Brenerman, Bunker, Burns, Bustin, Chonko, Cox, Curran, Davies, Diamond, Dow, Elias, Fowlie, Gill, Goodwin, H.; Gould, Green, Greenlaw, Hall, Henderson, Hobbins, Howe, Huber, Hughes, Jackson, Kane, Kany, Kerry, Kilcoyne, MacEachern, Masterton, Nadeau, Najarian, Nelson, M.; Perkins, Post, Prescott, Quinn, Talbot, Tierney, Tozier, Trafton, Wilfong.

NAY — Ault, Austin, Bachrach, Bagley, Beaulieu, Bennett, Benoit, Berube, Biron, Birt, Blodgett, Boudreau, A.; Boudreau, P.; Brown, K. L.; Brown, K. C.; Byers, Carey, Carrier, Carroll, Carter, D.; Carter, F.; Churchill, Clark, Connors, Cote, Cunningham, Dexter, Drinkwater, Dudley, Durgin, Dutremble, Fenlason, Flanagan, Garsoe, Gauthier, Gillis, Gray, Hickey, Higgins, Hunter, Immonen, Jacques, Jalbert, Joyce, Lewis, Lizotte, Locke, Lougee, Lunt, Lynch, Mackel, Mahany, Marshall, Martin, A.; Masterman, Maxwell, McBreairty, McHenry, McKean, McMahon, McPherson, Mills, Mitchell, Morton, Nelson, N.; Palmer, Pearson, Peltier, Peterson, Plourde, Raymond, Rideout, Rollins, Shute, Smith, Spencer, Sprowl, Stubbs, Tarr, Theriault, Torrey, Truman, Twitchell, Whittemore, Wood, Wyman.

ABSENT — Connolly, Devoe, Goodwin, K.; Hutchings, Jensen, Kelleher, Laffin, LaPlante, LeBlanc, Littlefield, Moody, Norris, Peakes, Silsby, Stover, Strout, Tarbell, Teague, Tyn-dale, Valentine.

Yes, 44; No, 86; Absent, 20.

The SPEAKER: Forty-four having voted in the affirmative and eighty-six in the negative, with twenty being absent, the motion does not prevail.

Thereupon, on motion of Mr. Masterman of Milo, the House voted to adhere.

The SPEAKER: The Chair recognizes the gentleman from Westbrook, Mr. Carrier.

Mr. CARRIER: Mr. Speaker, I now move we reconsider our action and I hope you vote against me.

The SPEAKER: The gentleman from Westbrook, Mr. Carrier, moves that we reconsider our action whereby this body voted to adhere. All those in favor will say yes; those opposed will say no.

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

#### Messages and Documents

The following Communication: (S. P. 495)

STATE OF MAINE  
OFFICE OF THE GOVERNOR  
AUGUSTA, MAINE

May 10, 1977

Honorable Joseph Sewall  
President of the Senate  
and

Honorable John L. Martin  
Speaker of the House  
Dear Joe and John:

This is to formally notify you that we have reposted Asa C. Richardson of Glenridge Drive, Augusta, today to the State Personnel Board.

In accordance with M.R.S.A., Title 5, Section 591, as amended, this nomination is subject to

review by the Joint Standing Committee on Labor and to confirmation by the Legislature.

Thanking you in advance for your assistance in the area of appointments.

Very truly yours,

Signed:

JAMES B. LONGLEY  
Governor

Came from the Senate read and referred to the Committee on Labor.

In the House, the Communication was read and referred to the Committee on Labor in concurrence.

#### Petitions, Bills and Resolves Requiring Reference

The following Resolution was received and referred to the following Committee:

##### State Government

RESOLUTION, Proposing an Amendment to the Constitution Providing that all State Revenues, with the Exception of those now Designated to the Highway Fund, with the Exception that the Legislature may Provide Dedication of Revenues to the Department of Inland Fisheries and Wildlife, with the Exception of Provisions Attached to Federal Funds, and with the Exception of Private Gifts be Credited to and Appropriated from the General Fund (H. P. 1557) (Presented by Mr. Burns of Anson)

(Ordered Printed)

Sent up for concurrence.

##### Orders

An Expression of Legislative Sentiment (H. P. 1554) recognizing that: John P. Conroy of Portland will be honored by his induction into the "Maine Sports Hall of Fame" at its annual awards dinner on May 14, 1977, in Bangor

Presented by Mr. Flanagan of Portland.

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

An Expression of Legislative Sentiment (H. P. 1555) recognizing that: The Arbor Day Foundation has honored the City of Westbrook, Municipal Arborist Wesley N. McKague, and the employees of the city's forestry department by selecting Westbrook as the only New England city to be named "Tree City USA"

Presented by Mr. Carrier of Westbrook. (Cosponsor Mr. Laffin of Westbrook)

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

On motion of Mr. Nadeau of Sanford, it was ORDERED, that Swift Tarbell, III of Bangor be excused May 12th, 13th for personal reasons.

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

Mr. Fenlason from the Committee on Education on Bill "An Act to Provide for Full-time Principals in Elementary Schools" (H. P. 1264) (L. D. 1491) reporting "Ought Not to Pass"

Mr. Twitchell from the Committee on Taxation on Bill "An Act to Provide Equal Tax Treatment of Nonprofit Hospital or Medical Service Organizations" (H. P. 842) (L. D. 940) reporting "Ought Not to Pass"

Mr. Immonen from the Committee on Taxation on Bill "An Act to Exempt Fund-raising Sales of Schools or Student Organizations from the Sales Tax" (H. P. 1180) (L. D. 1408) reporting "Ought Not to Pass"

Mr. Carter from the Committee on Taxation on Bill "An Act to Exempt Certain Non-profit Charitable Organizations from the Sales Tax at Fairs and Municipal Events" (H. P. 662) (L. D. 803) reporting "Ought Not to Pass"

Mr. Twitchell from the Committee on Taxation on Bill "An Act Exempting Sales to Community Action Agencies From the Sales Tax" (H. P. 660) (L. D. 801) reporting "Ought Not to Pass"

Mr. Mackel from the Committee on Taxation on Bill "An Act Exempting Clothing for Children under 16 from the Sales Tax and Increasing the Cigarette Tax to Offset the Loss in Revenue" (H. P. 658) (L. D. 819) reporting "Ought Not to Pass"

Mr. Maxwell from the Committee on Taxation on Bill "An Act Exempting Newly-added Returnable Beverage Container Storage Structures from the Property Tax" (H. P. 886) (L. D. 1094) reporting "Ought Not to Pass"

Mr. Carrier from the Committee on Legal Affairs on Bill "An Act Repealing Certain Laws Relating to Property" (H. P. 1375) (L. D. 1574) reporting "Ought Not to Pass"

Mr. Joyce from the Committee on Legal Affairs on RESOLVE, Authorizing Donald LaRoche as Executor for the Estates of Wilfred and Alice LaRoche Late of Waterville or his Legal Representatives to Bring Civil Action Against the State of Maine (H. P. 1506) (L. D. 1739) reporting "Ought Not to Pass"

Was placed in the Legislative Files without further action pursuant to Joint Rule 20, and sent up for concurrence.

#### Leave to Withdraw

Mr. Teague from the Committee on Taxation on Bill "An Act to Repeal the Property Tax on Commercial Fishing Vessels" (H. P. 554) (L. D. 671) reporting "Leave to Withdraw"

Mr. Carter from the Committee on Taxation on Bill "An Act to Exempt Certain Watercraft from Property Taxation" (H. P. 1291) (L. D. 1523) reporting "Leave to Withdraw"

Reports were read and accepted and sent up for concurrence.

#### Ought to Pass in New Draft New Drafts Printed

Mr. Nadeau from the Committee on Public Utilities on Bill "An Act to Amend the Charter of the Portland Water District" (H. P. 1003) (L. D. 1204) reporting "Ought to Pass" in New Draft (Emergency) (H. P. 1556) (L. D. 1775)

Mr. Berry from the Committee on Public Utilities on Bill "An Act to Reduce the Cost of Electric Utility Services to Customers and Encourage Energy Conservation through Improvements in Electric Utility Rate Design" (H. P. 691) (L. D. 873) reporting "Ought to Pass" in New Draft under New Title Bill "An Act to Encourage Energy Conservation by Means of Reform of Utility Rate Designs" (H. P. 1553) (L. D. 1774)

Reports were read and accepted, the New Drafts read once and assigned for second reading tomorrow.

#### Ought to Pass Printed Bill

Mrs. Chonko from the Committee on Taxation on Bill "An Act to Exempt from the Sales Tax all Equipment and Supplies used to Diagnose or Treat Diabetes" (H. P. 1207) (L. D. 1435) reporting "Ought to Pass"

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

#### Divided Report

Majority Report of the Committee on Veterans and Retirement reporting "Ought Not to Pass" on Bill "An Act Concerning State Retirement Benefits for Police Officers and Firefighters" (Emergency) (H. P. 505) (L. D. 624)

Report was signed by the following members:

Messrs. COLLINS of Knox  
O'LEARY of Oxford  
LOVELL of York

— of the Senate.

Messrs. THERIAULT of Rumford  
LOUGEE of Island Falls

AUSTIN of Bingham  
BUNKER of Gouldsboro

— of the House.

Minority Report of the same Committee reporting "Ought to Pass" as amended by Committee Amendment "A" (H-309) on same Bill. Report was signed by the following members:

Messrs. LAFFIN of Westbrook  
HICKEY of Augusta  
NELSON of Roque Bluffs  
MacEACHERN of Lincoln  
Ms. CLARK of Freeport

— of the House.

Reports were read.

Mr. Theriault of Rumford moved that the Majority "Ought Not to Pass" Report be accepted.

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

Mr. MacEACHERN: Mr. Speaker, Ladies and Gentlemen of the House: I urge you not to vote for the majority report. In the last session of the legislature, the retirement law was revised, and through that revision, there were a number of local police and fire departments that lost some of the benefits that they had been working for for many years. They worked for several years under the assumption that they were going to get certain benefits on their retirement and all at once, on the eve of their retirement, some of these benefits were taken away from them.

What this minority report would do would grandfather the people who were working under this assumption for many years. It wouldn't affect anybody that retired after the effective date of the revision.

I just feel that an injustice was done to all these people, and I think that it would be well to right that injustice by passage of this minority report. I urge you to vote against the motion before you at this time.

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

Mr. LYNCH: Mr. Speaker, Ladies and Gentlemen of the House: As a cosponsor of the revision of the retirement chapter in the last legislature, it was done to try to make retirement benefits uniform for the fund. If you allow special interest to get special legislation, then you create a desire for all members of the retirement system, whether they are participating districts, teachers, or state employees to seek the same benefits. That is the reason it was done.

Now, my answer to the participating districts is that if you are not satisfied with the laws governing the retirement system, that you take the participating retirement fund out of the state retirement fund and administer it yourselves. The only purpose that it is there is to benefit the participating district and have the trustees administer their funds.

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

Mrs. BEAULIEU: Mr. Speaker, Ladies and Gentlemen of the House: On your desks this morning I assume that you all have a copy of the story that came out in the Kennebec Journal. If you will take the time to quickly review it, I think this is exactly what the case is.

This is my bill and I presented it here for very good reasons. Last December, six police officers in Portland were literally forced out of the department by the economic pressures due to the change that I am trying to correct in the state retirement system. The list of people who retired, chose retirement, reads like a who's who of police officers. In one swoop we lost a deputy chief, a detective sergeant, a traffic lieutenant, a detective, a youth officer and the head of the crime prevention bureau. Their ages — 43, 47, 49, 51, 44, 51. This July, we stand to lose another eight men. One of them will be the former National Policeman of the Year Award winner. Wesley Ridlon. This officer

chose not to retire in January, chose to stay on until July so he could finish a task he had been assigned to. This is already costing him dollars. His age: 45.

The men we are losing in my police department, my fire department, and other departments all over this state are at the peak of their professional careers, the height of their educational capabilities and effectiveness. What is most terrible about the situation is that these are men who do not wish to retire. These are men who, by decree of many of their municipalities, were told they had to belong to the Maine Retirement System and they are victims of former negotiated contracts that mandate or that offer them 20-year or 25-year retirement plans.

What logic can there be in the fact that a man is pushed to retire because he can't afford to work because his retirement plan is going to financially burden him? There is no logic and no justice here. Retirements are often a time for levity and reminiscing about good times. For the men that I am trying to help, retirements have turned into solemn occasions.

For me as a citizen and a taxpayer, I call the departure of these men a special tragedy. I refuse to believe that the intent of the 107th Legislature has been met. These men should have been totally grandfathered. If my city hires a man to serve as a fireman or a policeman today, he will have to live under the changes that were made in the 107th. I have no problems with that, but for the men that were there prior, I believe that there was an oversight when the law was changed that someone did not think of what the consequences would be.

I do not oppose the changes that were made, but I can't believe that anyone intended to put a man on such a spot so that he would feel he would have to leave his work for economic reasons. There are members of these firefighter units and police departments and state police that tell me, and I can document it, that in order to get the same kind of retirement benefits that they felt they were going to receive when they signed on to the job, that because of the changes they literally would have to work an extra five to seven years to make sure that they got what they thought was due. What is more insane about this is that it hits these departments with losses of almost all of their superior officers, or officers assigned to special assignments such as detectives or special firefighter units.

In that past few weeks, I have heard comments made about the retirement fund, that we must protect the integrity of the fund. I say to you, what about the integrity of the men who contribute to that fund? It is their dollars that go into the fund, and mine as a taxpayer, because of the district contributions. I have heard firemen and policemen have it made as far as benefits. I say not so. They willingly pay a higher percentage than any other contributing group in dues. Consideration must be given to the kind of work we do. Take us in this House as an example. We are elected for two years at a time, we have no way of knowing if we can come back and we pay 6 percent into the fund. Yet, the men who are dedicated and hired to work in loss of life, loss of property factors, pay more than we do.

Others have said, how will we pay for your bill? The fund is in trouble. I am told the fund is not in trouble. I say that it is far cheaper for a contributing district to pay more than to lose the caliber of men they are losing now. Having these men forced to retire when they wish to continue is very very expensive to towns and cities and taxpayers, because when a man reaches the level of those that I have mentioned that we lost in our community, they cannot be replaced.

I say also, since there was not a total grand-

fathering in the first place, their vested rights have been altered, potentially violated. There are some fine legal minds who indicate to me that if we cannot, through this legislature, correct this inequity, we may wind up seeing a lot of court cases and court cases cost a lot of money.

I know the charge will be made again, ladies and gentlemen, that we are addressing ourselves to a special interest group, that this is a special interest bill. The tone usually used when those words are said make the word special interest group sound like dirty words — I resent that. People such as firemen, policemen, state troopers who work in the area of potential loss of life and loss of property are indeed special groups.

I have asked the actuaries to please indicate to me if this bill needed a fiscal note. What I got back was a memo saying that it may cost participating districts more in the future. They don't know how much or when. I say to you that when we lose this caliber of men after investing tax dollars into their careers for 20 years, a few pennies on anybody's tax rate is going to be a darn good investment in order to keep them.

I would like to point out to all of you that this is an emergency measure. We stand to lose approximately 94 men come July 1 statewide. We can't afford that. I hope that all of you will vote this morning to defeat the motion you have on the floor. I stand prepared to answer any questions until the fourth of July if I have to, because this bill is vital.

The SPEAKER: The Sergeant-at-Arms will escort the gentleman from Stonington, Mr. Greenlaw, to the rostrum to serve as Speaker pro tem.

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

The SPEAKER pro tem: The Chair recognizes the gentleman from Westbrook, Mr. Theriault.

Mr. THERIAULT: Mr. Speaker, Members of the House: I would like to answer a few of the questions raised or statements made by the last two speakers. Mr. MacEachern of Lincoln claims injustice to some of these people. To reiterate a statement that this group is being treated unfairly because they are not getting what they were promised when they were hired is not entirely true. They say they were told they would be able to figure their retirement benefits on their final year of compensation. The plan to use the final year of compensation as a base to figure out retirement benefits first went into effect in 1963. Anyone hired before that date was told, if they were interested, that their retirement benefits would be based on their best three year's average. The fact is that it was only in 1969 that the highest three years came into effect for everyone. Prior to that time, the benefits were compiled on the highest five year average for most groups in the system. In fact, the date of 1963 that I quoted is the time the first group, the state police, went on the final year of compensation for average benefits.

Mrs. Beaulieu of Portland quoted the article in the Kennebec Journal. I read that article also. The article says that no one was opposed to this measure at the hearing. If you had been there, maybe even if you were opposed you wouldn't have dared to get up with 250 uniformed firefighters there. It would have been talking a person's life in his own hands to oppose any such measure.

On the six officers forced out of the system, I heard Mrs. Beaulieu give you the ages of these men forced to retire. Why are these men forced out? I will tell you why they were forced out. They were forced out because originally they agreed and wanted a 20 year of 25 year retire-

ment plan and that is what they had. Their 20 years were up, so they were retiring. In saying this, she says it was terrible to force them to retire, but in a later statement, she says that they objected, some of them that didn't retire, to be forced to work seven more years for retirement before they would have the credits that they would have gotten normally. Here we are, a completely different attitude. Some are forced to retire, some are forced to continue to work. That is a tragedy.

Illegality — she says that there is a possible illegality. Before we passed this bill last session, the whole retirement bill, we were sure that what we were doing was legal. We had opinions from the Attorney General and we did everything we could to see that it was legal. If there is any illegality about it, any chance of having court cases on this, we would welcome them, because as far as we are concerned, everything was done legally.

About the cost that was referred to, the fiscal note. If you will notice the fiscal note in the amendment — I will read it to you. "Enactment of this amendment will result in some increase in revenue." Revenue, mind you, "at the participating district level." I can't get that word revenue. However, the Maine State Retirement System has been unable to calculate the exact amount at the present time. That I can understand, not being able to calculate the exact amount at this time.

There is a good reason for this. It is impossible to figure out what the amount is going to be that these people are going to get at the time they retire because they will never know what the amount is that they are going to earn in the last year of working. It is impossible for anyone to figure out what the cost is going to be, but you can bet your life, if there are additional benefits, there are going to be additional costs.

Now, I have a few comments I want to make on the bill. This bill, as you may have noticed by this time, is different from other bills on retirement that we have had before us in the last two weeks, inasmuch as this one deals with the districts in the system. One of the problems for me in this L. D. is the fact that it also deals with state employees. You may have noticed, there is no fiscal note on this. I have talked about this so you know what that is.

There is bound to be costs when you have additional benefits and someone has to pay those costs. In the case of the districts, most of the costs would be borne by the district. There would still be some cost to the state. In the case of the state employees who are included in this L. D., the entire increased cost will be to the state if no provisions are made by this L. D. to fund this cost from the General Fund, then the entire cost would be borne by the retirement system. It would be a direct drain on the system and that is something I will always object to.

It has been said that the Maine State Retirement System has more retirement plans than Carter has liver pills. There is one thing about the system that is the same in all the plans at this time, and that is the figuring of retirement benefits on the average of the best three years. Let's keep it that way. Let's not create another level of benefits, even if it would be only for the districts. It would only mean more dissatisfaction for other groups.

One of the things that this L. D. would do is change the method of figuring retirement benefits from the average final compensation to the final year of compensation. The average final compensation means a three year average, not necessarily the last three years but three years in an employee's working life in which the salary was the highest.

The matter that caused us to have a change made two years ago from final year of compensation to average final compensation was the abuse to the system. We had an example of a

person in a district who, when he planned to retire, piled in all the overtime he could. By the way, he was the boss, so he was able to put in all the overtime he wanted, added accumulated sick leave and vacation pay to the point when he retired and his benefits were compiled, he ended up by getting more as pension pay than he got when he was working, retiring after 20 years of service at 66% of his final year of compensation and still young enough to get another job. If I understood correctly, he has got another job and is now working for the state. Talk about double dipping!

That is all I have to say at this time. I would be willing to answer any questions and I certainly hope that you will go for the "Ought Not to Pass" Report.

The SPEAKER pro tem: The Chair recognizes the gentleman from Lincoln, Mr. MacEachern.

Mr. MacEACHERN: Mr. Speaker, Ladies and Gentlemen of the House: I think I should try to explain some of the comments made by Mr. Theriault. Under the old system, it was possible to abuse the system exactly as he says. There were several people in one town that I can think of that retired at the same amount of money that they were working for because they practiced fund loading in their last year of employment. This amendment, however, does away with the possibility of this happening. In the amendment, it accepts overtime work for their final compensation. This is designed to take care of fund loading. I think if the amendment is passed, it won't be as big a bugaboo as it might seem and it won't be abused like the old system was.

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

Mr. LYNCH: Mr. Speaker, Ladies and Gentlemen of the House: I would like to add a few remarks. There are, and I hope members of the House understand, participating districts brought into the fund simply to manage the contributions by the district. Their funds are kept separate. There are 222 participating districts. In Portland, they have four participating districts. They have the city of Portland, Portland Housing Authority, Portland Public Library and Portland Renewal Authority. The Portland district has 1,796 open accounts at the end of June 30, 1976. Their members' contribution fund was \$4,199,000 plus. Their retirement allowance fund was \$2,134,000 plus. Reserve against future losses was minus \$552,000 plus. The total trust reserves were \$5,782,000 plus. I don't mind any district getting any benefits for members of their district as long as the community knows what is going on. That is my objection to many of the bills that have come into this legislature. I felt they were an end-run around the members of the community who were not aware of the future financial burdens.

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

A vote of the House was taken.

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

The SPEAKER pro tem: 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 not.

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

The SPEAKER pro tem: The Chair recognizes the gentleman from Augusta, Mr. Bustin.

Mr. BUSTIN: Mr. Speaker, Ladies and Gentlemen of the House: The bill we have here today, boiled down to its very essentials, is to decide whether or not you want to return to the form which the firefighters, police and state police get their pensions from the average of the final three years to the old system of final compensation.

The gentleman from Lincoln, Mr. MacEachern has pointed out, in fact, that the so-called abuses that occurred under the old system are corrected in Committee Amendment "A". I would suspect, looking around the House, I being an average member, probably none of you have looked at Committee Amendment "A". It might be worth your while before you cast the vote here this morning. If you look at that, you will see very clearly where the benefits are computed on half salary, not half final compensation. In other words, there could be no fund loading through premium pay or overtime pay. It is a relatively simple issue. You will notice that this Committee Amendment is in fact a step back from the old system; it is indeed a compromise.

I would hope the House, this morning, would go along with the minority report and this Committee Amendment "A".

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

Mr. SPENCER: Mr. Speaker, Ladies and Gentlemen of the House: I have also looked at Committee Amendment "A" and I can't see that the proposed change includes any of the problems of the old system. It obviously was a problem that a person who was about to retire could get all of the overtime that was available in his unit, or a great deal of it and tremendously inflate his salary. But under Committee Amendment "A" that is not possible, that is not included in the base which is used to figure the retirement.

I can't see any reason why the final year is not the reasonable and the fair figure to use for the retirement. It seems to me that we overstepped when in order to correct the overtime problem we went back to the three years, an average of that. It seems to me that this is a more reasonable way of approaching the problem and I would urge you to vote against the "ought not to pass" report so that we can support the bill with Committee Amendment "A".

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

Mr. THERIAULT: Mr. Speaker and Members of the House: Please, do look at this amendment, please do look at it. Read it carefully, and when you get done reading it, I will bet you dollars to donuts that you don't understand a word it says. That is the kind of amendment it is. Read it — like my friend Mr. Spencer of Standish says — read it.

I will tell you something else about the amendment. You read the top of that amendment, and if you understand even that part, "amend the bill by striking out everything before the emergency clause and the enacting clause and inserting in place the following." What does that mean, anyway? I am confused right at the beginning. Okay, it does say that "at the point of retirement or the gross amount." Well, the gross amount, they exclude the premium and overtime payment. They don't exclude vacation pay or sick leave. This doesn't amount to much, I will grant you, but it is an increase.

I had to do some research on this amendment to find out just what it meant, but somewhere in this amendment they want to take the figuring of the retirement benefit away from the three years and take it from the one year. And in the bill last year that we passed, we were granting them an additional 2 percent for each year of

service after the eligible time of retirement came up, and believe you me, they were very careful to be sure that that 2 percent would stay in the law so that if they wanted to continue to work, they wouldn't lose that. They want both ends and the middle.

I definitely feel that this bill should not pass. I will reiterate — no matter what you do, if you are going to give benefits, it is going to cost something. If you give additional benefits, it is going to cost something, and who is going to end up paying it? It is going to be the taxpayers, whether it is going to be from sales tax, income tax, or whether it is real estate tax, as it will be if it is in the districts that are getting the increase, it is certainly going to be the taxpayer. Therefore, today I am urging you, pleading with you, accept the "ought not to pass," please.

The SPEAKER pro tem: A roll call has been ordered. The pending question is on the motion of the gentleman from Rumford, Mr. Theriault, that the Majority "Ought Not to Pass" Report be accepted. All those in favor of that motion will vote yes; those opposed will vote no.

#### ROLL CALL

YEA — Austin, Bachrach, Bagley, Berry, Berube, Biron, Birt, Blodgett, Brown, K. L.; Brown, K. C.; Bunker, Burns, Byers, Carey, Carter, F.; Cunningham, Dexter, Durgin, Fenlason, Garsoe, Gould, Green, Hall, Hunter, Immonen, LaPlante, Lewis, Lizotte, Lougee, Lunt, Lynch, Mackel, Marshall, Masterman, Masterton, Maxwell, McBairty, McHenry, McMahon, McPherson, Moody, Morton, Najarian, Palmer, Peakes, Pearson, Peltier, Perkins, Peterson, Quinn, Raymond, Rollins, Silsby, Smith, Sprowl, Teague, Theriault, Torrey, Whittmore.

NAY — Ault, Beaulieu, Bennett, Benoit, Boudreau, A.; Boudreau, P.; Brennerman, Bustin, Carrier, Carroll, Carter, D.; Chonko, Clark, Conners, Connolly, Cote, Cox, Curran, Davies, Diamond, Dow, Drinkwater, Dudley, Dutremble, Elias, Flanagan, Fowlie, Gauthier, Goodwin, H.; Goodwin, K.; Gray, Henderson, Hickey, Higgins, Hobbins, Howe, Hughes, Jacques, Jalbert, Joyce, Kane, Kany, Kelleher, Kerry, Kilcoyne, Locke, MacEachern, Mahany, Martin, A.; Mills, Mitchell, Nadeau, Nelson, M.; Nelson, N.; Norris, Post, Prescott, Rideout, Shute, Spencer, Strout, Stubbs, Talbot, Tarr, Tierney, Tozier, Trafton, Truman, Twitchell, Valentine, Wilfong, Wood, Wyman.

ABSENT — Aloupis, Churchill, Devoe, Gill, Gillis, Huber, Hutchings, Jackson, Jensen, Laffin, LeBlanc, Littlefield, McKean, Plourde, Stover, Tarbell, Tyndale.

Yes, 59; No, 73; Absent, 17.

The SPEAKER pro tem: Fifty-nine having voted in the affirmative and seventy-three in the negative, with seventeen being absent, the motion does not prevail.

Thereupon, the Minority "Ought to Pass" Report was accepted and the Bill read once. Committee Amendment "A" (H-309) was read by the Clerk and adopted and the Bill assigned for second reading tomorrow.

#### Divided Report

Majority Report of the Committee on Taxation reporting "Ought Not to Pass" on Bill "An Act Exempting Scouting Supplies and Equipment from the State Sales Tax" (H. P. 245) (L. D. 317)

Report was signed by the following members:

Messrs. WYMAN of Washington  
JACKSON of Cumberland  
MARTIN of Aroostook

— of the Senate.

Messrs. CARTER of Bangor  
TEGUE of Fairfield  
IMMONEN of West Paris  
CAREY of Waterville  
COX of Brewer

Mrs. POST of Owls Head

— of the House.

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

Report was signed by the following members:

Mr. MAXWELL of Jay  
Mrs. CHONKO of Topsham  
Messrs. MACKEL of Wells  
TWITCHELL of Norway

— of the House.

Reports were read.

Mr. Carey of Waterville moved that the Majority "Ought Not to Pass" Report be accepted.

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

Mr. BOUDREAU: Mr. Speaker, Ladies and Gentlemen of the House: I put this bill in earlier in the session. I have been involved with the Boy Scouts, Pine Tree Council, and we have been having problems raising money to establishing camping facilities for kids and that type of thing.

I understand the problems the Taxation Committee has had with tax exemption bills, and I would just ask for the yeas and nays.

The SPEAKER pro tem: 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 vote will vote yes; those opposed will vote no.

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

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

#### ROLL CALL

YEA — Bachrach, Bagley, Berry, Berube, Biron, Boudreau, A.; Brennerman, Brown, K.L.; Brown, K.C.; Bunker, Byers, Carey, Carter, F.; Clark, Cote, Cox, Cunningham, Davies, Dudley, Dutremble, Elias, Fenlason, Flanagan, Fowlie, Garsoe, Gauthier, Gray, Green, Hall, Henderson, Flanagan, Fowlie, Garsoe, Gauthier, Gray, Green, Hall, Henderson, Hickey, Higgins, Howe, Hughes, Immonen, Jackson, Jacques, Jalbert, Kane, Kilcoyne, LaPlante, Lewis, Littlefield, Locke, Lunt, Lynch, Marshall, Masterton, McHenry, McKean, McMahon, McPherson, Mitchell, Morton, Najarian, Palmer, Pearson, Peterson, Post, Quinn, Raymond, Rideout, Spencer, Talbot, Tarr, Teague, Theriault, Tierney, Torrey, Trafton, Truman, Valentine, Whittmore, Wilfong, Wood, Wyman.

NAY — Ault, Austin, Blodgett, Boudreau, P.; Burns, Bustin, Carrier, Carroll, Carter, D.; Chonko, Conners, Connolly, Curran, Dexter, Diamond, Dow, Drinkwater, Durgin, Gill, Goodwin, H.; Goodwin, K.; Gould, Higgins, Hobbins, Hunter, Kany, Kelleher, Kerry, Lizotte, MacEachern, Mackel, Mahany, Martin, A.; Masterman, Maxwell, McBairty, Moody, Nadeau, Nelson, M.; Nelson, N.; Norris, Peakes, Perkins, Prescott, Rollins, Shute, Sprowl, Strout, Stubbs, Tozier, Twitchell.

ABSENT — Aloupis, Beaulieu, Bennett, Benoit, Birt, Churchill, Devoe, Gillis, Huber, Hutchings, Jensen, Joyce, Laffin, LeBlanc, Lougee, Peltier, Plourde, Silsby, Smith, Stover, Tarbell, Tyndale.

Yes, 76; No, 51; Absent, 22.

The SPEAKER pro tem: Seventy-six having voted in the affirmative and fifty-one having voted in the negative, with twenty-two being absent, the motion does prevail.

Sent up for concurrence.

#### Divided Report

Majority Report of the Committee on Taxation reporting "Ought Not to Pass" on Bill "An Act to Provide for Exemption of Farm Supplies from the Sales Tax" (H. P. 538) (L. D. 653)

Report was signed by the following members:

Messrs. JACKSON of Cumberland  
MARTIN of Aroostook

— of the Senate.

Messrs. COX of Brewer  
CARTER of Bangor

Mrs. CHONKO of Topsham  
Messrs. TEAGUE of Fairfield  
IMMONEN of West Paris  
CAREY of Waterville  
TWITCHELL of Norway

— of the House.

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

Report was signed by the following members:

Mr. WYMAN of Washington

— of the Senate.

Messrs. MAXWELL of Jay  
MACKEL of Wells

Mrs. POST of Owls Head

— of the House.

Reports were read.

Mr. Carey of Waterville moved that the Majority "Ought Not to Pass" Report be accepted.

Whereupon, Mrs. Post of Owls Head requested a vote.

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

Mr. CAREY: Mr. Speaker, maybe the gentlelady, before she gets her division, could tell you what the price tag on this bill is. It is my understanding that it is a \$1 million loss of revenue in the first year; \$3.3 million loss of revenue in the second year.

The SPEAKER pro tem: The Chair recognizes the gentlewoman from Owls Head, Mrs. Post.

Mrs. POST: Mr. Speaker, Men and Women of the House: I am very well aware of what the price tag on this particular bill is and the possible future costs. I think if we would look at what we have already done for other kinds of industries in this state with the sales tax exemption on machinery and equipment if you want to manufacture something or if you want to do some research, I think that farming and agriculture deserves that same kind of tax treatment and at least this body ought to pass it, put it on the Appropriations Table and give it a chance to go that far. If it is going to die at the end of the session if we don't have enough money, all right. If the people who want this particular bill are able to come up with some tax revenues to fund it at that time, then I think they ought to have the right to have the opportunity to do so.

I just think that this body should go on record as being willing to give equal treatment to agriculture, the same kind of treatment that they give to the big manufacturing plants, the big paper plants, or if you happen to want to do some research. I think agriculture deserves the same kind of treatment, and that is why I voted "Ought to Pass" on it.

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

Mr. HALL: Mr. Speaker, Ladies and Gentlemen of the House: I couldn't agree with the lady any more. However, I don't believe, and I am probably one in the past that has paid as much sales tax on farming equipment as anyone else in this room, but I don't believe that is the proper approach to take.

I think most of you are well aware of how I feel in regard to tax structures we have



already. If you don't pick it up this way, we are going to have to pick it up through more property tax or more income tax, and before I will vote to see this go down the drain, I want to see what we are going to have with a constructive tax situation so that it will be equal for everybody. I don't think going this hodgepodge way is the way to solve the problem.

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

Mr. MAXWELL: Mr. Speaker, Ladies and Gentlemen of the House: This happens to be my bill, and two years ago I introduced the same bill and it died on the Appropriations Table. It passed the House and passed the Senate very nicely. I would hope that we could do that same thing again. I agree entirely with Mrs. Post on this bill.

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

Mr. HENDERSON: Mr. Speaker, I notice on another part of the calendar today there is a bill to exempt farm machinery from the personal property tax. I wonder if the Chairman of the Taxation Committee can tell me what the price tag is on that number as far as the municipalities are concerned. I wonder if this is a policy within the Taxation Committee or how you thought this out. It is much easier to pass it on to the property tax in the municipalities rather than if it showed up at the state level as far as our budgeting is concerned. I know the gentleman is concerned about municipal property taxes, but I would like an explanation.

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

Mr. CAREY: Mr. Speaker, in answer to the gentleman's question, Mr. Henderson of Bangor, the bill that was before us was an exemption on farm machinery that would go from \$5,000, which is what the current law is, up to \$10,000. Based on the inflationary spiral, those things that have gone up, \$10,000 now is insignificant as compared to \$5,000 when the bill first became law. It is just trying to keep up with the inflationary trend. For instance, a tractor that a fellow bought five or six years ago for \$5,000 would go for \$8,000, \$9,000 or \$10,000 today. It won't even exempt more than the one piece of machinery that it was intended to exempt five or six years ago.

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

Mr. HENDERSON: Mr. Speaker, I am still worried about the dollars and cents. As I am sure you know, inflation has hit the municipalities too and the tax base is kind of tough, but I am wondering if you know how many dollars this will cost the municipalities for making this change, because everybody has the same problem about paying their bills.

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

Mr. CAREY: Mr. Speaker, I want to apologize to the gentleman from Bangor, Mr. Henderson. In the explanation, I did not get into the actual cost. I have a call in to the Bureau of Taxation and they are going to be getting an answer back to us. It is my intent to table the other one since we do not know the price tag as of yet, the effect on the municipalities. We will table it until we can report back what the price tag is on it. But on this one here, this is a different matter altogether.

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

Mr. QUINN: Mr. Speaker, Members of the House: Any question dealing with agricultural matters and dealing with one of our major in-

dustries in the state which is sorely pressed, I think it justifies a roll call. I ask for the yeas and nays.

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

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

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

#### ROLL CALL

YEA — Aloupis, Ault, Bachrach, Bagley, Beaulieu, Benoit, Berry, Birt, Boudreau, A.; Brown, K. L.; Brown, K. C.; Bunker, Burns, Bustin, Carey, Carrier, Carter, F.; Chonko, Clark, Connors, Cote, Cox, Curran, Diamond, Drinkwater, Dudley, Durgin, Dutremble, Fenlason, Flanagan, Garsoe, Gauthier, Gill, Goodwin, H.; Goodwin, K.; Gould, Hall, Hickey, Higgins, Hobbins, Hughes, Immonen, Jackson, Joyce, Kane, Kerry, Lizotte, Lunt, Lynch, Marshall, Masterman, Masterton, McMahon, McPherson, Mills, Nadeau, Najarian, Nelson, M.; Nelson, N.; Palmer, Peakes, Pearson, Peltier, Plourde, Prescott, Raymond, Silsby, Stubbs, Talbot, Tarr, Teague, Theriault, Truman, Valentine, Wilfong.

NAY — Austin, Bennett, Berube, Biron, Blodgett, Boudreau, P.; Brenner, Byers, Carroll, Carter, D.; Churchill, Connolly, Cunningham, Davies, Dexter, Dow, Elias, Fowlie, Gray, Green, Henderson, Howe, Hunter, Jacques, Kany, Kelleher, Kilcoyne, Laffin, LaPlante, Lewis, Littlefield, Locke, MacEachern, Mackel, Mahany, Martin, A.; Maxwell, McBreairty, McHenry, McKean, Mitchell, Moody, Morton, Norris, Perkins, Peterson, Post, Quinn, Rideout, Rollins, Shute, Spencer, Sprowl, Strout, Tierney, Torrey, Tozier, Trafton, Wood.

ABSENT — Devoe, Gillis, Huber, Hutchings, Jalbert, Jensen, LeBlanc, Lougee, Smith, Stover, Tarbell, Twitchell, Tyndale, Whittemore, Wyman.

Yes, 75; No, 59; Absent, 15.

The SPEAKER pro tem: Seventy-five having voted in the affirmative and fifty-nine in the negative, with fifteen being absent, the motion does prevail.

Sent up for concurrence.

#### Divided Report

Majority Report of the Committee on Legal Affairs reporting "Ought Not to Pass" on Bill "An Act to Establish Chester Greenwood Day" (H. P. 1189) (L. D. 1425)

Report was signed by the following members:

Mr. CARPENTER of Aroostook  
Mrs. CUMMINGS of Penobscot  
— of the Senate.

Messrs. MOODY of Richmond  
SHUTE of Stockton Springs  
BIRON of Lewiston  
CARRIER of Westbrook  
DUDLEY of Enfield

— of the House.

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

Report was signed by the following members:

Mr. HEWES of Cumberland  
— of the Senate.

Messrs. BURNS of Anson  
GOULD of Old Town  
COTE of Lewiston

JOYCE of Portland  
Mrs. DURGIN of Kittery  
— of the House.

Reports were read.

Mr. Cote of Lewiston moved that the Minority "Ought to Pass" Report be accepted.

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

Mr. BIRON: Mr. Speaker, Ladies and Gentlemen of the House: I urge you to vote against this motion. What this legislation is, Chester Greenlaw, as I understand it, is the gentleman who invented earmuffs, whatever his name is — Chester Greenwood.

I don't consider this type of legislation as a major piece of legislation that we should be addressing. I think it is a waste of the taxpayers' money and time that we should even be discussing it. If we are to honor great men in the State of Maine, there are several we could be honoring, not necessarily the gentleman who invented earmuffs.

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

Mr. GOULD: Mr. Speaker and Members of the House: The reason I signed this bill "ought to pass" is because it served two purposes for me. It kept my ears warm, and my ears stuck out so far when I was young that I was six years old before my folks knew if I was going to walk or fly.

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

Mr. MORTON: Mr. Speaker, Ladies and Gentlemen of the House: I appreciate the upright remarks of the gentleman from Lewiston. I am sure we should not be discussing unimportant things here in the House today. I regret not being properly attired for this debate this morning, and the reason for that is in deference to the dignity of this House and not wishing to have to chance the possible frown from the Speaker's rostrum as I walked down the aisle.

I am not wearing earmuffs this morning, but that in no way evidences a reduction of my enthusiasm for this bill and for reasons which I think are very important for the State of Maine.

We have several commemorative days in Maine, but I know of none which honor a person who epitomizes the Maine tradition of "do anything son of the pioneers." Just such a man was Chester Greenwood and, by the way, ladies and gentlemen, I would point out to you that the gentleman from Lewiston, a member of the committee, has so carefully discussed and thought about this matter that he can even pronounce the name right. The man's name is Greenwood, not Greenlaw.

He was born over a hundred years ago in Farmington, and I would like to point out to you just what the bill says because it doesn't require any tremendous movement on the part of the State of Maine. It merely says the Governor shall annually issue a proclamation inviting and urging the people of the State of Maine to observe this day in suitable places and with appropriate ceremony and activity. No holidays are involved, no expenditure of money, no appropriation, none of those things which we associate with real problems.

The day, December 21 was chosen because it is the first day of winter and there is the tie-in with earmuffs, winter sports, four-season vacationland, and this is where we get the benefits of free publicity a thousand times more valuable than spending hard earned tax dollars for such promotions. The evidence is on the record. I have sponsored several bills this session, but with normal press releases only one of them has received much attention. This bill, the hearing for it was well attended by the press. The next day, it was front-page news in all the

Maine dailies. It had editorial support, but I think the clincher, ladies and gentlemen, is this letter I received from Silver Springs, Maryland, on May 7, just three days after the public hearing here in a rather obscure room in the State House in Augusta, Maine. This indicates the invaluable and timely publicity which was generated by an annual emphasis for the State of Maine on the most Maine-like qualities of the man who invented the earmuffs. Let me just read a short portion of this letter dated May 6 from Silver Springs, Maryland.

"Dear Mr. Morton: I was very much interested in an article in this morning's Washington Post" — ladies and gentlemen, a Washington daily in the Capital of the United States — "about your bill to honor Chester Greenwood, the inventor of the earmuffs." She goes on to tell me why she wants to do it. She wanted to buy a pair for her daughter who is going to school in Ann Arbor, Michigan, but she couldn't find them and I am sorry to say they are not available commercially. If they were, I couldn't be presenting this bill today, ladies and gentlemen. These are now becoming a collector's item.

I have a question here which asks a very legitimate question and I will answer it. I did answer it in the hearing. It says, was Chester a Republican or a Democrat? The answer to that question, ladies and gentlemen, is that Chester Greenwood was a life-long Republican but he did bolt the party and vote for the Bull Moose gang in 1912.

In all seriousness, ladies and gentlemen, I think you must realize that this kind of publicity is invaluable and it is the coincidence that makes the news, the true Maine pioneer, the earmuffs that catch the fancy of people — winter sports, December 21, the first day of winter, the whole thing ties together. It will cost no appropriation.

On your desk this morning is the Maine Times, purely coincidence, fortunate or unfortunate as you may feel, regardless of your opinion of the medium, but the article on Page 19 I find to be informative and accurate. Now because it goes into some detail, I will not dwell further on Chester Greenwood's accomplishments, but they were many and they were significant.

Therefore, I urge you to send this bill on with a resounding vote of support for the "Ought to Pass" motion of the gentleman from Lewiston. I am told that the rather narrow margin — I hope you will note it was a rather narrow margin for the "Ought Not to Pass" report — may have been in error. I don't want to go into that.

It is only fitting that December 21, the first day of winter, be designated Chester Greenwood day annually so that this man's typical Maine genius can continue long after his death to support Maine in its present winter season promotions. I know of no other man, past or present, who is more suited for this honor and trust.

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

Mr. NADEAU: Mr. Speaker, Ladies and Gentlemen of the House: I hope you support Mr. Morton this morning from Farmington. I kind of sympathize with him. I think I felt the same way when I was trying to present my sucker bill to be taken by bow and arrow. I felt the same way he does this morning.

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

Mr. BIRON: Mr. Speaker, Ladies and Gentlemen of the House: In response to the good comments made by the gentleman from Farmington, Mr. Morton, I can find reasons why the press would put an awful lot of atten-

tion on this type of legislation. In my opinion, it is an attempt to ridicule this House as to the type of legislation we look at, and that is why the people of Maine are upset with us, the legislators. You say it costs us nothing? It has already cost the taxpayers money, an awful lot of money to get this bill this far in this body. That is why I urge each of you to be responsible and to stop this legislation now before it goes any further and the press ridicules us even more.

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

Mr. COTE: Mr. Speaker, Ladies and Gentlemen of the House: I have been around here a long time and I have never gone in too much for frivolous bills. In my opinion, I think the value to this state as far as publicity is concerned, as mentioned by the gentleman from Farmington, Mr. Morton, is very important. We are always talking about publicizing the State of Maine. This is not bad publicity; I think this is good publicity.

I think that Mr. Greenwood, I wish I had known him personally. From what I hear of his accomplishments, I think he deserves this day. And if there are any other citizens in this State of Maine with accomplishments of the like, they should be brought forward and we should be talking about it.

For that reason, ladies and gentlemen, I am going along with the gentleman from Farmington, Mr. Morton, and I hope that we do pass this bill here this morning, because I think it is good to recognize good, Yankee ingenuity.

The SPEAKER pro tem: The Chair recognizes the gentleman from Auburn, Mr. Green.

Mr. GREEN: Mr. Speaker, Men and Women of the House: In response to the good gentleman from Lewiston, Mr. Cote's comments, I would just like to say that if it weren't perhaps for a few lighter pieces of legislation such as the one introduced by the good gentleman from Farmington, I think we would all go crazy.

The SPEAKER pro tem: The Chair recognizes the gentleman from Sabattus, Mr. LaPlante.

Mr. LaPLANTE: Mr. Speaker, I would ask for the yeas and nays.

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

Mr. CAREY: Mr. Speaker, I would only add that maybe somebody could table this for one day, because we have a fellow named Lombard in Waterville who invented the caterpillar tread which is probably more important to the people of this country than the earmuffs.

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

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

The SPEAKER pro tem: The pending question is on the motion of the gentleman from Lewiston, Mr. Cote, that the Minority "Ought to Pass" Report be accepted. 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, Boudreau, A.: Boudreau, P.; Brown, K. L.; Brown, K. C.; Burns, Carrier, Carter, F.; Churchill, Clark, Conners, Connolly, Cote, Cox, Cunningham, Curran, Davies, Devoe, Dexter, Diamond, Dow, Drinkwater, Durgin, Dutremble, Elias, Garsoe, Gill, Goodwin, H.: Goodwin, K.; Gould, Gray,

Green, Henderson, Hickey, Hobbins, Howe, Huber, Hughes, Hunter, Immonen, Jalbert, Joyce, Kany, Kelleher, Kerry, Kilcoyne, Laffin, Littlefield, Locke, Lougee, Lunt, MacEachern, Mackel, Mahany, Marshall, Martin, A.; Masterman, Masterton, Maxwell, McBreairty, McKean, McPherson, Mills, Moody, Morton, Nadeau, Nelson, N.; Norris, Palmer, Perkins, Peterson, Post, Quinn, Rollins, Silsby, Strout, Stubbs, Talbot, Tarr, Teague, Theriault, Torrey, Tozier, Trafton, Valentine, Wood, Wyman.

NAY — Aloupis, Berry, Biron, Birt, Blodgett, Bunker, Bustin, Carey, Carter, D.; Chonko, Dudley, Fowlie, Gauthier, Hall, Jackson, Jacques, Kane, LaPlante, Lizotte, McHenry, McMahon, Mitchell, Najarian, Nelson, M.; Peakes, Pearson, Prescott, Raymond, Rideout, Shute, Spencer, Sprowl, Tierney, Truman, Twitchell.

ABSENT — Brenerman, Byers, Carroll, Fenlason, Flanagan, Gillis, Higgins, Hutchings, Jensen, LeBlanc, Lewis, Lynch, Peltier, Plourde, Smith, Stover, Tarbell, Tyndale, Whittemore, Wilfong.

Yes, 94; No, 35; Absent, 20.

The SPEAKER pro tem: Ninety-four having voted in the affirmative and thirty-five in the negative, with twenty being absent, the motion does prevail.

Thereupon, the Bill was read once and assigned for second reading tomorrow.

#### Divided Report

Majority Report of the Committee on State Government reporting "Ought Not to Pass" on Bill "An Act Relating to the Procurement of Engineer and Architectural Services by Competitive Bidding" (H. P. 1095) (L. D. 1319)

Report was signed by the following members:

Mr. COLLINS of Aroostook  
Mrs. SNOWE of Androscoggin  
Mr. MARTIN of Aroostook

— of the Senate.

Mr. CURRAN of South Portland  
Mrs. LOCKE of Sebec  
Messrs. VALENTINE of York  
Mrs. BACHRACH of Brunswick  
Messrs. CHURCHILL of Orland

SILSBY of Ellsworth  
DIAMOND of Windham  
STUBBS of Hallowell

Mrs. MASTERTON of Cape Elizabeth

— of the House.

Minority Report of the same Committee reporting "Ought to Pass" as amended by Committee Amendment "A" (H-314) on same Bill. Report was signed by the following member:

Mrs. KANY of Waterville.

— of the House

Reports were read.

Mr. Curran of South Portland moved that the Majority "Ought Not to Pass" Report be accepted.

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

Mr. CARTER: Mr. Speaker, Ladies and Gentlemen of the House: I would hope that you would defeat the motion to accept the Majority "Ought Not to Pass" Report and accept the Minority Report which, incidentally, doesn't go as far as I would like to see it go but it is a step in the right direction.

I sponsored this piece of legislation because I believe in the free enterprise system, and I think the more we can open up any avenue through competition, the more beneficial it would be to everybody in the state. In this area, this deals primarily with the construction of school buildings, public buildings, and as you know, when we talk about school construction, we are talking in the area of — the last bond issue was \$25 million. If there is any portion of

money that can be saved by opening up this field, then we should pursue it.

The minority report merely requires that whenever a project is to be brought up for construction, it will be advertised in newspapers throughout the state. It is not a very big deal, but it is a step in the right direction.

The SPEAKER pro tem: The Chair recognizes the gentleman from Ellsworth, Mr. Silsby.

Mr. SILSBY: Mr. Speaker, Ladies and Gentlemen of the House: I was a signer of the "ought not to pass" report on this bill and I would like to say that this has probably been one of the heaviest, most carefully lobbied bill that I have seen in my short time here in Augusta. I received mail at home, I received calls, and at the hearing we had only one proponent for the bill and we had a roomful of architects and engineers completely and wholeheartedly against it.

Basically, what the bill does, as I understand it, it requires the bidding of architectural and engineering services, so if a school district is going to construct a school, before they can get the plan, they have to have the architectural and engineering services placed out to bid, which is virtually an impossibility.

This bill was opposed by the Bureau of Public Improvements and they filed a statement. I would like to read one paragraph of it. "To require bidding of architectural engineering fees will introduce a direct cost for services. In order to establish a base for bidding, it will be necessary, especially without a selection process considering experience and technical confidence, to accurately define the scope of the project and the extent of services to be furnished. It is unlikely school units will have the in-house capability to do this work. To expect the bureau to write all these proposals would require additional staff which will result in long-term cost. The only other alternative is to hire professional services to write these proposals, which is not provided in the L. D., which is currently being done for school projects. If this service must also be bid, the result will be the compounding of the entire selection procedure."

The Department of Transportation also opposed the bill, stating in their letter: "The proposal contained in L. D. 1319 is not consistent with the historic practice of acquiring professional services for any agency, public or private. The Department of Transportation has developed extensive and comprehensive procedures regarding the selection of consulting firms, which include consideration of the qualifications of firms and their professional personnel and the ability of firms to provide the desired services within the budget and time constraints of the project. The procedures also provide an opportunity for any qualified firm to be considered. We are also concerned with the requirement that the selection be based on lowest bids. It is often impossible to accurately define the scope of work prior to the selection of a consultant. This is certainly true in the case of the Department of Transportation's engineering, environmental, transportation and other studies. Very often problems requiring professional analysis are identified only after preliminary investigations are conducted by the selected consultant. This is the basic reason why the choice of consultants is primarily based on a consultant's demonstrated ability and understanding of the work."

The American Institute of Architects, the Maine Chapter, consisting of 110 members, was in total opposition to this bill also. It just seems to me to be what, in parlance over here, is a bad bill. I know there is an amendment that the minority is trying to put on which would merely provide a notice requirement and strip the bill of all the rest of the substance, but I feel that we

would be better off to just go with the "Ought Not to Pass" and get rid of the whole thing for this legislature.

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

Mrs. KANY: Mr. Speaker and Members of the House: I just walked in. I didn't expect there would be any debate on this bill, but since there has been, I would like to ask you to bring out H-314, Committee Amendment "A", for those of you who have it before you.

I agree, basically, with the rest of the committee as far as their attitude toward engineers and architects having to compete by bidding. I did feel that there was one portion of this bill which was presented to us which was definitely worth saving. All it does is require the publication of notice on proposed construction of public buildings. One of the opponents to the original measure brought this up saying it was a good idea and it certainly seems so to me. We were told that, basically, the only way architects and engineers or anyone else would have any notice of what was going to be constructed was if they happened to see the referendum, any advertising or any public comment on that. I think it would be a very good idea to require public notice by the Bureau of Public Improvements. That is why I was the lone signer on a committee amendment which would call only for that.

The SPEAKER pro tem: The Chair recognizes the gentlewoman from Cape Elizabeth, Mrs. Masterton.

Mrs. MASTERTON: Mr. Speaker, Ladies and Gentlemen of the House: I think we ought to go with the "Ought Not to Pass" Report on this bill. If you have ever had anything to do with the building of a school, for example, or the building of a house, you know that the planning process evolves and that the school, for example, depends largely upon the curriculum and the educational goals of the community. If you build a house, it depends upon what your lifestyle is like, the kind of house that you are happy to live in and feel at ease in. The relationship between the architect and the engineer and the builders is a very close relationship. The concept grows and evolves. A great deal of trust and faith has to take place between the two parties.

As far as the community of architects and engineers is concerned, the word seems to get out quite nicely without publication in a paper of general circulation in the state, notification of the building process. I think when so many architects and engineers took the trouble to write us and express their views on this unique relationship and the fact that they, themselves, like things the way they were and they were all happy to compete in that climate that we ought to go along with them.

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

Mr. HENDERSON: Mr. Speaker, Ladies and Gentlemen of the House: This same issue has arisen in our city of Bangor and we have had experience of building buildings other than schools and, of course, this applies to all public buildings. One of the responses was, of course, that it was unethical, so to speak, for these people to want to compete in this way. Of course, it had been unethical for attorneys to advertise their fees and advertise situations. There is a question here of what is truly an unethical situation and what is an attempt to protect one's own position.

Another argument was that they just would refuse to deal with us I think if we could pass something along these lines, it would require that these professionals would have to re-evaluate the way they were going to be going about dealing with the public and its funds. The arguments about the costs would argue that we

are not to have competitive bids on a lot of other areas because, of course, there are some front loaded costs on all of those. In the long run, we assume that there would be a better outcome. For those reasons, Mr. Speaker, I move that when the vote be taken, it be taken by the yeas and nays.

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

Mrs. BACHRACH: Mr. Speaker, Ladies and Gentlemen of the House: I think we are missing the really important point of issue here which is not whether the architect and engineers are protecting their position but that the municipal government or the state agency which wishes to hire architectural work would have to make long and expensive decisions on exactly what they wanted before they could put these requirements out to bid. This would mean that you could ask these people to compete for the preliminary drawing of your building before you could ask these people to compete for the job. Most people who have had anything to do with building discover, as they go along, that these plans evolve as you work with the architect and that you can't make all those decisions in advance of seeing what is available and what is suitable for the site and many things of that sort.

I feel that where the municipality or the state government saves money is when they put the finished plans out to bid and choose the builder who offers the best deal and I would suggest that that is the area where we have the bidding procedure.

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

Mr. CURRAN: Mr. Speaker, Ladies and Gentlemen of the House: Just briefly, I would like to point out a couple of things. One: the committee amendment that you have before you. I think it would be fair to tell the House that the committee did discuss this in committee and we had taken our vote. This committee amendment came a day or two after the committee's action. I suggest that perhaps it would be a House Amendment but went along with putting in the Committee Amendment.

In terms of the publication, I don't know of a public building that has been built yet in secrecy. There is plenty of notification that it is going to be built. I would point out one other aspect. Many communities in this state who have built their buildings have been very happy with the people they have been working with. Perhaps they are going to be building an addition or another building in that school district or that town. What you are going to require is that they go out and they publicize and even seek bids when they are very happy with the architectural firm that they have been dealing with. I think this adds extra effort and extra cost.

I urge you to support the majority ought not to pass report.

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

Mrs. KANY: Mr. Speaker, Members of the House, I would just like to point out to you that there are just two reports from the committee. One is the "Ought Not to Pass" in any fashion and the other is Committee Amendment A that is H-314 which all it does is require public notice and it is my opinion that perhaps a lot of these small communities do not go in for building that much so that they really do not have an architect with which they often work and with whom they are always happy. I see nothing wrong with requiring public notice. I think that is something that the legislature in the last couple of years has tried to work toward some kind of public notice. I would hope

that you might go along with very small minority report.

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

Mr. CARTER: Mr. Speaker, Ladies and Gentlemen of the House: It is obvious that I sponsored this piece of legislation. I did so at the request of one of my constituents. The drafting of the bill was entirely his. I had nothing to do with the drafting. I agreed that before the committee at the hearing that the bill had its limitations. I couldn't support it the way it was written. I suggested to the committee that perhaps they might want to consider adding a person to the B.P.I. staff to specialize in this area to assist communities in preparing for requests to hire architects or engineers. However, they saw fit not to do this and I will not quarrel with them. There is another session coming and I will take care of it at the next session.

In the meantime, I think the amendment that the good lady from Waterville, Representative Kany has come up with is a good one and I would hope that the House would defeat the "Ought Not to Pass" Report and accept the minority report.

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

Mr. SPENCER: Mr. Speaker, Ladies and Gentlemen of the House: I spoke against the competitive bidding bill last session because it seemed to me it would create some real problems as far as design. Having read this amendment, I can't see that it does any harm. It simply provides for the publication of a simple description of the proposed project. I don't think you have to have final plans, you just have to say that we are planning to let a contract for the design of an elementary school in Steep Falls or wherever it was and the authorized amount is so much. It seems to me that this would tend to open up the construction process to public scrutiny more than it is now and it just doesn't seem to me that it does any harm.

I would oppose requiring competitive bidding for architectural services because I don't think that reflects the true nature of the work. I don't see what is wrong with this amendment.

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

Mr. DEVOE: Mr. Speaker and Members of the House: I would like to direct an inquiry through the Chair, perhaps to Mrs. Kany or to anyone else who feels they can support Committee Amendment "A". The Committee Amendment refers to one or more newspapers of general circulation throughout the state. My concept of a newspaper of general circulation throughout the state would certainly include the Bangor Daily News, the Portland Press Herald, perhaps the Maine Times. Beyond those three papers, perhaps I am inadvertently omitting some that I am not personally familiar with but let us take any one of those three newspapers. The way I look at this proposed amendment, a school district in Lincoln, if it chose, could place an ad in the Portland Press Herald and comply with this amendment. Conversely, a school board or a municipal district in Scarborough or Fryeburg or Kittery could place an ad in the Bangor Daily News and comply with this statute if it were passed.

I might point out to members of the House that in the foreclosure statutes that provide for foreclosure by publication, there is at least a requirement that the notice of foreclosure be printed in a newspaper published and printed in the county where the real estate is located.

I would like to ask through the Chair of Mrs. Kany whether or not she has a list or is there elsewhere in the statute with which I am not familiar, a designation of newspapers of

general circulation throughout the state? Another consideration that comes to mind is, if there is no statutory definition of a newspaper of general circulation throughout the state, this is perhaps a remote problem, but could this pose a problem to bond council when a construction project is going to be financed by a bond issue worrying whether or not the agency's boards, commissions, authorities and departments and of the school administrative units had complied with this particular section?

The SPEAKER Pro Tem: The gentleman from Orono, Mr. Devoe, has posed a series of questions through the Chair to the gentlewoman from Waterville, Mrs. Kany or anyone who cares to answer.

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

Mr. DIAMOND: Mr. Speaker, Ladies and Gentlemen of the House: A point of information, Mr. Speaker? Is it appropriate to be discussing the amendment at this time?

The SPEAKER Pro Tem: The measure before the House is the Committee Report. The gentleman may proceed if he so desires.

Mr. DIAMOND: Mr. Speaker, Ladies and Gentlemen of the House: Is it appropriate to discuss the amendment?

The SPEAKER Pro Tem: The Chair would answer in the affirmative.

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

Mrs. KANY: Mr. Speaker, Ladies and Gentlemen of the House: I would be happy to answer the question. I believe the motion is acceptance of either report. Since the amendment constitutes one report, I would think that we could go ahead and discuss that.

Representative Devoe had a very good question. I think that this is general and usual language. The intent is purely to have some public notice. The only additional newspaper that I would consider adding to your list perhaps might be the Maine Sunday Telegram. I think the intent, as long as someone complied with the intent which was to publicize, that there would be no problem and that is naturally the intent of the amendment.

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 more than 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 a desire for a roll call, a roll call was ordered.

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

Mr. HUGHES: Mr. Speaker, Ladies and Gentlemen of the House: At the advice of some of my seatmates, I did read the amendment which I recommend. We are no longer talking about competitive bidding as we have heard. If we have been around a couple of years, we are probably still thinking of the bill which we defeated and I was happy to help defeat last time which did provide that the architectural services shall be awarded to the lowest competitive bidder. This no longer has anything to do with that. The amendment which is now the alternative to accept the "Ought Not to Pass" Report simply opens up the process more. While I was strongly against the competitive bidding bill last year, this opening up the process is a useful thing.

I would like to share with you my experience when I was a trustee of the university and chairman of the physical plant committee, we chose eight architects for eight buildings during the period in which I was chairman. I think we found a situation which is not uncommon of people who build buildings getting very comfortable and cozy with people who design buildings

so that there becomes a tendency to choose the same architects all the time. I abhor that kind of thing, especially when we are talking about public construction, public money. Certainly every architect ought to have an equal chance at that.

While I would not support competitive bidding, this is a fairly innocuous amendment which opens up the process somewhat by simply making it clear to all of the architects in the state who will probably take the Kennebec Journal or one of the other newspapers of general circulation and see that buildings are up for construction and be able to break up that oh boy network, which used to exist at least at the university and which no longer exists, I am happy to report, and it can do no harm.

I think the minority report is the one we ought to accept and therefore, hope you will vote against accepting the Majority "Ought Not to Pass" report.

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

Mr. CURRAN: Mr. Speaker, Ladies and Gentlemen of the House: I just want to point out one thing. There is nothing that would prohibit any agency or school district or town presently to advertise that they are going to be seeking an architect. If they want to do it, they can do it now. I really think that you are going to be adding an awful lot more work and cost. It can be done now.

Mrs. Kany of Waterville was granted permission to speak a third time.

Mrs. KANY: Mr. Speaker, Members of the House: There is nothing in the law now which requires publication of any public building project such as this. I just wanted to point that out and to say that the only figure I heard floating around was approximately 25 projects one year.

The SPEAKER pro tem: The Chair recognizes the gentleman from Ellsworth, Mr. Silsby.

Mr. SILSBY: Mr. Speaker, Ladies and Gentlemen of the House: In conclusion, I don't mind the public notice part of it. I am afraid with this proposed amendment where you have to have a description of the proposed project, municipalities are going to have to hire an architect or engineer to develop the proposed description to put in the newspaper.

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

Mr. BURNS: Mr. Speaker, Ladies and Gentlemen of the House: The amendment is not in front of us but everybody seems to be debating it anyway. This is a unique situation that I am going to recite to you but if this amendment was on the books, Somerset County would not be in for the possibility of building the jail. The public works bill went through the U.S. Congress and landed out. The requests for projects were requested immediately. We had 30 days to get everything together and get our request in. Had something like this been on the books, it would have been impossible for us to meet the deadline.

The SPEAKER pro tem: 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 on L.D. 1319. All those in favor of that motion will vote yes; those opposed will vote no.

#### ROLL ALL

YEA — Alopis, Ault, Austin, Bachrach, Bagley, Beaulieu, Bennett, Berube, Biron, Birt, Blodgett, Boudreau, A.; Brown, K. L.; Brown, K. C.; Bunker, Burns, Bustin, Byers, Carey, Carter, F.; Chonko, Churchill, Clark, Connors, Cote, Cunningham, Curran, Devoe, Dexter, Diamond, Drinkwater, Dutremble, Elias, Fenlason, Flanagan, Garsoe, Gill, Goodwin, H.; Goodwin, K.; Gray, Green, Hickey, Higgins, Hobbins, Howe, Immonen, Jackson, Jacques, Jalbert, Joyce, Kane, Kilcoyne, Laf-

fin, LaPlante, Lewis, Littlefield, Lizotte, Locke, Lougee, Lunt, Lynch, Mackel, Mahany, Marshall, Martin, A.; Masterman, Masterton, McBreairty, McKean, McPherson, Moody, Nadeau, Najarian, Nelson, M.; Norris, Palmer, Peltier, Perkins, Peterson, Plourde, Post, Prescott, Raymond, Rideout, Rollins, Silsby, Smith, Stubbs, Talbot, Theriault, Tozier, Trafton, Truman, Valentine, Whittemore.

**NAY** — Benoit, Berry, Boudreau, P.; Brenerman, Carrier, Carroll, Carter, D.; Connolly, Cox, Dow, Dudley, Fowlie, Gauthier, Hall, Henderson, Huber, Hughes, Hunter, Kany, Kelleher, Kerry, MacEachern, Maxwell, McHenry, McMahan, Mills, Mitchell, Morton, Nelson, N.; Peakes, Quinn, Shute, Spencer, Sprowl, Tarr, Teague, Tierney, Torrey, Twitchell, Wood.

**ABSENT** — Davies, Durgin, Gillis, Gould, Greenlaw, Hutchings, Jensen, LeBlanc, Pearson, Stover, Strout, Tarbell, Tyndale, Wilfong, Wyman.

Yes, 95; No, 40; Absent, 15.

The **SPEAKER** pro tem: Ninety-five having voted in the affirmative and forty in the negative, with fifteen being absent, the motion does prevail.

Sent up for concurrence.

At this point, Speaker Martin returned to the rostrum.

**SPEAKER MARTIN:** The Chair thanks the gentleman from Stonington, Mr. Greenlaw, for acting as Speaker pro tem.

Thereupon, Mr. Greenlaw of Stonington returned to his seat on the Floor and Speaker Martin resumed the Chair.

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

Mr. **DEVOE:** Mr. Speaker, having voted on the prevailing side, I move that we reconsider this action and would ask the House to vote against me.

The **SPEAKER:** The gentleman from Orono, Mr. Devoe, having voted on the prevailing side whereby this body voted to accept the Majority "Ought Not to Pass" Report on L.D. 1319. 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.

#### Consent Calendar

##### First Day

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

(S. P. 387) (L. D. 1300) Resolution, Proposing an Amendment to the Constitution to Repeal Provisions Relating to the Poll Tax and to Payment in Lieu of Military Duty — Committee on State Government reporting "Ought to Pass"

(H. P. 1005) (L. D. 1209) Bill "An Act to Repeal Certain Laws Relating to State Government Administrative Procedures and Services" — Committee on State Government reporting "Ought to Pass"

No objections being noted, the above items were ordered to appear on the Consent Calendar of May 13, under listing of the Second Day.

(H. P. 393) (L. D. 482) Bill "An Act Exempting Farm Machinery from the Personal Property Tax" — Committee on Taxation reporting "Ought to Pass"

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

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

(H. P. 1533) (L. D. 1765) Resolve, Designating Weskeag Marsh at Thomaston as the "R. Waldo Tyler Wilderness Area" — Committee on Legal Affairs reporting "Ought to Pass"

No objections being noted, the above item was ordered to appear on the Consent Calendar of May 13, 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:

(H. P. 1212) (L. D. 1442) Bill "An Act Concerning a Standard Method of Tallying Ballots" (C. "A" H-301)

(H. P. 932) (L. D. 1129) Bill "An Act Concerning the Municipal Refund Claims for the Tree Growth Reimbursement"

(H. P. 309) (L. D. 400) Bill "An Act to Award Transitional Allowances to Permanent Full-Time and Limited Period Full-Time Unclassified Employees" (Emergency) (C. "A" H-292) (Later Reconsidered)

(H. P. 1001) (L. D. 1392) Resolve, Authorizing the Exchange of Certain Public Reserved Lands with Diamond International Corporation.

(H. P. 1383) (L. D. 1683) Resolve, Authorizing the Exchange of Certain Public Reserved Lands, Oxford Paper Company

(H. P. 1381) (L. D. 1687) Resolve, Authorizing the Exchange of Certain Public Reserved Lands with the Dead River Group of Companies (C. "A" H-302)

(H. P. 996) (L. D. 1185) Bill "An Act Concerning the Issue of Special Licenses by the Commissioner of Marine Resources" (C. "A" H-303)

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

#### Passed to Be Engrossed

Bill "An Act Concerning Postgraduate Education in the Field of Medicine, Dentistry and Veterinary Medicine" (Emergency) (S. P. 491) (L. D. 1767)

Bill "An Act to Exclude Sparklers from Prohibition against the Sale of Fireworks" (S. P. 379) (L. D. 1255)

Bill "An Act to Provide Malt Liquor Licenses for Caterers" (H. P. 1549) (L. D. 1773)

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

Bill "An Act to Provide Statutory Procedures for Grievances against Attorneys" (H. P. 701) (L. D. 844)

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

Mr. Garsoe of Cumberland offered House Amendment "A" and moved its adoption.

House Amendment "A" (H-312) was read by the Clerk.

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

Mr. **GARSOE:** Mr. Speaker, Ladies and Gentlemen of the House: I would just like to briefly take you through this amendment. In the Statement of Fact, you will notice that the changes that the amendment works removes the stigma of formal public prosecution from the procedure. Such a format would unfairly jeopardize the reputation and livelihood of the innocent parties.

The Attorney General, I would note, is free to pursue a formal prosecution as he deems appropriate outside of this bill, in any event. The amendment is there to insure fair, efficient and informal grievance resolution procedure for complainant and attorney alike. The amendment also provides that the chairman of the board shall be an attorney and sets the compensation fee at \$25 a day down from \$75.

If you have the bill, I would point out that in Section 931, I have taken the Attorney General out of the appointing process and substituted the Chief Justice of the Supreme Court to ap-

point the attorney members of the board.

In the section dealing with reimbursement, it is \$25 a day instead of \$75. The annual report of the board to the legislature, the governor and the justice is described in more detail. Under Section 937, Authority, in sections one and two, we emphasize the confidentiality of these procedures and delete what the bill had called for, which was notification to the Attorney General, even of receiving a complaint.

It also specifies that in the hearings we also delete the Attorney General and Chief Justice from any requirement of notification and specifically point out that the hearings before the board shall not be public.

In the bill itself, however, Section 4 under 937, I would just like to read this to you because this is the heart of the bill. "The complaining party and the attorney or attorneys named in the complaint shall receive notice and shall have the right to be present at any meeting of the board at which the complaint is to be discussed." I think this amendment places the piece of legislation in reasonable stature and hope you see fit to adopt it.

Thereupon, House Amendment "A" was adopted.

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

Bill "An Act to Clarify Vocational Education Reimbursement in Vocational Centers and Vocational Regions" (Emergency) (H. P. 98) (L. D. 122)

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

Mr. Lynch of Livermore Falls offered House Amendment "A" and moved its adoption.

House Amendment "A" (H-317) was read by the Clerk.

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

Mr. **LYNCH:** Mr. Speaker, Ladies and Gentlemen of the House: The purpose of the amendment was to remove the emergency preamble, make the bill effective July 1, 1978, which, in effect, allows for proper funding provisions next year.

Thereupon, House Amendment "A" was adopted.

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

#### Passed to Be Enacted

##### Emergency Measure

An Act to Amend the Vocational Education Laws (H. P. 1209) (L. D. 1329) (H. "A" H-204 to H. "C" H-190)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure and a two-thirds vote of all the members elected to the House being necessary, a total was taken. 116 voted in favor of same and none against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

#### Finally Passed

##### Emergency Measure

**RESOLVE**, for Laying of the County Taxes and Authorizing Expenditures of Androscoggin County for the Year 1977 (H. P. 1518) (L. D. 1745)

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. 110 voted in favor of same and 6 against and accordingly the Resolve was finally passed, signed by the Speaker and sent to the Senate.

#### Passed to Be Enacted

An Act Relating to Appointment, Duties, Salary and Expenses of Court Reporters (S. P. 25) (L. D. 38) (H. "A" H-268 to C. "A" S-104)

An Act Relating to the Director of Finance of the Public Utilities Commission (S. P. 139) (L. D. 380) (C. "A" S-114)

An Act Appropriating Funds to Provide Services to Older Blind Persons to Assist them in Remaining in their Own Homes and in Caring for Themselves (S. P. 338) (L. D. 1123)

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.

#### Enactor

#### Tabled and Assigned

An Act to Increase Flexibility in the Funding and Operation of the Vocational-Technical Institutes (H. P. 221) (L. D. 285) (H. "A" H-270 to C. "A" H-158)

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

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

Mr. PALMER: Mr. Speaker, I move that this be tabled for two legislative days.

Whereupon, Mr. Lynch of Livermore Falls 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 Nobleboro, Mr. Palmer, that this matter be tabled pending passage to be enacted and specially assigned for Monday, May 16. All those in favor will vote yes; those opposed will vote no.

#### ROLL CALL

YEA — Alopis, Ault, Austin, Bagley, Beaulieu, Boudreau, A.; Brown, K. L.; Brown, K. C.; Bunker, Byers, Carey, Carrier, Carroll, Carter, F.; Conners, Cote, Cunningham, Devoe, Dexter, Drinkwater, Dudley, Durgin, Garsoe, Gauthier, Gill, Gray, Green, Higgins, Huber, Hughes, Hunter, Immonen, Jackson, Jacques, Jalbert, Kelleher, Kilcoyne, Laffin, Littlefield, Lizotte, Lougee, Lunt, Mackel, Marshall, Martin, A.; Masterman, Masterton, Maxwell, McBreaarty, McKean, McMahon, McPherson, Mills, Moody, Morton, Nadeau, Najarian, Norris, Palmer, Peltier, Perkins, Peterson, Plourde, Raymond, Rollins, Shute, Smith, Sprowl, Strout, Stubbs, Tarr, Teague, Theriault, Torrey, Tozier, Twitchell, Whittemore.

NAY — Bachrach, Bennett, Benoit, Berry, Berube, Birt, Blodgett, Brennerman, Burns, Bustin, Carter, D.; Chonko, Clark, Connolly, Cox, Curran, Davies, Diamond, Dow, Elias, Fenlason, Flanagan, Fowlie, Goodwin, H.; Goodwin, K.; Greenlaw, Hall, Henderson, Hickey, Hobbins, Howe, Joyce, Kany, Kerry, LaPlante, Lewis, Locke, Lynch, MacEachern, Mahany, McHenry, Mitchell, Nelson, M.; Nelson, N.; Pearson, Post, Prescott, Quinn, Rideout, Spencer, Talbot, Tierney, Truman, Valentine, Wilfong, Wood, Wyman.

ABSENT — Biron, Boudreau, P.; Churchill, Dutremble, Gillis, Gould, Hutchings, Jensen, Kane, LeBlanc, Peakes, Silsby, Stover, Tarbell, Trafton, Tyndale.

Yes, 77; No, 57; Absent, 16.

The SPEAKER: Seventy-seven having voted in the affirmative and fifty-seven in the negative, with sixteen being absent, the motion does prevail.

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

"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)

"An Act Relating to Resident State Police Troopers" (H. P. 1493) (L. D. 1705) (H. "A" H-263)

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.

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

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

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

Mr. TIERNEY: Mr. Speaker, I would like to pose a question to the good gentleman from Bangor, Mr. Kelleher, or perhaps any other member of the Public Utilities Committee regarding this bill. It seems that we have a biennial tradition where the Eagle Lake Water District seeks to expand its powers, its authority. If you will recall, two years ago, I gave an unforgettable speech when the Eagle Lake Water District extended its tentacles and surrounded Wallgrass Plantation. If you take the time to read L. D. 47, you will see, if this bill becomes law, we are enacting a rather unique piece of legislation. Section 2 of the redraft states that the district shall be deemed a municipality and shall conform as nearly as practical to all of the powers granted municipalities under these chapters. I have never heard of passing a law saying that you can do things as nearly as practical. I would like to know what would be impractical to the Eagle Lake Water District and I want some answers to this question before this bill gets my vote.

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

Mr. KELLEHER: Mr. Speaker and Members of the House: I can assure the good gentleman from Lisbon Falls, Mr. Tierney, that this is not a private and special bill. There was no consideration taken on who the sponsor was. It was probably one of the most important pieces of legislation that the PUC Committee dealt with. We were so concerned about it that we had the Attorney General and four of his staff come down to be sure that they were putting us on the proper and right course to deal with, because we know two years ago of the arduous fight that the Speaker of this House had dealing with you on another piece of legislation. We didn't want to delay the House for two or three days and prolong debate, and I can assure the good gentleman that this is one of the finest pieces of legislation that the committee has ever been able to deal with.

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

Mr. PALMER: Mr. Speaker, Ladies and Gentlemen of the House: It is very obvious to me from the remarks of the previous two gentlemen that we need to change the powers of the gas commission in Lisbon and Bangor.

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

Mr. TIERNEY: Mr. Speaker, in response to the previous gentleman, I can assure him that as long as I am in the City of Augusta, there is no hot air or gas left in the Town of Lisbon.

But to ask a further question of the good gentleman from Bangor, Mr. Kelleher, this, indeed, is one of the most important, or the most important piece of legislation that the Public Utilities Committee has passed, I would request of the gentleman whether he would like this bill tabled unassigned?

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

On motion of Mrs. Najarian of Portland, the House reconsidered its action whereby L. D. 400 Bill "An Act to Award Transitional Allowances to Permanent Full-Time and Limited Period Full-Time Unclassified Employees" was passed to be engrossed pursuant to Consent Calendar rules.

On further motion of the same gentlewoman, tabled pending acceptance of the unanimous Committee Report from the Committee on Appropriations and Financial Affairs and specially assigned for Monday, May 16.

#### Orders of the Day

The Chair laid before the House the first 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 10, 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. Theriault of Rumford, retabled pending motion of the same gentleman to accept the Majority "Ought Not to Pass" Report and specially assigned for Monday, May 16.

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

Bill, "An Act to Equalize the Registration Fee on Dogs" (H. P. 509) (L. D. 628) (C. "A" H-182) In House, Passed to be Enacted on May 4. — In Senate, Indefinitely Postponed.

Tabled — May 10, 1977 by Mr. Tierney of Lisbon Falls.

Pending — Motion of Mr. Davies of Orono to Insist and ask for a Committee of Conference.

On motion of Mr. Tierney of Lisbon Falls, tabled unassigned pending the motion of Mr. Davies of Orono to Insist and ask for a Committee of Conference.

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

Bill, "An Act to Change the Date of the Primary Election to the First Thursday after Labor Day" (H. P. 1511) (L. D. 1732)

Tabled — May 10, 1977 by Mrs. Mitchell of Vassalboro.

Pending — Passage to be Engrossed (Roll Call Ordered)

The SPEAKER: A roll call has been ordered. The pending question before the House is on passage to be engrossed. Those in favor will vote yes; those opposed will vote no.

#### ROLL CALL

YEA — Bagley, Benoit, Boudreau, A.; Byers, Carter, D.; Clark, Connolly, Dexter, Drinkwater, Fowlie, Garsoe, Gill, Goodwin, H.; Green, Henderson, Higgins, Hobbins, Hughes, Immonen, Jackson, Joyce, Kane, Kany, Kelleher, Kerry, Kilcoyne, Laffin, Locke, Lynch, Mackel, Masterman, Masterton, McHenry, McMahon, Moody, Nadeau, Najarian, Nelson, M.; Norris, Rollins, Spencer, Stubbs, Talbot, Torrey, Tozier, Truman, Twitchell, Valentine, Wood.

NAY — Alopis, Austin, Bachrach, Bennett, Berry, Berube, Biron, Birt, Blodgett, Boudreau, P.; Brennerman, Brown, K. L.; Brown, K. C.; Bunker, Bustin, Carey, Carroll, Carter, F.; Chonko, Conners, Cote, Cox, Curran, Davies, Devoe, Diamond, Dow, Durgin, Elias, Fenlason, Flanagan, Gauthier, Goodwin, K.; Gray, Greenlaw, Hall, Hickey, Howe, Huber, Hunter, Jacques, Jalbert, Kelleher, LaPlante, Lewis, Lizotte, Lougee, Lunt, MacEachern, Mahany, Marshall, Martin, A.; Maxwell, McKean, McPherson, Mitchell, Morton, Nelson, N.; Palmer, Peakes, Pearson,

Peltier, Perkins, Peterson, Post, Prescott, Quinn, Raymond, Rideout, Shute, Silsby, Smith, Sprowl, Tarr, Teague, Theriault, Tierney, Trafont, Whittemore, Wilfong.

ABSENT — Ault, Beaulieu, Burns, Carrier, Churchill, Cunningham, Dudley, Dutremble, Gillis, Gould, Hutchings, Jensen, LeBlanc, Littlefield, McBreaity, Mills, Plourde, Stover, Strout, Tarbell, Tyndale, Wyman.

Yes, 48; No, 80; Absent, 22.

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

Mr. Kelleher of Bangor moved that the House reconsider its action whereby the Bill failed of passage to be engrossed.

On further motion of the same gentleman, tabled pending his motion to reconsider and tomorrow assigned.

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

HOUSE DIVIDED REPORT — Majority (8) "Ought to Pass" as Amended by Committee Amendment "A" (H-269) — Minority (5) "Ought Not to Pass" — Committee on Labor 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)

Tabled — May 10, 1977 by Mr. Quinn of Gorham.

Pending — Motion of Mr. Bustin of Augusta to Accept the Majority "Ought to Pass" Report.

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

Mrs. TARR: Mr. Speaker, Ladies and Gentlemen of the House: This has been tabled for so long that I have almost forgotten why I am against the bill but if you will let me read this amendment — "The purpose of this amendment is to make it mandatory that payments awarded to an injured employee by the Industrial Accident Commission will begin whether or not the commission's decision is being appealed to the law court." This is contrary to the appeal procedure. If an injured employee is awarded the compensation by the Industrial Accident Commission and an appeal is still pending, he has the award and if the decision is reversed when the appeal is heard, he already has the money, he could have spent the money, there would be no way to recover the loss to the carrier or the employer, so I just don't think it is the way to go. I really don't think we are doing anything right for the workingman, the injured man, to give him an award and then take a chance when the appeal is heard that that decision is reversed and then he would either have to pay back the money or go through a legal battle. So I would urge you not to accept the "ought to pass" report and accept the "ought not to pass" report.

The SPEAKER: The Chair recognizes the gentleman from Westbrook Mr. Laffin.

Mr. LAFFIN: Mr. Speaker, Ladies and Gentlemen of the House: This is a good bill and what it actually does is that if a person is hurt on the job and he is out, you know how long it takes for the procedures of the law court to see that he gets money? He is out of work for a long time with no income, and he should have it. I support this bill.

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

Mr. PELTIER: Mr. Speaker, Ladies and Gentlemen of the House: I voted "ought not to pass" on this bill. I feel that the present workmen's comp program is doing a good job and does not need any additional tinkering.

During the hearing on this bill, testimony included the opinion that this might involve a very small number of people. I am in agreement that any minority, however small, should

be given sympathetic consideration by this body.

However, somewhere along the line, we as legislators have the responsibility of weighing all matters with consideration, giving priority to matters concerning everyone. If, for example, we process bills for every group of say 10 people in this state, it would generate some 90,000 bills, and if we cleared these at 2,000 a year, it would take 45 years. In 45 years, I will be 107 years old.

The SPEAKER: The Chair recognizes the gentleman from Saco, Mr. Hobbins.

Mr. HOBBS: Mr. Speaker, Men and Women of the House: This bill is one I sponsored in an attempt to strengthen the workers' compensation laws for the people of Maine. L.D. 375 allows an injured worker to receive payment of workmen's compensation pending an appeal to the Maine Supreme Judicial Court.

Now, under our present system, if an employer appeals an Industrial Accident Commission's decision through the law court of the state, the employer may not pay the award to the injured employee until after the court has rendered a final decision.

As the good gentleman from Westbrook has mentioned, there is sometimes a delay of up to two years in a decision that is rendered by the Maine Supreme Judicial Court in deciding whether or not the appeal has merit.

As I mentioned before, under the present law, there is a stay in awarding of judgment. This delay, I think, puts an inordinate amount of pressure on injured workers to rush into lump sum settlement payments instead of waiting for the appeal to be decided by the court. It is an unfortunate situation where we have a court delay in our Maine Supreme Court but because of the added case load of many civil and criminal cases, this situation exists. This bill is an attempt to rectify this and to allow a fair award in judgment to an employee that has been injured.

I will explain a situation to you where an employee was injured and he has a good case that has been brought before the Industrial Accident Commission. What happens in a situation like this is, if an employer knows of the financial straits of the employee, he will take an appeal in a situation like this in a way to force that individual who has been injured to lump sum out the injured claim instead of waiting for a week by week workmen's compensation award in judgment. This is an unfortunate situation but it is one that has existed in Maine and this law is an attempt to rectify that.

I urge your support for the Majority "Ought to Pass" Report.

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

Mrs. TARR: Mr. Speaker, Ladies and Gentlemen of the House: Regarding the pressure for a lump sum payment, these lump sum payments have to be approved by the Industrial Accident Commission. I didn't hear anything at the hearing that gave me the opinion that these injured employees were being pressured into accepting a lump sum. In the appeals last year, there were 50 appeals, 22 from the employee and 26, I think, from the employer and the other 2 they didn't have any record of.

There is also a 10 percent interest charge that goes to the injured employee on his suit when the appeal is heard and the decision is rendered. I really don't think — I can understand that you may have sympathy with an injured employee and so do I. I think my record on workmen's comp shows that, but I really don't think you are doing him any favors at all to let him have an award and then take a chance on that appeal being reversed and then how is he going to pay the money back? What is going to happen to him then? I just don't think this is the way to go. I urge you not to accept the "Ought to Pass" Report.

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

Mr. McMAHON: Mr. Speaker, Ladies and Gentlemen of the House: I would like to pose a question through the Chair to the gentleman from Saco or any other member of the Labor Committee that is on the Minority Report. I would like to support the Majority Report, but the trouble I have is the contention that has been made that if the award is later on denied, the recipient will be in the position of having to pay it back, and I would just like to know if in fact that happens, how the money would be paid back by the recipient if the decision is ultimately an adverse one?

The SPEAKER: The gentleman from Kennebunk, Mr. McMahon has posed a question through the Chair to anyone who may respond if they so desire.

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

Mrs. TARR: Mr. Speaker, Ladies and Gentlemen of the House: There is no provision in the bill for any money to be paid back, that is the trouble with it. There just isn't, so it would have to be a law court decision again. It is just not right to give him an award, an injured employee, have that decision reversed and then say, all right, you are going to pay back the money. The bill didn't address that at all, Mr. McMahon, you are absolutely right.

The SPEAKER: The Chair recognizes the gentleman from Saco, Mr. Hobbins.

Mr. HOBBS: Mr. Speaker, Members of the House: The third branch of government, the Judicial branch of government, would come into focus in this situation. Let me say this for the record, that not many situations arise, from what I have done in research, of a situation where an appeal has been overturned. This situation, as Mr. McMahon has mentioned, would come into focus. If, in fact, one in a million cases it did, there could be a civil suit brought to get reimbursement from the injured worker.

I would like to address one further point which the good gentlelady from Bridgton, Mrs. Tarr, mentioned regarding the 10 percent interest. If a family is having a tough time eating and there is no money to feed the family or clothe the family, I don't think the injured worker is thinking of 10 percent two years down the road. I think he wants his money and quick.

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

Mr. LAFFIN: Mr. Speaker, Ladies and Gentlemen of the House: I am glad that we are all concerned about what is going to happen down the road. At the present time, when an injured worker is out of work, I don't think down the road matters too much when it comes to the fact that he has to have money to feed and support his family while he is out of work. That is the purpose of this bill. Whether he has to pay it back or not and how much will be the decisions of the courts and of the commission. That is not the purpose of this bill. The purpose of this bill is to see that a workingman or woman who has been hurt or injured on the job and we know that most people and many members of this House live from week to week, from payday to payday, and when a man or woman is working and they are the sole support of their family and they are out of work with a long injury, a long case tied up in the courts, I think the only right thing to do is to see that this bill is passed and see that that person has an income for the sake of his, or her family.

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

Mr. McMAHON: Mr. Speaker, I would like to

pose another question to the gentleman from Saco. He indicated that the remedy would be that a civil suit would have to be brought to recover any monies that were judged on appeal, not that the person was not entitled to those monies. He has also further indicated, as has the gentlelady from Bridgton, Mrs. Tarr, that the question of reimbursement is not covered under the present law. Now these two factors together — my question to Mr. Hobbins is, would not these two factors together encourage people to bring suit if, in fact, they know the likelihood of their not being forced to repay anything that they weren't entitled to was very unlikely?

The SPEAKER: The gentleman from Kennebunk, Mr. McMahon, has posed a question through the Chair to the gentleman from Saco, Mr. Hobbins, who may answer if he so desires. The Chair recognizes that gentleman.

Mr. HOBBS: Mr. Speaker and Members of the House: Let me explain to you that there is an initial determination made whether or not a person is injured and whether or not that individual should be awarded workmen's compensation and that is a hearing before the Industrial Accident Commission. Under our administrative system which we have set up in our workmen's compensation laws, the Industrial Accident Commission makes the first determination. The only time the Supreme Judicial Court would come into focus would be the time that there would be an appeal to that body from a decision rendered by the Industrial Accident Commission.

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

Mr. McMAHON: Mr. Speaker, I guess I posed my question improperly. I thank the gentleman for his explanation about the procedures and I will concede that this is not a field which I know a great deal about. I guess what I meant to ask him was, wouldn't a person be more apt to take an appeal to the Supreme Court from the Industrial Accident Commission under the set of circumstances that I have described earlier and that this bill would result in? Wouldn't he be more apt to take that appeal than he is now?

The SPEAKER: The gentleman from Kennebunk, Mr. McMahon has posed an additional question through the Chair to the gentleman from Saco, Mr. Hobbins, who may answer if he so desires.

The Chair recognizes that gentleman.

Mr. HOBBS: Mr. Speaker and Members of the House: I am sorry if I don't understand you correctly, but we are talking about employer's appeals from a decision rendered by the Industrial Accident Commission allowing that individual who was injured to collect workmen's compensation? I don't understand. I think we are mixing apples and oranges in your particular question, because it is the employer — why would the employer be encouraged to appeal? Why the employee would be encouraged to appeal? I don't understand what you mean by that?

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

Mr. PEAKES: Mr. Speaker, Ladies and Gentlemen of the House: I handle a number of workmen's compensation claims through the year and normally what occurs is where a person is determined to have been injured on a job, before his period of disability, he will receive compensation. Most of them have a final hearing to determine if there is any permanent disability and what, if any, award should be given to the employee. As I understand this bill and Mr. McMahon's questions, I think this would act to cut down the number of appeals if it is true that only in the event of the employer requesting an appeal there would be additional compensation paid. You would have the situation where the employer had already

won at the hearing before the workmen's compensation board and the employer would certainly be in an adverse situation to appeal it if he was going to have to pay out compensation for the entire length of the appeal, so I think it would cut down the amount of appeals.

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

Mr. DEVOE: Mr. Speaker, Ladies and Gentlemen of the House: In the debate so far on this bill and on Committee Amendment "A", it seems that we are losing sight of some general principles that our society seems to be based on.

Having just graduated from law school, I am sure that Mr. Hobbins spent a good deal of his time, as I did when I was in law school, studying the appeals procedure. One of the first things you learn in law school, when you have a legal dispute that you take to a court or, in this case, to the Industrial Accident Commission, you have a party who wins and you have a party that loses. This is true in the civil field and this is also true in the criminal field.

It seems to me what this bill proposes to do is to change something that has been part of the legal tradition for years. That is, when the losing party at the lower level in the judicial system, or in this case the workmen's compensation hearing, when one of the parties who happens to be an employee loses, we are going to change what our society has always considered the rules, and that is that the losing party always has the right to appeal. At that losing point, at the lowest level of the judicial process, we are going to pay the employee because he is an employee, not because he may have merit or demerit to his case.

If we are involved in a dispute in court that involves the ultimate payment of money, I would hate to think that our judicial system and the jury system might start taking into consideration, if I were a defendant and I happened to be a lawyer, I might get hit a little harder than if I am a workman. I don't think whether a person is an employer or an employee should make any difference, because if we pass this statute, two years, four years, six years from now, you are going to have a wave of other bills coming in and saying, because the defendant in a big tort case is an employee and the jury found for the plaintiff who happened to be in another social category than an employee, because he is an employee and he needs the money, let's pay him now. The losing party in Superior Court always has the right to go to the Supreme Court. The losing party in the District Court always has the right to go to the Superior Court. What difference does it make? In the past, in our legal systems, since we became a state, what difference has it made whether a person is an employee or an employer? The courts are considering the legal merits of a particular case, not the social status or the category that you may label either the defendant or the plaintiff.

I ask you to vote against this amendment, because what we are being asked to do is to make a rather drastic change in the legal fabric that our society is based on, that you have appeal rights. What appeal rights are going to be worth to an employer if he still has to pay, as the gentleman from Kennebunk, Mr. McMahon, pointed out, if he still has to pay the award even though the law court a year, 15 or 18 months, two years hence, when it hands its decision down, finds out that for legal reasons, the employer was right and the employee was wrong? On a practical matter, what good is a civil action to recover the sums due that were paid to the employee going to be worth to the employer? If you have a dispute on the municipal level and you go before the zoning board of appeals or the planning board, the

municipal ordinances always provide for an appeal procedure.

I ask you to reject this amendment.

The SPEAKER: The Chair recognizes the gentleman from Saco, Mr. Hobbins.

Mr. HOBBS: Mr. Speaker, Members of the House: I have respected the good judgment many times of my colleague on the Judiciary Committee, Mr. Devoe, because he is well versed in the law but, unfortunately, in this particular case I have to take exception with his remarks. Let me say that this bill will do nothing more and nothing less than make the State of Maine's workmen's compensation law consistent with the Federal Longshoremens' Act that was passed back in the 30's.

As he probably knows and many of you know, we changed our traditional system and modes of law when we enacted our workmen's compensation laws because negligence isn't involved. It is an insurance system when a person is injured and he proves that he is injured because of an industrial related accident, he is compensated for that injury. This bill does not attempt to change the legal framework in the traditional and historical background which we have had in this country, all it attempts to do is to make our law consistent with that of the federal law in regards to the Longshoremens' Act which has been on our statutes for years and years.

When the vote is taken, I request the yeas and nays.

The SPEAKER: The Chair recognizes the gentleman from Augusta, Mr. Bustin.

Mr. BUSTIN: Mr. Speaker, Men and Women of the House: I hesitate very much to get caught in the middle of the great debate relative to legal history that has taken place here, rather I would just like to focus in precisely on what the issue is and then you can vote one way or the other.

If an injured worker takes his case to the Industrial Accident Commission and wins, should he be allowed to receive payment when the employer or the carrier appeals to the Supreme Court? It is that simple. We say, yes, the majority report and we hope you vote that way.

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. Those in favor will vote yes; those opposed will vote no.

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

The SPEAKER: The pending question before the House is on the motion of the gentleman from Augusta, Mr. Bustin, that the House accept the Majority "Ought to Pass" Report. Those in favor will vote yes; those opposed will vote no.

#### ROLL CALL

YEA — Austin, Bachrach, Beaulieu, Bennett, Benoit, Berube, Birt, Boudreau, A.; Boudreau, P. Brenerman, Brown, K. L.; Brown, K. C.; Burns, Bustin, Carey, Carroll, Carter, D.; Chonko, Clark, Connolly, Cote, Cox, Curran, Davies, Diamond, Dow, Dutremble, Elias, Fenlason, Flanagan, Fowlie, Goodwin, K.; Green, Hall, Henderson, Hickey, Higgins, Hobbins, Howe, Hughes, Jacques, Jalbert, Joyce, Kane, Kany, Kelleher, Kerry, Kilcoyne, Laffin, LaPlante, Locke, Lynch, MacEachern, Mahany, Marshall, Martin, A.; McHenry, McKean, Mills, Mitchell, Moody, Nadeau, Najarian, Nelson, N.; Norris, Peakes, Pearson, Plourde, Post, Prescott, Quinn, Raymond, Rideout, Shute, Spencer, Stubbs, Talbot, Theriault, Tierney, Trafton, Truman, Valentine, Wilfong, Wyman, The Speaker.

NAY — Aloupis, Ault, Bagley, Berry, Biron, Bunker, Byers, Carter, F.; Connors, Cunningham, Devoe, Dexter, Drinkwater, Durgin,



Garsoe, Gill, Gould, Gray, Greenlaw, Hunter, Immonen, Jackson, Lewis, Littlefield, Lizotte, Lougee, Lunt, Mackel, Masterman, Masterton, McBreairty, McMahon, McPherson, Morton, Nelson, M.: Palmer, Peltier, Perkins, Peterson, Rideout, Rollins, Silsby, Smith, Sprowl, Tarr, Teague, Torrey, Twitchell, Whitmore, Wood.

ABSENT — Blodgett, Carrier, Churchill, Dudley, Gauthier, Gillis, Goodwin, H.; Huber, Hutchings, Jensen, LeBlanc, Maxwell, Stover, Strout, Tarbell, Tozier, Tyndale.

Yes, 84; No, 50; Absent, 17.

The SPEAKER: Eighty-four having voted in the affirmative and fifty in the negative, with seventeen being absent, the Majority "Ought to Pass" Report is accepted.

The Bill read once. Committee Amendment "A" (H-269) was read by the Clerk and adopted and the Bill assigned for second reading tomorrow.

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

Bill, "An Act to Clarify the Powers of the Department of Inland Fisheries and Wildlife" (H. P. 354) (L. D. 447) — In Senate, Majority "Ought to Pass" as Amended by Committee Amendment "A" (H-243) Reported Read and Accepted and the Bill Passed to be Engrossed as Amended on May 5. — In House, House Adhered to its former action whereby Minority "Ought Not to Pass" Report was Read and Accepted.

Tabled — May 10, 1977 by Mr. Greenlaw of Stonington.

Pending — Motion of the same gentleman to Reconsider Adhering.

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

Mr. GREENLAW: Mr. Speaker, Men and Women of the House: I have spent two days talking with a number of members of this House, with the Commissioner of Inland Fisheries and Wildlife and some of our legislative assistants trying to focus in on this particular issue.

My original intent in moving to reconsider was the possibility that I could offer an amendment that might perhaps resolve this issue to everyone's satisfaction, but I report to you today that I really haven't been able to. I also report that I think I have a clearer understanding of the problem as the commissioner sees it and I think part of the problem does have substantial merit. What I would like to suggest the possibility of doing, if this House is willing to do so, is reconsider the motion to adhere and then defeating that motion so that we could move to insist and ask for a Committee of Conference and perhaps resolve this issue in a conference committee setting.

Thereupon, the House voted to reconsider its action whereby it voted to adhere.

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

Mr. GREENLAW: Mr. Speaker, is the motion before the House the motion to adhere?

The SPEAKER: The Chair would answer in the affirmative.

Mr. GREENLAW: Mr. Speaker, I would hope that we would oppose the motion to adhere so that I could move to insist and ask for a Committee of Conference.

The SPEAKER: The Chair would advise that the gentleman may do at this time. The motion to insist has priority over the motion to adhere.

Mr. GREENLAW: Mr. Speaker, I now move to insist and ask for a Committee of Conference.

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

Mr. PEARSON: Mr. Speaker, Ladies and Gentlemen of the House: This issue was before us a week ago on L. D. 447 and it deals with the powers of the Commissioner of the Department of Inland Fisheries and Wildlife and what it says is, after the amendments have been attached to the bill, that the Commissioner shall have the general supervision and the administration and the enforcement of Inland Fisheries and Wildlife laws and shall have the responsibility for management of "all" inland fish and wildlife in the state. I argued against this bill a week ago and as I recall, Mr. Greenlaw did at that time too and he since then has had some second thoughts but I haven't. What this means is, if you had a local ordinance dealing with something other than the discharge of fire arms in your local municipality, you would not be able to pass that local ordinance because it would give the responsibility for that to the Department of Inland Fisheries and Wildlife. That sounds logical in most cases but I don't think it is applicable to all cases that the Department of Inland Fisheries and Wildlife should have the responsibility for all of the fisheries and wildlife laws of the state.

I will cite to you an example as it applies to the City of Old Town. The City of Old Town is located on an island, most of it is anyway, on Marsh Island, and that island contains the University of Maine in Orono and, of course, overlaps into Old Town, and the part that overlaps into Old Town, for the most part, is an experimental forest that is used by forestry and wildlife students. What would happen in this bill would be that the City of Old Town would not be able to pass any ordinances protecting that forest. You might think that the Department of Inland Fisheries and Wildlife would naturally do that. That is a pretty fair supposition, except that sometimes in the past it has not. We had one occasion at least when the Department of Inland Fisheries and Wildlife did not make that a game preserve and the local ordinance of the City of Old Town took care of that matter until we could get it straightened out in the next session of the legislature and I suggest that there might be other chances of that occurring.

I see no reason why we would enter into a Committee of Conference because usually you have to have something you can compromise on. You have one position on one side and one position on the other side and I can't see where there is any room for compromise on this. The other body has passed this measure. We had failed to pass this, and I would hope that we would stay with our motion and would ask for a division.

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

Mr. DOW: Mr. Speaker, Ladies and Gentlemen of the House: I would like to have this bill go to a Committee of Conference, not only is that part of the bill that Mr. Pearson is talking about where there is some problems with it, but the first of the bill has some problems. I, of course, happen to believe that the fish and game laws throughout the state should be uniform, so I am not having any problem with the second part of the bill. I would like to see maybe a public hearing type thing put into it so that it would be law that we do have a public hearing. I would like to see what we could come up with at the Committee of Conference and then if it doesn't satisfy, we can always get rid of the bill.

I would hope that you would vote for the Committee of Conference.

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

Mr. ROLLINS: Mr. Speaker, Ladies and Gentlemen of the House: I would like to agree with the gentleman from Old Town, Mr. Pearson, on this bill, and I would ask you to read the title: "An Act to Clarify the Powers of the Department of Inland Fisheries and

Wildlife." It should have said, to give more power to the Department of Inland Fisheries and Wildlife. That is what we are doing. In every one of these department bills, we are giving more power to these departments. Pretty soon we won't need to come down here.

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

Mr. CONNORS: Mr. Speaker, Ladies and Gentlemen of the House: This is a lot more serious bill than what most of us think and I think Representative Greenlaw, the last two or three days, has found this out. I won't go into the details here, but this Committee of Conference could possibly straighten out some of these problems that we have. If we don't straighten out some of these, you could have Sunday hunting in one town for deer, the next town would ban Sunday hunting of deer and it would be Sunday hunting of rabbits and we could have a thousand different rules and regulations that could include Sunday hunting and the banning of rabbit hunting in one town and the next town would have rabbit hunting. It would be just mass confusion.

This is a very serious bill and I would hope that you would go along for a Committee of Conference and we can come up with something, I think, that is satisfactory to all.

The SPEAKER: The Chair will order a vote. The pending question is the motion of the gentleman from Stonington, Mr. Greenlaw, that the House insist and ask for a Committee of Conference. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

71 having voted in the affirmative and 20 in the negative, the motion did prevail.

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

House Divided Report — Majority (8) "Ought Not to Pass" — Minority (5) "Ought to Pass" as Amended by Committee Amendment "A" (H-305) — Committee on Liquor Control on Bill "An Act to Permit the Sale of Dessert Wine at Retail Stores" (H. P. 768) (L. D. 1019)

Tabled — May 11, 1977 by Mr. Tierney of Lisbon Falls.

Pending — Acceptance of either Report.

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

Mr. NADEAU: Mr. Speaker, I move we accept the Minority "Ought to Pass" Report.

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

Mr. MARSHALL: Mr. Speaker, Ladies and Gentlemen of the House: I would ask for a division on that. This bill that has been presented is relatively well known as the fortified wines bill or, as I call it, the "blow your mind wine bill." This proposal is an attempt to put fortified wines, which are wines that have been fortified with alcohol beyond their normal content, in local "Mama and Papa" grocery stores. At present, we do not allow liquor, hard liquor or wine to be sold in any store that is not licensed by this state. We have state liquor stores and we have agency stores, and the proponents of this bill would like and enjoy, I am sure to see fortified wines put into these small "mama and papa" and non-licensed stores.

I had hoped earlier to make the motion for the chairman of the committee, in his absence, to accept the Majority "Ought Not to Pass" Report which was signed by eight members of the committee, all eight members being in this house. There have been three sets of statistics presented to the Liquor Control Committee by the proponents of this bill. Those proponents are heavily influenced by out of state interests.

These three different sets of statistics and I repeat, they are different, in each state that there will be a gain of revenue. Being three sets of statistics and juggling things around, we decided the committee to ask for the statistics

by Mr. Robie of the Liquor Commission. His statistics show continually a loss, a loss, a loss. And all of his arguments and all of the arguments proposed by the proponents of this bill. There are lies, there are darn lies, then there are statistics. With three different statistics being waved in our faces, I am ready to accept the statistics presented by the Liquor Commission who is removed from any political considerations on this matter.

I would urge us strongly defeating the motion by Mr. Nadeau of Sanford in accepting this bill.

The SPEAKER: The Chair recognizes the gentleman from Limestone, Mr. McKean.

Mr. MCKEAN: Mr. Speaker, Ladies and Gentlemen of the House: Every small grocery store owner in this state should take offense at the implications and the letters put upon our desks this morning concerning this L.D. To imply that a major business flaunts the laws of this state is a slap in the face to every businessman or woman in the State of Maine. To make it worse, you have singled out the small stores which are mainly owned and operated by small business people, retirees and those people who, in the most part, spend the majority of their life scraping up enough money to go into business. These so-called corner stores, as implied this morning, contribute greatly to the economy of this state. Your votes on the liquor issues indicate a desire for laws designed to take booze away from those less than 20 years of age and to enhance those laws which deal with those who would supply booze to our youngsters.

The statement and I quote "If L.D. 1019 is allowed to pass, it would allow every corner store to be eligible to sell fortified wine. This would put it within the reach of 15 to 16 year old youths." This statement does not indicate to me a belief in the laws that you helped pass in this House concerning the sale of alcoholic beverages to minors and young adults. If you did not believe in these laws or you did not believe they were enforceable, then why did you put them on the books? I ask you, don't use the small grocer or the corner store owner as an excuse to kill L.D. 1019. Believe in the laws you have already passed to keep alcoholic beverages from our youngsters.

Mr. Speaker, in view of the fact that I hold a license to sell wine and the name of my business is the corner store and in view of the implications suggested in the letters placed on our desks this morning, I ask to be excused from voting on this matter.

The SPEAKER: The Chair will grant permission to the gentleman from Limestone, Mr. McKean to be excused from voting.

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

Mr. MORTON: Mr. Speaker, Ladies and Gentlemen of the House: I don't think there is a great deal of confusion about this bill. I think if there is any problem of anybody having any opportunity of questioning of how it would be enforced, then we ought to relieve them of that responsibility. I hope we defeat the bill.

In order to make sure that everybody understands what we are voting for, I would like to move, Mr. Speaker that this bill and all its accompanying papers be indefinitely postponed.

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

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

Mr. LAFFIN: Mr. Speaker, Ladies and Gentlemen of the House: I would like to know if the State of Maine is in the business of selling liquor. I think we all know the answer to that today. The State of Maine makes a great profit at selling liquor. Why don't the state stores want to keep this? I will tell you why they don't want to keep it. Because they want to put something

else in its place. They want to let the small storeowners, of which I hold a license. I held one for years to sell liquor and wine and I sold both. I know what this bill is. I know this bill very well. In fact, a similar bill came before us two years ago. What you are asking here is if the State of Maine don't want to sell this kind of wine for the simple reason that they don't make enough money but they want the small storeowner to pick it up. I will tell you a fact. The small storeowner doesn't want this wine. This is not 14 or 12 percent like we handle. This is up to 20 percent. That makes this hard liquor. Any way you want to look at it, let us look at the facts. I don't care about the revenue. I don't care how much money we make, or how much money the State of Maine is going to lose. I am interested in the small storeowners. I made a good living at it and I was proud to be one. But the small store owners of the State of Maine, when the wine was put in in the first place, we had something like well over 600 licensees. I can tell you something, after the first year, they dropped and they dropped terribly because there wasn't the profit there. The State of Maine doesn't want to bother with it, that is why they want the small storeowners.

Ask the State of Maine who is making \$45,000,000 profit business and if they will turn that over to the small store owners. Let the small storeowners make some real money. Let them sell hard liquor. Let them sell it right over the counter. You will find out the State of Maine will be opposed to it and quick because we would lose the revenue. But the State of Maine wants the small storeowner who is a captive tax collector for this state who turns in well into the millions of dollars that go into the General Fund. I had the figures two years ago but I don't remember them now. They have to pay their taxes, they have to collect taxes and if they don't pay it by the 15th of every month, they are penalized and an interest is put on top of that. The small storeowner has always picked up the tab and the burden when the State of Maine doesn't want it. The State of Maine's not going to give up selling Seagram Seven and all that other I don't know the names of it. They are not going to give it up because they make money.

I urge the members of this house to defeat this bill. I feel that it is very important that the members of this House realize the one issue that I want to bring to your attention. The State of Maine doesn't want it so they want the small storeowners to take it over. Remember that when you vote. That, to me, is very important because I know. I have been down that road and I have faced all these burdens that the small storeowners have in liquor. This is probably one of the things that I can speak most intelligently. Some I can't and I will admit, but this one I do know. If you have ever been a storeowner, you know the problems. Don't let this be pushed on you. Don't let it come up with a lot of figures. I am not sure whether they are right or wrong, but I will give them the benefit of the doubt but I am not arguing that today. I am arguing that the members of this House keep the hard liquor in the liquor store where it belongs or do away with them altogether.

The SPEAKER: The Chair recognizes the gentleman from Augusta, Mr. Bustin.

Mr. BUSTIN: Mr. Speaker, Ladies and Gentlemen of the House: First let me apologize to the gentleman from Westbrook, Mr. Laffin. I have been working with him so closely here in the labor committee and other places and I thought I had his cadence down pat. I didn't turn to look at him, I just thought he was finished.

Let me thank the gentleman from Lisbon Falls, Mr. Tierney, for tabling this measure since it is my bill, for tabling this while I was in New Orleans. You will be pleased to know that the weather in New Orleans is like this and I

brought it back with me so you could enjoy it too.

I take great exception to the gentleman from Millinocket, Mr. Marshall calling my bill the "blow your mind wine bill". At the outset, let me say that I do not think that he is taking a "fair view" of this particular problem. While the bill was tabled, it does seem that there was a great deal of activity in my absence relative to my bill. I received on my desk like you did this morning a letter from State of Maine inter-departmental memorandum from the State Police, the Department of Public Safety of Liquor Enforcement setting forth a position on the bill so I took the liberty to call Colonel Weeks and ask him if this was the public policy position of the Department of Public Safety. I did that just ten minutes ago. He assured me that it wasn't. That his department was neutral on this measure and the people involved in testifying before committees like other departments took neutral positions.

Then came the Birt memo cautioning all members of the 108th Legislature to watch out for this bill of mine and pointing out that this would put fortified wine within reach of 15 to 16 year old youths. He probably could have gone further and asked for prohibition on beer because when I went into my supermarket last week, beer was within reach of three and four year olds, being on the bottom counter. I think that if you remember one thing relative to this argument, it is that this bill, if passed, will go into effect the very same day as the 20 year old drinking age bill. There are a number of advantages to this measure. The first I will mention is the fiscal advantage. There are many of us who have L.D.s who want to see them passed, who are wondering where the money will come from to pass them. This bill will increase revenue. I would refer again to the attachment to Representative Birt's memorandum which is an inter-departmental memorandum from Mr. Robie of the Bureau of Alcoholic Beverages. If you will notice that it was dated March 31, 1977. It bears no relation to the bill which you have before you now. His figures were based on a 60 crease from 75 cents a gallon to 90 cents a per gallon tax. His bill mentions a cut in revenue from the reduction of the license fee. The committee amendment on this bill puts the license fee back in. The figures which we have projected to the general fund, these I believe are conservative. Based on the excise tax increase from 75 cents a gallon to 90 cents a gallon, including a five percent sales tax on this particular product, would show over the next five years, conservatively, I believe, 1.163 million dollars. Beginning in fiscal year 1978 with a \$208,000 increase. How can this kind of an increase come about? We know, for example, that the sale of dessert wine in the liquor stores is, in fact, decreasing eight percent a year. The reason the revenue increases is because the product is out where people can see it in walking through the grocery store, have the opportunity to select from dessert wines or tablewines. The State of Oregon passed a similar measure in 1974. The increase in the sale of table wines was approximately 300 percent, 367 percent as I see the figure in front of me now. A similar bill.

Let me talk just about a couple of more advantages. There would be increased employment in our state as a result of this measure, both at the retail and the distributor levels. Those distributors we have talked with indicated they will need more people. Despite the fact that Mr. Laffin has indicated rather forthrightly that no storeowners want this bill, I can tell him from my personal discussions with people who operate small stores that that is not quite accurate, there are some who do. I am not sure if there has been a complete canvass in the state, at this point, but I would suspect that

most retail storeowners would like to see an opportunity for greater profits. This bill would help. This bill would result in more advertising revenue for newspapers, radio, television stations and advertising agencies. It would free shelf space at liquor stores and the Hallowell warehouse. Space can be used for items of distilled spirits with a faster turnover rate and it would also free up the working capital at the Bureau of Alcoholic Beverages to be invested in distilled spirits inventory. I think the advantages of my bill far outweigh the disadvantages.

The emotional argument relative to making this more available to younger children I feel has no merit. We have a 20 year old drinking bill which will go into effect at the same time this bill goes into effect. The rules and regulations of that enforcement would make it no more easy to get dessert wine than it would anything else. So I hope that you will vote against the motion to indefinitely postpone this bill. If it hasn't already been moved, I would ask for the yeas and the nays.

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

Mr. RAYMOND: Mr. Speaker, Ladies and Gentlemen of the House: I really don't know where I should start. First of all, during the absence of Mr. Bustin, there was an awful lot of lobbying done as he is well aware of by now. This amendment is presently what I called not a committee amendment but that of the lobbyists. We had three working sessions on this bill. The reason we had three working sessions on the bill was because of the lobbyists. They were able to have the chairman of the other body change his mind. Originally he was opposed to this bill. We voted last Friday at one o'clock in committee on certain provisions of this bill saying how this amendment should come out. Since our work session of last Friday, this amendment has been changed. The fees have not been reinstated as Mr. Bustin mentioned. We have never kept the fees in the first place. What we had done, is if those that desire to have these fortified wines which people are calling dessert wines, we are to increase the license fees to \$50 in addition. This is what they have deleted by the lobbyists. In the committee the majority voted to leave this increase in the amendment. As you all know, those that read the amendment, it is not on there.

However, I will go to the crux or attempt to of the bill. The Maine wholesalers of dessert wines and table wines had some kind of a proposal to bring to the committee in one of our earlier work sessions. They gave us the amounts what the income of liquor stores and what the retail stores would have in comparison and the amount of increase. Consequently, we had to have another work session because their first report was wrong, according to them. They submitted another report, dated April 20th. I will read part of that report. "It has been suggested by the Maine Beer, Wine Wholesalers Association that the excise tax be 75 cents per gallon. Therefore, the increased revenue is figured on a 75 cents excise tax rate. In the first year, there would be an estimated additional 20 percent increase for the building shelf inventory." Then they proceed to go on "for the first five years accumulated, there would be a tentative decrease in the drinking by 8 percent per year" and so forth.

They also mention, since the time the bureau has developed these figures, and there is a discrepancy in the area of 20 to 25 percent, which they say is significant — of course it is. About half this error was caused by the fact that he, this person, misunderstood the formula and the federal excise tax was included twice in the cost, thereby reducing the net profit in their report, the original report. However, this statement is discrepancy in itself. They claim that in the original report, the net profit had been

reduced. Well, in their first report, they showed for the first year an increase of \$261,000. In their corrected report, which is supposed to show an increase, they show \$126,000 in increase. This makes no sense to me. In that figure, they have got the sales tax, 5 percent sales tax included. The commission, in their revenues, do not include sales tax figures, because the 5 percent sales tax goes directly to the general fund.

Figuring the way they did, using the same formula, we showed last year, the commission did, rather, 150,000 gallons which netted the commission \$620,000. This is not figuring sales tax. On that basis, and again using the same formula as these reports, assuming that there will be a 20 percent increase, this would bring our total gallonage of drinking from 150,000 to 180,000 gallons. Based on the 90 cent figure for the excise tax, which is now in the bill, it would bring a revenue to the state on a three times selling — in other words, three times selling three times the amount that we did last year — it would bring the state \$372,600, already a decrease of \$247,000 in revenue.

Had we still had in the bill the increase in license fees of \$50, which is no longer there, but let's say it would be included for a thousand stores, which is approximately what we have now having a license to sell wine, this would have brought the state an additional revenue of \$50,000. Deducting that \$50,000 from the \$247,000 already that we are going to be in the hole, it would still have us in the hole by almost \$200,000 to the State of Maine.

Another thing I would like to mention as far as the 5 percent sales tax is concerned, the 5 percent sales tax, when it is taken from a grocery store, it is not taken on the individual items that are sold; it is taken on a gross. A grocery store, when they pay sales tax to the state, the amount of sales tax paid varies from 30, 40 to 50 percent on the gross sales. So those who say anything about income on sales tax, you will be getting at the maximum 50 percent of the sales tax and not 100 percent.

I have other things I would like to say, but I think it is best if they are not said. I would urge the members of this House to vote for the indefinite postponement of this bill and to remember also, those of you who are interested in getting package stores in the future, we are not in the second step today.

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

Mr. NADEAU: Mr. Speaker, Ladies and Gentlemen of the House: I would like to respond to a few comments that have been made. First of all, in reference to the Committee Amendment, I signed the Minority "Ought to Pass" Report which dealt with Committee Amendment "A". Here it is, this is the amendment that I wanted, this is the amendment I signed out of committee. The eight members of the committee who did not sign this amendment signed "Ought Not to Pass". As a member of the committee, I felt it was my prerogative to sign this amendment out of committee as I saw fit.

My philosophy maybe does differ from other members of the committee. I want the state to get out of the liquor business. I would like to see four to five wines go to the other stores, agency stores, I favor that concept wholeheartedly.

The gentleman from Millinocket, Mr. Marshall, the implications that there were out-of-state interests in this, my only interest was to the added revenue that was going to be brought to the state through the adoption of this bill, and it also concurred with my own philosophy of getting dessert wines out of the state liquor stores and into the regular retail stores throughout the state.

In answer to the gentleman from Westbrook, Mr. Laffin, if the small storeowners don't want

it, they don't have to take it, but those that want it would have the right to do so. And if the gentleman from Westbrook would like to introduce a bill to go completely to the state agency store concept, I would be right behind him.

I urge you today to look at this carefully and hope that you will vote against the indefinite postponement of this bill, give the state a chance to increase its revenues.

As of 1971, Maine allowed the sale of table wines to be removed from the state liquor stores and be sold through licensed retailers. In the year 1970, the sales of table wines was 6,219 cases; in the year 1972, the sales of table wines increased to 361,309 cases. There was an increase of almost a thousand percent. It then leveled off to 600 percent.

The revenues that we were given, which I believe are now accurate, the first year would show a marked increase in general revenues. It then stabled off and the state then noticed an increase of nearly \$200,000 from the sale of dessert wines in the retail stores. But if we keep them in the state liquor stores, we are going to drop 8 percent every year. Where are you going to get that money? I would say it is better to get more in the end than lose it during the trend.

I urge you to vote against the motion to indefinitely postpone.

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

Mr. JOYCE: Mr. Speaker, Ladies and Gentlemen of the House: I rise today to support the motion for indefinite postponement of this bill. I have heard so many figures here today, I thought they were reading from the phone book, but I have to reach back, and this is a typical case here. The only scientific study that you should look at when you decide on this bill is that one that I reminded you of before, it was that study of why did the chicken cross the street? We found that the chicken didn't cross the street, she only went to the middle of the road so she could lay it on the line. That is what I am going to do; I am going to lay it on the line. I am going to tell you the figures that we should be talking about here today.

This is truly a Sneaky Pete bill. Now, Sneaky Pete is the wino's salvation. That is the bottle of wine that you can buy for a buck or a buck and a half and you can really trip it out. We have been given the numbers but we haven't been given the right numbers on this. I tell you, there are innocent numbers and there are evil numbers when we talk about this bill. Take a tour through your supermarket, look down there and see Christian Brothers, Burgundy, 12 percent. That is not bad, you can enjoy that after a week here when you go home and not worry about getting grabbed for drunken driving.

Well, you can look at that one, Richard's Wild Irish Rose, that is as strong a one as they can sell in that supermarket now, and that old scoundrel Thunderbird — 14 percent, that is as high as you can go, and you know, you can drink quite a lot of that before you have to have somebody throw you in the back seat to drive you home.

I watch television and see that one Paisano, that is the one you can have with pizza — only 12 percent. That isn't bad. The couple of brothers out on the West Coast, Ernest and Julian Gallo, they make the dry wines that they tell me are popular with people my age and I guess they really are — 11 percent. People enjoy that; they don't need any more than that probably when you get my age, but if you did, you can step up to Manechevitz, 12 percent. These are the numbers that you should be looking at.

I don't know if you like Manechevitz — well, try Cold Duck, that is what the young people seem to favor, but that is only 11 percent, so we are heading in the right direction. Mogan David, they have got the blackberry wine that is

their popular one — 12 percent. These are the figures you have got to look at on this bill. Yargo Sangria, that is the one the young folks like — 7 to 10 percent. We are winning them over. That is where we want you. Andrea's Champagne, they will try that New Year's Eve now, mostly the younger people — 11 percent.

But here is the tragedy in the figures. When you go to that supermarket and look on the top shelf and you look up there and you see her, the Blue Nun. The Blue Nun is 10 percent, and this bill would put that Sneaky Pete at 24 percent up on that top shelf next to our Blue Nun. That is almost sacrilegious. Don't put Sneaky Pete up on that shelf.

Prima facie evidence in drunken driving .10. Driving under the influence, relevant evidence if your blood test is .06 to .09.

Fortified wines, and they shouldn't call it desert wines, it is really a spiked wine, you know, they get up to 14 percent and then they put the jab of alcohol in it that throws it up to 24. These are the figures you should be talking about. Never mind the millions of dollars and the empty spaces on the shelves.

You know, if you want a nice time at home, having wine with your wife and she deserves a good bottle of wine after you have been away all week, don't bring her home one of those fortified wines. You will end up under the kitchen table at eleven o'clock and that good lady deserves you there to carry on an intelligent conversation up until at least midnight, or the late show.

I urge you, vote for the indefinite postponement of this bill. Let's get rid of Sneaky Pete.

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

Mr. MARSHALL: Mr. Speaker and Members of the House: I wanted to respond to a couple of the remarks by Mr. Bustin. The fiscal advantage of L.D. 1019 that Mr. Bustin refers to certainly eludes me. Mr. Bustin pointed out that the memorandum from Mr. Robie, which is on our desks, states the enactment of this bill would result in an estimated loss of \$440,000. It was based on a 60 cent per gallon rate, and that has been remedied by raising it to a 90 cent per gallon rate. But also included in that original figure was the amount of money to come from increased license fees to these stores which will now deal in fortified wine; however, under the amendment, they have done away with the increase which would tend to negate some of the revenue gained from increasing it from 60 to 90 cents per gallon.

Proponents of this measure say they will make a profit. Let me point out that they expect to do so only by tripling the volume of sales. They believe that by putting this fortified wine in the stores along with table wines will result in that tripling. I suggest that we are selling as much wine as we are going to sell collectively and that table wines will not continue to increase as the proponents propose, also, that the fortified wines sold will triple because they are put together on that same shelf.

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

Mrs. BYERS: Mr. Speaker. Members of the House: I am very sorry that today the lobbying has been brought into this and what not, and this horrible, horrible fortified wine that you might find in your grocery store with passage of this bill would be something like sherry, madeira or port, and I don't think it is something you should be frightened of, to give your wife a glass of port or a glass of madeira or a glass of sherry at the end of the week, and that is all this bill would do.

We have agency stores now where a young person can walk through and see hundred proof vodka on the shelves, and I think if they can withstand that, they can withstand seeing a bottle of sherry.

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

Mr. GRAY: Mr. Speaker, Men and Women of the House: Reference was made to a Maine concern, namely Fairview Wines, by the gentleman from Augusta, Mr. Bustin, and I thought it only fair that perhaps we give equal time to the California concern that is also investing quite heavily in this bill.

Before Caesar Chavez organized his people in the fields and vineyards of California nearly twelve years ago, workers there were getting 85 cents an hour, as they had been for about 15 years. After years of strikes, protest and boycotts, the grape growers are paying \$3.54 an hour, plus medical plans, pensions, vacations, holidays and so forth. Gallo is still holding out and is still being boycotted by the united farm workers. I mention this for two reasons. Gallo, of course, is paying for some of the heavier lobbying on this bill, and the second reason is, during the 107th, one of the sponsors of this bill rose before this entire body and presented his seatmate with a piece of Caesar Chavez campaign button, and all the poor woman had was a few apple trees.

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 Easton, Mr. Mahany.

Mr. MAHANY: Mr. Speaker, I wish to pair my vote with Mr. Carrier. If Mr. Carrier of Westbrook were here, he would be voting no and I am voting yea.

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

Mr. LYNCH: Mr. Speaker, I wish to pair my vote with Representative Hall of Sangerville. If Mr. Hall were here, he would be voting no and would I would be voting yes.

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

Mr. PETERSON: Mr. Speaker, I would like to pair my vote with Mr. Palmer. If he were here, he would be voting yea and I would be voting nay.

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

#### ROLL CALL

YEA — Bagley, Berube, Birt, Blodgett, Brown, K. C.; Bunker, Churchill, Connors, Cox, Cunningham, Drinkwater, Durgin, Dutremble, Fenlason, Flanagan, Garsoe, Goodwin, K.; Gould, Gray, Higgins, Hughes, Hunter, Immonen, Jackson, Jacques, Joyce, Kelleher, Kerry, Kilcoyne, Laffin, Lougee, Lunt, Mackel, Marshall, Martin, A.; McBreairty, McPherson, Moody, Morton, Najarian, Nelson, N.; Peakes, Pearson, Peltier, Perkins, Post, Prescott, Raymond, Rollins, Shute, Smith, Stover, Strout, Talbot, Tarr, Teague, Tierney, Torrey, Wood, Wyman, The Speaker.

NAY — Alopis, Ault, Austin, Bachrach, Beaulieu, Bennett, Benoit, Berry, Biron, Boudreau, A.; Boudreau, P.; Brenerman, Brown, K. L.; Burns, Bustin, Byers, Carey, Carroll, Carter, D.; Carter, F.; Chonko, Clark, Connolly, Cote, Curran, Davies, Devoe, Dexter, Diamond, Dow, Elias, Fowlie, Gill, Goodwin, H.; Green, Greenlaw, Henderson, Hickey, Hobbins, Howe, Huber, Jalbert, Kane, Kany, Lewis, MacEachern, Masterman, Masterton, McHenry, McMahon, Mitchell, Nadeau, Nelson,

M.; Norris, Quinn, Rideout, Silsby, Spencer, Sprowl, Stubbs, Theriault, Tozier, Trafton, Truman, Twitchell, Valentine, Whittemore, Wilfong.

ABSENT — Dudley, Gauthier, Gillis, Hutchings, Jensen, LaPlante, LeBlanc, Littlefield, Lizotte, Locke, Maxwell, McKean, Mills, Plourde, Tarbell, Tyndale.

PAIRED — Carrier, Hall, Lynch, Mahany, Palmer, Peterson.

Yes, 61; No, 68; Absent, 16; Paired, 6.

The SPEAKER: Sixty-one having voted in the affirmative and sixty-eight in the negative, with sixteen being absent and six paired, the motion does not prevail.

The Chair recognizes the gentlewoman from Bethel, Miss Brown.

Miss BROWN: Mr. Speaker, having voted on the prevailing side, I would like to ask the House to reconsider.

Whereupon, Mr. Wyman of Pittsfield requested a division.

The SPEAKER: The pending question is on the motion of the gentlewoman from Bethel, Miss Brown, that the House reconsider its action whereby it failed to indefinitely postpone the bill. All those in favor of reconsideration will vote yes; those opposed will vote no.

A vote of the House was taken.

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

The SPEAKER: 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 gentlewoman from Bethel, Miss Brown, that the House reconsider its action whereby the Bill failed of indefinite postponement. All those in favor of reconsideration will vote yes; those opposed will vote no.

#### ROLL CALL

YEA — Bagley, Berube, Birt, Blodgett, Brown, K. L.; Bunker, Carter, F.; Churchill, Connors, Connolly, Cox, Cunningham, Drinkwater, Durgin, Dutremble, Fenlason, Flanagan, Garsoe, Goodwin, K.; Gould, Higgins, Hughes, Hunter, Immonen, Jackson, Jacques, Joyce, Kelleher, Kerry, Kilcoyne, Laffin, LaPlante, Lewis, Lougee, Lunt, Lynch, Mackel, Martin, A.; McBreairty, McPherson, Moody, Morton, Najarian, Nelson, N.; Peakes, Pearson, Peltier, Perkins, Peterson, Post, Prescott, Raymond, Rollins, Shute, Smith, Stover, Talbot, Tarr, Teague, Tierney, Torrey, Wood, Wyman.

NAY — Alopis, Ault, Austin, Bachrach, Beaulieu, Bennett, Benoit, Berry, Biron, Boudreau, A.; Boudreau, P.; Brenerman, Brown, K. C.; Burns, Bustin, Byers, Carey, Carroll, Carter, D.; Chonko, Clark, Cote, Curran, Davies, Devoe, Dexter, Diamond, Dow, Elias, Fowlie, Gill, Goodwin, H.; Gray, Green, Greenlaw, Henderson, Hickey, Hobbins, Howe, Huber, Jalbert, Kane, Kany, MacEachern, Mahany, Marshall, Masterman, Masterton, McHenry, McMahon, Mitchell, Nadeau, Nelson, M.; Norris, Quinn, Rideout, Silsby, Spencer, Sprowl, Strout, Stubbs, Theriault, Tozier, Trafton, Truman, Twitchell, Valentine, Whittemore, Wilfong.

ABSENT — Carrier, Dudley, Gauthier, Gillis, Hall, Hutchings, Jensen, LeBlanc, Littlefield, Lizotte, Locke, Maxwell, McKean, Mills, Palmer, Plourde, Tarbell, Tyndale.

Yes, 63; No, 69; Absent, 18.

The SPEAKER: Sixty-three having voted in the affirmative and sixty-nine in the negative, with eighteen being absent, the motion does not prevail.

Whereupon, the Minority "Ought to Pass" Report was accepted and the Bill read once.

Committee Amendment "A" (H-305) was read by the Clerk and adopted and the Bill was assigned for Second Reading tomorrow.

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

Bill "An Act Relating to the Law Governing the Manufacturers, Distributors and Dealers of Beverage Containers" (S. P. 213) (L. D. 662)

Tabled — May 11, 1977 by Mr. Tierney of Lisbon Falls.

Pending — Adoption of Committee Amendment "A" (S-125)

Whereupon, Committee Amendment "A" was adopted and the Bill assigned for Second Reading tomorrow.

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

Bill, "An Act Providing for Student and Faculty Members of the Board of Trustees of the University of Maine" (H. P. 1114) (L. D. 1332) (H. "A" H-299 to C. "A" H-279)

Tabled — May 11, 1977 by Mrs. Prescott of Hampden.

Pending — Passage to be Engrossed.

Whereupon, the Bill was passed to be engrossed and sent up for concurrence.

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

An Act Concerning the Definition of Full-time Local Law Enforcement Officer (S. P. 103) (L. D. 232) (C. "A" S-111)

Tabled — May 11, 1977 by Mr. Burns of Anson.

Pending — Passage to be Enacted.

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

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

Bill, "An Act Relating to the Spending Ceiling for Education Purposes" (Emergency) (H. P. 968) (L. D. 1165)

Tabled — May 11, 1977 by Mr. Lynch of Livermore Falls

Pending — Adoption of Committee Amendment "A" (H-282)

Mrs. Najarian of Portland offered House Amendment "E" to Committee Amendment "A" and moved its adoption.

House Amendment "E" to Committee Amendment "A" (H-316) was read by the Clerk.

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

Mrs. NAJARIAN: Mr. Speaker and Members of the House: Very simply, this amendment would put those schools above average on the base year the same as those schools that are below average on the base year instead of the above average being at 1973-74 in the present law.

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

Mr. LYNCH: Mr. Speaker, Ladies and Gentlemen of the House: I think the lady from Portland intended to offer House Amendment "C" which puts this into effect July 1, 1978. This House Amendment "E" makes it effective July 1, 1977, which raises many problems.

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

Mrs. NAJARIAN: Mr. Speaker, Ladies and Gentlemen of the House: No, I had the original amendment 1978 and thought that was a mistake because that wouldn't be dealt with until the 109th Legislature. My intention was to have the 1973-74 changed to the base year to be effective and to be considered by this legislature next year. I don't think that causes any problems. It certainly doesn't involve this year's school funding law at all.

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

Mr. LYNCH: Mr. Speaker, Ladies and Gentlemen of the House: I am a little bit uncertain. It says the entire bill becomes effective July 1, 1977. We have already enacted a spending school funding bill. If this base year is to become effective July 1, 1977, I would think that we would have to reopen the school funding bill.

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

Mrs. NAJARIAN: Mr. Speaker, Ladies and Gentlemen of the House: Not in the least. It doesn't apply to this year's school funding law, it applies to next year's school funding law. I have checked this out both with the research and upstairs with the legislative assistants and it does not apply to this year's school funding law. It cannot if it takes effect July 1, 1977 and we have already enacted the school funding law which is effective for June 14, 1977, the school budget date.

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

Mr. HIGGINS: Mr. Speaker, Ladies and Gentlemen of the House: I pose a couple of questions to the good lady from Portland. I think perhaps the gentleman from Livermore Falls is correct. It would seem to me that if this does, in fact, become effective July 1, 1977 even though we have funded schools for next year, it would seem that there is going to be a deficit that at some point in time, we are going to have to fund. Maybe not this year but next year if the law becomes effective. Just because we haven't funded it doesn't mean someone isn't going to have to fund it or prorate it.

The other point that I would bring up, in case there is any disagreement about it, I think that I am right about this, this is similar to an amendment that the good lady tried to attach to the bill when it first came through here about a month ago. I went to get my file and unfortunately, I don't have the figures in my file, but it seems to me that if this was adopted, even if we assume that it was not going to be effective this year, that it would, in fact, cause some serious financial problems for the state as far as funding goes and I wondered if someone could tell me how much additional money this would have cost the state, this year, to reimburse it should the law have gone into effect.

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

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

Mrs. NAJARIAN: Mr. Speaker and Members of the House: This amendment cannot possibly apply to this year's school funding law because this year's school funding law reimbursed for this present school year. This was not calculated into this present school year's budget and it cannot possibly be. It applies to be considered in next year's school funding law when we come back again next January. The second thing is, it costs about \$3,000,000 in next year's school funding law.

I want to tell you, it's very hard to explain in the terms of the school finance act, but I can give you a very simple analogy of what happened to the schools above average. I know that many of us in this room are very concerned about the cost of the retirement system to the State of Maine and that the state has appropriated an awful lot of money in this area. If the legislature were to cut the state's cost for the retirement system, we are going to take one third of those teachers that have the highest checks and cut them all by one half. Just one third of those teachers that get the most money. I think you will agree with me that will be a very unfair method to cut the state's costs for the retirement system. That is what hap-

pened in the school finance act two years ago. In order to save the state money, they said that those schools above average will no longer be at the base year but we are going to freeze them back at 1973-74 which is where we have been now for two years. That is what I am seeking to reestablish the original formula of the school finance act for next year's consideration, not this year's at all.

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

Mr. LYNCH: Mr. Speaker, Ladies and Gentlemen of the House: I think House Amendment "C" is more appropriate at this time because it says this act shall take effect July 1, 1977 except for that section three, which is what Representative Najarian wants to change, except for section three which will take effect on July 1, 1978. I would think that we would have to make the provisions in the next funding bill rather than take amendment "E" which says the effective date of the entire bill is July 1, 1977. If the effective date of July 1, 1977 doesn't the funding bill have to be changed to change the base year effective July 1 of this year?

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

Mr. LYNCH: Mr. Speaker: I would move indefinite postponement of House Amendment "E" and I hope the lady from Portland will offer House Amendment "C" which does exactly the same thing and puts it in effect a year from now when we can make the provisions in the next year's funding.

The SPEAKER: The gentleman from Livermore Falls, Mr. Lynch has moved the indefinite postponement of House Amendment "E."

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

Mrs. NAJARIAN: Mr. Speaker, I withdraw House Amendment "E" and assume that Mr. Lynch is correct that it will be considered in next year's funding law.

Whereupon, Mrs. Najarian of Portland offered House Amendment "C" to Committee Amendment "A" and moved its adoption.

House Amendment "C" (H-307) to Committee Amendment "A" was read by the Clerk.

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

Mr. MACKEL: Mr. Speaker, I think that the implications of this amendment should be explained to us.

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

Mr. HIGGINS: Mr. Speaker, Members of the House: I guess I just simply ask for a roll call on the adoption.

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

Mr. LYNCH: Mr. Speaker, Ladies and Gentlemen of the House: You know my attempts to contain the cost of education but I do support House Amendment "C" because I think the areas that have been penalized ought to have some period of adjustment.

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

Mr. GARSOE: Mr. Speaker, Ladies and Gentlemen of the House: I want to add my support to this concept too. It takes us back to what we all I think understood would be the original concept. In my imperfect understanding, I am quite sure that any potential for \$3,000,000 will have to be approached as we come in for another year to attend to the funding of education in another fiscal year. This merely sets the formula we will be using at that time.

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

Mr. MACKEL: Mr. Speaker, Ladies and Gentlemen of the House: Apparently, there is some money involved here. Presumably, if it is \$3,000,000 or some unknown amount of money, it must come from somewhere and I am a little apprehensive that perhaps it might come from

the below average communities. I think perhaps some explanation would be in order so that we would not be penalizing one particular group to benefit another in this particular case.

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

Mr. GARSOE: Mr. Speaker, Members of the House: The gentleman from Wells, Mr. Mackel is concerned with penalizing one special group against another then I think he could support this because this takes us back to our original concept that we would bring those spending under the level forward by one third and we would move those over the level by one half the difference between their cost and the base year cost. Then the base year costs were frozen and this merely cuts it loose to the original concept that was in the bill. I think \$3 million is just an estimate of what the difference would have been this year. We will be approaching this and defining where this money's going to come as we approach the problem of educational funding for the subsequent year.

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

Mr. PERKINS: Mr. Speaker, Ladies and Gentlemen of the House: The figure of \$3 million has been bantered around here and I don't think anybody has an accurate figure but I am not prepared to sit here today and mortgage myself for a year from now for another \$3 million on top of the \$290 million. This is what I think has been the problem of education in the past years to begin with. We have mortgaged our souls for the years previously and then have to come live up to this and I am not prepared to do this today.

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

Mrs. LEWIS: Mr. Speaker, Ladies and Gentlemen of the House: I think probably everybody realizes this but I just want them to be sure that there was absolutely no increase in the amount of money that is going to be spent for education for this upcoming year in this amendment. It is just saying that these above average town expenditures will be computed according to the commissioner's report in next year's funding. That is entirely up to the legislature whether or not it wants to allocate that amount of money. But this isn't going to cost anything more this year.

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

Mrs. POST: Mr. Speaker, Men and Women of the House: I supported this bill when Representative Najarian presented it in the original school funding debate. However, at this point, I have to oppose it. I will do so for the same reason that I will oppose the vocational school bill when it comes back for final enactment. What we are doing is setting a change in the way we are going to figure the procedure and how much we are going to spend for education without actually having to face up to the fact now that there is a price tag involved in it. If this bill were presented to us now becoming effective for this year had a price tag on it for this year, I would support it. But I think somewhere along the line, we have to get away from getting bills through which won't have any price tag this year, but are going to cost us a lot of money next year. Trying to avoid making those hard decisions right now. For that reason, I would oppose the adoption of this amendment.

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

Mr. NORRIS: Mr. Speaker, Ladies and Gentlemen: Very briefly, if this isn't going to affect this year, let's all vote against the passage and we will argue about this next year in its proper time and place.

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

Mr. LYNCH: Mr. Speaker, Ladies and

Gentlemen of the House: I would like to respond to the statement that we are changing the school funding law. We are. But we are changing it back to what it was originally. Because there was a scarcity of dollars last time around, we took these communities and said you cannot be based on the 1975-76 year. You must go back to 1973-74. So we have an inequity across the state, many communities having a base year of 1975-76 but the communities to which Mrs. Najarian has referred to are back to 1973-74 base year. I think it is only fair and equitable that we adopt this house amendment.

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

Mr. GREENLAW: Mr. Speaker, Men and Women of the House: I'd like to pose a question either to the sponsor of the amendment or to the gentleman from Livermore Falls, Mr. Lynch. I have gone back over the committee amendment and it seems to me that the committee amendment deals with some changes to the education law for the upcoming budget year that begins on July 1st. The amendment deals with the fiscal year that begins on July 1, 1978. I would like to make sure that I understand that that is the correct assumption.

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

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

Mrs. NAJARIAN: Mr. Speaker, Ladies and Gentlemen of the House: I think the gentleman from Stonington is correct that the amendment Mr. Lynch asked me to introduce will not take effect until July 1, 1978 which means it would not be considered until the 109th legislature. Perhaps we can check that out and make certain. I don't think with House Amendment "C" that this will be considered in next year's school finance act by this legislature.

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

Mr. HIGGINS: Mr. Speaker, Ladies and Gentlemen of the House: I oppose this amendment and I find myself maybe one of the few times agreeing very heartily with the gentleman from Brewer, Mr. Norris. We addressed this problem before. We did not feel we had enough money to fund it. Now, under the auspices of funding it next year and it is not going to cost us anything this year, we are trying to slide it through now for a year hence. I am sure it would benefit a lot of the towns here.

I would just remind you that the cost of education this year, as we all know, went up \$22 million. If we assume, the least, perhaps a five percent increase in the cost of education, we are talking about another \$15 million next year that we are going to have to fund. This amendment calls for at least \$3 million in addition too. We have called for a \$115 leeway which we did not entirely fund this year which, to my recollection, will mean an additional expenditure built into the formula of at least \$2,000,000 and I think it is \$4 million but I am going to say conservatively it is \$2 million. So already, we are talking about an additional \$20 million next year for education that we do not have this year. I also noticed on my desk another amendment filed by the good lady of Portland, Mrs. Najarian that would, in fact, cause another increase in the cost of education next year but not this year. I think we should live up to our obligations at the time at which we best can afford them and not try to postpone them and pass them prior to our obligation.

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

Mr. JACKSON: Mr. Speaker, Ladies and Gentlemen of the House: I have a problem here with this. We are dealing with a bill for implementation in 1977. The committee amend-

ment is dealing with implementation 1977. We are talking about the Committee Amendment "C" which we changed to having tried to deal with "E". I wonder if it is even germane to this amendment because we are dealing with a whole other time period, a year away. I think possibly that if this is not germane to it and it doesn't apply to it, then maybe we should have a ruling on that.

The SPEAKER: The gentleman from Yarmouth, Mr. Jackson has posed a question of ruling the germaneness on House Amendment "C" to Committee Amendment "A". The Chair would advise the gentleman from Yarmouth, Mr. Jackson and members of the House that Committee Amendment "A" deals with the very same issues as discussed in House Amendment "C", the same areas of the law. Therefore, the Chair would rule that House Amendment "C" to Committee Amendment "A" is germane.

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

Mr. LYNCH: Mr. Speaker, Ladies and Gentlemen of the House: This \$3 million price tag that has been bantered about is not \$3 million every time we fund the school education costs. It is going to be a diminishing factor as we go down the road, but it gives these communities a chance to adjust.

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 say, we are talking about lack of money, so we went back two years on these costs. Now, if I lack money, I can't go to the telephone company or the power and tell them, I lack money so I will pay you the same rate that I did back in 1974 and 1975.

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

Mr. PERKINS: Mr. Speaker, Ladies and Gentlemen of the House: I think we have been told that \$3 million has been bantered about, and it certainly has, but we have also been told that we are taking this only back to where we were two or three years ago. Well as far as I am concerned, two or three years ago we were spending too much for education, and this is a continuation of the same effect.

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

Mr. GARSOE: Mr. Speaker, Ladies and Gentlemen of the House: I feel that I am losing my leadership in the field of fiscal conservatism by some of the remarks that have been made here. We are in no danger of mortgaging ourselves to the company store by this action. That Committee of Conference Report that we adopted perhaps put us under more of a financial burden for oncoming years than what we are talking about here now. This legislature, next year, will set the total level of funding. This only refers to how that total level is going to be distributed. And as the gentleman from Livermore Falls says, it merely puts it back to what was contemplated in the original action, and I just don't want you to go out of here thinking you have signed any mortgages.

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

Mr. MACKEL: Mr. Speaker, Ladies and Gentlemen of the House: I just would like to follow up on what Mr. Garsoe said. What he said is true, that we would set a ceiling, so the question then arises, where does the \$3 million come from? That is, if it has to come from within the ceiling, there would have to be an adjustment somewhere within those figures, within that ceiling, and I am afraid that it might come at the expense of the below-average communities or some other program.

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

must have the expressed desire of one fifth of the members present and voting. All those desiring a roll call vote will vote yes; those opposed will vote no.

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

The SPEAKER: The pending question is on the adoption of House Amendment "C" to Committee Amendment "A". All those in favor of that motion will vote yes; those opposed will vote no.

**ROLL CALL**

YEAS — Austin, Bachrach, Bagley, Bennett, Benoit, Boudreau, A.; Brennerman, Burns, Bustin, Chonko, Clark, Connolly, Cox, Curran, Dexter, Dow, Dutremble, Elias, Fenlason, Flanagan, Garsoe, Goodwin, H.; Goodwin, K.; Gould, Gray, Green, Greenlaw, Henderson, Hickey, Hobbins, Howe, Hughes, Jackson, Joyce, Kany, Kelleher, Kerry, Kilcoyne, Laffin, LaPlante, Lewis, Lynch, Mahany, Martin, A.; Masterton, Mitchell, Morton, Nadeau, Najarian, Nelson, M.; Peakes, Pearson, Plourde, Prescott, Quinn, Rideout, Rollins, Spencer, Strout, Teague, Tierney, Trafton, Truman, Valentine, Wyman, The Speaker.

NAYS — Aloupis, Berry, Berube, Birt, Blodgett, Boudreau, P.; Brown, K. L.; Brown, K. C.; Bunker, Byers, Carey, Carter, D.; Carter, F.; Churchill, Connors, Cunningham, Diamond, Drinkwater, Durgin, Fowlie, Gill, Higgins, Huber, Hunter, Immonen, Jacques, Kane, Littlefield, Lizotte, Locke, Lougee, Lunt, MacEachern, Mackel, Marshall, Masterman, Maxwell, McBreairty, McHenry, McKean, McMahon, McPherson, Moody, Nelson, N.; Norris, Peltier, Perkins, Peterson, Post, Raymond, Shute, Silsby, Smith, Sprowl, Stover, Stubbs, Tarr, Theriault, Tozier, Twitchell, Whittemore, Wilfong, Wood.

ABSENT — Ault, Beaulieu, Biron, Carrier, Carroll, Davies, Devoe, Dudley, Gauthier, Gillis, Hall, Hutchings, Jalbert, Jensen, LeBlanc, Mills, Palmer, Talbot, Tarbell, Torrey, Tyndale.

Yes, 66; No, 64; Absent, 21.

The SPEAKER: Sixty-six having voted in the affirmative and sixty-four in the negative, with twenty-one being absent, the motion does prevail.

Mrs. Bachrach of Brunswick requested a roll call vote on the adoption of Committee Amendment "A" as amended by House Amendment "C" thereto.

Mrs. Najarian of Portland offered House Amendment "B" to Committee Amendment "A" and moved its adoption.

House Amendment "B" to Committee Amendment "A" (H-306) was read by the Clerk.

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

Mrs. NAJARIAN: Mr. Speaker and Members of the House: What this amendment would do, it would allow those communities that have to go to the State Board of Education under a hardship appeal, and if they are granted the appeal because of hardship to raise the money locally to meet their basic school needs, this cost would then be included in next year's total operating costs. My rationale for doing that is that if the State Board grants a hardship waiver, then obviously that is a cost that is basic to operating the schools and should be included in the school finance act instead of year after year those communities having to go back and raise it a hundred percent locally on their property tax without any state participation.

I would just like to add that there are about 40 or 50 communities, it is estimated, that might have to apply for this, and I have not been able to get any cost on what it might be. There is probably no way to estimate it.

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

Mr. LYNCH: Mr. Speaker, Ladies and Gentlemen of the House: While I did support the other amendment, I think you ought to know what this does. This automatically puts in your next school funding cost the money raised on hardship waivers. It is included in the computation of the average cost, per pupil cost, the next time around.

We have tried within this bill and the committee amendment to contain some of the education spending. Hardship waivers, let's get a handle on them the next time around. They will be identified in the commissioner's budget recommendation to the legislature, and at that time, any or all of this waiver money can be included, but I think you ought to know what you are doing first.

The SPEAKER: The Chair will order a vote. The pending question is on the adoption of House Amendment "B" to Committee Amendment "A". All those in favor of that motion will vote yes; those opposed will vote no.

A vote of the House was taken.

19 having voted in the affirmative and 101 having voted in the negative, the motion did not prevail.

The SPEAKER: A roll call has been requested on adoption of Committee Amendment "A" as amended by House Amendment "C" thereto. For the Chair to order a roll call, it must have the expressed desire of one fifth of the members present and voting. All those desiring a roll call vote will vote yes; those opposed will vote no.

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

The SPEAKER: The pending question is on the adoption of Committee Amendment "A" as amended by House Amendment "C" thereto. All those in favor will vote yes; those opposed will vote no.

**ROLL CALL**

YEAS — Austin, Bagley, Benoit, Blodgett, Boudreau, A.; Brennerman, Burns, Connolly, Curran, Dexter, Dow, Elias, Fenlason, Flanagan, Garsoe, Goodwin, H.; Goodwin, K.; Gould, Hall, Henderson, Howe, Hughes, Jackson, Joyce, Kany, Kelleher, Kerry, LaPlante, Lewis, Lynch, MacEachern, Mahany, Mitchell, Morton, Nadeau, Nelson, M.; Peakes, Pearson, Post, Prescott, Quinn, Rideout, Rollins, Tarr, Tierney, Trafton, Truman, Valentine, Wyman.

NAYS — Aloupis, Bachrach, Bennett, Berry, Berube, Birt, Boudreau, P.; Brown, K. L.; Brown, K. C.; Bunker, Bustin, Byers, Carey, Carter, D.; Carter, F.; Chonko, Churchill, Clark, Connors, Cote, Cox, Cunningham, Diamond, Drinkwater, Durgin, Dutremble, Fowlie, Gill, Gray, Green, Greenlaw, Hickey, Higgins, Hobbins, Huber, Hunter, Immonen, Jacques, Kane, Kilcoyne, Laffin, Littlefield, Lizotte, Locke, Lougee, Lunt, Mackel, Marshall, Martin, A.; Masterman, Masterton, Maxwell, McBreairty, McHenry, McKean, McMahon, McPherson, Moody, Najarian, Nelson, M.; Nelson, N.; Norris, Peltier, Perkins, Peterson, Raymond, Shute, Silsby, Smith, Spencer, Sprowl, Stover, Strout, Stubbs, Teague, Theriault, Tozier, Twitchell, Whittemore, Wilfong.

ABSENT — Ault, Beaulieu, Biron, Carrier, Carroll, Davies, Devoe, Dudley, Gauthier, Gillis, Hutchings, Jalbert, Jensen, LeBlanc, Mills, Palmer, Plourde, Talbot, Tarbell, Torrey, Tyndale, Wood.

Yes, 49; No, 79; Absent, 22.

The SPEAKER: Forty-nine having voted in the affirmative and seventy-nine in the negative, with twenty-two being absent, the motion does not prevail.

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

Mr. GREENLAW: Mr. Speaker, having voted on the prevailing side, I now move we reconsider our action whereby Committee Amendment "A" as amended by House Amendment "C" thereto failed of adoption and further move that it be tabled for one legislative day.

Whereupon, Mr. Lynch of Livermore Falls requested a roll call vote on the tabling motion.

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 Stonington, Mr. Greenlaw, that this matter be tabled pending his motion to reconsider and tomorrow assigned. All those in favor of that motion will vote yes; those opposed will vote no.

**ROLL CALL**

YEAS — Austin, Bagley, Benoit, Blodgett, Brennerman, Brown, K. L.; Bunker, Carey, Chonko, Churchill, Connolly, Cox, Curran, Dexter, Dow, Drinkwater, Elias, Fowlie, Garsoe, Gill, Goodwin, H.; Goodwin, K.; Green, Greenlaw, Hall, Henderson, Hickey, Higgins, Hobbins, Howe, Hughes, Immonen, Jackson, Jacques, Kane, Kany, Kelleher, Kerry, Kilcoyne, LaPlante, Locke, MacEachern, Masterton, McBreairty, McKean, McPherson, Mitchell, Moody, Morton, Nadeau, Najarian, Peakes, Pearson, Peltier, Perkins, Peterson, Prescott, Raymond, Rideout, Rollins, Silsby, Spencer, Tarr, Teague, Tierney, Tozier, Trafton, Truman, Twitchell, Whittemore, Wood, Wyman.

NAYS — Aloupis, Bachrach, Bennett, Berry, Berube, Birt, Boudreau, A.; Boudreau, P.; Brown, K. C.; Burns, Bustin, Byers, Carter, D.; Carter, F.; Clark, Connors, Cote, Cunningham, Devoe, Diamond, Durgin, Dutremble, Fenlason, Flanagan, Gould, Huber, Hunter, Joyce, Laffin, Lewis, Littlefield, Lizotte, Lougee, Lunt, Lynch, Mackel, Mahany, Marshall, Martin, A.; Masterman, McHenry, McMahon, Nelson, M.; Norris, Plourde, Quinn, Shute, Smith, Sprowl, Stover, Strout, Stubbs, Theriault.

ABSENT — Ault, Beaulieu, Biron, Carrier, Carroll, Davies, Dudley, Gauthier, Gillis, Gray, Hutchings, Jalbert, Jensen, LeBlanc, Maxwell, Mills, Nelson, N.; Palmer, Post, Talbot, Tarbell, Torrey, Tyndale, Valentine, Wilfong.

Yes, 72; No, 53; Absent, 25.

The SPEAKER: Seventy-two having voted in the affirmative and fifty-three in the negative, with twenty-five being absent, the motion does prevail.

(Off Record Remarks)

On motion of Mr. Tierney of Lisbon Falls, the following matter was taken from the Unassigned Table:

An Act to Establish Arbor Week (H. P. 766) (L. D. 959)

Tabled — May 2, 1977 by Mr. Quinn of Gorham

Pending — Passage to be enacted.

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

(Off Record Remarks)

On motion of Mr. Bustin of Augusta, Adjourned until one o'clock tomorrow afternoon.