

# MAINE STATE LEGISLATURE

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**LEGISLATIVE RECORD**

OF THE

***One Hundred and Eighth  
Legislature***

OF THE

STATE OF MAINE

**Volume II**

**May 26, 1977 to July 25, 1977**

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**Senate Confirmation Session  
September 16, 1977**

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KJ PRINTING  
AUGUSTA, MAINE

**HOUSE**

Monday, June 6, 1977

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

Prayer by the Reverend John Shepard Holt of the Damariscotta Baptist Church.

The members stood at attention during the playing of the National Anthem by the Shead Memorial High School Band of Eastport.

The journal of the previous session was read and approved.

**Papers from the Senate**

The following Communication:  
THE SENATE OF MAINE  
AUGUSTA

June 3, 1977

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

The Senate today voted to Insist and Join in a Committee of Conference on Bill, "An Act to Prohibit Smoking at Public Meetings" (H. P. 361) (L. D. 453).

Respectfully,

Signed:

MAY M. ROSS  
Secretary of the Senate

The Communication was read and ordered placed on file.

**Reports of Committees  
Ought Not to Pass**

Report of the Committee on Labor reporting "Ought Not to Pass" on Bill "An Act to Amend the Unemployment Compensation Act" (S. P. 294) (L. D. 920)

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

**Leave to Withdraw**

Report of the Committee on Labor reporting "Leave to Withdraw" on Bill "An Act Relating to Service Fees of Authorized Bargaining Agents" (S. P. 273) (L. D. 831)

Came from the Senate with the Report read and accepted.

In the House, the Report was read and accepted in concurrence.

**Ought to Pass in New Draft**

Committee on Legal Affairs on Bill "An Act Relating to Licensing of Theatres and Motion Picture Houses" (S. P. 51) (L. D. 108) reporting "Ought to Pass" in New Draft (S. P. 524) (L. D. 1837)

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

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

**Divided Report**

Majority Report of the Committee on State Government reporting "Ought to Pass" as amended by Committee Amendment "A" (S-179) on Bill "An Act to Assess a Surcharge on Fines and Penalties for the Operation of the Maine Criminal Justice Academy" (S. P. 179) (L. D. 493)

Report was signed by the following members:

- Messrs. COLLINS of Aroostook
- MARTIN of Aroostook
- Mrs. SNOWE of Androscoggin
- of the Senate.
- Mr. VALENTINE of York
- Mrs. KANY of Waterville
- Mrs. LOCKE of Sebec
- Ms. BACHRACH of Brunswick

Mrs. MASTERTON of Cape Elizabeth  
Mr. STUBBS of Hallowell

— of the House.

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

Report was signed by the following members:

- Messrs. CHURCHILL of Orland
- DIAMOND of Windham
- SILSBY of Ellsworth
- CURRAN of South Portland

— of the House.

Came from the Senate with the Majority "Ought to Pass" as amended by Committee Amendment "A" (S-179) Report read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (S-179)

In the House: Reports were read.

Mr. Diamond of Windham moved that the Minority "Ought Not to Pass" Report be accepted in non-concurrence.

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

Mrs. KANY: Mr. Speaker and Members of the House: I am sure that the members of our committee all felt some ambivalence on this bill and, consequently, it is kind of difficult for any of us to get up and speak on this. I know I am not all that much in favor of dedicated revenues, and that is basically what this calls for, but I ended up signing "Ought to Pass" Report, primarily because the funding problems at the Criminal Justice Academy are largely due to one of these federal funding programs, LEAA, once again. It purchased the Maine Criminal Justice Academy and it did renovate it and then for the first couple of years of its operation provided all of the funds, and it is to the point now where three quarters of the funds are provided by our General Fund and maybe a hundred thousand dollars from LEAA on certain little programs. But even then with these \$400,000, it is not providing what we require in our statutes. We require that all law enforcement officers, during their first year in which they are employed, must undergo some sort of training. Consequently, the Criminal Justice Academy is not able to provide this with this amount of money that they now are able to get from us through the General Fund and it ends up with only one out of three applicants being accepted. So, at the end of the year, many law enforcement officers, during their first year, have not had an opportunity for any training. I think that this particular program would allow us to train our law enforcement officers and I think that all of us agree that they do need such training.

I urge you to reject that Minority "Ought Not to Pass" Report and to then go along with the "Ought to Pass" Report.

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

Mr. CHURCHILL: Mr. Speaker, Ladies and Gentlemen of the House: My objection to this bill was that it isn't a fair assessment. For instance, if you look at the bill, L. D. 493, you will see that on a \$5 fine, you pay a \$2 assessment over and above your fine. Yet, on a \$5,000 or over fine, you are only going to pay \$17. I asked for a 10 percent, if this is what they wanted and needed dedicated revenues to run the Criminal Academy. I suggested, and some of the others mentioned it, that they have a 10 percent fine. For instance, on the \$5 one, you only add 50 cents, but on a \$5,000 one, you would pick up considerably more. I don't think this is fair the way it is right now. This was my main objection. Furthermore, we are trying to get away from dedicated funds, and this is just what this bill is doing.

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

Mr. STUBBS: Mr. Speaker, Ladies and Gentlemen of the House: If you will bear with

us and pass this through the first reading, I have an amendment that will do just exactly what Representative Churchill wishes to do, and I will offer that amendment at second reading.

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

Mr. SILSBY: Mr. Speaker, Ladies and Gentlemen of the House: It was with some reluctance that I signed the "Ought Not to Pass" Report on this particular L. D. I am a great supporter of the Criminal Justice Academy and I think they do wonderful work, but I just cannot support the concept of dedicating these surcharges into a special fund because it leaves in my mind a possibility, it may not be a very strong possibility but it is nevertheless there, of courts increasing the fine to get a higher surcharge and therefore increase the revenues into the Criminal Justice Academy. If these funds or surcharges were put into the General Fund and not dedicated, I would support it completely.

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

Mr. HOWE: Mr. Speaker and Members of the House: The gentlewoman from Waterville expresses some ambivalence about this bill, but I don't have any. I have to concur with the gentleman from Ellsworth, that I just do not like the basic concept of this particular approach to funding the Criminal Justice Academy, surcharge on fines levied by the courts and what an incentive, it seems to me, for the judges to render that much higher fine, the maximum possible fine perhaps to increase the funding for the Criminal Justice Academy. And what about the officer's discretion? In some cases he may now issue a warning, in other cases he may now actually make an arrest. I suspect we will probably see more arrests as a result of this type of legislation. What an incentive to increase the revenue to the Criminal Justice Academy by making more arrests and levying higher fines by the judges. I simply cannot support this concept of funding the Criminal Justice Academy, even though I fully recognize the need for that institution.

I hope we accept the "Ought Not to Pass" Report today.

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

Mr. SPENCER: Mr. Speaker, I would like to pose a question through the Chair to anybody on the committee who might answer as to whether the committee has obtained any opinion as to the constitutionality of imposing a surcharge on fines as a method of funding a state institution?

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

Mrs. KANY: Mr. Speaker, I will be happy to answer that question. A number of states do do this and no problem has arisen except in California. There was a surcharge on bail, and that was found to be unconstitutional. The original bill here also called for the surcharge on bail, so we eliminated that with a committee amendment, but there appears to be no problem constitutionally with putting a surcharge on the fines themselves.

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

Mr. SPENCER: Mr. Speaker, a further question through the Chair. Did the committee actually get a ruling that this was constitutional or was it simply that other states have done it?

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

Mrs. KANY: Mr. Speaker and Members of the House: We did not ask for an opinion here in Maine, but there is nothing in our Constitution which is that different from other state constitutions or under the U. S. Federal Constitution that would imply that it would be unconstitutional to put the surcharge on the fines themselves. I believe this was a question raised

in California and it was found to be constitutional there.

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

Mrs. MASTERTON: Mr. Speaker, Ladies and Gentlemen of the House: As far as the problem of penalizing the lower range of fines is concerned, the rationale behind that is that by far the largest bulk of criminal fines are traffic infractions, so these fines would raise the most money. It was estimated that this penalty assessment system would raise upwards of \$300,000. Our other choice, of course, is taking this money out of the General Fund, but we all have received lots of information from the Criminal Justice Academy. We know there are tremendous needs for training not only our law enforcement officers but also in the corrections field. The Justice Academy has not, up to this point, been able to put very much of their efforts into training correction officers, so that this and the fact that they are over subscribed by about one half as to the number of students they can take into the Criminal Justice Academy in one year, they would like to have another whole class so that they could really take care of the needs of our law enforcement officials.

I think that even though some of us did have reservations, there is a good solid rationale behind the system, and I would urge letting this bill go into the second reading.

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

Mr. JALBERT: Mr. Speaker and Members of the House: I have yet to hear one member who has risen really get up and make what I would call a real solid plea for this bill. Everybody that has gotten up has had some reservations and there has been one point brought out that would almost indicate that they are against this piece of legislation.

We are talking LEAA here, and there are a great many people in Washington that are not talking too kindly about LEAA, and we are going to some day inherit a bauble that we just cannot afford. Restricting myself to this measure right here, I really think this is not a good bill at all. I don't think the committee thinks this is a good bill, and I move the indefinite postponement of this bill and all of its accompanying papers.

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

Ms. BACHRACH: Mr. Speaker, Men and Women of the House: Well, I guess I won't make a really good pitch for this either, but I will make a really good pitch for the Criminal Justice Academy, and if the LEAA has backed away from its obligation to it due to the time limits on that type of funding, and the state cannot afford to put a great deal more money into it, I think we must go in this direction. I have not seen any viable alternatives.

It is really necessary to train the law enforcement officers that we have now and the ones that we will be taking on board and I think that the complaints that the citizens make about inadequate police protection, which does happen at times, is due chiefly to the slowness in getting these men trained. I don't see that we have any alternative but to continue with the academy, which is doing a very fine job.

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

Mr. MacEACHERN: Mr. Speaker, Ladies and Gentlemen of the House: The legislature has mandated that all police officers attend this academy. I think it is our responsibility to see that it is funded.

I have got to answer the gentleman in the front row when he said that passage of this bill would encourage police officers to make more arrests and judges to levy heavier fines. I think I have got a little more confidence in our police

officers and judges than to think that any bill like this would influence their decisions. I think that is a very empty argument and it is a slap in the face to the courts and the police officers. I hope you don't indefinitely postpone this bill.

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

Mr. TIERNEY: Mr. Speaker, Men and Women of the House: Speaking clearly in my capacity as a legislator for District 3, I think this is a terrible bill and I think we should indefinitely postpone it.

I think the remark of my good friend from Lincoln, Mr. MacEachern, is absolutely correct when he says that we should adequately fund our Maine Criminal Justice Academy. I think the remarks of the gentlelady from Brunswick and others, when they said that the academy does a fine job, are absolutely right on point. My objection to this bill is that this is not the way to fund it. Every tax reform analysis that has ever been done says we should get away from dedicated revenues. It leads to skewering of our priorities within government. It adds one more amount of money that we as legislators are not able to allocate towards where we need it the most. Of course we need well-trained police officers, of course we also need tax relief for the elderly, of course we need to take care of our people at Pineland, of course we have to take care of the whole myriad of other governmental problems.

I see no problem with letting the Maine Criminal Justice Academy compete with all of those other social needs through our already established budgetary process. It is the budgetary process that I have some problems with, but I am certainly not about to let one school cull itself out from the entire appropriations process and get special treatment. I don't think that is right. I think we should stay away from dedicated revenues. I think we should deal with the problem of adequate funding in the way that we deal with adequate funding for all of our institutions and all of our needs, not in this backdoor method.

This bill has gone to the Appropriations Committee before and it has never received favorable passage. Now they have slipped it in this time through the State Government Committee which (and I say it with all respect for that committee) essentially is not an Appropriations Committee and does not have the experience in the appropriations process.

I certainly hope we do heed the motion of the Dean of the House.

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

Mr. CAREY: Mr. Speaker, Ladies and Gentlemen of the House: I would like to correct the gentleman from Lisbon-Durham in one of his remarks when he says, "They failed in getting the bill through the Appropriations Committee the last time, so this time they directed it through the State Government Committee." I would like to remind the gentleman that as a member of leadership, it is leadership that has been deciding where these bills are going, not outside people.

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

Mr. TIERNEY: Mr. Speaker, Ladies and Gentlemen of the House: In response to my good friend from Waterville which, as I understand, is the general location of the Maine Criminal Justice Academy, and the gentlelady from Waterville, Mrs. Kany, who has also spoken on this issue, we all refer bills to committee and if anyone doesn't like the objection, obviously they can make it on the floor of the House. The Reference of Bills Committee has been abolished. That function has since been taken over by our good friend the Clerk and the Secretary of the Senate.

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 my Majority Leader; he is right on target. This bill is a kind bill, the kind of bill that should get the treatment recommended by the gentleman from Lewiston.

I don't have constitutional problems with this. My objections rest in the area of philosophy. How do you really feel about this method of funding, putting a bounty on the unfortunate who are arrested? About policemen, will there be equal treatment? How do you think the chief and the top administration must act when they observed one officer patrolling I-95, the closed or the open section, it doesn't make any difference, and he is down there for a week and doesn't make one arrest, another officer is down there for a week and makes 10 arrests. Sure, that is what traffic law enforcement is all about. They don't want one policeman to be the bad guy. I think there will be pressures here.

I agree, the criminal justice academy with all its problems, it still needs our support. I don't feel this is the way to get it. I don't like that bounty.

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

Mr. CAREY: Mr. Speaker, Ladies and Gentlemen of the House: I don't want to prolong the discussion between the Majority Leader and myself except that if you will notice, this is L. D. 493, and at that point in the session, it was leadership who was directing the placement of the bills. Only after that period did the Clerk's office get involved.

In any event, Mr. Speaker, the gentleman from Portland, Mr. Joyce, has mentioned that we are putting a bounty on the unfortunate who are arrested. If he would tend to read the bill, he would find that we are putting a bounty on those who are found guilty.

I would point out that I sponsored this bill some four years ago. We are trying something new in Taxation which should be bouncing in on the floor of the House in the very near future. I would think that the House may want to consider this as an alternative, that in fact we put some kind of a sunset on this type of funding, that we in fact go through with this bill and put a two-year time limit on it to see exactly how it is working out. I have been, in the 12 years that I have sat in this House, a very strong opponent to dedicated revenue. Since we are talking about sunset on departments, I am also interested in the possibility of getting into sunsets in some other areas and this may very well be one of those areas.

The Majority Leader alluded to the fact that the gentlelady from Waterville, Mrs. Kany, and I were interested in this bill and well we should be. I remember my arguments with the gentleman from Lewiston, Mr. Jalbert, and we were successful in getting the Criminal Justice Academy located in Waterville, where he had intended that it go to the Lewiston-Auburn area. I do recall those conversations. They were conducted in a very friendly atmosphere. We still are friends, I would hope. I did not know we were friends the way he slid up his microphone, however.

This may be way out of our dilemma, Mr. Speaker, so that we can, in fact, end up putting some limit as to how much money will be going in there. Mr. Stubbs' 10 percent amendment seems very reasonable, and I would hope that you might give this your most serious consideration and try to carry this along so that we may be able to work out the bugs.

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

Mr. JALBERT: Mr. Speaker, Ladies and Gentlemen of the House: My very deep friendship for my very dear friend from Waterville forces me to be very kind. I will just let it go at this. Somewhere along the line I recall the

gentleman from Waterville making a comment that somebody must be on pot somewhere along the line. If I ever discussed locating this monstrosity in Lewiston, I really was on the pot, believe me, because I have never wanted any part of it, even in Eagle Lake.

I am not discussing the Criminal Justice Academy. I would like to discuss it sometime. I will tell you exactly, if you want my honest opinion of this thing here, this is because LEAA is very very shaky. This starts the beginning of funding through another method the Criminal Justice School in Waterville and I am not going to touch on the pros and cons of it. I have heard too often, my very dear friend from Waterville and I stand side by side against this type of financing to change my mind.

The gentleman from Waterville is a very kind person. He is flexible, he has an open mind on things like this and well that he should. The school is in Waterville and he is the Mayor of Waterville. I think it is perfectly proper for him to take the stand that he does. My mind is as it always has been, it is as open as a vise shut!

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

Mr. BOUDREAU: Mr. Speaker, Ladies and Gentlemen of the House: I rise today to support the motion of the gentleman from Lewiston, Mr. Jalbert. Even though the Criminal Justice Academy is in Waterville, I don't believe it should be funded this way.

This bill reminds me of a song the Beatles wrote about 10 years ago called "The Tax Man". It said that if you take a walk, I will tax your feet, if you drive a car, I will tax the street. Now we are going to start taxing fines. That is not the way to do it.

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

Mr. GREENLAW: Mr. Speaker, Men and Women of the House: I would like to take just a minute to clarify some statements which I think need some clarification that have been mentioned in regard to this bill. During the debate, I talked with the director of LEAA to ask just exactly how much LEAA funding presently exists in this present fiscal year for the Criminal Justice Academy. I am informed that there are approximately two grants that probably total no more than \$25,000.

At one time, I served on the board of directors of LEAA, and I can tell you that I was extremely frustrated by their lack of willingness to involve the legislature in the grant process. What I mean by that is that they made no attempt whatsoever to forward to the Legislative Finance Office or the Appropriations Committee the grants and length of grants that they were funding state agencies. The reason why this frustrated me was that the towns that received grants were required to tell the board of directors before they received funding for a particular project that they would pick up the cost of that project either two or three years down the road. State government had no requirement. I think with the legislation that Representative Najarian has introduced, that may change very quickly and I am a very strong proponent of that.

I also checked the presentation that the Department of Public Safety made. Of course you know, the Criminal Justice Academy comes under the umbrella of the Department of Public Safety. In their request to the Budget Office, they requested about an additional \$100,000 for the biennium. At the public hearing (this is on record in the Legislative Finance Office if anyone wants to check it) a statement was made, something to the effect that they could get by with the present appropriation that was recommended by running a very tight ship.

In a very brief summary, I am against this particular type of funding for the Criminal Justice Academy, although I think I am, as many members in this House, a very strong

proponent of the Criminal Justice Academy. The Appropriations Committee will be starting to take a look at the Part II Budget considerations and I, myself, intend to do a little additional investigating to see whether any additional funding might be in order for the Criminal Justice Academy. It seems to me that is the way to go rather than enacting this bill. I support the motion to indefinitely postpone and urge you to do also.

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

Mrs. KANY: Mr. Speaker and Members of the House: If this bill is rejected, and I can understand the reasoning of most of the people in the House, then I really personally would consider it a commitment on everyone's part to support more funding in that Part II Budget. I understand that in the Part I Budget, the same amount is requested for both years, \$280,000. That will just not do it, particularly since we are mandating that these first-year law enforcement officers receive training. If this House does reject this bill, we should feel definitely committed to supporting that in the Part II Budget.

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

Mr. BURNS: Mr. Speaker, Ladies and Gentlemen of the House: As an alumnus of the Maine Justice Academy, I feel I have to stand up and at least attempt to defend the academy. I graduated from the academy seven years ago last month. In the seven-year period, there has been major strides made in this area. At that time, we were down at the Men's Correctional Center in South Windham. Since then, they have acquired a new campus at Waterville. The curriculum has been changed tremendously; they are doing an excellent job.

I do support the funding of the academy, but I go along with the majority of the House, I guess, as to how this funding is coming about. In that I also sponsor the Governor's bill to un-dedicate all other dedicated funds, I am caught right in the middle. I would hope that today you would keep this bill alive and maybe overnight or in a day or so we can come up with some gem that may say this, so please vote against the indefinite postponement.

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

Mr. GOULD: Mr. Speaker, Ladies and Gentlemen of the House: Without any equivocation and mental reservation, I support this bill. I think it is the best thing since the Trac II razor. Those of us who break the law are the ones who will pay. The good gentleman from Portland, Representative Joyce, has so much compassion for those arrested, it is difficult to conceive how he could be a policeman for 27 years. I urge you to go along with this bill and let it go into the second reading and be amended in any way possible to make it palatable.

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

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

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

#### ROLL CALL

YEA — Bagley, Beaulieu, Berry, Berube, Biron, Blodgett, Boudreau, P.; Brenerman, Brown, K. L.; Brown, K. C.; Bustin, Carrier, Carroll, Carter, D.; Carter, F.; Chonko.

Churchill, Clark, Cote, Cunningham, Curran, Davies, Dexter, Diamond, Dutremble, Flanagan, Fowlie, Gauthier, Goodwin, K.; Greenlaw, Henderson, Hickey, Hobbins, Howe, Hughes, Hunter, Hutchings, Immonen, Jackson, Jacques, Jalbert, Jensen, Joyce, Kane, Kelleher, Laffin, LaPlante, Lizotte, Lunt, Mahany, Masterman, Maxwell, McHenry, McMahon, Mitchell, Moody, Nadeau, Najarian, Nelson, M.; Nelson, N.; Palmer, Peltier, Plourde, Prescott, Raymond, Shute, Silsby, Stover, Strout, Talbot, Tarbell, Tierney, Trafton, Truman, Tyndale, Whittemore, Wilfong.

NAY — Aloupis, Ault, Bachrach, Birt, Boudreau, A.; Bunker, Burns, Carey, Connors, Cox, Devoe, Dow, Drinkwater, Durgin, Fenlason, Garsoe, Gill, Gillis, Goodwin, H.; Gould, Gray, Green, Hall, Higgins, Huber, Kany, Kilcoyne, Lewis, Littlefield, Locke, Lougee, Lynch, MacEachern, Mackel, Marshall, Masterton, McBreairey, McKean, McPherson, Morton, Norris, Pearson, Perkins, Peterson, Post, Rollins, Sewall, Smith, Spencer, Sprowl, Stubbs, Tarr, Teague, Theriault, Torrey, Tozier, Valentine, Wood, Wyman.

ABSENT — Austin, Bennett, Benoit, Connolly, Dudley, Kerry, LeBlanc, Martin, A.; Mills; Peakes, Quinn, Rideout, Twitchell.

Yes, 78; No, 59; Absent, 13.

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

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

Mr. JALBERT: Mr. Speaker, having voted on the prevailing side, I move we reconsider our action whereby this Bill was indefinitely postponed and hope you vote against me.

The SPEAKER: The gentleman from Lewiston, Mr. Jalbert, moves that the House reconsider its action whereby this Bill and all its accompanying papers were indefinitely postponed. All those in favor of reconsideration will say yes; those opposed will say no.

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

Sent up for concurrence.

#### Non-Concurrent Matter

Bill "An Act Authorizing Control over the Electrical Rates Charged Maine Consumers by Out-of-State Electrical Utilities" (H. P. 835) (L. D. 1008) on which the Minority "Ought to Pass" as amended by Committee Amendment "A" (H-401) Report of the Committee on Public Utilities was read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (H-401) in the House on June 2, 1977.

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

In the House: Mr. Valentine of York moved that the House insist and ask for a Committee of Conference.

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

Mr. PEARSON: Mr. Speaker, I move that we recede and concur, ask for a division and would speak to my motion.

The SPEAKER: The gentleman from Old Town, Mr. Pearson, moves that the House recede and concur.

The gentleman may proceed.

Mr. PEARSON: Mr. Speaker, Ladies and Gentlemen of the House: This is the bill that was before us the other day which would require that the electrical rates that Central Maine Power charges for its customers be applied to those customers who fall under New Hampshire Power. If you remember at the time, I told the House and am again repeating

it, that I did not think that it was fair for the rates and the overhead and all the other considerations that Central Maine Power had to take into account should be applicable to New Hampshire Power or vice versa. It seems to me that this is putting one standard on a company that has other considerations that it must take into account in establishing its rates and is unfair.

If you were to take this bill to its logical conclusion and say that you should charge the lowest rate of a surrounding public power company, then it would be fair to say that you should charge the rate for Bangor Hydro, if Central Maine Power was lower, and you should charge the same for Maine Public Service in Aroostook if Bangor Hydro were lower. All of those companies have different financial considerations that they have to take into account.

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

Mr. KELLEHER: Mr. Speaker, Ladies and Gentlemen of the House: The arguments that the good gentleman from Old Town presented here on this issue would be sound, but the only problem is that we are dealing with a foreign utility in the state in servicing over 6,000 customers or 6,000 people in southern Maine. Using the comparison of CMP vis-a-vis Bangor Hydro, I could accept his arguments, but that is not the case here this morning, we are dealing with a foreign utility, as I said before, in adjusting rates for citizens in southern Maine.

I would urge you to reject the good gentleman's motion and then support the gentleman from York County, Mr. Valentine's motion to insist and ask for a committee of conference.

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

Mr. VALENTINE: Mr. Speaker, Ladies and Gentlemen of the House: I will not go over this whole issue again. I went over it I think adequately last week. The reason that I am asking for a committee of conference is because if a number of the members of this body don't feel that they are comfortable with the bill as it has been amended and written now and which, incidentally, says that it will use adjacent rates as a rate-making criteria, it does not say that the rates will be identical to those of an adjacent utility, then I would like to have a committee do whatever they can to come up with something that will at least offer the people in that part of Maine some kind of protection. I don't know exactly what the answer is. The original bill has been amended and modified because it was not acceptable in its original state. I think the amendment version is reasonable. But if some don't, then I would ask that you allow members from this body and the other body to get together and come up with at least something that will address this particular problem.

It certainly came as no surprise to me that the other body accepted the "Ought Not to Pass" Report. I didn't expect otherwise, but I would hope that at least this body would be willing to let a group try to work something out so that the people of that area of the state, particularly in Eliot and Kittery and some in York, would at least feel with that particular problem with which they now feel very frustrated, that if nothing else, at least the Maine legislature, that body representing them as citizens collectively, has done something to address that particular problem.

I hope that you will reject the motion to recede and concur and accept my motion to insist and ask for a committee of conference.

The SPEAKER: The Chair recognizes the gentleman from New Gloucester, Mr. Cunningham.

Mr. CUNNINGHAM: Mr. Speaker, Ladies and Gentlemen of the House: I feel that I have

to support my committee mate, the gentleman from Old Town, in his appeal to you to recede and concur.

There are several electric utility companies doing business throughout the State of Maine and they all have different rates that they charge their customers. Of the nine largest in the State of Maine, the utility that is serving us from outside the State of Maine ranks sixth in order of ascending rates.

The average bill for 500 kilowatt hours for the least expensive company in the State of Maine is Madison Electric Works; the cost of 500 kilowatt hours is \$10.20. Then we go to the Kennebunk Light and Power; theirs is \$12.32. My question is this, if the people who are served by the New Hampshire company do not like the idea of being charged sixth highest out of the nine, why did they not pick the Kennebunk Light and Power district as the place where they would want their rate reduced to? That is only \$12.32. That is the second lowest in the State of Maine. We do have difficulty in trying to impose Maine rates on an outside utility. We cannot even impose rates the same within the State of Maine. How can we justify imposing a rate to accompany outside the state of Maine?

I would just like to reiterate one point that I made last week when we debated this bill. The point is that the people who were served by this particular electric utility three years ago were being charged, at that time, less than their neighbors in the Central Maine Power Company. They did not come and ask for an increase so they would be equal to the Central Maine Power Company. Why is it now, three years later, that they are asking for Central Maine Power rates? It is because of the varying times in the rate review cases, they happen to be higher than Central Maine Power at this particular time. I should venture to guess that the rates may change in the future and Central Maine Power may, for a period of time, be ahead of them. How many times are we going to keep changing this? Let's recede and concur today and get it over with.

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

Mr. VALENTINE: Mr. Speaker, Men and Women of the House: As I tried to point out last week when I spoke on this issue, my concern is not specifically that of the dollar and cents rate. That is something that is liable to fluctuate back and forth over the next several years. My concern is that the people in that area have the same kind of protection in dealing with a monopoly utility that the rest of us in the State of Maine have.

In reference to comments made by the gentleman from New Gloucester, Mr. Cunningham, about a couple of the power companies. I think it might be interesting to point out that the Kennebunk Power and Light and I also believe the Madison Power and Light are essentially public power utilities.

The SPEAKER: The Chair recognizes the gentleman from Eliot, Mr. McPherson.

Mr. McPHERSON: Mr. Speaker, Ladies and Gentlemen of the House: The gentleman from New Gloucester, Mr. Cunningham, hit the nail right on the head. The Public Utilities Commission cannot regulate a utility from out of state. In all of the rate hearings that we have been involved with, this has been the big problem. The southern part of Maine that is serviced by Public Service of New Hampshire is just a very small part of the total operation of public service of New Hampshire. It is a known fact that they are buying power from Central Maine Power, from Wiscasset and from the hydro electric facilities of the State of Maine. It is being transported into New Hampshire and right back across the river again and sold to the people of Kittery, Eliot and York at the higher rate.

The SPEAKER: A vote has been requested.

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

A vote of the House was taken.

40 having voted in the affirmative and 63 having voted in the negative, the motion did not prevail.

Thereupon, on motion of Mr. Valentine of York, the House voted to insist and ask for a Committee of Conference.

#### Non-Concurrent Matter

Bill "An Act Concerning the Registration of Voters by Justices of the Peace" (H. P. 1353) (L. D. 1622) which was passed to be engrossed as amended by Committee Amendment "A" (H-451) in the House on June 1, 1977.

Came from the Senate passed to be engrossed as amended by Committee Amendment "A" (H-451) as amended by Senate Amendment "A" (S-187) thereto in non-concurrence.

In the House: On motion of Mrs. Boudreau of Portland, the House voted to recede and concur.

#### Petitions, Bills and Resolves Requiring Reference

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

##### Education

Bill "An Act Concerning State Reimbursement and Executive and Legislative Deadlines under the School Finance Act of 1976" (H. P. 1654) (L. D. 1852) (Presented by Mr. Palmer of Nobleboro) (Approved for introduction by a Majority of the Legislative Council pursuant to Joint Rule 25.)

(Ordered Printed)

Sent up for concurrence.

By unanimous consent, ordered sent forthwith to the Senate.

##### Orders

An Expression of Legislative Sentiment (H. P. 1652) recognizing that: Elizabeth Anne Keith has been recognized for her excellent academic record by being chosen Salutatorian of Mat-tanawcook Academy of Lincoln (Presented by Mr. MacEachern of Lincoln)

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

An Expression of Legislative Sentiment (H. P. 1653) recognizing that: Elaine Marie Currier has been recognized for her excellent academic record by being chosen Valedictorian of Mat-tanawcook Academy of Lincoln (Presented by Mr. MacEachern of Lincoln)

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

On motion of Mr. Nadeau of Sanford, it was ORDERED, that Gary Fowlie of Rockland be excused May 23rd, May 27th and June 2nd due to illness in the family.

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

Mr. Curran from the Committee on State Government on Bill "An Act Relating to the Duties and Supervisory Authority of the Commissioner of Business Regulation" (H. P. 782) (L. D. 935) reporting "Ought Not to Pass"

Mr. Jacques from the Committee on Transportation on Bill "An Act to Clarify Transporter Registration and Licensing" (H. P. 250) (L. D. 322) reporting "Ought Not to Pass"

Mr. Elias from the Committee on Transportation on Bill "An Act to Provide for the Issuance of a 30-Day Temporary License Class 2 Motor Vehicles Operator's License to a Holder of a Class 3 License" (H. P. 1425) (L. D. 1632) reporting "Ought Not to Pass"

Ms. Clark from the Committee on Business



Legislation on Bill "An Act Exempting Fishing Cooperatives from Registration as Dealers in Securities" (H. P. 741) (L. D. 946) reporting "Ought Not to Pass"

Mr. Whittemore from the Committee on Business Legislation on Bill "An Act Relating to the Payment of Interest on Mortgage Escrow Accounts" (H. P. 407) (L. D. 500) reporting "Ought Not to Pass"

Mr. Sprowl from the Committee on Business Legislation on Bill "An Act to Assure Uniformity in Insurance Discrimination Provisions" (H. P. 584) (L. D. 711) reporting "Ought Not to Pass"

Mr. Davies from the Committee on Energy on Bill "An Act to Restrict Oil Firms to One Phase of the Oil Industry" (H. P. 808) (L. D. 1052) reporting "Ought Not to Pass"

Mr. Dow from the Committee on Fisheries and Wildlife on Bill "An Act to Provide for Boat Registration in Municipalities" (H. P. 412) (L. D. 505) reporting "Ought Not to Pass"

Mr. Dow from the Committee on Fisheries and Wildlife on Bill "An Act to Permit the Taking of Togue from Sebago Lake" (H. P. 1118) (L. D. 1336) reporting "Ought Not to Pass"

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

**Leave to Withdraw**

Mr. Goodwin from the Committee on Health and Institutional Services on Bill "An Act to Change the Name of the Bureau of Mental Retardation" (H. P. 1034) (L. D. 1257) reporting "Leave to Withdraw"

Mr. Jensen from the Committee on Transportation on Bill "An Act Concerning Axle Weight Limits for Vehicles Hauling Certain Special Loads" (H. P. 1100) (L. D. 1324) reporting "Leave to Withdraw"

Mr. McKean from the Committee on Transportation on Bill "An Act Relating to Requirements for Operation of a Motor Vehicle upon Attaining Age 75" (H. P. 1181) (L. D. 1422) reporting "Leave to Withdraw"

Mr. Lunt from the Committee on Transportation on Bill "An Act to Authorize the Construction of a Bangor-Brewer Bridge" (H. P. 793) (L. D. 1016) reporting "Leave to Withdraw"

Mr. Carey from the Committee on Taxation on Bill "An Act Increasing the Real Estate Transfer Tax" (H. P. 659) (L. D. 800) reporting "Leave to Withdraw"

Mrs. Post from the Committee on Taxation on Bill "An Act to Provide an Equitable Method of Reimbursing Municipalities for Revenue Loss Due to the Tax Exemption on Business Inventories" (Emergency) (H. P. 1054) (L. D. 1289) reporting "Leave to Withdraw"

Mrs. Chonko from the Committee on Taxation on Bill "An Act to Provide Reimbursements to Municipalities for the Loss of Revenues from the Tax on Business and Agricultural Inventories" (Emergency) (H. P. 1053) (L. D. 1260) reporting "Leave to Withdraw"

Mr. Carter from the Committee on Taxation on Bill "An Act to Increase the Fees on Real Estate Transfers" (H. P. 443) (L. D. 550) reporting "Leave to Withdraw"

Reports were read and accepted and sent up for concurrence.

**Ought to Pass in New Draft**

Mr. Carter from the Taxation on Bill "An Act Providing for Establishment of a State Tax Mix" (H. P. 1508) (L. D. 1740) reporting "Ought to Pass" in New Draft (H. P. 1647) (L. D. 1848)

Mr. Austin from the Committee on Performance Audit on Bill "An Act Pertaining to the Granting of Preference in the Letting of State Contracts to State of Maine Resident Bidders" (H. P. 1502) (L. D. 1729) reporting "Ought to Pass" in New Draft (H. P. 1648) (L. D. 1849)

Mr. Boudreau from the Committee on Election Laws on Bill "An Act to Clarify the Investigatory Authority of the Commission on Governmental Ethics and Election Practices in Regard to Contested Elections" (H. P. 687) (L. D. 869) reporting "Ought to Pass" in New Draft (H. P. 1649) (L. D. 1850)

Mr. Lynch from the Committee on Education on Bill "An Act to Provide Alternatives to the Compulsory Attendance Law" (H. P. 615) (L. D. 815) reporting "Ought to Pass" in New Draft under New Title Bill "An Act Relating to Habitual Truants and School Dropouts" (H. P. 1650) (L. D. 1851)

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

**Ought to Pass with Committee Amendment**

Mr. Lynch from the Committee on Education on Bill "An Act Authorizing the Approval of New School Construction in the Town of Stockholm" (Emergency) (H. P. 1613) (L. D. 1821) reporting "Ought to Pass" as amended by Committee Amendment "A" (H-505)

Mr. Carter from the Committee on Taxation on Bill "An Act to Remove Sales Tax from Residential Water" (H. P. 1400) (L. D. 1567) reporting "Ought to Pass" as amended by Committee Amendment "A" (H-500)

Reports were read and accepted and the Bills read once. Committee Amendment "A" to each was read by the Clerk and adopted and the Bills assigned for second reading tomorrow.

**Ought to Pass Printed Bill**

Mr. Drinkwater from the Committee on Local and County Government on Resolve, to Correct the Personal Services Appropriation for the Sheriff of Washington County for the Year 1977 (Emergency) (H. P. 1615) (L. D. 1822) reporting "Ought to Pass"

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

**Divided Report**

Majority Report of the Committee on Agriculture reporting "Ought Not to Pass" on Bill "An Act to Give Milk Markets the Option of Terminating the Maine Milk Commission's Retail Price-Fixing Authority" (H. P. 1335) (L. D. 1600)

Report was signed by the following members:

Messrs. HICHENS of York  
JACKSON of Cumberland  
LEVINE of Kennebec

— of the Senate.

Messrs. SMITH of Mars Hill  
TORREY of Poland  
ROLLINS of Dixfield  
MAHANY of Easton  
STROUT of Corinth  
LOUGEE of Island Falls  
TOZIER of Unity

— of the House.

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

Report was signed by the following members:

Messrs. WOOD of Sanford  
HALL of Sangerville

— of the House.

Mr. CARROLL of Limerick

— of the House — abstaining.

Reports were read.

The SPEAKER: The Chair recognizes the gentleman from Easton, Mr. Mahany.

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

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

Mr. WOOD: Mr. Speaker, Ladies and Gentlemen of the House: I would hope that we would not accept the Majority "Ought Not to Pass" Report and accept the Minority "Ought to Pass" Report. I would like to take just a little bit of your time to go over the history of this bill.

There has been a lot said that this bill is the bill to do away with the Maine Milk Commission, but if you take out L. D. 1600, I don't see any place in the bill where it is going to do away with the Maine Milk Commission. In fact, the title says "Option;" option does not mean mandating anything, it means giving the voters the option of deciding whether in your own local communities under local option, they want to keep the pricing of the Maine Milk Commission, and it is pricing at the retail level, not at the farm level. So I think there has been a lot of misinformation, and I would just like to clear that up.

If you look at the bill further, how they go about getting this local option question, they have to first have 15 percent of the voters in a town, and after that, the question is put to them, "shall the Maine Milk Commission cease to have the authority to set the price of milk, except the price paid by the dealer to the producer in the city or town?" It doesn't say that it is going to do away with the Maine Milk Commission statewide, just in that locality. I think we are presuming too much if we presume that the voters are going to vote for this or against it. What we are doing is giving the voters the right to decide. I would argue that when the Maine Milk Commission was set up, it was set up on a volunteer basis whereas towns came in when they petitioned the commission. And I would argue that if you are going to allow the towns to come in to petition, then you should set up a mechanism to allow them to get out of the Maine Milk Commission. They had that right, and in 1975, it is my understanding when we passed a revision of the Maine Milk Commission, we took that right away. So in effect we are saying that you can come in under the guidance of the Maine Milk Commission, but you can't get out from it.

I wish that I had a map of those areas in the state that are under the Maine Milk Commission. I think a lot of us were under the misunderstanding that there were a lot of towns under it. Well, there is almost half of the state that is not under the Maine Milk Commission, and I will have that map reproduced and distributed at some later date so you can see those towns that aren't. In fact, in my district alone, three of the four towns aren't covered by the Maine Milk Commission. So I don't think we are doing anything radical. I think what we are saying to the voters is that they will have the right. We are not saying whether the Maine Commission is good or bad; we are leaving that choice to the voters, where it belongs.

I would say that this is more or less a sunset local option type bill which is saying that if you are dissatisfied with an element in your government, you should have the right to vote on that. We are not saying you should vote against it or vote for it, but you should have the right, so I would like to clear that point up right away, that this bill is not a repeal of the Maine Milk Commission. It is granting local people the right to make decisions and it is something that was already in the law before.

I think that as much as I would like to be able to deal with this issue without getting into the pros and cons of the Maine Milk Commission. I am afraid that, during the debate, the pros and cons of the Maine Milk Commission will be discussed and I would like to go over my experience with the Maine Milk Commission in why if I was voting at a local level, I probably would vote to do away with the pricing.

It was interesting at the hearing when I came into the room on this particular bill, there are a

number of farmers there and it was sort of intimidated to me that I obviously didn't know much about farming, and I told them that I had milked a good many cows and I was on the Agriculture Committee because of my farming background, that I wasn't a city slicker and unfortunately the debate on this bill became one of the city folk that obviously didn't know anything about farming, to the farm folk that obviously knew everything about farming, and I don't think that is the issue. I know a considerable amount about farming and I have milked a considerable number of cows and I think the Maine Milk Commission is the worst thing farmers ever had in this state.

I grew up on a farm and my father sold farm machinery for about thirty years and if the Maine Milk Commission was trying to save farms all this time I don't understand why all those farms in our neighborhood went under. In a good many chats with those farmers, I got the opinion that they didn't like the Maine Milk Commission and I will give you two examples why: One is that we have two varieties of farmers in the state, we have one variety fortunate enough to be under the Maine Milk Commission and one variety that sells on the Boston market, and I would argue that the price of grain, the price of land, the taxes they pay, are all the same but if you happen to be on the Maine Milk Commission guidelines, you get a better price for your milk. If you happen to be on the Boston market and can't get on the Maine market, then you do not get such a good price, and I think that this is discrimination and I think it is a system that pits one type of farmer against another for no obvious reason. The price is the same, the work they do to produce that milk is the same and yet they will get a worse price because they happen to sell on the Boston market and you might say: well why don't they get on the Maine Market then? Well the system is one that locks them out of getting on the Maine market. A lot of these farmer try to get on the Maine market and they can't get on it. So I think that if you care about farmers in this state you do not want to see a system that treats some farmers better than others.

The other thing that I found distasteful about the Maine Milk Commission is one that where you have a different set of prices. We had a situation in our area where the dairy declared a surplus. They said "we have too much milk, so we will buy your milk at a lower price." It was interesting that while they declared this surplus and were paying a lower rate for milk, milk in our area was being shipped in from Vermont and from out of state and I can't imagine how you can have a system which says it's surplus and yet we are shipping milk into these dairies. So I would argue that those farmers in our area that were getting a lower price for their milk were operating not under a surplus situation but under a situation that benefitted the dairies in those areas. A system that benefits the dairies to the detriment of the farmers, I don't think is the best system for the farmers. For these two reasons, I would argue not the consumer viewpoint but the farmer viewpoint. The farmers for too long have been their own worst enemy. They feel that the Maine Milk Commission is really their friend and I would argue that the Maine Milk Commission is really friends of the dairy and not the farmers. So it disturbs me to see the Department of Agriculture and the agriculture societies in this state decide to take this issue and really play it up, that somehow if you vote for this bill, you are not a friend of the farmer. Well I would argue that I consider myself a friend of the farmer considering that I have been one and our family has been in the farming business and that I come from a farming area and that I am willing to go on record as being against this type of approach. I also think that people in the areas I trust the people's

judgment and if the people in my town want the Maine Milk Commission to stay in that town, then they will vote that way. If they don't they will vote the other way. I don't want to presume what they are going to do. So in summary, I would argue that the system that is based on fear, that pits farmer against farmer and offers farmers less than they deserve and consumers more than they can afford, is a system that should be under the scrutiny of the public and this is one way of doing it.

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

Mr. HALL: Mr. Speaker, Ladies and Gentlemen of the House: I hope the good gentleman from Springvale, Mr. Wood, didn't take all of my remarks.

First of all, let me begin by saying that I have no quarrel with the price of milk to begin with, because I don't think it is high enough to begin with. When I go to the store and pay 40 cents for a bottle of ginger ale to mix in my liquor, I don't think 40 or 42 cents for milk is out of line.

But the thing that bothers me is a little more than that. I see in my district half of the farmers that sell on the Boston market. I see these same farmers with equipment a little older, their barns a little grayer, their clothes a little more tattered than the farmers that sell on the Maine market. I see that the taxes that they pay the town sometimes are not quite on time as the ones that are on the Maine market and the reason is because of the price differential. To me this is the bottom crux of the whole thing. Why is it that a man because he sells his milk in Boston can't get somewhere near the same price as you get for the milk in the State of Maine?

There is an article in the May 16th edition of the Kennebec Journal that is pretty good. I would just like to relate to you a part of it. You all remember the bill we passed here in regard to price fixing. We made that law pretty stiff, up to \$10,000 and it states here: There was another news story last Tuesday; this one on Page 3, in it we read that the farmers had urged lawmakers to keep the Maine Milk Commission intact and opposed a plan for communities to vote to withdraw the penalties price setting jurisdiction. Now what would a Martian think upon arriving at Capitol Park for a midnight reconnaissance and find this Kennebec Journal under a bench? In one action, the Senate vigorously strengthens the punitive hand of the state against the dastardly crimes of anti-trust and price fixing, cheek by jowl, on the same day's news, is the account of a state agency being defended for its exercise of this same tactic. Do you think that makes sense? To me, this is wrong. What I see happening ladies and gentlemen, is a wedge driven between the farmers and I want you to know this that to me we can't afford that any longer. It must be getting to be quite a problem because, as of last week, I spoke with the commissioner and I think we are very fortunate to have a pretty good commissioner in this state, and he, in a way, lobbied me, he wanted me to vote against this and I said not by a long sight. He recognizes the problems enough and he was going to go with me and in fifteen or twenty minutes, I had six or eight of the farmers together that are selling on the Boston market so that we are going to meet. Now I don't know whether this bill will pass or not, but I am telling you this much, right now, until this problem is settled so that the price differences are more in line, you are going to see it come back and back and back.

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

Mr. BRENERMAN: Mr. Speaker and Members of the House: Like Mr. Bustin with his television advertising bill last week, I came up with the idea for this bill myself because I felt that the people of this state should have the right to vote to have their municipality

withdraw from the retail authority of the Milk Commission and that milk, like any other food product, should be sold on the free market under competitive circumstances in those communities that wish to do so. We have battered around the terms free enterprise and local control in this session, and here I thought was an opportunity to put those factors together into one piece of legislation, while at the same time helping the consumer and not harming the farmer.

There are several important points about this bill that I would like to stress to this House. In 1935, when the Milk Commission was set up it could not exercise its authority unless producers, dealers or consumers applied voluntarily to be under their control. In fact, today, only half of the communities in this state are now controlled by the milk commission and many of you will be surprised to find many of those in your district. What is occurring now is that municipalities can't withdraw or if they attempt to withdraw, the decision is up to a handful of commissioners who oftentimes or most times would probably not allow any one to withdraw from its authority. This bill would allow those directly affected by milk prices, the people of this state, to vote in their own localities where retail milk prices should be fixed. L. D. 1600 gives that opportunity back to the people, who have spent according to the Federal Trade Commission who is investigating milk price fixing, millions of dollars in overpayments for milk. I should also mention that the Federal Trade Commission has been in touch with me on this matter and if nothing occurs in this session, they will indeed investigate milk price fixing in the nine states that do fix the price of milk.

I maintain that my constituents can't afford to continue to pay the artificially high price of milk and should not be forced to pay that price, which has risen 30 cents in the past four years, that is 30 cents a gallon. I say artificially high prices based on a couple of factors: (1) I would like to quote from former commission member Ricky Burnette who, two years ago, wrote in a dissenting commission opinion in one of the commission's cases, the commission failed to see the true issue.

We are not required to set a price for milk that every dealer, large and small, north and south, efficient and inefficient, can meet. The law requires that we set the minimum prices of milk that is the true minimum. I despair, said Burnette, that the legislative intent has been lost to us for we insist on setting the market price of milk that is at least 10 to 12 cents per gallon too high. So long as the commission continues to disregard its legal mandate to set minimum milk prices, they place themselves outside of the law and in defiance of the legislature.

I remind the members of this legislature, that that was a commission member speaking. I want the people to have the right to be able to buy milk at the 10 to 12 cents less a gallon that Mr. Burnette talked about in his dissenting opinion.

My other point in this matter is that the dealer margin that Maine dairies are guaranteed is much much higher than those guaranteed to dairies in any other New England state where milk is now sold cheaper in most cases.

In 1961 when Rhode Island decontrolled milk completely, milk prices dropped 25 cents and that total was absorbed solely by the distributors with little effect except that those dealers were forced to increase efficiency and reduce unnecessary costs.

Most often, when the Maine Milk Commission increases prices is to give more money to the dairies not to the farmers who probably deserve more money. For as most of you know, farmer prices are based upon federal prices.



We are not asking in this bill that the commission be abolished as Representative Wood also said. What we are saying, ladies and gentlemen of the House is, let the free market work. Let's not suppress competition as is done in eight other states including Maine. Let the people at the local level determine whether they want the opportunity to buy milk at cheaper prices in their municipalities. Of course, today we will hear arguments that this bill will injure farmers. As Representative Wood said I don't think that that will happen. It has not happened in any other state that has decontrolled the price of milk. Besides that any municipality that doesn't want to go along with this bill doesn't have to.

Finally, many people will argue that this will allow Cumberland Farms to come into the State of Maine and take over the dairy business. I would only remind members that in any state that Cumberland Farms has stores, they only represent seven percent of the market.

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

Mr. TORREY: Mr. Speaker, Ladies and Gentlemen of the House: Certainly, the matter of milk pricing is a controversial issue and a very complex one. With all due respect to the sponsors of L. D. 1600 and their sincere intentions, I have to oppose this bill.

On your desks this morning is a letter from the President of the Maine Farm Bureau. I would like to take time to read this brief statement. It is very simple and very clear as to the feeling of Mr. Curran and their organization. I am certain a majority of us in this House are sincerely concerned with consumers and the prices they pay for any commodity especially essential ones and, of course, milk is an essential one in that it has been in the foreground a long time. We are also concerned with the well being and successful operations of farmers including those on dairy farms.

In my opinion, this bill certainly has good intentions in asking to have residents of a community petition to have a referendum vote and then for the residents to vote on this issue but I genuinely and sincerely feel that this is such a complicated issue that even though it was before people on a ballot, they would not fully understand the implications and complications that could arise if they voted to decontrol retail price fixing in their community. This is the long term or down the road view point that dairy farmers and dairy interests are taking in opposition to this bill, that the people could make decisions which weren't in the best interest of the entire State of Maine. Certainly it is hard to believe that if one community decontrolled the retail price fixing of milk that would have much impact but it would have a ripple effect and other communities would perhaps want to get involved and as soon as any large community removed that price fixing authority, the commission's ability to control and regulate prices would be effectively diminished and, in time, would be ended and this would result in a severe impact on small dealers, all the dairy farmers that supply those small dealers and, in turn, it would affect the Maine economy. Maine is a large rural state outside of a few large cities up the highway corridor.

We have many, many small villages and smaller hamlets and so we are not like Southern New England, Rhode Island or Connecticut or in that area where we have intensive population. So it would seriously hurt dairy farmers in all these smaller areas and they are an essential part of our Maine farm economy, not only do they pay taxes to their community but all their income is turned over and generated to keep the other industries and businesses of that community going.

In regards to some of the former comments, I am not going to try to answer them all, some of

them have some valid points. I think some of them you have to understand the view point to really be sure if you are looking at it in the right perspective.

Certainly, this issue of Maine farmers and the Boston farmer market is a controversial one. The Maine farmers are paid a price for their milk and it is all used in local dairies used by local consumers. That price is set by the Maine Milk Commission and it follows just about exactly with the federal audit price in Boston, and that milk that is used in the fluid state is known as class one variety and paid on a class one price basis. The same goes for milk that goes to Boston. Certainly we have to realize that milk that comes from around this area, Fairfield, Corinna, Bangor, whatever, it goes to Boston on the Boston market, has a higher transportation charge. Unfortunately, that is deducted from the farmer's income, so he suffers a little there, no doubt about that.

In the Boston milk pool, a tremendous amount of milk comes in and milk is a seasonal you might say, it is a seasonal commodity, this time of year now that we have green grass and so forth, there is much more milk coming to the market than in the late fall or early winter, and milk being such a perishable product, it has to be moved. It has to leave the farm every other day. You can't keep it there. It has to go to market and if it goes to any market, even in Maine, whatever is left over from what the needs for the food market, it has to seek a processing, manufacturing market and this type of milk area, volume of milk, is what they call a class two market or class two and that is paid for at a lower price because the amount that they can receive for that is limited to the milk product market. It used to be butter. Today butter is a very limited commodity. Most surplus milk, class two milk, is separated. The cream is used to the extent possible in ice cream plants. Excess cream is sent to Ohio, Indiana, to what they call butter factories, to be made into butter at whatever the market price will pay them. The skim milk is used in cottage cheese to some degree. Most of the balance has to go into skim milk powder. The law of supply and demand works on that area like any other. When there is a large supply of milk, and there is a large supply of powder, the market will only demand so much, then the price has to be depressed in order to maintain a favorable balance.

Farmers who ship on this Boston market do have the disadvantage of a larger percentage of their milk being in this class two variety for which they receive a lower price so that their average price is lower than the average price of Maine farmers. That is a serious problem. I am sure.

I am not going to dwell any more on these things, but I am in sincere agreement with the viewpoint of dairy farmers, farm organizations and agricultural interests that dairy farmers, in all their involvement in the Maine economy, will be seriously affected with the enactment of this bill. Please consider this carefully. I request support of the "Ought Not to Pass" motion.

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 West Bath, Mr. Stover.

Mr. STOVER: Mr. Speaker, Ladies and Gentlemen of the House: I was a dairy farmer for 32 years, so I feel I should be able to have a little input into the problems of the dairy

farmer. In my opinion, no matter what a dairy farmer gets for his milk, it is not enough. He doesn't work eight hours a day, he doesn't work 40 hours a week, he doesn't get union wages, he is the biggest gambler in the world today. He gambles with the weather, he gambles with prices, all of which he has no control over.

I have found that the dealers, although very competitive on the consumer level, seem to be very well in agreement when it came to how they handled their producers. Any producer that got out of line would not be able to find another market for his milk. The result is, he is almost a slave to the dealer that he sells to. When that dealer tells him to jump, he had better jump or else. Because of that, I would hate to see the Milk Commission abolished, as it is the only protection that the producer has. I do feel, as far as on the retail price level, the dealers don't need that protection, they are pretty well organized anyway. I would go along with this bill and support its intent.

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

Mr. HICKEY: Mr. Speaker, Ladies and Gentlemen of the House: As one of the city slickers that my good friend, Representative Wood referred, I would like to ask a question of one of the sponsors. What determines who the farmers will be that come under the jurisdiction of the Milk Commission?

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

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

Mr. BERRY: Mr. Speaker, Ladies and Gentlemen of the House: I guess I have been in kind of an unfortunate position, serving on one of the committees that I do, the only committee that I serve on. It quite often puts me in the light, I think, in some of your eyes at least, of being anti-consumer. I don't see it that way.

This bill before you today is truly a consumer issue. I think you have been looking for one all session long and this is the one. There is no question that if you favor this bill and pass this bill, you have passed a consumer measure. There is no doubt about that at all.

I live in a town that is not under the influence of the Maine Milk Commission. If you want to come down and buy some good milk and pay a lot less for it, come on down. It is a nice feeling. That town probably has as many farmers in it as most rural Maine towns.

If you don't understand what class one and class two and the Boston market and the Maine market is all about, don't feel bad. It usually takes five or six years to get to understand all of that anyway. It is more complex than the school funding issue and it is purposely that way. We have tried over the years to straighten out some of this unsuccessfully — we are still trying. You cannot straighten it out because people don't want it straightened out. They don't want the Maine consumer to know what is going on. They don't even want the legislature to know what is going on in most cases and in most cases, we don't.

You should have the pleasure sometime of attending a Maine Milk Commission hearing. If you don't go out of there confused, I guess probably you can understand anything that is going today.

Occasionally, reference is made to bills being lobbied and so forth. In case you have not noticed, since the first day this session convened, there have been two people in the hallways that probably have been here every day, and they are here today. They will be here tomorrow and they will be here until this bill is dead and buried. Mr. Andrews and Mr. Smith are very diligent. They not only prowled the hallways, sometimes I think there are ten of

each of them. If you go out around to eat at noontime, you will see one or both. If you go to the motel at night, you will see one or both, and you don't have to stay in the same motel. Some nights you can see them both in two or three different places. They are doing their homework, and I expect that they have got votes enough right here today to do what they want to do with this bill. But if you do think of the consumer at all, I hope that you will vote to pass this bill.

The SPEAKER pro tem: The Chair recognizes the gentleman from Mars Hill, Mr. Smith.

Mr. SMITH: Mr. Speaker, Ladies and Gentlemen of the House: In response to Mr. Berry in regard to the consumer, we had only one consumer that testified in favor of this bill at the hearing.

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

Mr. BLODGETT: Mr. Speaker, Ladies and Gentlemen of the House: We have had several issues that have been brought up here and I think they are worth mentioning. This year and the past year and the year before that, we are constantly hearing the words "local control." This bill, if any, does give local control. We also have had mentioned here, well, in some issues they are just a little too complicated for the local people to understand. We could use this for any issue. I don't think that we should downgrade the intelligence of the voters back home. They can sit down, they can look over the issues and they can come to as intelligent a decision as anyone here can.

My principal reason for supporting this bill is because I firmly believe in the free enterprise system. We should put this Milk Commission's price fixing authority in the right perspective. This commission is presently guaranteeing a profit to about 30 milk processors, not to the farmers. These processors are guaranteed a price of between 7 and 10 cents per gallon. If a processor (and many of them are able to do this) are processing somewhere around 10,000 gallons, that gives them a neat little profit at the end of the year. If I were one of them, I might be as enthusiastically supporting the Milk Commission and opposed to anything like this which would take away my gold-plated check that I would be getting from what this bill is trying to do away with.

These firms are not farmers; they are businessmen who have found a good thing with this commission. These businessmen who, in all other areas, are very vocal opponents of any government interference. It is certainly a bit of inconsistency that in this one area we need to have government control and price fixing as is mandated. This is the only area in the farm products area which has such a price fixing structure.

We just voted to get rid of the fuel adjustment charge in our light bills. We are discussing legislation which would try to prohibit the large oil companies from price fixing. I would like to ask the members of this House a question. How much support would there be back home if we attempted to prohibit by law the people of the state to be able to buy gas at a discounted price? Not much I suspect.

Let's get rid of this price fixing feature which is a contradiction to our free enterprise system. Let the price float at the realistic and normal level instead of the inflated price. The middlemen are getting this. Let's not milk the public. The state no longer can stand any of this.

I would ask you to vote no on the motion and to support the minority report and I would ask for the yeas and nays.

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

Mr. MORTON: Mr. Speaker, Ladies and Gentlemen of the House: I am sure that the veterans here in the House are not surprised to find me on my feet on this bill. Perhaps I won't tell them a story much different from the one I told before, so I hope that perhaps some of the newer members of the House will listen to these arguments. The question has been asked, why the difference in price? The reason is because Maine farmers do get a higher proportion of the milk as class one milk. Hence, their blend price is better than milk going to Boston, which goes a great deal more as class two. The average is lower for Maine farmers if they go on the Boston market, it is higher if they stay with the Maine Milk Commission.

Over the four years since I have been here, we have discussed this particular matter and no one has ever refuted the fact, ladies and gentlemen, and I want this point to be fully understood, no one, including the very high-priced expert that was brought in on this bill four years ago from Cornell University, no one disputed the fact that if you do away with milk controls, you will lower the average price of milk to all Maine farmers — no one disputes that. They will get less money for their milk. The total number of dollars coming into the State of Maine for Maine farmers will be less. No one has ever refuted that. Now, at least, we have got that fact out on the floor. Maybe we will get it refuted this morning but I don't think so because I don't think it is possible to refute it.

The attitude behind this bill is, if everybody cannot have it, let's bring everybody down to the same level, completely antithesis to the old Yankee philosophy, "let everyone do the very best he can."

This commission today, over the last four years, has been completely refurbished, rejuvenated, changed around so that we thought that everyone who was a consumer was perfectly happy with the commission. It is now completely consumer oriented. It no longer has processors on it. It no longer has the people who are supposed to have a vested interest in this business. We hoped that the commission was properly constituted and was doing a good job. Frankly, in the last few months, I have not heard much criticism of milk control and milk pricing. Be that as it may, we now have another bill.

Frankly, ladies and gentlemen, I believe that this is nothing more or less than an attempt to come in the back door. Great pretensions are made here that this bill says nothing about the Milk Commission, and I agree, but if that is the case, why do the sponsors spend so much time saying so? As the venerable Bede once said, "Me thinks they do protest too much." Of course it is nothing but an insidious attempt to get the door open. I will tell you, ladies and gentlemen, that I feel very strongly that is nothing more or less than attempting to do away with the Milk Commission under the guise of motherhood and discrimination and local control.

It has been said that this is a consumer's measure. I submit to you, ladies and gentlemen, it is not a consumer's measure if you live beyond the line of communication that runs up through the spine of the State of Maine from Kittery through Portland to Lewiston, Augusta and Bangor. If you do away with the controls, then I will guarantee you that small processors will disappear and you will not have good delivery of fresh product to your local stores if you don't live in these big communities and I am not sure what you will get if you live in the big ones. You won't have a variety of containers.

They talk about the gallon price, everyone talks about the gallon price. That is the only comparison that is ever made. Ladies and gentlemen, the gallon price is the only thing

that these big outfits sell in any volume. If you want to talk about what is the comparative price of quarts and chocolate and some of the other convenient packages that you like to go to the store and buy occasionally, then go over to New Hampshire and check it. You won't find any of the great discrepancies that they talk about as far as gallons are concerned. It is all a matter of marketing, ladies and gentlemen.

What you are doing if you vote for this bill is to move in the direction of mass marketing by conglomerates who have no concern for anything but making their profit. You talk about profits. The profits we are talking about today that these people are so much opposed to are the profits belonging to small Maine businesses, not some great milk conglomerate. I get a little bit disturbed about that. I don't feel as though we want to do away with small Maine business.

If you do away with these processors who make these convenience packages available to you at reasonable prices, then you also do away with many small producers, because they will not have the market to sell their milk on a class one basis, hence get a better price for it. That is what is going to reduce the price of milk as far as the Maine farmer is concerned.

If you are concerned about the consumer in the long run, that is the vast majority of consumers who don't live on that arterial spine of Maine, if you are concerned about the producers who are Maine businessmen and who do perform a service, and if you are concerned with the farmers, the smaller farmers who sell their milk to these smaller producers, then you will absolutely do away with this bill.

As far as I am concerned, this is nothing but an attempt by Cumberland Farms in the large communities, on the main line of transportation, to do away with the milk commission, despite what they say. This is an attack on small Maine business processors and producers. This is nothing but a back-door approach when they failed for four years on a frontal attack to get into this control mechanisms.

This bill, as far as I am concerned, Mr. Speaker, doesn't deserve a minute's more time and I think it is necessary to make the motion that we indefinitely postpone and I am asking for the yeas and nays.

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

Mr. DAVIES: Mr. Speaker and Members of the House: I beg to differ very strongly with the good gentleman from Farmington, Mr. Morton. If you want to protect the small producer, perhaps you had better look at the figures over the last 12-year period and the number of producers in the Maine milk market. In some figures prepared by the Maine Dairy Council, hardly an opponent of the Maine Milk Commission, in 1963 there were 2,450 dairy farms in the state of Maine. In 1973, when these figures were compiled, there were 1,250, or a decrease of 50 percent, and that is under the Maine Milk Commission. I ask you, can we afford to tolerate that any more, driving our small producers out of the market?

I would also add that if this legislature were to enact this law, we would enable each and every community in the state who is currently under the Maine marketing order to have the opportunity to do what the community of North Berwick did. North Berwick voted to withdraw from the Maine marketing order and in the town of North Berwick, the price of milk per gallon is now 24 cents lower than it is for the rest of the State of Maine. Based on a family of four with consumption figures at the 1973 level of 154 gallons of milk for a family of four, that would save a family of four \$37. That is \$37 of hard cash that you can put in the pockets of every family of four by passing this bill and giv-

ing people the opportunity to have some say in what they are going to pay for milk, whether they are going to support the Maine Milk Commission marking district or whether they are going to withdraw from it. I think you really have to stop and think about this.

For all of the protestations of Mr. Morton, I think you will find that the best benefit for the small producer in the State of Maine, the dairy farmer, is not to be under the Maine Milk Commission because half of them have disappeared, they have failed, they have gone out of business under the benevolent protection of this organization.

I would argue that we ought to give it an opportunity to see how they are going to fare away from the Maine Milk Commission. I would allege that based on the figures from New Hampshire, in that state they ended their price fixing powers in about 1960. During the period preceding the abolishment of the milk commission in New Hampshire, the number of farms decreased from 1,363 to 869; there was a decrease of 36.7 percent. After the elimination of the milk commission, the number of farms dropped only 19.4 percent. We are going to be losing small dairy farmers regardless of whether we are under the Milk Commission or not, but I think we find from figures from our neighboring states and estimates in this state that they are going to be doing better, we will lose fewer of our dairy farmers if we operate under a free enterprise, free market system, than we do under price fixing powers of the Maine Milk Commission.

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 Chair recognizes the gentleman from Limerick, Mr. Carroll.

Mr. CARROLL: Mr. Speaker, Ladies and Gentlemen of the House: I request that I be excused from voting. I have a share in a dairy farm. This bill would affect me financially and I would like to be excused.

The SPEAKER pro tem: The Chair will excuse the gentleman from Limerick, Mr. Carroll, from voting on this bill.

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

**ROLL CALL**

YEA — Aloupis, Ault, Austin, Bagley, Bennett, Birt, Boudreau, P.; Brown, K. L.; Brown, K. C.; Bunker, Burns, Carrier, Carter, F.; Churchill, Conners, Cote, Cox, Cunningham, Devoe, Dexter, Drinkwater, Dudley, Dutramble, Elias, Fenlason, Garsoe, Gill, Gillis, Gould, Gray, Hickey, Huber, Hunter, Hutchings, Immonen, Jackson, Jalbert, Joyce, LaPlante, Lewis, Littlefield, Lizotte, Lougee, Lunt, Mackel, Mahany, Masterman, Masterton, Maxwell, McBrearty, McKean, McMahon, McPherson, Morton, Nelson, N.; Palmer, Peakes, Pearson, Peltier, Perkins, Peterson, Plourde, Rollins, Shute, Silsby, Smith, Spencer, Sprowl, Strout, Stubbs, Tarbell, Teague, Torrey, Tozier, Tyndale, Whittemore, Wilfong.

NAY — Bachrach, Beaulieu, Benoit, Berry, Berube, Biron, Blodgett, Boudreau, A.; Brenerman, Bustin, Carey, Carter, D.; Chonko, Clark, Curran, Davies, Diamond, Dow, Durgin, Gauthier, Goodwin, H.; Goodwin, K.; Green, Greenlaw, Hall, Henderson, Higgins, Hobbins, Howe, Hughes, Jacques, Jensen, Kane, Kany,

Kelleher, Kilcoyne, Locke, Lynch, MacEachern, Marshall, McHenry, Mitchell, Moody, Nadeau, Najarian, Nelson, M.; Post, Prescott, Raymond, Stover, Talbot, Tarr, Theriault, Tierney, Trafton, Truman, Valentine, Wood, Wyman.

ABSENT — Connolly, Flanagan, Fowlie, Kerry, Laffin, LeBlanc, Martin, A.; Mills, Norris, Quinn, Rideout, Sewall, Twitchell.

EXCUSED — Carroll.

Yes, 77; No, 59; Absent, 13; Excused, 1.  
The SPEAKER pro tem: Seventy-seven having voted in the affirmative and fifty-nine in the negative, with thirteen being absent and one excused, the motion does prevail.

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

Mr. MORTON: Mr. Speaker, having voted on the prevailing side, I ask that this measure be reconsidered and I trust that everyone will vote against me.

The SPEAKER pro tem: The gentleman from Farmington, Mr. Morton, having voted on the prevailing side, now moves that we reconsider our action whereby L. D. 1600 was indefinitely postponed. All those in favor of reconsideration will say yes; those opposed will say no.

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

Sent up for concurrence.

**Divided Report**

Majority Report of the Committee on State Government reporting "Ought to Pass" on Bill "An Act Creating the Maine Capital Corporation" (H. P. 1011) (L. D. 1250)

Report was signed by the following members:

Messrs. COLLINS of Aroostook  
MARTIN of Aroostook  
Mrs. SNOWE of Androscoggin — of the Senate.  
Mrs. MASTERTON of Cape Elizabeth  
Mr. DIAMOND of Windham  
Mrs. LOCKE of Sebec  
Mr. VALENTINE of York  
Mrs. KANY of Waterville  
Mr. SILSBY of Ellsworth  
Ms. BACHRACH of Brunswick  
Messrs. CURRAN of South Portland  
STUBBS of Hallowell

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

Report was signed by the following member:  
Mr. CHURCHILL of Orland — of the House.

Reports were read.

On motion of Mr. Curran of South Portland, the Majority "Ought to Pass" Report was accepted, the Bill read once and assigned for second reading tomorrow.

At this point, Speaker Martin returned to the rostrum.

The SPEAKER: The Chair wishes to thank the gentleman from Stonington, Mr. Greenlaw, for acting as Speaker pro tem.

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

**Divided Report**

Majority Report of the Committee on Judiciary on Bill "An Act to Establish the Maine Uniform Residential Landlord and Tenant Act" (H. P. 228) (L. D. 313) reporting "Ought to Pass" in New Draft under New Title Bill "An Act Defining the Rights and Responsibilities of Landlords and Tenants in Residential Property" (H. P. 1641) (L. D. 1843)

Report was signed by the following members:

Messrs. COLLINS of Knox

CURTIS of Penobscot

— of the Senate.

Messrs. TARBELL of Bangor  
HOBBINS of Saco  
Mrs. BYERS of Newcastle  
Messrs. HENDERSON of Bangor  
HUGHES of Auburn  
SPENCER of Standish  
BENNETT of Caribou

— of the House.

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

Report was signed by the following members:

Mr. MANGAN of Androscoggin — of the Senate.

Messrs. GAUTHIER of Sanford  
DEVOE of Orono  
NORRIS of Brewer

— of the House.

Reports were read.

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

Mr. SPENCER: Mr. Speaker I move that we accept the Majority "Ought to Pass" Report.

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

Mr. DEVOE: Mr. Speaker, I move that the House accept the Minority "Ought Not to Pass" Report and would like to speak to my motion.

The SPEAKER: The Chair would advise the gentleman that the motion would be accepted for the Majority "Ought to Pass" Report, but he may proceed on the debate.

Mr. DEVOE: Mr. Speaker and Members of the House: I will proceed and try to address myself to some issues which I think are in this bill and which I believe members of the House should be aware of.

The present bill is about the fourth draft of what started out as a multi-page bill, L. D. 313, and the present bill which we have, L. D. 1843, really bears little resemblance to the original bill. I have no basic objection to Section 1 of the proposed bill, nor do I have any basic objection to Section 2 of the proposed bill. However, Section 3, which would call for the repeal of the present Title 14, Section 6021 and the replacement of that section with a new section, has several points in it which I think are troublesome and which deserve some debate. Let's review briefly the present law. The present law relates only to the rental of a dwelling. The proposed law would expand the definition of a dwelling, it rather replaces the word "dwelling" with "dwelling unit" and goes on to define dwelling unit as a mobile home, a apartment, building or other structures, including the common areas thereof. I suppose you could bring within this definition the renting of a camp in the summertime or any other structure that may not be intended as a year-round place where people would live.

The present law provides that if the tenant believes that a dwelling is not fit for human habitation, he may rescind the rental contract and recover a just proportion of the rent. The present law also provides that consequential damages may not be awarded for the breach of the warranty of habitability. Now, consequential damages not being recoverable are included in the redraft of the present statute.

However, let us look at the next sentence of the present Section 6021. It says: "In order to rescind the rental contract the tenant, members of his family, his guests or his invitees must not have proximately caused the condition which makes the premises unfit for human habitation." The present statute, I think, has rather vague language. The present section, the proposed section would be that the condition was not caused by the tenant or another person acting under his control. I submit to this House that the proposed language

would rather weaken the present law than strengthen it.

I would also submit to you that if you look at L. D. 1843, in Section 3 thereof, which is a new Section 6021, if you will look at Subparagraph 3 thereunder, you will see the words "a condition which shall be described as endangering or materially impairing the health or well being of the tenants or of the public." I submit to you that this is a rather drastic change from the text which is proposed earlier in the law that it not be fit for human habitation.

I think one of the biggest objections which I have to Section 3 of L. D. 1843 is the notice requirement. The present statute requires that before the tenant may rescind the rental contract, he must have given the landlord — and note those words — he must have given the landlord written notice of the condition which makes the premises unfit for human habitation within seven days of the discovery of the condition. Now, the proposed law simply says that actual notice of the condition be given to the landlord and that the landlord failed to take prompt, effective steps to remedy or repair the condition. Mr. Speaker, I submit that there is a real question here. It makes it a subjective test as to whether something is done promptly or effectively. What one person may in all good conscience believe is prompt and effective steps, another person, in equal good conscience, may not believe. The present statute at least has a time test. The present statute provides for the landlord to have 30 days in which to do something about it.

You will note also in Section 3 of the present proposed law that the notice requirement would be satisfied by actual notice to the person who customarily collects rent on behalf of the landlord rather than notice being given to the landlord himself. I can see instances where, if this law were passed, an agent for the landlord who happens to be out of town or out of state for a week or two weeks or three weeks, could end up being a defendant in a long, protracted law suit because notice had been given to the person collecting rent for the landlord who, while he had authority to collect the rents, did not have authority to commit the landlord's funds for possible repair or renovation of a dwelling unit.

Another requirement in the present statute which is eliminated in the proposed statute is that at the time the tenant complains to the landlord, he must be up to date in his rental payments. The proposed bill would eliminate that requirement that the tenant, at the time he makes a complaint, be up to date in his payments.

Another basic objection which I have to Section 3 of the proposed bill is the injunctive remedy. As I look at Rule 65 or the Rules of Civil Procedure, injunctions are considered and are treated more as orders of the court which prohibit or restrain somebody from doing something. Now there may be sections of the Maine statute which do provide for affirmative injunctions; that is, orders of the court in which somebody is ordered to do something rather than be restrained from doing something. But if this bill is to be effective and if the injunctive process is to be effective, it contemplates court action where a judge is going to be asked to be the person who remedies all of the wrongs of landlords against tenants. I submit to this legislature that this proposed use of the injunctive remedy is not going to be effective because courts are not set up to handle affirmative injunctions, and if the problem is half as bad as some of the proponents of the bill would lead us to believe, then I could see, as soon as this statute becomes effective, if it were passed, the courts immediately being loaded with landlord-tenant cases, all calling for use of injunction, and I can imagine that courts already crowded dockets would be more

crowded and rendered less effective for the people of this state.

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

Mr. HOBBS: Mr. Speaker and Members of the House: I urge you to support the majority "Ought to Pass" Report. Presently under Maine's warranty of habitability law, it guarantees that tenants receiving a dwelling house, that it be fit to live in. However, in our present situation, if the landlord breaches the warranty of habitability, the tenant has only one remedy, and that is to move out and to sue for breach of a warranty.

Given the lack of readily available housing units in our state, most tenants when faced with a breach of warranty simply ignore their responsibility to pay rent and stick right to the old landlord. The result is an eviction proceeding where the tenant is ordered to move out. The landlord gets little of his money back and the dwelling unit remains unfit for human habitation.

L. D. 1843, as redrafted, is an effort to remove this perennial problem and battle between landlords and tenants off dead center to a more constructive result. If a dwelling unit is not fit for human habitation and if the conditions were not caused by the tenant or persons acting under his or her control and further, if the landlord, after receiving actual notice of the condition, refuses to take necessary steps to make repairs, then this legislative document as proposed by our committee permits the tenant to file a complaint in court to have the premises made habitable for human habitation. If the court finds that the allegation is true, it may require that the unit be made fit for human habitation and also further require that the tenant pay to the landlord the fair value of the tenants use and occupancy of the dwelling unit during the time when the unit was in poor condition.

Finally, L. D. 1843 permits landlords and tenants to agree to accept certain specified conditions which may violate the warranty of habitability in return for fair consideration. L. D. 1843 has gone through several changes suggested by both landlords and tenants to strike a balance between these competing interests. We should move forward from the stalemate that presently exists in which the dwelling remains in poor condition and no rent is paid to the landlord. This is a workable piece of legislation and I urge your support.

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

Mrs. BERUBE: Mr. Speaker and Members of the House: I wonder if it would be possible for you to rule on the germaneness of this new revised draft. The original L. D., 313, addressed Title 10 of our statutes. This addresses an entirely different area; namely, Title 14, and specifically Chapter 720, Section 6021, which is the warranty of habitability clause.

The SPEAKER: The gentleman from Lewiston, Mrs. Berube, has posed a question of germaneness of the redraft from the Committee on Judiciary. The Chair would advise the gentleman from Lewiston, Mrs. Berube, and members of the House that the redraft, which is now L. D. 1843, deals with portions of the original bill, even though they are in a different listing in sections of the law that had been proposed under the Maine Uniform Residential Landlord and Tenant Act, but that they are still dealing with rights and responsibilities of landlords and tenants. Therefore, the Chair would rule that L. D. 1843 is germane.

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

Mrs. BERUBE: Mr. Speaker, I have some comments but I will defer to my able young seatmate first.

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

Mr. HENDERSON: Mr. Speaker, Ladies and Gentlemen of the House: I would like to rebut some of the remarks that have been made by the gentleman from Orono. He did point out that this was the fourth draft of several proposals and I think that is an item that speaks in favor of this proposal. There was a lot of work in our committee, a lot of conferring with people who ordinarily do not agree on these things, and you will note from the committee report that we have a broad spectrum of interest, shall we say, on the majority report. I think that is one representation, that after four drafts we finally did develop something that is a fair proposal.

His second argument is that he has no objection to certain sections of the bill, Sections 1 and 2, and if that is the case, I would urge that you not defeat the majority report this time but accept amendments at the second reading; otherwise, that would be impossible. So if there is feeling that parts of the bill are acceptable, we ought to keep the bill alive.

Third point that I would like to respond to is his allusion to camps and other seasonal dwellings and whether they would come under this bill, and you will notice in the bill that there is a provision that people may agree to accept certain conditions, a written agreement. For instance, if you want to rent a camp and the roof leaks, everybody knows the roof leaks, then you just have an agreement with the landlord saying, look, the roof leaks, if this was an air tight, well heated camp, then I might have to spend \$300 a month to rent it, but the roof leaks, so we are going to agree that I will rent this for only \$200 a month, and that is a provision that is specifically in this bill. That provision also would apply to other cases where a tenant finds in his own dwelling that the roof leaks, and the landlord says, gee, I cannot fix it right now but I will reduce your rent somewhat if you will agree to this fact that it is not as good as it should be. They may do that under this provision too. So this is a rather flexible proposal.

The gentleman also referred to the line that there are no consequential damages that may be claimed by the tenant, and that is a term that I did not understand until I talked to a few people about it, but basically what it means is that this bill limits itself only to the habitability of the dwelling, so if the roof leaks and it gets into your stereo and fouls it up, what this bill says, at least under this proposal, that this does not give you the right to go out and sue for the damage to your stereo, you may be able to do that under some other section of the law, this strictly relates to whether your dwelling is habitable or not. I think that is a very conservative provision that is in this bill as it is now being presented. The notion that damage has to be done by the tenant and also by people under his control, I think, is also an important issue that must be addressed, and I feel that it is a tightening up of the current law, it really is saying that the tenant is responsible for their dwelling and for the people that are in there and that if they caused any damage, we don't want them to get out of their responsibility.

Another objection had to do with the definition of habitability. Under the old law, there was no clear cut guidance, I feel. Under this proposal, it does indicate that the tenant has to show a condition, has to show this to a judge, a condition which endangers or materially impairs the health and well being of the tenant or the public. They have to prove that the judge that this is a dangerous situation. This is not, by the way, a situation of a lack of an outlet, or a drippy faucet or something like this, this addresses those situations which actually endanger people.

The question about actual or written notice to the landlord I think is a legitimate one but I think the way the bill is worded now, it is more favorable to the landlord. I would accept an amendment in second reading from my own



point of view to have a written notice to the landlord or his agent. I still think those alternatives ought to be there, that would better protect the tenant in knowing that they had, in fact, made a complaint rather than trying to prove that later on, that well I did tell the guy who came by to pay the rent. I would accept that as a legitimate and constructive amendment. I would suggest that we do retain the notion about having it referred to the landlord or his agent because some landlords are out of state corporations or other people who might not even be in town and if we are saying, gee he is gone for three weeks, and on the other hand, there is truly a disastrous situation that endangers people's health and well being, it doesn't seem reasonable that we ought to let that go that long. There ought to be somebody who is continuously responsible. The notion of having the landlord respond promptly to the endangering circumstances is, I think, an evenly balanced one. On the one hand, it protects a tenant who might be endangered; on the other hand it gives the court some leeway by being able to accept good faith effort on the part of the landlord whether it is thirty days or whatever it is he is attempting to solve the problem and is making a reasonable attempt. I think we should not hamstring the landlords into saying you have got a specific deadline. I think the courts would be understanding in this respect.

I just would like to emphasize and I was afraid I would get trapped into this approach, that all of this stuff that we are talking about here only takes place after several things have happened, after there has allegedly, let us say, been some damage like the roof leaks or something endangering people's well being and even then, the tenant may give notice to the landlord and only after the landlord hasn't made a response, may the tenant then go to court and even then it will take a court situation with the landlord and the tenant arguing the case until the court may find or may not that there is, in fact, a danger to the person's well being or the public's well being. Only after that will the court be able to order the various remedies. I would like to point out that this property owner because it does talk about the public's well being and the property owner that is sitting next to this situation if there is fire danger, if there is a health hazard, this is a protection to the community as much as to the tenant himself.

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

Mr. GAUTHIER: Mr. Speaker, Ladies and Gentlemen of the House: I would urge you to accept the minority report. I have heard since Mr. Henderson has been in the legislature and on our committee, I never remember that he voted once on the side of the landlord. In fact, he has always worked with someone on the other side and my feeling is that this is a different face that he is bringing up now. One thing that he mentioned: that if this was a landlord's bill and they were satisfied, they would accept it but they are not accepting it.

In this Legislature we started years ago to put out bills against the landlord and making it tough for the landlord. In fact, women that had apartments that appeared before our committee and one or two had pictures to show us and the pictures showed the damage that was in there and the damage was not done by the roof or anything else. They were toilets that were broken or sinks that were damaged and there is no protection whatsoever for the landlord.

In fact, we have had so many bills in the past several years that have passed in this House that I got discouraged and I sold everything I had. I had thirty two of them. I felt that if I was not going to have anything to say about my apartments and I could see by the way things

were going, that we weren't going to have control of our apartments to a certain extent that it was going to the other side.

In fact, I have a little story to tell you: I sold an apartment next door and most of the apartments that I sold, I sold them to people that were very honest, no money. My neighbor, I sold him a three apartment block because he was very faithful, he lived in my apartment four years. He had a lease every year, his rent was paid on time and I put a sign to sell the property and he came to me and told me and said, I would like to buy the property but I haven't got the money, the down payment. I said, your honesty is worth the down payment, I said, you have been honest and people who have been honest in my apartments, I have used them as good as anybody can use them, and I said, I will get a book from the bank on rates and I will figure out on whatever the prevailing rate is now on interest, I will go below that I will also figure how much the apartments are bringing in, at the present time, including your rent, because you are paying rent.

We figured the whole thing out and I even figured in his taxes, \$500.00 in order to give him a break to buy the property because I liked the fellow. I did this to two or three of the same kind of people. He belongs to the National Guard, the Reserves, and last winter he was called to Florida to put in new engines on airplanes and his wife had a tenant on the third floor that had been there for three months and had not paid the rent. They paid the first month and then they started paying two weeks of the second month that they were there and then they stopped paying. So she came to me with tears in her eyes and said I would like to make my payments to you but if this keeps up I can't make the payments. She said, she called three lawyers and they told her that it was no use to bother to try to fight your case because the Pine Tree Legal was in back of them. She had no chance, they were covered by the state law.

Ladies and Gentlemen, it is getting to the point where the landlords today have got a hard time and the state is starting to build new apartments in Sanford, two different kinds of apartments, and they are going to build more, because people are not going to have apartments and not be able to collect their rents and have damages in the apartments and not be able to evict them.

So I called one of my good friends, an attorney that I have and I said to him, could you help this lady out? He said, it is almost useless, with the laws that Pine Tree Legal have, we have no chance, we spend the people's money for nothing. He said, they are protected and the landlord isn't. So I said to him, try to see what you can do. Finally the tenant was evicted but it took some time. Well, Mr. Henderson mentioned that it takes a little time, they have thirty days if they move in and don't pay their rent and then they have to go to a court case, before they get through with the court, it takes another month and a half to two months. So that is three months. This is why this bill was put through and I feel that it is too bad for these people who are trying to be fair and with all the bills that are protecting those people in apartments at the present time, I think that we should vote for this bill and give these people a chance. It is their money that they put in there and they haven't got a break because there are too many bills that are not working in their favor.

So, I hope that you will vote for the minority report on this committee.

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

Mr. WHITTEMORE: Mr. Speaker, Ladies and Gentlemen of the House: I happen to be one of these no-good landlords. I have had apartments since 1951, so I am quite familiar with the ups and downs and ins and outs and I think

this bill is a very unnecessary bill. There is enough protection today for the tenant that hasn't got a dime invested in the property. If it is unfit to live in, they can move out and I don't think that I should be told that I have got to remodel that apartment to any judges' satisfaction or anyone else's, that is mine. If I don't want to rent it, that is my business, nobody else's. I have put a lot of work and money in these places and I resent the government coming in and telling me what I have to do or the law. The government is already hurting us small landlords, they are backing low income housing, taking our tenants away from us, I have 34 units and I have ten vacancies and eight vacancies and I think I can relate this to low income housing. They are hurting me, I am not complaining about that but for goodness sakes, leave me alone, let me run my apartments, if they aren't fit to live in, forbid me to rent them. What is the matter with the building inspectors, plumbing inspectors or fire department inspecting these units? If they are unfit, they should be condemned. I am for that. I don't want to see anyone living in unfit or unsafe apartments or a building of any kind.

I think this is a bad bill and if it is permissible, I would like to move that this bill and all of its accompanying papers be indefinitely postponed.

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 West Bath, Mr. Stover.

Mr. STOVER: Mr. Speaker, as a housing manager perhaps I should ask the Commission to abstain from voting.

The SPEAKER: Is the gentleman requesting permission to abstain?

Mr. STOVER: Yes.

The SPEAKER: The Chair will grant him permission, pursuant to House Rule 19.

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

Mr. HOWE: Mr. Speaker and Members of the House: I am also a landlord, although I haven't been in the business as long as the gentleman from Skowhegan, but to me the notion that if the place isn't fit to live in, they can move out is a repugnant one to me. I don't believe that anyone ought to be offering on the market habitation which isn't fit to live in and although there are a couple of minor things about the bill that I might consider offering amendments for, on second reading, I certainly don't intend to indefinitely postpone this bill today and I hope you will concur with me.

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

Mrs. BERUBE: Mr. Speaker, is the motion before us indefinite postponement?

The SPEAKER: The Chair answers in the affirmative.

Mrs. BERUBE: Mr. Speaker and Members of the House: I would like to say why I am going to vote for indefinite postponement.

In case you think I am a conservative, I really was liberal because when this originally was passed in 1971, I voted for the warranty bill, warranty of habitability as I did in 1973 when it was amended.

However, today for two main reasons I am going to vote against the bill, first of all, because it has not had a public hearing, it is a completely new bill, but be that as it may, there is an area that addresses itself to the complaints. The tenant can make a complaint and go directly to district court or superior court perhaps in

many instances at no cost to him. All he has to do is say that he gave actual notice of the condition to the landlord or by actual notice to the person who is collecting the rent for the landlord. The present statutes say that if a tenant discovers that the apartment that he has rented is not habitable, not fit to live in, he has seven days after the discovery of the condition and he must give a written notice to the landlord and after that, the landlord has thirty days in which to remedy the situation.

The present bill does not say how long the condition must have existed so that the landlord, it says here, shall be deemed to have breached the warranty of fitness for human habitation established by this section as of the date when actual notice of the condition was given to the landlord. So, that if for instance, a tenant says well, this condition has existed for three to six months, and the landlord hasn't done a thing and if the court determines that the tenant may be right, the court will go back for all that length of time. I see someone nodding his head but I question this and I don't see this written in black and white in the bill.

Also the present statute, that may have been addressed previously, that the tenant must be current with his rent. The present bill before you does not say that.

Also one thing that I take issue with is that the court may authorize that the tenant temporarily vacate the premises and that the landlord is mandated to take the very same person back. Also the landlord may be ordered, it may be a very liberal judge, so he may order that the landlord pay all the moving expenses incurred by the tenant for temporary relocation. Relocation may be within the municipality. It could conceivably be many miles away. Does that also include, and I am not legally trained obviously, does that also include living expenses, meals, housing, etc.?

So these are the main reasons why I am going to ask that you vote for indefinite postponement. I think that this is one more effort to slowly, but deliberately, attack the private enterprise system and private ownership and for these reasons, I am voting for indefinite postponement.

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

Mr. SPENCER: Mr. Speaker, Ladies and Gentlemen of the House: I would urge you to vote against the motion for indefinite postponement and would respond briefly to two points which were raised by the gentlelady from Lewiston. First the bill provides that the breach of the warranty of fitness for human habitation shall be deemed to have occurred as of the day of actual notice to the landlord so that if the condition has existed for two weeks, but for one reason or another the landlord does not get actual notice until it has been going on for two weeks, he is not considered to have been in breach of the warranty until the time that he actually gets the notice. And that is specifically what paragraph 4 on page 2 provides.

The thrust of this bill, as I see it, is in no way an effort to put additional unfair burdens on free enterprise or on private landlords. Essentially, what this does is it treats rental property much in the same way that we have come to treat almost all other transactions in our society where one person is, in effect, selling goods or services to another. What this bill simply allows is that when there is a situation where a dwelling is unfit for human habitation, we are not talking here about the kinds of apartments that most people in the legislature are used to, that people are renting when they are here in Augusta, that Mr. Whittemore rents to his tenants, we are talking about a dwelling which is in very serious disrepair and which does not meet the standard of fitness for human habitation.

What this bill does is, it simply provides that instead of creating a situation where the tenants complain and then has the right to move out, which generally ends up taking a long time, as Representative Gauthier has pointed out, and leads to a substantial loss of rent to the landlord; what this bill says is that if the dwelling falls below the standard of human habitation, then the tenant can bring the matter before the district court or the superior court. The problem can be looked at and the tenant can remain in the apartment while the repairs are taking place. You don't have the situation where the tenant is moving out, the landlord is not getting paid. The situation results in a tremendous amount of bitterness and confrontation; the standard of the dwelling remains the same. What this bill should do is provide a mechanism for the gradual and reasonable improvement of the housing stock in the state. I think that it is a moderate bill and it is a fair bill to all parties concerned.

I would point out that a clear majority of the judiciary committee which has never taken one side or the other in the landlord-tenant dispute has supported this bill. I think the reason this bill got such a strong majority is because it is a balanced bill and the long range effect of it is going to be to improve the condition of housing in the state.

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

Mr. TARBELL: Mr. Speaker, Ladies and Gentlemen of the House: I signed the "Ought to Pass" Report out of Judiciary Committee on this bill because I think that in principle, I am very sympathetic to the underlying philosophy of the bill. The heart of the bill and the philosophy that underlies the bill and what the bill is really all about is that apartment rental units be fit for human habitation. If you support that philosophy, I would urge you to defeat the motion to indefinitely postpone, to let this bill go to second reading and let us work on it with an additional amendment.

Representative Devoe raised some very good points and some very good objections with respect to this bill. One of them was the ambiguity and the vagueness in which the landlord had to promptly and effectively respond to repair or fix the unfit condition. I think we could amend that by saying that he would exercise a reasonable attempt under the circumstances to take prompt and effective measures to remedy the condition.

Another objection was that the bill does not require the tenant to be fully paid up in rent when the tenant brings a complaint against the landlord for an unfit condition. I think in all fairness, the tenant should be required as a prerequisite to bring a complaint should be required to have been fully paid up on his or her rent. I think those are the two major amendments that the bill requires in addition to some of the minor points that have been raised here today.

I think that we should realize that the net effect of the bill could in some circumstances result in landlords taking rental units off the market. That is one of the reasons that the waiver exemption clause was placed in one of the last provisions of the bill. It is to provide an out for landlords and tenants that mutually agree that they don't want to comply with the strict standards of fitness of habitability.

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

Mr. WHITTEMORE: Mr. Speaker, Ladies and Gentlemen of the House: I concur with Representative Howe from South Portland. I don't think anyone should be made to take an unfit apartment or dwelling. I don't want to see that.

I have a problem. I know the intentions of many of you people are 100 percent good but if

you have had the problems that I have had and many landlords, you probably would go along with postponement of this bill. For instance, I have a person who has been about 15 years with me. She had a very low income and I gave her an apartment. It was a decent apartment. I would live in it if I were alone. She has been there at least 15 years. My cost has increased tremendously. As you know, the oil, insurance, lights, maintenance, although I have not maintained that apartment well and this was the agreement because she couldn't afford any increases. The only thing that hasn't gone up on me and that is because I come from the good town of Skowhegan, my taxes haven't increased. That is the only thing. If, in this apartment, should there be a problem with the plumbing or the heating unit in that apartment, I would not want to fix it. I could not afford to fix it for what she is paying. It would be my loss and I can't afford any more loss in that apartment. I think I have suffered enough. If something happens to that apartment or it becomes unfit, I would want her to move. I would go in there and spend a good sum of money and make a nice apartment. I could get the rent from making it a paying proposition.

This is just one thing. There are many many reasons why I think this bill is not needed. Your tenants are protected. They don't have to take this apartment. When there are vacancies, I myself, have at least eight ready to rent that aren't rented. There are others in the community with apartments that aren't rented. You tell me there aren't enough apartments. I think if any of you people have been in this business, I think you will have to agree with me that this is an unneeded bill.

I urge you to go along with the indefinite postponement.

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

Mrs. KANY: Mr. Speaker, Members of the House: Waterville must have an unusually high percentage of rental units because I know when I went around last fall campaigning, I heard more complaints on this subject than any other, except for one. The complaints were both from landlords and from tenants. It seemed to be the major problem was the lack of definition within the law. I have had a lot of discussions with people on this topic and did rush this bill, right after it was printed, to one of our major landlords in Waterville. He found no problem with it. I think that any reasonable landlord would find this bill would be all right with them. I hope that you do reject the motion before us.

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

Mr. CARRIER: Mr. Speaker, Ladies and Gentlemen of the House: I wish to say a few remarks about what has been going on over here. Actually, when I came here this morning, I was not prepared whatsoever and did not know that this bill was coming up.

However, there are many reasons why I think that this should be given great consideration. In the first place, I found out that this great outfit which some of you prize so much is behind this bill, the Pine Tree Legal, I always had a special place in my heart for these people.

I submit to you that that is not actually what the bill is. I am more concerned about the bill because of the fact that people that promote this bill are talking in two ways. In the first place, they seem to show a great concern that something in order to be able to live in should be habitable. On the other hand, the bill itself, under Section 5 of Page 3 is what bothers me. I do believe, like others, that we should keep these places in good condition if you rent them. Under Section 5 of Page 3, a tenant can actually waive his right along with the landlord and actually go and live in a place that is unfit for habitation. This bothers me. I would think that



the legal minds in this committee would have to get up. This is exactly what it says. It says nothing. You can waive your right and go and live in one of these apartments if you want to. I did take a few notes when somebody talked about the committee report. This is great. I respect their line of thinking. I also notice and to my limited information I have, the ones that signed this "Ought to Pass" Report do not own rentable property. It makes a difference whether you are in that position, have been or are now. It makes quite a difference as to what your approach will be to this bill.

I also notice in the past when we have had these bills that they are always either promoted or put in here from people from the other part of the state. For some reason or other, they always come from Bangor. They have their troubles over there. I am sure you might have some troubles in Lewiston and in the bigger places and probably in Portland. We have no trouble in Westbrook. If they don't like the property, it is very clear. If they don't like it, they move out. Maybe they don't want to move out. What are you going to do? If they pay rent, you have to live with it. If they don't pay rent, they still don't want to move out. It has come to an absurd situation.

A few years ago, I don't know who but I must have voted against it if it was in front of me that if they don't pay their rent, you still can't shut off the utilities. Actually, if they don't pay their rent besides having them as a burden on your back, you still have to maintain the electricity and you have to pay for the oil and everything else. This is quite a situation for somebody that has an investment that is a non-charitable organization and trying to support your family and you need that money, maybe not to support your family, but at least to pay your mortgage, your interest, your maintenance and everything else.

I think this bill really carries a very distasteful appearance and everything else with it. There is always an implied warranty. I think if I had any influence at all, I think I would take away the implied warranty in anything we have. Either it is or it isn't. This ambiguity of the implied warranty is always against the landlord. You have a situation where in this case, sure you can go to court, you can go to court but, in the meantime, what bothers me is the fact that they don't have to have their rent paid up in order to bring this kind of action. What is the recourse of the landlord if the action is really a false one? Are you going to throw them out? Of course you can't do that. On the other hand, you still would like to maintain control of your property. You would still like to maintain control of your money. In my case, the money probably wouldn't be mine, it would be my wife's. I would have a double obligation to make sure that she gets a fair return on it.

The landlord also could be, through a judges order, be made to pay the moving expenses. This is ridiculous. How far can you go when they say this is a great landlord-tenants bill? I think that they have taken a good crack at the landlords in the last five or ten years considering the investment they have against the investment the tenant has. A tenant has no investment. He pays his rent, he pays a fee for a service. He is entitled to that service and that is it. I submit to you that whatever the landlord invests into, a store or anything else, he should be entitled to a fair profit. I don't want to put the judge in the position of appraiser as to how much a rent is worth. I have enough trouble with digesting what some of these judges come out with, that I don't want them to be an appraiser that decides on my property. Really, this is a sad situation. Every year, every day, we are investing. The Maine Housing Authority has invested millions of dollars in the last six, seven, or eight years in order to take care of this rent situation. We aren't taking care of this

rent situation because the people are moving out. They are tearing down buildings. Urban renewal tears others and they don't build any more rents. I submit to you that if a place is unfit, according to the bill if a place is unfit to rent, you should not be able to waive that condition, you shouldn't be allowed to be there.

I don't know how many of you own apartments, but all I can tell you is what does happen. There are a lot of things that you can do to make your apartment more profitable probably. Actually it is a better place to live if you cut them down into small apartments. That doesn't solve the problem because the ones with families can't find rents.

I submit to you that, as I said before years ago, those of you that want to buy an apartment house, you come and see me and I will give you a terrific buy. You are going to be happy forever with some of these tenants that we do run across. I submit to you that this is not a good bill and that you vote for the indefinite postponement.

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

Mr. NORRIS: Mr. Speaker, Ladies and Gentlemen of the House: It is obvious that I signed the "Ought Not to Pass" Report. I think most of the reasons have been covered here this morning. I am not going to quote any cases. I am going to use the Statement of Fact. The law now guarantees that tenants receive a dwelling unit that is fit to live in. Then we go on to say if a dwelling unit is unfit, a tenant can move out and sue the landlord for the difference between the rent paid and the actual value of the dwelling. Given the lack of readily available housing and I do think that is what the problem is. We do have bad landlords and we have bad tenants in the State of Maine. There is no question about it. The majority of the landlords are good and the majority of the tenants are good. I don't see that this bill does anything for either the landlord or the tenant.

In most of the municipalities, they have code enforcement officers that you can contact if an apartment becomes unsafe to live in. If that doesn't work, and I am going to give the tenants a little piece of information this morning that some of the poor landlords may not like, call the insurance commissioner and find out who their liability carrier is. Notify their liability carrier that the dwelling is unsafe to live in. You will get action, believe me, you will. If you don't, their policy will be cancelled. Let us do away with this little lawyer's document this morning that would take you to the district court or the superior court. Let's put this to rest.

There is a bill coming along that really is a good compromise, in my opinion, between landlords and tenants. If there is cause for eviction here, if you are starting this process, all the landlord has to do is evict you. There isn't a thing in the world you can do about it. Under the law right now, he can evict anybody from any one of his apartments that he want to. I say, lay this to rest. If any of the poor tenants out there are having a problem with unsafe apartments and you can't find out locally and the code enforcement man won't do anything and I assure you he will but if he won't, contact the insurance commissioner and find out who the carrier is. You let them know about the condition that exists and I assure you, it will be taken care of forthwith. You won't need this law amended or unamended to do it and the tenant will save himself hundreds of dollars in attorney's fees.

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 expres-

sed a desire for a roll call, a roll call was ordered.

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

#### ROLL CALL

YEA — Aloupis, Ault, Austin, Bagley, Berry, Berube, Boudreau, P.; Brown, K. L.; Brown, K. C.; Bunker, Carrier, Carter, D.; Carter, F.; Churchill, Conners, Cunningham, Devoe, Dexter, Dow, Drinkwater, Dudley, Durgin, Dutremble, Fenlason, Gauthier, Gillis, Gould, Gray, Hobbins, Huber, Hunter, Hutchings, Immonen, Jackson, Joyce, Kilcoyne, LaPlante, Lewis, Littlefield, Lizotte, Lunt, Mackel, Mahany, Marshall, Masterman, Maxwell, McBreairty, McKean, McMahon, McPherson, Nelson, N.; Norris, Peltier, Perkins, Plourde, Raymond, Rollins, Shute, Silsby, Smith, Sprowl, Strout, Stubbs, Tarr, Teague, Theriault, Torrey, Tozier, Truman, Twitchell, Whittemore.

NAY — Bachrach, Beaulieu, Bennett, Benoit, Biron, Blodgett, Boudreau, A.; Breneman, Burns, Bustin, Carey, Carroll, Chonko, Clark, Cote, Cox, Curran, Davies, Diamond, Elias, Flanagan, Garsoe, Gill, Goodwin, H.; Goodwin, K.; Green, Greenlaw, Hall, Henderson, Hickey, Howe, Hughes, Jacques, Jalbert, Jensen, Kane, Kany, Kelleher, Laffin, Locke, Lynch, MacEachern, Masterton, McHenry, Mitchell, Moody, Morton, Nadeau, Najarian, Nelson, M.; Palmer, Peakes, Pearson, Post, Prescott, Sewall, Spencer, Talbot, Tarbell, Tierney, Trafton, Tyndale, Valentine, Wilfong, Wood, Wyman, The Speaker.

ABSENT — Birt, Connolly, Fowlie, Higgins, Kerry, LeBlanc, Lougee, Martin, A.; Mills, Quinn, Rideout.

EXCUSED — Peterson, Stover.

Yes, 71; No, 67; Absent 11; Excused, 2.

The SPEAKER: Seventy-one having voted in the affirmative and sixty-seven in the negative with eleven being absent and two excused, the motion does prevail.

Sent up for concurrence.

#### Consent Calendar

##### First Day

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

(H. P. 919) (L. D. 1115) Bill "An Act to Amend the Elderly Householders Tax and Rent Refund Act to Allow Access to State Tax Assessor's Records by the Department of Human Services" — Committee on Taxation reporting "Ought to Pass"

(H. P. 1110) (L. D. 1377) Bill "An Act to Increase Certain Fees under the Pharmacists Law" — Committee on Business Legislation reporting "Ought to Pass" as amended by Committee Amendment "A" (H-504)

(H. P. 902) (L. D. 1117) Bill "An Act to Enable Domestic Stock Insurance Companies to Acquire Minority Interests and to Insure That Minority Shareholders Receive Fair Value for Their Shares" — Committee on Business Legislation reporting "Ought to Pass."

(H. P. 1023) (L. D. 1247) Bill "An Act to Clarify the Provision Relating to Late Payment of Insurance Claims" — Committee on Business Legislation reporting "Ought to Pass"

(H. P. 1447) (L. D. 1673) Bill "An Act to Require the Maine Human Services Council to Hold Public Hearings on Maine's Title XX Plan of Social Services" — Committee on Health and Institutional Services reporting "Ought to Pass"

No objections being noted, the above items were ordered to appear on the Consent Calendar.

dar of Tuesday, June 7, 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. 358) (L. D. 451) Bill "An Act Empowering the State of Maine to Enter into the Interstate Corrections Compact" (C. "A" H-495)

(H. P. 1261) (L. D. 1490) Bill "An Act to Avoid Delays in Payment of Workmen's Compensation Claims because of the Involvement of Two or More Insurance Carriers"

(H. P. 1128) (L. D. 1345) Bill "An Act to Amend the Membership and the Legislative Mandate of the Capitol Planning Commission" (C. "A" H-496)

(H. P. 1466) (L. D. 1720) Bill "An Act to Provide for Adult Education for Certain Students under the Provisions of the School Finance Act of 1976" (C. "A" H-498)

(H. P. 1217) (L. D. 1453) Bill "An Act Appropriating Funds to Provide Road and Bathing Facilities on Lucia Beach at Owls Head" (C. "A" H-499)

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 to Simplify, Improve and Reduce the Cost of State Agencies Auditing Human Services Contracts and Grants" (S. P. 522) (L. D. 1826)

Bill "An Act to Exempt Energy Conservation Materials from the Sales Tax" (H. P. 1642) (L. D. 1841)

Bill "An Act to Revise the Oil Burner Men Law" (H. P. 1644) (L. D. 1844)

RESOLVE, Authorizing and Directing the Commissioner of Inland Fisheries and Wildlife to Promulgate Rules and Regulations Pertaining to Ice Fishing (H. P. 1637) (L. D. 1839)

Bill "An Act Relating to an Increase in the Volume Fees Paid by Major Creditors under the Maine Consumer Credit Code" (H. P. 180) (L. D. 242) (C. "A" H-485)

Bill "An Act to Encourage Energy Conservation in Maine" (H. P. 1468) (L. D. 1711) (C. "A" H-497)

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

**Passed to Be Enacted  
Emergency Measure**

"An Act Clarifying the Saco River Corridor Commission Statutes" (H. P. 1281) (L. D. 1517) (C. "A" H-425)

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, 132 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.

**Passed to Be Enacted**

"An Act to Establish a Sign on Interstate 95 Announcing Peaks-Kenny State Park" (S. P. 302) (L. D. 928) (H. "A" H-443)

"An Act Providing for Improved Accountability of Funds Expended by the Department of Human Services and by the Department of Mental Health and Corrections." (S. P. 514) (L. D. 1807)

"An Act to Permit Carpools Under the Public Utilities Law" (H. P. 247) (L. D. 319) (S. "A" S-176 to C. "A" H-333)

"An Act to Revise the Excise Tax on Camper Trailers" (H. P. 953) (L. D. 1147)

"An Act to Provide a Uniform Basis for Recognizing the Right of the University of

Maine Employees, Maine Maritime Academy Employees, Vocational-Technical Institute Employees and State Schools for Practical Nursing Employees to Join Labor Organizations" (H. P. 1144) (L. D. 1391) (H. "A" H-368 to C. "A" H-350)

"An Act to Promote Direct-Marketing of Agricultural Commodities" (H. P. 1339) (L. D. 1619) (C. "A" H-422)

"An Act Relating to Communicable Diseases" (H. P. 1602) (L. D. 1805)

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.

**(Off Record Remarks)**

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

**(Off Record Remarks)**

On motion of Mr. Talbot of Portland, Recessed until four thirty in the afternoon.

**After Recess  
4:30 P.M.**

The House was called to order by the Speaker.

The following Second Readers, set aside earlier in the day, were taken up out of order by unanimous consent:

**Second Reader  
Tabled and Assigned**

Bill "An Act to Revise the Laws Relating to Barbers and Cosmetologists" (H. P. 1639) (L. D. 1838)

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

(On motion of Mr. Tierney of Lisbon Falls, tabled pending passage to be engrossed and tomorrow assigned.)

**Passed to Be Engrossed**

Resolve, to Provide for Regional Special Education Compacts (Emergency) (H. P. 1643) (L. D. 1842)

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

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

Mr. LYNCH: Mr. Speaker, the purposes of setting this aside was simply to get on the record that it was the intent of the committee and the intent of the legislature — we thought we spelled it out but there seems to be some question that this is an experimental program carried out for one year for SAD 55, 35, 57, 60 and 71 in the towns of York, Sanford, Arundel, Wells and Acton. I think that would spell it out and would give the commissioner the intent of the legislature.

Thereupon, the Resolve was passed to be engrossed and sent to the Senate.

Bill, "An Act to Encourage the Use of Solar Energy in Maine Through Tax Exemptions" (H. P. 1645) (L. D. 1845)

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

Mr. Burns of Anson offered House Amendment "A" and moved its adoption.

House Amendment "A" (H-513) was read by the Clerk.

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

Mr. BURNS: Mr. Speaker and Members of the House: This is merely a technical amendment submitted by the Committee on Bills in the Second Reading.

Thereupon, House Amendment "A" was adopted.

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

Bill "An Act Relating to Special Education Tuition on Board" (Emergency) (H. P. 1638) (L. D. 1836)

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

Mrs. Prescott of Hampden offered House Amendment "D" and moved its adoption.

House Amendment "D" (H-518) was read by the Clerk.

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

Mrs. PRESCOTT: Mr. Speaker, Ladies and Gentlemen of the House: There are two purposes for this amendment. The first purpose is to reimburse the special ed tuition in the year of allocation. The second purpose is to establish a contingency account at the state level for that purpose. The commissioner has the authority to adjust the allocation to any unit, and there are no additional monies necessary in this. This act would take effect July 1, 1977.

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

Mrs. MITCHELL: Mr. Speaker and Members of the House: I have long dreaded the time when this confrontation took place because I have been most ambivalent in my own feelings as to when we should pay for special education tuition.

The committee has come up with a very comprehensive kind of bill, and I believe the only area of which we are in disagreement with Mrs. Prescott is when the special education tuition is paid. While I am speaking, you might want to look at L. D. 1836 and look at the area that this special education bill covers.

One of the problems with paying special education in the year that the money is spent, it is the only factor in all the school finance act which is done this way; it is done entirely on estimates. However, we know it is a problem for school units to have expensive tuitions come up and disrupt their budgets, so what we have left now in the bill is simply kids who are newly discovered that we have not been able to anticipate or kids who move into Maine from another state, because in the rest of L. D. 1836, we have said that a child who moves from Vassalboro, to Bangor, his special education tuition money would follow him so it wouldn't be a burden for Bangor or vice versa.

We have also said that a state ward, a child that the state places directly, the money will come from the state directly in the year that year that it is spent. So we have tried to limit the problems that would be caused at the local level.

The main reason the committee chose to put special education tuition on the same basis as running your own special education program, we wanted to remove any financial incentive for tuitioning a child out rather than offering a program locally.

The effective date for this, of course, will not be this year. We are so late in dealing with the school finance act, it would be unfair to make any major change at this time. The effective date would be next year, not this year.

There would be a one-time savings for the state because next year the municipalities would be reimbursed on last year's expenditures, or this year's expenditures, and one of the reasons, quite frankly, that the committee looked favorably at this is, we are trying to

come up with some money to pay school construction costs, etc., and we were trying to be responsible and to fund that money as best we could.

In the category now, we have newly discovered children and children new to Maine. We felt that the most expensive way to educate our special education children is through the tuition program because there is a 15 percent escalator. Every year, these costs can go up 15 percent, and we feel that both financially and for the good of the child, we want to give as many incentives as possible to offer that program locally. So it is for this reason that the committee would oppose Mrs. Prescott's amendment.

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

Mrs. NAJARIAN: Mr. Speaker and Members of the House: I have a couple of other problems with this amendment, and one of them is, on the second page it says "all units shall be prorated, if necessary, to remain within the sum appropriated to the contingent account." Well, first of all, there is no money appropriated to the contingent account. The contingent account is created, but no money is put in to fund it. Secondly, we have been fighting here for all last year to take any language relating to proration out of the school finance act, which is what we had one year and it caused a lot of undue hardship on a lot of school units. This puts that language back in as it applies to special education, and I certainly am opposed to that.

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

Mr. LYNCH: Mr. Speaker, Ladies and Gentlemen of the House: I hope you do not enact the amendment. I think this is the time to address the problem that is going to be coming to us down the road in a much larger measure. If you are aware of what is going on on the Washington scene in regard to special education law, you are going to find that it is going to be real burdensome. I think we ought to move in the direction the committee has adopted in order to get a real handle on these costs; otherwise, proration is going to be a very severe burden on many communities in the state.

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

Mrs. PRESCOTT: Mr. Speaker and Members of the House: In response to Mrs. Najarian's question on prorating, you have got to have prorating in order to live within the budget. The commissioner has the authority and he has to have that authority in unknown quantities. He has to have it to make sure that we live within the monies that the legislature appropriates. We have to make sure that there will be no deficits.

I would also like to address the continued question of the reimbursement in the special ed area. It needs to be in the year of allocation. It is a very important and necessary part of the law for the local units. This amendment is going to keep this reimbursement just in the year of allocation, because back home, our districts have to know how much money they are going to have. My primary concern is to assist those school units which during the course of the year experience an increase in the number of their special ed students. When a pupil changes residence, it causes a hardship, and this amendment attempts to eliminate that hardship, but even more important, it attempts to prevent it from happening in the future.

If we allow this bill to go as drafted, if it goes through, it will create financial hardships on the local level. It will not create financial hardships on the state level, and one of my units could lose up to \$30,000 if we go on prior year allocation. I am sure there are other units in this House that would also have losses. All of

these areas which Mrs. Mitchell had defined, the pupils who move to Maine or the pupils who are newly discovered, have to be addressed. If not, they are going to create the hardship at the local level. Under this proposal that I have, this amendment, the Commissioner of Education would be granted the authority to make those adjustments and pupils who move into Maine or those newly discovered pupils who were not around during the time that the tuition estimates were submitted to the commissioner would be addressed.

This amendment causes no hardship, and I think that probably one of the major objections is the fact that there is money there that is available for the contingency fund, but I think there are others who have ideas of using it for school construction or whatnot. But keep in mind that to put this on the state level, it does not create a hardship, but if you put it back to the local units, you create hardships, these people cannot estimate accurately and they just cannot handle the money that they are going to have to pay to make up for those estimates they can't come up with.

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

Mr. CONNERS: Mr. Speaker, Ladies and Gentlemen of the House: I have to agree with the previous speaker here. I have been talking to my superintendent and I have a list of the towns in one of my school districts, the Town of Steuben lost \$25,000; Gouldsboro, \$11,000; Winter Harbor, \$8,000; Schoodic Community School District, \$15,000; Flanders Bay, approximately \$9,000. These are the costs if we go back to the prior year allocations. So I hope you will accept the amendment.

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

Mr. LYNCH: Mr. Speaker, Ladies and Gentlemen of the House: I would suggest that many of these cost are an easy way out for the superintendent, to tuition these children in order to get reimbursed in the current year.

Just a few moments ago, we accepted in second reading an experimental program on regional special education compacts, and I think that is the direction in which we ought to go. We shouldn't get tied up with too many of these tuition students.

The SPEAKER: The Chair will order a vote. The pending question is the adoption of House Amendment "D". All those in favor will vote yes; those opposed will vote no.

A vote of the House was taken. Whereupon, Mrs. Prescott of Hampden 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.

Mrs. Prescott of Hampden was granted permission to speak a third time.

Mrs. PRESCOTT: Mr. Speaker, Ladies and Gentlemen of the House: I would just like to make one final plea if I could, please, and I hope you will bear with me. There are two ways to deal with this problem and still keep the method of reimbursement in the year of allocation. One way is for the local units to carry a contingency fund in its estimates so that it could pick up those new pupils, but the big problem with that is that if each unit did this and the total tuition cost estimates were tallied, the state would have an inflated or an unrealistic amount. The best approach is the one that I have offered to you through my amendment, and that is for the commissioner to carry the contingency fund at the state level. This would insure that the overall tuition budget was not inflated and the Department of

Education must approve each tuition placement on an individual basis and they could easily keep track of the amount of money committed or still available and so forth. If this were done, the local units would not have to guess how many pupils they might have next year, and this is what the problem area is.

The only part that may require additional funds to implement is that which deals with the state wards, but that has been addressed in the new draft of the bill. If there is a problem in that area, then that part of the law could become effective July 1, 1978. I am under the assumption that there is no problem area there. Currently, the law requires units to estimate their 1977-78 special education tuition costs for the Department of Education, and that has been done. This information was the basis of the commissioner's funding recommendation to the legislature. Included in those estimates was the cost of the current placement, increased by the 15 percent that Mrs. Mitchell had mentioned. If this amendment were to pass, all that the commissioner would need to do is to get another estimate from the locals, and when those estimates were again tallied, the amount of the contingency available would be determined by simply subtracting the total estimates from the total appropriations.

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

Mr. BAGLEY: Mr. Speaker, Ladies and Gentlemen of the House: I simply want to reiterate and reinforce two of the points already made by speakers who are opposing this amendment. The first one is the feeling that possibly if this money isn't going to be paid in the year of allocation, it will encourage towns to look a little longer at the prospects of taking care of their own special education pupils instead of simply tuitioning them out. In many cases, the simplest way, if they can get the money the first year or in the second year, there is a double incentive to tuition those people out. It saves them the bother of trying to take care of them and they get the money immediately.

In many cases, as far as the children are concerned, it would be better if they could be educated in their own town and not be tuitioned out to some other town.

The second thing is this matter of prorating. Any plan which is based upon estimation, any plan by which we are going to pay the money at the time of allocation, has got to be estimated and has got to result in allocating the money.

If we can let this go the second year, the same as we do all other school costs, the same as we do the vocational education, the regular education, transportation and so forth, then we know the exact amount. There is no need of any dividing the money up because the money is an exact amount, so it seems to me it is better to let things go the way the original bill was.

Mrs. Prescott of Hampden was granted permission to speak a fourth time.

Mrs. PRESCOTT: Mr. Speaker, Ladies and Gentlemen of the House: I apologize for asking to address you again, but obviously this fight is mine alone and I am the only one to defend my point of view here. I would like to address the question that was just raised on tuitioning students out. I would like to address that argument that if there is tendency on the part of some superintendents and boards to tuition out those special ed students rather than set up programs within their local units, then we must remember that individual pupil who is placed in a special education situation must be specifically approved by the Department of Education. And if indeed the department is aware of any superintendent or board avoiding the establishment of local programs, then why does not the department refuse to approve placement requests for those units. To punish all local units for the failures of a few seems to me to be quite unfair. All that is required, perhaps, is a little backbone from the depart-

ment itself. On the question of prior year, there never has been a deficit problem. The state's position is solid but locally it is not, there are hardships.

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

Mrs. LEWIS: Mr. Speaker, Ladies and Gentlemen of the House: Just so Mrs. Prescott will not feel so all alone, I do support her position. The original bill came from the Education Committee with a 12 to 1 report and I was the one dissenter, and my reason for dissenting was that I do agree that the money ought to be paid the year of allocation. I can see the arguments on the other side and I think they are very sound. However, when the state went to 90 percent reimbursement instead of the 100 percent it, incurred a hardship on the community. So I feel that if we did that to them and they are managing to get along with it but it is difficult and this is just an added load. So I really think that it would be better to reimburse the localities the year of allocation rather than on the year after the allocation.

The SPEAKER: A roll call has been ordered. The pending question is on the adoption of House Amendment "D". All those in favor will vote yes; those opposed will vote no.

#### ROLL CALL

YEA — Benoit, Biron, Boudreau, P.; Brown, K.L.; Carey, Carroll, Carter, F.; Churchill, Conners, Diamond, Dow, Durgin, Flanagan, Gould, Greenlaw, Henderson, Higgins, Huber, Hutchings, Jackson, Lewis, Littlefield, Lizotte, Locke, Mackel, Masterman, McHenry, McPherson, Moody, Nelson, N.; Pearson, Perkins, Peterson, Plourde, Prescott, Rollins, Shute, Sewall, Strout, Tarr, Tozier, Truman, Twitchell, Tyndale, Whittemore, Wood.

NAY — Aloupis, Ault, Bachrach, Bagley, Beaulieu, Bennett, Berry, Berube, Birt, Blodgett, Boudreau, A.; Breneman, Brown, K. C.; Burns, Chonko, Clark, Cote, Cox, Cunningham, Curran, Davies, Dexter, Dudley, Elias, Fenlason, Garsoe, Gauthier, Gill, Gillis, Goodwin, H.; Goodwin, K.; Gray, Green, Hall, Hickey, Hobbins, Howe, Hughes, Hunter, Immonen, Jalbert, Jensen, Joyce, Kany, Kelleher, Kerry, Lougee, Lunt, Lynch, MacEachern, Mahany, Marshall, Masterton, McBrearty, McKean, McMahon, Mitchell, Morton, Nadeau, Najarian, Nelson, M.; Norris, Palmer, Peakes, Peltier, Post, Raymond, Rideout, Smith, Spencer, Sprowl, Stubbs, Talbot, Tarbell, Teague, Tierney, Torrey, Trafton, Valentine, Wilfong, The Speaker.

ABSENT — Austin, Bunker, Bustin, Carrier, Carter, D.; Connolly, Devoe, Drinkwater, Dutremble, Fowlie, Jacques, Kane, Kilcoyne, Laffin, LaPlante, LeBlanc, Martin, A.; Maxwell, Mills, Quinn, Silsby, Stover, Theriault, Wyma.

Yes, 46; No, 81; Absent, 24.

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

Mr. Burns of Anson offered House Amendment "C" and moved its adoption.

House Amendment "C" (H517) was read by the Clerk and adopted.

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

Bill "An Act to Repeal the Age Limit for Directors of Mutual Institutions" (H. P. 860) (L. D. 1049)

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

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

Ms. CLARK: Mr. Speaker, Men and Women of the House: It is with some reluctance that I stand this afternoon and move indefinite postponement of L. D. 1049 and would speak to my motion.

The SPEAKER: The gentlewoman from Freeport, Ms. Clark, moves indefinite postponement of L. D. 1049.

The gentlewoman may proceed.

Ms. CLARK: Mr. Speaker, Men and Women of the House: As the House Chairwoman on the Joint Standing Committee on Business Legislation, I must reflect the Majority 10 to 3 "Ought Not to Pass" Report, at least give it one more try. I know that there will be those who are amazed and appalled and even dismayed, but for the record, I think we should review the background and the thrust of this legislation.

Present law requires that the directors of all mutual financial institutions shall retire from membership on the Board of Directors upon reaching 72 years of age. This law becomes effective this fall, October 1977, as a matter of fact, two years after the enactment of the recodification of the financial laws governing financial institutions in the State of Maine.

This requirement was a result of the Governor's Banking Study Advisory Committee and was addressed as a separate recommendation in their report of August 1974, and for those who were not in their seats that day I, shall repeat what the report reads: "A mandatory retirement age for corporators of mutual savings banks is proposed in order to introduce new people and ideas more rapidly. That committee recommends that corporators and trustees of mutual savings banks have a mandatory retirement age of 72. This provision should become effective two years after enactment of such legislation. A proposal to limit the terms of office of trustees of thrift institutions to 15 years was rejected by that advisory committee. The committee believed that there is no necessary connection between length of service and decreased capability to serve." The Statement of Fact on L. D. 1049 says that the state should not interfere with a matter which can be dealt with by the by-laws of each mutual institution. In addition, it is unfair for the state to require that an individual of a certain age retire from participation on a board of directors when he or she may be as vigorous or more vigorous than a person 20 years their junior.

The Business Legislation Committee, in its 10 to 3 report, does not feel that this was an attempt to interfere with financial institutions. The contributions of older persons to Maine financial institutions over the years has been and is positively recognized. It is indeed possible for an older person to be more vigorous than a person 20 years their junior; it is likewise possible for a person to insist on retaining their membership as a director or trustee past their usefulness, and this has happened in the past.

While this may appear to be a cruel and inconsiderate regulation, it is not, but it is, indeed, delicate. A line must be drawn somewhere and some financial institutions were able to draw this line and the common denominator was approximately age 70. One institution used age 68. Age 72 appeared to be a reasonable compromise. Obviously, an institution that has a majority of older directors or trustees cannot enact such by-law legislation or change because these board members will not vote for it, and that is where the hard, cold facts rest.

Institutions can retain the services of individuals 72 and older through honorary trusteeships and emeritus trusteeships, and this is being done currently statewide. These persons may continue to attend meetings, express their opinions and contribute greatly to the success of the institutions. The only change is that they no longer have a vote. The majority of the Committee on Business Legislation is of the opinion that it is necessary to infuse new thinking periodically into the direction of financial institutions in Maine. This requirement, in fact, does this and it should be left a matter of law.

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

Mr. PERKINS: Mr. Speaker, Ladies and Gentlemen of the House: As you recall the vote last Friday, we are aware of the position of the committee. The fact that, they turned the 10 to 3 "Ought Not to Pass" Report in, this makes the discrimination against the elderly no more or no less distasteful to me today than it did last Friday. I feel this bill is very discriminatory and if the job must be done, let it be done at the local level rather than the state mandating it. I would ask for a roll call.

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

Ms. GOODWIN: Mr. Speaker, Men and Women of the House: I would hope that we would not overturn what we did yesterday, and if it is our intention not to interfere with financial institutions, then I say let them do their own dirty work.

I also submit that new ideas are not necessarily better ideas. We should be talking about ability and competence, not age, and if we are going to allow people to be honorary members of financial institutions, perhaps some members of this House should be made honorary members as well.

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

Mr. PEAKES: Mr. Speaker, Ladies and Gentlemen of the House: I had hope that we would not get involved in an emotional paper-boy situation today. I think this is a problem we have to seriously face. We as people going out, getting loans to start businesses, to build homes and so forth, would like the feeling that at least there is a fair representation of all age groups on these boards. The fact is, these boards have become stagnant, and in one case there was a member that was in his 90's. Now there is nothing wrong with that, but I think with the board representing this higher age level, that we are not getting the expansion and the emphasis into business that we need in this state. I think that the industry would like us to leave the law just exactly the way it is because it doesn't create an individual personal problem regarding removing a member of the board as they would like to. It creates a blanket-type situation where no individual problems are taken up.

The situation was dealt with by Ms. Clark as far as the board being unable to assume these responsibilities themselves because they would be voting in fact to remove themselves.

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

Mr. TYNDALE: Mr. Speaker, Ladies and Gentlemen of the House: Having been a director of a bank for a some time, the procedure in these cases are that the bank in itself, through its by-laws, put down a mandatory retirement if they do — they do not. I have never known in all my connections with banks with any of them about any demoted directors in them. As a matter of fact, the most intelligent directors we had on the board were men of experience, long time businessmen, successful men who established themselves in the community. You will read from time to time in the newspaper about bank directors who early in the morning are the first ones there at their meetings and they do a job, and I do not intend to take that privilege away from them.

Secondly, I hope that you will recollect in your minds that there is a need for youth and experience and both put together has been a pretty successful venture in this House over the years of its existence. I have seen some of the most intelligent pieces of legislation passed in these halls by men even in their 80's. So let us judge each man by his own capability and let each institution make up its by-laws such as they will. I am sure that you will find that men like Oliver Wendell Holmes, who wrote one of

the most intelligent theses on law at the age of 91, should receive some consideration also.

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

Mrs. BOUDREAU: Mr. Speaker, Men and Women of the House: I think last Friday the intent of this bill was blown all out of proportion. This has nothing to do with forced mandatory retirement from gainful employment or any kind of a regular job. All this deals with is people who serve as directors of mutual savings; that is, savings and loans and savings banks. These institutions provide the highest rate of return on savings, and rather than hurt the senior citizen, I think good management and good directors should prove beneficial, as I am sure many of these senior citizens who have small savings, that is where they will put them, where they will get the higher return.

There should be a mix of age groups serving as directors. The law presently will mandate 72 as the age limit. L. D. 1049 would repeal this requirement. National banks are mandated by federal law to require that no one over 70 serve as directors. Passage of L. D. 1049 would help only a very few people, for instance, the director who serves on his bank as a director but spends his winters in Florida or it does not necessarily have to be Florida, it can be anyplace, but he is not at home to attend any meetings. This person, the only reason he is on there is for the prestige. The other person that would be helped is the person that really should not be serving, and I think if you really think of the senior citizens, this bill should not pass, because isn't it much kinder to have something in the statutes that says you have to retire at 72 rather than do the dirty work they say, but what a traumatic experience to have to go up to a senior citizen and say, "Hey, you haven't got it anymore, we do not want you." Isn't it much better to have it in the statutes so that there is no misunderstanding, everyone knows when they have to retire?

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

Mr. BAGLEY: Mr. Speaker, Ladies and Gentlemen of the House: As one of those who would have to be an honorary member of this body if that law went into effect, I don't mean it would have to be if that law went into effect, but as per the suggestion we had a while ago, I have to comment that one of the main thrusts of a lot of organizations now is to do away with discrimination based on age.

Somebody mentioned Oliver Wendell Holmes, and I just would like to tell you a little story that is told about him. When he was 90 years old, he was walking down one of Washington's main streets with a companion. He saw a pretty girl go by. He turned his head and watched the girl as she went by, turned to his companion and said, "Gad, I wish I was 20 years younger."

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

Mr. SPROWL: Mr. Speaker, Ladies and Gentlemen of the House: I don't stand before you and speak very often, and I think on this bill most of the points have been brought out. But I do feel very strongly about this particular issue, so I am going to take two or three more minutes of your time this afternoon.

I hope that you will support the motion to indefinitely postpone made by the gentleman from Freeport, Ms. Clark. I think that we have had a blue ribbon study group who has studied this and made their recommendations, which is the banking code. That bill was heard before the appropriate committee, it was passed by this House and Senate and signed into law, and now this committee has heard another bill to repeal what was passed and 10 to 3 we decided that it should not be repealed.

The gentleman from Blue Hill spoke about discrimination against the elderly. I don't think

that is true at all. Everyone is discriminated against because of age I guess. Why should I be 18 to become a selectman? Why should I be 20 to buy liquor? Why should I be 25 to run for Congress? Why should I be 35 to become President of the United States? This is discrimination I guess. If the age limit at 72 is discrimination, then all of these other figures are discrimination. Why should I have to retire at 60? Well, I am not going to keep talking about this. I hope you will vote with Nancy Clark.

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 Milo, Mr. Masterman.

Mr. MASTERMAN: Mr. Speaker, very quickly I just would like to say that Mr. Burns, who is the head of the Federal Reserve Board, seems to be serving the country well, and no one has asked that he resign at 72.

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

#### ROLL CALL

YEA — Alopis, Ault, Berube, Boudreau, A.; Brown, K. C.; Carter, F.; Clark, Connors, Cote, Hall, Hughes, Jackson, Masterton, McHenry, Morton, Peakes, Prescott, Rideout, Sprowl, Tierney, Torrey, Whittemore.

NAY — Bachrach, Bagley, Beaulieu, Bennett, Benoit, Berry, Biron, Birt, Blodgett, Boudreau, P.; Breneman, Brown, K. L.; Burns, Carey, Carroll, Chonko, Churchill, Cox, Cunningham, Curran, Davies, Dexter, Diamond, Dow, Dudley, Durgin, Fenlason, Flanagan, Garsoe, Gauthier, Gill, Gillis, Goodwin, H.; Goodwin, K.; Gould, Gray, Green, Greenlaw, Henderson, Hickey, Higgins, Hobbins, Howe, Huber, Hunter, Hutchings, Immonen, Jalbert, Jensen, Joyce, Kane, Kany, Kelleher, Kerry, Lewis, Lizotte, Locke, Lougee, Lunt, Lynch, MacEachern, Mackel, Mahany, Marshall, Masterman, McBrearty, McKean, McMahon, McPherson, Mitchell, Moody, Nadeau, Najarian, Nelson, M.; Nelson, N.; Norris, Palmer, Pearson, Peltier, Perkins, Peterson, Plourde, Post, Raymond, Rollins, Sewall, Shute, Smith, Spencer, Strout, Stubbs, Talbot, Tarbell, Tarr, Teague, Tozier, Trafton, Truman, Twitchell, Tyndale, Valentine, Wilfong, Wood.

ABSENT — Austin, Bunker, Bustin, Carrier, Carter, D.; Connolly, Devoe, Drinkwater, Dutremble, Elias, Fowlie, Jacques, Kilcoyne, Laffin, LaPlante, LeBlanc, Littlefield, Martin, A.; Maxwell, Mills, Quinn, Silsby, Stover, Theriault, Wyman.

Yes, 22; No, 103; Absent, 25.

The SPEAKER: Twenty-two having voted in the affirmative and one hundred three in the negative, with twenty-five being absent, the motion does not prevail.

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

#### Second Reader Tabled and Assigned

Bill "An Act Prohibiting a Utility from Automatically Passing on Fuel Cost Increases to Customers by a Fuel Adjustment Clause" (H. P. 1090) (L. D. 1314)

Were reported by the Committee on Bills in the Second Reading and read the second time. (On motion of Mr. Tierney of Lisbon Falls, tabled pending passage to be engrossed and

specially assigned for Wednesday, June 8.

#### Amended Bill

Bill "An Act to Prohibit State Officials From Appearing on Media Advertising Funded by the State" (H. P. 440) (L. D. 547) (C. "A" H-468)

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

Mr. Burns of Anson offered House Amendment "A" and moved its adoption.

House Amendment "A" (H-511) was read by the Clerk and adopted.

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

The following Enactor, having been set aside earlier in the day, was taken up out of order by unanimous consent:

#### Passed to Be Enacted Emergency Measure

An Act to Clarify Vocational Education Reimbursement in Vocational Centers and Vocational Regions (H. P. 98) (L. D. 122) (H "C" H-328; S "B" S-175)

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

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

Mrs. POST: Mr. Speaker, Men and Women of the House: I think we have had considerable debate on this from time to time, and my primary objection still stands in that we are changing what vocational education costs, only we are allowing ourselves not to have to face the hard facts because there is no price tag on it since it doesn't take effect for another year. I would request a roll call on this. I think everybody is pretty well aware of my views on it.

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

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

The SPEAKER: The pending question is on passage to be enacted. This being an emergency measure, it requires a two-thirds vote of all the members elected to the House. All those in favor of this Bill being passed to be enacted as an emergency measure will vote yes; those opposed will vote no.

#### ROLL CALL

YEA — Alopis, Bachrach, Bagley, Beaulieu, Bennett, Benoit, Berry, Berube, Biron, Birt, Blodgett, Boudreau, A.; Boudreau, P.; Breneman, Burns, Carey, Carroll, Chonko, Churchill, Clark, Cote, Cox, Cunningham, Curran, Davies, Dexter, Diamond, Dow, Dudley, Elias, Fenlason, Flanagan, Gauthier, Gill, Goodwin, H.; Goodwin, K.; Gould, Gray, Green, Hall, Hickey, Hobbins, Howe, Hughes, Hunter, Immonen, Jalbert, Jensen, Joyce, Kane, Kany, Kelleher, Kerry, Kilcoyne, Lewis, Lizotte, Locke, Lunt, Lynch, MacEachern, Mahany, Marshall, Masterman, Masterton, McBrearty, McHenry, Mitchell, Moody, Morton, Nadeau, Najarian, Nelson, M.; Nelson, N.; Norris, Palmer, Peakes, Pearson, Peltier, Plourde, Prescott, Raymond, Rideout, Rollins, Shute, Spencer, Sprowl, Strout, Talbot, Tarbell, Tarr, Teague, Tierney, Tozier, Trafton, Truman, Twitchell, Tyndale, Valentine, Wood, The Speaker.

NAY — Ault, Brown, K. L.; Brown, K. C.; Carter, F.; Connors, Durgin, Garsoe, Gillis, Greenlaw, Henderson, Higgins, Huber, Hutchings, Jackson, Littlefield, Lougee, Mackel, McMahon, McPherson, Perkins, Post, Sewall, Stubbs, Whittemore, Wilfong.

ABSENT — Austin, Bunker, Bustin, Carrier,



Carter, D.; Connolly, Devoe, Drinkwater, Dutremble, Fowlie, Jacques, Laffin, LaPlante, LeBlanc, Martin, A.; Maxwell, McKean, Mills, Peterson, Quinn, Silsby, Smith, Stover, Theriault, Wyman.

Yes, 101; No, 25; Absent, 25.

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

Signed by the Speaker and sent to the Senate.

#### Orders of the Day

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

Bill, "An Act to Establish an Assessment of Student Performance in the Basic Skills" (Emergency) (S. P. 518) (L. D. 1810)

Tabled — June 2, 1977 by Mr. Bustin of Augusta.

Pending — Passage to be Engrossed.

Mrs. BEAULIEU of Portland offered House Amendment "B" and moved its adoption.

House Amendment "B" (H-609) was read by the Clerk.

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

Mrs. BEAULIEU: Mr. Speaker, Ladies and Gentlemen of the House: All this amendment basically does is respond to the concerns that were raised last week when we debated this bill by Representative Bustin. If you remember, he was concerned about the selection process of the people that would serve on the ultimate committee and the numbers of people. I believe if you read this, you will understand that that has been taken care of.

I wish to point your attention to show the four members from the public at large will be selected. My concern was that potentially the public members would come either all from urban areas or all from rural areas, so we are directing that there be a split between the rural and urban administrative units and that the selection of the public members will be made by the Speaker of the House and the President of the other body.

Thereupon, House Amendment "B" was adopted.

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

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

Bill, "An Act Relating to Reporting of Data of Abortions Performed by an Attending Physician" (H. P. 1628) (L. D. 1831)

Tabled — June 2, 1977 by Mrs. Berube of Lewiston.

Pending — Passage to be Engrossed.

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

Mrs. NAJARIAN: Mr. Speaker, Members of the House: I had an amendment prepared to offer to this bill deleting two sections. When I came in this morning, there were three different sheets distributed on our desks, one of which seemed to promote a justification for the two sections that I wanted to repeal from the bill. I would like to have time to check this out as well as some of the other things that were said in these statements and have not had time to. I would appreciate it if someone would table this for two more days please.

Whereupon, on motion of Mr. Palmer of Nobleboro, tabled pending passage to be engrossed and specially assigned for Wednesday, June 8.

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

Bill, "An Act Relating to the Powers of Plantations and their Organization" (H. P. 1396) (L. D. 1635)

Tabled — June 2, 1977 by Mrs. Post of Owl's Head.

Pending — Passage to be Engrossed.

On motion of Mrs. Post of Owl's Head, retabled pending passage to be engrossed and tomorrow assigned.

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

Bill, "An Act to Define Duties and Set Salaries for Special and Part-time Deputy Sheriffs" (H. P. 992) (L. D. 1191)

Tabled — June 2, 1977 by Mr. Henderson of Bangor.

Pending — Adoption of Committee Amendment "A" (H-388)

On motion of Mr. Henderson of Bangor, retabled pending adoption of Committee Amendment "A" and specially assigned for Wednesday, June 8.

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

Senate Report — "Ought to Pass" as Amended by Committee Amendment "A" (S-154) — Committee on Human Resources on Bill "An Act to Clarify Sex Discrimination in the Maine Human Rights Act" (S. P. 260) (L. D. 821) — In Senate, Report Read and Accepted and the Bill Passed to be Engrossed as Amended by Senate Amendment "A" (S-182)

Tabled — June 3, 1977 by Mr. Talbot of Portland.

Pending — Acceptance of the Committee Report.

Thereupon, the Report was accepted in concurrence and the Bill read once. Committee Amendment "A" (S-154) was read by the Clerk and the Amendment was indefinitely postponed in concurrence.

Senate Amendment "A" (S-182) was read by the Clerk and adopted in concurrence and the Bill assigned for second reading tomorrow.

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

House Divided Report — Majority (9) "Ought Not to Pass" — Minority (3) "Ought to Pass" as Amended by Committee Amendment "A" (H-469) — Committee on Appropriations and Financial Affairs on Bill "An Act to Appropriate Funds to the Maine Amateur Athletic Union Cultural Exchange Program" (Emergency) (H. P. 1343) (L. D. 1500)

Tabled — June 3, 1977 by Ms. Goodwin of Bath.

Pending — Acceptance of either Report.

On Motion of Ms. Goodwin of Bath, retabled pending acceptance of either Report and tomorrow assigned.

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

House Divided Report — Majority (10) "Ought Not to Pass" — Minority (3) "Ought to Pass" — Committee on Legal Affairs on Bill "An Act to Limit Access to Security Interest Records Filed in a Municipality" (H. P. 1271) (L. D. 1499)

Tabled — June 3, 1977 by Mr. Garsoe of Cumberland.

Pending — Motion of Mr. Burns of Anson to accept the Majority "Ought Not to Pass" Report.

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

Mr. TYNDALE: Mr. Speaker, Ladies and Gentlemen of the House: This is certainly not earth-shaking legislation but it is something I have observed over the years after serving three terms on the board of selectmen and one term as chairman of the board. As you know, when a person has a mortgage on either their car, their house, or any other material that they may buy in their home, that is reported to the town clerk for the records of the town and available at anybody's request. Many times, the town acts as a credit agency for anybody that might want to come into the town office and inquire about a certain person.

I don't think that this is fair. I don't think that anybody should be exposed to that kind of privilege that is extended by the town office to people in the credit business. Furthermore, I have seen instances in the town where I have gone down to the local office establishment and I have spoken about a certain person in regard to being in the office inquiring about his real estate taxes. They have turned to me and said, "I am not going to give that guy anything, he owes everybody." This is not true. I don't think there is a person in this House that at one time in their life has not been in unfortunate financial circumstances, and I count as one of them. I think that this is an invasion of privacy to have this practice continue, and I sincerely trust that you will agree with me.

The SPEAKER: The Chair recognizes the gentleman from Richmond, Mr. Moody.

Mr. MOODY: Mr. Speaker, Ladies and Gentlemen of the House: I certainly hope that you will reject the motion made by the good gentleman from North Anson, Mr. Burns, and that you accept the "Ought Not to Pass" Report for several reasons. Number one is, currently, I, as John Doe citizen, can go to the town clerk in your hometown and see how many mortgages you owe and what you owe. Actually, it is none of my business what you owe. I should not have that right to see your private business. Under current law, any John Doe citizen can see how much you owe by simply going to the town clerk and request the mortgage statements.

All this bill does is simply this: Number one, before I can go in to the town clerk and see how many mortgages you owe, I need a written statement from you giving me that permission to give to the town clerk so that he will know that I do have your permission. The second thing is, when this bill was presented before the committee I am on, the Legal Affairs Committee, I was first in opposition to the bill because I thought that this would result in town clerks losing that recording fee that they now receive for recording mortgages. This is not so. This does not affect that fee whatsoever, they will still receive their fee. Therefore, ladies and gentlemen of the House, I hope you will reject the current motion before the House and accept the "Ought to Pass" Report.

I might ask another thing. When we held the hearing on this before the Legal Affairs Committee, if I recall correctly, there were only three people to oppose this. They were all businessmen. I believe one of them was from the chamber of commerce, a mortgage banking institution, and he says this thing would just make things more complicated and so forth because it is my understanding that banks, for those people who have not as of yet established credit, they check with the town clerk to get a mortgage rating and so forth. This really isn't going to affect that, because all this bill will do is require a signed certificate by the person wanting to take out a loan before he can see how much he owes, that is all.

Mr. Speaker, when the vote is taken, I ask for the yeas and nays please.

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

Mr. BURNS: Mr. Speaker, Ladies and Gentlemen of the House: True, there were three people that showed up for the hearing in opposition to this bill. I would remind the gentleman that there was only one person who appeared for the bill, and that was the sponsor. There did not seem to be a very large hoorah over the bill as to what should occur here. There were no civil libertarians there.

I had a little problem with this bill myself, I think it went to the wrong committee. I think it would have been more appropriate if it had gone to the Business Legislation Committee, because that was the committee that originally came out with the act that this is to amend.



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

Mr. BIRON: Mr. Speaker, Ladies and Gentlemen of the House: I speak here today to urge you not to support the pending motion before you and to accept the Minority "Ought to Pass" Report. I think the good gentleman, Mr. Moody, has pointed out that under the present law, obviously none of you here could walk into any banking institution today and say, for example, "How much does Mr. Gray owe this bank?" They wouldn't give you that information; yet, you could go into city hall and get the same information. These are the problems we are having.

If for some reason a person wishes to borrow money and he is sincere about borrowing the money, he should not have any objections to signing a release authorizing the person that he is borrowing from to go to city hall and to check on other obligations that he has. This is only to protect the consumer, to protect those of us who owe mortgages. They are a private thing. People have decided to lend us money for whatever reason it might be. It was not designed to be public information.

Unfortunately, under the law that we have right now, it is public information. This bill will simply say that if you wish to borrow money and that person wants to do a credit check on you, that you would sign an authorization for him to do so. If you refuse to sign the authorization, obviously there are some problems with your credit and they have their right to refuse you. But I don't think just anybody off the street should be able to walk in and get all the information on you and this is what this bill will stop those people from doing. I urge you not to support the motion before you.

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

Mr. MCMAHON: Mr. Speaker, Ladies and Gentlemen of the House: I wish to pose a question on this. I cannot tell from the way this particular bill is written whether or not the whole law that this fits into guarantees the right of the individual creditor himself to get the information on his own records. This bill alone would not do that, but I wonder if it does within the context of the total law?

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

Mr. CHURCHILL: Mr. Speaker, Ladies and Gentlemen of the House: My speeches are not usually very lengthy, but I hope you will support Mr. Moody and Mr. Biron. They have all given you very good points as to why you should accept the "Ought to Pass" Report on this. They do use small town clerks in towns for credit references. It really is more of a nuisance than anything else, but it is a simple method for them to call up and ask how many chattel mortgages each person has when you go in to borrow money. This should not be.

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

Mr. SPENCER: Mr. Speaker, Ladies and Gentlemen of the House: I hesitate to speak on this bill because it is the first time that I have seen it and I just read it. I am concerned at the thrust of this because it appears to me that it defeats the whole purpose of having recorded security interests. If I, for example, buy a house and have a mortgage placed on my house, that mortgage goes into the registry of deeds and is put on record so that anybody that is interested in purchasing that property from me can check the title on it and see whether in fact somebody else has a first claim on the property. The security interest on a chattel mortgage which would, for example, be in the case of a trailer or heavy equipment or whatever, serves the same purpose.

Under this bill as it is written, you can get a written statement from the debtor that allows you to check the records. If you don't have that

written statement, then you could not check to see whether the person who was proposing to sell the property in fact owns the property.

It seems to me we could run into all kinds of problems, for example, where you have a husband and wife and the husband signs for the trailer or for the equipment or whatever it is, he subsequently dies and his wife is left with the property. He is not in any position to give the authorization to allow somebody to check the records and it would appear that a person who was trying to see whether the property was in fact subject to security interest could not find out.

I am a little bit puzzled by the bill because it seems to me that it cuts through the very heart of the whole purpose of recording security interests to protect good faith purchasers. Unless somebody can answer those questions, I would certainly be opposed to this piece of legislation.

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

Mr. TARBELL: Mr. Speaker, Ladies and Gentlemen of the House: I would like to pose a question through the Chair to any of the sponsors or supporters of the bill and reaffirm the concerns that have just been expressed by the gentleman from Standish. Was there any particular reason that this bill was only to apply to local municipalities? As I understand it, finance statements are also filed in many instances with the Secretary of State in central filing for the entire state to give notice statewide to all potential bona fide purchasers that there is a security interest and outstanding loan on a particular piece of property.

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

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

Mr. TYNDALE: Mr. Speaker, Ladies and Gentlemen of the House: I am not a legal expert, but it seems to me that the procedure, number one, that my dear friend Dick Spencer brought up is the fact that this is information which is passed right down through the probate court. As far as the husband is concerned, it would be quite awhile before he could get to the point where, if he wanted to sell property, he would get to that point unless all this information on record. I believe that is public record in the county courthouse and the county probate court.

Secondly, as a farmer businessman, I cannot understand why the town would be the only source of information if you wanted to buy anything as far as what the debtor owes. This information is so available to everybody concerned in business. For instance, if you are going to get a loan from a bank, they have ways of checking up on what you owe without running to the town. As one speaker said, it is a nuisance to the town. I don't see where there is any gain, that the town is not a member of the legal body in any sense of the word. They just merely have this on record to furnish, not necessarily to people who come in and ask in the town office, but merely to pass it on to anybody who comes in the town office and who would inquire about your financial standings. Perhaps I don't understand all the legal complications of some things that go on, but as a layman and as a businessman, I cannot see where it is necessary to get that information from the town whatsoever.

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

Mr. MORTON: Mr. Speaker, Ladies and Gentlemen of the House: I am absolutely flabbergasted to see this bill in the House here today or at all. The idea that anybody would go to any town office and look at the recording files to see what a person's credit record is is really not very much up to date as far as business is

concerned. There are much better places to find out about a person's credit rating. You could not tell how much they owed because all that is recorded there is the original mortgage. You wouldn't know whether they paid it up properly, whether the payments were past due, overdue, paid up or what. That is no place to get credit information.

The main purpose for the recording of a mortgage is to have it on record that the piece of property recorded has got a lien against it. In my business, in the automobile business, these are relatively sizeable pieces of property many times. Unfortunately, you are not always told when you take a trade for an automobile that there is a lien on it. Once you take it in trade, then you are responsible for that lien. It has been my practice occasionally, when I did not know the customer and did not know the circumstances, to go to the town office wherever he came from, be it Farmington or Livermore Falls or somewhere else, to see if the property was mortgaged — that is all. It is a lousy place to find anything about his credit. I cannot imagine what this bill is really for. I think it is bad legislation, and, Mr. Speaker, I move for its indefinite postponement.

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

Mr. SPENCER: Mr. Speaker, Ladies and Gentlemen of the House: I would just like to reiterate a point made by Mr. Morton from Farmington. The purpose of the filing is not to find out the credit rating or the credit of the individual, but to find out whether he actually owns the piece of property that he is proposing to sell to you. If he doesn't and you buy it, then you get stuck with the debt that he owes. The person who has the lien can come in and take the property away from you.

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

Mr. BIRON: Mr. Speaker, Ladies and Gentlemen of the House: In response to Mr. Morton, if his argument is that he cannot understand why anyone should go to the local city or town hall, why does he oppose legislation that would prohibit them from doing that?

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

Mr. MORTON: Mr. Speaker, Ladies and Gentlemen of the House: Simply because the reason he needs to know the information is to know whether, as the gentleman from Standish said, he owns the property, not to know how much he owes. It just to find out whether he owns the property or not.

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

Mr. TYNDALE: Mr. Speaker, as I said, this is not earthshaking legislation, and I didn't know there was going to be this much debate on it.

If any automobile company sells a car to anybody and he doesn't pay, when I was in college, I will tell you a story — we were sent over there and we would confiscate the car. I don't see any reason why an automobile dealer has to get this information from the town clerk.

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

Mr. MORTON: Mr. Speaker, Ladies and Gentlemen of the House: I can assure the gentleman from Kennebunk, Mr. Tyndale, that if anybody is doing this deliberately, they are long gone when you try to go find that automobile.

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

A vote of the House was taken.

71 having voted in the affirmative and 25 hav-

ing voted in the negative, the motion did prevail.

Sent up for concurrence.

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

Bill, "An Act to Amend the Laws Relating to Criminal History Record Information" (H. P. 1629) (L. D. 1832)

Tabled — June 3, 1977 by Mr. Spencer of Standish.

Pending — Motion of Mr. Hobbins of Saco to Reconsider Passage to be Engrossed.

On motion of Mr. Spencer of Standish, tabled pending the motion of Mr. Hobbins of Saco to reconsider and tomorrow assigned.

On motion of Mr. Goodwin of South Berwick, the House reconsidered its action of yesterday whereby it voted to recede and concur on Bill "An Act to Amend the Law Regulating Mass Gatherings," H. P. 1603, L. D. 1806.

On further motion of the same gentleman, tabled pending the motion to recede and concur and tomorrow assigned.

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

Mr. HOBBSINS: Mr. Speaker, is the House in possession of L.D. 313, House Paper 228?

The SPEAKER: The Chair would answer in the affirmative, having been held earlier today at the gentleman's request.

The Chair recognizes the same gentleman.

Mr. HOBBSINS: Mr. Speaker, having voted on the prevailing side whereby we indefinitely postponed this bill, I move that we reconsider our action and would speak briefly to my motion.

The SPEAKER: The gentleman from Saco, Mr. Hobbins, moves that the House reconsider its action of earlier in the day whereby Bill "An Act to Establish the Maine Uniform Residential Landlord and Tenant Act," House Paper 228, L. D. 313, was indefinitely postponed.

The gentleman may proceed.

Mr. HOBBSINS: Mr. Speaker, Men and Women of the House: Many of you probably received a memorandum from the Assistant Legislative Counsel of the Maine Association of Realtors. In this memorandum, the counsel addresses several issues why he objects to this bill and why the association objects to this bill. If we get this bill to second reader and reconsider, there are several objections which they raise in the memorandum which could be taken care of through amendments. It is my hope today that we can reconsider our actions so we can put this in a position, proper posture for amendment.

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

Mr. NORRIS: Mr. Speaker, Ladies and Gentlemen of the House: I appreciate the futility, probably, of my debating this at this particular time. It is six o'clock, late in the evening, and our good friends from Pine Tree Legal have been earning their keep. I am sure, this afternoon doing a little lobbying on this bill, but I would hope that this House would remain firm and refuse reconsideration to my good friend Mr. Hobbins.

The SPEAKER: All those in favor of reconsideration will vote yes; those opposed will vote no.

A vote of the House was taken.

Whereupon, Mrs. Berube of Lewiston 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 Saco, Mr. Hobbins, that the House reconsider its action whereby L.D. 313 was indefinitely postponed. All those in favor of that motion will vote yes; those opposed will vote no.

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

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

#### ROLL CALL

YEAS — Bachrach, Bagley, Beaulieu, Bennett, Benoit, Biron, Blodgett, Breneman, Brown, K. L.; Brown, K. C.; Burns, Carey, Carroll, Chonko, Clark, Cote, Cox, Curran, Davies, Diamond, Elias, Flanagan, Garsoe, Goodwin, H.; Goodwin, K.; Green, Greenlaw, Hall, Henderson, Hobbins, Howe, Huber, Hughes, Hutchings, Jalbert, Jensen, Kane, Kany, Kelleher, Kerry, Kilcoyne, Locke, Lunt, Lynch, MacEachern, Mahany, Marshall, Masterton, McHenry, Mitchell, Moody, Morton, Nadeau, Najarian, Nelson, M.; Nelson, N.; Palmer, Peakes, Pearson, Plourde, Post, Prescott, Sewall, Spencer, Talbot, Tierney, Trafton, Twitchell, Tyndale, Valentine, Wilfong, Wood, The Speaker.

NAYS — Aloupis, Ault, Berry, Berube, Birt, Boudreau, Carter, F.; Conners, Cunningham, Dexter, Dow, Durgin, Fenlon, Gillis, Gould, Gray, Higgins, Hunter, Immonen, Jackson, Joyce, Lewis, Littlefield, Lizotte, Lougee, Mackel, Masterman, McBreaity, McMahon, McPherson, Norris, Peltier, Perkins, Peterson, Raymond, Rideout, Rollins, Shute, Smith, Sprowl, Strout, Stubbs, Teague, Torrey, Tozier, Truman, Whittemore.

ABSENT — Austin, Boudreau, A.; Bunker, Bustin, Carrier, Carter, D.; Churchill, Connolly, Devoe, Drinkwater, Dudley, Dutremble, Fowlie, Gauthier, Gill, Hickey, Jacques, Laffin, LaPlante, LeBlanc, Martin, A.; Maxwell, McKean, Mills, Quinn, Silsby, Stover, Theriault, Wyman.

PAIRED — Tarr, Wyman.

Yes, 74; No, 47; Absent, 28; Paired, 2.

The SPEAKER: Seventy-four having voted in the affirmative and forty-seven in the negative, with twenty-eight being absent and two paired, the motion does prevail.

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

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

Whereupon, Mr. Tierney of Lisbon Falls requested a division.

The SPEAKER: All those in favor of this matter being tabled for one legislative day will vote yes; those opposed will vote no.

A vote of the House was taken.

Whereupon, Mr. Strout of Corinth requested a roll call.

The SPEAKER: For the Chair to order a roll call, it must have the expressed desire of one fifth of the members present and voting. 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 Skowhegan, Mr. Whittemore, that this matter be tabled pending his motion to indefinitely postpone and tomorrow assigned. All those in favor of tabling will vote yes; those opposed will vote no.

#### ROLL CALL

YEAS — Aloupis, Ault, Bagley, Berube, Birt, Boudreau, P.; Carter, F.; Churchill, Conners, Cunningham, Dexter, Durgin, Fenlon, Garsoe, Gillis, Gould, Gray, Hickey, Higgins, Huber, Hunter, Hutchings, Immonen, Jackson, Joyce, Kane, Lewis, Littlefield, Lizotte, Lougee, Lunt, Mackel, Marshall, Masterman,

Masterton, McBreaity, McMahon, McPherson, Moody, Morton, Norris, Palmer, Peltier, Perkins, Peterson, Raymond, Rideout, Rollins, Shute, Smith, Sprowl, Strout, Stubbs, Tarbell, Tarr, Teague, Torrey, Tozier, Truman, Twitchell, Whittemore.

NAYS — Bachrach, Beaulieu, Bennett, Benoit, Berry, Biron, Blodgett, Breneman, Brown, K. L.; Brown, K. C.; Burns, Carey, Carroll, Chonko, Clark, Cote, Cox, Curran, Davies, Diamond, Dow, Elias, Flanagan, Goodwin, H.; Goodwin, K.; Green, Greenlaw, Hall, Henderson, Hobbins, Howe, Hughes, Jalbert, Jensen, Kany, Kelleher, Kerry, Kilcoyne, Locke, Lynch, MacEachern, Mahany, McHenry, Mitchell, Nadeau, Najarian, Nelson, M.; Nelson, N.; Peakes, Pearson, Plourde, Post, Prescott, Sewall, Spencer, Talbot, Tierney, Trafton, Tyndale, Valentine, Wilfong, Wood, The Speaker.

ABSENT — Austin, Boudreau, A.; Bunker, Bustin, Carrier, Carter, D.; Connolly, Devoe, Drinkwater, Dudley, Dutremble, Fowlie, Gauthier, Gill, Jacques, Laffin, LaPlante, LeBlanc, Martin, A.; Maxwell, McKean, Mills, Quinn, Silsby, Stover, Theriault, Wyman.

Yes, 61; No, 63; Absent, 27.

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

The pending question before the House is on the motion of the gentleman from Skowhegan, Mr. Whittemore, that this Bill and all its accompanying papers be indefinitely postponed. All those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

53 having voted in the affirmative and 65 having voted in the negative, the motion did not prevail.

Thereupon, on motion of Mr. Spencer of Standish, the Majority "Ought to Pass" Report was accepted, the Bill read once and assigned for second reading tomorrow.

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

#### Committee of Conference Report

The Committee of Conference on the disagreeing action of the two branches of the Legislature on Bill "An Act Relating to the Spending Ceiling for Education Purposes" (Emergency) (H. P. 968) (L. D. 1165) asks leave to report: that the House recede from its action whereby it passed the bill to be engrossed as amended by Committee Amendment "A" (H-282) as amended by House Amendment "C" (H-307) thereto; recede from adoption of Committee Amendment "A" as amended by House Amendment "C" thereto; recede from adoption of House Amendment "C" and indefinitely postpone House Amendment "C"; indefinitely postpone Committee Amendment "A"; adopt Committee of Conference Amendment "A" (H-520) and Pass the Bill to be Engrossed as Amended by Committee of Conference Amendment "A" (H-520).

That the Senate recede from its action whereby it passed the bill to be engrossed as amended by Committee Amendment "A" (H-282) as amended by Senate Amendment "A" (S-161) thereto; recede from adoption of Committee Amendment "A" as amended by Senate Amendment "A" thereto; recede from adoption of Senate Amendment "A" and indefinitely postpone Senate Amendment "A"; indefinitely postpone Committee Amendment "A"; adopt Committee of Conference Amendment "A" (H-520) and Pass the Bill to be Engrossed as Amended by Committee of Conference Amendment "A" (H-520) in concurrence.

(Signed)

Mrs. NAJARIAN of Portland  
MITCHELL of Vassalboro

Mr. HIGGINS of Scarborough  
   — of the House  
 Mr. MORRELL of Cumberland  
   HUBER of Cumberland  
   — of the Senate.

Report was read.

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

Mrs. NAJARIAN: Mr. Speaker, I move that the House accept the Conference Committee Report.

Actually, what we did is a lot more simple than this supplement would lead you to believe. Essentially what we did, there was a House Amendment, which was my amendment, which was a very fair and equitable amendment that dealt with the distribution of state funds. We traded that amendment for Senator Huber's amendment in the Senate which had lifted the ceiling entirely on educational spending. So that left us with the Committee Amendment. Actually, the only change from the original Committee Amendment, which was 22, is at the bottom of the Conference Committee Amendment "A", the emergency clause, and what that really does is, the hardship waiver will only be in effect for this coming year, one year, and then it sort of sunsets the hardship waiver and the ceiling will go back on at the end of 1978, July 1, after maintenance of effort, and we will have to address that hardship issue again next year.

Thereupon, the Conference Committee Report was accepted.

The House voted to recede from its action whereby the Bill was passed to be engrossed as amended by Committee Amendment "A" as Amended by House Amendment "C" thereto. The House voted to recede from the adoption of Committee Amendment "A" as amended by House Amendment "C" thereto and from adoption of House Amendment "C" and House Amendment "C" was indefinitely postponed. Committee Amendment "A" was indefinitely postponed.

Conference Committee Amendment "A" (H-520) was read by the Clerk and adopted and the Bill passed to be engrossed as amended by Conference Committee Amendment "A" in non-concurrence and sent up for concurrence.

(Off Record Remarks)

Reference was made to (H. P. 361) (L. D. 453) Bill "An Act to Prohibit Smoking at Public Meetings"

In reference to the action of the House on June 2 whereby it insisted and asked for a Committee of Conference, the Chair appointed the following conferees on the part of the House:

Mr. GOODWIN of South Berwick  
 Ms. CLARK of Freeport  
 Mr. DEXTER of Kingfield

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

Mr. MORTON: Mr. Speaker, having voted on the prevailing side on item 7, page 9, I move that we reconsider and hope you all vote against me.

The SPEAKER: The gentleman from Farmington, Mr. Morton, moves that the House reconsider its action of earlier in the day whereby Bill "An Act to Limit Access to Security Interest Records Filed in a Municipality," House Paper 1271, L. D. 1499, and all accompanying papers were indefinitely postponed. All those in favor of that motion will say yes; those opposed will say no.

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

(Off Record Remarks)

On motion of Mr. Kilcoyne of Gardiner,  
 Adjourned until nine o'clock tomorrow morning.