

# 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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## HOUSE

Wednesday, June 8, 1977

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

Prayer by the Honorable Jasper S. Wyman of Pittsfield.

The journal of yesterday was read and approved.

**Committee of Conference Report**

The Committee of Conference on the disagreeing action of the two branches of the Legislature on Bill "An Act to Clarify the Powers of the Department of Inland Fisheries and Wildlife" (H. P. 354) (L. D. 447) asks leave to report:

That the House recede from acceptance of the Minority "Ought Not to Pass" Report of the Committee on Fisheries and Wildlife; Substitute the Bill for the Reports; Read the Bill Twice; Read and Adopt Committee of Conference Amendment "A" (H-521) and Pass the Bill to be Engrossed as Amended by Committee of Conference Amendment "A" (H-521)

That the Senate recede from its action whereby it Passed the Bill to be Engrossed as Amended by Committee Amendment "A" (H-243); recede from adoption of Committee Amendment "A" and Indefinitely Postpone Committee Amendment "A"; read and adopt Committee of Conference Amendment "A" (H-521) and Pass the Bill to be Engrossed as Amended by Committee of Conference Amendment "A" (H-521) in concurrence.

(Signed)

Messrs. GREENLAW of Stonington  
PEARSON of Old Town  
CHURCHILL of Orland

— of the House.

Messrs. REDMOND of Smersett  
JACKSON of Cumberland  
O'LEARY of Oxford

— of the Senate.

The Report was read.

On motion of Mr. Greenlaw of Stonington, the Conference Committee Report was accepted.

The House receded from its action whereby the Minority "Ought Not to Pass" Report was accepted, the Bill was substituted for the Reports, and the Bill read twice.

Conference Committee Amendment "A" (H-521) was read by the Clerk and adopted.

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

**Papers from the Senate**

The following Communication:  
The Senate of Maine  
Augusta

June 7, 1977

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

The Senate today Adhered to its action whereby it accepted the Majority 'Ought Not to Pass' Report on Bill, "An Act Authorizing Control Over the Electrical Rates Charged Maine Consumers by Out-of-State Electrical Utilities" (H. P. 835) (L. D. 1008).

Respectfully,  
(Signed) MAY ROSS

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 Judiciary reporting "Ought Not to Pass" on Bill "An Act to Impose a Mandatory Minimum Sentence for Drug Sales" (S. P. 64) (L. D. 135)

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

**Leave to Withdraw**

Report of the Committee on Judiciary reporting "Leave to Withdraw" on Bill "An Act Relating to Hearings on Juvenile Offenders in Juvenile Court and on appeal in Superior Court" (S. P. 451) (L. D. 1534)

Report of the Committee on Judiciary reporting "Leave to Withdraw" on Bill "An Act Concerning Powers of the District Court to Send Juveniles for Mental Examinations" (S. P. 300) (L. D. 926)

Came from the Senate with the Reports read and accepted.

In the House, the Reports were read and accepted in concurrence.

**Messages and Documents**

The following Communication:

108th Maine Legislature

Joint Standing

Committee on Performance Audit

June 7, 1977

Honorable John Martin  
Speaker of the Maine  
House of Representatives  
State House  
Augusta, Maine 04333

Dear Speaker Martin,

It is with pleasure that I report to you that the Committee on Performance Audit has completed all business placed before it by the 108th Legislature.

Total Bills Received	16
Unanimous Reports	12
Leave to Withdraw	3
Ought to Pass as Amended	2
Ought to Pass in New Draft	5
Referred to Committee on	
Human Resources	2
Divided Reports	4

Respectfully,

(Signed) GEORGETTE B. BERUBE  
House Chairman

The Communication was read and ordered placed on file.

**Orders**

An Expression of Legislative Sentiment (H. P. 1670) recognizing that: Miss Mary Ouellette of Stearns High School of Millinocket has won the 1977 State Principals School Girl Golf Championship, the 2nd consecutive year she has won that championship.

Presented by Mr. Marshall of Millinocket (Cosponsors: Mr. Birt of East Millinocket, Senator Pray of Penobscot)

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

An Expression of Legislative Sentiment (H. P. 1671) recognizing that: Ruth Elaine McCormack has been recognized for her excellent academic record by being chosen salutatorian of Limestone High School.

Presented by Mr. McKean of Limestone.

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

An Expression of Legislative Sentiment (H. P. 1672) recognizing that: Bruce Forrest has been recognized for his outstanding academic record by being chosen valedictorian of Limestone High School.

Presented by Mr. McKean of Limestone.

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

An Expression of Legislative Sentiment (H. P. 1675) recognizing that: Aline Cannan of Caribou has retired after 28 years in the field of education.

Presented by Mr. Bennett of Caribou.

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

An Expression of Legislative Sentiment (H. P. 1676) recognizing that: Idella H. Estey of Caribou has retired after 25 years in the field of education.

Presented by Mr. Bennett of Caribou.

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

An Expression of Legislative Sentiment (H. P. 1677) recognizing that: Lorina Wakem of Caribou has retired after 24 years in the field of education.

Presented by Mr. Bennett of Caribou.

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

An Expression of Legislative Sentiment (H. P. 1678) recognizing that: Frederick E. Burden of Presque Isle has retired after 29 years in the field of education, including 11 years as principal of Caribou Junior High School

Presented by Mr. Bennett of Caribou (Cosponsor: Mr. Rideout of Mapleton)

The Order was read and passed and sent up for concurrence. By unanimous Consent, ordered sent forthwith.

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

Mr. Jalbert from the Committee on Appropriations and Financial Affairs on Bill "An Act to Provide Cost of Living Pay Increases to Classified, Faculty and Professional University of Maine Employees" (Emergency) (H. P. 675) (L. D. 860) reporting "Ought Not to Pass"

Mr. Twitchell from the Committee on Taxation on Bill "An Act Repealing the Requirement that a Buyer or Seller of Real Property must file a Declaration of Value with the State Tax Assessor" (H. P. 730) (L. D. 943) reporting "Ought Not to Pass"

Mr. Carey from the Committee on Taxation on Bill "An Act to Increase the Exemption on Estates of Veterans" (H. P. 400) (L. D. 510) reporting "Ought Not to Pass"

Mr. Twitchell from the Committee on Taxation on Bill "An Act to Increase Exemption on Estates of Veterans" (H. P. 241) (L. D. 314) reporting "Ought Not to Pass"

Mr. Cox from the Committee on Taxation on Bill "An Act to Provide for a Property Tax Credit to Veterans in place of a Property Tax Exemption" (H. P. 888) (L. D. 1097) reporting "Ought Not to Pass"

Mr. Teague from the Committee on Taxation on Bill "An Act to Establish an Income Tax Exemption for National Guard Members and Certain Members of the Military" (H. P. 1014) (L. D. 1230) reporting "Ought Not to Pass"

Mr. Carter from the Committee on Taxation on Bill "An Act to Revise the Real Estate Transfer Tax Law" (H. P. 663) (L. D. 804) reporting "Ought Not to Pass"

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

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

Mr. JALBERT: Mr. Speaker, Ladies and Gentlemen of the House: A very brief explanation of Item 1. Speaking for the committee, it does not mean that the committee is against an increase in salary for these individuals at the University of Maine, it simply means that we wanted to take it out of the money we gave them in the Part I Budget.

**Leave to Withdraw**

Mr. Curran from the Committee on State Government on Resolution, Proposing an Amendment to the Constitution to Revise the Legislative Apportionment Procedure and to

Remove the Supreme Judicial Court as the final Apportionment Agent (H. P. 948) (L. D. 1157) reporting "Leave to Withdraw"

Mr. Jensen from the Committee on Transportation on Bill "An Act Relating to Reimbursement of Fuel Tax for Miles Traveled on Maine Turnpike" (H. P. 1292) (L. D. 1524) reporting "Leave to Withdraw"

Mr. McKean from the Committee on Transportation on Bill "An Act Increasing the Fee for Motor Vehicle Inspection to \$3" (H. P. 1161) (L. D. 1395) reporting "Leave to Withdraw"

Mr. Goodwin from the Committee on Health and Institutional Services on Bill "An Act to Limit the Inventories of Drugs and Medicines Maintained by State Agencies" (H. P. 696) (L. D. 878) reporting "Leave to Withdraw"

Mr. Goodwin from the Committee on Health and Institutional Services on Bill "An Act to Create a Maximum Security Facility for Those Adjudged Not Guilty of a Crime by Reason of Insanity" (H. P. 753) (L. D. 956) reporting "Leave to Withdraw"

Mrs. Post from the Committee on Taxation on Bill "An Act to Increase the Amount of Relief under the Elderly Householders Tax and Rent Refund Act" (H. P. 1097) (L. D. 1321) reporting "Leave to Withdraw"

Mrs. Post from the Committee on Marine Resources on Bill "An Act Concerning Setting of Seines and Nets Near Weirs" (H. P. 716) (L. D. 852) reporting "Leave to Withdraw"

Reports were read and accepted and sent up for concurrence.

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

Mr. Kelleher from the Committee on Public Utilities on Bill "An Act to Provide Lifeline Electrical Services" (H. P. 1093) (L. D. 1317) reporting "Ought to Pass" in New Draft (H. P. 1669) (L. D. 1867)

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

#### Divided Report Later Today Assigned

Majority Report of the Committee on Judiciary on Bill "An Act to Establish Procedures to Record Judgment in Registry of Deeds to Create a Lien on Debtor's Real Estate" (H. P. 1203) (L. D. 1429) reporting "Ought to Pass" in New Draft (H. P. 1656) (L. D. 1854)

Report was signed by the following members:

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

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

Reports were read.  
(On motion of Mr. Palmer of Nobleboro, tabled pending acceptance of either Report and later today assigned.)

#### Divided Report

##### Later Today Assigned

Majority Report of the Committee on Election Laws on Bill "An Act Concerning Registra-

tion on Election Day" (H. P. 159) (L. D. 197) reporting "Ought to Pass" in New Draft (H. P. 1664) (L. D. 1864)

Report was signed by the following members:

Mr. DANTON of York  
— of the Senate.

Mrs. BOUDREAU of Portland  
Messrs. BOUDREAU of Waterville  
BUSTIN of Augusta

Mrs. MITCHELL of Vassalboro  
Messrs. TRUMAN of Biddeford  
TALBOT of Portland  
— of the House.

Minority Report of the same Committee reporting "Ought to Pass" in New Draft (H. P. 1665) (L. D. 1865) on same Bill.

Report was signed by the following members:

Messrs. TROTZKY of Penobscot  
KATZ of Kennebec  
— of the Senate.

Mrs. DURGIN of Kittery  
Messrs. BIRT of E. Millinocket  
McMAHON of Kennebunk  
RAYMOND of Lewiston  
— of the House.

Reports were read.  
(On motion of Mr. Tierney of Lisbon Falls, tabled pending acceptance of either Report and later today assigned)

#### Divided Report

##### Later Today Assigned

Majority Report of the Committee on Election Laws on Bill "An Act to Establish Withdrawal Dates for Candidates and Nominees" (H. P. 0319) (L. D. 410) reporting "Ought to Pass" in New Draft (H. P. 1666) (L. D. 1866)

Report was signed by the following members:

Mr. DANTON of York  
— of the Senate.

Mr. BOUDREAU of Waterville  
Mrs. BOUDREAU of Portland  
Messrs. BUSTIN of Augusta  
McMAHON of Kennebunk  
TRUMAN of Biddeford  
RAYMOND of Lewiston  
TALBOT of Portland  
— of the House.

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

Report was signed by the following members:

Messrs. KATZ of Kennebec  
TROTZKY of Penobscot  
— of the Senate.

Mrs. DURGIN of Kittery  
Mrs. MITCHELL of Vassalboro  
Mr. BIRT of East Millinocket  
— of the House.

Reports were read.  
(On motion of Mr. Tierney of Lisbon Falls, tabled pending acceptance of either Report and later today assigned.)

#### Divided Report

Majority Report of the Committee on Election Laws on Bill "An Act to Prohibit Campaign Activities Within 250 Feet of Voter Registration on Election Day" (H. P. 518) (L. D. 636) reporting "Ought to Pass" in New Draft under New Title Bill "An Act to Regulate Campaign Activities on Election Day" (H. P. 1663) (L. D. 1863)

Report was signed by the following members:

Messrs. KATZ of Kennebec  
DANTON of York  
— of the Senate.

Messrs. BOUDREAU of Waterville  
RAYMOND of Lewiston  
TALBOT of Portland  
— of the House.

Mrs. DURGIN of Kittery  
Mrs. MITCHELL of Vassalboro

Messrs. TRUMAN of Biddeford  
McMAHON of Kennebunk  
BIRT of E. Millinocket  
Mrs. BOUDREAU of Portland  
— of the House.

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

Report was signed by the following members:

Mr. TROTZKY of Penobscot  
— of the Senate.

Mr. BUSTIN of Augusta  
— of the House.

Reports were read.

On motion of Mrs. Boudreau of Portland, the Majority "Ought to Pass" Report was accepted, the New Draft read once and assigned for second reading tomorrow.

#### Consent Calendar

##### First Day

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

(H. P. 764) (L. D. 903) Bill "An Act Relating to Suitability of Employment" — Committee on Labor reporting "Ought to Pass" as amended by Committee Amendment "A" (H-532)

(H. P. 1129) (L. D. 1347) Bill "An Act to Increase the Veterans Exemption for Paraplegics" — Committee on Taxation reporting "Ought to Pass"

(H. P. 1004) (L. D. 1244) Bill "An Act Establishing the Maine Small Business Loan Authority" — Committee on State Government reporting "Ought to Pass" as amended by Committee Amendment "A" (H-537)

(H. P. 1012) (L. D. 1243) Bill "An Act Creating the Maine Development Foundation" — Committee on State Government reporting "Ought to Pass" as amended by Committee Amendment "A" (H-535)

(H. P. 944) (L. D. 1139) Bill "An Act to Allow Escape of Sublegal Lobsters from Lobster or Crab Traps" — Committee on Marine Resources reporting "Ought to Pass" as amended by Committee Amendment "A" (H-540)

(H. P. 914) (L. D. 1110) Bill "An Act Relating to Tuna Fishing" (Emergency) — Committee on Marine Resources reporting "Ought to Pass" as amended by Committee Amendment "A" (H-539)

No objections being noted, the above items were ordered to appear on the Consent Calendar of June 9, under listing of the Second Day.

#### Consent Calendar

##### Second Day

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

(S. P. 394) (L. D. 1353) Bill "An Act to Permit Trial Work Periods under the Workmen's Compensation Statutes" (C. "A" S-185)

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

(H. P. 441) (L. D. 548) Bill "An Act to Reduce the Size of the Board of Directors of the Criminal Justice Planning and Assistance Agency and to Change the Appointment of the Executive Director" (C. "A" H-524)

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

Thereupon, the Report was accepted and the Bill read once. Committee Amendment "A" was read by the Clerk and adopted and the Bill assigned for Second reading tomorrow.

(H. P. 1242) (L. D. 1467) Bill "An Act to Permit Farmers to Shoot Marauding Animals" (C. "A" H-516)

(H. P. 1193) (L. D. 1426) RESOLVE.

Authorizing the Secretary of State to Convey the State's Interest in a Lot in Waldoboro, Lincoln County, to Clarify Title.

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

#### Tabled and Assigned

(H. P. 1601) (L. D. 1809) Bill "An Act Repealing the York Beach Village Corporation" (Emergency) (C. "A" H-522)

On the objection of Mr. Valentine of York, was removed from the Consent Calendar.

On motion of the same gentleman, tabled pending acceptance of the Committee Report and tomorrow assigned.

(H. P. 1056) (L. D. 1288) Bill "An Act to Repeal Certain Laws Relating to Transportation" (C. "A" H-515)

(H. P. 1039) (L. D. 1280) Bill "An Act to Clarify the Criminal History Record Disclosure Law"

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

(H. P. 1313) (L. D. 1547) Bill "An Act to Authorize County Jail Inmate Participation in Municipal Public Works Projects"

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

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 call your attention to this bill. It was one that I thought I objected to in committee but escaped as a unanimous committee report before I had a chance to sign it. There may have been an administrative foul-up, but in any event, I would like at this time to move that this Bill be indefinitely postponed and would speak to that motion.

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

The gentleman may proceed.

Mr. HENDERSON: Mr. Speaker, Ladies and Gentlemen of the House: This bill, for want of a better label, is the State of Maine Chain Gang Bill. This bill, I feel, has some dangerous opportunities in it, opportunities for abuse in the future. If we think that people by nature are good, then this is not a problem, and on the face of it, the bill looks like a reasonable thing. What it would say is that anybody who is in the county jail and wants to get some time off his sentence could voluntarily work for the municipality on public works programs. If they voluntarily did that, they would get, after every 16 hours of work, I believe, one day removed from their sentence.

We currently have an opportunity for people to have work release. They can go out and work, in effect, in a job for themselves and get some training and get some reinstatement into the community, and that is something that I approve of. This, I am afraid, would tend to allow sheriffs, in some cases, and municipalities to collude to get some cheap labor, to encourage people to go out on these projects to work for the city or the town and maybe provide some negative consequences for the people that are in jail not having certain privileges or whatever.

This is kind of a subtle thing, but basically, I think, it could very well lead to abuses. The principle is fine. What it would do, I think, is provide cheap labor for municipalities from the county jails. That is the kind of practice, as you know, that was rampant in the southern part of this country for a long time and developed many abuses. I certainly hope it would not hap-

pen here, but I am afraid this would leave that opportunity, so I would urge you to indefinitely postpone this.

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

Mr. NORRIS: Mr. Speaker, Ladies and Gentlemen of the House: This comes as a rather quick surprise this morning. We did discuss this bill at great length in the committee. We jokingly referred to it as the Chain Gang Bill. I don't see any great danger in this. It just provides another avenue for the idea of work for individuals, to work them back into the community, and it simply brings in the municipalities as well as working for the county or working for anybody else. I don't see any great danger in the bill. Of course, if you are going to allow criminals to work, unfortunately, they are going to have to work, that is true. They cannot get on a work release situation or they cannot work for anybody unless they work.

I don't see, under our present system, the great dangers that my good friend from Bangor, Representative Henderson, alludes to. I would submit that if those dangers exist in this bill, then they exist in all of the work release programs, that the officials could deny privileges and what have you to any person who did not participate. If the danger lies in this bill, then it lies in all of the bills that we have discussed. Let's give it a chance. Under today's law and the feeling of the public today, I doubt very much that we would get into a "chain gang" situation. I would hope that you would vote against the indefinite postponement of this bill.

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

Mr. GREEN: Mr. Speaker, Ladies and Gentlemen of the House: This is my bill. I am a little surprised that the good gentleman from Bangor, Mr. Henderson, has decided to move to indefinitely postpone this bill since it did come out of the Judiciary Committee unanimous "Ought to Pass." I was somewhat surprised to see that because I did kind of think that it might drum up a few questions.

When we had a public hearing on this bill, as I recall, the good gentleman from Bangor, Mr. Henderson, was not there. There were just a few members of the committee there. It was late in the afternoon and they had heard a lot of bills, and I certainly know what it is like to try to stay on these committees and attend all the meetings. We can't possibly do it all at the same time.

Let me just give you a little history behind this bill. I would hope that eventually you would agree with the good gentleman from Brewer, Mr. Norris, that this bill should not be indefinitely postponed and it should be allowed to go on its way. It is L. D. 1547 and if you want to just take a few minutes and turn to it, it is an act to authorize county jail inmate participation in municipal public works projects, a nice little title. All it does is amend the current statutes which provide for jail labor and removes the authority from that of the county commissioners dealing with road projects. There are some statutes which provide for prison labor with regard to highway projects in the state and the county commissioners within the respective counties have to sign releases of those prisoners. This is not a Chain Gang Bill, and I think that is perhaps one of the biggest red herrings that has been dragged out onto the floor of this House since the beginning of the session. I am really surprised that the good gentleman from Bangor, Mr. Henderson, has decided to label it the Chain Gang Bill.

If you will look very carefully at this bill, you will see that it says: "The sheriff in charge of a county jail may, in his discretion, permit certain inmates of that jail to participate in municipal public works related projects in the county where the jail is located. Before an inmate is permitted to participate in this type of

project, the judge or justice who originally sentenced the inmate to the county jail shall sign his approval to the inmate's participation."

We have people right now in the City of Auburn working in our Public Works Department who have been directly sentenced by the court to perform public work-related jobs in lieu of sentencing. All this bill does is permit the sheriff and the judge, representative of the court, to take people out of the jail, low risk people, we are not talking about potentially dangerous criminals, but people who might be serving a 30 day sentence, for example.

Right now in Androscoggin County, I got together with Sheriff Cote down there, the newly elected sheriff of Androscoggin County, I got together with Judge Damon Scales of the 8th District Court in Lewiston, Maine and we sat down for an afternoon and discussed this thing quite thoroughly. Judge Scales is one of these judges that is doing a lot in the way of alternative sentencing, which I think this legislature and I think the Judiciary Committee itself has spent a lot of time with in the past. I think it can be proven that low risk prisoners or criminals are far better off performing manual labor or performing some sort of work-related project as opposed to sitting in jail and rotting, which is what has been done in the past years. We sat down and talked about this. Sheriff Cote expressed to me that at any particular given time — and I don't think this is just unique to Androscoggin County, I think it could pertain to any county in the state with regard to its jails — there are prisoners in the jail, two or three, three or four, there are not very many but there are some, that have displayed good behavior, if you want to call it that, they might be serving a 30 day sentence for some crime they have committed. They have a program down there right now in Androscoggin County whereby if a prisoner helps out in the kitchen or paints a cell or washes the floor or does anything which displays the least amount of responsibility in situations like these, they automatically get good time off their sentence. The sheriff does this now.

All this bill will do is allow those people to go out into the communities on perhaps a rotating basis, Auburn one week, Lewiston the next. Livermore Falls, or whatever particular community happens to lie within the county and go to the city manager and say, look, I have got some prisoners down at the jail. It is voluntary. They don't have to participate if they don't want to. You are not taking them out and putting balls and chains on them and you are not going to have to hire additional staff with a big cigar and big cowboy hat sitting on a horse with a big shotgun like in the C. B. ad they have with the big, fat southern sheriff. We are not getting into that ideal here; in fact, it is just the opposite. These people could pick up roadside litter, they could sweep streets, they could do any number of things like that on a voluntary basis. Right now they are washing the deputies cars in the Androscoggin County jail, they are out back washing the cars for the deputies. They might be painting their cells. The Androscoggin County Jail, when Lionel Cote took over office, really needed some work done to it. I think most members of the delegation will agree to that. Some of the prisoners have participated voluntarily and doing some good things for the jail. I think that is what it is all about.

I would once again put out a final plea that you do not indefinitely postpone this bill and allow it to go on its way. The prorated schedule says that for every 16 hours of work, which is essentially two full days, they automatically get a day off their sentence. I said to the Judiciary Committee, (God love 'em; it was about 5:30 in the afternoon) there was myself and the good gentleman from Bangor was there, Mr. Kelleher, and a writer from the Maine Times

and that was the audience. There were I think three members of the committee left at that time. I said, look, if the schedule is not good enough, I don't really care if it is 16 hours or 20 hours or whatever, but I think it is important that we set up a program like this. I would just urge you not to indefinitely postpone.

Mr. Speaker, I would ask for a roll call, please.

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

Mrs. TARR: Mr. Speaker, Men and Women of the House: I am getting the signals from you, Mr. Speaker, and I will be very brief. I just wondered what effect this might have on the regular employees, if this would perhaps prevent them from hiring somebody that really needs a job and replacing them with people from the sheriff's department? I wonder if the sponsor could fill me in on that?

The SPEAKER: The gentleman from Bridgton, Mrs. Tarr, has posed a question through the Chair to the gentleman from Auburn, Mr. Green.

The Chair recognizes the gentleman from Auburn, Mr. Green.

Mr. GREEN: Mr. Speaker, Men and Women of the House: Very briefly, to answer the good gentlady from Bridgton, Mrs. Tarr, this question came up before. The type of people we are talking about are not terribly skilled for one thing. It is my feeling and the feeling of the sheriff and the judge and the other people I have talked with, Members of the Judiciary Committee, that this would not impede upon potential labor market in the community because we are dealing with peak periods during the year. For example, in the wintertime, there are times when our municipal department in Auburn is just worked to its maximum. There might be work-related projects having to do with if we had floods or severe winds, a lot of brush and debris blown down, heavy snowstorms in the wintertime and our department is right out straight. Basically, this is all it deals with, primarily peak times. In the springtime, for example, one of the biggest complaints we get as municipal officers is you don't put enough sand on the roads in the wintertime, and as soon as the snow goes, you don't get rid of the stuff quick-enough. Why doesn't somebody come out and sweep it? All of a sudden, all the bottles and the paper and the junk that has been hidden by the snow all winter suddenly appears. Any additional manpower that you can muster at that point in time I think is good and it is only temporary.

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

Mrs. KANY: Mr. Speaker, Ladies and Gentlemen of the House: I would like to know if there are any U.S. Department of Labor requirements on pay? I know there are as far as workshops with the mentally retarded and some other public institutions. I am wondering if this has been looked into?

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

The Chair recognizes the gentleman from Auburn, Mr. Green.

Mr. GREEN: Mr. Speaker, Ladies and Gentlemen of the House: Just to respond to the question posed by the gentlady from Waterville, Mrs. Kany in regard to pay, they will not get paid. It is one of the unique features of this bill. They get time off their sentence. That is what they want really. We have work release projects now within our county jails where they can work if they can find a job in the community. They might be sentenced to jail for 30 days but allowed to go out during the day and work at a job, come back and stay at night. A certain percentage of their pay check is taken out for room and board, a certain percentage

might be held in escrow by the sheriff or the court. The prisoner might be allowed to keep some, I think they are in some cases. All we have done with this is, look, if you are serving 30 days, you want to work some of the time off and the judge and the court thinks it is all right and the sheriff thinks it is all right, if you want to work some time off your sentence, go to it even though you don't get paid.

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

Mrs. KANY: Mr. Speaker, Ladies and Gentlemen of the House: I would hope that someone would table this item for one legislative day so an inquiry could be made into the federal law regarding pay requirements.

The SPEAKER: The Chair would advise the gentleman that if the bill is not indefinitely postponed, it will be back tomorrow in second reading.

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

Mr. JOYCE: Mr. Speaker, Ladies and Gentlemen of the House: This is a good bill. The problem now in the county jails throughout this state is that there is no rehabilitation program as such. This is a helping-hand type bill. I hope you will please vote against indefinite postponement and sail the thing through here today.

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

Mr. GAUTHIER: Mr. Speaker, Ladies and Gentlemen of the House: I voted in the majority on this bill, "Ought to Pass" I have seen some of these people work in Sanford. They have worked around, especially in the springtime, as Mr. Green has said. You should have seen the sand in front of my house. I don't know how much they swept in front there. The main reason why I voted for it was this; the gentleman from Portland, Mr. Joyce, took the words right out of my mouth. That is what I got up three times to try to say, that these people, by being out, working out and doing some work like this, come out of the jail better people than when they went in. That is what some of the deputies and the sheriff himself in York County told me. He said they learn to work, they are young people, and this is good rehabilitation for them. This is the reason why I voted for it. I hope you don't defeat it.

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

Mr. DUTREMBLE: Mr. Speaker, Ladies and Gentlemen of the House: This is a good bill and I hope that you will support it.

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 Bangor, Mr. Henderson, that L.D. 1547 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 — Bachrach, Connors, Connolly, Cote, Gillis, Henderson, Kany, Talbot, Valentine.

NAY — Aloupis, Ault, Austin, Bagley, Beaulieu, Bennett, Benoit, Berry, Berube, Biron, Birt, Blodgett, Boudreau, A.; Boudreau, P.; Brenerman, Brown, K. L.; Brown, K. C.; Bunker, Burns, Bustin, Carey, Carrier, Carroll, Carter, D.; Carter, F.; Chonko, Churchill, Clark, Cox, Cunningham, Curran, Davies, Dexter, Diamond, Dow, Drinkwater, Dudley, Durgin, Dutremble, Elias, Fenlason, Flanagan, Fowlie, Garsoe, Gauthier, Gill, Goodwin, H.; Goodwin, K.; Gould, Gray, Green, Greenlaw,

Hall, Hickey, Higgins, Hobbins, Howe, Huber, Hunter, Hutchings, Immonen, Jackson, Jacques, Jalbert, Jensen, Joyce, Kane, Kelleher, Kilcoyne, Laffin, LaPlante, Lewis, Littlefield, Lizotte, Locke, Lougee, Lunt, Lynch, MacEachern, Mackel, Mahany, Marshall, Masterman, Masterton, Maxwell, McBairty, McHenry, McKean, McMahon, McPherson, Mitchell, Morton, Nadeau, Najarian, Nelson, M.; Nelson, N.; Norris, Palmer, Pearson, Peltier, Perkins, Peterson, Plourde, Post, Prescott, Raymond, Rideout, Rollins, Sewall, Shute, Silsby, Smith, Spencer, Sprowl, Stover, Strout, Stubbs, Tarbell, Tarr, Teague, Theriault, Tierney, Torrey, Tozier, Trafton, Truman, Tyndale, Whittemore, Wilfong, Wood, Wyman, The Speaker.

ABSENT — Devoe, Hughes, Kerry, LeBlanc, Martin, A.; Mills, Moody, Peakes, Quinn, Twitchell.

Yes, 9; No, 132; Absent, 10.

The SPEAKER: Nine having voted in the affirmative and one hundred thirty-two in the negative, with ten being absent, the motion does not prevail.

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

(S. P. 102) (L. D. 231) Bill "An Act Relating to Adult Education" (C. "A" S-168)

No objection having been noted at the end of the Second Legislative Day, the Senate Papers were passed to be engrossed in concurrence. (Later Reconsidered)

#### Passed to Be Engrossed

Bill "An Act Relating to the Regulation of Games of Chance" (S. P. 527) (L. D. 1846)

Bill "An Act to Improve the Management of the Department of Conservation" (S. P. 525) (L. D. 1840)

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

#### Second Reader Tabled and Assigned

Bill "An Act to Authorize a Bond Issue in the Amount of \$10,000,000, for Energy Conservation Improvements for State-owned Buildings and Public School Buildings" (H. P. 1660) (L. D. 1856)

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

(On motion of Mr. Davies of Orono, tabled pending passage to be engrossed and specially assigned for Friday, June 10.)

#### Second Reader Later Today Assigned

Bill "An Act Relating to Public Utility Electrical Transmission Lines and Gas and Oil Pipelines" (H. P. 1659) (L. D. 1855)

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

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

#### Second Reader Tabled and Assigned

Bill "An Act to Promote the Sale of More Hunting Licenses to Nonresidents Hunting Deer or Bear" (H. P. 1662) (L. D. 1858)

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

(On motion of Mr. Pearson of Old Town, tabled pending passage to be engrossed and specially assigned for Friday, June 10.)

#### Second Reader Tabled and Assigned

Bill "An Act to Prevent the Display of Adult Magazines to Minors" (H. P. 1661) (L. D. 1857)

Was reported by the Committee on Bills in

the Second Reading and read the second time.

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

Mr. HOWE: Mr. Speaker and Members of the House: I will begin by offering a motion of indefinite postponement and ask for a roll call.

I recall during the very lengthy debate on the Unemployment Compensation Bill, folks were getting a little tired of debate, but at one point, the Majority Leader used a visual aid and that seemed to attract some interest in the debate, and I particularly recall the gentleman from Waterville taking some interest in the use of visual aids, so I have brought some this morning.

Now, lest anyone thinks I am standing up here this morning defending pornography or obscenity, I want to make it clear that this bill does not deal with those subjects. L. D. 1857 is entitled: "An Act to Prevent the Display of Adult Magazines to Minors." But I submit that the substance of the bill goes quite a bit beyond the title. The first subsection of the bill says that no book, magazine or newspaper containing nudity on the cover and offered for retail sales to be displayed in a location accessible to minors, unless the nudity depicted is covered with an opaque material sufficient to prevent the nudity from being visible, this might be dubbed the pasty provision of the bill. Subsection B of the bill says, no book, magazine or any newspaper containing nudity on one or more pages inside the cover of the book, magazine or newspaper and offered for retail sales shall be displayed in locations accessible to minors unless such material is sealed sufficiently to prevent it from being opened until it has been purchased. I had dubbed this provision something else but I guess I won't use it before the House.

I thought I would show you some of the materials I found while perusing my public library in South Portland last night, materials all of which could be found for retail sale in any number of locations, not just the magazine rack at your local smoke shop but at the University Book Store or some of the more high-grade book stores, at the Mall for example. Subsection B of the book, for example, would include a work such as this by Rembrandt. This would certainly be covered because — I should go on and go through the definition of nudity in Subsection 2 of the bill.

For purposes of this section, nudity means any visual representation by photographic or other means showing the human male or female genitals, public area or buttocks with less than a full opaque covering, or the showing of the female breasts with less than a full opaque covering or any portion thereof below the top of the nipple or the depiction of the covered male genitals in a discernably turgid state. I have not asked for a definition of the last three words. I failed to do that in time for the debate.

Another book I discovered in my public library which would clearly come under the provisions of Subsection B of the book is this scandalous document here entitled "Infant Feeding" There is a book here on breast care which, believe me, is replete with violations. It is a medical fetus of some sort. Another is a photograph of a sculpture by Rodin, I submit would require to be sealed on the shelves of the book store of the Portland School of Art before the students could purchase that, as would this book containing a three-page fold out of Michelangelo's painting of the ceiling of the Sistine Chapel, which I assure you has many violations, and there are a couple of others here.

One book I found, and there were others, but one I brought along that would come under the pasty provisions of the book, right there on the cover, folks, of Sculpture of the World, and then, the very latest issue, mind you, of the National Geographic almost on the very inside

cover, and there are other violations in the National Geographic. I won't show them all but you are welcome to come down to the front row after the session. Finally, a chapter entitled "The Male Reproductive Organs." This is sort of a schematic diagram, I would call it, and this is entitled "The Living Body" by Best and Taylor. I suppose it is a text book for pre-med students or something of that sort which I think would raise some havoc with the manager at the book store at the University of Maine Library.

I suppose it is not fair to unnecessarily make light of a piece of legislation, but I wanted to demonstrate that when we draft a piece of legislation, I think we have to be fairly precise as to what we are going after. Pornography and obscenity is one thing, but I think a piece of legislation that would encompass all of this literature, which I submit is not truly a threat to the morals of our minors in this state, is not a carefully prepared piece of legislation and, therefore, Mr. Speaker, I do move indefinite postponement of this bill.

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

Mr. BIRON: Mr. Speaker, Ladies and Gentlemen of the House: I had the opportunity to sit on the committee which heard this bill and believe me, to come up with a decision on what to do in the area of pornography was a very difficult one.

It is easy to sit here today and smile and smirk this bill and believe me, to come up with a decision on what to do in the area of pornography was a very difficult one.

It is easy to sit here today and smile and shirk and to say Mr. Howe is very cute with his remarks and to show all these different books that we have. However, there is a serious problem here in the State of Maine with pornography being shown to our children.

If you walk into any large chain which has the sale of magazines, while you are shopping with your children, your children can simply walk over and look at these books, which this bill addresses. Obviously, it is very very difficult to define pornography and I am the first on the committee to try to protect the individual's rights.

There are two bills coming before you. The second bill I sign "Ought Not to Pass." This bill I signed "Ought to Pass." It does cover the material. It will not allow those people who sell this type of material in their stores, to display this to the minors, our children, and the children of your constituents.

I don't know of any bill that has had so much public support. I can show you stacks upon stacks of petitions signed by all of your constituents asking for us, the representatives, to do something about this problem.

Now, obviously, the books that Mr. Howe refers to, and I am not going to argue the point those books, in this legislation they are mentioned. However, I think that we need to put something on our books to attack the problem, and if Mr. Howe, or anyone else in this body with their great legal minds, can come up with a definition, a definition which will attack only the pornography, I will buy it. We worked on this legislation for two months, and I couldn't come up with any definition.

The lawyers who were representing those people in the industry couldn't come up with any definitions. If you want to continue to have this pornography in the view of your children, support his motion.

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

Mr. HICKEY: Mr. Speaker, Ladies and Gentlemen of the House: We in the Legislature are reticent in mandating legislation to our communities. Many towns have passed local ordinances which have effectively controlled the display of pornography in their area. However, a large segment of the state has no legislation

and a ground swell from disturbed parents has developed demanding our action. There has been a tendency for us to criticize our younger people for the moral erosion that has resulted. However, our generation must accept the responsibility for permitting this to develop. L. D. 1857 partially addresses the problem, and it is a step in the right direction. I encourage you to vote against the indefinite postponement.

The SPEAKER: The Chair recognizes the Gentleman from Lewiston, Mr. Cote.

Mr. COTE: Mr. Speaker, Ladies and Gentlemen of the House: Personally, I could care less about this bill. I have no children. But those of you who are members of this House, who have families and you want to continue to subject your children to what is going on in the book stores, then vote to kill this bill.

It could be that better definitions of nudity could be developed but it seems that all our research with our legislative assistants, with the lawyers and so forth, we couldn't come up with better language. I feel, at this time, that the children of this state are subjected to pornography, to nudity. Now, as far as I am concerned, pornography or nudity is just in the beholder's mind. I can understand the concern about the classics named by the gentleman Mr. Howe, but unfortunately, this is not aimed at that type of magazine or newspaper not the same type as these newspapers that come out of New York City; I forgot their names now, they were mentioned in Committee, which specifically deal in this type of print. Now we are not banning the sale of those magazines or those newspapers, all we are saying in this bill, please hide them so that our children will not be able to see them in your bookstores.

It can be done in several ways, by putting a board in front of them and just letting the title of the magazine whether it be Hustler or Pep or anything else show without showing the picture that is on that front page or inside. I think that is a step in the right direction. The City of Augusta was concerned with it, and it was even discussed at the City Council Meetings. The city of Houlton has an ordinance on their books but according to the rulings of the Supreme Court and some of the cases that we heard about, the community must make that decision and nobody seems to be able to decide what the community is. In this instance, we feel that the community is the State of Maine.

I urge you not to indefinitely postpone this bill but give it a resounding vote and let the people of the State of Maine know that this Maine Legislature of 1977 feels that we are going too far with this pornography and we want to stop it.

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

Mr. TALBOT: Mr. Speaker, Ladies and Gentlemen of the House: I really was not going to speak on this but I attended the public hearings because I am also interested in doing something about pornography. I am the father of four daughters and there are materials that I won't allow to come into my house, because of their obscene looks or tone and I have a problem in that area. After the public hearing on this particular piece of legislation, I took it upon myself to go into one of our so-called stores in Portland to find out just what was on the shelves and I went into one of our smoke shops and I went from one section to the other — when I got to the back section of the store, I couldn't believe my eyes. I have been around, I have seen quite a bit, but the books that I saw in that store, almost made my eyes come to water. They were absolutely the worst pieces of literature I had ever seen.

I am also interested in doing something sincerely about this particular issue, but I agree wholeheartedly with the gentleman from South Portland, Mr. Howe, that this is the wrong piece of legislation or it is written wrong. I



don't care how many hours the Legal Affairs Committee put in it. It will just seal up and cover more books than we realize. I am glad the gentleman from So. Portland got up because I am also disturbed by the way this bill is written. It is n't going to be easy to write a bill that is going to be acceptable and do the job that we need done. But this bill, the way it is written, clearly states that most of the books in our libraries, in our home libraries, will have to be sealed, taken off the shelf and covered up. Therefore I would sincerely hope that you have listened to the gentleman from South Portland and would vote for indefinite postponement.

The SPEAKER: The Chair recognizes the gentlewoman from Augusta, Mrs. Kane.

Mrs. KANE: Mr. Speaker and Ladies and Gentlemen of the House: It appears from the debate here that this is a serious problem that we are all concerned with and we do want to attack the pornography and I think we all know the type of magazines that we are thinking of, we just haven't been able to put it in writing. I would hate to vote for a bill that would have the ramifications that this one would have, just in order to attack a certain type of literature. It seems to me that with all the minds in this body if we tabled this for a couple of days, someone would be able to come up with an amendment that would deal with this in a way that we like and I ask for someone to table this for two legislative days.

On motion of Mr. Garsoe of Cumberland, tabled pending the motion of the gentleman from South Portland, Mr. Howe, that the Bill and all its accompanying papers be indefinitely postponed and specially assigned for Friday, June 10.

#### Second Reader

##### Later Today Assigned

Bill "An Act Increasing the State Gasoline Tax" (Emergency) (H. P. 1159) (L. D. 1383)

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

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

#### Amended Bill

##### Tabled and Assigned

Bill "An Act to Allow Free Hunting and Fishing Licenses to Maine Residents over 65 and to Disabled War Veterans" (H. P. 1071) (L. D. 1263) (C. "A" H-507)

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

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

Bill "An Act to Prohibit the Sale of Gasoline Below Cost to Destroy Competition" (H. P. 455) (L. D. 560) (C. "A" H-506)

Bill "An Act to Regulate Security Deposits on Residential Rental Units" (S. P. 519) (L. D. 1813) (S. "B" S-190)

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

On motion of Mr. Lynch of Livermore Falls, the House reconsidered its action of earlier in the day whereby Bill "An Act Relating to Adult Education" (S. P. 102) (L. D. 321) (C. "A" S-168) was passed to be engrossed pursuant to Consent Calendar rules.

Thereupon, the Report was accepted and the Bill read once. Committee Amendment "A" (S-168) was read by the Clerk and adopted and the Bill assigned for second reading tomorrow.

#### Bond Issue

##### Tabled and Assigned

"An Act to Authorize Bond Issue in the Amount of \$11,500,000 for the Highway and Bridge Improvement Program" (S. P. 65) (L. D. 136)

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

On motion of Mr. Tierney of Lisbon Falls, tabled pending passage to be enacted and specially assigned for Friday, June 10.

#### Passed to Be Enacted

##### Emergency Measure

"An Act Limiting Three Lobster Traps to One Warp" (H. P. 648) (L. D. 792) (C. "A" H-435)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure and a two-thirds vote of all the members elected to the House being necessary, a total was taken. 116 voted in favor of same and 3 against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

#### Emergency Measure

"An Act to Ratify Certain Action Taken Relating to Construction of a York County Jail and to Provide for Acceptance of Gifts and Grants for such Purpose" (S. P. 523) (L. D. 1827)

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

Mr. McMahon of Kennebunk requested a roll call vote.

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

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

The SPEAKER: The pending question is on passage to be enacted. 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 — Alopous, Ault, Austin, Bachrach, Bagley, Beaulieu, Bennett, Benoit, Berry, Berube, Biron, Birt, Blodgett, Boudreau, A.; Boudreau, P.; Brenerman, Brown, K. L.; Brown, K. C.; Bunker, Burns, Bustin, Carey, Carroll, Carter, F.; Chonko, Churchill, Clark, Cote, Cox, Cunningham, Davies, Devoe, Dexter, Diamond, Dow, Drinkwater, Durgin, Dutremble, Elias, Fenlason, Flanagan, Fowlie, Garsoe, Gill, Gillis, Goodwin, H.; Goodwin, K.; Gould, Gray, Greenlaw, Hall, Henderson, Hickey, Hobbins, Huber, Hunter, Hutchings, Immonen, Jackson, Jacques, Jalbert, Jensen, Joyce, Kane, Kany, Kelleher, Kilcoyne, Laffin, LaPlante, Lizotte, Locke, Lougee, Lunt, Lynch, MacEachern, Mackel, Mahany, Marshall, Masterman, Masterton, Maxwell, McBrearty, McHenry, McKean, McPherson, Morton, Nadeau, Nelson, M.; Nelson, N.; Norris, Palmer, Pearson, Peltier, Perkins, Peterson, Plourde, Post, Prescott, Raymond, Rideout, Rollins, Sewall, Silsby, Smith, Sprowl, Stover, Strout, Stubbs, Tarbell, Tarr, Teague, Theriault, Tierney, Torrey, Tozier, Trafton, Whittemore, Wyman, The Speaker.

NAY — Carter, D.; Connors, Connolly, Dudley, Gauthier, Higgins, Howe, Hughes, Lewis, McMahon, Mitchell, Shute, Spencer, Talbot, Tyndale, Wood.

ABSENT — Carrier, Curran, Green, Kerry, LeBlanc, Littlefield, Martin, A.; Mills, Moody, Najarian, Peakes, Quinn, Truman, Twitchell, Valentine, Wilfong.

Yes, 119; No, 16; Absent, 16.

The SPEAKER: One hundred nineteen having voted in the affirmative and sixteen in the negative, with sixteen being absent, the motion does prevail.

Signed by the Speaker and sent to the Senate.

#### Emergency Measure

"An Act to Expedite the Construction of Natural Gas Pipelines in the State" (H. P. 1247) (L. D. 1477) (C. "A" H-445)

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

The SPEAKER: The Chair recognizes the gentleman from Brunswick, Mrs. Bachrach. Mrs. BACHRACH: Mr. Speaker, I just would like to pose a question to anyone who might care to answer. It is unclear to me that where the bill admits that there is presently a shortage of natural gas, in fact we know there was an emergency last year, why is it suddenly necessary to rush into building natural gas pipe lines in the State of Maine?

The SPEAKER: The gentlewoman from Brunswick, Mrs. Bachrach, has posed a question through the Chair to any who may respond if they so desire.

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

Mr. KELLEHER: Mr. Speaker, to answer the gentlelady's question, if I can, the pipeline which will be constructed across the State of Maine and eventually end up, I think it is 210 miles, into New York, because of the applications forms, Mrs. Bachrach, there was something like 450 applications and procedures that they have to go through, but the process is now, if in fact we can expedite it in terms of programming it through the state, they can start with the initial procedure to implement the process of being able to get the line operative in a much quicker time. It is coming from Canada across the State of Maine and then into New York.

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

Mr. NORRIS: Mr. Speaker and Members of the House: I would pose a question through the Chair to the gentleman from Bangor. In this natural gas that is going to be transported across the State of Maine, is there any provision or any chance that it might be made available to Maine industry with our fuel crunch such as it is? I have heard this discussed and debated outside the halls of this House, and there were some people who felt that we were just being used to transport it and that it would not be available to us.

The SPEAKER: The gentleman from Brewer, Mr. Norris, posed a question through the Chair.

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

Mr. KELLEHER: Mr. Speaker and Members of the House: That is a good question, Mr. Norris. There was a problem that had arisen a few weeks ago by a statement from the Vice President of the company that Maine industry or Maine people would not be able to tie themselves into the line. The comments were in error. There was some concern by me, being cosponsor of the bill with other members in the House, and communications were given to us from the company itself to the fact that it was in error, that Maine companies would be able to apply and I understand that the committee itself was also forwarded with that information.

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

Mr. CARROLL: Mr. Speaker, I would like to pose a question to the gentleman from Bangor, Mr. Kelleher. You said that Maine residents could apply. Would the application be acted upon favorably or would we be denied?

The SPEAKER: The gentleman from Limerick, Mr. Carroll, has posed a question through the Chair.



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

Mr. KELLEHER: Mr. Speaker, it is my understanding, Mr. Carroll, that we would not be denied.

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

Ms. CLARK: Mr. Speaker, I would pose a question through the Chair if I may. My question is this, what proceedings, eminent domain perhaps, would be used to acquire permission from private and/or public landowners as this pipeline is constructed across the state?

The SPEAKER: The gentlewoman from Freeport, Ms. Clark, has posed a question through the Chair to anyone who may respond if they so desire.

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

Mr. BLODGETT: Mr. Speaker, In answer to this question, it is essentially the same as it is right now. This would not change that at all. They would be notified of this and go through the same process.

The SPEAKER: The Chair recognizes the gentlewoman from Falmouth, Mrs. Huber.

Mrs. HUBER: Mr. Speaker, Members of the House: I would point out perhaps as a response to some of these questions. The legislation in front of you does not really deal with these problems, they will come up in the natural course of events if, and I do mean if, the firm that is in question here gets environmental approval for the project. That is what this bill is supposed to do. In other words, before the project goes anywhere, it must meet the environmental regulations of the State of Maine. If it cannot meet regulations, it will not go any further. That is the intent and purpose of this bill.

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.

A vote of the House was taken.

107 having voted in the affirmative and 10 having voted in the negative, the motion did prevail.

Signed by the Speaker and sent to the Senate.

#### Passed to Be Enacted

An Act Relating to Notice of Authorization to Registers of Probate (H. P. 182) (L. D. 244)

An Act Concerning Solicitation Sales of Consumer Merchandise (H. P. 256) (L. D. 325) (C "A" H-447)

An Act to Increase Limited Partnership Filing Fees (H. P. 404) (L. D. 514) (C "A" H-448)

An Act Relating to the Declaration and Payment of Estimated Tax for Corporations under the Maine Income Tax Law (H. P. 464) (L. D. 569)

An Act to Establish Procedure to Evaluate the Efficiency of Energy Utilization in State-financed and Leased Facilities (H. P. 549) (L. D. 666) (H "A" H-457)

An Act Relating to Partnerships Between Husbands and Wives (H. P. 683) (L. D. 865) (C "A" H-446)

An Act Exempting from the Sales Tax Sales to Non-profit Corporations Providing Home Health Services (H. P. 840) (L. D. 1027)

An Act Revising Procedures for Certain Tied Elections (H. P. 937) (L. D. 1134)

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

#### Enactor

#### Tabled and Assigned

An Act to Allow Limited Operation of an

Unregistered Motor Vehicle (H. P. 1101) (L. D. 1325) (C "A" H-449)

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

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

Mr. BUSTIN: Mr. Speaker, Men and Women of the House: I am a bit embarrassed because I know when you are supposed to make amendments and I just did not see this bill yesterday. It is a bill of which I am a cosponsor and I would like to present an amendment, so I would appreciate it if someone would table this so that could be done.

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

"An Act to Improve Prosecution Services" (H. P. 1571) (L. D. 1785) (H "A" H-472)

"An Act Concerning the Definition of a General Lines Consultant and a Life Consultant under the Maine Insurance Code" (H. P. 1617) (L. D. 1818)

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

#### Enactor

#### Tabled and Assigned

RESOLVE, to appropriate \$20,000 to the Office of Camping Resources at the University of Maine, Portland-Gorham (H. P. 1259) (L. D. 1488)

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

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

Mr. JACKSON: Mr. Speaker, I find myself in a bit of a dilemma on this. My seatmate tells me that it will go to the Appropriations Table and that will be the end of it. I think possibly we should table this for one day.

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

Ms. CLARK: Mr. Speaker, I move that this lie on the table for one legislative day.

Whereupon, Mr. Palmer of Nobleboro requested a division.

The SPEAKER: The pending question is on the motion of the gentlewoman from Freeport, Ms. Clark, that this matter be tabled pending final passage and tomorrow assigned. All those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

70 having voted in the affirmative and 30 having voted in the negative, the motion did prevail.

#### Orders of the Day

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

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)

Tabled — June 6, 1977 by Mr. Tierney of Lisbon Falls.

Pending — Passage to be Engrossed.

On motion of Mr. Tierney of Lisbon Falls, retabled pending passage to be engrossed and specially assigned for Friday, June 10.

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 6, 1977 by Mr. Palmer of Nobleboro.

Pending — Passage to be Engrossed.

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

Mr. CAREY: Mr. Speaker, the gentlelady

from Portland, Mrs. Najarian, has an amendment to offer to this; however, she is working overtime on the budget and several other matters and asked that this be tabled until later in today's session or tomorrow.

Whereupon, on motion of Mr. Tierney of Lisbon Falls, tabled pending passage to be engrossed and tomorrow assigned.

The Chair laid before the House the third 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 6, 1977 by Mr. Henderson of Bangor.

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

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

Mr. HENDERSON: Mr. Speaker, I would like to speak just briefly to remind people why this is being tabled and I hope someone will table it for me for two legislative days when I get done. I just want to say the reason for this being continually tabled is that there is another bill more comprehensive than this one that is in the other body and should be coming to us in a few days. We can deal with that and then this would depend on the outcome. So if someone would table it, I would appreciate it.

On motion of Mr. Greenlaw of Stonington, tabled pending adoption of Committee Amendment "A" and specially assigned for Friday, June 10.

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

Bill, "An Act Relating to Habitual Truants and School Dropouts" (H. P. 1650) (L. D. 1851)

Tabled — June 7, 1977 by Mr. Lynch of Livermore Falls.

Pending — Passage to be Engrossed.

On motion of Mr. Lynch of Livermore Falls, retabled pending passage to be engrossed and specially assigned for Friday, June 10.

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

"An Act to Require Drivers License Renewal Examinations" (H. P. 397) (L. D. 509) (H. "A" H-429 to C. "A" H-399)

Tabled — June 7, 1977 by Mr. Tierney of Lisbon Falls.

Pending — Passage to be Enacted (Roll Call Ordered)

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

Mrs. BOUDREAU: Mr. Speaker, Men and Women of the House: This is a bill that I cosponsored with Representative Higgins. We have discussed it many times in both bodies and I do hope you will let this pass today and go on the Appropriations Table. There is a minor technical difficulty that, if it should survive the Appropriations Table, we can easily take care of in Errors and Inconsistencies.

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

Mr. SHUTE: Mr. Speaker, Ladies and Gentlemen of the House: I do not have any great problem with this bill other than that it is going to be quite a hassle for quite a number of people in the state. Anyone turning 40 years old is going to have to have an eye examination, and the eye examination is going to cost about \$10.

Most of the people in my area work for wages by the hour, maybe \$4.50 an hour, so they are going to have to take an afternoon off to have their eye examination, well, there is another \$18, so we add the \$10 examination and it is \$28. The people I represent can ill afford to do this. I don't think there is a need for it. I have had quite a bit of complaints on the eye examination for people older than 40 and I think that if anyone does need glasses, they are going to

have an eye exam and get glasses if they need them, if they will need them in their work, therefore I don't believe there is any need for this legislation and I hope you vote against it.

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

Mr. HUGHES: Mr. Speaker and Members of the House: The gentleman brought up a good question in my mind. I had assumed that one went to the Bureau of Motor Vehicles to get that eye examination and that it wouldn't cost anything, is that an incorrect assumption? Can someone answer that question?

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

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

Mrs. BOUDREAU: Mr. Speaker and Members of the House: In reply to that question, anyone who goes in to the Motor Vehicle Registration to get their license can have that examination at no cost. If you live in an area and you don't normally go in to the Registration Bureaus, you can send in a certificate from your doctor. It does not have to be an optometrist, it can be a medical doctor, and I can't imagine anyone, within a 12-year period, not going at least once for a physical exam so they could arrange to do that within a year of the date of applying for their renewal and that certificate would be accepted.

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

Mr. FENLASON: Mr. Speaker, Ladies and Gentlemen of the House: I have very strong feelings in favor of this bill and I will tell you why. I suffer from incipient glaucoma. I have drops in my eyes, morning and night and the members of the 107th will probably remember that I had a detached retina just before the session opened and I was not here for the opening. Fortunately both of these conditions are under control and, at the present time, I see very well and I am exceptionally pleased and the reason that I can do this is that I was examined by eye specialists. There have been statements made that a man, age 40, would lose a day's pay or he would suffer some inconvenience and I say to you that if this inconvenience, in a very small percentage of cases results in saving somebody's eyes, it is well worth it. I also assure you that you realize how important eyes are when you do what I did and that is lose the sight of one eye for almost a year and fortunately regain it. I urge the passage of this bill.

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

Mr. HIGGINS: Mr. Speaker and Members of the House: Very briefly, I think the gentleman from Danforth, Mr. Fenlason, has explained the situation extremely well.

I think it boils down to the fact that whether or not the state has the right to ask people who have perhaps had their license for 25 years to have an eye examination. Does the state have the right to assure that drivers over age 40 can at least in some manner see and I think we do. I hope you will vote to pass this bill.

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

Mr. CARROLL: Mr. Speaker, Ladies and Gentlemen of the House: I have very grave reservations with this legislative document but I was overruled earlier in this session and voted against so this legislative document has got this far to be coming a reality.

I just would like to point out to you that you have no provisions in here for providing service to the constituents in the outlying areas in this state. It is awful easy to get up here if you live in the City of Portland and say that all you have to do is call up, make an appointment, or you can go down the street and you can get a doctor's appointment. It so happens that I saw

some people from the City of Portland kill a medical school here a while back. We have a very grave shortage of doctors in this state and I am not kidding you and you are not kidding me. When the town of Sanford, as big as that is, has an article in its newspaper saying they are seven doctors short and they are constantly losing doctors in a town as big as Sanford, it is almost big enough to be a city, we have a very grave and serious situation in this state, not only in the eye field but in all the fields of medicine.

We are located in the rural areas, many of us and we have a great necessity of having a driving license to get to work to earn a living and it is very easy to say, you are not going to lose a day's work or you can easily have an examination within eight years.

I woke up one morning, I was blind in my left eye from an automobile accident, called a specialist and he said, he would see me in two weeks. So I got on the telephone and I called him and told him that with the pain I had in my eye, I wouldn't live two weeks because I would find a gun and do something about it. If doctors are not able to take care of sick people, then what are we coming to? So he said come on down. I went and three days later, I regained the sight in my left eye. It was only when I made known to him the dire consequences of the lack of care, and I think, getting right down to the very basics, what is the problem with the State of Maine?

We have plenty of money for the law school, we are still manufacturing lawyers and engineers but where are we in the field of medicine? We are right behind the eight ball. So keep on passing legislation that demands that the constituents of rural areas go to doctors, keep on doing it because you are not providing the doctors.

So I urge you to amend this bill or to pass some legislation saying the State of Maine is going to set up clinics all over this state to examine the eyes of all the people of the State of Maine. We all recognize the importance of our eyes. We know that God only gave us two and we can't do without two of them. So if you are going to pass this type of legislation, go all the way, set up clinics all over this state, let's have everybody's eyes examined.

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

Mr. JACQUES: Mr. Speaker and Members of the House: I happen to be on the Transportation Committee and I did ask the State Police if we had any cases where accidents were caused by eyes and he said, definitely not. They don't have anything on record that substantiates that. So, I hope that you do not support this bill to be enacted here today.

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

#### ROLL CALL

YEA — Bachrach, Beaulieu, Benoit, Birt, Boudreau, A.; Boudreau, P.; Brennerman, Brown, K. C.; Carey, Clark, Connors, Connolly, Cox, Devoe, Diamond, Drinkwater, Durgin, Dutremble, Fenlason, Flanagan, Garsoe, Gauthier, Gillis, Goodwin, H.; Gould, Green, Hall, Henderson, Higgins, Hobbins, Howe, Huber, Hughes, Hutchings, Jackson, Jensen, Kane, Kilcoyne, Littlefield, Locke, McBrearty, Nelson, M.; Nelson, N.; Norris, Pearson, Peltier, Perkins, Prescott, Sewall, Talbot, Tarbell, Tarr, Theriault, Tierney, Trafton, Valentine, Whittemore, Wilfong, Wood, Wyman.

NAY — Aloupis, Ault, Austin, Bagley, Bennett, Berry, Berube, Biron, Blodgett, Brown, K. L.; Bunker, Burns, Bustin, Carrier, Carroll, Carter, D.; Carter, F.; Chonko, Churchill, Cote, Cunningham, Curran, Dexter, Dow, Dudley, Elias, Fowlie, Gill, Goodwin, K.; Gray,

Greenlaw, Hickey, Hunter, Immonen, Jacques, Jalbert, Joyce, Kelleher, Kerry, Laffin, Lewis, Lizotte, Lougee, Lunt, Lynch, MacEachern, Mackel, Mahany, Marshall, Masterman, Masterton, Maxwell, McHenry, McMahon, McPherson, Mitchell, Moody, Morton, Nadeau, Palmer, Peterson, Plourde, Raymond, Rideout, Rollins, Shute, Silsby, Smith, Spencer, Sprowl, Stover, Strout, Stubbs, Teague, Torrey, Tozier, Truman, Tyndale.

ABSENT — Davies, Kany, LaPlante, LeBlanc, Martin, A.; McKean, Mills, Najarian, Peakes, Post, Quinn, Twitchell.

Yes, 60; No, 78; Absent, 11.

The SPEAKER: Sixty-one having voted in the affirmative and seventy-eight in the negative, with eleven being absent, the bill fails of enactment.

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

Mr. SHUTE: Mr. Speaker, I now move reconsideration and hope you vote against me.

The SPEAKER: The Chair recognizes the gentleman from Belfast, Mr. Drinkwater.

Mr. DRINKWATER: I asked for the yeas and nays, Mr. Speaker and I would like to speak very briefly.

The SPEAKER: The gentleman may proceed.

Mr. DRINKWATER: Mr. Speaker and Members of the House: The gentleman, Mr. Carroll, very ably brought out the lack of doctors in the State of Maine and if we have this shortage of doctors, I believe that we should do everything that we can to make sure that our drivers can see because we can't afford any real bad accidents.

As far as another comment that I have heard, I don't recall who made it, that there is no record of people not being able to see, therefore, causing an accident, I will have to go along and say probably that is right but for the years that I was a police officer, I just couldn't count, probably, it would take some time to look up the record, how many of them told me when I arrived at the scene of the accident, I didn't see the car, I didn't see the cow, I didn't see this and that. So I would ask for the yeas and nays and hope that everybody votes yes.

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 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 before the House is on the motion of the gentleman from Stockton Springs, Mr. Shute, that we reconsider our action whereby this bill failed of enactment. Those in favor of reconsideration, you will vote yes; those opposed will vote no.

#### ROLL CALL

YEA — Bachrach, Beaulieu, Benoit, Birt, Boudreau, A.; Boudreau, P.; Brennerman, Brown, K. C.; Clark, Connors, Connolly, Cox, Davies, Diamond, Drinkwater, Durgin, Dutremble, Fenlason, Flanagan, Garsoe, Gauthier, Gillis, Gould, Green, Hall, Henderson, Higgins, Howe, Huber, Hughes, Hutchings, Jackson, Jensen, Kane, Kilcoyne, Littlefield, Locke, Lougee, McBrearty, Nelson, M.; Nelson, N.; Norris, Peltier, Perkins, Peterson, Post, Prescott, Talbot, Tarbell, Tarr, Theriault, Trafton, Valentine, Whittemore, Wilfong, Wood, Wyman.

NAY — Aloupis, Austin, Bagley, Bennett, Berry, Berube, Biron, Blodgett, Brown, K. L.; Bunker, Burns, Bustin, Carey, Carrier, Carroll, Carter, D.; Carter, F.; Chonko, Churchill, Cote, Cunningham, Curran, Devoe, Dexter, Dow, Dudley, Elias, Fowlie, Gill, Goodwin, H.;

Goodwin, K.; Gray, Greenlaw, Hickey, Hunter, Immonen, Jacques, Jalbert, Joyce, Kelleher, Kerry, Laffin, LaPlante, Lewis, Lizotte, Lunt, MacEachern, Mackel, Mahany, Marshall, Masterman, Masterton, Maxwell, McHenry, McMahon, McPherson, Mitchell, Moody, Morton, Nadeau, Palmer, Pearson, Plourde, Raymond, Rideout, Rollins, Shute, Silsby, Smith, Spencer, Sprowl, Stover, Strout, Stubbs, Teague, Tierney, Torrey, Tozier, Truman, Tyndale.

ABSENT — Ault, Kany, LeBlanc, Lynch, Martin, A.; McKean, Mills, Najarian, Peakes, Quinn, Twitchell.

Yes, 59; No, 80; Absent, 11.

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

Sent to the Senate.

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

Bill, "An Act Relating to the Practice of Real Estate Brokers and Salesmen" (H. P. 1631) (L. D. 1833)

Tabled — June 7, 1977 by Mr. Whittemore of Skowhegan.

Pending — Passage to be Engrossed.

Mr. Devoe of Orono offered House Amendment "B" and moved its adoption.

House Amendment "B" (H-544) was read by the Clerk and 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 seventh tabled and today assigned matter:

Bill, "An Act to Revise the Laws Relating to Barbers and Cosmetologists" (H. P. 1639) (L. D. 838) (H. "B" H-526)

Tabled — June 7, 1977 by Mr. Tierney of Lisbon Falls.

Pending — Adoption of House Amendment "C" (H-528)

Thereupon House Amendment "C" was adopted.

Mr. Bagley of Winthrop offered House Amendment "A" and moved its adoption.

House Amendment "A" (H-523) was read by the Clerk.

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

Ms. CLARK: Mr. Speaker, Men and Women of the House: I move indefinite postponement of House Amendment "A"

House Amendment "A" was prepared before House Amendment "B" but House Amendment "B" was adopted yesterday and House Amendment "B" addresses the same issue of House Amendment "A", only that it technically makes the necessary corrections in L. D. 1838.

Thereupon, House Amendment "A" was indefinitely postponed.

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

Mr. CARTER: Mr. Speaker, I would like to pose a question to anybody on the Committee on Business Legislation that might care to answer as to whether this revised draft makes any provisions for booth licensing in the state?

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

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

Ms. CLARK: Mr. Speaker, yesterday the House adopted House Amendment "C" which is an amendment to reinstate the provision for booth licenses which was inadvertently left out of the redraft.

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

Mr. BIRON: Mr. Speaker, Ladies and Gentlemen of the House: I would like to pose a question through the Chair and I have been trying to gather my amendments here, if on Page 2 of the L. D. Item G, under Sub-section 2, if that has been addressed in any of the amendments?

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

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

Ms. CLARK: Mr. Speaker, Men and Women of the House: It is my understanding that the question as posed by Representative Biron of Lewiston was one of the items addressed in the handout that was printed by the Maine Barbers Association. Cosmetology law as well as the Barbering law has allowed the term "usual fee". In the past, in the Committee on Business Legislation, and its twenty-odd working sessions and ten-odd hearings on this issue, didn't feel that there was any need to interpret it because it was current law.

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

Mr. BIRON: Mr. Speaker, Ladies and Gentlemen of the House: The section that I referred to deals with, and I am not quite sure if my question was answered, obviously it hasn't been approached to any of the amendments it is a concern that I have and am I correct to understand that the good lady, Ms. Clark is saying that, under present law, a barber can go to a person's residence and cut a person's hair providing that he charges the usual fee? Under the present law?

The SPEAKER: The gentleman from Lewiston, Mr. Biron, has posed a question through the Chair to the gentlewoman from Freeport Ms. Clark, who may respond if she so desires.

The Chair recognizes the gentlewoman.

Ms. CLARK: Mr. Speaker, the answer to the gentleman's question is, no. That is not current law under the barber law, it is current law as I stated in my first response, under Maine's Cosmetology Law, and one of the purposes of this redraft of a redraft is to allow barbers the same provisions for operations within the state as are currently allowed Maine's hairdressers and licensed cosmetologists. It is the understanding that if cosmetologists assess a usual fee for their services that barbers would like that same privilege also.

Mr. Cunningham of New Gloucester requested a roll call.

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 before the House is on passage to be engrossed of L.D. 1838. Those in favor will vote yes; those opposed will vote no.

#### ROLL CALL

YEA — Aloupis, Ault, Bachrach, Beaulieu, Benoit, Berry, Berube, Blodgett, Boudreau, A.; Brenerman, Brown, K. C.; Bunker, Bustin, Carrier, Chonko, Churchill, Clark, Connolly, Curran, Davies, Diamond, Drinkwater, Elias, Fenlason, Fowlie, Garsoe, Goodwin, K.; Green, Greenlaw, Hall, Hobbins, Howe, Huber, Hughes Hutchings, Jackson, Jacques, Jensen, Kane, Kerry, Kilcoyne, LaPlante, Lewis, Locke, Lunt, Lynch, Masterton, Maxwell, McBreairey, McHenry, McKean, Mitchell, Moody, Nelson, M.; Nelson, N.; Norris Pearson, Peterson, Plourde, Post, Prescott, Raymond, Shute, Spencer, Sprowl, Talbot,

Therriault, Tierney, Tozier, Trafton, Whittemore, Wood, The Speaker.

NAY — Austin, Bagley, Bennett, Biron, Birt, Boudreau, P.; Brown, K. L.; Carey, Carter, D.; Carter, F.; Connors, Cote, Cox, Cunningham, Devoe, Dexter, Dudley, Durgin, Dutremble, Flanagan, Gauthier, Gill, Goodwin, H.; Gray, Henderson, Hickey, Higgins, Hunter, Immonen, Jalbert, Joyce, Kany, Kelleher, Laffin, Lizotte, Lougee, MacEachern, Mackel, Marshall, Masterman, McMahon, McPherson, Morton, Nadeau, Peltier, Perkins, Rollins, Silsby, Smith, Stover, Stubbs, Tarbell, Tarr, Teague, Torrey, Truman, Tyndale, Valentine, Wilfong, Wyman.

ABSENT — Burns, Carroll, Dow, Gillis, Gould, LeBlanc, Littlefield, Mahany, Martin, A.; Mills, Najarian, Palmer, Peakes, Quinn, Rideout, Strout, Twitchell.

Yes, 74; No, 60; Absent, 17.

The SPEAKER: Seventy-four having voted in the affirmative and sixty in the negative, with seventeen being absent, the Bill is passed to be engrossed.

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

Ms. CLARK: Mr. Speaker, having voted on the prevailing side. I move that we reconsider our action and hope you vote against me.

The SPEAKER: The gentlewoman from Freeport, Ms. Clark, having voted on the prevailing side, now moves that we reconsider our action whereby this Bill was passed to be engrossed. Those in favor will vote yes; those opposed will vote no.

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

Sent up for concurrence.

The Chair laid before the House the eighth 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 7, 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 specially assigned for Friday, June 10.

The Chair laid before the House the ninth 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 7, 1977 by Mr. Tierney of Lisbon Falls.

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

Thereupon, the House reconsidered its action whereby the Bill was passed to be engrossed.

Thereupon, the House reconsidered its action whereby the Bill was passed to be engrossed.

Mr. Spencer of Standish offered House Amendment "C" and moved its adoption.

House Amendment "C" (H-545) was read by the Clerk.

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

Mr. SPENCER: Mr. Speaker, Ladies and Gentlemen of the House: This amendment simply clarifies the definition of police blotters so that it is clear that means the original records of entry in a criminal justice agency. Thereupon, House Amendment "C" was adopted.

Mr. Gray of Rockland offered House Amendment "B" and moved its adoption.

House Amendment "B" (H-514) was read by the Clerk.

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

Mr. GRAY: Mr. Speaker, Ladies and Gentlemen of the House: This amendment provides that the judge review a defendant's

record before the imposition of a sentence. Presently, there is no requirement for a court to review the defendant's record prior to setting a sentence. This could result in a missentence when a mandatory sentence is required for a second or subsequent conviction. The procedure will also result, I think, in a fairer sentence for those defendants who have no prior conviction record.

Thereupon, House Amendment "B" was adopted.

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

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

Bill, "An Act Establishing the Maine Student Incentive Scholarship Program" (S. P. 423) (L. D. 1481)

Tabled — June 7, 1977 by Mr. Palmer of Nobleboro.

Pending — Adoption of House Amendment "G" (H-490) to Committee Amendment "A" (S-133).

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

Mr. CAREY: Mr. Speaker, Ladies and Gentlemen of the House: Again, this is a case of Mrs. Najarian of Portland wanting to put an amendment on this bill and she has not returned from her committee work as yet.

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

Mr. LYNCH: Mr. Speaker, Ladies and Gentlemen of the House: Rather than hold the bill up, I support House Amendment "G". It does pretty much what all the other several amendments do or try to do. I support the adoption of House Amendment "G".

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

Mrs. LEWIS: Mr. Speaker, Ladies and Gentlemen of the House: I don't think House Amendment "G" is a good amendment. If you look at it, I almost wonder what the purpose of it is. In fact, I have written next to it, "why?" It almost seems as though it is just added to add more words to the bill that really don't do anything.

It also is quite restrictive. It says something about with ties to Maine. It says that the department would have to rule whether or not these children who would be going to school out of the state, either as special students or outside prep schools, the department would have to rule whether these people are eligible or not. It seems to me that if they are Maine people, they ought to be eligible without any special ruling. It just doesn't add one thing, as far as I can see, to the bill and I would move indefinite postponement of House Amendment "G".

On motion of Mr. Tierney of Lisbon Falls, tabled pending the motion of Mrs. Lewis of Auburn that House Amendment "G" to Committee Amendment "A" be indefinitely postponed and tomorrow assigned.

Bill "An Act Defining the Rights and Responsibilities of Landlords and Tenants in Residential Property" (H. P. 1641) (L. D. 1843)

Tabled — June 7, 1977 by Mr. Peterson of Caribou.

Pending — Adoption of House Amendment "A" (H-533).

Thereupon, House Amendment "A" was adopted.

Mrs. Berube of Lewiston offered House Amendment "B" and moved its adoption.

House Amendment "B" (H-534) was read by the Clerk.

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

Mrs. BERUBE: Mr. Speaker, Ladies and Gentlemen of the House: This is a bill that I have not supported because I think that it goes far beyond fair play. The reasons for it, I suppose are legitimate. I have supported in the

past, as I have said before, the warranty of habitability. Unfortunately, the bill before us, (I am going to speak for my amendment but I would like to give a little background) this bill repeals in total the warranty of habitability.

I am submitting to you my amendment which would do two things. It would reinsert that the tenant give written proof to the court that his apartment or dwelling is indeed uninhabitable. Under the bill before us, all he has to do is furnish actual notice, and that is not too clear. I am asking that he give written proof.

The second item that my amendment addresses itself to, in the bill before us, the court may order the property owner to undertake needed repairs. At that point, the court may set a fair rent instead of the actual rent. If the actual rent is \$40 a week say, the court might say it is only worth \$20 until it is repaired. My amendment addresses itself to this section. It says that the difference between the fair rent and the actual rent set by the court shall be left in the hands of the court, and the money utilized to do the necessary repairs.

I realize there are some very large landlords, and I don't like the term "landlord." It sounds so medieval, but there are large property owners who have access to loans, but many of the property owners are small, very small people who work in the shoe shops and the mills and perhaps have a three or four apartment building that they work at on weekends and evenings. To these people, sometimes it is difficult to go out and borrow money. I don't condone the greedy landlords, I think they are morally wrong, but I think that we cannot go too far with this piece of legislation. Hopefully, if my amendment is accepted, along with Mr. Tarbell's, I think the bill would indeed be more palatable, to me at least.

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

Mr. TARBELL: Mr. Speaker, Ladies and Gentlemen of the House: With respect to the comments that have just been presented in terms of Amendment "B" that has been offered, the amendment we adopted, Amendment "A", which was my amendment, took care of those points raised in the proposed Amendment "B". My amendment did place the requirement that written notice be given to the landlord without unreasonable delay. It went further than the provision called for in Amendment "B." Also, the provision or the concept that the rebate money that a landlord might be called upon by the court to owe to a tenant, which was the difference in the value between what the premises should have been worth if they were fit for human habitation and what they were actually worth because they were not fit for human habitation, that that rebate money be placed into escrow and used by the landlord to make the necessary repairs.

I submit to you that under the bill, not under my amendment but under the bill itself, there is a provision for other equitable order, conjunctive relief, and it would seem to me this would be within the jurisdiction of the court in its discretion to use setups such as escrow and use such rebate money for that. I would argue that those provisions called for in proposed Amendment "B" are taken care of amply in Amendment "A" and the bill. Amendment "A" and the bill goes even further in terms of improving the bill as a whole.

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

Mr. GAUTHIER: Mr. Speaker, Ladies and Gentlemen of the House: In reply to Mr. Tarbell, I would like to mention that I think the amendment Mrs. Berube brought out spells it out much better than his does. I think his is more or less cloudy and is not understood quite as well as her's is.

Another thing I would like to ask Mr. Tarbell is, the amendment (his Amendment "A") says it provides the tenant must give the landlord written notice, and written is underlined, if the condition making the dwelling unfit for human

habitation is not correct. If, for instance, the landlord rents a place to a tenant and they both go in there and the tenant has put the apartment in perfect condition and then it is damaged by the children or any one of the tenants, do they have under your endorsement the obligation to do likewise to the tenant or is it just the tenant that goes to the landlord and he brings him into court? Does the tenant have to if they damage the property, notify the landlord?

The SPEAKER: The gentleman from Sanford, Mr. Gauthier, has posed a question through the Chair to the gentleman from Bangor, Mr. Tarbell.

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

Mr. TARBELL: Mr. Speaker, Ladies and Gentlemen of the House: If I understand the question properly, and I am not sure that I do, children or anyone under the control — and this is in the bill itself — of the tenant, anybody under the control of the tenant who causes the damage, and the damage has got to be of such severe nature that it makes the place unfit for human habitation, if the tenant causes the problem or anybody under his control causes the problem, then he cannot utilize the remedial provisions of this bill. Does that answer the question?

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

Mr. GAUTHIER: Mr. Speaker, Ladies and Gentlemen of the House: The way I understand it, I am not an attorney like yourself, I am sorry, the tenant must give the landlord written notice of the bad condition of the property the way that he finds it. If he damages it himself while it is in good condition and has been in good condition, does he have to do the same thing? Is that what you are saying?

The SPEAKER: The gentleman from Sanford, Mr. Gauthier, has posed a question through the Chair to the gentleman from Bangor, Mr. Tarbell.

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

Mr. TARBELL: Mr. Speaker, the answer is simply "no."

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

Mr. HENDERSON: Mr. Speaker, Ladies and Gentlemen of the House: With respect to damage to apartments and so forth, I would point out that it is a crime; it is part of our criminal code. There are two sections, one is labeled criminal mischief and the other is called aggravated criminal mischief. It is basically against the law if you destroy the property of anyone else, and that would include any apartment. Anybody who did that would be committing a crime and they could be prosecuted for it.

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

Mr. BIRON: Mr. Speaker, a point of clarification. Has House Amendment "B" been accepted at this point?

The SPEAKER: The Chair would answer in the negative.

Mr. BIRON: Mr. Speaker, I would move that we reconsider our action whereby we adopted House Amendment "A".

The SPEAKER: The Chair would answer that the motion at this time is not in order since pending before this body is adoption of House Amendment "B".

Mr. BIRON: Mr. Speaker, a point of clarification. House Amendment "B" and House Amendment "A" both address the same thing. If they were both adopted, we have got a problem.

The SPEAKER: The Chair is not in a position at this point to rule which one he would rather have. However, if House Amendment "B" is adopted and they are in conflict and this body wishes to do so, they could move to reconsider whereby they adopted House Amendment "A" or they could kill House Amendment "B" and

keep House Amendment "A".

Mr. BIRON: Mr. Speaker, so we would have to pass both of them and get rid of one?

The SPEAKER: The Chair would answer in the negative. The Chair would advise members of the House that you can have either one. The pending question at this point is adoption of House Amendment "B." If House Amendment "B" is defeated, there is no need to reconsider House Amendment "A". If House Amendment "B" should be adopted, then House Amendment "A" could be reconsidered and defeated, if that should be the wish of this body.

Mr. Kelleher of Bangor moved that House Amendment "B" be indefinitely postponed.

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

Mrs. BERUBE: Mr. Speaker, a point of inquiry, sir. If both amendments are adopted and if there is a conflict, could not that conflict be addressed in the Errors and Inconsistencies Bill?

The SPEAKER: The Chair would answer in the affirmative.

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

Mr. SPENCER: Mr. Speaker, Ladies and Gentlemen of the House: I rise to support the motion of the gentleman from Bangor for the indefinite postponement of House Amendment "B". I do so because I think that this amendment would introduce an element into this legislation which would be partly unfair to the person who was renting an apartment which turned out to be unfit for human habitation.

House Amendment "B" would provide that if the apartment or the unit were uninhabitable, the tenant would have to pay the rent for the value of an inhabitable apartment and that money would then go into an escrow account which would be used by the landlord. It is about the same as if you went to the Hertz rent a car and agreed to rent a car for a week, paid them your deposit, got the car, and found that the car would not start. If you, in that situation, were then required to pay the full rental value of the car for that week and give the money to Hertz so that they could repair the car, you would, in effect, be doing their job. You would be paying to repair the car and you would not be getting the value of the use of the car which you were paying for. The same thing if you rented an electric sander that didn't work and you had to pay the full rental value of the sander so they could take it and get it fixed.

What this bill has provided is that in the situation where a tenant and a landlord agree that the tenant will pay so much money for an apartment which is in a habitable condition, if that apartment, not through the fault of the tenant but through the fault of the landlord, comes into disrepair, then the matter can be placed before the court and the court can require the tenant to pay the fair rental value of the premises in the condition that they are in.

The kind of situation that this would be addressed to would be a family with a number of children who found, for example, that heat was not being provided in the apartment or that water was not being provided in the apartment. It is not fair in that situation to require that family to pay the value of a habitable apartment when what they are actually receiving is very different from that. The bill provides that the court can determine what the fair rental value is during this period when the apartment is uninhabitable and the tenant can be required to pay that. Essentially, what it is saying is that the tenant should pay the fair value of what he is being provided. To me, that is just simple fairness. To say the tenant has to pay the value of what he was supposed to be provided, when in fact it is not being provided, is to treat the tenant in a completely unfair manner, in a manner that we would never treat a customer of any other kind of service.

I would urge you to support the indefinite postponement of House Amendment "B".

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

Mr. CARRIER: Mr. Speaker, Ladies and Gentlemen of the House: I hope that you don't indefinitely postpone House Amendment "B". I think it is a much better amendment than that "A." I wasn't here yesterday when it was presented. It probably wouldn't have made any difference because it went under the hammer today, and I think the bill is no good to start with because it doesn't do anything for anybody. If there is something to be done, I would think that the one who has his money invested in this particular property, it should be to his advantage.

To tell you the truth, with some concern for the tenant, this bill, no matter how you amend it, is going to work out to their detriment. It is going to work to the detriment of the tenants. I am telling you, the landlord is smart enough to know who they are going to rent to. They are smart enough to know how to get around some of these suggested amendments or suggested things by some people that never owned property. The only interest they have is to make it hard for other people because they are not protecting their investment. If we have so many bleeding hearts in this House that they feel that strongly about the tenants, why don't they take their money, go out and buy property and then rent it to these people? I will send them a list of people. There are some very nice people, that they consider very nice, and I won't even charge them a fee, and there a lot of other people who would send it to them.

Once you own your own home or your own rental property or your own store or your own anything that you have an investment in, all you want is a just profit, all you want is no trouble. You don't want to go to court, you don't want to be told how to run your business, because if you don't run it right, you aren't going to make a profit.

I think it is extremely ridiculous to try to tell people, especially the landlords how they are going to run this thing. I think the law we have is fair. I voted against it before. I don't think it is any good, really, but it is probably fair to the landlord and the tenant. The landlords that I know want to keep their apartments clean, they want to keep them in good shape, and that is where the trouble comes. They do, and then you get some tenants that come in and do quite a job on them — unbelievable and unmentionable in a public place like this as to what type of people that you get in these rents.

I have owned property for years and I have been exposed to great people. I have no trouble now. I haven't had for years. The thing is that I had to change my limit of compassion in order to get some tenants that will stay on there, keep it clean, behave and everything else and pay their rent on time. That is one of the big troubles.

I submit to you, and I really do, that the ones who talk about this, who feel so strong about this particular bill, they should invest some of their money, then come back and talk in favor of the tenants.

I also say to you that this bill, with both amendments, neither one of them am I going to support because I am not going to support the bill anyway.

The part of it that bothers me is the injunction part of it. I don't think that it is for the lawyers in this House, it is for them to recognize that the injunction purpose that we have under our laws is not for the purpose as stated in this bill. If they want to be realistic or if they want to sit here and do nothing about it, this is the purpose of an injunction, not as the one stated on page three. I submit to you, if I ever appear before a judge, which I won't I can assure you of that, but if I ever appeared before a judge and he told me fix my property, I would burn it. I would take the loss, and I can afford to take the loss. I can afford to be without rents, without the income from rents. The trouble is, people in here

and elsewhere have not recognized the true problem. The true problem we have had in rental property for years, but the landlord invests his own personal money in order to make a profit, and if you don't make a profit, that is tough, you take the loss.

On the other hand, they also provide the community with a service which a lot of people need. The fact is, when you get into trouble and you get big families and you get all kinds of people, you don't go around and throw them out. The only thing is, you divide your rents or you leave the rent empty. Look at how many empty rents there are around. There are plenty of them. If you don't believe it, look at the paper. I don't care what part of the state you are from, you will see in the paper that there are always places to rent, and all the people are looking for good tenants, that is all, whether they have a big or small family, and some of the big families are better than the ones with one or two people.

This is what happens, and this is where you spend. We have allowed millions of dollars to go into the Maine Housing Authority to correct this situation, and the situation is not corrected and we are in debt for hundreds of millions of dollars with the Maine Housing Authority.

I think the approach is wrong. The injunction part of it is a bad part. This is where I really think I am against the bill, because of the injunction part, but the fact is, too, the judges is going to tell me to fix my property. He never will, he can, but it never will be enforced because the property isn't going to be there. If it is mine, I have got the right to do what I want with it. I am not going to be the loser, because if I have four, eight, ten or twenty rents, the ones renting there won't have any place to go. This is not my actual feeling about the thing, but this is what can happen. By passing some foolish, unnecessary laws like that, you eliminate the rents available to the people. You will have places like we have in Portland, all these nice, low-income parks, and they have got troubles and troubles and troubles. Whether it is Portland or other places, I don't know, but I am familiar with what goes on in Portland, and when they come to Westbrook for rents, I send them back to Portland, the ones who voted for such legislation such as this.

I think this is ridiculous legislation. If you decide to accept any amendment, I suggest to you that you do not vote for indefinite postponement of House Amendment "B" and then, if that is accepted, go ahead and kill House Amendment "A".

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

Mr. TARBELL: Mr. Speaker, Ladies and Gentlemen of the House: This is a fair bill and it is a fair amendment. It is fair to landlords and it is fair to tenants. We worked hard in the Judiciary Committee and we personally have worked hard since that time when it came onto the floor of the House to make it fair to both landlords and tenants.

All that the bill and all that the law would require is that if a landlord is going to offer an apartment or a unit for human habitation in this state, that it be fit for human habitation. Under the current law, the only thing a tenant can do is move out. This bill would put reasonable teeth with reasonable measures into the law so that if a landlord is offering a facility for human habitation, that we might have the chance to provide that. It doesn't gut landlords.

I would like to go over what a tenant must show in a complaint before he can really even go into court. He has got to show that the condition endangers or materially impairs health or well-being of the inhabitants.

The SPEAKER: The Chair recognizes the gentleman from Standish, Mr. Spencer, and inquires for what purpose the gentleman rises.

Mr. SPENCER: Mr. Speaker, I would like to pose an inquiry as to whether we are discussing the merits of the bill or of House Amendment



"B?"

The SPEAKER: We are presently on House Amendment "B", which has been introduced by the gentlewoman from Lewiston, Mrs. Berube, so it is important that you try to restrict your remarks to House Amendment "B".

The gentleman may proceed.

Mr. TARBELL: Mr. Speaker, Ladies and Gentlemen of the House: I appreciate the fact that House Amendment "B" and its indefinite postponement is before us. However, if we adopt House Amendment "B", we have got House Amendment "A" and House Amendment "B" in conflict with one another, and it is my opinion that this would really mess up the bill and both amendments. If that is the intent of the sponsor, okay, fine, but I would like to explain what House Amendment "A" does, how it differs from House Amendment "B" and the merits with respect to House Amendment "B" that is before us.

As briefly as I can make it, the tenant would have to show that the conditions endanger or materially impair the health and well-being of the occupants. The tenant would have to show that he did not cause those unfit conditions or anyone under his control did not so cause. The tenant would have to show that written notice was given to the landlord or the landlord's agent without unreasonable delay. This would prohibit a tenant from waiting until the problem got so bad that it constituted an unfit condition and then gave notice to the landlord. This would make sure that tenants have to be diligent, vigilant and fair in acting with the landlord to keep the premises in a fit and habitable condition. The tenant would have to further show that the landlord unreasonably failed under the circumstances to take prompt and effective steps to repair the unfit condition. He is going to have to show that we have got a landlord that is unreasonably unfair. Last but not least, the tenant is going to have to show that up until the date on which he gave notice of the unfit condition to the landlord, he is fully paid up in rent. Those are five obstacles and barriers over which a tenant would have to jump, hoops through which a tenant would have to jump before he could even come into court. I think they are reasonable for landlords and tenants as well.

Any tenant that brings a complaint in bad faith against a landlord can be penalized by the court. There are provisions in our Civil Rules of Procedure for frivolous and bad-faith complaints that might be brought to harass landlords or might be brought to harass the defendants. The court could easily order the tenant's case dismissed, the costs and attorneys fees that the landlord has been inconvenienced to pay to be paid by the tenant. There is ample provision for fairness.

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 Bangor, Mr. Kelleher, that House Amendment "B" be indefinitely postponed. All those in favor of that motion will vote yes; those opposed will vote no.

#### ROLL CALL

YEA — Austin, Bachrach, Beaulieu, Bennett, Benoit, Berry, Birt, Blodgett, Boudreau, A.; Boudreau, P.; Brennerman, Brown, K. L.; Brown, K. C.; Bunker, Burns, Bustin, Carey, Carter, F.; Chonko, Churchill, Clark, Connors, Connolly, Cote, Cox, Curran, Davies, Diamond, Drinkwater, Dudley, Durgin, Elias, Flanagan, Fowlie, Garsoe, Gillis, Goodwin, H.; Gray,

Greenlaw, Henderson, Higgins, Hobbins, Howe, Huber, Hughes, Hunter, Hutchings, Immonen, Jackson, Jalbert, Jensen, Joyce, Kane, Kany, Kelleher, Kerry, Laffin, Lougee, Lunt, Lynch, MacEachern, Marshall, Masterman, McBreairey, McHenry, McKean, McPherson, Mitchell, Moody, Morton, Nadeau, Nelson, M.; Nelson, N.; Peakes, Pearson, Peltier, Perkins, Plourde, Post, Prescott, Rideout, Sewall, Silsby, Smith, Spencer, Strout, Talbot, Tarbell, Tarr, Teague, Tierney, Tozier, Trafton, Truman, Tyndale, Valentine, Whittemore, Wilfong, Wood, Wyman.

NAY — Aloupis, Ault, Bagley, Berube, Biron, Carrier, Carroll, Carter, D.; Cunningham, Devoe, Dexter, Dow, Dutremble, Gauthier, Gill, Gould, Green, Hall, Hickey, Jacques, Kilcoyne, LaPlante, Lewis, Littlefield, Lizotte, Locke, Mackel, Masterton, Maxwell, McMahon, Norris, Palmer, Peterson, Raymond, Rollins, Shute, Sprowl, Stover, Stubbs, Theriault, Torrey.

ABSENT — Fenlason, Goodwin, K.; LeBlanc, Mahany, Martin, A.; Mills, Najarian, Quinn, Twitcheil.

Yes, 100; No, 41; Absent, 9.

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

On motion of Mr. Spencer of Standish, tabled pending passage to be engrossed as amended and later today assigned.

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

The Committee of Conference on the disagreeing action of the two branches of the Legislature on Bill "An Act to Amend the Requirement for Public Notice of Public Proceedings under the Right to Know Law" (S. P. 426) (L. D. 1484) asks leave to report: that they are unable to agree.

Signed:

Mrs. CUMMINGS of Penobscot  
Mrs. SNOWE of Androscoggin  
Mr. CARPENTER of Aroostook

— of the Senate.

Messrs. COTE of Lewiston  
BURNS of Anson

— of the House.

Came from the Senate with the Committee of Conference Report read and accepted.

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

The Committee of Conference on the disagreeing action of the two branches of the Legislature on Bill "An Act Pertaining to License Fees for the Regulation of Certain Amusements" (H. P. 577) (L. D. 701) asks leave to report:

that the Senate recede from its action whereby it Passed the Bill to be Engrossed, as amended by Senate Amendment "A" (S-50); recede from its action whereby it adopted Senate Amendment "A" and indefinitely postpone same; adopt Conference Committee Amendment "A" (S-199), submitted herewith, and pass the Bill to be Engrossed, as amended by Conference Committee Amendment "A"; that the House recede from its action whereby it Passed the Bill to be Engrossed; adopt Conference Committee Amendment "A" (S-199), submitted herewith; and Pass the Bill to be Engrossed, as amended by Conference Committee Amendment "A".

Signed:

Messrs. HEWES of Cumberland  
CARPENTER of Aroostook  
Mrs. CUMMINGS of Penobscot

— of the Senate.

Messrs. JOYCE of Portland  
BURNS of Anson  
MOODY of Richmond

— of the House.

Came from the Senate with the Committee of Conference Report read and accepted and the Bill passed to be engrossed as amended by Committee of Conference Amendment "A" (S-199) in non-concurrence.

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

The House receded from its action whereby the Bill was passed to be engrossed.

Conference Committee Amendment "A" (S-199) was read by the Clerk and adopted in concurrence.

The Bill was passed to be engrossed as amended by Conference Committee Amendment "A" in concurrence.

The following Joint Order, an expression of Legislative Sentiment recognizing that: James D. Larsen of Dixfield, Maine, on June 10, 1977, will be awarded the high rank and distinction of Eagle Scout as a member of Boy Scout Troop No. 593 (S. P. 535)

Came from the Senate read and passed.

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

Report of the Committee on State Government reporting "Ought Not to Pass" on RESOLUTION, Proposing an Amendment to the Constitution to Provide for the Selection and Duties of a Lieutenant Governor (S. P. 365) (L. D. 1205)

Report of the Committee on Taxation reporting "Ought Not to Pass" on Bill "An Act to Exempt Antiques from the Personal Property Tax" (S. P. 322) (L. D. 1079)

Were placed in the Legislative Files pursuant to Joint Rule 20 in concurrence.

Report of the Committee on Education reporting "Leave to Withdraw" on Bill "An Act to Provide State Support for Preschool Programs for Handicapped Children" (S. P. 153) (L. D. 393)

Report of the Committee on State Government reporting "Leave to Withdraw" on Bill "An Act to Create an Advisory Board to the Department of Environmental Protection and the State Development Office" (S. P. 434) (L. D. 1512)

Report of the Committee on Taxation reporting "Leave to Withdraw" on Bill "An Act to Provide New Car Dealers with a Use Tax Credit" (S. P. 468) (L. D. 1672)

Came from the Senate with the Reports read and accepted.

In the House, the Reports were read and accepted in concurrence.

Committee on Health and Institutional Services on Bill "An Act to Clarify the Definition of Professional Nursing and Practical Nursing" (S. P. 358) (L. D. 1183) reporting "Ought to Pass" in New Draft (S. P. 529) (L. D. 1847)

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.

Bill "An Act to Provide for Legislative Review of Federal Grant Applications by State Agencies" (H. P. 1393) (L. D. 1636) which was Passed to be Enacted in the House on June 3, 1977. (Having previously been passed to be engrossed as amended by Committee Amendment "A" (H-392) and House Amendment "A" (H-411))

Came from the Senate passed to be engrossed as amended by Committee Amendment "A" (H-392) as amended by Senate Amendment "A" (S-202) thereto and House Amendment "A" (H-411) in non-concurrence.

In the House: The House voted to recede and concur.



Bill "An Act to Clarify and Reform the Laws relating to County Law Enforcement" (H. P. 214) (L. D. 224) which was passed to be engrossed as amended by Committee Amendment "A" (H-387) as amended by House Amendment "A" (H-415) thereto and House Amendment "A" (H-416) in the House on May 25, 1977.

Came from the Senate passed to be engrossed as amended by Committee Amendment "A" (H-387) as amended by House Amendment "A" (H-415) thereto and House Amendment "A" (H-416) and Senate Amendments "A" (S-183) and "C" (S-200) in non-concurrence.

In the House: On motion of Mr. Henderson of Bangor, tabled pending further consideration and tomorrow assigned.

Bill "An Act Relating to the Jurisdiction of the Administrative Court" (S. P. 241) (L. D. 733) on which the Minority "Ought Not to Pass" Report of the Committee on Judiciary was read and accepted in the House on June 3, 1977.

Came from the Senate passed to be engrossed as amended by Senate Amendment "A" (S-201) in non-concurrence.

In the House: Mr. Tierney of Lisbon Falls moved that the House adhere.

Whereupon, Mr. Norris of Brewer moved that the House recede and concur.

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

Mr. SPENCER: Mr. Speaker and Members of the House: This Senate Amendment, I have not had an opportunity to go over it and I assume that there are many people in the House who also haven't had a chance to look at it. I would ask that someone table this matter for one legislative day.

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

Mr. TARBELL: Mr. Speaker, we debated this particular amendment that I attempted to get on the bill last Friday. The amendment is essentially the same, with one minor change. It only requires that the administrative court judge, after hearing the merits of the case, give his decision within 45 days. It is not a sophisticated amendment. I think we could proceed with it without tabling it.

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

Mr. HOWE: Mr. Speaker and Members of the House: This is a bill that we did indeed debate the other day on which this House accepted the "Ought Not to Pass" Report. I would like to address myself to the amendment which the Senate passed onto the bill, which I submit is a bill intended to gut the enforcement powers of the Bureau of Consumer Protection to a point where they may well be rendered meaningless.

The argument was presented the other day that we ought to be fair, we ought to be equitable about this, so if we are going to do it to the Bureau of Consumer Protection, let's do it to the Bureau of Banking and the Bureau of Insurance. But this amendment doesn't do that, because it does not treat all those bureaus the same.

The original bill takes away all of these limited enforcement powers of the Bureau of Consumer Protection, but all this amendment takes away from the Bureau of Banking is the limited power of removal of an officer or a director of a financial institution. However, the guts of the banking's enforcing program are the violations of law found in Section 231, unsafe or unsound practices, deceptive practices, violation of a written agreement with a banking superintendent, so forth and so on; those powers are left untouched.

It also deals with the Bureau of Insurance but, again, it takes away almost nothing from the Bureau of Insurance. It takes away from the superintendent of insurance the ability to suspend and revoke an insurance agent's license; that is all it does. It doesn't do anything about

all of the other powers over the insurance industry that the superintendent of insurance has, and there are many. So the amendment, insofar as trying to treat the bureaus the same is a sham.

Insofar as requiring that a case be decided within 45 days after the record of the proceeding is closed, that still doesn't do anything about the fact that the hearing itself might not be conducted for months and months. It only says that once the hearing is at long last conducted, it has got to be decided. The administrative court has got to render a decision within 45 days, so that does nothing to speed up the conducting of the hearing itself. I submit that even if you were inclined to vote for the bill on the basis that we ought to treat the bureaus the same, the amended bill just simply does not do that, so I support the motion to adhere.

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

Mr. TARBELL: Mr. Speaker, Ladies and Gentlemen of the House: As you recall, the attempt of the bill and its amendment was to bring the most common complaint areas of insurance industry, banking industry and consumer protection agency area, bring those three areas, in terms of the judicial powers, under the jurisdiction of the administrative court so the court providing an impartial independent judge could render a fair trial and fair hearing on the merits.

The traditional areas of complaint under the Consumer Protection Agency was where the consumer protection agent or commissioner investigates a complaint and brings a complaint and prosecutes and now judges violations of the Maine Consumer Credit Code, which pertains to banking, basically, and other lending institutions and also violations of the Truth in Lending Act. The common areas of complaints in banking is misconduct of the officers and removal of officer power is included in this. Under insurance, his license revocation and suspending, that also is included.

There is a provision in the amendment that is added that was not on the amendment last week. That is that after the administrative court hears the case it must render its decision within 45 days. That cures the objection that we are having to wait far too long for cases in the area of consumer protection complaints before the court comes down with a decision, whereas right now, the commissioner can prosecute, investigate, bring the complaint and judge with summary powers immediately, violations and cease and desist orders. There are provisions under the administrative court, powers that are under that administrative court act, as I mentioned on Friday, and if you can show that you have got an emergency case where irreparable harm would incur, you can bring the complaint within seven days for a full, fair hearing and trial on the merits. It is the motion for speedy trial. You can hear your case within seven days and get your decision within 45.

We will soon have two judges on our administrative court. The Appropriations Committee bill should sail. This bill and the amendment, if passed, would not be taking effect until next fall sometime, next October. The argument last week that there is another bill that reforms and revises the administrative court substantially, which would take care of the same points for fair trial that are brought up in this bill and its amendment, does not encompass the provisions of this bill and its amendment; it doesn't deal with it. I urge you today to vote for a fair trial.

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

Mr. TIERNEY: Mr. Speaker, Ladies and Gentlemen of the House: I don't agree entirely with Representatives Howe and his reasons for opposing the bill. He feels it is just an anti-John Quinn bill. I think if you recall my comments

last week, the problem I have with this bill is that it does not address the real problems we have with our administrative law court and, indeed, this only makes it worse. Mr. Tarbell said we have two judges on the administrative law court, well, we don't now, all we have is one person who is filling a part-time position. I can assure you that even for the full-time judge, when the full-time judge is finally appointed, that that judge also can practice on his own.

We have very severe problems with the administrative court. Last week, my reasons for opposing this bill were that it was taking a 70-page section of Maine law, the Consumer Credit Code, and making a judge who has no experience and try to enforce it. Now, in order to make it supposedly better, the other body has put an amendment on that says instead of just the 70 pages that we are dealing with the Consumer Credit Code, now we are going to add all of our banking laws in the administrative law court. It is just not the right place to put it. The only time the administrative court would be the right place to put it would be if the bill in State Government Committee which we referred it to was out before us. That is the way to deal with our administrative court problems, not to keep it on an already overloaded, overworked and terribly behind court system. That is the problem I have with this bill. It is a problem I continue to have with this bill. It doesn't make any sense. It is in the wrong form and it is at the wrong time, and I hope that we defeat the pending motion.

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

Mr. TARBELL: Mr. Speaker, Ladies and Gentlemen of the House: The administrative court judge appeared before Judiciary Committee and we posed a question to him, whether or not if this bill were enacted it would impose an undue and harsh burden on the court and on his workload. The answer was no. There were only 16 cases last year in the Consumer Protection Agency area and that is the area where we are going to have the bulk of the cases in the future. Those 16 cases, in doing a little bit of research and asking around, only required for a hearing a matter of a few hours. By the time this law and this bill would be coming into effect next fall, our Appropriations Committee bill should have gone through, we will have two judges, they will be able to operate in the areas primarily concerned with banking, insurance and consumer protection and there is no difficulty, there is no undue burden. We are going to double the workload and the manpower hours on the court.

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

Mrs. LEWIS: Mr. Speaker, Ladies and Gentlemen of the House: When this came up last Friday, I did question whether or not we had any bills that had been studied by any of the committees that would address this problem of one person being judge, jury and executioner, and found out that we haven't, that this condition is still going to exist.

When we talked about raising the judges' salaries, I heard impassioned pleas how important it was that we get the very best justices we could because it was so important that justice be served to everybody in this state. I agreed. I fell for the impassioned pleas and I voted to increase the justice's salaries just for that one reason, that I wanted everybody to get the very best treatment that they could get in the courts. I don't understand why in this case we don't want these cases to go to a court, why we want the one person to do all three jobs — judge, jury, executioner. When we were short one supreme court justice, we did not refuse to send issues to that court for that reason, so I fail to see why it would be a good reason just because the administrative court is a busy court.

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

Mr. TIERNEY: Mr. Speaker, Ladies and Gentlemen of the House: Just to briefly answer the gentlelady and to remind everyone in this House that the banks, and if this bill passes, and the insurance companies, have the clear right to appeal from any administrative ruling to the superior court if that decision is erroneous. They have the full right of appeal to our presently existing superior court system. No one is being deprived of the right to go to court.

Mr. Tarbell of Bangor was granted permission to speak a third time.

Mr. TARBELL: Mr. Speaker, Ladies and Gentlemen of the House: When you go to trial for a violation of law in the first instance, when you are first brought into court under subpoena power, I think you are entitled to a fair trial and a hearing on the merits by an independent and impartial judge.

The SPEAKER: The Chair will order a vote. All those in favor of receding and concurring will vote yes; those opposed will vote no.

A vote of the House was taken.

Whereupon, Mr. Gould of Old Town requested a roll call vote.

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

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

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

Ms. CLARK: Mr. Speaker, Men and Women of the House: I stand before you in opposition to the motion to recede and concur. I support the retention of the integrity and the independence of the Bureau of Consumer Protection. The Bureau of Consumer Protection must be able to move quickly and expeditiously to halt the variety of creditor violations that are uncovered. The hearings that are held serve two primary purposes. The first is to determine the practices involved and secondly to determine whether the practice in question is an actual or merely a technical violation of the credit code or truth in lending. Without the ability to call a hearing shortly after the discovery of the abuses, the bureau finds itself in a situation where a creditor may continue a violation of law in hundreds or even thousands of cases of credit extensions before a hearing and a decision can be obtained from the administrative court. Where the potential for abuse is so great, it is essential that the Bureau of Consumer Protection be able to operate as expeditiously as possible.

L. D. 733, even in its amended form, would never, in my opinion, have been presented to this legislature if the Bureau of Consumer Protection had not uncovered and pursued numerous violations of law. The Bureaus of Banking and Insurance have virtually the same administrative procedures, even the Department of Agriculture. Why then, members of this House, has the Bureau of Consumer Protection been singled out? In my opinion, the answer is simply that the bureau has operated effectively to protect the State of Maine and its consuming citizens. Apparently, in the opinion of some, the Bureau of Consumer Protection has operated too effectively in the minds of what might be challenged as special interest.

If we recede and concur today, L.D. 733 would have a tremendous impact on the ability of the Bureau of Consumer Protection to protect and educate Maine citizens.

In 1976, there were 15 hearings. If they had gone to the administrative court, these hearings would have entailed countless working hours not only for the staff of the bureau but the Attorney General. A considerable amount of this time would have been expended in attempting

to educate the administrative court in the intricacies of the credit code and truth in lending legislation and statutes.

The Bureau of Consumer Protection has only one field examiner. If that examiner had been required to be present at the 15 hearings before the administrative court, should they have been held in that body in 1976, the Bureau of Consumer Protection would have incurred a tremendous backlog of examinations. It is altogether clear to me that it would be necessary to expand the examination staff to at least three members to insure continuation of the examination scheduled if L.D. 733 in its present form is enacted.

Since the examiners in that bureau are paid by creditors for the actual cost of examination, the Bureau, again, would incur a substantial deficit in the salaries of examiners for the time spent in administrative court proceedings.

In addition, I would argue before you that the attorney general would be required to utilize at least one part-time assistant attorney general, maybe even full time, to handle these cases due to the technical nature of the violations and the potentials for delay tactics in the administrative court. With two additional examiners and a deficit perhaps in the field examination fees, it would assume that a fiscal note for the bureau again might be somewhere added, maybe in the area of even \$30,000 to \$40,000 a year. In addition, the Attorney General's Office would incur costs in terms of staff hours and legal clerical staffing in the area of \$17,000 to \$23,000 per year.

I hope that you will not vote to recede and concur today. The Bureau of Consumer Protection should retain its independence, as has, despite the amendment, the greater proportion or the greater activity which is concerned with the Bureau of Insurance and the Bureau of Banking. They have done their job; they have done it effectively.

Mr. Tarbell of Bangor was granted permission to speak a fourth time.

Mr. TARBELL: Mr. Speaker, Ladies and Gentlemen of the House: One more time, and the last time I hope. If you recede and concur today, you are adopting the bill and the amendment both which brings insurance, banking, and consumer protection under these provisions. There is provision for quick and speedy action, seven days for a trial on the full merits before an independent judge. We don't have that now for a full trial, not just a hearing. The administrative judge has got temporary restraining order powers. The administrative judge has to render his decision of the merits within 45 days and has equitable powers pending that decision.

If we free the commissioners from judging the cases, we will have greater time, I would submit to you, to go out into the field and work on investigation complaint bringing for violations of law and for prosecution will free them from the judge, duties that they now have to serve. It would seem to me that the integrity and the stature of Banking, Insurance, and Consumer Protection Bureaus would be enhanced, not eroded and denigrated if we remove them from wearing three hats at once — investigator, prosecutor and judge.

I urge you to vote to recede and concur and, in doing so, to vote for a fair trial.

The SPEAKER: The pending question is on the motion of the gentleman from Bangor, Mr. Tarbell, that the House recede and concur. A roll call has been ordered. All those in favor of receding and concurring will vote yes; those opposed will vote no.

#### ROLL CALL

YEA — Ault, Austin, Bagley, Bennett, Berube, Biron, Birt, Boudreau, P.; Brown, K. L.; Brown, K. C.; Bunker, Burns, Carrier, Carter, F.; Connors, Cote, Cunningham, Devoe, Drinkwater, Dudley, Durgin, Fenlason, Garsoe,

Gillis, Gould, Gray, Green, Hickey, Higgins, Hobbins, Hunter, Immonen, Jacques, Jalbert, Kany, Kelleher, Laffin, LaPlante, Lewis, Littlefield, Lizotte, Lougee, Lunt, Lynch, Mackel, Mahany, Marshall, Masterman, Masterton, McBairty, McMahon, McPherson, Morton, Nelson, M.; Norris, Palmer, Peltier, Perkins, Peterson, Rideout, Sewall, Shute, Silsby, Smith, Sprowl, Stover, Strout, Stubbs, Tarbell, Tarr, Torrey, Tozier, Tyndale, Whittemore.

NAY — Aloupis, Bachrach, Beaulieu, Benoit, Berry, Blodgett, Boudreau, A.; Brennerman, Bustin, Carey, Carroll, Carter, D.; Chonko, Churchill, Clark, Connolly, Cox, Curran, Davies, Dexter, Diamond, Dow, Dutremble, Elias, Flanagan, Fowlie, Gill, Goodwin, H.; Goodwin, K.; Greenlaw, Hall, Henderson, Howe, Huber, Hughes, Jackson, Jensen, Joyce, Kane, Kerry, Kilcoyne, Locke, McHenry, Mitchell, Moody, Nadeau, Nelson, N.; Peakes, Pearson, Plourde, Post, Prescott, Raymond, Rollins, Spencer, Talbot, Theriault, Tierney, Tozier, Trafton, Truman, Valentine, Wood, Wyman, The Speaker.

ABSENT — Gauthier, Hutchings, LeBlanc, MacEachern, Martin, A.; Maxwell, McKean, Mills, Najarian, Quinn, Teague, Twitchell, Wilfong.

Yes, 73; No, 65; Absent, 13.

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

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

Mr. TARBELL: Mr. Speaker, having voted on the prevailing side, I now move that we reconsider and urge you all to vote against me.

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

Mr. SPENCER: Mr. Speaker, I move that this matter lie on the table for one legislative day.

Whereupon, Mr. Palmer of Nobleboro requested a division.

The SPEAKER: The pending question is on the motion of the gentleman from Standish, Mr. Spencer, that this matter be tabled for one legislative day pending the motion of Mr. Tarbell of Bangor to reconsider. All those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

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

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

Mr. HENDERSON: Mr. Speaker, is the amendment proposed from the other body properly before us since it does not have a fiscal note yet it does, in effect, put more burden on this court?

The SPEAKER: The Chair would advise the gentleman from Bangor, Mr. Henderson, that Joint Rule 28 specifies "every bill or resolve affecting revenue appropriation shall be accompanied by written statement as to the amount involved." The Chair will rule that the bill is a violation of Joint Rule 28. The amendment may be added after the motion to reconsider is passed, or else the Chair will rule that the bill is no longer before this body.

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

Mr. SPENCER: Mr. Speaker, I request 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 Chair recognizes the gentleman from Livermore Falls, Mr. Lynch.

Mr. LYNCH: Mr. Speaker, I will ask a member of the Appropriations Committee, has the question of appropriations for the administrative court been considered in the appropriation bills?

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

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

Mr. JALBERT: Mr. Speaker, I know that either there is a bill flying around or else we put it in the appropriations act that we would have an assistant and also a clerk hired in the administrative court. While I am on my feet, Mr. Speaker, I fail to see where there is any need for a fiscal note in this situation anyway.

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

Mr. TIERNEY: Mr. Speaker, I would like to further ask a question of the gentleman from Lewiston or someone else on the Appropriations Committee. This amendment calls for the Attorney General's Office to prosecute these claims. This is a prosecution function which the Attorney General's Office does not currently have. Has this matter been addressed in the Attorney General's Office in regard to the Appropriations Committee?

The SPEAKER: The gentleman from Lisbon Falls, Mr. Tierney, has posed a question to anyone who may care to answer.

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

Mr. JALBERT: Mr. Speaker, in answer to the good gentleman from Lisbon Falls, Mr. Tierney, he would know fully well that the Appropriations Committee does not appropriate funds to prosecute or defend any cases.

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

Mr. BIRON: Mr. Speaker, I would like to pose a question through the Chair to anyone who may care to answer. Am I correct in assuming that in the past year, there were 15 cases that were handled by Mr. Quinn that were in dispute and all of a sudden it is going to cost thousands and thousands of dollars to handle it next year? I would like someone to answer that, why we need a fiscal note on this bill.

The SPEAKER: The Chair would advise the gentleman from Lewiston, Mr. Biron, that the bill very clearly indicates the additional powers that must be assumed. The Chair has ruled that a fiscal note is required.

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

Mr. TARBELL: Mr. Speaker, Ladies and Gentlemen of the House: In all due respect, when the judge appeared before us, before this appropriations bill for a second judge to help with the workload, the question was posed to him whether or not he could handle this without any additional overburden, and the answer that he responded was that this could easily be absorbed with the staff, with the clerks, with all of the personnel and duties that were being provided now.

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

Mr. TIERNEY: Mr. Speaker, with good deference to the gentleman from Bangor, obviously the judge who made that statement is now gravely ill. Secondly, the bill has been dramatically changed by the amendment which he supported to include additional agencies. Now it seems to me that given the Speaker's ruling the fiscal amount may only be \$10 or \$20 or \$100, but yet we ought to have the opportunity to investigate this further, check with the appropriate departments to find out how much is involved and, therefore, I would suggest that someone move to put this bill on the table a little bit longer so that we can have the time to get

the information so that we can make a rational decision.

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

Mr. NORRIS: Mr. Speaker and Ladies and Gentlemen of the House: We seem to have come to an impasse finally this morning and I would hope that those good folks who have voted to recede and concur would vote against reconsideration and let this bill go where it may, back to the other body and I am sure that they can make proper arrangements there, but rather than bicker and bicker anymore in this House with this legislation, let's vote against reconsideration and let it go where it may and I am sure that somewhere else something can be done to make it more palatable to the leadership in this House.

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

Mrs. KANY: Mr. Speaker, Members of the House: I came in basically just before the roll call and I really must admit I was just shocked to see the complete turn around in this House on a measure which had a very good debate the other day and which we so thoroughly rejected.

This particular bill and what is contained in it is being addressed in the administrative procedures act, a bill which is going to have a work session this afternoon and I would hope that you all would reconsider and indefinitely postpone this bill. I just urge you to reconsider. I just don't know if you want to make these judgments at this time with the Administrative Court in such disarray and I am sure this will not change prior to October when this bill would become law.

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

Mr. SPENCER: Mr. Speaker, Ladies and Gentlemen of the House: I twice made a motion to table this matter so that I can have the time to go over the amendment in detail and see if, in fact, the Senate Amendment was a good faith effort to try to bring banking and insurance under this and to deal with it in a fair way. I regret that I don't have the time to go through all of the sections of the Insurance and Banking Codes to see whether that is true, but in view of the fact that I don't have that time, I would like to raise a couple of questions about this amendment and present them to this body before we vote on reconsideration. First of all, the Senate Amendment purports to include the Bureau of Banking under the Administrative Court and to require the Bureau of Banking to go before the Administrative Court on any adjudicatory matter.

Well, as I read this bill, it only applies to Section 231 of Title 9B, which is a small section of the banking code which deals only with the power of the Bureau of Banking to remove an officer or director. The guts of the banking bureau's enforcement program are not included in this law which are violations of laws found in Section 231 of the banking code and that would include unsafe or unsound practices, deceptive practices, violation of written agreements with the banking bureau's superintendent. These are the kinds of violations that we are dealing with in the Bureau of Consumer Protection and if this amendment is a good faith effort to treat all of the agencies equitably and fairly under the Administrative Court procedure, why are not the guts of the banking bureau's powers included in this amendment?

The other point that has been made is that this amendment is a good faith effort to insure that there are no problems with the statute of limitations and that this requires a speedy procedure. I note that in Section 2 of this bill it sets a time limit for the small area of the banking code that is covered that the hearing has to be held within 30 days and not more than 60 days. There is no similar provision for the other

agencies that are covered and I wonder about that.

I would finally point out that the judge who appeared before the Judiciary Committee and said that this would not create any administrative burden, if he got his second judge, who has been extremely ill and that there is serious possibility that most of the cases that have been heard over the past year are going to have to be reheard. I don't feel, based on what I know right now, that this amendment is a good faith effort to deal with all these agencies in a broad equitable manner.

I would urge you to reconsider the vote where we move to recede and concur.

As I said when we first debated this, this bill is going to take up an endless amount of legislative time and the proper vehicle is the Administrative Court Revision Bill which is now before State Government.

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

Mr. GARSOE: Mr. Speaker, Ladies and Gentlemen: I really feel privileged to have been present at the actual construction of a mountain out of a mole hill. We had a bill go sailing through here yesterday in which I understand there was a question of a fiscal note that evidence indicates it may be as much as \$600,000. If this tactic, and I call it just that, is going to be applied to every bill that we have before us, then I think we are going to have some more delays.

We have a tenant landlord bill that throws the district courts into a completely new operation, no question of a fiscal note or the burden on the courts there. So I hope you will, as the gentleman from Brewer has pointed out, oppose reconsideration and let us see what does happen to this.

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

Mrs. KANY: Mr. Speaker, I would like to pose a question through the Chair. I see the amendment before us just now and I see that it refers to Title 24A. Of course, that is the Profit Insurance Code and I am wondering if it also applies to Title 24, which is a Nonprofit Insurance Code, Blue Cross and Blue Shield. Would someone please address that question?

The SPEAKER: The gentlewoman from Waterville, Mrs. Kany has posed a question through the Chair to any who may wish to respond if they so desire.

The Chair recognizes the gentlewoman from Newcastle, Mrs. Sewall.

Mrs. SEWALL: Mr. Speaker, Members of the House: I can't answer that question today but I was a little bit concerned to hear Representative Spencer ask whether or not this amendment was presented in good faith.

I have served on the Judiciary Committee this time and in agreement and in disagreement the sponsor of this amendment, Senator Collins, has always done his work in good faith.

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

Mr. CARROLL: Mr. Speaker, Ladies and Gentlemen of the House: We had a funeral and a eulogy last Friday. But never count the Third House out. We have had a full weekend off and the telephones have been ringing and don't let anybody kid you. My nephew bought a house, the roof leaked, they had terrible problems, and if he had waited for the Administrative Court, the house would have fallen down. Ladies and gentlemen, the wheelers and dealers have had their day and if you send this over to the other body, you can really go to sleep tonight knowing they have had a hey day.

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

Mr. BIRON: Mr. Speaker, Ladies and Gentlemen of the House: The good gentleman from Standish, Mr. Spencer, indicates to us that we should reconsider this bill because, unfor-

unately, there has been a sickness in the Administrative Court. Unfortunately, ladies and gentlemen, we, in government, need to continue with our efforts and to continue passing legislation. I would urge you not to reconsider and simply send this bill to the other body. Because of the unfortunate accident to the judge, or I believe it was a sickness, I don't think we should stop legislation at this point. Other people will take his place and we will just continue our business.

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

Mrs. KANY: Mr. Speaker, Members of the House: As far as I am concerned, if we recede and concur with this amendment on the bill, I think Charlie Cragin can retire very nicely.

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

#### ROLL CALL

YEA — Aloupis, Bachrach, Beaulieu, Benoit, Berry, Blodgett, Boudreau, A.; Brennerman, Burns, Bustin, Carey, Carroll, Carter, D.; Chonko, Clark, Connolly, Cox, Curran, Davies, Dexter, Diamond, Dow, Elias, Flanagan, Fowlie, Gill, Goodwin, H.; Goodwin, K.; Greenlaw, Hall, Henderson, Howe, Huber, Hughes, Jackson, Joyce, Kane, Kany, Kilcoyne, Laffin, Locke, MacEachern, McHenry, Mitchell, Nadeau, Nelson, N.; Peakes, Post, Prescott, Raymond, Rollins, Spencer, Talbot, Theriault, Tierney, Trafton, Tryman, Valentine, Wilfong, Wood, Wyman, The speaker.

NAY — Ault, Austin, Bagley, Bennett, Berube, Biron, Birt, Boudreau, P.; Brown, K. L.; Brown, K. C.; Bunker, Carrier, Carter, F.; Churchill, Connors, Cote, Cunningham, Devoe, Drinkwater, Dudley, Durgin, Dutremble, Fenlason, Garsoe, Gauthier, Gillis, Gould, Gray, Green, Hickey, Higgins, Hobbins, Hunter, Hutchings, Immonen, Jacques, Jalbert, Jensen, Kelleher, Kerry, LaPlante, Lewis, Littlefield, Lizotte, Lougee, Lunt, Lynch, Mackel, Mahany, Marshall, Masterman, Masterton, McBreaity, McKean, McMahon, McPherson, Moody, Morton, Nelson, M.; Norris, Palmer, Pearson, Peltier, Perkins, Peterson, Plourde, Rideout, Sewall, Shute, Silsby, Smith, Sprowl, Stover, Strout, Stubbs, Tarbell, Tarr, Torrey, Tozier, Tyndale, Whittemore.

ABSENT — LeBlanc, Martin, A.; Maxwell, Mills, Najarian, Quinn, Teague, Twitchell.

Yes, 62; No, 81; Absent, 8.

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

(S. P. 440) (L. D. 1531) Bill "An Act to Lighten the Burden of Property Taxes on the Elderly Widowed or Disabled" — Committee on Taxation reporting "Ought to Pass" as amended by Committee Amendment "A" (S-186)

(S. P. 408) (L. D. 1416) Bill "An Act to Clarify Physician Certification of Patient Deaths in Maine Nursing Homes" — Committee on Health and Institutional Services reporting "Ought to Pass" as amended by Committee Amendment "A" (S-189)

No objections being noted, the above items were ordered to appear on the Consent Calendar of June 9, under listing of Second day.

#### (Off Record Remarks)

On motion of Mr. Tierney of Lisbon Falls.  
Recessed until 12:40 p.m.

#### After Recess 12:40 P.M.

The House was called to order by the Speaker.

The Chair laid before the House the following matter:

Bill "An Act to Establish Procedures to Record Judgment in Registry of Deeds to Create a Lien on Debtor's Real Estate" (H. P. 1203) (L. D. 1429) reporting "Ought to Pass" in New Draft (H. P. 1656) (L. D. 1854) which was tabled earlier and later today assigned pending acceptance of either Report.

On motion of Mr. Garsoe of Cumberland, tabled pending acceptance of either Report and specially assigned for Friday, June 10.

The Chair laid before the House the following matter:

Bill "An Act Concerning Registration on Election Day" (H. P. 159) (L. D. 197) reporting "Ought to Pass" in New Draft (H. P. 1664) (L. D. 1864) which was tabled earlier in the day pending acceptance of either Report.

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

Mrs. BOUDREAU: Mr. Speaker, I move that we accept the "Ought to Pass" Report under L. D. 1864.

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

Mr. BIRT: Mr. Speaker, Ladies and Gentlemen of the House: I don't want to delay this too long. There are two reports here. I think the major difference between the two of them is whether they can or cannot register on election day. This does allow our registration to be accepted by the clerk or the registrar of voters and put on the supplemental list. There has been a good deal of information and news from all over the country relative to registration on election day.

In signing the Minority Report, I was willing to go along with allowing registration up to the day of election to be put on a separate list provided that there was no registration on election day.

Every election official that I know of in the State of Maine that has appeared before the committee has opposed registration of voters on election day.

I would just hope that you would not accept the Majority Report on the motion before you and then we can accept the Minority Report.

Mr. McMahon of Kennebunk requested a roll call.

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 before the House is on the motion of the gentlewoman from Portland, Mrs. Boudreau, that the House accept the Majority "Ought to Pass" Report. Those in favor will vote yes; those opposed will vote no.

#### ROLL CALL

YEA — Bachrach, Bagley, Beaulieu, Bennett, Benoit, Berry, Biron, Blodgett, Boudreau, A.; Boudreau, P.; Brennerman, Brown, K.C.; Burns, Bustin, Carey, Carroll, Carter, D.; Chonko, Clark, Connolly, Cote, Cox, Curran, Davies, Diamond, Dow, Dutremble, Elias, Flanagan, Fowlie, Gillis, Goodwin, H.; Goodwin, K.; Green, Greenlaw, Hall, Henderson, Hickey, Hobbins, Howe, Hughes, Jacques, Jalbert, Jensen, Joyce, Kany, Kelleher, Kerry, LaPlante, Locke, Lynch, MacEachern, Masterton, McHenry, McKean, Mitchell, Nadeau, Nelson, M.; Nelson, N.; Peakes, Pearson, Plourde, Post, Rideout, Shute, Spencer, Sprowl, Talbot, Tarbell, Theriault, Tierney, Tozier, Trafton, Truman, Valentine, Wilfong, Wood, Wyman, The Speaker.

NAY — Aloupis, Ault, Austin, Berube, Birt.

Brown, K. L.; Bunker, Carrier, Carter, F.; Churchill, Connors, Devoe, Drinkwater, Dudley, Durgin, Fenlason, Garsoe, Gauthier, Gill, Gould, Gray, Higgins, Huber, Hunter, Hutchings, Immonen, Jackson, Kane, Kilcoyne, Laffin, Lewis, Littlefield, Lougee, Lunt, Mahany, Marshall, Masterman, McBreaity, McMahon, McPherson, Morton, Norris, Palmer, Peltier, Perkins, Peterson, Raymond, Sewall, Silsby, Smith, Strout, Stubbs, Tarr, Torrey, Whittemore.

ABSENT — Cunningham, Dexter, LeBlanc, Lizotte, Mackel, Martin, A.; Maxwell, Mills, Moody, Najarian, Prescott, Quinn, Rollins, Stover, Teague, Twitchell, Tyndale.

Yes, 79; No, 55; Absent, 17.

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

The Bill was read once and assigned for second reading tomorrow.

The Chair laid before the House the following matter:

Bill "An Act to Establish Withdrawal Dates for Candidates and Nominees" (H. P. 319) (L. D. 410) reporting "Ought to Pass" in New Draft (H. P. 1666) (L. D. 1866) which was tabled earlier and later today assigned, pending acceptance of either report.

On motion of Mrs. Boudreau of Portland, the Majority "Ought to Pass" Report was accepted, the Bill read once and assigned for Second Reading tomorrow.

The Chair laid before the House the following matter:

Bill "An Act Relating to Public Utility Electrical Transmission Lines and Gas and Oil Pipelines" (H. P. 1659) (L. D. 1855) which was tabled earlier and later today assigned pending passage to be engrossed.

Mr. Blodgett of Waldoboro offered House Amendment "A" and moved its adoption.

House Amendment "A" (H. 543) was read by the Clerk.

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

Mr. PALMER: Through the Chair, would the gentleman from Waldoboro please explain the amendment.

The SPEAKER: The gentleman from Nobleboro, Mr. Palmer, has posed a question through the Chair.

The Chair recognizes the gentleman from Waldoboro Mr. Blodgett.

Mr. BLODGETT: Mr. Speaker, Ladies and Gentlemen of the House: This was a section which was inadvertently left out. It simply would allow the PUC to go along with the DEP on their environmental findings so there would not be duplication.

Whereupon, House Amendment "A" was adopted.

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

The Chair laid before the House the following matter:

Bill "An Act Increasing the Gasoline Tax" (Emergency) (H. P. 1159) (L. D. 1383) which was tabled earlier and later today assigned, pending passage to be engrossed.

Mr. Jensen of Portland offered House Amendment "A" and moved its adoption.

House Amendment "A" (H-542) was read by the Clerk.

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

Mr. JENSEN: Mr. Speaker, Members of the House: I ask you to take a look at the actual amendment and I would like to do three things. First of all, explain exactly what the bill does, why I put it in and what the final impact of that amendment would be.



First of all, what I have done is I have removed, under the town road improvement fund law, the section which makes reference to urban compact areas. Now urban compact areas, under the present law, are not allowed to receive any funding whatsoever under the town road improvement fund. The same thing is true under winter maintenance. What I have done is I have removed that reference so that the City of Portland and cities and towns throughout the State of Maine will receive town road improvement and winter maintenance money on a per mile basis, just like the rest of the towns do. For example: In 1974, when the town road improvement fund was actually funded in the highway budget, there was approximately \$150 per mile reimbursement given to each municipality, each of the smaller towns to assist them in maintaining their own local roads. Now those roads that are not Interstate 95, they are not state routes, they are simply local roads that have been accepted by the municipal officers.

In addition to peeling that section, I have taken \$500,000 from summer maintenance, maintenance resurfacing within the gas tax bill. I have allocated \$250,000 in addition to the town road improvement fund and \$250,000 in addition to winter maintenance.

Now the effect of this is as follows: it will maintain the amount of money for the rural towns that was already in the bill. As a matter of fact, I think it may increase the mileage allotment somewhat. By moving money into those funds, it will more than compensate for the amount of money that would be going to the other parts of the State of Maine.

Now the reason that I put the amendment in is quite simply out of fairness. I think that when you are dealing here in Augusta, you have got to compromise, you have to take care of local problems as they come up even though they may not have statewide impact.

As a Portland Representative, I voted to give a tax credit to the Bangor International Airport although that does nothing for my constituency. I voted to fund the spruce budworm, again that has nothing to do with my constituency; I voted to grant sales tax exemptions and voted for the Farm and Open Space Law for various farming communities in the state; I voted for the state police to be fully funded within the State of Maine. Again, that gives nothing to my constituency, it gives nothing to my area. Those are programs that are inherently that way. There is no way, no matter how much money you give to spruce budworm, that money is ever going to come into the City of Portland, our three or four dozen spruce trees simply are not going to be affected by the budworm problem.

However, I think with town road improvement and winter maintenance, you are talking about a different kind of program. That is a program that is essentially designed to send money back to the municipalities. It is a program designed to assist municipalities in maintaining their own local streets their own local ways. It is a program in essence to reduce property taxes. We would rather have it taken care of by the gas tax than by jacking local property taxes up.

What I have done is I said that the City of Portland, the City of Lewiston, the City of Augusta, the City of Presque Isle, in their compact areas, will receive the same mileage allotment that the town of Eagle Lake, South Berwick, North Yarmouth wherever will receive.

If you look at what has occurred particularly dealing with the highway budget over the last four or five years, I think you will find that people in the urban areas have not tended to support it nor have they tended to support gas tax increases. I think a good part of the reason for this is because programs of this sort are in the highway budget that benefit rural areas to the

exclusion of urban areas. A program like this is a financing mechanism. It is designed simply to send money back to municipalities. If we are going to send it back, we ought to send it back uniformly.

I would also suggest that when the roll call vote occurred yesterday, we had 65 people saying no to a gas tax and I was one of them, 70 people saying yes. Now, if I read the Constitution right, we are going to need 101 votes to pass anything of this sort, and from a political point of view, those of you that are interested in enacting this kind of legislation to assist your own towns, to assist local property taxes, to help out with the town road improvement fund, are going to need to get that 101. If you wish to receive that 101, I would suggest that it is going to be very very difficult, if not impossible to reach that point, without this amendment. With this amendment, I think you will gather substantial additional amount of support.

To give you an idea of the dollar figure you are talking about, within the amendment right now, there is allocated \$1,750,000 for town road improvement in fiscal years 1977 and 1978. That is a \$150 per mile approximately, perhaps a little bit more, to go for use on local streets.

I talked with the gentleman from Lincoln, Mr. MacEachern and he estimated that in the town of Lincoln, he had something in the neighborhood of \$10,000 to \$12,000 given to him. The last time there was town road improvement fully funded. Now, that is a town of a few thousand people, not a great population center.

The City of Portland, according to my calculations, with a 174.69 miles of entirely local roads will receive something in the neighborhood of \$20,000 to \$25,000. You are not taking a huge amount of money from the fund to be given to the urban areas. According to my quick calculations, \$20,000 to \$25,000 out of \$1,750,000 is something between 1½ percent. The City of Portland's population is approximately 7% of the State of Maine, its valuation is something substantially above that.

What I would suggest is this is not giving a great deal of money to any one area particularly in your urban areas but it is saying that if we are going to have a program of this sort, we are going to allocate the money fairly, we are going to give it to everybody.

I urge you to support my motion to adopt House Amendment "A".

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

Mr. MACEachern: Mr. Speaker, Ladies and Gentlemen of the House: This amendment is nothing but a raid on the town road improvement money that goes to the small towns. The very title of town road improvement indicates that this is for towns, not for cities.

Traditionally, under the present statute, the cities didn't receive any of this money. The reason that the towns get it rather than the cities, is that the cities are generally financially better off than the small towns. \$25,000 compared to Portland's overall budget is a drop in the bucket, but \$12,000 for my town is a sizeable sum and I don't think that this is a good amendment. I move for its indefinite postponement.

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

Mr. BAGLEY: Mr. Speaker, Ladies and Gentlemen: In principle, I agree with the gentleman from Lincoln but from a practical, political standpoint, I must support the gentleman from Portland even though I am a small town boy myself.

The SPEAKER: The Chair recognizes the gentleman from Corinth, Mr. Strout.

Mr. STROUT: Mr. Speaker, Ladies and Gentlemen of the House: I am going to be very brief because I know we all want to get out of here.

I just like to explain to you that I am going to support this amendment basically for three

reasons. In the winter maintenance snow removal reimbursements, the gentleman has asked for an increase in this amendment and also the town road improvement. The town road improvement for the rural towns in the state will not be affected by this amendment. We still have a \$1,500,000 each year of the biennium. The only thing the gentleman has done is that he has taken some money out of resurfacing and I can assure you and assure the gentleman from Bangor that spoke yesterday, that as a member of the Transportation Committee, I intend to use my priorities in the next two or three weeks with the highway allocations and I think that is selfish of me to say that we are going to put all the money in the rural areas, which I could do, I could vote it that way, but I think that is wrong. I think today we have to compromise. This is the way the procedure works and I ask you all to support this amendment.

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

Mr. DUDLEY: Mr. Speaker, Members of the House: I served a long time on the Transportation Committee and I am well aware of the goings on there. Let me tell you that the people from the cities ride on these country roads as much as the people from the country.

The thing you are overlooking, I think, is the fact that in the city, you pay your excise tax and they take in millions of dollars in these cities in excise tax while the small towns take in very little from excise tax. So, down through the years, the state found that, in order to get these town roads plowed so the city people could use them, they had to supplement a little because they didn't take in enough in excise tax to properly plow the roads so they set up the reimbursement to help them with their snow plowing.

Now, if you are going to start doing it the other way, it is not going to work. You are overlooking the fact of the amount these cities take in excise tax compared to the small amount the towns take in. Yet these towns in some cases have almost as much road to plow as the cities do. Please bear in mind that the people in the city, the first thing they do on the weekend is head for the country and travel on these very roads that do need to be plowed.

I support the motion to indefinitely postpone this amendment.

Mr. Burns of Anson requested a roll call.

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 before the House is the motion of the gentleman from Lincoln, Mr. MacEachern, that House Amendment "A" be indefinitely postponed. Those in favor will vote yes; those opposed will vote no.

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

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

#### ROLL CALL

YEA — Ault, Bennett, Blodgett, Brown, K. C.; Bunker, Burns, Carroll, Cox, Dudley, Durgin, Henderson, Higgins, Hunter, Lougee, MacEachern, Mitchell, Moody, Perkins, Rideout, Sewall, Shute, Silsby, Smith, Sprowl, Stover, Stubbs, Theriault, Tozier, Truman, Wood.

NAY — Aloupis, Austin, Bachrach, Bagley, Beaulieu, Benoit, Berube, Biron, Birt, Boudreau, A.; Boudreau, P.; Brennerman, Brown, K. L.; Bustin, Carey, Carter, D.; Carter, F.; Chonko, Clark, Connors, Connolly,

Cote, Cunningham, Curran, Davies, Devoe, Diamond, Dow, Drinkwater, Dutremble, Elias, Fenlason, Flanagan, Fowle, Garsoe, Gauthier, Gill, Gillis, Goodwin, H.; Goodwin, K.; Gould, Gray, Green, Greenlaw, Hall, Hickey, Hobbins, Howe, Huber, Hughes, Hutchings, Immonen, Jackson, Jacques, Jalbert, Jensen, Joyce, Kane, Kany, Kelleher, Kerry, Kilcoyne, Laffin, LaPlante, Lewis, Littlefield, Locke, Lunt, Lynch, Mahany, Marshall, Masterman, Masterton, McBreairty, McHenry, McKean, McMahon, McPherson, Nadeau, Nelson, M.; Nelson, N.; Norris, Palmer, Peakes, Pearson, Peltier, Peterson, Plourde, Post, Prescott, Raymond, Rollins, Spencer, Strout, Talbot, Tarbell, Tierney, Torrey, Trafton, Valentine, Whittemore, Wilfong, Wyman, The Speaker.

ABSENT — Carrier, Churchill, Dexter, LeBlanc, Lizotte, Martin, A.; Maxwell, Mills, Morton, Najarian, Quinn, Tarr, Teague, Twitchell, Tyndale.

PAIRED — Berry, Mackel.

Yes, 30; No, 104; Absent, 15; Paired, 2.

The SPEAKER: Thirty having voted in the affirmative and one hundred and four in the negative, with fifteen being absent and two paired; the motion does not prevail.

Thereupon, House Amendment "A" was adopted.

The SPEAKER: The pending question before the House is passage to be engrossed.

Mr. Kelleher requested a roll call.

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

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

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

Mr. TIERNEY: Mr. Speaker, I would like to pair my vote with the gentleman from Gorham, Mr. Quinn. If Mr. Quinn was here, he would be voting yes and I would be voting no.

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

Mr. MACKEL: Mr. Speaker, I would like pair my vote with the gentleman from Buxton, Mr. Berry. If Mr. Berry was here, he would be voting no and I would be voting yes.

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

Mr. DUDLEY: Mr. Speaker, Members of the House; This will probably be the last chance you will have to vote against an increase in the gas tax. I don't think it was brought out during debate the other day that the gasoline sales in this state are up considerably so they are getting a lot of extra tax now and the poor people that I represent, if the price of gasoline gets beyond their reach any further, they will be unable to use the highways to any extent anyhow so they will not need to be that good. I can't see us voting to increase the gas tax by a whole cent. If you do this in percentage, you will find this is a large increase. If you also notice the states around us, I think that this state should be run like them. If they can do business with a certain amount of gas tax, we should be able to, we are now ahead of most of the states in gas tax and this will put us up front of nearly all of the states. I think we can conduct our business and run our highways as cheap as the other states do. For that reason, I do hope that you won't support another tax on the people. I am sure that the people that sent you here didn't just send you here to raise taxes. This is one of the things they do not want. I don't think there will have to be any curtailment in the highways because of the increase, every year, even this year. Gasoline sales in the State of Maine are up. This information is easy to get, you can get it right from the Taxation Department, as they go up, it automatically raises the

income of the Highway Department and they have other increases too. We increased, just the last session, some registration fees and we are constantly picking away and giving them a little extra money somewhere and that should take care of the inflation very easily. So, I don't support it, my people don't support it and I know your people don't support it.

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

#### ROLL CALL

YEA — Aloupis, Austin, Bachrach, Bagley, Beaulieu, Benoit, Birt, Boudreau, A.; Boudreau, P.; Brown, K. L.; Carey, Carter, F.; Conners, Cox, Cunningham, Devoe, Dexter, Dow, Drinkwater, Dutremble, Fenlason, Flanagan, Fowle, Garsoe, Gill, Gillis, Gould, Gray, Greenlaw, Hall, Higgins, Hunter, Hutchings, Immonen, Jensen, Joyce, Littlefield, Lougee, Lunt, Mahany, Marshall, Masterman, Masterton, McBreairty, McHenry, McKean, Moody, Morton, Nelson, M.; Nelson, N.; Norris, Palmer, Peakes, Pearson, Peltier, Perkins, Peterson, Plourde, Prescott, Rollins, Sewall, Silsby, Smith, Strout, Stubbs, Torrey, Whittemore, Wood, The Speaker.

NAY — Ault, Bennett, Berube, Biron, Blodgett, Brennerman, Brown, K. C.; Bunker, Burns, Bustin, Carrier, Carroll, Carter, D.; Chonko, Clark, Connolly, Cote, Curran, Davies, Dow, Dudley, Durgin, Elias, Gauthier, Goodwin, H.; Goodwin, K.; Green, Henderson, Hickey, Hobbins, Howe, Huber, Hughes, Jackson, Jacques, Jalbert, Kane, Kany, Kelleher, Kerry, Kilcoyne, LaPlante, Lewis, Locke, Lynch, MacEachern, McMahon, McPherson, Mitchell, Nadeau, Post, Raymond, Rideout, Shute, Spencer, Sprowl, Stover, Talbot, Tarbell, Theriault, Tozier, Trafton, Truman, Valentine, Wilfong, Wyman.

ABSENT — Churchill, LeBlanc, Lizotte, Martin, A.; Maxwell, Mills, Najarian, Tarr, Teague, Twitchell, Tyndale.

PAIRED — Berry, Mackel, Quinn, Tierney.

Yes, 69; No, 67; Absent, 11; Paired, 4.

The SPEAKER: Sixty-nine having voted in the affirmative and sixty-seven in the negative, with eleven being absent and four paired, the Bill is passed to be engrossed.

Sent up for concurrence.

The Chair laid before the House the following matter:

Bill "An Act Defining the Rights and Responsibilities of Landlords and Tenants in Residential Property" (H. P. 1641) (L. D. 1843) which was tabled earlier in the day and later today assigned pending passage to be engrossed as amended.

Mr. Spencer of Standish offered House Amendment "C" and moved its adoption.

House Amendment "C" (H-548) was read by the Clerk.

The SPEAKER: The Chair recognizes the same gentleman.

Mr. SPENCER: Mr. Speaker, Ladies and Gentlemen of the House; The purpose of House Amendment "C" is to clarify a technical legal question. The landlord tenant bill which we have been discussing, L.D. 1843, confers upon the district court the power to grant injunctive release in an appropriate case. What this bill does is, it adds a sentence to Section 152 of Title IV which governs the jurisdiction of the district court to specifically include reference to the provisions of L.D. 1843.

The amendment also deletes three words which refer to the public so that a tenant can't go to court arguing that there is a danger to the public as opposed to the residents of the building. Essentially, it is a small change which restricts the bill to direct relationship between landlord and tenant.

The SPEAKER: The Chair recognizes the

gentleman from Westbrook, Mr. Carrier.

Mr. CARRIER: Mr. Speaker, I would ask a ruling from the Chair if this amendment is germane to the bill that is under consideration?

The SPEAKER: The Chair would respond to the gentleman from Westbrook, Mr. Carrier and to the members of the House that House Amendment "C" which has been offered deals with Title 14, Section 621, which is the same section that the redraft of the bill that came out of Judiciary deals with; therefore, the Chair would rule that the amendment as presented by the gentleman from Standish, Mr. Spencer, is germane.

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

Mr. CARRIER: Mr. Speaker, the reason I asked the question is because I feel that I must disagree. In the first place, I just can't believe what is happening. I just can't believe that people would have audacity to present such an amendment to a bill whether you agree with it or not. You want to look at this amendment, because this House Amendment "C" creates a new court system. We were on a rental bill and we were not out there to build up a new court and put new jurisdictions under whatever court you want to. The bill itself was put in under the superior court. This bill, two pages of it, strictly goes into building a new jurisdiction for the courts. This is almost like an omnibus bill. This also gives them the power for relief that is demanded in proceedings up to \$20,000. This is what I object to, it also gives them jurisdiction in divorce or annulment cases, also jurisdiction in probate courts, also jurisdiction in the supreme court, it gives them the right to quiet real estate title, gives them the right to quiet the title on real estate and also gives them the right, the action, to foreclose on mortgages.

I don't think that this has anything to do with this particular bill. The latter part of it is okay, I think that it has something to do with the bill. I don't think that this amendment makes any major improvement or contributes anything to the bill as it is. I am really disturbed by the fact that lawyers here and outside of the House come up with this kind of proposition trying to ram down our throats putting a new court system in here.

There should be a fiscal note on there. The court is going to handle it. I just don't approve of this kind of approach in order to confuse the people here and also in order to ram down our throats something that shouldn't be in this bill at all. Probably this has been defeated before and this is why it is in here. I think it is a very bad amendment, probably the worst I have ever seen, and I move for the indefinite postponement and ask for a roll call.

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

Mr. PALMER: Mr. Speaker, I move that this matter lie on the table one day.

Whereupon, Mr. Henderson of Bangor requested a division.

The SPEAKER: The pending question is on the motion of the gentleman from Nobleboro, Mr. Palmer, that this matter be tabled pending the motion of Mr. Carrier of Westbrook to indefinitely postpone House Amendment "C" and tomorrow assigned. All those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

99 having voted in the affirmative and 17 having voted in the negative, the motion did prevail.

#### (Off Record Remarks)

On motion of Mr. Garsoe of Cumberland, Adjourned until nine o'clock tomorrow morning.