

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

Index

**Senate Confirmation Session
September 16, 1977**

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HOUSE

Tuesday, June 14, 1974

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

Prayer by the Reverend Ronald Walden of the People's United Methodist Church of Greenville Junction and the United Methodist Church of Shirley, Maine.

The journal of yesterday was read and approved.

Papers from the Senate

A Joint Resolution in memory of Capt. Samuel Gerber, formerly of the Portland Fire Department (S. P. 548)

Came from the Senate read and adopted.

In the House, the Resolution was read and adopted in concurrence.

Reports of Committees
Leave to Withdraw

Report of the Committee on Labor reporting "Leave to Withdraw" on Bill "An Act to Provide Temporary Compensation to Incapacitated Persons Pending Application for State or Federal Aid" (S. P. 403) (L. D. 1386)

Report of the Committee on State Government reporting "Leave to Withdraw" on Bill "An Act to Require State Agencies to Submit Proposed Rules and Regulated Information to the Legislature" (S. P. 414) (L. D. 1410)

Report of the Committee on State Government reporting "Leave to Withdraw" on Bill "An Act to Provide for Legislative Oversight of Executive Programs and to Provide for Legislative Review of Administrative Rules" (S. P. 453) (L. D. 1645)

Report of the Committee on State Government reporting "Leave to Withdraw" on Bill "An Act to Provide Help to Small Businesses in Dealing with State Statutory and Regulatory Requirements" (S. P. 427) (L. D. 1485)

Report of the Committee on State Government reporting "Leave to Withdraw" on Bill "An Act Relating to Rules and Regulations Promulgated by State Agencies" (S. P. 282) (L. D. 895)

Report of the Committee on State Government reporting "Leave to Withdraw" on Resolution, Proposing an Amendment to the Constitution to Permit the Legislature to Delegate to a Joint Standing Committee of the Legislature the Power to Stay Rules and Proposed Rules of State Executive Agencies Found not to be within the Intent of the Authorizing Legislation Until the Legislature has had an Opportunity to Act (S. P. 461) (L. D. 1586)

Came from the Senate with the Reports read and accepted.

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

Divided Report

Majority Report of the Committee on State Government reporting "Ought Not to Pass" on Bill "An Act to Provide for a Council of Economic Advisors" (S. P. 257) (L. D. 814)

Report was signed by the following members:

Mr. MARTIN of Aroostook

— of the Senate.

Mrs. LOCKE of Sebec

Mr. VALENTINE of York

Mrs. KANY of Waterville

Ms. BACHRACH of Brunswick

Messrs. SILSBY of Ellsworth

CHURCHILL of Orland

Mrs. MASTERTON of Cape Elizabeth

Messrs. CURRAN of South Portland

DIAMOND of Windham

— of the House.

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

Report was signed by the following members:

Mr. COLLINS of Aroostook

Mrs. SNOWE of Androscoggin

— of the Senate.

Mr. STUBBS of Hallowell

— of the House.

Came from the Senate with the Minority "Ought to Pass" Report of the Committee on State Government read and accepted, and the Bill passed to be engrossed.

In the House: Reports were read.

On motion of Mr. Curran of South Portland, the Majority "Ought Not to Pass" Report was accepted in non-concurrence and sent up for concurrence.

Non-Concurrent Matter

"An Act to Provide for Legislative Confirmation of Gubernatorial Nominations for Chairmen of the Maine Human Services Council and the Maine Committee on Aging" (H. P. 723) (L. D. 856) which was Passed to be Enacted in the House on June 10, 1977.

Came from the Senate, Failing of Passage to be Enacted in non-concurrence.

In the House: On motion of Mr. Curran of South Portland, the House voted to insist.

Non-Concurrent Matter

Later Today Assigned

Bill "An Act to Provide Lifeline Electrical Services" (H. P. 1669) (L. D. 1867) which was passed to be engrossed as amended by House Amendment "A" (H-561) in the House on June 9, 1977.

Came from the Senate passed to be engrossed as amended by House Amendment "A" (H-561) and Senate Amendment "A" (S-235) in non-concurrence.

In the House: On motion of Mr. Connolly of Portland, tabled pending further consideration and later today assigned.

Non-Concurrent Matter

Bill "An Act to Remove Weight Restriction on Black Bass During a Sanctioned Bass Tournament" (H. P. 624) (L. D. 765) on which the Minority "Ought Not to Pass" Report of the Committee on Fisheries and Wildlife was read and accepted in the House on June 10, 1977.

Came from the Senate with the Majority "Ought to Pass" as amended by Committee Amendment "A" (H-547) Report of the Committee on Fisheries and Wildlife read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (H-547) in non-concurrence.

In the House:

Mr. Dow of West Gardiner moved that the House recede and concur.

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

Mr. GILLIS: Mr. Speaker, Ladies and Gentlemen of the House: I ask that you vote against the recede and concur motion. This is a bill that came up here the day before yesterday

on the bass fishing tournament, several of them are to be held this summer.

As I stated a couple of days ago, a month ago we defeated a bass ice fishing bill. Now, the proponents of this bill were the opponents of the bass ice fishing bill. They stated at that time, to repeat again, that to permit ice fishing for bass at a limit of two per day would have a drastic effect upon the bass fishery. Yet, today, they are back again to ask you to approve the bass tournaments. This bass tournament idea with hundreds of fishermen going after the bass on one specific pond of water will raise havoc with the bass fishery. And again, as the bill states, at a six percent mortality, the actual fear of the authorities on fish and wildlife is that it is a 30 percent or better mortality.

This is a special interest group requesting special privileges. The regular sports fishermen in the State of Maine will be the ones who will suffer. By a great majority, they are footing the bill for these tournaments in the upkeep of the bass fishery, and this is a rip-off by a special interest group on the sports fishermen of Maine.

Today, we have the best bass fishery on the eastern seaboard, so state many experts, fishing experts; other experts state that we have the best bass fishery in the northeast. With the pressure imposed on the bass fishery by these tournaments, that rating is not going to last very long. This resident-only bass fishing tournament is only a foot-in-the-door which will later develop into a national tournament and very possibly into an international tournament which will bring much more pressure on the bass fishery.

I ask you to vote against the recede and concur motion and I request a roll call.

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

Mr. DOW: Mr. Speaker and Members of the House: I can't agree at all with the statements that were just made by Mr. Gillis on a lot of the subjects, and I will give you just a couple of reasons. First, as the law is now, they can take eight fish or seven and a half pounds, and they can put as many boats on any pond as they want to, there won't be any restriction on it. With this bill, the department has the right to restrict the boats, restrict the number. Actually, it could conserve the fish and not take more of them.

As he mentioned, they said there was about a 30 percent kill. Without this bill, they could keep all of the eight fish that they caught and not turn them back into the water. The department actually wanted the seven and a half pound restriction taken off all fish and it was the committee that put it back on over the wishes of the department.

Actually, I think this will give us much more handle on the tournaments than it would without the law, and that is one of the reasons why I presented it. I urge you to vote for recede and concur.

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 West Gardiner, Mr. Dow, that the House recede and concur. All those in favor of that motion will vote yes; those opposed will vote no.

ROLL CALL

YEA — Alopis, Bachrach, Bagley, Beaulieu, Berry, Blodgett, Boudreau, A.; Brown, K. C.; Bunker, Bustin, Carey, Churchill, Clark, Connolly, Cote, Cunningham, Curran, Dow, Garsoe, Gill, Goodwin, H.; Goodwin, K.; Gray, Green, Hickey, Higgins, Hobbins, Howe, Jackson, Jacques, Jensen, Kilcoyne, Laffin, LaPlante, Lewis, Lougee, MacEachern, Mahany, Masterman, Masterton, Maxwell, McBreairty, McKean, McMahan, Mitchell, Najarian, Nelson, N.; Norris, Palmer, Pearson, Perkins, Peterson, Quinn, Rideout, Rollins, Sewall, Spencer, Stubbs, Theriault, Tierney, Trafton, Tyndale, Wood, Wyman.

NAY — Austin, Benoit, Berube, Biron, Birt, Boudreau, P.; Brenerman, Brown, K. L.; Burns, Carter, F.; Chonko, Cox, Davies, Devoe, Dexter, Diamond, Drinkwater, Dudley, Durgin, Dutremble, Elias, Fenlason, Flanagan, Gauthier, Gillis, Gould, Greenlaw, Hall, Henderson, Huber, Hunter, Immonen, Joyce, Kany, Kelleher, Kerry, Littlefield, Mackel, Martin, A.; McHenry, McPherson, Morton, Nadeau, Peltier, Plourde, Prescott, Raymond, Shute, Silsby, Smith, Sprowl, Tarr, Teague, Torrey, Truman, Valentine, Whittemore.

ABSENT — Ault, Bennett, Carrier, Carroll, Carter, D.; Conners, Fowlie, Hughes, Hutchings, Jalbert, Kane, LeBlanc, Lizotte, Locke, Lunt, Lynch, Marshall, Mills, Moody, Nelson, M.; Peakes, Post, Stover, Strout, Talbot, Tarbell, Tozier, Twitchell, Wilfong.

Yes, 64; No, 57; Absent, 29.

The SPEAKER: Sixty-four having voted in the affirmative and fifty-seven in the negative, with twenty-nine being absent, the motion does prevail.

Non-Concurrent Matter

Bill "An Act to Revise the Laws Relating to Barbers and Cosmetologists" (H. P. 1639) (L. D. 1838) which was passed to be engrossed as amended by House Amendments "B" (H-526) and "C" (H-528) in the House on June 8, 1977.

Came from the Senate passed to be engrossed as amended by House Amendments "B" (H-526) and "C" (H-528) and Senate Amendments "A" (S-226) and "I" (S-237) in non-concurrence.

In the House:

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

Ms. CLARK: Mr. Speaker, I move that the House recede and concur and would speak to my motion.

The SPEAKER: The gentlewoman from Freeport, Ms. Clark, moves that the House recede and concur.

The gentlewoman may proceed.

Ms. CLARK: Mr. Speaker, Men and Women of the House: I would ask that you, particularly you people who have received numerous phone calls from members of both professions, cosmetology and barbering, take the time to look at L. D. 1838 and the amendments which have been attached thereto.

We have attached in the House, House Amendments "B" and "C" in deference and response to some concerns expressed by members of those two professions. The Senate Chairman of the Committee on Business Legislation, Senator Pierce, has attached

Senate Amendment "A" and Senate Amendment "I". This, also, is in response to valid concerns expressed by members of both professions.

The proliferation of amendments in the Senate, Senate Amendments "B", "C", "D", "E", "F", "G" and "H" have been withdrawn, and I stand before you stating that the current condition of L. D. 1838 is supported by 13 members of the Committee on Business Legislation, the State Board of Cosmetology, the State Board of Barbers and the Maine State Barber's Association. I hope that would be support enough so that we might recede and concur this morning.

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

Mr. BIRON: Mr. Speaker, I move that this be tabled until later in today's session.

Ms. Clark requested a vote.

The SPEAKER: The pending question is on the motion of the gentleman from Lewiston, Mr. Biron, that this Bill be tabled pending the motion of Ms. Clark of Freeport to recede and concur and later today assigned. All those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

27 having voted in the affirmative and 69 having voted in the negative, the motion did not prevail.

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

Mr. GREEN: Mr. Speaker, Men and Women of the House: I would just like to ask a question through the Chair to the good gentlelady from Freeport, Ms. Clark, the Chairperson of the Business Legislation Committee, and that is, one of the calls that I got, and I got a rash of calls from people in the profession this past week, and according to present law, cosmetologists can go door to door and go to people's homes and perform services there as long as they are paid a normal fee or something to that effect, and according to L. D. 1838 of which I didn't see when I first looked through it and I spent a half hour or twenty minutes on the phone with Mr. Peakes and one of the barbers in my district, and that was that barbers were extended the same privilege, and this is one of the things they were opposed to. I would just pose a question through the Chair and ask if that has been taken care of?

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

The Chair recognizes that gentlewoman.

Ms. CLARK: Mr. Speaker, in response to the question from the good gentleman from Auburn, Representative Green, the answer is yes, in Senate Amendment "A".

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

Mr. MASTERMAN: Mr. Speaker, for the benefit of Representative Biron, I talked with the President of the Barbers Association yesterday afternoon, Mr. Alfred Boudreau, and in support of Representative Clark's motion, I would say this is acceptable. Mr. Boudreau told me that these two amendments are acceptable to the Barbers' Board.

Thereupon, the House voted to recede and concur.

Orders

An Expression of Legislative Sentiment (H.

P. 1711) recognizing that: Mrs. Phyllis Fernald of Pittsfield is retiring after 34 years in the teaching profession, 28 of which were spent in faithful and outstanding service to the Town of Pittsfield and its schools

Presented by Mr. Wyman of Pittsfield (Cosponsor: Senator Levine of Kennebec)

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

An Expression of Legislative Sentiment (H. P. 1712) recognizing that: James Joseph Morra of Burnham, Maine, has been recognized for his outstanding academic record by being chosen salutatorian of Maine Central Institute in Pittsfield

Presented by Mr. Wyman of Pittsfield. (Cosponsor: Senator Levine of Kennebec)

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

An Expression of Legislative Sentiment (H. P. 1713) recognizing that: Gary Robert Davis of Detroit, Maine has been recognized for his outstanding academic record by being chosen valedictorian of Maine Central Institute in Pittsfield

Presented by Mr. Wyman of Pittsfield. (Cosponsor: Senator Levine of Kennebec)

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

An Expression of Legislative Sentiment (H. P. 1714) recognizing that: Mr. and Mrs. Richard Beal, Sr. of Avon are the first Maine Family having Five Eagle Scouts and a Curved Bar held by their sons and daughters

Presented by Mr. Dexter of Kingfield.

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

An Expression of Legislative Sentiment (H. P. 1715) recognizing that: Patrice Robitaille of Hampden has been recognized for her excellent academic record by being chosen Salutatorian of Hampden Academy

Presented by Mrs. Prescott of Hampden.

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

An Expression of Legislative Sentiment (H. P. 1716) recognizing that: Tim Bennett of Hampden has been recognized for his outstanding academic record by being chosen valedictorian of Hampden Academy

Presented by Mrs. Prescott of Hampden (Cosponsor: Senator Cummings of Penobscot)

The Order was read.

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

Mrs. PRESCOTT: Mr. Speaker, Ladies and Gentlemen of the House: I would like to take just a moment with this order because I do consider it special. Tim was a former student of mine and he has been involved in many activities in high school. He was President of the National Honor Society, he was one of two students to represent Maine in the Senate Youth Program, but one of the most exciting adventures I am sure for Tim came when he was a participant in the Tall Ships Program last 4th of July.

Tim is going to attend Cornell University and major in engineering and minor in government. He is with us here in the House this week as a courier, and I would like to extend my wishes for success in Cornell. (Applause)

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

An Expression of Legislative Sentiment (H. P. 1718) recognizing that: The Oak Hill High School Baseball team has won the Mountain Valley Conference Baseball Championship for 1977

Presented by Mr. LaPlante of Sabattus
The Order was read.

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

Mr. LaPLANTE: Mr. Speaker and Members of the House: I would just like to say that the famous bill that we had through here for Oak Hill High School, this is our first year in operation and our team has done a tremendous job in going this far, losing 2 to 1 to Socoppe, and I would just like to tell the people there that we will be coming back next year.

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

An Expression of Legislative Sentiment (H. P. 1719) recognizing that Debra S. Allen has been recognized for her outstanding academic record by being chosen Valedictorian of Oak Hill High School

Presented by Mr. LaPlante of Sabattus
The Order was read and passed and sent up for concurrence.

An Expression of Legislative Sentiment (H. P. 1720) recognizing that: Margo L. Stevens has been recognized for her excellent academic record by being chosen Salutatorian of Oak Hill High School

Presented by Mr. LaPlante of Sabattus
The Order was read and passed and sent up for concurrence.

By unanimous consent, the three preceding Orders were ordered sent forthwith to the Senate.

A Joint Resolution (H. P. 1717) in memory of Francis Joseph Sullivan, who was a Professor of Mechanical Engineering at the University of Maine at Orono

Presented by Mr. Davies of Orono.
The Resolution was read and adopted and sent up for concurrence.

On motion of Mr. Nadeau of Sanford, it was ORDERED, that Barbara Gill of South Portland be excused June 14th and 15th for personal reasons.

AND BE IT FURTHER ORDERED, that Michael Pearson of Old Town be excused June 15th and 16th for personal reasons.

House Reports of Committees Leave to Withdraw

Mr. Curran from the Committee on State Government on Bill "An Act to Require Reporting of Lobbying of Administrative Action" (H. P. 1424) (L. D. 1695) reporting "Leave to Withdraw"

Mr. Curran from the Committee on State Government on Bill "An Act to Amend the Maine State Housing Authority Statutes so as to Abolish the Requirement of the Resolution of Consent" (H. P. 1289) (L. D. 1522) reporting "Leave to Withdraw"

Mr. Bagley from the Committee on Education on Bill "An Act Concerning State Reim-

bursement and Executive and Legislative Deadlines under the School Finance Act of 1976" (H. P. 1654) (L. D. 1852) reporting "Leave to Withdraw"

Mr. Spencer from the Committee on Judiciary on Bill "An Act to Create a Landlord's Lien on Personal Property in Leased Premises in Event of Issuance of Writ of Possession or Abandonment by Tenant" (H. P. 1228) (L. D. 1437) reporting "Leave to Withdraw"

Mr. Spencer from the Committee on Judiciary on Bill "An Act to Amend the Laws Relating to the Classification of Drug Offenses" (H. P. 280) (L. D. 374) reporting "Leave to Withdraw"

Reports were read and accepted and sent up for concurrence.

Divided Reports

Majority Report of the Committee on Fisheries and Wildlife reporting "Ought Not to Pass" on Bill "An Act Concerning Unauthorized Possession of Birds and Animals" (H. P. 511) (L. D. 630

Report was signed by the following members:

Messrs. REDMOND of Somerset
USHER of Cumberland
PRAY of Penobscot

— of the Senate.

Messrs. MASTERMAN of Milo
GILLIS of Calais
ROLLINS of Dixfield
MacEACHERN of Lincoln
TOZIER of Unity
McKEAN of Limestone
DOW of West Gardiner
PEARSON of Old Town

— of the House.

Minority Report of the same Committee reporting "Ought to Pass" as amended by Committee Amendment "A" (H-588) on same Bill.

Report was signed by the following member:
Mr. PETERSON of Caribou

— of the House.

Reports were read.

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

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

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

Mr. PETERSON: Mr. Speaker, Ladies and Gentlemen of the House: Perhaps I should explain my position on this. I was asked to present this bill by a judge. He felt that the penalty for the possession of game was too severe for the recipient and mandatory.

Under the present law, possession of a wild bird or animal by a person who receives it illegally — suppose I were to shoot a bird illegally and give it to a friend of mine, if he were convicted of receiving that bird, he would receive a mandatory \$500 to a \$1,000 fine, not less than three days in jail or more than five days for the first offense. The judge felt that this was too severe in this instance and in some instances the person might receive it and not know that it was illegal.

Finally, I had the Fish and Wildlife prepare the amendment. It is acceptable, they can live with it, they don't like it. The present amendment is not mandatory. There is a fine of not less than \$50, and if there is a jail sentence, it is at the discretion of the judge.

I hope that you will see fit to help me with this amendment and I request a division.

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

Mr. MASTERMAN: Mr. Speaker, Men and Women of the House: Very briefly, I would like to submit to you, in answer to Mr. Peterson, I would submit to you that anyone that brings us any game that is killed illegally are going to be friends of ours, and therefore I submit to you that we know that it is illegal and I would ask you to support the "Ought Not to Pass" Report.

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

A vote of the House was taken.
61 having voted in the affirmative and 29 having voted in the negative, the motion did prevail.

Sent up for concurrence.

Divided Report Tabled and Assigned

Majority Report of the Committee on Fisheries and Wildlife reporting "Ought Not to Pass" on Bill "An Act to Provide for Snowmobile Registration in Municipalities" (H. P. 411) (L. D. 507)

Report was signed by the following members:

Messrs. USHER of Cumberland
REDMOND of Somerset

— of the Senate.

Messrs. McKEAN of Limestone
TOZIER of Unity
MacEACHERN of Lincoln
DOW of West Gardiner
ROLLINS of Dixfield
PETERSON of Caribou
GILLIS of Calais
MASTERMAN of Milo

— of the House.

Minority Report of the same Committee reporting "Ought to Pass" as amended by Committee Amendment "A" (H-589) on same Bill.

Report was signed by the following members:

Mr. PRAY of Penobscot

— of the Senate.

Mr. PEARSON of Old Town

— of the House.

Reports were read.

Mr. Dow moved that the Majority "Ought Not to Pass" Report be accepted.

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

Divided Report

Majority Report of the Committee on Taxation reporting "Ought Not to Pass" on Bill "An Act to Provide a Trade-in Credit on Camp Trailers under the Sales and Use Tax Law" (H. P. 1098) (L. D. 1322)

Report was signed by the following members:

Messrs. JACKSON of Cumberland
MARTIN of Aroostook

— of the Senate.

Mr. CARTER of Bangor
Mrs. POST of Owls Head
Mrs. CHONKO of Topsham
Messrs. IMMONEN of West Paris
CAREY of Waterville

COX of Brewer
MACKEL of Wells
TWITCHELL of Norway
TEAGUE of Fairfield

— of the House.

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

Report was signed by the following members:

Mr. WYMAN of Washington

— of the Senate.

Mr. MAXWELL of Jay

— of the House.

Reports were read.

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

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

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

Mr. MAXWELL: Mr. Speaker, Ladies and Gentlemen of the House: I merely want to explain what this does. This does the same thing on the trade-in of a camper trailer that you get away with your automobile, your boat, your airplane, many other items, and I think it is only fair that these people have the same privilege. I would further point out that at the committee hearing people testified that there were a lot of these trailers bought in New Hampshire and out of state and then somehow they managed it so that they would not have to pay the State of Maine tax. I am not going to make a motion, I just want you to know that this is the way it is.

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

Mr. GREENLAW: Mr. Speaker, Men and Women of the House: I would like to pose a question through the Chair to the gentleman from Waterville if I may. That is, could he explain why the majority of the committee thought the bill "Ought Not to Pass?" And more specifically, was it a question of the revenue or was it a question of the concept of the law?

I think I would concur very much with the gentleman from Jay, Mr. Maxwell, it is a question of equity in terms of paying taxes, that if we do allow a trade-in credit on other vehicles, that we ought to do it for camp trailers. I would be opposed to accepting the Majority "Ought Not to Pass" Report unless the gentleman from Waterville can indicate a substantial reason why I should not.

The SPEAKER: The gentleman from Stonington, Mr. Greenlaw, has posed a question through the Chair to the gentleman from Waterville, Mr. Carey, who may respond if he so desires.

The Chair recognize that gentleman.

Mr. CAREY: Mr. Speaker, in answer to the gentleman from Stonington, Mr. Greenlaw, the committee did in fact take into consideration the fact that there was a \$96,000 a year annual loss in revenue. We also considered very heavily the fact that some of these units are coming in from out of state, and we also considered that if they are coming in from out of state and they are going to be used in the State of Maine, then there should certainly be a use tax because it is a sales use tax situation. So we should not lose any revenues, really, if things are proper from the out of staters.

What is happening is that the campers are being registered out of state, and we have some provisions for those in that they have to be, if they are owned by people from Maine, have to be registered by Maine people. We are looking

towards putting an end to tax exemptions with the Sunset Bill that the gentleman from Portland, Mr. Brenerman, has suggested, and we did not want to expand on anymore exemptions than we necessarily had to.

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

Mrs. POST: Mr. Speaker, Men and Women of the House: In addition to the commentary being made by Representative Carey, I would like to add that I think if you look at most of the bills that the majority of the Committee on Taxation has passed out concerning trade-in credits, what we have done is given trade-in credits for mechanized vehicles only and those that have been trade-in credits for trailers and non-mechanized vehicles, we have not given trade-in exemptions. It may be a rather arbitrary line, but that is where we brought it for this session anyway.

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

Mr. GREENLAW: Mr. Speaker, Men and Women of the House: Can I infer from the comments of the last speaker that there is in fact a sales tax trade-in credit on campers or some type of mechanized trailers?

The SPEAKER: The gentleman from Stonington, Mr. Greenlaw, has posed an additional question through the Chair.

The Chair recognizes the gentlewoman from Owls Head, Mrs. Post.

Mrs. POST: Mr. Speaker, I would think that if you had a truck with a body on it, something of a van-type camper, that it is possible that that may come under the automobile section of the trade-in credit. What this particular bill dealt with was camp trailers.

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

Mr. CHURCHILL: Mr. Speaker, Ladies and Gentlemen of the House: I hope you don't accept the "Ought Not to Pass" on this piece of legislation. This is double taxation by all means. Many of these people go out and buy a camper trailer this month and a couple of months later they decide they want a larger trailer and they also pay full taxation again that time and also the person that purchases that second-hand trailer is going to pay full tax. I have had bills in on this same line and we never seem to be able to get anywhere. There is not a great deal of tax loss to the state.

Also, these trailers are being excised so there is some taxation, even if we did exempt them on trade-in. We extended this to boats and airplanes last session, and I think it is no more than fair we do the same for camper trailers.

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

A vote of the House was taken.

Whereupon, Mr. Churchill of Orland requested a roll call vote.

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

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

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

ROLL CALL

YEA — Aloupis, Bachrach, Benoit, Berry, Berube, Biron, Birt, Boudreau, A.; Brenerman, Brown, K. L.; Burns, Bustin, Carey, Carter, F.; Chonko, Clark, Cote, Cox, Curran, Davies, Devoe, Diamond, Dudley, Elias, Flanagan, Fowlie, Garsoe, Gauthier, Goodwin, K.; Green, Henderson, Hickey, Hobbins, Howe, Huber, Hughes, Hunter, Hutchings, Immonen, Jackson, Jalbert, Jensen, Joyce, Kany, Kilcoyne, Laffin, LaPlante, Lewis, Locke, Lynch, MacEachern, Mackel, Masterton, McHenry, Nadeau, Norris, Pearson, Post, Quinn, Raymond, Sewall, Stover, Stubbs, Teague, Theriault, Tierney, Torrey, Trafton, Truman, Valentine, Wilfong, Wood, Wyman.

NAY — Austin, Bagley, Bennett, Blodgett, Boudreau, P.; Bunker, Carroll, Carter, D.; Churchill, Connolly, Cunningham, Dexter, Dow, Drinkwater, Durgin, Dutremble, Fenlason, Gill, Gillis, Goodwin, H.; Gould, Gray, Greenlaw, Hall, Higgins, Jacques, Kane, Kelleher, Kerry, Lougee, Mahany, Martin, A.; Masterman, Maxwell, McBreairey, McKean, McPherson, Mitchell, Morton, Nelson, M.; Nelson, N.; Palmer, Peltier, Perkins, Peterson, Plourde, Prescott, Rideout, Rollins, Shute, Silsby, Smith, Spencer, Sprowl, Strout, Tarr, Tozier, Twitchell, Whittemore.

ABSENT — Ault, Beaulieu, Brown, K. C.; Carrier, Connors, LeBlanc, Littlefield, Lizotte, Lunt, Marshall, McMahon, Mills, Moody, Najarian, Peakes, Talbot, Tarbell, Tyndale.

Yes, 73; No, 59; Absent, 18.

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

Sent up for concurrence.

Divided Report

Majority Report of the Committee on Marine Resources reporting "Ought Not to Pass" on Bill "An Act to Prohibit Otter Trawling for Scallops in the Penobscot River" (H. P. 1147) (L. D. 1381)

Report was signed by the following members:

Messrs. LEVINE of Kennebec

CHAPMAN of Sagadahoc

— of the Senate.

Messrs. BLODGETT of Waldoboro

GREENLAW of Stonington

FOWLIE of Rockland

JACKSON of Yarmouth

Mrs. POST of Owls Head

Mr. NELSON of Roque Bluffs

— of the House.

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

Report was signed by the following members:

Mr. HEWES of Cumberland

— of the Senate.

Messrs. CONNERS of Franklin

BUNKER of Gouldsboro

TYNDALE of Kennebunkport

— of the House.

Reports were read.

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

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

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

Mr. SHUTE: Mr. Speaker, Ladies and Gentlemen of the House: L. D. 1381, the bill we are now discussing, is a bill I put in on behalf of the fishermen in my area. It was put in because of the large otter trawls that over the last two years have started fishing in the Penobscot Bay area for scallops. This is the first time since time immemorial that large otter trawls have gone scalloping along the Maine coast, and this is the only area in the state that fishermen can use otter trawls for scalloping. There is no other place along the coast of the State of Maine that otter trawls can be used for scalloping, and the reason they can be used in this area is because it has a very flat bottom, mud and sawdust bottom, and the otter trawls will not fill up with rocks. If they used them in other areas, the trawls would fill up with rocks and they would not be able to get them up.

Now, two years ago, we had a very good bed of scallops in the bay. About 80 or 85 small fishermen were fishing in the bay at that time. The bed of scallops would have lasted the small fisherman from November 1 right through until April 15, the scallop season. However, about six or eight off-shore boats came in with their large otter trawls — these are 30 to 70 foot nets — and within a month they completely cleaned the bed out. So what happens after that? The large boats do as they have always done. They go out, go ground fishing or shrimping, and what do the small boats do, the 80 or 90 small fishermen who were fishing that bed? They have to put their boats on the bank and wait until lobster fishing starts in May. This has put or could put about 80 or 90 fishermen in that area out of business if something is not done.

I have a letter here from Ed Blackmore, he is the President of the Maine Lobstermen's Association, and many times I do not agree with Mr. Blackmore, but in this instance I do because he happens to agree with me. I would like to read the portion of the letter that might refer to this bill. It says: "I would like to point out that towing scallop drags in excess of 8 feet and up to 20 feet can have a harmful effect on the ecology of the ocean bottom. There is every reason to believe that this heavy equipment destroys the natural habitat of the lobsters and crabs, both of which are prime resources of income for the Maine fishermen. It is very evident to me and to the 194 fishermen who signed the petition, that failure to regulate the size of the scallop drag and efforts to repeal present conservation measures are completely without justification and contrary to the wishes of the majority of fishermen involved." This is not specifically aimed at my bill, but it could be, because my bill covers these same things.

Now, the usual scallop drag that is used along the Maine coast is anywhere from 2 feet to 10 feet wide, and these are usually dragged behind boats anywhere from 26 feet long up to 46 feet. The otter trawls that I am talking about are nets that are 30 to 70 feet wide with large doors on either side of the wing or the net to keep it open, with these large doors plowing through the ocean bottom, just like a plow would through the field, covering up the seed scallops as it goes along, and what great difference would it make to the large off shore draggers anyway, because when they get done scalloping, they go back to their usual fishing that they have always done.

As I said before, they never scalloped this way before. It has only been over the last two years, and there is only one area in the State of Maine that they can do this.

We have laws on the books now that are even more restrictive than what I am suggesting here. I am not suggesting that we limit the size of lobster drag, I am not even suggesting that it be limited to 20 feet wide, but we do have laws on the books that prohibit the size. We have a law in Gouldsboro Bay that prohibits a maximum scallop drag to four feet wide. There is another law for Blue Hill Bay for maximum scallop drag or combination, eight feet wide.

Now, this bill wouldn't even prohibit a 20 foot scallop drag but it does prohibit the offshore fisherman.

The fishermen in my area are not asking for any welfare, they are not asking for unemployment benefits that we have been talking about over the past few years, all they want to do is make a living. If you want the small fisherman to go the way the small farmer has, the way the small storeowner has, you fail to pass this bill, that is what will happen.

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

Mr. GREENLAW: Mr. Speaker, Men and Women of the House: I signed the "Ought Not to Pass" Report on this particular bill and I have mixed emotions about it. I think that very possibly the gentleman from Stockton Springs, Mr. Shute, may have a good idea here but I think its premature and I will tell you why. First of all, I think I have to differ a little bit in terms of the facts of the situation that took place in Penobscot Bay and perhaps clarify some of the information. The larger boats that were in Penobscot Bay two years ago, as a result of an unusually large bed of scallops, were not what would be characterized in the 40 to 50 foot category which are not necessarily off-shore boats. There was a great deal of controversy at the time, great enough, to the extent that the Commissioner of Marine Resources at that time, Spencer Apollonio, held a public hearing in Bucksport to collect information and recommendations for any type of emergency regulation the fishermen thought might be necessary. After a rather long hearing, the commissioner and the people within the department came to the conclusion that there should be no emergency restrictions. I think it's safe to say that the feeling was that there was a resource there that should be harvested and that it was not at that particular time, in danger as far as the state saw it and I would like to also inform you that some of the department extension people, one of whom was a diver, physically rode on the scallop drags under water to take a look and see just exactly what type of damage was being done to the environment.

This is not an area where there is that much lobster and crab fishing done so I don't think that particular resource is being affected in that way but I think the gentleman does have a point about whether or not this type of gear should be used in shore. The reason why I signed the "Ought Not to Pass" Report is very simple. I had two bills that attempted to (1) repeal a law that the gentleman from Stockton Springs, Mr. Shute, introduced four years ago, and the other one was the exact opposite, it would have imposed an 8 foot drag restriction on scallop drags the whole length of the coast.

I think what I am trying to suggest is that the Committee on Marine Resources felt that they just didn't have the information available at

this particular time to make a concrete recommendation as to how we should manage the scallop fishery. So, I talked with the commissioner and shared this information with the members of the committee and I intend to write him a letter asking him and his department to address a number of issues that we think are important enough so that he can make some policy recommendations and they include this particular bill the gentleman from Stockton Springs, Mr. Shute, has sponsored, also include whether or not limitations on drag length have a true conservation merit. We are going to ask him to review the present closed season, ask him whether or not there should be a minimum size placed on rings, ask him whether or not there should be some limit placed on scallops by weight, and we will ask him to review the Blue Hill Bay law.

Now, I suggested to the gentleman from Stockton Springs that this scenario and suggested that he ask the committee for a Leave to Withdraw Report on this particular bill as I did on the two bills I introduced. He felt, for some reason, that that was not acceptable to him. I think also I might indicate that the good gentleman said that he had some reservations about the law that limits drags in Blue Hill Bay that he introduced four years ago and I would submit that before we take some action on this particular measure that we give this whole issue a thorough examination, a thorough study, with the idea of coming up with some type of a comprehensive plan towards conserving scallop resources. It is, in fact, an important resource. It does allow some of the lobster fishermen to fish during the Winter when lobsters go offshore and when it is not particularly safe for them to fish offshore for lobsters.

So, briefly, I indicate that I think perhaps the idea may have merit but I think what we want to do, what the committee would like to do, at least the majority of the committee would like to do, is take a look at the entire resource and see what measures we can adopt to really conserve the resource. This may be one of them, but I would ask the House to accept the Majority "Ought Not to Pass" Report at this time.

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

Mr. CHURCHILL: Mr. Speaker, Ladies and Gentlemen of the House: I certainly hope you will not accept the Majority "Ought Not to Pass" Report and accept the "Ought to Pass" Report for the simple reason that this is a protection for the small fisherman. The reason that this is a protection for the small fisherman. The reason these large crawlers were in there, the year before last, was for the simple fact that the weather was so bad outside that they were laying in Castine Harbor and they saw an opportunity to go in Searsport, a very well protected area, they could get in there, they could drag and they ripped up the bottom, ruffled it up, and this winter there was practically no scallop fishing at all in that bay for the simple reason that the large fishermen don't take their shells back, I was told by the local fishermen and dumped them on the ground. They go into Castine Harbor and shuck the scallops there and they dump the shells. I don't know where and they did not know where, and the small fisherman usually shucks his scallops right there on the boat and they dump the shells over which is a conservation measure. They claim it puts the seeds back on the bottom and this is certainly protection for the small

fisherman and I can understand anyone speaking for an area that has all large fishing boats and large fishermen in it. But I certainly hope you will accept the Minority "Ought to Pass" Report.

Mr. Shute of Stockton Springs 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 Owl's Head, Mrs. Post, that the House accept the Majority "Ought Not to Pass" Report. Those in favor will vote yes; those opposed will vote no.

ROLL CALL

YEA — Benoit, Blodgett, Brenerman, Burns, Bustin, Chonko, Clark, Curran, Davies, Elias, Fowlie, Goodwin, H.; Goodwin, K.; Hughes, Jackson, Kany, LaPlante, Mitchell, Nelson, M.; Nelson, N.; Post, Rollins, Spencer, Tierney, Trafton, Valentine, Wilfong, Wood, Wyman.

NAY — Aloupis, Ault, Austin, Bachrach, Bagley, Beaulieu, Bennett, Berry, Berube, Biron, Birt, Boudreau, A.; Boudreau, P.; Brown, K.L.; Brown, K.C.; Bunker, Carey, Carter, D.; Churchill, Connolly, Cote, Cox, Cunningham, Devoe, Dexter, Diamond, Dow, Drinkwater, Dudley, Durgin, Dutremble, Fenlason, Flanagan, Garsoe, Gill, Gillis, Gould, Gray, Greenlaw, Hall, Henderson, Hickey, Higgins, Hobbins, Huber, Hunter, Hutchings, Immonen, Jacques, Jalbert, Jensen, Joyce, Kane, Kelleher, Kerry, Kilcoyne, Laffin, Lewis, Littlefield, Locke, Lougee, MacEachern, Mackel, Mahany, Marshall, Martin, A.; Masterman, Masterton, Maxwell, McBreairty, McHenry, McKean, McMahan, McPherson, Morton, Nadeau, Najarian, Norris, Palmer, Peltier, Perkins, Peterson, Plourde, Prescott, Quinn, Raymond, Rideout, Sewall, Shute, Silsby, Smith, Sprowl, Stover, Strout, Stubbs, Tarr, Teague, Theriault, Torrey, Tozier, Twitchell, Tyndale, Whittemore.

ABSENT — Carrier, Carroll, Carter, F.; Connors, Gauthier, Green, Howe, LeBlanc, Lizotte, Lunt, Lynch, Maxwell, Mills, Moody, Peakes, Pearson, Talbot, Tarbell, Truman.

Yes, 29; No, 102; Absent, 19.

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

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

Mr. GREENLAW: Mr. Speaker, Men and Women of the House: It is very obvious to me that the gentleman from Stockton Springs has lobbied this bill very hard the past two days and I respect him for working so hard. I ask you again please to consider this issue.

The gentleman from Orland, Mr. Churchill, my very good friend, has indicated that two years ago there was bad weather offshore and these boats came ashore. That is not a correct statement. The weather two years ago was not bad. The reason why the bigger boats came up in the Penobscot Bay was very simply because

there was a large resource in that area, there was a picture in the Bangor paper that showed an absolutely huge amount of scallops on a Castine dock, these were harvested from the small boats in the area. Obviously, any time that a fisherman sees that type of a harvest, he is going to come into the area. It was bonanza, it was unusual.

I think we want to take a very hard look at this resource, and as I indicated, I am not sure that I am opposed to this restriction. I am opposed to it at this time. I think we ought to take a comprehensive look at the scallop fishery. I think we want to do all we can to conserve the resource and I think that as we see bigger boats being built and bigger drags being used, that there is considerable merit in limiting the drags but I don't know, at this time, in my own mind, and this is the difficulty I have, as to whether or not the restrictions on other trawls or the restrictions on drag limits is discrimination in favor of the smaller fisherman, discrimination against the larger fisherman or whether or not it is a justifiable conservation measure.

The Department of Marine Resources has indicated up to this point in time that they don't feel that drag restriction is a valid conservation measure. I would reiterate my previous statement that the committee I think wants to take a look at this, we are asking the department to make some specific recommendations and I would request to make some specific recommendations and I would request very much your allowing us to do this in a total package rather than a piecemeal as what is being done today. I would respectfully ask you to vote no against accepting the "Ought to Pass" Report.

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

Mr. CHURCHILL: Mr. Speaker, Ladies and Gentlemen of the House: I hate to disagree with my good friend from Stonington, Mr. Greenlaw, but they have had two years to look into this situation and they haven't made any efforts towards it. Evidently, nothing appears to indicate in favor of the small fishermen in these small draggers. I know in other bays and harbors they would like to have restrictions to a certain length, we passed one, it has been mentioned in Blue Hill Bay, and the large fishermen, the law, they got around it because it said, 7 foot or 8 foot so they just tripled them up. They were dragging three, they cleaned that bay out. Now, this one little bay is a haven for the small fisherman, the local fisherman there. There are several boats in my area, I don't have a large amount but there are six or seven in my area and they didn't even bother to go out. They went out awhile this past fall and they gave up because that little place in Searsport Harbor down there in Penobscot Bay had been completely stripped. They did get a few scallop but nothing to speak of. This law, if they are looking into it, why not pass this and try it and if it does help out, continue with it. If not, we can repeal it at a later date, when they have studied this problem a little more, and I certainly hope you don't reconsider this.

Mr. Shute of Stockton Springs 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 to accept the Minority "Ought to Pass" Report. Those in favor will vote yes; those opposed will vote no.

ROLL CALL

YEA — Aloupis, Ault, Austin, Bachrach, Bagley, Beaulieu, Bennett, Berry, Berube, Biron, Birt, Boudreau, A.; Boudreau, P.; Brown, K. L.; Brown, K. C.; Bunker, Carey, Carter, D.; Churchill, Connolly, Cote, Cox, Cunningham, Devoe, Dexter, Diamond, Dow, Drinkwater, Dudley, Durgin, Dutremble, Fenlason, Flanagan, Garsoe, Gauthier, Gill, Gillis, Gould, Gray, Green, Hall, Henderson, Hickey, Higgins, Hobbins, Huber, Hunter, Hutchings, Immonen, Jacques, Jalbert, Jensen, Joyce, Kane, Kelleher, Kerry, Kilcoyne, Laffin, Lewis, Littlefield, Lougee, Lynch, MacEachern, Mackel, Mahany, Marshall, Martin, A.; Masterman, Masterton, Maxwell, McBreairty, McHenry, McKean, McMahan, McPherson, Morton, Nadeau, Norris, Palmer, Peltier, Perkins, Peterson, Plourde, Prescott, Quinn, Raymond, Rideout, Shute, Silsby, Smith, Sprowl, Stover, Strout, Stubbs, Tarr, Teague, Theriault, Torrey, Tozier, Twitchell, Tyndale, Whittemore, Wyman.

NAY — Benoit, Blodgett, Brenerman, Burns, Carroll, Chonko, Clark, Curran, Davies, Elias, Fowlie, Goodwin, H.; Goodwin, K.; Greenlaw, Hughes, Jackson, LaPlante, Locke, Mitchell, Najarian, Nelson, M.; Nelson, N.; Post, Rollins, Spencer, Tierney, Trafton, Truman, Valentine, Wilfong, Wood.

ABSENT — Bustin, Carrier, Carter, F.; Connors, Howe, Kany, LeBlanc, Lizotte, Lunt, Mills, Moody, Peakes, Pearson, Talbot, Tarbell.

Yes, 104; No, 31; Absent, 15.

The SPEAKER: One hundred and four having voted in the affirmative and thirty-one in the negative, with fifteen being absent, the Minority "Ought to Pass" Report was accepted.

The Bill was 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:

Tabled and Assigned

(H. P. 700) (L. D. 842) Bill "An Act Concerning Displaced Homemakers" — Committee on State Government reporting "Ought to Pass" as amended by Committee Amendment "A" (H-599)

On the objection of Mr. Tierney of Lisbon Falls, was removed from the Consent Calendar.

Thereupon, the Report was accepted and the Bill read once. Committee Amendment "A" (H-599) was read by the Clerk.

(On motion of Mr. Tierney of Lisbon Falls, tabled pending adoption of Committee Amendment "A" and tomorrow assigned.)

(H. P. 246) (L. D. 336) Bill "An Act to Revise Certain Motor Vehicle Related Laws" — Committee on Transportation reporting "Ought to Pass" as amended by Committee Amendment "A" (H-597)

(H. P. 1392) (L. D. 1610) Bill "An Act to Require Speedy Disposition of State Employee

Classification Requests" — Committee on State Government reporting "Ought to Pass"

(H. P. 1390) (L. D. 1733) Bill "An Act Creating a Maine State Board for Registration of Architects and Landscape Architects" — Committee on State Government reporting "Ought to Pass" as amended by Committee Amendment "A" (H-600)

(H. P. 1278) (L. D. 1509) Bill "An Act to Extend Collective Bargaining Rights to County Employees" — Committee on Labor reporting "Ought to Pass" as amended by Committee Amendment "A" (H-602)

No objections being noted, the above items were ordered to appear on the Consent Calendar of June 15, under listing of the Second Day.

Consent Calendar Second Day

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

(H. P. 1) (L. D. 1) Bill "An Act to Require Certification of Nomination Petitions" (C. "A" H-586)

No objection having been noted at the end of the Second Legislative Day, the House Paper was passed to be engrossed as amended and sent up for concurrence.

(S. P. 173) (L. D. 490) Bill "An Act Appropriating Funds for Maine Health Systems Agency, Incorporated, to Ensure that Quality Health Services are Available at a Reasonable Cost to all Maine People" (Emergency) (C. "A" S-210)

On the objection of Mrs. Lewis of Auburn, was removed from the Consent Calendar.

Thereupon, the Report was accepted in concurrence and the Bill read once. Committee Amendment "A" (S-210) was read by the Clerk and adopted in concurrence and the Bill assigned for second reading tomorrow.

(S. P. 107) (L. D. 236) Bill "An Act to Allocate Moneys for the Administrative Expenses of the State Lottery Commission for the Fiscal Years Ending June 30, 1978 and June 30, 1979" (Emergency) (C. "A" S-209)

(S. P. 172) (L. D. 489) Bill "An Act Exempting Blind Property Owners from Real Property Tax"

No objections having been noted at the end of the Second Legislative Day, the Senate Papers were passed to be engrossed in concurrence.

Tabled and Assigned

(S. P. 137) (L. D. 378) Bill "An Act Providing for the Practice of Architecture through a Corporation or a Partnership" (C. "A" S-219)

On the objection of Ms. Clark of Freeport, was removed from the Consent Calendar.

Thereupon, the Report was accepted in concurrence and the Bill read once. Committee Amendment "A" (S-219) was read by the Clerk.

(On motion of Ms. Clark of Freeport, tabled pending the adoption of Committee Amendment "A" and tomorrow assigned.)

Second Reader

Tabled and Assigned

Bill "An Act Relating to the Commitment of Mentally Ill Individuals" (H. P. 1707) (L. D. 1880)

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

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

Mrs. KANY: Mr. Speaker, Members of the House: I would appreciate it if someone would be kind enough to table this item one day. I read it and would like to offer an amendment and have that drawn up.

On motion of Mr. Goodwin of South Berwick, tabled pending passage to be engrossed and tomorrow assigned.

Passed to Be Engrossed

Bill "An Act to Promote the Preservation of Historic Districts within the State of Maine" (H. P. 1192) (L. D. 1440)

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

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

Mr. MORTON: Mr. Speaker, Ladies and Gentlemen of the House: I have some concerns about this bill in its present form as it is passing through the House and I would like to call your attention to it. I really feel that the bill is not necessary. I feel that the remedy taken in the bill is much too extreme, that it gives the veto power to one community, not necessarily any particular one but now or in the future over things which may or may not be for the best interest of all the people of the State of Maine. I think a better approach could well be engineered. In its present form, I really cannot support the bill and I don't think it should become law. Therefore, I would move that it be indefinitely postponed.

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

Mr. STUBBS: Mr. Speaker, Ladies and Gentlemen of the House: I urge that you vote against indefinite postponement. The gentleman from Farmington has indicated that the bill is not necessary; I say it is very necessary in about five percent of the cases of road construction. Now when they reconstruct roads and they use federal money, it is necessary to go through the process of checking with local officials and so forth in getting approval. However, in five percent of the cases when just state funds are used, they can disrupt historic districts. All this bill does is deal with historic districts on the National Register of Historic Places. There are approximately 34 in the State of Maine.

What this bill is designed to do, it is designed to prevent the Department of Transportation in Maine from disrupting our historic districts. What it provides for is a plan to put a road through a historic district, that they must present the plans to the local officials for that approval. If the local officials do not approve them, then they must redesign it so that it is acceptable or they can, of course, design the road so that it goes around the historic district, in which case there is no need for a hearing.

We have had many cases in this state, and I need not remind you that I had one in my district, where they had a plan. Fortunately, it had not been adopted yet. However, the specter of threat is still there, it has been for 25 years and will be there for 25 more years if they don't get any money to do what they want to do, of driving a road through buildings that were built in the 1700's or early 1800's. We have all heard stories about problems people have had in other areas of the state. I am just attempting to remove this threat to these historic districts.

This bill was designed, not something that was dreamed up one day. It was the result of the very serious threat we had in the City of Hallowell. Some 10,000 people signed a petition in opposition to the Department of Transportation coming down through. It took some 20-odd meetings with the Department of Transportation to say, "we will now defer building a road. However, if conditions change, we may decide to build it." That is the best we could get out of them and the status remains.

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

Mr. MORTON: Mr. Speaker, Ladies and Gentlemen of the House: I regret deeply having to oppose the gentleman from Hallowell this morning. He certainly is speaking emotionally from a very strong position and I understand that. I am not sure the bill would do what he wants it to do any better than what has already been done. Of course, as he has just acknowledged, the problem has been resolved.

I would point out a little bit of history on this, ladies and gentlemen. All of us (and I am one of them) who have traveled the corridor between Augusta and Gardiner, and I have been traveling it as a youngster and as a driver for many years, have always realized that it was a bottleneck. The 104th Legislature realized this very same thing and requested that a study be done. In 1970, a study was done which came up with three alternatives. I was not in the chamber yesterday when the gentleman from Hallowell was debating this, but I am sure that he emphasized those alternatives and perhaps pointed out some of those that seemed to be the most drastic.

I would point out that this draft report which, incidentally, was submitted voluntarily to Gardiner, as it was to Hallowell, as it was to all the other communities in the corridor, was way back in 1970, 1971, something like that. There has been a lot of time involved. I would also point out that any construction or reconstruction or alteration was not planned until 1987. I submit that that is quite a long time and does not present a proximate threat to any community.

I think the thing that I am most concerned with is the fact that the system did work. Because this draft report, which contained not final conclusions but alternatives, was put out to the citizens of the whole area from Gardiner to Augusta, including Hallowell, that the only place they protested was in Hallowell. The system worked and the protest was successful and the project planning, which was all it was in at that stage, planning, remember, I am talking about planning for 1987, was changed through ministrations of the citizens of Hallowell.

The problem with this bill is that it gives final veto power to a single community. No matter how many times a conclusion might be reached by a committee comprised of people of the community who sat down together with the highway department and other interested parties, including the Historic Preservation Commission, and worked out a solution, if the people of that community decided to vote against it, they could kill the project.

I am not sure that is the way to go. What I would like to see this bill structured as is something as is the federal government, which the gentleman from Hallowell has pointed out, would rule in 95 and I guess perhaps the percentage might be as much as 99 percent of the

cases, so that the State of Maine might have an agency which took the ministrations from both the D.O.T. and the community and any other interested people and made a decision from outside the context of being in either one of those positions; in other words, a rather neutral party. That is what the federal government does. If we want to go that way and provide that sort of a mechanism here in the State of Maine, I would have no objections to it. But to give one community complete veto power over the actions of representatives of all the rest of the people in the State of Maine, I think is perhaps going too far.

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

Mr. CAREY: Mr. Speaker, Ladies and Gentlemen of the House: I will just be brief. I can only concur with what the gentleman from Farmington, Mr. Morton, said. As a chief administrative officer of a municipality, I think that that power could be tremendously abused and therefore I would hope that it would not become a law.

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

Mr. ROLLINS: Mr. Speaker, Ladies and Gentlemen of the House: I don't think this bill goes far enough. I think every community should have something to say about what happens in it. The Department of Transportation, as far as I am concerned, is too strong.

I will tell you what happened in my little village of East Dixfield in 1969. We had a petition signed by everyone in the village but one family. It was passed at the hearing to the Department of Transportation. Two weeks afterward, you never heard of the petition. The road was put right through our village. It spoiled our main street and all our wells. I think this bill is a very good bill and I hope you will support it.

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

Mr. WOOD: Mr. Speaker, Ladies and Gentlemen of the House: I think today we have a clear-cut decision on philosophy of government. The philosophy that Mr. Morton is portraying today is one that says "the citizens should, at their own expense, petition; the citizens should at their own expense, attend the hearings; the citizens should raise the objections. The burden is on the citizens and not on the government. The government's decisions are right unless the citizens can overturn it. I think we should take a different approach that says: "the government is based upon people's decisions and if the local people want local control, they should have it." It should not be an ultimate veto power in Augusta with the department. It should be left up to the people. I take the view that citizens should have input in this.

I know of a case in our own area where we were trying to save a building that was not with the Department of Transportation, it was with another department of state government. You would not believe the runaround we got and that building was finally destroyed. I do not think the government is being responsive to the people. I would much prefer a system that allowed the citizens, not at their own expense, but that the citizens had prime importance.

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

Mr. CURRAN: Mr. Speaker, Ladies and Gentlemen of the House: I stand to support the motion to indefinitely postpone. I would like to

re-emphasize that veto power that a local community has. Many times where you have a cluster of communities, what is good for one community may not necessarily be good for all the others involved. I think that consideration has to be taken at least in view.

The Historic Preservation Commission is opposed to the bill. There is a process set up now, as Mr. Morton said, in most cases it is involving federal monies which is somewhat around 95 percent. There is a process for citizen input. Maybe in 1969 that was a problem but we are in 1977 now and I don't see that as a problem. I don't think that we should give any one community the veto power on a project which may have ramifications throughout the area. I would urge you to support the motion of Mr. Morton.

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

Mr. HICKEY: Mr. Speaker, Ladies and Gentlemen of the House: I would like to support the position of Representative Stubbs from Hallowell. I think it puts a bad effect on the city not knowing definitely where they stand. Any property owners there are reticent about investing any money to update their property and keep it in first class shape due to the fact they have no awareness of what is to happen to it. We see many other recourses that could be exercised in the case of Hallowell, one way traffic on Water Street and utilizing Second Street, it doesn't seem to be too inadequate, rather than tearing down the whole side of the street.

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

Mr. DIAMOND: Mr. Speaker, Men and Women of the House: I hope you do not support the motion of the gentleman from Farmington. This was in our committee. We studied it a long time. The majority reported out that you would not support his motion.

The citizens of this state, the individual towns and communities decide they do not want their historic buildings torn down. I say, right. It is a veto power and why not? In a community like the community of Hallowell, and it could be yours or mine, it is a travel through community, a community that people drive through, maybe not stop every often, in a community like that that is being asked by the D.O.T. or anyone else to be cemented, tarred, asphalted and take the loss of the individual in any way they might have, I think is a crime. A community like that should have the right to say no, we do not want to become one of the cities that looks like all the rest of you people, we want to stay ourselves, we have a right to stay ourselves. We want to be individualistic. We have a right to have that choice.

I think if you have not checked with your own historical societies, you might want to do that before you vote to indefinitely postpone this bill.

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

Mr. LaPLANTE: Mr. Speaker, Ladies and Gentlemen of the House: I imagine if the large City of Farmington has the right to protect the historical earmuffs, that the small town of Hallowell would have the right to protect their historical district.

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

Mr. MORTON: Mr. Speaker, Ladies and Gentlemen of the House: I certainly don't feel that communities should not have input to the decisions that are made. It has been my ex-

perience when any highway changes were contemplated in the Farmington area, the hearings were heard. citizens were listened to and the department changed its plans in connection with those hearings and that is all I think that I am asking for.

I do want to clear up one misconception which is being tossed out here. It was never recommended by the department that buildings be torn down in Hallowell. That was only one of three possible alternatives, recommendations or choices which might be made. It was rejected early in the decision making process so I don't think it fair to constantly bring up that one and lay it on the department because it was not a recommendation, it was merely one of three alternatives and it was never recommended.

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

Mr. STUBBS: Mr. Speaker, Ladies and Gentlemen of the House: I would point out to the gentleman from Farmington that this study that they authorized in the 104th Legislature is still under way. We still do not have the final draft of it. They have more schemes down there, if all of them were adopted, why the entire highway budget would be spent down there. They have schemes taking buildings down all over the place. We don't know what their final recommendations will be. They indicated that they would do the best they can. However, their best up to now hasn't been very good and I would strongly urge that you not indefinitely postponed this bill and support local control.

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

Mr. CURRAN: Mr. Speaker, Ladies and Gentlemen of the House: I totally agree with my good friend from Windham, Mr. Diamond, that the people should have their input and I believe they should have it, even if they live outside of a historic preservation area.

Perhaps what the House would like to do is to take all highway projects and give every single town and city' in the state the veto power, not just the historic preservation area. Then, of course, if you are opposed to a plan that might have importance throughout an area, you are always going to have the alternative now to put the pressure on the historic preservation commission to be designated a historic preservation area on the National Register and then your community will have the veto power over that project, which communities don't have presently, not in historic preservation areas. I think there is a big difference there.

Mr. Morton of Farmington was granted permission to speak a third time.

Mr. MORTON: Mr. Speaker, Ladies and Gentlemen of the House: The gentleman from Hallowell is absolutely correct, the study, I am sure, of this particular bottleneck in our Maine traffic system is still going in and why is it still going on? Because the bottleneck still exists. The problem is still there, the problem won't go away. Someday I presume it will be addressed, in a manner which suits everyone.

I would ask the gentleman from Hallowell just one question, is it not correct that within the last 12 months sometime there has been, through a meeting, I guess he mentioned several meetings, through these meetings of citizens of Hallowell, members of the department, historic preservation commissioner and others, a solution to the problem, at least, for the time being to provide free access to the turnpike as an alternate route and making every

attempt possible to relieve the traffic congestion in the Hallowell area which has been acceptable to the people of Hallowell?

Mr. Stubbs of Hallowell was granted permission to speak a third time.

Mr. STUBBS: Mr. Speaker, Ladies Gentlemen of the House: In an attempt to answer the gentleman from Farmington's question — he indicated that a solution had been arrived at, if an acceptable solution had been arrived at, certainly this bill would not have been introduced.

All they have indicated, up to this point, is that for the time being, they don't plan to do anything. However, if conditions change, they might very well change their minds. We suggested that they orient their thinking towards the turnpike and towards taking the tolls off there. There is another bill in this legislature which in time, would do this. They indicated to us that they had not thought of this before but they would study it some more.

I would like to point out too that this plan that they devised to go through here which would run between \$9 and \$11 million, depending on which scheme they used and when asked if traffic would flow any faster between Augusta and Gardiner, they said no, it would just flow more gloriously. We, frankly, don't wish to give up our historic buildings so that traffic can flow more gloriously between Augusta and Gardiner.

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

A vote of the House was taken.

31 having voted in the affirmative and 52 in the negative, the motion did not prevail.

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

Later Today Assigned

Bill "An Act to Provide Relief from Extremely Burdensome Property Taxes" (S. P. 386) (L. D. 1331)

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

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

Amended Bill

Tabled and Assigned

Bill "An Act Concerning Weekly Benefits Paid to Persons who are Partially Unemployed" (H. P. 125) (L. D. 158) (C. "A" H-568)

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

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

Mr. HIGGINS: Mr. Speaker, Ladies and Gentlemen of the House: This is a bill that was reported out of Labor Committee and it is my understanding that there was an error, the wrong committee amendment was reported out and printed and therefore, I would ask someone to table this for one day.

On motion of Mr. Palmer from Nobleboro, tabled pending passage to be engrossed and tomorrow assigned.

Tabled and Assigned

Bill "An Act to Establish Limits for Elderly

Householders' Tax and Rent Refunds" (H. P. 952) (L. D. 1146) (C. "A" H-574)

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

On motion of Ms. Goodwin of Bath, tabled pending passage to be engrossed and tomorrow assigned.

Bill "An Act to Provide for 4-Year Terms of Office for Representatives, Governors and Lieutenant Governors of the Passamaquoddy Tribe of Indians" (H. P. 870) (L. D. 1063) (C. "B" H-575)

Bill "An Act to Provide for Local Registration of all Motor Vehicles" (H. P. 847) (L. D. 1038) (C. "A" H-567)

Bill "An Act to Recognize Mopeds as being in a Different Classification than Motorcycles" (H. P. 174) (L. D. 212) (C. "A" H-569)

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

Passed to Be Enacted Emergency Measure

An Act Making Current Service Appropriations from the General Fund for the Fiscal Years Ending June 30, 1978 and June 30, 1979 (S. P. 530) (L. D. 1859)

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. 115 voted in favor of same and 2 against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

By unanimous consent, ordered sent forthwith to the Senate.

Passed to Be Enacted

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

An Act to Clarify the Definition of Professional Nursing and Practical Nursing (S. P. 529) (L. D. 1847)

An Act to Clarify the Powers of the Department of Inland Fisheries and Wildlife (H. P. 354) (L. D. 447) (Conf. Comm. "A" H-521)

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.

Orders of the Day

The Chair laid before the House the following item of Unfinished Business:

Bill, "An Act to Improve the Administration of the State's Merit System" (Emergency) (H. P. 239) (L. D. 398)

Tabled — June 13, 1977 (Till Later Today) by Mr. Palmer of Nobleboro.

Pending — Passage to be Engrossed.

Mr. Palmer of Nobleboro offered House Amendment "A" and moved its adoption.

House Amendment "A" (H-608) was read by the Clerk.

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

Mr. PALMER: Mr. Speaker, Ladies and Gentlemen of the House: Very briefly, I want to just read this amendment so there will be no misunderstanding. It is a very simple amendment. H-608 provides the Commissioner of Personnel shall supply to the State Personnel Board all the data necessary to monitor and

evaluate the performance appraisal system, including data regarding the percentage distribution of merit increases. The board pursuant to its powers under the revised statutes, Title 5, Section 592, shall review the operation of the Performance Evaluation System and make such recommendations and render such advice to the Commissioner of Personnel that may be necessary to carry out the purpose of this chapter and finally, the Commissioner of Personnel shall forward to the Joint Standing Committee on State Government of the Legislature the finding and recommendations of the State Personnel Board annually prior to the start of each legislative session.

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

Mr. TIERNEY: Mr. Speaker, Ladies and Gentlemen of the House: I wholeheartedly concur with the excellent amendment offered by my good friend from Nobleboro, Mr. Palmer. It serves several ends and it makes sure that we do fully effectuate our equal pay for equal work theory that we have tried to accomplish in the last several years.

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

Mr. BOUDREAU: Mr. Speaker, I would like to pose a question through the Chair to anyone who might answer. Once we get rid of 60-40, how are we going to go about giving raises and up positions or whatever happens.

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

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

Mr. GREENLAW: Mr. Speaker, Ladies and Gentlemen of the House: I will attempt to reply to the gentleman from Waterville, Mr. Boudreau, as to one possibility and if we didn't, in fact, abolish 60-40, which I am personally in favor of, I would suggest that one way of giving raises to state employees before the collective bargaining system gets in place, which is probably a year away, would be a cost of living wage across the board.

Whereupon, House Amendment "A" was adopted.

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

By unanimous consent, ordered sent forthwith to the Senate.

Mr. McMahon of Kennebunk was granted unanimous consent to address the House:

Mr. McMAHON: Mr. Speaker, Ladies and Gentlemen of the House: I apologize for doing this now before the end of the calendar but before the gentleman in the hall leaves, I wanted to make it quite clear that Mr. Thibodeau from Kennebunk, who is in the hall with a moped, is here at my request. He is a constituent of mine, he is not a lobbyist, and I just want to make that clear.

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

Senate Divided Report — Report "A" (9) "Ought to Pass" in New Draft (S. P. 533) (L. D. 1861) — Report "B" (2) "Ought to Pass" in New Draft (S. P. 534) (L. D. 1862) — Report "C" (2) "Ought Not to Pass" — Committee on Legal Affairs on Bill "An Act Prohibiting the Dissemination of Obscene Matter to Minors"

(S. P. 281) (L. D. 894) — In Senate, Report "A" Read and Accepted and the New Draft Passed to be Engrossed as Amended by Senate Amendment "A" (S-216)

Tabled — June 10, 1977 by Mr. Cote of Lewiston.

Pending — Motion of the same gentleman to Accept Report "A".

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

Mr. BURNS: Mr. Speaker, Ladies and Gentlemen of the House: I am in somewhat of an awkward position today because I want to see one of these bills pass but I would like to have you take a look at Report B and I will briefly describe the difference between the two.

All the obscenity laws that we have in the State of Maine now are unenforceable due to a supreme court decision, I believe, in 1974, called *Miller vs California*, completely ruled out all of our obscenity laws. It does not meet the description by the supreme court as to what is obscene. Both of these L. D.'s, 1861 and 1862, under the description of obscene matter is a description laid out by the supreme court of the United States, exactly word for word.

The first one, Report A, deals with it in a separate manner than Report B. What is the problem is the area of contemporary community standards. The court did not specify what a community was. Basically, we could say that Report A is treating the entire state as a community whereas Report B, which Representative Joyce from Portland and I signed out, uses the individual countries as the communities. For us to get at that, we are proposing that the grand jury be utilized in determining what is obscene and what is not. The grand jury would pass in the same way that they do on an indictment with at least twelve affirmative votes to determine an item to be obscene. This may be a departure for some in the use of a grand jury; however, the grand jury does have the authority, they have on occasions been used as coroner juries; also, the grand jury has the authority in this state to conduct any investigation itself may decide to make. So, therefore, they would have the authority to do this.

Once the determination of obscenity is made, then it would go through the regular court channel and the obscenity aspect would be able to be challenged at each point in law.

Report A only uses the traverse jury or the jury that is selected to hear the case and also would be the entire state as the community. Report A also excuses such things as schools, libraries, museums and also religious literature under the Senate Amendment to that whereas Report B does not, and this was some of the testimony that was received in the hearing, that there was some material that was used in schools and dispensed to minors that was under question.

I would also like to point out that the item tabled, No. 5 for today, to prevent the display of adult magazines to minors is a separate issue. This report that we are dealing with now deals with obscenity, the sale and distribution of obscenity to minor children whereas the L.D. 1857 is only pertaining to the display of so-called adult magazines.

Report B also includes motion pictures which Report A does not. It is covered in Title 8, Chapter 26, motion pictures with Report B would remove that chapter and substitute this for it. The obscenity would prevent the sale to

minors. The other bill would prevent the display where minors may see it.

I would like to have you consider Report B and if you are so disposed do not vote for Report A but please vote for one of these reports. As I said when I started, I am in a very awkward position because I would like to see Report B adopted but I don't want to see it entirely killed.

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

Mr. HOWE: Mr. Speaker, Members of the House: This is indeed a different bill than I arose to speak about the other day with my visual aids. This bill does attempt to deal strictly with obscene matter, matter found to be obscene by the community and not with all forms of nudity. So I don't rise in opposition to this concept. I rise, however, to oppose the minority report and go through the two bills side by side here, to tell you why I support the one, if we are to have a law like this on the books and not the other.

The language of determining what is obscene is exactly the same in both bills and from all we can tell it will meet constitutional tests. The definitions of terms such as distribute, exhibit and matter are the same except that 1861 excludes motion pictures because I understand there is another law on the books dealing with motion pictures as well as the self-imposed rating system that the motion picture industry has developed.

However, what bothers me about Report "B" is the manner in which something would be determined obscene and I object to the use of the grand jury for the same reasons I have strong concerns about the use of grand juries generally. They are closed door secret proceedings that, in my view, can be manipulated by a prosecutor, whereas if a determination of obscenity is made in open court, the defense has a chance to be there with counsel to offer evidence as well before the jury. There is a provision attached to the grand jury section in Report "B" that I think is something that could be used to turn this law into a mockery. It says that, if twelve or more members of the grand jury present and voting determine that the matter is obscene, the matter shall be declared obscene for that county and the district attorney shall cause notice of the declaration of obscenity be published in the newspaper of general circulation in that county.

Well, if we are running advertisements in the county newspaper that the July issue of *Hustler* magazine is going to be determined to be obscene, I think the publisher of *Hustler* magazine will probably be quite happy because it will be free advertising for them and their sales will probably skyrocket as they did after the conviction of Larry Flint, their publisher. So I don't think the state wants to be in the business of giving free advertising to an obscene publication. I think, in effect, that is what that provision would do.

As far as the scope of the community, I am not completely sure one way or the other whether Mr. Burns is correct but it seems to me that, since either the attorney general or any district attorney can go into court and a jury must be chosen for this determination and that jury, I would assume, would be chosen from that prosecutorial district, which will be within the scope of one or two counties, that we will still be making that determination on less than a state wide basis. So, for those reasons, I would urge that we reject the Minority Report and

that for those inclined to put this "A" law on the books, that we support Report "A".

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

Mr. COTE: Mr. Speaker, Ladies and Gentlemen of the House: As a signer of Report "A", I agree with everything that the gentleman from South Portland, Mr. Howe, has said. I guess he has stolen part of my speech. In order to get this resolved, it will be put before the public much faster through the DA's office than if we have to wait for the grand jury. It is a matter of time, as Mr. Howe said, one issue of a magazine could be sold out and gone by the time another issue is issued by the time we get to resolve the first magazine issue. In order to expedite things, as far as this goes, that is why I urge you to go with Report "A".

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

Mr. BIRON: Mr. Speaker, Ladies and Gentlemen of the House: I do believe I was the only member of the House who did not sign this bill out "Ought to Pass" either Report "A" or Report "B". I just like to explain to you my reasoning behind it. I am in favor of this kind of legislation and as you know I supported the other bill that you had before you the other day which dealt with the covering of the books, which I think this is the major problem that we now face here in the state of Maine.

The majority of the people who came before our committee were concerned with the material being seen by children and I agreed with them. I felt that we should have legislation along that line. This legislation here that we have, as Mr. Burns pointed out, is different. It is a separate piece of legislation altogether and the problem that I have with either report is the determination that is to be made by the courts.

For example, most magazines that we refer to in this legislation, come out on a monthly basis. Let's use for an example, *Playboy* Magazine. Someone brings into the district attorney's office in Report "A" asking the DA to make a determination as to whether *Playboy* is obscene or not obscene, the DA makes the determination that it is, well that person in the due process has the right to appeal. By the time the appeals process goes through, that magazine is no longer on the racks because the next month's issue is out. So you have established a system that doesn't work in Report "A", nor does it work in Report "B". This is why I did not sign the bill "Ought to Pass" because I don't personally feel that it has any kind of a system that will work. The grand jury system doesn't work because of the time element because these magazines come out on a monthly basis. The first one, Report "A" doesn't work either because you have the district attorney; however, you do have, under due process, the right to appeal. So if these decisions are appealed, the court proceeding time will not be able to make any determinations until such time as that book is off the shelves and the next month's issue is on again. So it is just a constant taking of people to court without being able to make any determination either in Report "A" or Report "B". However, I am in favor of legislation that would cover the books and that is what the other bill deals with. I just wanted to point out my points on these two Report "A" and Report "B", neither one of them works in my opinion.

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

Mr. JOYCE: Mr. Speaker, Ladies and Gentlemen of the House; This is a good bill. I signed out the "B" Report. However, I will support the "A" in order that we get something on the books that can be used.

This bill will put the smut peddlers on notice. A great American once said: "I hate war, Eleanor also hates the things that make the world go round." This is an issue that makes the world spin in reverse. This is an issue where we should look inward and not outward, give our children a chance at the good life.

The people appearing before our committee told the stories of the six and the eight year olds thumbing through the books that should have been out of reach to them. You don't have to be ashamed to vote for this bill. We must make the legislative intent very clear. We don't want these books being passed down to our children. Let our message go out today, loud and clear. Don't throw our children to the wolves.

You might hear from some who are opposed to the bill, who will say, let this be a local issue. They want you to dream the impossible dream. Ban it in Augusta, but not in Gardiner, they will have to chase the children around the state. You might hear the constitutional obstructionist here but the constitution doesn't prevent to trespass onto private property to put out a fire and we have a fire here. There should be no protection for those who choose to hurt our little children. This really is a child pornography bill. Just keep in mind, as you are called upon to vote today, when you bend down to pick up our children, our grandchildren, be sure our hands and our hearts will be clean. This bill attacks the rawest form of pollution and I hate to refer to my children as my children, I feel I have only a stewardship there and some day I will have to make an accounting of this stewardship and that is why today I will support the "A" and urge you to do likewise.

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

Mrs. HUBER: Mr. Speaker, Members of the House: Mr. Speaker, I would like to pose a question through the Chair to anyone who may care to answer.

I realize there is an exemption for non-commercial distribution or exhibition for purely educational purposes in the bill. I wonder how this would apply to perhaps a commercial art gallery which would be selling paintings and so forth for profit.

The SPEAKER: The gentlewoman from Falmouth, Mrs. Huber, has posed a question through the Chair to anyone who may respond if they so desire. The Chair recognizes the gentleman from Anson, Mr. Burns.

Mr. BURNS: Mr. Speaker, if the material sold by that art gallery was determined to be obscene, it would be under the law.

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

Mr. MCKEAN: Mr. Speaker, Ladies and Gentlemen of the House: I would like to pose a question through the Chair if I may, in fact, two questions.

(1) In some of our statutes there are three different definitions of a "minor", 16 years of age, 18 years of age and 20 years of age. I haven't seen this addressed in the particular L.D. or the amendments. Another thing, what is going to be constituted as a valid identification? Will it be the driver's license, which has no picture? Will it be a Maine State Liquor Card which will soon be issued for 20 year olds? I think there are

some problems that we need to address before we send this thing out.

The SPEAKER: The gentleman from Limestone, Mr. McKean, has posed a series of questions to anyone who may respond if they so desire.

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

Mr. BURNS: Mr. Speaker, a minor, as we believe it to be in the Legal Affairs Committee, would be anybody 17 years of age or under. And as to proof of age, I don't see that that would be necessary under this bill.

The SPEAKER: The Chair will order a vote: The pending question before the House is the motion of the gentleman from Lewiston, Mr. Cote, that the House accept Report A. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

76 having voted in the affirmative and 8 in the negative, Report A was accepted.

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

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

HOUSE DIVIDED REPORT — Majority (9) "Ought to Pass" in New Draft (H. P. 1689) (L. D. 1877) — Minority (5) "Ought to Pass" in New Draft (H. P. 1690) (L. D. 1878) — Committee on Health and Institutional Services on Bill "An Act to Provide for the Licensing of Denturists" (H. P. 323) (L. D. 414)

Tabled — June 10, 1977 by Mr. Goodwin of South Berwick.

Pending — Motion of Mr. Brenerman of Portland to Accept the Minority "Ought to Pass" Report.

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

Mr. BRENERMAN: Mr. Speaker, Members of the House: Most of the members here have previously heard the arguments for and against the denturist bill or you have probably heard from your local denturist.

However, I think it's important once again to explain, briefly, the Majority "Ought to Pass" report, and further explain why I signed the Minority "Ought to Pass" Report, which is L.D. 1878, which is different, by the way, in only one way. Both reports establish the practice of denture technology with the Board of Dental Examiners, which is made up of dentists setting up all of the requirements, qualifications and procedures, including education, examination and apprenticeship for the practice of denture technology. The Majority Report also says that after fulfilling these requirements and passing the denturist examination, the denturist must work under the supervision of a dentist, that is where the two reports differ. The minority report allows denturists to practice on their own. I have no doubt in my mind that when denturists fulfill the strict requirements set up by the dentists, they will be fully qualified technicians able to practice on their own to fit and to make full dentures. According to many dentists and according to the Canadian experience with denturism, denturists have better knowledge of making dentures than do many dentists, who have little practice in dental school in making dentures or who don't make their own patients' dentures. I believe that the dentists will make sure that the denturists are well qualified to go out into the field. Another safeguard in the minority report, to insure proper care by denturists, is that before anyone

can go to a denturist for an initial visit, that person must have a certificate of oral health so that the denturist would better know if the patient is free from any oral problems that he couldn't recognize himself. Two of the major reasons that the people of this state, especially the elderly, are demanding that denturism be allowed are, (1) Denturist charges are much less than that of dentists, (2) Denturists will be able to fill the void of dental care in the rural areas of this state.

While no one can assure us that lower charges and rural care will occur, and again, we can only go by the Canadian experience, it is certainly true that neither the low cost nor rural care will occur if the majority report is accepted and denturists work under the supervision of dentists. That, of course, is because dentists will take the percentage off the top, thus increasing the cost of dentures. Low cost dentures just won't be available, and as many of you know, for some people the choice is between low cost dentures or no dentures at all. Also, most dentists in Maine are located in the most densely populated urban areas, thus denturists will be less able to practice in rural areas if the majority report is accepted.

While I think that both reports are fair and have the proper safeguards included, I believe that any denturist that makes it through the required educational and apprenticeship qualifications set up by the dentists is certainly well qualified to practice denture technology.

I urge your support for the minority report.

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

Mrs. PRESCOTT: Mr. Speaker, Ladies and Gentlemen of the House: I would also like to support the minority report, I did sign it out, there were four of us. The denturists must be licensed by the Board of Dental Examiners. That board includes five dentists and one consumer, one consumer has not yet been appointed. The board's purpose is to prepare the examination and then to license the denturist and after the denturist is licensed, he then may go out on his own. He will not be required to work under the supervision of a dentist, but before the denturist can work, he must have a certificate of oral health. Now, the Board of Dental Examiners will be issuing the exams and will be licensing the denturist. The board should have the faith in the requirements and training that they set before they send the denturist out on his own. They are supposed to be the experts.

I signed this approach because I happen to believe that if a person wishes to purchase dentures from a specialist other than a dentist, then there should be that choice. The minority approach is more of a consumer bill to me. The original bill's main purpose was to provide lower cost and accessibility.

The majority report promises neither because you will still have to convenience the dentist and pay the middle man his share. Now, too many times I have heard people say that the prices the dentist charges are too high and they would like to be able to choose which way they would like to go and where they would like to go to purchase their dentures or have their repairs made on their dentures. There are some clinics but these clinics are aimed mainly to the low income and to the elderly. Many of our Maine people are proud, they don't wish to prove that they are poor enough to qualify. I am concerned also about the middle income person, what

choice does he have? This group I find, often let its own teeth go so that he may provide service for his children at the dentist's office. It saddens me to see so many good Maine people go without teeth and I say that some of them are gumming marshmallows over meat because they can't afford dentures.

I simply stand here today to remind you of the many constituents back home in your district and also in mine that would like to be allowed the choice of where they would like to have their dentures made or repaired. These are the people with little political clout who are frequently hurt. I don't think that we should force them to make their check out to the dentist for his percentage. I feel that the dental profession has a monopoly and that their lobby lines its pockets to protect it. The lobby has shown me that they would like to keep this monopoly and I will tell you why. Because together, the lobby and the dentist, have opposed dentists being included under the certificate of need. They have opposed dental hygienists serving on the board of dental examiners. They have opposed the dentist posting his prices in his office and they have opposed the denturist competition. They will love the majority report and I hope you don't give it to them and play into their hands because, if you do, you are not going to allow competition. You are not going to allow lower costs or the accessibility and this was the main purpose for the bill.

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

Mr. HALL: Mr. Speaker, Ladies and Gentlemen of the House: One of the first things that I did being a Representative is to have questionnaires to be filled out by some of my constituents, and one of the questions in the questionnaire was, giving the denturist the right to make teeth. That came back, I think I had 260 filled out, and there was one doctor that signed no, and his wife said "I don't believe I dare to go along with it", but the rest did, right to a one, and I have them here in my briefcase, filled it to allowing the denturist to make teeth.

I am not too familiar with the bill here and I think you watered it down so it is not going to be as good as it was hoped to be already.

But there is another thing I would like to bring out to you. I have in my desk here, I had them here for three months, a set of teeth made by a dentist in my area that cost \$400, and I can't even eat soup with them. The only thing I can do with them is take them out and I have to be very careful where I put them. This is made by a dentist. The biggest thing that they have done to the people in my area is, first thing they do is they charge you \$200 a set, then they want you to go, before you even get the teeth, go to the bank and get the money to pay for them. I think the time has come when something should be done to help the poor people in the area, particularly in the country, so that they can buy their teeth a little cheaper than that.

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

Mr. PEARSON: Mr. Speaker, Ladies and Gentlemen of the House: I intend to vote against the minority report and I just would like to share with you a few of the reasons why. I have a dentist in my home town whom I consider to be a very good dentist, who will make false teeth, both an upper set and a lower set for \$200. That is approximately \$20 more than I understand the denturists are charging. He is a graduate of Tuft's Dental School and he

is a very good dentist. I am afraid that if denturists, who are going to be less educated than a dentist would be under any proposal that is before us, would not be able to provide the best medical care that the people of the state would want. I think this country and this state has the best medical care in the entire world, at least the United States of America has and I think that a step to allow denturists to practice would be moving away from the excellence that we really want in dental care.

I personally think that one of the answers to the problem of providing cheap dental plates for people is advertising of the dentists. I know that my particular dentist from Old Town concurs on that and that he is somewhat frustrated because there are some prohibitions against the advertising of dental work for false teeth. If he was able to advertise, and people knew more about people like himself, I think that that would tend to bring the cost of dentures down to the place where we would like to have them. I can't help but comment before this debate concludes, because I made a moral commitment to myself to do that, is that if this bill passes, and I hope it doesn't, but if it does pass, I don't think the dentists of Maine should point to the House of Representatives or to the other body as being the ones responsible for the passage of the bill because I think they are responsible for it because they have been gouging people to the price of \$400 to \$700 when they should never have been charging that in the first place. That greed will kill them if anything does. But there are some dentists out there and I think there will be a whole lot more if advertising is allowed that will provide good service. That good service is something that I hope the bill provides, get their house in order and clean up their act and start providing people dental care at a reasonable price and not try to get wealthy on poor people.

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

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

The SPEAKER pro tem: The Chair recognizes the gentleman from Caribou, Mr. McBreaity.

Mr. MCBREAIRTY: Mr. Speaker, Member's of the House: I am a cosponsor of the denturist bill, an act that will make it possible for senior citizens and poor people who are still too proud to beg or accept welfare, to buy dentures at a price they can afford.

What does this bill do that hasn't been done in Maine and the United States for many years? Nothing. Denturists have been making dentures in their kitchens and basements for friends and relatives for many years. I have a letter from a senior citizen who lives in Caribou, Maine. The letter states that she sent to Chicago in 1934 and got a denture by mail. She used those dentures until last summer. They finally broke and she had a denturist make her a new set for \$150.00. This past winter, an 80 year old senior citizen from Stockholm, Maine, gave me a small box postmarked February 22, 1977, in this box she had received from Allstate Laboratory, Chicago, Illinois, a bottom denture plate to replace the one she had worn out. Evidently people have been taking their own impressions and ordering dentures by mail from Chicago, Illinois, for 43 years.

This bill doesn't say anyone has to go to a denturist. It only gives us freedom of choice to cut out the middle man and get dentures at a reduced price if we wish. Many countries permit denturism. I am sure it is working well in Canada. Many people from Aroostook County take advantage of the denturists in Canada. I haven't yet seen an unhappy customer. They feel it is better to get teeth from a denturist than to have no teeth at all. In one denturist office in Centerville, New Brunswick, for five months they average 35 dentures a week or 700 dentures for the five month period. About 65 percent of the dentures made were for Americans. Some as far away as New Hampshire and Connecticut.

I have here advertisements that are passed out on this side of the border, one from Morno Dental Clinic, Edmundston, they have phone numbers here than you can call in both Canada and the United States for appointments. They are duty free. I have another one from Ellis Denture Clinics, Centerville, New Brunswick, they have a phone number from Centerville and home number from Presque Isle, Maine. I can highly recommend Mr. Ellis from Centerville, New Brunswick, because I and many of my friends are very satisfied customers. If it is as dangerous as many say to have denturists fit and repair dentures, why do we allow them to be advertised and ordered by mail? Why do we allow them to be brought from Canada, duty free? Why do we allow drug stores in Maine to sell to anyone, kits to repair or relin dentures. I have two kits here that I have bought from a drug store: Emergency Denture Repair Kit, for breaks and cracks, \$2.75. There is a coupon inside that will give you one dollar back towards your next set. I have another kit for relining and it says: easy to apply, easy to remove, this is \$1.29.

In the past, this legislature has been noted for passing bills to help the consumer and the poor. Passage of this bill will give us a choice to buy dentures from a dentist or a denturist, and eliminate the need for poor people to send to Chicago or go to Canada to get dentures they can't afford to buy in Maine.

I urge you to accept the Minority "Ought to Pass" report.

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

Mrs. NAJARIAN: Mr. Speaker, Members of the House: The gentlewoman from Hampden, Mrs. Prescott, has previously outlined for you some of the legislation that the dentists have opposed in this session, but for the new members, I would like to list for you some of the bills that the dentists have opposed in previous sessions. They have opposed legislation which would have facilitated the establishment of dental clinics in rural areas, utilizing dentists supplied by the National Public Health Service. They have opposed establishment of the Office of Dental Health. They opposed legislation which would have established a dental health prevention and education programs in the school, even though Maine has the worst dental health in the United States. Finally, they opposed a bill which would have appropriated \$200,000 for the poor, elderly to have dentures made under the supervision of dentists.

So, what are we to do when we try to work with the dentists they oppose us and last year we had legislation similar to this which they opposed. There were lots of problems with that bill but I think the Minority Report has address-

sed the problems that were raised in the original legislation this year and in previous bills in that it requires the education and training of a dentist to be established by dentists and it also requires a certificate of oral health which was another large concern of the dentists.

I hope you will support the Minority Report.

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

Mr. BOUDREAU: Mr. Speaker, Members of the House: Very briefly, a situation in Waterville. I met with some dentists and the only objection they seemed to raise the whole time I was talking to them was that denturists couldn't detect cancer of the mouth and all of this, so I think they have taken care of this in this bill. Just one example, there is a person in Waterville who is an experienced dentist and he was trained in the Army and the dentists were sending all their work to him and when he got involved with this denturist thing, all of a sudden the dentists started sending all of their work out of state. Here was this guy, who even the dentists said was the best around, and because he got involved in the denturist bill, I know for a fact that the dentists in the Waterville area are sending all of their work out of state, and driving this guy out. I would say that if we passed the Majority Report, there are not going to be a whole lot of dentists that are going to say to a denturist "sure, come into my place and practice with me". It is going to be very easy for the dentists to get together and say "we are not going to allow any denturist to practice with us". So I think the Minority Report is the way to go.

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

Mr. GOODWIN: Mr. Speaker, Men and Women of the House: I feel in a very awkward position today because I signed out the Majority Report.

A little history to this, last session I introduced and co-sponsored with several other legislators, a bill to establish denturism. It was a much more radical concept than even the Minority Report that we have here today. They would have established their own rules and regulations and everything else. I worked quite hard for that bill I think I still believe in that concept and I really want to see this passed. I really feel that the people that want to become denturists can fit, take impressions, make and fit false teeth, and do it without any of the problems that many of the dentists have said will develop.

I signed the Majority Report because I feel strongly enough about this, that I was willing to compromise almost to the point where as some said, the bill may not have any effect, but I feel that it would be a start and a step in the right direction. I am not going to get up here and ask you to vote against the Minority Report. In fact, I may even vote for it, but I think that when this bill is finally finished and gone through this legislature, that this won't be the one that we will be able to decide on. So, all I can say is that I really feel that the denturists can do the job. I just hope that everybody realizes that I think this is an important enough issue that we have got to get something on the books, get this profession started, it took many many years for the dental hygienist to get to the point where they are at where they are just asking for representation on the Board of Dental Ex-

aminers. I don't think we are going to be able to do everything at once with a whole entirely new profession such as this, but I do feel that the people that want to do this work are extremely competent and have all the necessary skills and will be able to do it. I hope that you do vote in the final analysis for the passage of this bill, whatever we can come up with,

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

Mr. DUDLEY: Mr. Speaker, Members of the House: I am one of the cosponsors of this bill and last year I was a sponsor with Mr. Goodwin, just the two of us, last year. Neither one of these bills answers the problem, but I think the Minority Report comes the closest. I am so naive that I believe that the people have some freedom in this country and that they should be allowed the freedom of choice. If they want to go to a dentist or a denturist, and let me remind you that this is one of the very few bills that has been before this legislature that doesn't make somebody do something. "You must", it says "you may" go to a dentist or a denturist. I think this is in itself a point that sells me. However, even the Minority Report says that you have to pass the Dental Board of Examiners, that is very similar to having the fox guard the chicken coop. I don't suspect any of them will pass but it will say that we tried to do something in the area. Let me say the Majority Report, in my opinion, does nothing that they can't already do because as, I understand it, they can have anyone in their presence now who will do these very same things as long as a dentist is present. So this would be just deceiving the public that I represent. At least the Minority Report which I now support does something in that direction and I hope that future legislators will make it so that we can have denturists and they will have their own examination board like they do in the sixteen provinces and that we will go on.

I am reminded way back when we let osteopaths come into this State of Maine, they were going to kill a third of the population in the first year and the evidence proved that they didn't and that they are now quite active, and we are glad we have them in the country because that is about all we have for medical people.

I am sure that if this bill's passes, in years to come, that in the country where I come from, small towns, that we will have a few denturists. We are not liable to have dentists because they can't make money fast enough in those little towns. So, to try to be brief, this is a long subject and it's an awful job for me to be brief because I have spent so much time on this traveling in viewing this and I have even got some teeth in my mouth that were made by a denturist which I am pleased with and they were very inexpensive, and many other things. But it is getting late, everybody is hungry and I am pretty sure you will do us a favor and pass the Minority Report.

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

Mr. DAVIES: Mr. Speaker, Members of the House: I rise to support the Minority Report, the report with "teeth" in it. This bill proposes to put teeth in the mouths of Maine people, people who need an opportunity to eat, who need a decent diet but who can't get it because their mouths are empty.

We have been beating our gums for an awful long time about this bill, for three years. I think we should have passed the bill that was spon-

sored in the 107th but, unfortunately, the lobby of the dentists was particularly strong then. We have worked on it a long time and I think we have arrived at a reasonable compromise. I think it is very clear, if you look at the two reports, the only teeth that you are going to find in the Majority Report are the teeth that are going to be putting a bite on the pockets of Maine consumers for \$400 to \$700 for a set of teeth.

I urge you today to vote for the Minority Report so the people out in the countryside, people in Mr. Dudley's district, can chew their food for a change.

The SPEAKER pro tem: The Chair recognizes the gentlewoman from South Portland, Mrs. Gill.

Mrs. GILL: Mr. Speaker, Ladies and Gentlemen of the House: There is no question in my mind that this is a biting subject. I feel that we should accept the Majority Report for a couple of reasons. One of them is, we are dealing with a group of people who, up to this point, have been making dentures but who are not licensed and what we are, in essence, doing is licensing them and putting them under dentists in communities.

All auxiliary personnel work in the medical field are licensed. We have lab technicians, we have X-ray technicians, they all work under the direction of a physician or a hospital. We have the dental hygienists who are licensed working under the direction of the dentists. These are important because these doctors and these dentists assume the liabilities for their auxiliary personnel working under them.

I think if we accept the Majority Report, we can license the denturists, they can work under the direction of the dentists for a period of time and if they, indeed, do prove that they are effective and that they are competent, then we can digest this at a later point in time.

I would like to address the cost of the dentures involved. In the Maine Committee Report on Aging in regard to this issue, it states that a full 39 percent of the population, according to the Bureau of Labor Statistics, standards fall below low income of \$2,565 per year less. This was in 1975. Thirty-nine percent of this category fell below that. Low dentures, whether they be \$75, whether they be \$50, whether they be \$500, are going to be very expensive for these people to purchase and perhaps we might address this by dealing under Medicaid or trying to develop some program where these poor people, low income people, can get dentures without paying for them.

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

Mr. PEARSON: Mr. Speaker, Ladies and Gentlemen of the House: if a person goes to a dentist for anything and the dentist looks in his mouth and sees cancer or doesn't, every time that person goes back for any matter whatsoever, the dentist looks in the mouth and has been trained to recognize cancer and other diseases, whatever they may be.

I have a question that I was to pose. If a person goes to a denturist, I understand under the bill, and I am not really clear on this, but I think under the bill he has to have a certificate of oral health. That is for the first time he goes to the denturist to be fitted for teeth. If there is a repair to be made to the dental plate or new dental plate, does that person, under the bill, is he required to go back and get another certificate of oral health or may the denturist

operate under that first initial certificate of oral health for time immemorial?

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

Mr. GOODWIN: Mr. Speaker, Men and Women of the House: Directly, to answer the Representative from Old Town's question, as I understand the way the bill is written, no, when you go back to have a repair or something, you would not be required to have a certificate of oral health.

For a second here, I am going to argue the merits of the denturists. The thing you have to remember is that when the dental board establishes the rules and regulations for denturists, there are going to be some requirements for some training in oral anatomy, things of this nature, which will hopefully give the denturists the experience to at least recognize a problem if there is a problem in the mouth, whether the person has been to a dentist or not.

Second of all, you have to remember, would that person have gone to the dentist in the first place? I think the answer to that is no. In other words, if a person goes to a dentist to get a new set of teeth to replace the ones a person has had for quite a few years, if he can go and get one for a couple hundred dollars, they may decide to do it; whereas, if they have to go to a dentist and if there is one available and can go through the several months process that it would take to get the appointment and everything else and cost them \$400, \$500 or \$600, that person may never get to the dentist in the first place and, therefore, no one will ever look into the mouth of that person.

Another thing I think we have to consider is that there has never been, since I have been debating this issue, one documented case of any problems or a set of dentures causing oral cancer or any problem like this. This argument about cancer and that we are going to have a tremendous increase in the cancer rate, oral cancer, if we allow denturists is just completely false. It has never been shown to have happened in any of the Canadian Provinces or European countries that allow denturism and I think this is red herring that is sometimes drawn across this bill. I really feel that there is no problem in this whole area of cancer.

The SPEAKER pro tem: The Chair recognizes the gentlewoman from Portland, Mrs. Nelson.

Mrs. NELSON: Mr. Speaker, Men and Women of the House: Don't be fooled. This is not an anti-dentist bill. We are not dealing with what the dentist did or did not do in years past or now, we are dealing with the issue of a bill to give people the best dental care possible. That is what we all want and both of these amendments talk about that, but I just want to remind you that in the Minority Report, there is no guarantee that the people in the outlying areas will have access to a dentist. There is no guarantee that the denturists will indeed charge less money, we can't guarantee those things. At the hearing, those were the things that people wanted or needed, needed access, they needed a lower price and, of course, they need the best possible dental care. I would just remind you that when you vote, that is what we are dealing with, the best possible dental care for all people. Just because a person cannot afford the best doesn't mean they shouldn't have the best.

I request a roll call when the vote is taken.

The SPEAKER pro tem: For the Chair to order a roll call, it must have the expressed

desire of more than one fifth of the members present and voting. Those in favor will vote yes; those opposed will vote no.

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

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

Mr. DUDLEY: Mr. Speaker, Ladies and Gentlemen of the House: Very briefly, I would like to answer the questions the woman from Portland just raised. We had denturists and the law drove them out. They are practicing now just across the line, so we have to drive a long way into Canada to get the work done, but we did have them and we will have them back if we can get a decent denturist bill. So, it is not a question of getting them into the country, we know we will. We had them already until the law drove them out and across the border, so I am sure they will come back if we can pass a decent denturist bill.

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

Mr. CAREY: Mr. Speaker, I would like to pair my vote with the gentleman from Dexter, Mr. Peakes. If Mr. Peakes were here, he would be voting yes; I would be voting no.

The SPEAKER pro tem: The pending question before the House is the motion of the gentleman from Portland, Mr. Brenerman, that the House accept the Minority "Ought to Pass" Report. Those in favor will vote yes; those opposed will vote no, a roll call having been ordered.

ROLL CALL

YEA — Austin, Bagley, Beaulieu, Benoit, Berry, Biron, Boudreau, A.; Boudreau, P.; Brenerman, Bunker, Burns, Carter, D.; Churchill, Connolly, Cote, Cox, Davies, Diamond, Dow, Drinkwater, Dudley, Dutremble, Fenlason, Gillis, Hall, Henderson, Howe, Immonen, Jacques, Jensen, Kelleher, Kerry, LaPlante, Littlefield, Locke, Lougee, Lynch, MacEachern, Mackel, Mahany, Marshall, Maxwell, McBreaarty, McHenry, McKean, Moody, Nadeau, Najarian, Nelson, N.; Palmer, Peltier, Prescott, Quinn, Raymond, Rideout, Rollins, Smith, Spencer, Stover, Strout, Tarr, Teague, Theriault, Tierney, Tozier, Valentine, Wood, Wyman.

NAY — Aloupis, Ault, Bachrach, Bennett, Berube, Birt, Brown, K. L.; Brown, K. C.; Bustin, Carroll, Carter, F.; Chonko, Clark, Cunningham, Curran, Devoe, Durgin, Elias, Flanagan, Fowlie, Garsoe, Gill, Goodwin, H.; Goodwin, K.; Gould, Gray, Green, Greenlaw, Hickey, Higgins, Hobbins, Huber, Hughes, Hunter, Hutchings, Jackson, Jalbert, Joyce, Kane, Kany, Lewis, Martin, A.; Masterman, Masterton, McMahon, McPherson, Mitchell, Nelson, M.; Norris, Pearson, Perkins, Peterson, Post, Sewall, Silsby, Sprowl, Stubbs, Torrey, Trafton, Truman, Twitchell, Tyndale, Whittemore, Wilfong.

ABSENT — Blodgett, Carrier, Conners, Dexter, Gauthier, Kilcoyne, Laffin, LeBlanc, Lizotte, Lunt, Mills, Morton, Plourde, Shute, Talbot, Tarbell, The Speaker.

PAIRED — Carey, Peakes.

Yes, 68; No, 64; Absent, 17, Paired, 2.

The SPEAKER pro tem: Sixty-eight having voted in the affirmative and sixty-four in the negative, with seventeen being absent and two paired, the Minority "Ought to Pass" Report is

accepted.

The Bill read once and assigned for second reading tomorrow.

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

Bill, "An Act Relating to Municipal General Assistance Programs" (H. P. 1673) (L. D. 1868)

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

Pending — Passage to be Engrossed.

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

Mr. TIERNEY: Mr. Speaker, I move that this item lie on the table one legislative day.

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

Mr. CONNOLLY: Mr. Speaker, I move that this lie on the table until later in the session.

The SPEAKER pro tem: The Chair would inform the gentleman from Portland, Mr. Connolly, that the motion to table for one legislative day takes precedence.

Mrs. Berube of Lewiston requested a division.

The SPEAKER pro tem: The pending question before the House is the motion of the gentleman from Lisbon Falls, Mr. Tierney, that this item lie on the table one legislative day pending passage to be engrossed. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

71 having voted in the affirmative and 29 in the negative, the motion did prevail.

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

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)

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

Pending — Passage to be Engrossed.

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

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

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

Tabled — June 10, 1977 by Mr. Cote of Lewiston.

Pending — Motion of Mr. Howe of South Portland to Indefinitely Postpone Bill and all Accompanying Papers.

(Roll Call Requested)

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

Mr. COTE: Mr. Speaker, Ladies and Gentlemen of the House: I hope we don't indefinitely postpone this bill. I saw several amendments lying around here, I was looking for them on my desk this morning but they have gone, I guess, I think they will address some of the inequities that was mentioned by the proponents of the motion to indefinitely postpone so I hope we check that and let the bill go on its merry way and it will be amended to satisfy everybody, I imagine.

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

Mr. HOWE: Mr. Speaker, Ladies and Gentlemen of the House: We have accepted a report on the bill this morning that I think deals

with the problem that we all agree we are trying to get at, and that is the distribution of obscene matter to minors. I hope that my demonstration the other day convinced you that this bill is far too broad in its scope and is going to cause a great deal of problems for people, particularly in the bookstores, newsstands trade and certainly not all of those, the vast majority of those people do not deal with obscene matters. Anything, any book, magazine or newspaper coming along which has any depiction of nudity, and that does not have to be the least suggestive of any actual explicitness or obscenity, the bookstand proprietor has got to be aware that that is there so the cover can be opaque or the book can be sealed so that it can't be opened.

First of all, I think there are problems in declaring any literature for sale to be sealed so that the people who want to buy it can't peruse it first, whatever kind of material it is.

If Time Magazine should run a small picture in one of its columns of a topless waitress being arrested somewhere, the proprietor of the bookstand had better be aware that that is in there or he or she will be subject to a \$250 forfeiture.

I really believe that a bill dealing with nudity in all its forms is far too broad in scope, that that is not what this legislature or the public is concerned with and that we have accepted a report on a bill this morning that does deal with the problem. Therefore, my motion to indefinitely postpone this bill does stand.

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

Mr. BIRON: Mr. Speaker, Ladies and Gentlemen of the House: This bill is the bill that the public is really concerned with and this is a bill we have had so much testimony on and this is the bill that we have had so much literature sent to the committee about and the petitions that I referred to the other day. This is the bill that will cover the material in the stores, and this is the bill that people are concerned with. This is what I brought up in my debate this morning. This is the bill the people are looking for. If we pass the other bill that we did this morning, and if that goes through before both bodies, and is enacted, those books can still be on the shelves and not be covered.

There are several amendments that will be presented to this bill that will take care, in my opinion, of the problem that Mr. Howe has with this legislation. However, if you are concerned with the problems of pornography and the fact that our kids can walk into stores and view these things on the shelves, I think you need to vote against the motion to indefinitely postpone.

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

Mr. BURNS: Mr. Speaker, Ladies and Gentlemen of the House: I hope you don't vote to indefinitely postpone. We have some 5,000 signatures that have been voluntarily sent to the Legal Affairs Committee for the expressed purpose to get the girlie magazines, adult magazines, out of the view of the minors. That is exactly what we are trying to do with this bill, so that when they walk into a store, they will not be looking at nudity or any type of this.

We hope we have described it in a manner whereby it is explicit so the courts will have no problem in identifying what we are talking

about. When we say covered, we do not mean that the magazine itself must be covered, it could be covered by another magazine in the rack. What we are trying to get at is when a minor or when any individual walks into a store, they do not see nudity or partial nudity staring them in the face.

This law would apply only to minors and again, the definition of minors, we believe, is 17 and under. An adult bookstore who would bar minors from entering the store would not have to worry about this, they could display any of the magazines in any way they would like, or books. A store that is desirous of showing this could set up a section whereby the minors would not be allowed in and the adults could go in and peruse through it.

This is the bill the people have been asking for. We purposely skirted the definition of obscenity because it is so difficult to nail down and so difficult to prove. We hope the definition that we have in here is explicit enough and thereby the courts can uphold it.

Please do not indefinitely postpone this bill.

The SPEAKER pro tem: The Chair recognizes the gentleman from Madison, Mr. Elias.

Mr. ELIAS: Mr. Speaker, Members of the House: This is my bill and what I would like to do is just point out a couple of facts for you people. First of all, this bill doesn't affect anyone's rights to read, it doesn't affect anyone's right to publish; in fact, it doesn't affect anyone's right at all.

I did a little reading on this bill and I found out that even the publishers of hardcore pornography feel that something should be done to cover up this material from our young people. Many storekeepers have a hard time keeping an eye on their rack all the time and this bill will protect them. From many complaints from young people's parents who write or go into the store and complain about their kids going in looking at the bottom rack and leafing through this material.

I feel that every fair thinking adult would consider this a practical and prudent measure. It is not a controversial bill. It is a common sense, practical measure that deprives nobody of income or freedom and I would ask you to support it.

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

Mr. WOOD: Mr. Speaker, Ladies and Gentlemen of the House: I intend not to support the motion to indefinitely postpone, although there are some serious problems with the bill and I don't think any of you should be under any illusion that there aren't.

The whole standard of nudity is in doubt. In fact, this morning, I was researching this area and there has been a Supreme Court decision in 1962 that says, in effect, that nudity in itself cannot be banned, or cannot be considered obscene, that it has to deal in terms of a sex act. Although I think that this bill, at this point, is unconstitutional, I think that it is workable. I have an amendment to offer that I think will meet all the constitutional guidelines and it's for that reason that I hope you do not vote to indefinitely postpone this bill.

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

Mr. HICKEY: Mr. Speaker, Ladies and Gentlemen of the House: I would ask you not to

indefinitely postpone this bill. In our community over 3500 signatures were presented to the city council two weeks ago demanding some action be taken to cover these magazines. This was the paramount concern of all the parents. We go into these different stores, we see young children, seven, eight and nine kneeling on the floor looking at these magazines, which is a great source of concern to all of us.

So I would ask you not to indefinitely postpone and I would ask that this be tabled for two days.

The SPEAKER pro tem: The Chair would inform the gentleman that he has debated the motion.

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

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

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

Mr. DUTREMBLE: Mr. Speaker, Ladies and Gentlemen of the House: In Biddeford, we just passed an ordinance, the same kind of a bill as we are going to vote on this morning. So, I think this is a good bill, and I do hope that you are going to vote for it.

The SPEAKER pro tem: The pending question before the House is on the motion of the gentleman from South Portland, Mr. Howe, that this Bill and all its accompanying papers be indefinitely postponed. Those in favor will vote yes; those opposed will vote no.

ROLL CALL

YEA — Bachrach, Benoit, Berry, Brown, K.L.; Bustin, Carter, F.; Clark, Connolly, Cox, Davies, Devoe, Fowle, Garsoe, Henderson, Howe, Huber, Hutchings, Jackson, Jensen, Mitchell, Najarian, Nelson, M.; Quinn, Raymond, Rideout, Sprowl, Tozier, Truman, Valentine.

NAY — Aloupis, Austin, Bagley, Beaulieu, Bennett, Berube, Biron, Birt, Blodgett, Boudreau, A.; Boudreau, P.; Brenerman, Brown, K. C.; Bunker, Burns, Carey, Carroll, Carter, D.; Chonko, Cote, Cunningham, Curran, Diamond, Dow, Drinkwater, Dudley, Durgin, Dutremble, Elias, Fenlason, Flanagan, Gill, Gillis, Goodwin, H.; Goodwin, K.; Gould, Gray, Green, Greenlaw, Hall, Hickey, Higgins, Hobbins, Hughes, Hunter, Immonen, Jacques, Jalbert, Joyce, Kane, Kany, Kelleher, Kerry, Laffin, LaPlante, Lewis, Littlefield, Locke, Lougee, Lynch, MacEachern, Mackel, Mahany, Marshall, Martin, A.; Masterman, Masterton, Maxwell, McBreairty, McHenry, McKean, McPherson, Moody, Nadeau, Nelson, N.; Norris, Palmer, Pearson, Peltier, Perkins, Peterson, Plourde, Post, Rollins, Shute, Silsby, Smith, Spencer, Stover, Stubbs, Tarr, Teague, Theriault, Tierney, Torrey, Trafton, Tyndale, Wilfong, Wood, Wyman.

ABSENT — Ault, Carrier, Churchill, Conners, Dexter, Gauthier, Kilcoyne, LeBlanc, Lizotte, Lunt, McMahan, Mills, Morton, Peakes, Prescott, Sewall, Strout, Talbot, Tarbell, Twitchell, Whittemore, The Speaker.

Yes, 29; No, 100; Absent, 22.

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

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

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

The SPEAKER pro tem: The Chair will order a vote. The pending question is on the motion of the gentleman from Lewiston, Mr. Biron, that the House reconsider its action whereby this bill failed of indefinite postponement. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

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

Mr. Wood of Sanford offered House Amendment "B" and moved its adoption.

House Amendment "B" (H-581) was read by the Clerk.

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

Mr. WOOD: Mr. Speaker, Ladies and Gentlemen of the House: I would like to say at the outset that I have a lot of problems in dealing with censorship. I consider myself a civil libertarian in fact, when I was reading the Miller versus California decision I couldn't help but think that I would like to agree with Justice Douglas in his dissenting opinion on pornography but I think that enough people in this state feel that there is a problem, that children and adults are being bombarded in the visual way with pornography and that something has to be done. I respect their wishes and, therefore, think that if we are going to pass a bill, that it has to be constitutionally tight and it has to do what people want it to do. So, I have spent about three or four days, in fact, I probably spent more days on this bill than my own bills trying to come up with an amendment that meets all of the constitutional criteria that were laid down in the Miller decision and yet also deals with the problem. The fruits of those labors are before you in the form of House Amendment 581.

I have shied away from using the definition of nudity as the factor in this case, I have used a definition of sexually explicit material. I think the most important reason why I shied away from nudity is that some of these magazines that we are dealing with might not have a nude picture on the cover. I can think of a recent issue of Horizon Magazine, which is a magazine for the intellectual elite of our country and this magazine had a picture of a painting by Andrew Wyeth of a nude female and this would be outlawed under this bill, yet, in no way, did that nude picture denote anything terrible or anything obscene and if we pass this bill without an amendment, we are saying that the nude body in and of itself is obscene. I think the Supreme Court has ruled that that type of generalization will not stand the test. So I have chosen to define it as sexually explicit material and I think if you will look at the definition, I have been pretty explicit about it. I have checked this out with the Attorney General's Office and the same people that rendered the decision earlier on the bill have said that this bill meets the constitutional requirements. I have also checked with a friend of mine who is a constitutional law expert and he said that it meets all those requirements... although he himself had strong feelings about this type of legislation. So I think if you are serious about doing something about the problem, then this

amendment is one of the ways of doing it. I hope and urge you to accept this.

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

Mr. BURNS: A question to the gentleman who offered the amendment. Would he please outline for us what is unconstitutional in the current bill in front of us?

The SPEAKER pro tem: The gentleman from Anson, Mr. Burns, poses a question through the Chair to the Gentleman from Sanford, Mr. Wood, who may respond if he so desires.

Mr. WOOD: Mr. Speaker, it is my understanding in the case of Manuel Enterprises Vs. Day in 1962, that the Supreme Court ruled that a nude figure in and of itself was not obscene. I realize we are not dealing with obscenity statutes but I haven't had time to look over the case but I think the same implications would be if a storeowner was brought into court and the justification for that storeowner having covered the magazine was because it contained a nude figure, I think the court would rule that that in itself is not grounds for covering that magazine.

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

Mr. BURNS: Mr. Speaker, Ladies and Gentlemen of the House: This is exactly what I tried to explain when we were dealing with the obscenity law that we have just accepted and are sending on to the other Body.

We skirted the obscenity definition in that bill purposely so that we would not be getting into the bailiwick of having to fight obscenity again. This bill does not address obscenity nor does it call nudity obscenity. We are saying that if there is a nude form on the front or inside of a book, then it will have to meet the requirements as outlined in the law or suffer the consequences thereof.

There is a distinct difference in these two bills. I hope I can get this point across. This would prevent the people from walking into a store, any store, a ma and pa store, or a shopping-center-or-anything-else,-and-being-confronted with nudity, not obscenity, but nudity.

Mr. Speaker, I move the indefinite postponement on this amendment and ask for the yeas and nays.

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

Mr. WYMAN: Mr. Speaker, Ladies and Gentlemen of the House: I certainly am, as you all are, very concerned about what we see as the proliferation of obscene material on the newsstands and drug stores, our corner grocery markets and how accessible this is to young people.

I had the opportunity to testify in favor of both bills, the bill presented by my good friend from Madison, Mr. Elias, and also the bill which was presented by Senator Hichens. I feel very strongly that we must have legislation which is going to at least make some effort. It may be regarded as a poor effort at that but we must make some attempt and it is very complex to prevent our children from viewing this material. However, in reading over L. D. 1851, in its present form, I find it to be unacceptable and I don't believe there is anyone here who is any more concerned, or feels any more strongly about this particular issue than I do but I do feel that we also must be very sensitive to the constitutional questions involved.

I am very sympathetic and I understand what my good friend Mr. Burns is trying to say. I believe he said it well. However, I believe that if we require that any material which depicts any portion of a nude figure must be covered and I don't believe we are really getting at the problem in this state that our people want to get at and that the people who circulated that petition are concerned about.

I hope that you would vote against indefinitely postponing this amendment. I have read the amendment and I am not a legal mind but I do believe that the amendment is more explicit, certainly more explicit in describing the kind of material that we do want to see covered. It is a good amendment and I hope you will support it.

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

Mr. HOWE: Mr. Speaker, Members of the House: The amendment before you now certainly makes this bill for less in scope than the original bill. Somebody mentioned that the people who run adult book stores can restrict minors and that is fine I am not the least bit concerned about people running adult book stores. I am concerned about the people who sell Time Magazine or a paper back book on breast feeding who are going to be harassed by this type of legislation. The committee skirted the whole issue of obscenity because it is terribly complex.

The United States Supreme Court has been wrestling with this question for 20 years and I don't know that they yet have resolved the issue in their own minds and not certainly for the rest of us. But I reject the notion of passing a piece of simplistic legislation because we can't deal with that. I think that 1861 does deal with that and I think that if we are going to pass 1857, in any form, that Mr. Wood's amendment tries to deal with that in a way that is not going to harass legitimate bookstore operators. I am not the least bit concerned about adult magazines, wouldn't waste my money on them, but I showed you a number of pieces of literature the other day that could be found in any bookstore in the state and a lot of pieces of literature like them, that none of us, I submit, would be afraid to have in our homes, in front of my six year old daughter or my one year old daughter. I don't think we ought to be passing a piece of legislation that is so broad in its scope that we are going to infringe upon that sort of literature.

I think the constitutional question in L. D. 1854 is not that we are calling nudity obscene. Mr. Burns is correct, we are not. I think the constitutional issue is that this piece of legislation will have such a chilling effect on the legitimate bookstore operators of this state they may simply stop carrying certain types of literature for fear that they may come under the scope of this bill and that is de facto censorship and I think the bill in its present form will run into very serious constitutional problems for that reason. So, if we are going to pass the bill, I do hope we pass it with Mr. Wood's amendment.

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

Mr. NADEAU: Mr. Speaker, I would like to pose a question to the gentleman from Sanford Mr. Wood. On the second page of the amendment, Part B, Minor, Part 4, effective date, I would like to ask the gentleman why this sec-

tion would become null and void after January 1, 1983?

The SPEAKER pro tem: The gentleman from Sanford, Mr. Nadeau, poses a question through the Chair to the gentleman from Sanford, Mr. Wood, who may respond if he so desires.

The Chair recognizes the gentleman.

Mr. WOOD: Mr. Speaker, it is my feeling in dealing with those issues that they change, that social values and our attitudes change and we become sometimes less enlightened and sometimes more enlightened and when you are dealing with a piece of legislation like this, there is nothing wrong with reviewing it every so often to make sure that it meets our standards.

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

Mr. BIRON: Mr. Speaker, Ladies and Gentlemen of the House: In reference to House Amendment B which was proposed by Mr. Wood of Sanford; in reading this amendment, and I understand the problems that some of you might have with this legislation, Subsection A on the first page, which deals with the explicit sexual material, means material which to the average individual applying contemporary community standards, that is the whole problem. If we do not define what it is, then we are back in the courts. If you accept this amendment, every book will be going to the courts and we won't be covering any of these books because the Supreme Court of the United States has not defined what a community is and the word community is used in this amendment so I would suggest that you not support this amendment before you.

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

Mr. GREEN: Mr. Speaker, Men and Women of the House: Just very briefly, I would just respond to the comment made by the good gentleman from Lewiston, Mr. Biron and that is that if the bill passes, in its present form, you are going to have far more books going to court than this amendment.

In reviewing this amendment, very briefly, I am not an attorney, but I would just urge you all to take a look at it very carefully and Section A, Part 1, does in fact deal with community standards, its kind of a vague term, but it is nonetheless I think better than what you have in the present bill. Part 2 of that is the crux of this amendment and I think the crux of the amendment gets to define what explicit sexual material is. It is not perfect but it is certainly better than what you have in the present bill and I urge you to support the amendment.

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

Mr. GOODWIN: I would like to address a question to the gentleman from Anson, Mr. Burns.

Maybe I might have voted wrong on this first vote, but if we indefinitely postpone this present amendment as he has moved, does that mean that books such as, members of the House here know that my wife is pregnant and we have a lot of books lying around the house on breast feeding and newborns and everything else, it just seems to be incomprehensible to me that, under the bill as written, without this amendment, if I understand it, if inside those books there are pictures of breast feeding and new-

born babies and everything else that goes along, are these going to have to be covered on a bookstore shelf? This is incredible.

The SPEAKER pro tem: The gentleman from South Berwick, Mr. Goodwin, poses a question through the Chair to the gentleman from No. Anson, Mr. Burns, who may respond if he so desires.

The Chair recognizes that gentleman.

Mr. BURNS: As the Bill reads without the amendment, the books, if they depict the material on the front of it, would have to be covered. They could be covered by any material, another magazine, or another book, and as the bill is currently written, if it has material inside of the book, it must be sealed, and sealing could be just merely scotch tape around it.

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

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

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

Mr. VALENTINE: Mr. Speaker, I would like to pose a question through the Chair to the gentleman from Anson, Mr. Burns.

Who is it that is going to review each piece of literature to determine what is between the covers, what is the vehicle or mechanism for reviewing all the different material that is published and carried in stores?

The SPEAKER pro tem: The gentleman from York, Mr. Valentine, has posed a question through the Chair to the gentleman from Anson, Mr. Burns, who may respond.

Mr. BURNS: It isn't necessary, except the storeowner to be sure he is protected.

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

Mr. HOWE: Mr. Speaker, Members of the House; Precisely the point. The poor bookstore owner is going to have to flip through every issue of Time Magazine to make sure there isn't a little picture of a topless waitress being arrested, every book on breast feeding to make sure there isn't a bare breast, every issue of Newsweek to make sure there isn't a picture of that famous suntan lotion ad with the bare bottom. That is the problem with the bill and that is the problems that are going to be caused for the bookstore owners, and that is who is going to have to reveal every piece.

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

Mr. SPENCER: Mr. Speaker, Ladies and Gentlemen of the House: I would urge you to vote against the indefinite postponement of the amendment. As I read the original bill, even a photographic depiction of a two-year-old girl in a diaper on the cover of a baby magazine would have to be covered under the draft of the original bill. I think that, as Representative Howe's speech suggested and as some of these examples indicate, we are ending up going back to a period where you have to put green plastic fig leaves on Michelangelo's statues. I think that that is a terrible step for this state to take. It seems to me that there has to be con-

stitutional problems with a bill that would require that you seal every magazine that has a picture of a female baby in a diaper. It seems almost inconceivable to me that that would meet the standards that have been established.

I think that this amendment, while it probably does not go as far as some people would like, this amendment does put this bill in a posture where we really are talking about hard-core pornography. I think that looking through almost every magazine, not every magazine but Mademoiselle and all those magazines all have pictures of little babies in diapers, and the idea that they should all have to be sealed just seems to me to be very far-fetched. So I would urge you to vote against indefinite postponement of the amendment so that we can get this bill in a posture where we are really dealing with the problems of hard-core pornography.

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

Mr. BURNS: Mr. Speaker, Ladies and Gentlemen of the House: With the adoption of House Amendment "B", if this goes through, I would move for indefinite postponement of the entire bill and all its accompanying papers. Exactly what you are doing is making another bill that we just passed on down to the Senate. This definition that is in here is exactly what you just passed a few minutes ago. It would be exactly the same thing; you would have a duplication of the law. This is what we are trying to stay away from.

In reply to the people who are getting all bent out of shape because we may bar some art in this area, there is no other way that our committee can come up with that we could handle this. Let me remind you, there are 5,000-plus people that have come to our committee and told us that they want the adult magazines removed from view within the store. This is the exact question. As far as obscenity, that is dealt within the other bill. The question we have got to answer here is, do we want to go along with the people who have asked us to remove the adult magazines from view? We have not said you cannot sell them. They would be available to the adult. Do we want to answer what they have asked us, or do we want to sweep it under the carpet and forget about it?

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

Mr. GOODWIN: Mr. Speaker, Men and Women of the House: I am just looking around my desk here to see what there is. I picked up this Maine Times of last week. There is a picture of Deering Oaks. I think this is a boy, by the short hair, it looks like it might be a boy, but if that were a girl, that would be obscene. All of these Maine Times would have to be sealed under the original bill. In the Portland Press Herald, today's paper right here, "Mom tries a new kind of dryness from Johnson & Johnson". It is a baby with just a diaper on. If it is a girl, it would have to be sealed up.

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

Mrs. MARTIN: Mr. Speaker, Ladies and Gentlemen of the House: I think you people are going a little bit too far. You are getting to be more outgoing. We don't have to be square or round to know what this bill is going to do. I think you are just carrying it out of proportion. Everybody has baby pictures at home.

everybody has a baby picture on a rug. I bet all of you have a picture on a rug somewhere along the line, and I bet you show it too.

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

Mr. BIRON: Mr. Speaker, Ladies and Gentlemen of the House: I agree with Mrs. Martin in that some of the members of this body are taking this legislation a little too far. You have to remember that earlier this morning we passed a bill which dealt with the definition of obscenity and who would make that determination. I am not an attorney, but if I understand what we passed this morning, if someone should come into your place of business and you have a book which deals with breast feeding and you didn't cover it, there is no court in the land that is going to find you guilty for obscenity. All we are trying to do here is address the real problem. Don't run around saying that we are going to be covering up little babies and therefore we are not going to do anything about the problem. We have got another bill which we passed in this body which has explained who will make the determination. Therefore, if you have something in your store that you don't think should be covered, don't cover it. If the court finds you guilty, then you are guilty, but we are going to get to those people who are displaying those magazines to our kids. That is what this bill is designed to do. Don't give me the arguments about the babies and all that garbage, and that is a good word for it, you have got to address the problem and address it now. If you have got a book that you don't think is obscene, it is a work of art, don't cover it. The court will rule that you are right and there is no problem. If you don't do anything, and you can all smile and kill this legislation if you want to, but you are still going to have the books on the shelves. It is a hard thing to do to make these decisions, I agree with you, but somebody has got to do it.

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

Mrs. POST: Mr. Speaker, Men and Women of the House: I would like to remind the representative who just spoke that the courts unfortunately or fortunately have to interpret the laws that this body passes. If this body says that any picture of any child of any age is obscene, then the courts have to interpret that. Unfortunately, we here cannot deal with philosophy. We then have to try to take our philosophy and put it into words and that is what we are dealing with. Maybe it sounds silly, but I think it would be pretty silly to go home and have Redbook Magazine or Reader's Digest have to be sealed. That is what this bill that we are dealing with now says. It may not mean what any of us want, but that is what it says.

This is a very difficult situation to try to deal with on the floor of the House. I know that there are some problems with the pending amendment. It is much better than a bad bad bill. When you have a bill that says you have to seal Reader's Digest, and that is not necessarily one of my favorite magazines, I think that is absolutely insane. We have had a lot of other pictures here and I would ask you to maybe look on page 13 of the State Legislatures, for those of you who don't like Maine Times and think it ought to come in a brown wrapper, on page 13 there is a picture of the statute of liberty. You might want to decide if that is or is not an opa-

que covering. I think actually the interpretation of the law without Mr. Wood's amendment, this also would have to come sealed.

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

Mr. CARROLL: Mr. Speaker, Ladies and Gentlemen of the House: What I have got to say won't take but a minute. All they have got to do is read the record of the legislative intent. The legislative intent is to get the smut books off the knee high level shelves so that I or somebody of my family can buy a magazine without being embarrassed. That is what you are when you go into any store today. The legislative intent is to get them off the shelves and get them out of sight. All an attorney has got to do is read the legislative debate in this House so they know what our intent is. What are we hanging around for? We will be throwing snowballs in December if we don't get going!

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

Mr. SPENCER: Mr. Speaker, Ladies and Gentlemen of the House: I hesitate to disagree with my good friend from Limerick, but the court is only permitted to look at the legislative intent if the words of the statute are ambiguous. If the words of the statute are clear on their face, then the legislative history may not be considered by the court in interpreting those words. This is, in fact, the first case that almost everyone reads when they go to law school.

The bill as it is written defines nudity. Included in that definition is any depiction of the lower portion of the female breast. That includes by definition here, a two year old female baby sitting in a diaper with somebody putting baby oil on the child's back. It includes the things that have been alluded to. If we pass that, that is what this law says. I think that the amendment is necessary to eliminate a host of problems and to avoid making the legislature the laughing stock of the people of this state.

The SPEAKER pro tem: A roll call has been ordered. The pending question is on the motion of the gentleman from Anson, Mr. Burns, that House amendment "B" be indefinitely postponed. All those in favor will vote yes; those opposed will vote no.

ROLL CALL

YEA — Austin, Berube, Biron, Brown, K. L.; Brown, K. C.; Burns, Carroll, Carter, D.; Durgin, Flanagan, Gould, Gray, Hunter, Immonen, Joyce, Lewis, Masterman, McPherson, Peterson, Rollins, Shute, Smith, Torrey, Tynedale.

NAY — Aloupis, Ault, Bachrach, Bagley, Beaulieu, Bennett, Benoit, Berry, Birt, Blodgett, Boudreau, A.; Boudreau, P.; Brenerman, Bunker, Bustin, Carter, F.; Chonko, Clark, Connolly, Cote, Cox, Cunningham, Curran, Davies, Diamond, Dow, Drinkwater, Dudley, Dutremble, Elias, Fenlason, Fowlie, Garsoe, Gill, Gillis, Goodwin, H.; Goodwin, K.; Green, Greenlaw, Hall, Henderson, Hickey, Higgins, Hobbins, Howe, Huber, Hughes, Hutchings, Jackson, Jacques, Jalbert, Jensen, Kane, Kany, Kelleher, Kerry, Kilcoyne, Laffin, LaPlante, Littlefield, Locke, Lougee, Lynch, MacEachern, Mackel, Mahany, Marshall, Martin, A.; Masterton, McBreairty, McHenry, McKean, Mitchell, Moody, Morton, Nadeau, Najarian, Nelson, M.; Nelson, N.; Norris,

Palmer, Pearson, Peltier, Perkins, Plourde, Post, Prescott, Quinn, Raymond, Rideout, Silsby, Spencer, Sprowl, Stover, Strout, Stubbs, Tarr, Teague, Theriault, Tierney, Tozier, Trafton, Truman, Twitchell, Valentine, Whittemore, Wilfong, Wood, Wyman.

ABSENT — Carey, Carrier, Churchill, Conners, Devoe, Dexter, Gauthier, LeBlanc, Lizotte, Lunt, Maxwell, McMahon, Mills, Peakes, Sewall, Talbot, Tarbell.

Yes, 24; No, 109; Absent, 17.

The SPEAKER pro tem: Twenty-four having voted in the affirmative and one hundred nine in the negative, with seventeen being absent, the motion does not prevail.

Thereupon, House Amendment "B" was adopted.

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

Mr. BURNS: Mr. Speaker, Ladies and Gentlemen of the House: I move this bill and all its accompanying papers be indefinitely postponed. This is exactly the same bill that we passed a few minutes ago and we sent down to the Senate.

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

Mr. MARSHALL: Mr. Speaker, Ladies and Gentlemen of the House: I don't believe this is the same bill that we sent down to the other body earlier today. I think the bill, as it has been indicated by the last vote, is in a position that is acceptable to the majority of the members of this House and I urge you to vote against the motion to indefinitely postpone and do away with this thing.

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

Mr. JENSEN: Mr. Speaker: I request a roll call.

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

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

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

Mr. BIRON: Mr. Speaker, if I may address a question through the Chair to Mr. Burns from Anson, the bill that we was passed this morning, does it provide for the covering of materials on the shelves where this bill does?

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

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

Mr. MARSHALL: Mr. Speaker, in looking at the bill, which I just did a couple of minutes ago, it prevents the dissemination. It does not say in what manner that dissemination will be prohibited.

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

Mr. BURNS: Mr. Speaker, Ladies and Gentlemen of the House: The bill that we sent down a short while ago prevents the dissemination of obscene matters to minors. The exhibition thereof would be the showing or exhibiting to minors. What we have incorporated in this bill now is exactly what we were trying to get away from in the Legal Affairs Committee. We are trying to make a difference between obscenity and nudity or that as depicted by the adult magazines. You have seen fit to adopt this amendment to the bill which makes it identical to the bill that we just sent down.

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

Mr. BIRON: Mr. Speaker, Ladies and Gentlemen of the House: I would urge you not to support this motion because, in my opinion, the bills are not identical. This bill does deal with the problem that was brought to the committee that I sit on, and that is the covering of the material in the different stores. That is what is being voted on now.

I agree with Mr. Burns to a point on the amendment. I was not in favor of the amendment but I will not vote to kill this legislation at this point and I don't think you should either. If we have addressed the problems which some of you were concerned with, and I disagree that there were problems in those areas, if we have addressed those problems through the amendment, I urge all of you to now support this bill as amended and not vote for indefinite postponement.

Mr. Burns of Anson was granted permission to speak a third time.

Mr. BURNS: Mr. Speaker, Ladies and Gentlemen of the House: This is the last time on my feet on this because I could care less what happens from here on down. I tried to explain to you that this is identical to what we had before. With the adoption of this amendment, we have allowed the placing in front of every child or anyone else in the state almost any nudity they want to put out there. It will be impossible for you to prove this obscene. This is exactly what you are doing here. You are saying this material is obscene. Playboy, Penthouse and even Hustler can escape what we have here.

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

ROLL CALL

YEA — Aloupis, Bachrach, Berry, Brown, K. L.; Brown, K. C.; Burns, Bustin, Carter, D.; Carter, F.; Connolly, Cunningham, Dudley, Dutremble, Fowlie, Garsoe, Gill, Gillis, Gould, Henderson, Howe, Huber, Hughes, Hutchings, Immonen, Jackson, Kilcoyne, Masterton, Najarian, Rollins, Sprowl, Tozier, Truman.

NAY — Ault, Austin, Bagley, Beaulieu, Bennett, Benoit, Berube, Biron, Birt, Blodgett, Boudreau, A.; Boudreau, P.; Brenerman, Bunker, Carroll, Chonko, Clark, Cote, Cox, Curran, Davies, Diamond, Dow, Drinkwater, Durgin, Elias, Fenlason, Flanagan, Goodwin, H.; Goodwin, K.; Gray, Green, Greenlaw, Hall, Hickey, Higgins, Hobbins, Hunter, Jacques, Jalbert, Jensen, Joyce, Kane, Kany, Kelleher, Kerry, Laffin, LaPlante, Lewis, Littlefield, Locke, Lougee, Lynch, MacEachern, Mackel, Mahany, Marshall, Martin, A.; Masterman,

McBreairty, McHenry, McKean, McPherson, Mitchell, Moody, Morton, Nadeau, Nelson, M.; Nelson, N.; Norris, Palmer, Pearson, Peltier, Perkins, Peterson, Plourde, Post, Prescott, Quinn, Raymond, Rideout, Shute, Silsby, Smith, Stover, Strout, Stubbs, Tarr, Teague, Theriault, Tierney, Torrey, Trafton, Twitchell, Tyndale, Valentine, Whittemore, Wilfong, Wood, Wyman.

ABSENT — Carey, Carrier, Churchill, Connors, Devoe, Dexter, Gauthier, LeBlanc, Lizotte, Lunt, Maxwell, McMahon, Mills, Peakes, Sewall, Spencer, Talbot, Tarbell.

Yes, 32; No, 100; Absent, 18.

The SPEAKER pro tem: Thirty-two having voted in the affirmative and one hundred in the negative, with eighteen being absent, the motion does not prevail.

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

At this point, Speaker Martin returned to the rostrum.

Speaker MARTIN: The Chair thanks the gentleman from Stonington for acting as Speaker pro tem.

Thereupon, the Sergeant-at-Arms escorted Mr. Greenlaw to his seat on the Floor, amid the applause of the House, and Speaker Martin resumed the Chair.

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

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

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

Pending — Passage to be Engrossed.

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

Mrs. TARR: Mr. Speaker, Ladies and Gentlemen of the House: I know this has been tabled for a couple of days. I was trying to work out an amendment for the bill. I will just review briefly what this bill does. This prohibits the commission's approval of any fuel cost increase charged to utility customers unless the utility files for an increase with the Public Utilities Commission. This deals with the fuel adjustment clause. It just was beyond amending.

I have talked to our Chairman of the Public Utilities Committee. I thought that we had another bill in committee still that would be coming to the floor. I don't see how you can expect the utilities not to pass an increase in costs of fuel to the customer. This bill would do away with that. They would have to come in once a year for a rate increase. I just don't think this is a workable bill. If the other one is not going to come out of committee, and I guess it isn't, I would move indefinite postponement of this bill.

The SPEAKER: The Chair will order a vote. The pending question is on the motion of the gentlewoman from Bridgton, Mrs. Tarr, that this Bill and all accompanying papers be indefinitely postponed. All those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

37 having voted in the affirmative and 56 having voted in the negative, the motion did not prevail.

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

The Chair laid before the House the seventh

tabled and today assigned matter:

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

Tabled — June 10, 1977 by Mr. Henderson of Bangor.

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

On motion of Mr. Henderson of Bangor, retabled pending the adoption of Committee Amendment "A" and tomorrow assigned.

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 10, 1977 by Mrs. Post of Owl's Head.

Pending — Passage to be engrossed. On motion of Mr. Greenlaw of Stonington, tabled pending passage to be engrossed and tomorrow assigned.

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

HOUSE DIVIDED REPORT — Majority (8) "Ought to Pass" in New Draft: (H. P. 1656) (L. D. 1854) — Minority (5) "Ought Not to Pass" — 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)

Tabled — June 10, 1977 by Mr. Palmer of Nobleboro.

Pending — Motion of Mr. Spencer of Standish to Accept the Minority "Ought Not to Pass" Report.

On motion of Mr. Palmer of Nobleboro, retabled pending the motion of Mr. Spencer of Standish to accept the Majority "Ought Not to Pass" Report and tomorrow assigned.

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

Bill, "An Act Concerning Registration on Election Day" (H. P. 1664) (L. D. 1864)

Tabled — June 10, 1977 by Mrs. Boudreau of Portland.

Pending — Passage to be engrossed. Mrs. Boudreau of Portland offered House Amendment "C" and moved its adoption.

House Amendment "C" (H-616) was read by the Clerk and adopted.

Mrs. Huber offered House Amendment "B" and moved its adoption.

House Amendment "B" (H-615) was read by the Clerk.

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

Mr. PEARSON: Mr. Speaker, I can't seem to locate that amendment. I would ask the gentlelady to explain it, please.

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

Mrs. HUBER: Mr. Speaker and Members of the House: House Amendment "B" is an effort to insure that there is no fraudulent voting on election day. I think we have all been following the wrestling that has been going on on the national level with the President's proposal to permit nationwide registration on election day, and I think there is the same concern that many of us have felt exists, and that is, how can we possibly keep people from voting more than once? Certainly it is their right to vote once;

however, it is not their right to vote more than once.

This proposal would basically say that when a person came to the polls, they would be checked by the clerks with an ultra-violet flashlight. This is an existing mechanism. If they did not have a mark on either of their hands, an invisible mark, the clerk would then so mark one of their hands and that person would proceed to vote.

This suggestion has been made at the national level by a Democratic Congressman. It is a system that is used, I believe, in India and in Costa Rica as well and it does, obviously, keep people from voting more than once.

I would hope that you would adopt this amendment. I have done a little checking and I find there is no problem in terms of sensitivity. The bill is kind of long and basically just says that if, for instance, a person who was a double amputee came to the polls, then the Secretary of State would have laid out some other place for the mark to be made. I checked with the Secretary of State as well and he has no objection to this provision, so I would urge the adoption of the amendment.

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

Mr. TIERNEY: Mr. Speaker, I haven't gone through a process like this since I stopped going to high school dances. It seems that everybody is going to have to have their hands marked with indelible ink, and I think it is one of the silliest things I have ever heard of. I move that this amendment be indefinitely postponed.

The SPEAKER: The Chair will order a vote. The pending question is on the motion of the gentleman from Lisbon Falls, Mr. Tierney, that House Amendment "B" be indefinitely postponed. All those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

64 having voted in the affirmative and 24 having voted in the negative, the motion did prevail.

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

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

Bill, "An Act to Clarify Physician Certification of Patient Deaths in Maine Nursing Homes" (S. P. 408) (L. D. 1416) (C. "A" S-189)

Tabled — June 10, 1977 by Mr. Goodwin of South Berwick.

Pending — Acceptance of the Committee Report.

Thereupon, the Report was accepted and the Bill read once.

Committee Amendment "A" (S-408) was read by the Clerk.

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

House Amendment "A" to Committee Amendment "A" (H-605) was read by the Clerk and adopted.

Committee Amendment "A" as amended by House Amendment "A" thereto was adopted and the Bill assigned for second reading tomorrow.

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

SENATE DIVIDED REPORT — Majority (9) "Ought Not to Pass" — Minority (4) "Ought to Pass" as Amended by Committee Amendment "A" (S-213) — Committee on Agriculture on

Bill "An Act Concerning Euthanasia of Cats and Dogs" (S. P. 333) (L. D. 1092) — In Senate, Minority "Ought to Pass" Report Read and accepted and Bill Passed to be Engrossed as Amended by Committee Amendment "A" (S-213).

Tabled — June 13, 1977 by Mr. Tierney of Lisbon Falls.

Pending — Acceptance of Either Report.

Mr. Mahany of Easton moved that the Majority "Ought Not to Pass" Report be accepted in non-concurrence.

On motion of Mr. Tierney of Lisbon Falls, tabled pending the motion of Mr. Mahany of Easton to accept the Majority Report in non-concurrence and tomorrow assigned.

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

HOUSE DIVIDED REPORT — Majority (12) "Ought Not to Pass" — Minority (1) "Ought to Pass" — Committee on State Government on Bill "An Act to Provide a Temporary Disability Plan for State Employees" (H. P. 1248) (L. D. 1470)

Tabled — June 13, 1977 by Mr. Palmer of Nobleboro.

Pending — Acceptance of Either Report.

On motion of Mr. Curran of South Portland, the Majority "Ought Not to Pass" Report was accepted and sent up for concurrence.

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

SENATE REPORT — "Ought to Pass" as Amended by Committee Amendment "A" (S-205) — Committee on Transportation on Bill, "An Act Relating to Motor Vehicle Fees Collected by the Public Utilities Commission" (S. P. 92) (L. D. 216)

Tabled — June 13, 1977 by Mrs. Tarr of Bridgton.

Pending — Acceptance of the Committee Report.

On motion of Mr. Carroll of Limerick, retabled pending acceptance of the Committee Report and tomorrow assigned.

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

Bill, "An Act to Expedite Court Handling of Fish and Wildlife Violations of a Misdemeanor Nature by a System of Convenient Payment" (H. P. 865) (L. D. 1053)

Tabled — June 13, 1977 by Mr. Dow of W. Gardiner.

Pending — Passage to be Engrossed.

Mr. McKean of Limestone offered House Amendment "A" and moved its adoption.

House Amendment "A" (H-609) was read by the Clerk and 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 sixteenth tabled and today assigned matter:

HOUSE DIVIDED REPORT — Majority (11) "Ought to Pass" as Amended by Committee Amendment "A" (H-559) — Minority (2) "Ought to Pass" as Amended by Committee Amendment "B" (H-560) — Committee on Education on Bill "An Act Relating to Approving and Financing School Construction" (Emergency) (H. P. 477) (L. D. 583)

Tabled — June 13, 1977 by Mr. Greenlaw of Stonington.

Pending — Motion of Mr. Lynch of Livermore Falls to accept the Majority "Ought to Pass" Report.

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

Mr. BIRT: Mr. Speaker, Ladies and Gentlemen of the House: There are two reports before you today and I will try to give you the difference between them. Actually, they are almost identical, with the exception of one particular area, and that is, what is the local share?

Under the law that was passed in the original 1994, school construction was handled entirely at the state level through a combination or mix of the uniform property tax and state funding. That got pretty well out of hand because of several reasons and there had to be a moratorium established. One of the big objections which developed at that time was the fact that there was no local visibility. There was a lot of feeling in a lot of areas of the state that schools were built with a good deal more expensive building and a good deal more money involved and invested in it than probably was necessary.

There was a study held a couple of years ago in which there was an attempt to review the entire philosophy of school construction. At that time, the concept developed to try to put the thing on a pay as you go basis as far as the state's share was concerned. In order to effectively be able to do that, it would require a good deal of state money. As we all know, that state money has not become available. Surpluses have been reduced a great deal and we are operating on a much tighter budget flow than we were previously.

There were two bills submitted to the committee this year. One of them has been reported out "ought not to pass" which would have attempted to face up to the local share concept. The other bill that was introduced had a five mill local share, that the local had to come up with 5 percent or one mill of the cost of the building, whichever is lower. The second amendment to the bill is to raise this to 10 percent or 2 mills.

There are some other provisions in the bill, in the two amendments, and they are identical respect, in that the legislative body has to be responsible for indicating that they will have to assume the startup costs. When you transfer from one building to another, into a new building, there are a good deal of startup costs, and this has been somewhat of a problem. Schools are coming back and saying, we don't have the money to fund the startup costs. The startup costs would be such things as increased fuel, increased insurance, increased janitorial services and other things that the new building would be involved in. These are identical in the two bills.

The major issue we are facing today is the decision on how much local effort should be made. When 1994 was passed, the State of Maine involved themselves in a decision on funding all of school construction. They were the only state in the country at that time that had gone that far in the whole school funding to take up school construction. I believe Hawaii may be the other one, but they entirely fund all of its school education from the state level. Maryland did try this same endeavor, but they very quickly found that it was too expensive.

I think the major thing that we have today is trying to put a little bit of a handle on school construction, and the decision should be as to how much local effort. Actually, in a good many cases, even at 10 percent or 2 mills, it is not an extreme amount of money for a local area to come up with. You take a large school like Jay, which is in right now for a \$1,410,000 building with a valuation of \$120 million, just a little over one mill, and this could be easily raised in one year, they could take care of their share under the majority report. Two mills, which would be about \$242,000, which would not be a major effort or, in this case, 10 percent of the building and 10 percent of the building would be the lower of the two, \$141,000, which wouldn't be much over one mill, they could handle this in one year. This is true in many cases. I don't think the 10 percent or 2 mills is an excessive amount to expect a community to raise in order to get a new building, figuring that prior to 1973, they raised the entire cost of the building and were reimbursed for part of the school construction.

The motion presently before you is to accept the Majority Report. I would hope you would reject this and then we can accept the Minority Report, and the major decision will be on how much local effort you want to make or how much visibility you want to build into these programs to affect the thinking of the local people.

The SPEAKER: The pending question is on the motion of the gentleman from Livermore Falls, Mr. Lynch, that the Majority "Ought to Pass" Report be accepted. All those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

62 having voted in the affirmative and 14 having voted in the negative, the motion did prevail.

Thereupon, the Bill was read once. Committee Amendment "A" (H-559) was read by the Clerk and adopted and the Bill assigned for second reading tomorrow.

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

Bill, "An Act Creating the Maine Development Foundation" (H. P. 1012) (L. D. 1243) (C. "A" H-535)

Tabled — June 13, 1977 by Mr. Curran of South Portland.

Pending — Passage to be Engrossed.

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

Ms. BACHRACH: Mr. Speaker, Men and Women of the House: This is the bill I spoke to you about on Friday, I believe it was, relative to the Maine Development Foundation. This is a bill which sets up another planning and economic development layer on top of the ones we already have. The present Part I Current Services Budget has a budget figure for the State Development Office of \$392,000 for this year, and for next year, \$399,000. In addition, the State Planning Office has a budget for this year of almost \$457,000 and for next year, \$450,000. I feel that these two entities can very well accomplish the same thing that is intended under the Maine Development Foundation and save the state a good deal of money, also, another layer of bureaucracy which we all seem to be trying to fight and yet these things keep creeping in repeatedly.

If the Economic Development Office cannot do the job of promoting development of business in the state, then perhaps we should have the State Development Foundation in-

stead, but I submit to you that the development office is already in place and should be put this type of job in order to accomplish the purpose intended.

In an effort to perhaps justify the creation of yet another development entity, I attempted to amend this bill saying that not until the funds which were to be expended as designated by this foundation were actually in place would the foundation commence its operation. But I have been advised by the Speaker that this amendment is not germane to the particular bill under discussion and therefore I would move the indefinite postponement.

The SPEAKER: The gentlewoman from Brunswick, Ms. Bachrach, moves that this bill and all its accompanying papers be indefinitely postponed.

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

Mr. CURRAN: Mr. Speaker, Ladies and Gentlemen of the House: I rise to support the 12 to 1 committee report, "Ought to Pass," on the Maine Development Foundation, and perhaps it might be well for me to give you a brief description of what this particular foundation is going to do.

I guess the principal difference here is that we are creating a non-profit, private corporation, and that is perhaps why it wouldn't fit into the State Planning or into the State Development Office. It is a non-private corporation with a public purpose. It is a cooperative effort between government and the private sector to focus professional expertise on some of our existing economic problems, economic development, by combining the best resources of state government and the private sector. It would add new capabilities to the existing efforts of the state, the cities and the towns and local development organizations to attract out-of-state industry.

Some of the areas they will be dealing with will be marketing, business development, financial assistance, management assistance, technical assistance. It would assist mostly Maine businesses to get appropriate financing and help them evaluate their business prospects, prepare financial and business plans for potential investors and find potential sources of capital.

There is a membership fee to belong to this foundation, and this may be where it is going to fail or become a success. The dollars that are appropriated in the bill from the state are matching dollars. When the private sector kicks in a dollar toward the foundation, then the state would kick in a dollar, to a maximum of \$250,000. So if we find after passing this particular piece of legislation that there isn't the private interest, and, by the way, it was expressed at the hearing by Maine businessmen that they are interested in this, the state is not going to be expending dollars unless the private sector does likewise.

It has a board made up of private and public members and their chief responsibility is going to be to expand the economic tax base by getting business in Maine, getting businesses already located here expanded.

The last week, we have talked about unemployment, we have talked about the minimum wage, we have talked about welfare. Well, I think this is an attempt to perhaps help remedy some of those problems.

The Maine Development Foundation comes to us from the Task Force on Economic Develop-

ment. It is part of three bills that will be coming before this House, the Capital Corporation and one which redefines some of the financing mechanisms of the state, and I urge you to support the Maine Development Foundation and see if we can't improve the economic status of our state.

The SPEAKER: The Chair will order a vote. The pending question is on the motion of the gentlewoman from Brunswick, Ms. Bachrach, that this Bill and all its accompanying papers be indefinitely postponed. All those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

21 having voted in the affirmative and 50 having voted in the negative, the motion did not prevail.

Thereupon, the Bill was passed to be engrossed as amended by Committee Amendment "A" and sent up for concurrence.

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

Bill, "An Act Relating to Habitual Truants and School Dropouts" (H. P. 1650) (L. D. 1851) (H. "A" H-582)

Tabled — June 13, 1977 by Mr. Connolly of Portland.

Pending — Motion of Mr. Lynch of Livermore Falls to Reconsider Adoption of House Amendment "A" (H-582).

On motion of Mr. Lynch of Livermore Falls, retabled pending his motion to reconsider adoption of House Amendment "A" and tomorrow assigned.

The Chair laid before the House the following matter:

Bill "An Act to Provide Lifeline Electrical Services" (H. P. 1669) (L. D. 1867) (H. "A" 561) which was tabled earlier in the day and later today assigned pending further consideration.

On motion of Mr. Connolly of Portland, tabled pending further consideration and tomorrow assigned.

The Chair laid before the House the following matter:

Bill "An Act to Provide Relief from Extremely Burdensome Property Taxes" (S. P. 386) (L. D. 1331) tabled earlier in the day and later today assigned pending passage to be engrossed.

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

On motion of Mr. Tierney of Lisbon Falls, the House voted to take from the table the second tabled and unassigned matter:

Bill, "An Act Granting Implied Power to the Public Utilities Commission" (H. P. 295) (L. D. 352)

Tabled — March 16, 1977 by Mr. Tierney of Lisbon Falls.

Pending — Passage to be Engrossed.

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

By unanimous consent, ordered sent forthwith to the Senate.

On motion of Mr. Tierney of Lisbon Falls, the House voted to take from the table the twelfth and unassigned matter:

Bill, "An Act Relating to Judicial Review of Public Utilities Commission Decisions" (H. P. 226) (L. D. 290)

Tabled — May 31, 1977 by Mr. Tierney of Lisbon Falls.

Pending — Passage to be Engrossed.

Mrs. Sewall of Newcastle requested a vote on passage to be engrossed.

The SPEAKER: All those in favor of this Bill being passed to be engrossed will vote yes; those opposed will vote no.

A vote of the House was taken.

59 having voted in the affirmative and 21 having voted in the negative, the Bill was passed to be engrossed.

The SPEAKER: Is there objection to this matter being sent forthwith to the Senate?

Whereupon, Mrs. Sewall of Newcastle objected.

The SPEAKER: The Chair will order a vote. All those in favor of this matter being sent forthwith will vote yes; those opposed will vote no.

A vote of the House was taken.

63 having voted in the affirmative and 20 having voted in the negative, the rules are suspended.

Thereupon, the matter was sent forthwith to the Senate.

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(Off Record Remarks)

On motion of Ms. Bachrach of Brunswick,
Adjourned until nine o'clock tomorrow morning.