

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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KJ PRINTING
AUGUSTA, MAINE

HOUSE

Tuesday, June 21, 1977

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

Prayer by the Reverend William G. Grice of the First Congregational Church, New Gloucester.

The journal of yesterday was read and approved.

Papers from the Senate

The following Communication:

THE SENATE OF MAINE
AUGUSTA

June 20, 1977

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

The President today appointed the following members of the Senate to the Committee of Conference on Bill, "An Act to Amend the Membership and the Legislative Mandate of the Capitol Planning Commission" (H. P. 1128) (L. D. 1345):

Senators:

MORRELL of Cumberland
CHAPMAN of Sagadahoc
CARPENTER of Aroostook

Respectfully,

Signed:

MAY M. ROSS
Secretary of the Senate

The Communication was read and ordered placed on file.

The following Communication:

THE SENATE OF MAINE
AUGUSTA

June 20, 1977

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

The President today appointed the following members of the Senate to the Committee of Conference on Bill, "An Act to Provide for Legislative Confirmation of Gubernatorial Nominations to the Maine Human Services Council" (H. P. 723) (L. D. 856):

Senators:

COLLINS of Aroostook
TROTZKY of Penobscot
MINKOWSKY of Androscoggin

Respectfully,

Signed:

MAY M. ROSS
Secretary of the Senate

The Communication was read and ordered placed on file.

The following Communication:

THE SENATE OF MAINE
AUGUSTA

June 20, 1977

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

The President today appointed the following members of the Senate to the Committee of Conference on Bill, "An Act to Make Possible Property Tax Valuation Assistance to Local Officials" (S. P. 464) (L. D. 1607):

Senators:

JACKSON of Cumberland
WYMAN of Washington
FARLEY of York

Respectfully,

Signed:

MAY M. ROSS
Secretary of the Senate

The Communication was read and ordered placed on file.

Reports of Committees
Ought to Pass with
Committee Amendment

Committee on Local and County Government reporting "Ought to Pass" as amended by Committee Amendment "A" (S-250) on Bill "An Act Recognizing County Charters and Establishing County Charter Commissions" (S. P. 437) (L. D. 1648)

Came from the Senate with the Report read and accepted and the Bill indefinitely postponed.

In the House, the Report was read.

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

Mr. HENDERSON: Mr. Speaker, Ladies and Gentlemen of the House: I promise you that this is the last county bill you will see as far as this kind of stuff is concerned. I would like to just point out to you what the difference is in this as compared to a lot of other so-called county reform bills. This is the most modest of all. It is merely to allow the people from the local areas in each county to vote, if they wish, for a charter commission, and if they did, select such a commission and then that commission could propose a reorganization of the administration of the county. It could not in any way affect the powers of the county, and it could not in any way interfere with the budget process, both of which items this House has spoken on strongly already. But it could allow them to have more commissioners to rearrange the department head situation so that some may be appointed and some may be elected.

This commission would draw up a proposal, would send it back to the voters, and if the voters approved it, then it would be the same as a municipal home rule situation and a new organization of the counties in that area would be undertaken. So it is purely voluntary on the basis of the voters in that particular county. If counties are in any way going to be viable, in some areas their structures may have to change, and this is just providing a mechanism to do that. I do hope you will accept the "Ought to Pass" Report.

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

Mr. GILLIS: Mr. Speaker, I move this Bill and all its accompanying papers be indefinitely postponed in concurrence.

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

Mr. HENDERSON: Mr. Speaker, for one thing, I would ask for the yeas and nays now to save us some time later and, secondly, I would like to ask anybody if they would want to put on the record why they are opposed to letting the people in their own areas vote on changing their county structure. Why is anybody opposed to giving people the opportunity to discuss and make changes, and if not in their area, why would they wish to deny it in some other areas?

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

Mr. GILLIS: Mr. Speaker, Ladies and Gentlemen of the House: Mr. Henderson, I thought you would never ask. In reference to this document which is currently under consideration here, despite the unanimous recommendation of the Local and the County Government Committee. I find it impossible to justify the passage of this proposal. I have read this bill and it is my view that if it should become law it will only add confusion and in the already muddled state of affairs at the county level due to the mandations from the state level.

County government in Maine needs help, I can't disagree with that, they do need help. There have been many many words stated here on this floor during the past five or six months on the problems and so forth of county govern-

ment, but nothing has been done to modernize or strengthen this government level. Quite the contrary, legislation by this legislature in recent years has served to lessen the function of county government and to weaken their structure.

Back in the 60's, I believe it was, the local judicial functions of county governments were eliminated when the municipal court system was incorporated into the district court. That action not only stripped county government of one of its basic reasons for existence, but it also deprived the county government of the income which flowed from the courts through fines and fees.

I believe it was the last legislature that dealt another blow to county government in the enactment of legislation which removed the superior courts from the county jurisdiction, and again deprived county government of any further identification with this system. The counties have not only lost all of the income that they have previously enjoyed from the superior courts, but they further were humiliated by being forced to raise money to pay for the superior courts which had been taken away from them.

Proposals from organization of county government were vigorously represented in the last two legislatures prior to this, and it appeared for awhile that interim study efforts would produce meaningful proposals for bringing county government in Maine into at least the 20th Century. We have seen many of these proposals during this present session. Various ideas of greater home rule for counties were written in proposed legislation, relief for the counties from the mother hen, so to speak, and control by the legislature appeared in several concepts and it was expected by many that the Local County Government Committee would produce legislation that would at least make county government more meaningful, more responsible, to local needs, more independent of legislative oversight and more efficient. It appears to me that the best that the Local and County Government Committee has to offer is this document which contributes absolutely nothing to overcome any infirmities of county government.

The actions proposed in this bill do not name the solution of the problems of county government one whit nearer a resolution. The provisions are comparable to ordering a seriously crippled man to design and make his own set of crutches.

I call your attention to the final paragraph of this document. It reads: "The purpose of this act is to allow the counties to adopt and revise county charters. These county charters will allow counties to organize themselves to carry out the duties imposed on them by general law and will only relate to the internal administrative structure of county government. The charters will not allow counties to undertake any new duties or authority or to determine their budgets."

Let me repeat the last sentence: "The charters will not allow the counties to undertake any new duties or authority nor to determine their budgets." This legislature would be doing a disservice to the people of Maine by passing this legislation for which I cannot discern any requirement. I can report that I have not had a single request for such legislation from any of my constituents in Washington County, and the Washington County Board of Commissioners is opposed to the enactment.

What really worries me is the fact that should this legislation be enacted, it may preclude further examination and study of the real malady that affects county government. I feel this legislation is a mere coverup for vigorous actions that should have been taken in the area of county government reform and restructuring. This legislation has not only the potential

for the creation of widespread confusion and chaos within the local governmental structure of our state, but it also could result in extensive waste of county monies in the conduct of county-wise elections for support of boards and commissions for printing and other expensive incidentals for the implementation of this provision.

I suggest that the expertise within our legislature on county government go back to the drawing boards and design some really meaningful legislation that would establish a far greater degree of home rule to county government than currently exists, and I certainly would pitch in and help you if you so desire.

I reiterate that I move that this document be indefinitely postponed.

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

Mr. DRINKWATER: Mr. Speaker and Members of the House: The Waldo County charter came into being February 7, 1827; I have a copy of it in my hands. As far as I can find, it has not been updated since. What we felt in the Local and County Government Committee was that we should present something to the floor of this House that would allow the representatives from the different counties in the State of Maine to take home with them, back to their county, an instrument that they could, through a request of, I believe it is 20 percent of the voters in the last general election, petitioning the commissioners, or by the commissioners themselves, if they decided it was necessary, to have on the ballot of the next general election a referendum asking if they wanted to update the charter. If so, there would be a charter commission elected which would be picked from each of the towns and the one city in my case that we have, and of course in other places there would be more than one city, allow the voters in that area to vote.

I realize from sitting on the Local and County Government Committee that there are a lot of different opinions in different counties, we have different problems. I have some very good friends on that committee. Our problems are different and I realize that their problems are different. I think the only way that we are going to solve these problems is to go back to each individual county, and I think that this charter bill — in my opinion, this charter bill is the one way to do it and allow them to do what they want.

I have talked to my commissioners and all three of them are not in favor of this but they would go along with it because of the fact that it would give the people the opportunity to vote. But I have one commissioner also who feels we should go the way it is. But I have heard in my short time here, which has not been very long, I am a freshman, and I have heard many things come here on county government, I have heard a lot in the committee, I think it is time that we do something instead of talking about it.

I don't really think that all the direction needs to come from up here in Augusta, I think it can come from back home and come from the voters. I feel this charter bill is the best thing that we have come up with and I strongly urge you to defeat the motion on the floor.

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

Mr. LAPLANTE: Mr. Speaker, Ladies and Gentlemen of the House: This is one of the first county bills that I am speaking on that came out of the studies from local and county; one, because I was very new at it, and another, I wasn't quite satisfied with the others because we were legislating from here to the people what the county should do and what it should be for the people.

The legislature suggested many changes because they requested a study. I believe it was last year, that local counties should process and bring back to the legislature. Everybody has

had a lot of fun with these reports once they got to the floor. It seemed like a big joke that all this money was spent reviewing local county and some information was brought back to the floor. We all had a lot of fun, killed everything, so I don't see what we really accomplished.

There are a lot of differences in each county, and not one county can really perform the same duty for its people because of the areas involved, maybe the population involved, each county has to do a little something different for their people, and their people should demand various projects or solutions from their county government. Some county areas probably don't even need a county government because of the large metropolitan areas, many other areas that can be taken care of by other means.

This is an opportunity to let the people themselves, not to legislate for them, but let the people take a good look at their county government, because in many areas people have lost track of what county government really is, or really exists, except that they have to pay taxes to it. But they don't see this on their tax bill, it comes out of the town or the city, so people are just kind of apathetic about county government and nothing gets done about it, nobody looks at it, nobody reviews it, except the legislature, and we just keep putting laws for county government, pro or con, and we have a lot of fun with it. But the people in some counties suffer for this, and I don't think we should legislate from here.

Now, what is the problem with anyone allowing their own constituents in any area the real freedom to vote whether they need a third government or not? This should be their prerogative, and we, somewhere along the line, have to cut the umbilical cord and say, look, people, here is an opportunity to do what you feel you need from this particular government, or quasi-government. You need to register a deed, well, you probably don't even need a treasurer, probably just need an assistant to an administrator. You probably need two officers and maybe a county administrator for most counties.

So I really hope that you would not indefinitely postpone this. We should not play with the rights of citizens to look into their county government and try to start understanding that particular area. This is one opportunity that we should not be afraid of letting all the people have the right to vote on a quasi government, whether they need it or not, and I certainly hope that you do not indefinitely postpone this bill.

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

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

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

Mrs. BACHRACH: Thank you Mr. Speaker. Men and Women of the House: This bill, in a way, calls your bluff. If you are dissatisfied with county government and you don't like any of the other suggestions offered to you in this session or last, then I feel that there is no excuse but to let the counties decide what they themselves want to do.

As has been said by Mr. Gillis, the power and duties of the counties has been greatly eroded in the last few years, and unless they are to gradually dwindle away and disappear altogether, they should have an opportunity to make county government what they would like to have, and I hope that you will support this bill and defeat the indefinite postponement.

The SPEAKER: A roll call has been ordered. The pending question is on the motion of the

gentleman from Calais, Mr. Gillis, that this Bill, L. D. 1648, and all accompanying papers be indefinitely postponed. All those in favor will vote yes; those opposed will vote no.

ROLL CALL

YEA — Berry, Brown, K. L.; Bunker, Carrier, Carter, D.; Carter, F.; Conners, Devoe, Dexter, Durgin, Dutremble, Fenlason, Flanagan, Gillis, Goodwin, H.; Gould, Hobbins, Immonen, Jacques, Kilcoyne, Littlefield, Lougee, Lynch, Mahany, McMahon, Mills, Nadeau, Peltier, Perkins, Prescott, Raymond, Silsby, Smith, Sprowl, Tarbell, Trafton, Truman, Valentine, Whittemore.

NAY — Alopous, Ault, Bachrach, Bagley, Beaulieu, Berube, Biron, Birt, Blodgett, Boudreau, A.; Boudreau, P.; Brenerman, Brown, K. C.; Burns, Bustin, Carroll, Chonko, Churchill, Clark, Connolly, Cote, Cox, Cunningham, Curran, Davies, Diamond, Dow, Drinkwater, Elias, Gill, Goodwin, K.; Gray, Greenlaw, Hall, Henderson, Hickey, Higgins, Howe, Huber, Hutchings, Jackson, Jensen, Joyce, Kane, Kany, Kelleher, Kerry, Laffin, LaPlante, LeBlanc, Lewis, Locke, Lunt, MacEachern, Marshall, Masterton, Maxwell, McBreairty, McHenry, McKean, McPherson, Mitchell, Morton, Najarian, Nelson, N.; Norris, Palmer, Pearson, Peterson, Plourde, Post, Quinn, Rideout, Rollins, Sewall, Shute, Spencer, Stover, Talbot, Tarr, Theriault, Tierney, Torrey, Tozier, Tyndale, Wilfong, Wood, Wyman.

ABSENT — Austin, Bennett, Benoit, Carey, Dudley, Fowlie, Garsoe, Gauthier, Green, Hughes, Hunter, Jalbert, Lizotte, Mackel, Martin, A.; Masterman, Moody, Nelson, M.; Peakes, Strout, Stubbs, Teague, Twitchell.

Yes, 39; No, 88; Absent, 23.

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

Thereupon, the Report was accepted and the Bill read once. Committee Amendment "A" (S-250) was read by the Clerk and adopted in non-concurrence and the Bill assigned for second reading later today.

Divided Report

Majority Report of the Committee on Business Legislation reporting "Ought Not to Pass" on Bill "An Act Requiring Average Net Cost Comparison of Life Insurance Companies" (S. P. 125) (L. D. 304)

Report was signed by the following members:

Mr. FARLEY of York — of the Senate.

Messrs. HOWE of South Portland

WHITTEMORE of Skowhegan

Miss ALOUPOUS of Bangor

Mrs. BOUDREAU of Portland

Messrs. JACKSON of Yarmouth

KILCOYNE of Gardiner

RIDEOUT of Mapleton

— of the House.

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

Report was signed by the following members:

Mr. PIERCE of Kennebec

— of the Senate.

Ms. CLARK of Freeport

Messrs. SPROWL of Hope

PEAKES of Dexter

— of the House.

Senator CHAMPMAN of Sagadahoc abstaining.

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

In the House: Reports were read.

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

Ms. CLARK: Mr. Speaker, I move that the

House accept the Minority "Ought to Pass" Report.

The SPEAKER: The gentlewoman from Freeport, Ms. Clark, moves that the Minority "Ought to Pass" Report be accepted in non-concurrence.

The gentlewoman may proceed.

Ms. CLARK: Mr. Speaker, Men and Women of the House: Seldom do I stand before you and move a minority report, but L. D. 304 is unique in that it is a Governor's bill. L. D. 304 is an act requiring average net cost comparison of life insurance companies, and it is that measure that has generated numbers of communications from the insurance industry not only to the members of the Business Legislation Committee but, as I am fully aware, to all members of the House. As a matter of fact, it has been a long time in my five years of service to the citizens of the state since I have received such a volume of mail as I have on this measure.

The signatures on the report indicate an attempt to be fair and reasonable and to provide a forum in which L. D. 304 can be debated. As House Chairwoman of the Committee on Business Legislation, I would like to express to you my support, as reflected in my signature, for the proposal contained in L. D. 304. This consumer protection measure was outlined in the Governor's address on January 27, 1977, before this body.

One of the privileges a purchaser of a life insurance policy has is to be able to use the equity that is built up either through borrowing on the cash value or through surrender of the contract. On surrender situations, without allowance for interest or the death or disability of the policyholder, or allowance for potential loss if invested elsewhere, the cost to the purchaser is the difference between what he or she has paid for the coverage, less what has been returned in cash. This cost varies greatly between companies and is presently uncontrolled. While the entire insurance industry in governmental agencies have known of this for some time, no effective, direct action to correct this condition has ever been taken, as evidenced by the amount of business still being written by those companies with the higher costs.

Unfortunately, we as citizens and consumers are all aware that this consumer oriented measure is being lobbied heavily against by the insurance industry. The question that comes to mind, very naturally, is, why are all insurance companies opposed to this bill? And that is one that perhaps we can answer. As the insurance industry, particularly the actuaries, know, this is an expense control and not rate control legislation. While the approach is new here in Maine, there is nothing new about expense control legislation, as it has been in effect, for example, in New York State since the Armstrong investigation of 1906. Expense control in New York is much more stringent than called for in L. D. 304, as over 200 of the companies presently licensed in Maine could not qualify to operate in Maine under the New York standards.

There are currently only 47 companies presently licensed to do business in New York state. Why, again, is the insurance industry against this legislation? Well, this legislation has one element not found in the New York law, and that is the restriction on excess profits.

It is the opinion of the Chief Executive of this State, and echoed by the Commissioner of Business Regulation, the Honorable Alfred Perkins, that this is the main thrust and the basic reason for insurance industry opposition.

Much has been said about disclosure statements and buyers' guides. Much has been said, by way of communications with members of this House and much has been grossly misrepresented.

L. D. 304 is more than fair, as it does not put a single company out of business, as it allows a

two year period for those companies abusing the consumer in the absence of legislation to correct their overcharging. In effect, L. D. 304, as presented to the 108th Legislature by the Governor of this State is being fairer to those companies presently operating in Maine than they would be otherwise.

The purpose and thrust of L. D. 304 is to provide a measure of consumer protection and consumer control for such costs in business written hereafter in the State of Maine. In fairness to consumers, these costs for any company should not exceed by 50 percent the average of the lowest five doing business in this state. By establishing this standard to protect the Maine buyers, we will be able to determine and maintain the quality of those companies which operate most efficiently in the best interests of all Maine citizens.

This morning, I was called to the Governor's office, men and women of the House, and given leave to change my signature on the committee report in light of the action of the other body yesterday on this same measure. That courtesy was extended to me as Chair of the committee as well as to the other members of the committee who signed the bill "Ought to Pass," in order to allow this issue to come before this House in debate. I declined to change my signature, and in that respect, my signature again reflects my support of this measure — new, brave legislation in insurance in Maine.

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

Mr. JACKSON: Mr. Speaker, Ladies and Gentlemen of the House: I have to disagree with the young lady from Freeport. We have been a very close committee, we have worked very well, and even on this I think we have had a very good and fair exchange. The problem with this particular bill, and I see it as a problem, again, it has been lobbied hard, it has been lobbied by both sides. We have been down to see the Governor at least three times; the Insurance Commissioner has sat in on our hearings many many times. The bill itself deals with what the Governor keeps talking about, a ripoff of the consumer, and I don't particularly like the term ripoff, it sort of has a nasty sound. We are dealing with approximately 2 per cent of the life insurance sold in the state of Maine — 2 per cent of the companies would not meet this formula. Now, I will say more about the formula later on.

The 2 per cent of companies, their cost appears to be higher than it needs to be. Now, the Governor feels that this is a major problem. I will point out, this formula is based on the trade in of the policy, when you turn it in to collect money back on it, not when, as you should be buying life insurance for, it will cover you and help pay your expenses when you die. This is based on a five and a ten and a fifteen year period when you actually trade the policy in to get a loan on it.

The formula itself is an entirely unique formula. It has never been used anywhere else. It is the child of the Commissioner of Business Regulation in this State; he developed it. There are other formulas. There is the formula Ms. Clark mentioned in New York State that was brought out in 1906, and there is at least one other in the country. The commissioner chose not to use either of these formulas and again, as I said, developed his own formula.

There were a couple of tests that I asked this legislation to meet, and the first test that I asked was the question of need. Should we pass a bill, a bill as uniformly opposed by the insurance industry and the insurance salesmen of this state as this one is? Is there a need for it? I personally find that 2 per cent is not sufficient need. It could not even be shown clearly that among this 2 per cent there is actually — that nasty term again — a ripoff of the people in the state. If it had met this hurdle of need, which in

my case it did not, then the formula comes up to be looked at and be considered.

I feel that the formula may be a valid formula. It has never been tested, it is a new idea, it has only appeared on the scene in the last few months, and I am very hesitant to subject the State of Maine to a formula that has had so little testing and been looked into so little.

The effects of the formula, the effects that this will put in, it may well deny the poorer citizen who should be buying life insurance, it may deny him insurance because some of the companies that do have high costs have high costs because they are selling policies in small amounts to people who have to buy the small amount policies and the costs are higher because they are often in hazardous professions.

There is also the question of the agent. One of the effects of this will be that you will see many more mail order policies, and the agents will tend to be forced out to a degree.

These, again, are my feelings and my reasons for voting against it. I hope very much that you will oppose the "Ought to Pass" Report, will vote against it, and I would ask for a division on that, and that you will accept the "Ought Not to Pass" Report.

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

Mr. HOWE: Mr. Speaker, Members of the House: I also rise in opposition to the current motion of accepting the Minority "Ought to Pass" Report. I guess I hope to convince you that I do that despite, perhaps, the massive opposition of the insurance companies, because that is not what convinced me that this is not the proper approach to what may be a real problem out there. There are ripoffs, no doubt, whether it be 2 or 20 per cent, or whatever of the insurance industry, although I hope that it is low, but I think this is not the right approach.

The gentleman from Yarmouth has mentioned two hurdles that the legislation had to meet for him. The first was the need and the second was the formula, and I would add a third one — what to do with the results of the information gained from that formula. I, too, am not convince one way or the other of the validity of this very complex formula.

The committee, at the public hearing, fairly well into the evenings several weeks ago, was given a flip chart briefing (and I haven't seen one of those since my days in the Air Force) of the formula. It took six pages. We never could see all of the formula all at once. I don't mean to suggest at all that there was any deception here, but it is a very long, complexed formula, and I suppose that the Commissioner of Insurance, who was formerly the head actuary of a very large insurance company based in Maine, knows what he is talking about, but I have never been able to get a copy of the formula and take it home or show it to acquaintances of mine in the insurance business, to try to get it validated to my own satisfaction, independent of the proponents' argument that it was valid. But, then what do we do with the results of that formula? The bill suggests that this is a net cost comparison, and the title alone may imply that the consumers are going to be given the benefit of the results of this comparison, but that is not what happens. The Commission made it clear that they did not want to publish the results of these comparisons and thereby depriving, it seems to me, the consumer of information on which to compare one insurance company and another, but rather what they would do with that information is to keep it essentially secret and decide which companies, based on the results of the formula, running all the companies through it, based on one type of insurance policy were making excess profits, or whose costs were too high.

The insurance business is a highly competitive industry in the state and everywhere

else. It is not like a public utility where there is anything like a monopoly. There are I don't know how many score insurance companies licensed to do business in the State of Maine. Two per cent of those apparently would fall beyond the range of the formula and would have to cut costs. What I would much prefer to see happen, if this is a legitimate formula, is that we publish the results of it so that the consumers can make an intelligent decision as to which company's policy to buy rather than regulate the industry in this manner.

I think there are some points about L. D. 304 which might work to the disadvantage of the consumer. The bill would try to measure all life insurance companies solely on the basis of this novel and complex index number or formula, and I don't believe that reflects, necessarily, the actual value of the policy. The approach is contrary to model consumer protection legislation recently enacted by the National Association of Insurance Commissioners who have urged its adoption in all 50 states.

In addition, there is the New York law, which the gentlewoman from Freeport mentioned. It is my belief that the Governor was offered the opportunity of amendments or compromise or alternative measures to this approach and rejected any such alternatives.

It had occurred to me to introduce the model NAIC bill as an amendment; however, that also was a fairly major piece of legislation and I think it deserves a public hearing and may well be introduced in the next session.

For what it's worth, the Senate defeated the bill yesterday 26 to 3; however, that may only spur this House on to passage.

The SPEAKER: The Chair would advise the gentleman from South Portland that he is not to discuss the results of legislation or votes in the other body to attempt to influence this body.

The gentleman may proceed.

Mr. HOWE: My apologies, Mr. Speaker. The standards of the bill are vague. In fact, you don't really have the formula in front of you in the legislation, and I think that the formula is susceptible to manipulation by companies in the field. The technical compliance with the law will be easy for any company, which isn't consumer oriented, to develop a policy which fits the standards, but a policy which they may not actually offer in the field.

The use of index numbers in the bill is mathematically unsound according to other actuaries in the business and can be misleading. I get back to the point that this bill does nothing to give consumers a comparison between one company and another as to the cost of policies. Again, if the formula was legitimate and provided a valid comparison, as far as I would be willing to go is to publish the results of that formula and give consumers an opportunity to make an intelligent choice. Therefore, I also rise to oppose the present motion and I hope you will accept the "Ought Not to Pass" Report.

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

Mr. SPROWL: Mr. Speaker, Ladies and Gentlemen of the House: I hope today you will accept the "Ought to Pass" motion. I think the Governor is genuinely concerned about the consumer. He is, as you know, an insurance man, has worked in the insurance industry all his life, and he is concerned that some of the insurance companies are ripping off, and I hate that term so I would like to strike that. The gentleman from Yarmouth used that, but I think instead of 'ripoff,' we should use 'concern,' because I feel that the Governor is concerned, and as has already been brought out, he talked with this committee on various matters on several occasions, and this was one of the bills that he felt the most strongly about.

I think if any of us go out here in the hall, we'll see at least — well, I don't want to stretch it too much, but I feel there are 50 lobbyists out

there for the insurance companies. I know there is a tremendous amount of pressure on all of us, especially the five of us who have stuck with this "Ought to Pass," and the reason we have stuck with the "Ought to Pass" is, of course, because we believe in the Governor, believe that he is concerned, and that these few companies that are operating at a 50 percent higher cost than most of the companies in the state, they should come before the Superintendent of Insurance and show cause why they should continue to operate here in the State of Maine.

I really hope that you will accept the "Ought to Pass" and go with the Governor because he is concerned.

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 and having expressed a desire for a roll call, a roll call was ordered.

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

Mr. TIERNEY: Mr. Speaker, Men and Women of the House: I would like to speak to the members of this House very briefly this morning. Clearly, I am not in any way implying that this is a party bill, and I am speaking purely as a legislator from the community of Lisbon Falls.

I think it is clear that it is to everyone's political advantage to vote against this bill, because the only people who remember how you vote on this particular piece of legislation are the individuals who sell life insurance in this state, both for very good companies and also for not so good companies.

I think the Governor would be appreciative of a vote, but I think, frankly, for those of us who supported him on pieces of legislation in the past, his appreciation doesn't always last very long. So, I think that anyone who is at all concerned about their political future should not vote with the gentlelady from Freeport or with the gentleman from Lisbon Falls.

I am going to support this bill. I have had some experience with the insurance industry. I serve on the National Executive Board of the Conference of Insurance Legislators, which is a group of legislators from all over the country who are interested in the future of insurance. I might also say that the organization is totally sponsored, underwritten, subsidized and wined and dined by the various segments of the insurance industry, so I have had ample opportunity to come into contact with people from all over the country.

This particular bill is certainly opposed by the life insurance industry. A great deal of reform and rate requirements and analysis has been done on virtually every part of the insurance industry, except the life insurance part of the industry. In other words, we have been debating property, casualty, debates on rates and red lining, that has been going on for years. We have debated liability insurance in regards to automobiles with no fault insurance, we debated that for years. We have had medical malpractice commissions now that have been reported, and we are going to be debating that for years, but life insurance somehow has been left out of this debate, and it is a tremendously, tremendously complex area. I have never been able to have anyone explain the entire industry to me. I can recall when I first came out of college, an agent came to my door and told me about this wonderful plan. It was a wonderful plan, it was the best plan I had ever seen. It was so good, that the insurance company that was offering it went bankrupt two months later.

I think that we should try to take a very close look at our life insurance industry. I have faith

in our administration in our Bureau of Insurance. I believe that they are able to deal with these questions. I think that we have a fundamental responsibility as leaders to make sure that those companies which are making exorbitant profits off our least educated and poorest of citizens be allowed to be protected and truly protected by their state government, the state government we represent.

I guess I will never forget the client who came into our office who lived in the city of Lewiston whose husband had died. She had with her his life insurance policy that he had been paying steadily on to a company based in Chicago and headed by Mr. Clement Stone. And in great big headlines the policy said: "\$10,000 Life Insurance Policy." This woman did not speak English very well, because on the little line down at the bottom it said, "Providing that the individual is killed on a public conveyance." She never knew that. Her agent, who came by every week and collected his \$3. or whatever it was had never bothered to explain that to this individual. Now, that may not be directly relevant to this particular bill, but it sure sets at least the emotional framework that I am dealing with when I deal with the life insurance industry.

I feel the Governor has made a noble step in this direction, and while I am not asking anyone else to vote that way, I thought at least that I could stand before you and let you know why my vote will be up there with the gentlelady from Freeport, Ms. Clark.

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

Mr. JACKSON: Mr. Speaker, Ladies and Gentlemen of the House: I don't want to debate the lobby and I don't want to debate the millions of lobbyists that exist in our imagination or otherwise, and I don't want to debate what the Governor does, I would just like to reiterate the points that I made.

We are not talking about clarity in an insurance policy, and we are not talking about people who have had trouble with prior policies or automobile policies, we are talking about an attempt to solve a problem by a highly complex formula. And, as I say, the test that I applied was, "Does this problem exist?" Even by the Governor's reckoning, only 2 percent of the companies are in excess of his formula. And I would also point out, as Mr. Howe so aptly did, that it is a highly complex formula, it has never been used anywhere else, it has never been tested, it is not released to the public. It is all carried on somewhere here in Augusta in this Business Legislation Department by the Commissioner.

I feel that this bill is not needed at this time, until they can at least answer those questions, and so I hope very much that you would vote to defeat the "Ought to Pass" and will accept the "Ought Not to Pass" on this report.

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

Mr. HOWE: Mr. Speaker and Members of the House: I would like to respond briefly to the remarks of the gentleman from Lisbon Falls, Mr. Tierney. I certainly don't fault him for the reasons for which he votes for the bill; I strongly take issue with his description of my motives for voting against it. Oddly enough, I thought I was taking the courageous view for opposing this bill, knowing the Governor is going to paint us all who oppose it as pro business and anti consumer, and I hardly think that my background indicates that is the direction I go in. I really believe that the formula is subject by manipulation by the industry and may be simply worthless as a control device.

New York state has apparently a much stronger law on the books. We were never shown that law. The Governor wasn't interested in any sort of alternative control measures here, and I fully intend to look at the New York

legislation between now and the next session and may very well introduce that bill. I am just not convinced, by any means, that this is the right bill or the right approach.

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

Mrs. BOUDREAU: Mr. Speaker, Men and Women of the House: I guess I would comment on the remarks of the gentleman from Lisbon Falls, Mr. Tierney.

I signed the "Ought Not to Pass," and I guess it is pretty well known, it is not for my political future, because I don't intend to have a political future.

I think L. D. 304 addresses one problem, and that problem occurs when an ordinary life insurance policy lapses or is cashed in. And it is my feeling that most people buy life insurance policies for protection and they intend to keep them until maturity.

Many people in the past have surrendered their policies; this was proved to us. But I think the reason for that begins when the policy is sold. It is the high pressure sales pitch that many people buy policies they really can't afford, they probably don't even know what is in them.

I sponsored legislation last session that would give the purchaser of a life insurance policy 10 days, and this would help the least educated and the poor. They would have 10 days to look over that policy away from the high pressure salesman, and if they felt they couldn't afford it or didn't want it, they could return the policy, they would have been covered for that 10 days, they would be charged nothing. This bill was enacted in both Houses and was allowed to become law without the Governor's signature, and I think this is probably one of the best life insurance consumer protection bills that we have had.

The SPEAKER: A roll call has been ordered. The pending question is on the motion of the gentlewoman from Freeport, Ms. Clark, that the House accept the Minority "Ought to Pass" Report in non-concurrence. All those in favor will vote yes; those opposed will vote no.

ROLL CALL

YEA — Bachrach, Beaulieu, Blodgett, Bunker, Burns, Carroll, Clark, Cox, Davies, Dexter, Diamond, Drinkwater, Garsoe, Gauthier, Goodwin, H.; Goodwin, K.; Gray, Greenlaw, Hall, Henderson, Hughes, Jacques, Joyce, Kerry, Laffin, Littlefield, Locke, Lynch, Maxwell, McHenry, McKean, McPherson, Mitchell, Norris, Palmer, Pearson, Peltier, Perkins, Plourde, Post, Prescott, Quinn, Raymond, Rollins, Smith, Sprowl, Stover, Stubbs, Tierney, Tozier, Tyndale, Valentine, Wilfong, Wood.

NAY — Aloupis, Ault, Bagley, Bennett, Berry, Berube, Biron, Birt, Boudreau, A.; Boudreau, P.; Brennerman, Brown, K. L.; Brown, K. C.; Bustin, Carey, Carrier, Carter, D.; Carter, F.; Chonko, Churchill, Conners, Connolly, Cote, Cunningham, Curran, Devoe, Dow, Dudley, Durgin, Dutremble, Elias, Fenlason, Flanagan, Fowlie, Gill, Gillis, Gould, Green, Hickey, Higgins, Hobbins, Howe, Huber, Hutchings, Immonen, Jackson, Jensen, Kane, Kany, Kelleher, Kilcoyne, LaPlante, LeBlanc, Lewis, Lougee, Lunt, MacEachern, Mahany, Marshall, Masterman, Masterton, McBreairty, McMahon, Mills, Nadeau, Najarian, Nelson, M.; Nelson, N.; Peterson, Rideout, Sewall, Shute, Silsby, Spencer, Strout, Talbot, Tarbell, Tarr, Teague, Theriault, Torrey, Trafton, Truman, Whitemore, Wyman.

ABSENT — Austin, Benoit, Hunter, Jalbert, Lizotte, Mackel, Martin, A.; Moody, Morton, Peakes, Twitshell.

EXCUSED — The Speaker.

Mr. Martin of Eagle Lake was excused pursuant to House Rule 19.

Yes, 54; No, 85; Absent, 11; Excused, 1.

The SPEAKER: Fifty-four having voted in the affirmative and eighty-five in the negative,

with eleven being absent and one excused, the motion does not prevail.

Thereupon, the Majority "Ought Not to Pass" Report was accepted in concurrence.

(Off Record Remarks)

Non-Concurrent Matter

Bill "An Act to Amend the Powers and Duties of the Maine Committee on Aging" (H. P. 229) (L. D. 292) which was passed to be engrossed as amended by House Amendment "A" (H-701) in the House on June 17, 1977.

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

In the House: On motion of Ms. Goodwin of Bath, the House voted to insist and ask for a Committee of Conference.

Non-Concurrent Matter

Bill "An Act to Provide for the Licensing of Denturists" (H. P. 323) (L. D. 414) on which the Minority "Ought to Pass" in New Draft (H. P. 1690) (L. D. 1878) Report of the Committee on Health and Institutional Services was read and accepted and the New Draft passed to be engrossed in the House on June 15, 1977.

Came from the Senate with the Majority "Ought to Pass" in New Draft (H. P. 1689) (L. D. 1877) Report of the Committee on Health and Institutional Services read and accepted and the New Draft passed to be engrossed as amended by Senate Amendment "A" (S-279) in non-concurrence.

In the House: Mr. Goodwin of South Berwick moved that the House recede from passage to be engrossed.

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

Mr. DUDLEY: Mr. Speaker and Members of the House: I was one of the cosponsors of the original bill to recognize denturists in the State of Maine. We had two reports from the committee, the minority report and the majority report. The minority report has done very little for them, but it did something. They had to clear through the dental association or the dental bar, which I suspect would not pass any anyway, but at least it was something. The report we are getting from the other body doesn't give them anything. I cannot see and the denturists cannot see where it gives anything that they don't have already. It is just something to deceive us and the public. I am not being deceived, I know the people that I am representing are not being deceived because they can read and write, nearly every one of them. If we can't do better than this, we will put it off to a future date when the people cry out loud enough and will be represented in this House and in the other body by people that will carry out their wishes.

At this time, I hope this House will see fit not to recede, because this motion would only tend to deceive people that I represent. I would hope that we would eventually insist and ask for a committee of conference, and then this House would have done the best they could do under the circumstances.

It is obvious that the people know back home, the people of the State of Maine know that we cannot control the other body, but in this manner, we would put the blame where it belongs and let the butchers have the title of killing the bill, not us. I do hope when the final vote is taken that we will see fit to insist and ask for a committee of conference. Maybe some little thing could be worked out in a committee of conference and maybe not. If it cannot be, this particular motion would only give us nothing except a chance to work in a dentist's office and they have that privilege right now under the ex-

isting law. We don't need anything to try to deceive the people.

I do hope that I will not have to talk in long terms about the denturist bill. There has been enough said about it both in the press and in here so that you are all quite aware that it has been accepted in a lot of countries and all over Canada and it is time we do something about it so the people back home can at least get their dental plates fixed. We might even get that out of a committee of conference, that they could repair dental plates. There are other little things that we could get out of a committee of conference.

We have plenty of people back in the country who don't have teeth. We are losing some from indigestion. Indigestion is nothing but people who could not chew their food and they end up with indigestion. When you are way out in the country, before you can get them to the hospital, they are a deceased person.

This bill, if we were to accept the minority report, merely says that you can go to one of these, it doesn't say that you have to. I think we should favor this type of legislation. We have passed too much legislation in this House that says you must do something. This makes people arrogant against government. That is why you see an Independent Governor, that is why you will see a lot of new faces another time around in this House, because we keep forcing people to do things they don't want to. People, well at least the Yankees that I represent, don't like to be forced to do things. They like to do things on their own, by their own initiative, and do things of their choice and not be told by us or any other group of people. I do hope we will finally insist and ask for a committee of conference.

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

Mr. GOODWIN: Mr. Speaker, Men and Women of the House: I have to disagree with my good friend from Enfield, Mr. Dudley, on his assessment of this bill. Basically, what I would like to do is to recede and accept the majority report and indefinitely postpone the amendment that was put on down in the Senate. If we do that, what we will have done would be to direct the Board of Dental Examiners to establish the profession of denturism. Once established, the people that would qualify to become denturists would be able to work under the supervision of a dentist, not necessarily in the presence of but under the supervision of, similar to the way we have physician assistants and nurse practitioners working today.

What that would mean, it is not the whole loaf of bread, it is not the bill that I introduced in the last session, it is not everything that even I would like to see, but what it would do, it would at least establish and get on the books the profession of denturism. It would get some people trained in this and working in this profession.

Second of all, I think there are some dentists out there who would like to see this done. I have talked to them. There are a few dentists out there that are enlightened enough to realize the needs of some of the people. I think they would hire these denturists or let them work under their supervision. I envision this — what happens is that groups such as the low income dental clinics in some of the cities would probably hire some denturists; perhaps some of your group practices or just some individual dentists that feel there is enough of a need. They could have these denturists working in their office, similar to a dental hygienist, or have them go out and run clinics in various towns, perhaps with senior citizen groups. Maybe take a particular town and spend a couple of days there taking impressions and coming back and making the teeth and going back and fitting them. What this would mean is, the dentist would be in overall supervision of this happening, but the denturists would be the actual ones doing the

work. He would be out there in contact with the people. The people would not have to pay the tremendous prices they have to pay for the dentist and also spend the large amount of time waiting to get the appointments and the work done and everything else.

I think that this is a first step to try and expand our dental health delivery system. It is not, as I said, the whole loaf, but it is something I think we can get now and something that will begin to help the people. I would hope that you would go along with the motion to recede and then the motion to indefinitely postpone the Senate amendment that was put on. I will make that motion after, hopefully, we vote to recede. I will explain what that amendment did and everything.

The SPEAKER: The Chair recognizes the gentleman from Perham, Mr. McBreairty.

Mr. McBREAIRTY: Mr. Speaker, Ladies and Gentlemen of the House: The intent of this bill when it was put in was to give senior citizens and poor people dentures that they could afford, dentures that they are now going without.

I am going to try not to take too much time, but I am going to read a letter. This will give you an example of the type of people you will be voting against if you vote against the minority report that gives denturists some leeway. The majority report gives them nothing that they have not got now. They are now working under the supervision of dentists because they can't make a denture on their own. I am going to read this letter. It is a little hard to read because this lady was quite old and evidently was not very well educated. She got the year wrong; I got this letter January 10, 1977, she has 1976 on it.

"Dear Sir, Mr. McBreairty: In regard to making of false teeth, in 1934, I sent to a company, if I remember right, it was Hemingway of Chicago, Illinois. I have worn these teeth till this summer. They cost me in June 1934 a price of \$10. They sent me my impression by mail with instructions to take the impression, which I did and returned to company. In less than 10 days, they had come by mail. I wore them ever since. It was upper plate. They fitted perfect. Also, a doctor pulled my upper teeth. I went to dentist this summer. My teeth had broken in the roof of my mouth. He fix them or tried to, but I could not use them.

"Denturist I went to Mr. Bates in Presque Isle. He made me an upper plate and a partial plate. This was while Bates was practicing there a few weeks. There were dozens of people who filled his office while he was open until he was closed, which fit perfectly. No sore spot or anything. I know the denturists can make teeth that we can afford instead of \$400; is less than half by them. Why not keep the money in Maine instead of us going to Canada where we can afford teeth? Anyone think I believe people who care to work stand behind them instead of so many on welfare. We eliminate much crime in our cities or towns. Give all honest work so everyone be proud and also happy. I am 70 years old, born November 6, 1906, still shovel snow, split wood and knit, sew and my own housework. That what keep me healthy. Please let the denturists do their job. Yours, Avis Snowman, Caribou, P.O. Box 48 Maine. If you doubt this, come see for yourself."

I am going to read just a short paragraph out of a letter put out by the board of dental examiners. It says here: "An ill-fitting denture worn for a period of time can lead to serious problems such as abrasions, contusions, inflammation, overgrowth of soft tissues, rapid destruction of bone needed for denture support and disturbances of the joints of the jaws, all of which may result in dental health hazards, eating problems and difficulty in speaking. Constant irritation, if continued over a long period of time, may contribute to the development of benign or malignant tumors."

We have written testimony from one of the top dental surgeons in the state that says there is no evidence of cancer from dentures, but imagine, with the price of \$400, the thousands of senior citizens or poor people who are wearing now ill-fitting, worn out dentures that they have had for 40 or 50 years because of the high price.

I know we all vote our own conscience, but if you ever had a consumer bill, if you ever had a bill for poor people, this denturist bill is it. Presently, they are ordering dentures from Chicago. They are buying them in Canada. Denturists are making them in their basements and kitchens for friends and relatives all over the State of Maine without any protection. With this minority report, they will have to be licensed by the Dental Board. I don't foresee the Dental Board licensing a denturist that has not been doing a good job for the dentist. They will be required to have a physical or a clean bill of health from a dentist or a doctor. That gives the people in my area much more protection than they have now. Presently, they are going to Canada without any examination, or they are ordering from Chicago where they might be lifted real bad.

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

Mrs. PRESCOTT: Mr. Speaker, Ladies and Gentlemen of the House: I am going to support the chairman's motion to recede so that we can indefinitely postpone the amendment from the other body, but I cannot go the step further with the majority of the committee and support the majority report. I am going to support later, if we can get that far and I hope we can, the motion to insist and ask for a committee of conference.

Our Committee on Health an Institutional Services received a considerable number of letters also from many people around the state. We received petitions with over 1,000 signatures, I don't know but maybe thousands of signatures. I have also found out that the dentists have spent approximately \$10,666 to lobby against this bill.

I have here a letter from a dentist who led the opposition to the denturist bill. I would just like to read you a paragraph from that letter. He says: "The only thing that dentists are insisting on in this matter is that whoever provides dentures for people, dentists or non-dentists, and for whatever fee, be adequately trained. That is all we are asking. At the risk of shocking you, I tell you honestly that I would support the legislation if educational requirements could be made adequate for the protection of the public. All these requirements must be mandatory for the grandfathers, for if not, the reasoning is strikingly inconsistent."

The Board of Dental Examiners will be the ones that will be setting the requirements. I am sure that they will see to it that the denturists are qualified. I think with all of these safeguards, denturism deserves a trial in the State of Maine. I hope you will support the motion to recede and later support the motion to insist so that we can ask for a committee of conference.

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

Mr. DUDLEY: Mr. Speaker and Members of the House: I think my legislative neighbor has adequately expressed his opinion, and he brought out "to practice in the presence of a dentist." This is where the problem really exists. We don't have any dentists. This is what the bill is all about. This is why we want denturists. If we could salvage just repairing teeth, this would be something.

I don't want to delegate my duties. I was sent here to represent quite a group of towns in the State of Maine and I think when we delegate to the dental people the right to set up anything, we are delegating our power. We should be setting up this board, we should be making the

qualifications. If this legislature doesn't feel capable to do it, maybe the next one will. I, for one, don't feel like delegating my power. I think I know enough about it so that I for one would be willing to set up a dental board or an examination that would be reasonable. If it was not, the next legislature could add amendments and correct it.

If we can just salvage repair of dental plates by denturists, we would have accomplished something. First of all, they could have their shingle out, which they cannot now, and they will be able to repair teeth. But just to give them the chance to practice in the presence of a dentist, that probably would be allright in Portland, perhaps Bangor and Lewiston, but these are not the people I represent. The people I represent don't have a dentist — this is what the bill is all about. I hope you will bear this in mind and not vote to go along with the other body.

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

Mrs. PRESCOTT: Mr. Speaker, Ladies and Gentlemen of the House: I would like to correct my parliamentary procedure. I understand that I should not vote to recede, that I should vote to insist and ask for a committee of conference. I ask you not to vote to recede if you support me.

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

Mr. KILCOYNE: Mr. Speaker, Ladies and Gentlemen of the House: I would like to pose a question to the good gentleman from Perham. How much monies are lost to the State of Maine now because dentists ship impressions of the mouth to out-of-state laboratories?

The SPEAKER: The gentleman from Gardiner, Mr. Kilcoyne, has posed a question through the Chair to the gentleman from Perham, Mr. McBreairty.

The Chair recognizes the gentleman from Perham, Mr. McBreairty.

Mr. McBREAIRTY: Mr. Speaker, I have no idea, sir. I do know that this lady back in 1934 sent to Chicago and I do know that a lady in Stockholm, Maine sent to Chicago this past winter and got a plate.

As far as Canada is concerned, I went over to a denturist's office. In fact, I had a plate made for myself there for less than half the price. It fits perfect and I am happy with it. I just took some names off his appointment cards for part of the week that I was over there and I don't believe anybody will mind if I read these names: Marie Kennard and Walter Kennard, that is man and wife from Presque Isle, Maine. Ann McCrea from Mars Hill; Maurice Gray from Danforth; Robert Watson from Fort Fairfield; Pat Hammond from Presque Isle; Pauline Churchill from Fort Fairfield; Paul Theriault from Caribou; Sedrick Bean from Houlton. That was just part of one week. They did, I think, over 700 dentures in five months. There were people that came to them from as far away as New Hampshire and Connecticut. I assume that the Connecticut people were probably people that came home for a week's vacation to Arrostook County and went over there and had dentures made before they went back home.

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

Mr. GOODWIN: Mr. Speaker, Men and Women of the House: I would like to just respond to a few points and clarify my position somewhat. First of all, I don't think if we ask for a committee of conference that we are going to get anything. I really feel that the dentists have lobbied this issue to the point where we are just not going to get anything through other than the majority report. I am not even sure sometimes we will get that through.

I have made a commitment to myself to try to get something on the books so that we can start working toward this problem. I don't feel that

this is the end, that we should just stop after this. I hope that the future legislators will keep working on this and eventually develop a system of dental health care delivery that will include denturists, dental hygienists and dentists on an equal footing out there working and trying to provide services to the people. We have got to start someplace. The majority report of this bill is a start.

I didn't say too much when we debated the minority report. There is one point that has been brought up in that minority report that requires a certificate of oral health. I seriously doubt that there is a single dentist or even a doctor in this state that is going to give a certificate of oral health to somebody so that they can go get a set of dentures. I think the liability and the issues and other problems are just too great for any dentist to risk doing that. I would be very very surprised if you could find a dentist who would look in someone's mouth, say it is free of any problems, go to a dentist and get your teeth. I just can't see that happening.

If we recede and accept the majority report, we will be starting this profession of denturism on its way. We will be getting the rules and regulations set up and we will be getting something on the books, and I hope we will be starting to provide some services to people that just are not being provided now. The people in Arrostook County can still go over to New Brunswick and get their dentures there. Hopefully, as legislators change in the future, maybe the whole system will change and we can really get better health care delivery, but I think that this is a first step and I urge you to take it.

The SPEAKER: The Chair recognizes the gentleman from Old Orchard Beach, Mr. Kerry.

Mr. KERRY: Mr. Speaker, Ladies and Gentlemen of the House: I signed the Minority "Ought to Pass" Report in support of the gentlelady from Hampden and in support of the position of Mr. Dudley from Enfield. Basically, it is because I changed myself. At the beginning, I thought we should have greater accessibility by the people and the public to cheaper dentures. It was apparent to me, after visiting several dentists' offices, talking with many dentists, being lobbied day and night by their lobbyists, that it was more an end run on the part of the dental profession to hold tabs on every conceivable aspect of providing dental health to the people.

Mr. Goodwin's position, I feel, is really not strong enough. He should stand up and the rest of us should stand up, and I do usually support the chairman of our committee because I think he is practical and realistic on his appraisals, but here is the case. We went from a point where we were going to give the denturists a complete new profession on their own, which I could not support and I rejected the original bill. This is what the denturists wanted. On the other hand, the dentists didn't want to give them anything, so they are starting to move in to a compromise.

I supported the minority report because the people from the rural areas (I am from an urban area) say, why should we pass this anyway because if the dentists are going to control the denturists in every possible way, as they do today, then it is not going to do any good. There is not going to be greater accessibility in the rural areas. It is not going to cost less because it is all going to be done in the overhead of a dentist's office. There is not going to be any change in the policies nor the directions of the provision of denturists because it is going to be controlled by the dental profession.

My feelings are that if you do allow the denturists to practice on their own outside the dentist's office, you will then at least begin this process of lowering the price of dentures, providing greater accessibility and getting the

direction moving towards the people. It isn't right that the dental profession and their lobbyists control the direction of how things are going to go as far as the cost or the quality. They are going to be able to control the quality because they are going to license the denturists.

I cannot see saying now, "no, let's not vote for this because it is going to happen at a future date." We have the facts before us; we have been lobbied high enough. I think it is time to make the decision and I would support the position to insist and call for a committee of conference and stand up for what we think is right.

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

Mrs. TRAFTON: Mr. Speaker, Ladies and Gentlemen of the House: I stand today to support the position of the majority of the committee and the gentleman from South Berwick, Mr. Goodwin. It concerns me that some of the debate today has seemed to indicate that perhaps we would like to establish two standards of care for all health in Maine; one for the rural people and one for the urban people, perhaps one for the elderly people, one for the low income people and one for the rest of us. I feel that in establishing a new profession, that it should be a profession that we can all be proud of and that we would all want to partake of its services.

I think today, as the gentleman from South Berwick has pointed out, we have the option of either moving forward to improve our comprehensive dental system or have the opportunity to completely kill this bill.

I would like to remind you that I feel the minority report of the committee and the majority report of the committee are in basic agreement on what I think are the essentials of this bill, and that is that the Board of Dental Examiners will determine the qualifications, etc. of the denturists. In Section 1,100-C, we give the Board of Dental Examiners the power to establish rules and regulations which control licensing, educational requirements, experience standards, equivalency training, methods of practice and other procedures related to denture technology. In Section 1,100-D, we give them the power to establish a procedure for examinations. In Section 1,100-E, we again give them the power to determine the licensing procedure, registration and reciprocity.

I would like you to also consider the pros and cons of either creating a system of oral health today or creating or nurturing what I see as an adversary relationship between the providers of such care. And certainly any of us who were at the public hearing, who sat through many work sessions, were well aware of the existing adversary relationships, and I feel that it is to the detriment of the people of Maine to continue to promote such a relationship. On the other hand, I feel that we have an example before us of a very good working relationship, a very good system of health care, such as we have in the physicians' assistants program. Those of you in the Kingfield area and the Rangeley area well know how well that area is being served by the physician assistant and the nurse practitioner working under the supervision of a doctor.

The majority report would allow this same kind of services to be offered in oral health care. The majority report does not say that the denturists must work in the office but merely under the supervision. They can be miles away.

Thirdly, I would like you to remember that there are some very real problems with the certificate of oral health mentioned in 1878 as a prerequisite to offering denturist services. If we turn to the experience of our neighbors to the north, we will soon learn what problems they have had. It has not worked up there. In fact, in a letter from the National Denturist Association of Canada, they have more or less thrown up their hands, and on February 3, 1977,

they said to us, "It is our feeling that education can take the place of certificates." I certainly believe in the benefits of education. It certainly would be nice to think that education can take the place of health care; it would certainly solve some of our financial problems, but I seriously question whether this is the full direction we want to move in.

In the draft of 1878, if this oral health certificate is not issued, then the denturists cannot provide their services. I see this as effectively allowing any dentist and doctors who do not agree with the services of denturists stopping them from being offered.

Another problem when you require a certificate of oral health, it is, can the cost really, indeed, be low? I would like to refer you to a letter from the Maine Committee on Aging and, again, in this letter to us this year, they stood neither for nor against this bill but raised, I think, very many important questions that have not been addressed. They mentioned here, "However, in so requiring certification from the dentists, an additional, a visit to the dentist is required. Will denturist services really be low cost? Are there guarantees that denturist services would remain low cost once the profession is established in Maine?" Again, I would refer you to the volume of letters that we have had from Canada that indicate, although they started off considerably low, they are rising, and the gap is closing and closing fast.

Furthermore, we have said today that we are very concerned about the rural areas. If we require a certificate of oral health, remember, we have to have a dentist or a doctor who is willing to take the liability, the question of which has already been raised by Mr. Goodwin, present to issue that certificate of oral health. If there is no doctor or dentist available to issue that, then, of course, the services of the denturists cannot be offered, so it indeed, even though you might convince a denturist to go to the very remote areas of Maine, if there is not someone else there in the medical profession to provide that certificate, essentially, we have boycotted this system again.

Finally, I would just suggest to you that perhaps somewhere down the road we may feel that the denturists should operate all on their own, and I feel that we still have a long time to consider this. When we are talking about establishing a new profession of denturism, we have to remember that first of all we have a period where we have to set up the rules and regulations and all the requirements to this profession. This will be done in the next year. Then we have a period of approximately two years of educational training, which was mentioned in the original L. D., and I certainly think would be a minimum standard that will be set by the Board of Dental Examiners. Thirdly, we have an internship period before denturists will actually go out in the field practicing. I would suggest to you that that is several legislative sessions away before they would even be ready to operate on their own, and I think at that time we might be in a better position to determine whether we wanted them to be on their own or under the supervision of a dentist.

I would urge you today to recede and to let us establish the profession of denturists in this state.

Mr. Dudley of Enfield was granted permission to speak a third time.

Mr. DUDLEY: Mr. Speaker and Members of the House: I neglected to tell you when I was on my feet last time that both of these bills were written by the dentists and their lobbyists. One was written by the liberal view of dentists and the other one was from the more conservative group. They are both not the bill that was presented to the committee, and I think that was quite clear.

Some gripe has been made about the certificate of oral health. That wasn't put in by

the denturists; that was another method put in to try to please the dentists so that they would still have their finger in the pie. The denturists don't need this and don't want it. The dentists want it in there to help kill the bill. They were the ones last year who insisted that this ought to be in there, that these people didn't have the qualifications to look in a man's mouth and see if it would hold teeth, so it was put in to please them. The denturists don't want it in there, and about it taking them years to get qualified, I have got a qualified set of teeth in my mouth now that work very nicely, and there are plenty of these people practicing now. Those who are here now have been making teeth for years and certainly qualify under the original bill, but that is water over the dam, we don't even have a report on it. But to stand here before this House and tell you it is going to take years to train these people, they are making a lot of good teeth right now, until they were driven out of the State of Maine and into Canada and down cellar, and they are still making some pretty good teeth in the cellar in some places.

I think it is time that we at least let them try to work out somewhere they could at least repair teeth and put a shingle out, and I hope you will not vote for anything except to insist and ask for a Committee of Conference.

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

Mr. BRENERMAN: Mr. Speaker and Members of the House: Although I strongly supported the Minority "Ought to Pass" Report last week, I now ask that you vote to recede, because I believe that we will get nothing if we vote to insist and ask for a Committee of Conference. It is my feeling that a Committee of Conference would get us nothing because there is nothing to compromise about. Either you agree that denturists should go out on their own or you agree that the rest of the two bills are the same.

To correct Mr. Dudley, the majority report does do something; it puts the practice of denturism on the books. Also at the present time, no one can fit dentures in a dentist's office except the dentist, and to say that denturists can do the same thing now is incorrect.

This bill would put the dentists on notice that they had better set fair requirements for denturists and that they had better hire the qualified denturists when they are qualified, because this bill without the Senate Amendment would allow denturists to work in rural areas under the supervision of a dentist. As Mr. Goodwin said, that would make the profession of denturism similar to physician assistants or nurse practitioners, so I would ask the House to support Mr. Goodwin's motion to recede.

The SPEAKER: The Chair recognizes the gentleman from Old Orchard Beach, Mr. Kerry.

Mr. KERRY: Mr. Speaker, Ladies and Gentlemen of the House: I would like to rise to disagree with the good gentleman from Portland, and I would like to voice my opposition to the motion of Mr. Goodwin once again. I would like to reaffirm what Representative Dudley stated. First of all, he is correct. Most of the information presented to our committee did come from the dental profession. It was drafted and written by them. The denturists also drafted legislation, and I would have to state, contrary to Mrs. Trafton from Auburn, the fact that most of the information we received, the far overwhelming majority of it, was in support of the direction and philosophy and even principle of the bills, and the information coming from Canada, on the other hand, maybe there is a gap being closed in Canada with regard to the costs, but the gap between the cost in the United States and Canada is far different, and I don't think that will change, the main reason being, we do have one of the worst histories of dental health in the country, if not the worst, and who

is in charge of that, ladies and gentlemen? Let me just make that statement — the dental profession.

They have compromised everything. We have given them the right to set the standards for education. It is not as if we are setting up a brand new profession here. The dental association, the dentists themselves, will have the opportunity to set the standards. If a certificate of oral health is going to be such a big problem, we, the State of Maine, set the standards to protect the consumer, to protect the person, and here the dentists will have the opportunity to set those high standards. Once again, you will see that their own argumentation is proving it, that dentists can kill the whole intent of the legislature by not giving a certificate of oral health. They are just arguing their own case, proving that they are playing into the hands of the profession. They can control it by one aspect, and as Mr. Dudley stated very simply, right to the point, we are doing it again.

I feel that the educational standards are going to be there. If you are going to make a meaningful point, don't cop out, stand up for what you think is right and don't allow the dental profession to pull their end runs with all the fancy words and phrases. I will stick with Mr. Dudley and Mrs. Prescott.

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

Mr. HALL: Mr. Speaker, Ladies and Gentlemen of the House: You are well aware of how I spoke in regard to this bill last week. I wonder, if you make these laws anymore than what you have done now, supposing you have a board for the dentists to come before. I know many of these dentists, as I spoke before, who I don't believe have been before a board of directors or examiners for 20 years. The teeth that I have in my mouth now were made by a dentist who was half drunk and my wife stood in front of him when he made them, and this is no lie. They have been in my mouth for 20 years. I showed you the ones in my desk. How much longer are the people in my area going to be subjected to \$400 for a set of teeth that won't fit a horse? I would like to have something done different than that.

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

Mrs. KANE: Mr. Speaker, Ladies and Gentlemen of the House: I hate to follow the gentleman from Sangerville, Mr. Hall, in trying to say something a little more serious, but I did sign the majority report of the committee to allow the denturists to practice under the dentists. I could easily have signed the minority report, because I also agreed with that philosophy. I felt that they could practice on their own. The reason that I signed the majority report was simply practicality. I wanted to see something get done and I didn't think the minority report would pass. I think I have been vindicated. The gentleman from South Berwick has been vindicated. It will not pass. All that we can get accomplished by a committee of conference is to kill the bill, and as long as we are attacking the dental profession here and as long as it seems to be a question of giving the dentists what they want, I would submit that if I were one of these venal kind of dentists, what I would want is to see a committee of conference. I would be clapping my hands and saying, well, that is it, we don't even have to have them under us, we don't want them at all and we will have a committee of conference. There will be no agreement because, as Mr. Brenerman says, there is nothing to compromise and we will essentially kill the bill.

My whole philosophy in this is, half a loaf is better than none. If you can't have everything, at least try and get something, or we can stand on our little pedestals and try to be holier than thou and say, if we can't have every little thing we want, we don't want anything, and that will

really be good for the people of Maine that need dental care.

Mr. Dudley of Enfield requested a roll call vote.

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

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

The SPEAKER: The pending question is on the motion of the gentleman from South Berwick, Mr. Goodwin, that the House recede from passage to be engrossed. All those in favor will vote yes; those opposed will vote no.

ROLL CALL

YEA — Aloupis, Ault, Bachrach, Bennett, Benoit, Berube, Blodgett, Boudreau, A.; Brenerman, Brown, K. L.; Bunker, Burns, Bustin, Carey, Carroll, Clark, Cunningham, Curran, Davies, Devoe, Dexter, Diamond, Drinkwater, Durgin, Elias, Fowlie, Gill, Goodwin, H.; Goodwin, K.; Gray, Green, Greenlaw, Hickey, Higgins, Hobbins, Howe, Huber, Hughes, Hunter, Hutchings, Jensen, Kane, Kany, Kilcoyne, Laffin, LaPlante, Locke, Lunt, Masterman, McMahon, McPherson, Mitchell, Moody, Nadeau, Najarian, Nelson, M.; Norris, Palmer, Peltier, Perkins, Peterson, Post, Sewall, Shute, Silsby, Spencer, Sprowl, Stover, Stubbs, Talbot, Torrey, Trafton, Tyndale, Valentine, Whittemore, Wilfong, Wood, Wyman.

NAY — Bagley, Beaulieu, Berry, Biron, Birt, Boudreau, P.; Brown, K. C.; Carrier, Carter, D.; Carter, F.; Churchill, Connors, Connolly, Cote, Cox, Dow, Dudley, Dutremble, Fenlason, Flanagan, Garsoe, Gauthier, Gillis, Gould, Hall, Henderson, Immonen, Jackson, Jacques, Joyce, Kelleher, Kerry, Lewis, Littlefield, Lougee, Lynch, MacEachern, Mahany, Marshall, Masterton, Maxwell, McBreairty, McHenry, McKean, Morton, Nelson, N.; Pearson, Plourde, Prescott, Quinn, Raymond, Rideout, Rollins, Smith, Strout, Tarbell, Tarr, Teague, Theriault, Tierney, Tozier, Truman, Twitchell.

ABSENT — Austin, Chonko, Jalbert, LeBlanc, Lizotte, Mackel, Martin, A.; Mills, Peakes.

Yes, 78; No, 63; Absent, 9.

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

On motion of Mr. Goodwin of South Berwick, the House voted to recede from its action whereby the Minority Report was accepted.

Thereupon, the Majority "Ought to Pass" Report was accepted in concurrence and the Bill read once. Senate Amendment "A" (S-279) was read by the Clerk.

On motion of Mr. Goodwin of South Berwick, Senate Amendment "A" was indefinitely postponed in non-concurrence.

The Bill was assigned for second reading later in today's session.

Messages and Documents

The following communication:

STATE OF MAINE
ONE HUNDRED AND EIGHTH
LEGISLATURE
COMMITTEE ON HUMAN RESOURCES

June 17, 1977

The Honorable John L. Martin
Speaker of the Maine House of Representatives
State House

Augusta, Maine 04333

Dear Mr. Speaker:

It is with pleasure that I report that the Committee on Human Resources has completed all

business placed before it by the 108th Legislature.

Total Number of Bills Presented	27
Recommitted Bills	1
Unanimous Reports	24
Leave to Withdraw	6
Ought Not to Pass	3
Ought to Pass	3
Ought to Pass in New Draft	2
Ought to Pass as Amended	10
Divided Reports	2
Change of Reference	2
Number of Amendments	12
Number of New Drafts	2

Respectfully submitted,

Signed:

GERALD E. TALBOT
House Chairman

The Communication was read and ordered placed on file.

The following Communication:

STATE OF MAINE
ONE HUNDRED AND EIGHTH
LEGISLATURE
COMMITTEE ON MARINE RESOURCES
June 17, 1977

The Honorable John L. Martin
Speaker of the House of Representatives
State House
Augusta, Maine 04333
Dear Speaker Martin,

It is with pleasure that I report that the Committee on Marine Resources has completed all business placed before it by the 108th Legislature.

Total Number of Bills:	45
Unanimous Reports:	36
Ought to Pass	1
Ought to Pass in New Draft	3
Ought to Pass as Amended	13
Ought Not to Pass	4
Leave to Withdraw	15
Divided Reports:	8
Total Amendments:	19
Bill held until the second regular session:	1

Sincerely,

Signed:

BONNIE POST
House Chairperson

The Communication was read and ordered placed on file.

Orders

An Expression of Legislative Sentiment (H. P. 1742) recognizing that: William R. Wilson, an educator of Stonington, has entered retirement after 42 years of service in the teaching profession

Presented by Mr. Greenlaw of Stonington.

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

An Expression of Legislative Sentiment (H. P. 1743) recognizing that: the Portland High School Varsity Baseball Team has won the State Class A Baseball Championship for the second consecutive year

Presented by Mr. Brenerman of Portland.

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

An Expression of Legislative Sentiment (H. P. 1745) recognizing that: Mrs. Adeline Dexter, of Bethel, has received the Senior Citizenship award from the Greater Bethel Chamber of Commerce for her continuing active work in the community

Presented by Miss Brown of Bethel.

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

An Expression of Legislative Sentiment (H.

P. 1746) recognizing that: Kimberly Kay Whitten, of Andover, has been recognized for her outstanding academic record by being chosen Salutatorian of Telstar Regional High School

Presented by Miss Brown of Bethel.
The Order was read and passed and sent up for concurrence.

An Expression of Legislative Sentiment (H. P. 1747) recognizing that: Dr. Sidney W. Davidson has received an award from the Greater Bethel Chamber of Commerce for his work as a trustee of Gould Academy and for his help in establishing the Moses Mason House

Presented by Miss Brown of Bethel.
The Order was read and passed and sent up for concurrence.

An Expression of Legislative Sentiment (H. P. 1748) recognizing that: Thomas Lowell Wight, of Newry, has been recognized for his outstanding academic record by being chosen Valedictorian of Telstar Regional High School

Presented by Miss Brown of Bethel.
The Order was read and passed and sent up for concurrence.

A Joint Resolution (H. P. 1744) in memory of Thomas A. Martin of Brunswick

Presented by Ms. Bachrach of Brunswick (Cosponsors: Mr. Tierney of Lisbon Falls, Ms. Goodwin of Bath, Mrs. Chonko of Topsham)

The Resolution was read.

The SPEAKER: The Chair recognizes the gentlewoman from Brunswick, Ms. Bachrach.
Ms. BACHRACH: Mr. Speaker, Ladies and Gentlemen of the House: I know that you all join me this morning in this expression of sympathy for our fellow House member, the gentlewoman from Brunswick, Antoinette Martin.

Tom Martin was a good, hard-working man. He did his very best for his family and community, and he will be much missed in Brunswick. It is hard to do your job under such a strain as Tony Martin has endured this session, and she deserves much credit for doing so well. We send her our deepest sympathy and hope that she will feel able to join us before the end of this session.

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

Mr. TIERNEY: Mr. Speaker, Men and Women of the House: Our society has traditionally eulogized the great among us, the politicians, the scientists, the clergymen, the generals. Praise after death comes easily and voluminously for those individuals who are surrounded in life with fame and fortune. Tom Martin was not that kind of man. Our society also likes to extol, at least in the abstract, certain fundamental virtues which we feel to be central to our way of life — hard work, service to others, humility, dedication to church and family and common sense. If any of us were to seriously look for a person who embodied these virtues, then Tom Martin would be that kind of man.

Born 68 years ago, Tom lived his entire life in our State of Maine. Married almost 43 years to our beloved colleague, Antoinette Martin, he, together with Antoinette, were the parents of three children. For 36 years, he worked at the Bath Iron Works in the Blacksmith Shop, and in that capacity, he had a deep pride in his workmanship. Tom was also active in his union, dedicated to improving the wages and working conditions for all of his fellow workers. For many years, he was director of religious education at St. Charles Catholic Church in Brunswick. I can clearly remember his tireless efforts in our parish hall, and I never envied him his responsibility of forcing eight year old Jimmy Tierney to memorize the Baltimore Catechism.

For over 10 years, Tom served his county as a

deputy sheriff. He was active in community affairs and was respected by all of those who knew him. Hard work, dedication to church, dedication to family, common sense and service to others, these were the attributes of Tom Martin, who we will miss.

Thereupon, the Resolution was adopted and sent up for concurrence.

On motion of Mr. Nadeau of Sanford, it was ORDERED, that Antoinette Martin of Brunswick be excused due to a death in the family.

AND BE IT FURTHER ORDERED, that R. Donald Twitchell of Norway be excused June 22nd, 23rd, 24th for personal reasons.

House Reports of Committees Ought to Pass in New Draft

Mr. Cote from the Committee on Legal Affairs on Bill "An Act to Revise the Laws Relating to Private Detectives" (H. P. 199) (L. D. 260) reporting "Ought to Pass" in New Draft under New Title Bill "An Act to Reform the Regulation of Watch, Guard and Patrol Agencies and of Private Detectives" (H. P. 1741) (L. D. 1889)

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

Ought to Pass with Committee Amendment

Mr. Peakes from the Committee on Business Legislation on Bill "An Act to Establish the Fair Credit Reporting Act" (H. P. 1262) (L. D. 1526) reporting "Ought to Pass" as amended by Committee Amendment "A" (H-749)

Report was read and accepted and the Bill read once. Committee Amendment "A" read and adopted and the Bill assigned for second reading later in the day.

(Off Record Remarks)

On motion of Mr. Tierney of Lisbon Falls, Recessed until the sound of the gong.

After Recess 12:15 p.m.

The House was called to order by the Speaker.

Divided Report

Majority Report of the Committee on Taxation reporting "Ought Not to Pass" on Bill "An Act to Revise the Maine Tax Structure" (Emergency) (H. P. 732) (L. D. 971)

Report was signed by the following members:

Messrs. MARTIN of Aroostook
WYMAN of Washington
JACKSON of Cumberland
— of the Senate.

Messrs. MAXWELL of Jay
TWITCHELL of Norway
CAREY of Waterville
COX of Brewer
TEAGUE of Fairfield
Mrs. POST of Owls Head
Mrs. CHONKO of Topsham
— of the House.

Minority Report of the same Committee reporting "Ought to Pass" as amended by Committee Amendment "A" (H-745) on same Bill.

Report was signed by the following members:

Messrs. CARTER of Bangor
MACKEL of Wells
IMMONEN of West Paris
— of the House.

Reports were read.

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

Mr. CAREY: Mr. Speaker, I move that the

House accept the Majority "Ought Not to Pass" Report.

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

Mr. CARTER: Mr. Speaker, Ladies and Gentlemen of the House: I am sure that you know that L. D. 971 was the omnibus tax bill based on the report of last years Joint Select Committee on Tax Policy. Various provisions of 971 have been covered by other pieces of legislation and the Committee Amendment "A" now before you is really all that is left of 971.

The amendment does three things. In the first place, it incorporates into the Maine Income Tax structure the new standard deduction for federal purposes as enacted on May 23rd by the Federal Income Tax and Reduction and Simplification Act and this increases the standard deduction on a joint return from \$2,400 to \$3,200 and also adjusts the standard deduction for a single persons return. What we are proposing to do is to allow the same standard deduction on the Maine return as is available on the federal return.

Secondly, it builds into our Maine tax structure a new tax table for those who qualify as head of household. Again, conforming our system to the federal income tax system and giving a measure of relief to those single people who are maintaining a home for themselves and for a close relative. The third thing that Committee Amendment "A" does is that it bases our rate schedule on a percentage of the federal rate schedule, again, conforming our system to the federal system. Our Maine tax tables now follow a much steeper progression than does the federal. For example, a single person, the rate goes from 1 percent to 10 percent over a span of \$25,000. In other words, the highest rate is 10 times greater than the lowest rate. The federal schedule goes from 14 percent to 70 percent over a span of \$100,000. If we feel that the federal rate schedule is basically fair, it would follow that Maine reschedule based on a percent of the federal schedule would also be fair.

A year ago this Spring, the 107th Legislature passed an \$18,500,000 tax increase. More than 100 percent of this increase was imposed on the single people and on the middle and higher income married people. This was true because although this was a tax increase, the new rate schedule actually reduced taxes for the lower brackets and as a result of this increase combined with a tax shift, many people, even of modest incomes, found that their taxes had doubled and I am sure that I don't have to tell you, the members of this legislature, that there was and still is a great deal of resentment at the way this additional tax was distributed. L. D. 971 as amended would, in effect, go back to the tax increase of last year and redistribute it as I, at least, believe it should have been distributed in the first place. In other words, in the same relationship as the federal schedule. It is true that this amendment would increase the income tax for some of the lower brackets but I would also remind you that many of these same low income taxpayers would also be eligible for tax credits made available in L. D. 1530, namely, a retirement income credit and also for other credits, such as a child care center credit and for taxes paid to a Canadian Province under L. D. 1749.

I believe that L. D. 971 as amended is one of the most important pieces of legislation being considered this year. I hope that you will defeat the Majority "Ought Not to Pass" Report so that we can adopt the Minority "Ought to Pass" Report.

Mr. Speaker, I request a roll call.

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

Mr. CAREY: Mr. Speaker, Ladies and Gentlemen of the House: The head of the household provision was inadvertently left out when this bill was passed last year and it cer-

tainly can be taken care of through Errors and Inconsistencies Bill. This is pure and simple tax relief for the rich and the tax burden being shifted on the lower income people. There is no price tag on this bill, because all of the relief that you give to the rich is going to be picked up by the poor.

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

Mr. MORTON: Mr. Speaker, Ladies and Gentlemen of the House: I have been interested in listening to the two gentlemen that have just spoken because this 971 was rather a complicated and omnibus bill when it first came out and I signed it for the committee and I agree that a great deal of it is subjected to other L. D.'s and will undoubtedly be taken up separately.

This particular portion of the bill which does revise the income tax schedule and provide new benefits under the Income Tax Law for all taxpayers, both rich and poor, as the words have been brought into the debate, I think is a little better than the schedule that the original bill adopted. It is true, this will shift some of the burden somewhat downward on the scale, although I would point out to you that if the income is below \$5,000, the increase is very normal. In fact, it is in any of the brackets, but as the gentleman from Bangor pointed out, the hue and cry that was raised at the adoption of the schedule last time was from those people who, I don't know whether the gentleman from Waterville calls them rich or not, but they are the folks who make from \$15,000 to \$25,000 to \$30,000. These people were really whacked very hard and this particular schedule which the Taxation Committee has come out with, does give them some relief.

I think there was enough discontent with that schedule for us to take a good, long look at this so I would certainly urge you this morning not to accept the "Ought Not to Pass" Report but to defeat that motion and accept the "Ought to Pass" Report as amended and lets put this in for a few more days of discussion so that everybody gets a chance to understand it.

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

Mrs. POST: Mr. Speaker, Men and Women of the House: I am not sure if Representative Morton has seen the new schedule on the back of the Committee Amendment but he said that the greatest burden of this \$18 million increase that was passed last year was paid by the middle income people between \$15,000 and \$20,000 and that this particular amendment would give those folks a great deal of relief. Well, if a married person who has two exemptions, the increase that was passed last year, if their income was at \$15,000, it cost them \$1.00 more last year; this amendment would cost them about \$20.00 more a year. It would cost a married couple with two exemptions of \$17,500 about \$50.00 more a year so this particular bill does not give tax relief to the people between \$10,000 and \$20,000 or between \$1,500 and \$20,000; it gives tax relief to those "poor" people that are making a \$100,000 to \$200,000 a year.

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

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

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

Mr. MORTON: Mr. Speaker, Ladies and Gentlemen of the House: It all depends on which one of the columns you were looking at. I happened to be looking at the one which we seem to have had the most complaint from and

that is the single person, the person who got hit the hardest and I would call to the good lady's attention that she said, \$200,000 — well, this one even taxes them a little bit more.

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

Mr. PEARSON: Mr. Speaker, Ladies and Gentlemen of the House: I am probably going to hate myself after I do this but I have always wanted to do it so I am going to do it now. I probably will lose every friend I have in this House but I would like to know, as a single person, why it is that a single person, who is the head of the household and has his own house or something like that, why it is that he is taxed more than a man who has a wife who doesn't work and some children who don't work? It seems to me that the whole tax structure, both federal and state, has morality built into it. It says, if you have a wife and you have children, that is good and we are going to reward you with a tax break. I just don't think that is right and I would like to have Mr. Carter address himself to that question, just for a minute.

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

The Chair recognizes that gentleman.

Mr. CARTER: Mr. Speaker, Ladies and Gentlemen of the House: I think the gentleman from Old Town, Mr. Pearson, does have a point and probably there is this factor of morality or would be morality built into it and in that connection, I would also say that the tax reduction and simplification act at the federal level, which was just passed in May, increased the standard deduction, as I say, for a single person from \$2,800 to \$3,400 but it decreased the standard deduction for a single person from \$2,400 to \$2,200 so this is another example of exactly what the gentleman was saying.

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

Mr. TARRELL: Mr. Speaker, I would like to pose a question through the Chair to the gentleman from Bangor, Mr. Carter. I am wondering if he could tell us how many other states in the union parallel the rate schedule of the federal government for their state income taxes for those states that do have state income tax? The second question is to any member on the committee, if we kill this bill, are there any intentions from sponsors of the bill or members of the committee to segregate out some of the other provisions and pass them, such as a standard deduction for this?

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

Mr. CAREY: Mr. Speaker, Ladies and Gentlemen of the House: For the information for the gentleman from Bangor, Mr. Tarbell, I would say that it is our intention to pursue the head of the household exemption as having been a true error of omission when the bill was passed originally and it is our intention to get to the Judiciary Committee which is putting together the Errors and Inconsistency Bill, to get that included in there. We would be at the mercy obviously of the Judiciary Committee to get it in; otherwise, we would have to float it as an amendment on the floor to the Errors Bill.

As far as anything else in here, that would be the one thing that we, at least some of us on the committee, would try to get included.

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

Mr. PEARSON: Mr. Speaker, Ladies and Gentlemen of the House: In response to a note I just received from Mrs. Tarr, if I could find another girl just like you, Mrs. Tarr, I probably would get married.

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

Mr. CARTER: Mr. Speaker, Ladies and

Gentlemen of the House: In response to the question from the gentleman from Bangor, Mr. Tarbell, there are all kinds of rate schedules by the other states. Many of the states base their state tax on a percentage of the federal tax and of course, in doing this, you do automatically tie your state tax to all of the provisions built into the federal schedule. I think Vermont is one of the states that takes this approach but Maine has always had a separate schedule and what Committee Amendment "A" hopes to do is to conform this schedule and make it in the same relative proportion as the federal schedule.

The SPEAKER: A roll call has been ordered. The pending question before the House is on the motion of the gentleman from Waterville, Mr. Carey, 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 — Ault, Bachrach, Bagley, Beaulieu, Bennett, Benoit, Berube, Biron, Birt, Blodgett, Boudreau, A.; Boudreau, P.; Brennerman, Brown, K. L.; Brown, K. C.; Bunker, Bustin, Carey, Carrier, Carroll, Chonko, Churchill, Clark, Connolly, Cote, Cox, Cunningham, Curran, Davies, Dexter, Diamond, Dow, Drinkwater, Elias, Flanagan, Fowlie, Gauthier, Goodwin, H.; Goodwin, K.; Gray, Green, Greenlaw, Hall, Henderson, Hickey, Higgins, Hobbins, Howe, Huber, Hughes, Hunter, Hutchings, Jacques, Jensen, Joyce, Kany, Kelleher, Kerry, Kilcoyne, Laffin, LaPlante, LeBlanc, Littlefield, Locke, Lunt, Lynch, MacEachern, Mahany, Marshall, Maxwell, McBreaity, McHenry, McKean, McMahon, Mitchell, Moody, Nadeau, Najarian, Nelson, N.; Palmer, Pearson, Peltier, Perkins, Plourde, Post, Prescott, Quinn, Raymond, Rideout, Rollins, Shute, Silsby, Spencer, Sprowl, Stover, Strout, Stubbs, Talbot, Tarr, Teague, Theriault, Tierney, Tozier, Trafton, Truman, Twitchell, Tyndale, Valentine, Wilfong, Wyman, The Speaker.

NAY — Aloupis, Berry, Burns, Carter, F.; Connors, Devoe, Durgin, Garsoe, Gill, Gillis, Gould, Immonen, Jackson, Kane, Lewis, Lougee, Masterman, Masterton, McPherson, Morton, Nelson, M.; Norris, Peterson, Smith, Tarbell, Torrey, Whittemore.

ABSENT — Austin, Carter, D.; Dudley, Dutremble, Fenlason, Jalbert, Lizotte, Mackel, Martin, A.; Mills, Peakes, Wood.

Yes, 111; No, 28; Absent, 12.

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

Sent up for concurrence.

Divided Report

Eight Members of the Committee on Marine Resources on Bill "An Act to Clarify and Limit the Authority of Municipalities to Establish Shellfish Conservation Programs and to License and Regulate the Taking of Shellfish" (H. P. 715) (L. D. 851) report in Report "A" that the same "Ought Not to Pass".

Report was signed by the following members:

Messrs. HEWES of Cumberland
CHAPMAN of Sagadahoc
— of the Senate.

Messrs. JACKSON of Yarmouth
NELSON of Roque Bluffs
BUNKER of Gouldsboro
CONNORS of Franklin
MILLS of Eastport
GREENLAW of Stonington
— of the House.

Two Members of the same Committee on same Bill report in Report "B" that the same "Ought to Pass".

Report was signed by the following members:

Messrs. BLODGETT of Waldoboro

FOWLIE of Rockland

— of the House.
Two Members of the same Committee on same Bill report in Report "C" that the same "Ought to Pass" as amended by Committee Amendment "A" (H-746)

Report was signed by the following members:

Mr. LEVINE of Kennebec
— of the Senate.
Mrs. POST of Owls Head
— of the House.

Reports were read.

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

Mr. GREENLAW: Mr. Speaker, I move acceptance of the Majority "Ought Not to Pass" Report.

I am sure that you realize that this is a very important issue regardless of which side the members of the Marine Resources Committee follow on this particular bill.

The sponsors of the bill, the gentleman from Waldoboro, Mr. Blodgett, and the gentleman from South Portland, Mr. Howe, have, indeed, worked very hard and I understand discussed this bill with a number of you. It may well be that the die is cast on this particular piece of legislation and that this bill is going to pass in this House today, but I hope not. I think we do ourselves a disservice when prior to debate on a bill, we commit ourselves without hearing the other side of the argument. I have made that mistake before and I hope that I don't make it again and I hope that I can convince you today, some of you, to change your mind, if, in fact, you have indicated support for the bill.

The thrust of this bill is to repeal part of the present law, which allows municipalities to conserve and protect shellfish resource. Specifically, it would no longer allow towns to prohibit non-residential harvesting of clams.

In the way of giving you some background information, the Marine Resources indicates that there is presently 47 Maine communities which have enacted shellfish conservation ordinances. Now, these communities are required to promulgate an ordinance, send it to the commissioner for his approval and then have it approved by the town at a town meeting. Of the 47 towns that have shellfish conservation ordinances, there are only 17 communities that outrightly prohibit non-residential digging of clams. Some of the remaining 30 towns do, in fact, place some type of limitation or restriction on the amount of clams which can be harvested in a day. I want to emphasize that only 17 of the 47 that outrightly prohibit digging.

I think you all ought to know just why some municipalities have, in fact, prohibited non-residential digging and I am going to attempt to tell you very briefly why.

The responsibility for managing shellfish resource basically remains with the local community, they are the ones that are required to promulgate the regulations with the approval of the Commissioner of Marine Resources. This responsibility, it is my understanding, has seesawed at least back and forth twice in recent years where the state has assumed that authority and has come back to the municipalities for the management that presently exists.

I think it is very important to understand that these municipalities take this responsibility seriously because the harvesting of this particular resource is obviously a very important part of the economic life blood of many communities on the coast.

Two years ago, some people were convicted in the superior court of Knox County of violating a North Haven shellfish conservation ordinance. There was an outright prohibition on non-residential digging in a certain area in North Haven. The appeal was taken to the Maine Supreme Judicial Court and a rather

lengthy opinion reviewed a number of decisions that previous courts had ruled on this particular access of conservation ordinances, that is, prohibition of non-resident digging. If I can very briefly do so, I want to try and give you a summary of what the court said.

The court said that municipalities do not have the right to prohibit non-residential digging if, in fact, it is an outright discrimination against those nonresidents. I think they also added very clearly that if prohibition on nonresidential digging was part of a legitimate conservation ordinance, then the municipality had that particular right to do so. And I think that is the point we are arguing today.

Now, I would like to indicate to you that there are two towns in particular that I think have done an excellent job with promulgating shellfish conservation ordinances. Those two towns are Islesboro and after the supreme Court decision, the town of North Haven. They have done substantial work on surveying the resource, coming up with estimates of how much of the course should be harvested at different periods of time, and, in fact, enacted comprehensive Shellfish conservation ordinances which I think are sound and good. In both cases, these towns do allow non-residential digging at a substantially higher fee than what is charged for residential digging.

Now, I will be the first to argue, the state does not provide all the assistance to the towns that they should, and probably the towns don't take all the action they should. But I think one thing that the extended fisheries jurisdiction has shown me is that we have to take our responsibility of managing the inshore resources more seriously and I would hope in the future that we will be addressing how we can better conserve our marine resources and at the same time, increase the harvesting capability.

Over the past six years, there has been extreme pressure, and when I say extreme, I mean just that, extreme pressure placed upon the clam resource. This is because of the result of a devastating hurricane, Hurricane Agnes, that you may recall, that literally destroyed and wiped out the clam resources on the Maryland shores. The pressures that that put on the resource in this state was that all of a sudden the price per bushel of clams sky rocketed, skyrocketed to perhaps as high as \$25 a bushel last year. Obviously, when we have that type of escalation of price, people want to become more involved in harvesting a resource because \$25.00 a bushel for clams is certainly a good price. So, what has happened is that there has been an increasing trend, where non-residents of certain communities have wanted to go and harvest clams wherever they possibly could. And I think if we let this take place, that we are seriously endangering the clam resource of this particular state. I ask you to examine as we debate this issue today, what this country, the United States of America, has done in enacting legislation, that has claimed exclusive jurisdiction of fishery rights in the seabed resources within a 200 mile economic zone of the shores of this great land. I would submit to you, that the same reason the United States of America enacted that legislation, was because of over-fishing, over exploitation of an important resource, is the very same reason that we should allow communities, in this state, if they feel it is part of a legitimate conservation purpose, to prohibit non-residential digging. I feel that towns are becoming more aware of their responsibility in making a conscious effort to better conserve the resource. I think they understand the importance of it, I think we need to foster those efforts and be as supportive as we can. It is my own personal feeling, as a result of meeting with clam diggers in the communities I represent, that if we did pass this law today, that we would be striking a great blow towards

their incentive to enact responsible shellfish conservation ordinances.

I understand the position that I take here today, with seven other members of the committee, and positions that I have taken on conserving our marine resources are not popular decisions because they do affect people's lives and their ability to support themselves. But I would argue very very strongly, and ask you to consider, as seriously as you can, the need for these towns to be able to continue to conserve these resources with the ability to prohibit or limit, if they see it necessary, non-residential digging. I have tried to lay out the arguments against this bill as comprehensively as I can and I hope very sincerely that you will vote to accept the Majority "Ought Not to Pass" Report.

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

Mr. BLODGETT: Mr. Speaker, Ladies and Gentlemen of the House: The basis for this proposed change in the present law is due to the gross discrimination of the non-residents, which some of our Maine communities have acted with their shellfish ordinances. These apparently have come about as a result of a very false premise, and that is, that the clams and the clam flats belong to the towns and to the people residing in these towns. This is absolutely false, and I think it has been generally agreed by most people, that it is a state resource, and, therefore, since being a state resource, it belongs to all the people of the state. This can be supported by statute and case law, down through the years. Granted, from time to time, some of the municipalities have passed ordinances which presumably would be meant to conserve the resource, and yet, if you look at these ordinances, you will see that most of them are simply to exclude anyone else. I can cite several examples of this, if you bear with me for a moment. One community, which has approximately 33 miles of shore frontage, most of this, I would say a great deal of this, is flats, where they can clam, has approximately 6 to 10 full-time clambers. Now, this gives a full-time clammer, a couple of miles that he can clam, exclusively, because that town has prohibited any non-resident commercial diggers. They are very gracious about all this, they will let non-residents, people from inland communities, go down and dig a peck if they want to pay a \$5.35 fee. Another community, as mentioned, has a \$100 fee for non-residents and even these people, who buy a \$100 fee will be restricted and won't be able to clam in many of the best areas in that particular town.

The State of Maine issues a commercial license for \$10.00, and today, this does very little good. A commercial clammer could very easily tie up \$400 or \$500 in municipal fees and still not be able to dig along most of the area of the coast of Maine.

Now, I would ask for your support of L. D. 851, to vote against the "Ought Not to Pass" and support it, because L. D. 851, as is, would allow (1) towns to continue to carry on their conservation programs; (2) towns would still be able to charge local fees to cover the cost of the programs, (3) towns could still be able to close or rotate flats, in order to promote good conservation measures. However, the main difference here is, that since this is a state resource, all people should be able to be treated the same, regardless of whether they reside in that town, or one of the towns inland and conservation should not be borne by the non-residents. It should be borne by the residents and the non-residents alike. This can only be done through such a measure as is proposed in L. D. 851 to allow everyone, equal rights and equal restrictions to the flats.

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

Mr. NELSON: Mr. Speaker, Ladies and Gentlemen of the House: I represent eight

towns in Washington County. Four of those towns are coastal towns and they depend a great deal on their livelihood for that resource in that town.

I want to cite one instance. The town of Roque Bluffs, where I am from, out of a population of 251, 49 of them are licensed clam diggers. I say that most of the people in that town depend for a great part of their livelihood on those clam flats. Now, I understand we had a hearing on this bill at the Civic Center, I don't know how many were there, I would say 150 or 175 or 200 people were there, they were from all along the coast. There was a lawyer there representing one of the towns along the coast and he called the people of the area where I come from, I resented it, he said they were narrow minded, and selfish. I don't think this is true because the people that I saw at that hearing in the Civic Center, they have depleted their resources and now they want to go right on up the coast and deplete the whole coastal resource for the simple reason that they were selfish. I feel that these people are selfish.

In 1971, a gentleman was caught over in Jonesboro. They have a very good clam ordinance. In fact, all the four towns that I represent have a good ordinance, I can't say about the rest of the coast, because I am only interested, of course, in the particular area that I come from as far as that conservation measure is concerned. I wish that 17 of those towns that were cited as restricting non-residents coming in. I feel that this is a bad thing because I don't feel that any resident of the State of Maine should be restricted from going to the coast and being able to perhaps pay the town clerk 50 or 75 cents, \$5.50 was noted in the previous speaker's debate but that I feel is too much and this perhaps might be the unpleasant experience that he has had that perhaps prompted this bill. I am not saying it is, I am saying, perhaps.

The town of Jonesport, Maine, at their regular town meeting, appropriates \$7,500 from tax money to support a clam warden. The reason they do this is because the ordinance states that the people of the municipality, the legislative body of that municipality, if they enact these ordinances, they must police them. Now, I feel that the industry is regulated. When the clams become too much, the buyers say "all right, we won't go digging tomorrow or the next day, we'll leave a couple of days go until they get the ones in factory cleaned up because we are getting a little glut on that."

I feel that the industry is very worthwhile. From 1969 to 1972, the industry amounted to over \$4,387,672 in Washington county. So I feel if we lift this restriction, if the state lets the towns make these ordinances, if they let them practice conservation, it cost these towns money. The clam licenses that the town charges the diggers in these towns goes into a continuing conservation fund and I feel that they are doing a real fine job at it. But, if we lift this restriction and open the coastal flats to commercial digging to everyone, we are going to have a mass exodus of people digging clams right up the coast. They are going to deplete that resource and they are going to do it in a hurry. Perhaps not too much of a hurry because it won't take effect until 90 days after the legislature adjourns.

So I ask you to support the "Ought Not to Pass" Report on this L. D. 851.

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

Ms. BACHRACH: Mr. Speaker, Men and Women of the House: You may be surprised to see me get up on a shore issue at this time. But, as a matter of fact, I was asked to sponsor this bill. There are a number of clam diggers in Brunswick, who are interested in this proposal. The reason that they are is because the clam flats in Brunswick, freeze up during the Winter and the man who wants to earn a living digging

clams year round, will have to stop and find other means of employment if he can.

The proposal was that they might be able to buy another license and comply with whatever restrictions another town might impose. I suggested that that \$5 license fee is not at all excessive. I am sure that anyone who is earning his living and has an opportunity to dig in another town would be happy to pay that, or more. But the thing is that he would not be able to dig clams at all in the Winter time. I said, "Well look, how are you going to feel if the fellows from Harpswell come and dig in your area in the Summer time?" And they said "That would be fine with us, because we have to live and let live". I simply present this as a view point in the Brunswick area, for your consideration.

I favor passage of this bill.

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

Mrs. POST: Mr. Speaker, Men and Women of the House: At this point, I am not speaking either for or against the motion, but I want to try and clarify some issues if I can. I think that Representative Blodgett mentioned that the towns enact clam ordinances because they believe they own the clams. In fact, the clams are a resource for all of the state. The only reason that the towns have the ability to enact clam ordinances is because they are given that power by the Maine legislature, and that power is one that has been traditionally held for the past couple of hundred years. In fact, under the colonial ordinance in 1961, it stated that every inhabitant that is a householder shall have free fishing and fowling in any great ponds, bays, coves and rivers, so far as the sea ebbs and flows within the precincts of the town where they dwell, unless the freeman of the same town or the general court have otherwise appropriated them. So even before Maine became a state, and while it was still part of Massachusetts, it was recognized that people within a particular community had some particular concerns and some particular powers, if you will, over some of the resources, the clams particularly in that particular community. The State of Maine has dealt with the towns and the clams in various ways over the years.

In 1963, for instance, the state still had complete control over the clam flats but what they did then is they enacted private and special laws giving specific towns the right to bar non-residents or to make special provisions concerning non-residents of those particular towns. In 1963, there were, I believe, 85 towns, which had the power to do that. Then we adopted the provision where towns could put into effect clam conservation ordinances if they wished. Those ordinances would give them the power to do various kinds of things on conserving clams. Then, a few years ago, one particular community, it happens to be a community in my district, North Haven, was taken to court and the court was asked to rule North Haven's ordinances invalid on several various points. Two points they were asked to rule on was that it was unconstitutional and the court found in two particular instances the ordinances of the town barring non-residents was not unconstitutional. What it says is "we are satisfied that the state has a compelling governmental interest in the conservation of its clams. We cannot say that its attempt to achieve this purpose, by, in part, authorizing municipalities to apply the resident, non-resident standard in proper circumstances as a device to limit digging is not substantially related to the proper public purpose." And it was, therefore, found to be constitutional.

The reason the North Haven court test was turned down was that the actual ordinance did not follow the statute which was in existence at that time and North Haven did not follow along with what it had agreed to do. That was, it did not carry out a clam survey, that its barring of

non-residents, at that time, the court found was capricious. There was no compelling conservation reason for them to do that, and that is why the ordinance was struck down. Since that time, that particular community has done a clam survey and it has drawn up a conservation ordinance, which I think if it were taken to court again, would be found to be very clearly, since they worked with the department on this, to have a basis in conservation and, therefore, be constitutional.

I think all the members of the committee agree, or at least no one disagreed in committee, that the town should be able to continue conserving the resources of clams, if they wish to do that. They should be able to continue to enact the clam conservation ordinance. We tried to deal with other species on a state-wide basis and the state, for various reasons, whether it be the failure of this legislature, or the Marine Resources Committee, or the department, or the fishermen, we haven't been able to enact good state-wide conservation ordinances. I think it is particularly appropriate with clams, which are stationary, that the towns be delegated that authority by the legislature. Where the committee parted company was whether or not a town should be able to either say, "we are going to limit the number of non-resident licenses" or whether we are going to be able to say, "No non-resident licenses at all."

I think all of the committee agreed that you should be able to limit non-resident licenses if there was a good conservation basis for doing so. Then, our split again came on whether the department could do that under its present authority and I think that it probably could. Or whether something more specific need to be put in the statute and that happens to be my Minority Report, which if we get to it, I will discuss at some point.

The problem is, why, you at times, need to limit the number of non-resident licenses, is practicality. You can't expect a small community, and most of these towns which have clam conservation ordinances are small communities, you can't expect a small community to take the time that it needs to take, to form a committee, to do clam surveys, to do the policing of those surveys and yet, turn around and say that all of the licenses, if enough people happen to line up in front of City Hall the first day it became effective, that all of licenses could be bought by non-residents. And that is why its my feeling that if the bill, as its written, is passed, what will happen is, we will have very few, if any, towns clam ordinances and that means the state is going to have to take it over. I think the state is not in a position to do that.

I think the worst part of the bill is the section that says "that there can be no ordinances or any restrictions on the taking of shellfish for recreational purposes." I feel very frustrated in dealing with this issue because I know that that particular ordinance would help everybody in this particular hall right now, except those who happen to live along the coast. The fact of the matter is you can't take a resource and allow unlimited recreational use of that resource, especially clams, where we don't have to get a boat or anything else in order to dig them, including non-residents and expect that resource to exist for any length of time. New Hampshire tried that and this summer, New Hampshire's flats are closed to all digging because the resource just doesn't exist. That, in my mind, is the worst particular section of this bill.

I think at this point I will stop, and if anyone has any questions, I know this is a confusing issue, I am frustrated also that we have started dealing with it at 12:30, and if we happen to go to 2:30 on it, so be it. But I think that there probably is not a more important issue, or a more complex one, to come before this House.

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

Mr. BLODGETT: Mr. Speaker, Ladies and Gentlemen of the House: Unfortunately the good gentledady from Owls Head was mistaken on a couple of issues here.

The history of the whole matter is that this colonial ordinance prohibited anyone from restricting the use of this intertidal zone and prohibited any community or any group of people to stop other individuals to clam, to fish, to fowl, or do anything else there. It gave the public, access to this. Now, these people are suggesting that this, in fact was the other way around. That the towns had the right to exclude others. That is absolutely false, there is no truth in that whatsoever.

In the celebrated case dealing with the clam ordinances of 1907, in which they said there that, in fact, the towns had to recognize that this was a state resource, and unless the state gave the town specific rights to declare them as a resident requirement in the law, that it could not be prohibited. Of course, this is what the State of Maine did do, in general law, in 1963. So that is how recent it is, 1963. It doesn't go back to the colonial period at all.

I am glad that the good gentleman from Roque Bluffs mentioned about the town of Jonesport. This is somewhat typical of some of these good town ordinances. One issue here it says first only residents may dig there and they do have to pay a little fee of \$5.25. Now, an exception of this, of course, has to do with if you happen to be an owner of some property there, you may be able to dig without a fee, this has nothing to do with non-residents. They exclude non-residents, and that is exactly what most of these town ordinances will do. The more they exclude the better the town ordinance, at least that is in the minds of the people who are there feel.

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

Mrs. POST: Mr. Speaker, Men and Women of the House: What the colonial ordinance referred to specifically was a householder within the precinct of the town. That is what it specifically says. I will read, this is from the State vs. Norton: "Our first legislature placed a regulation of local clam harvesting in the respective municipal offices but included an insurance that the inhabitants of the community may take shellfish for any time for their personal family use."

The first time our legislature acted upon that, it gave that particular regulation to the towns, it did so again in 1906. In 1963, when the present regulation was enacted, the legislature had done it on a piece meal basis and they had given the power to regulate the clam flats to 83 towns. Then, in 1963, it turned around the other way and said, if a town wants to regulate, it draws up a program and comes to the commissioner for the authority to do that. All through Maine history, although its been done in various ways, from time to time, the power to regulate the clam flats has rested in the municipalities.

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

Mr. GOODWIN: Mr. Speaker, Men and Women of the House: I hesitate to get involved in this issue. I feel like I am caught between the gentledady here from Owls Head and the gentleman from Waldoboro, but I have introduced a similar bill to this in past sessions of the legislature. I think the overall issue we are dealing with here is very similar to hunting of deer, whether or not you can close off to other residents of this state the use of a natural resource. Your individual towns don't close off to other towns. If they have deer yards, they can't close those off to people who have paid for a license to be able to hunt deer. I think this is very similar in the area of clamming.

I would hope, although I am not really sure

how I want to go on this in regards to which report we ought to pass, I hope that we don't accept the "Ought Not to Pass" Report, and see if we can't work something out. I don't feel we want to be responsible for depleting our clam resources because it is an important resource to this state, but at the same time, I think what we have to do is what I consider a very discriminatory provision in the laws which basically says that if you live on this side of the town line or maybe one town inland like I do, if you live on this side, you can't go down to the flats and dig. For no other reason other than the fact that you live across that line, I think that this is wrong. So I would just ask you not to accept the "Ought Not to Pass" Report, and maybe we can try to work out something that is acceptable and safe for the clam industry.

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

Mr. JACKSON: Mr. Speaker, Ladies and Gentlemen of the House: I just got a note here which says that "Vinalhaven Town Band", but on the other side it says "deer move from place to place, also the deer move across land which is owned by private ownership." In the majority of the state, except possibly in some parts of Washington County, I think there is not too much question about going back through history and all, that the state maintains ownership of the flats.

I think the question here is that the way the present ordinance is written, 4252, and this also refers to clams, quahogs and mussels, the state delegates this power to the towns if the towns can show that they have a conservation ordinance. The conservation ordinance is set up by the town and funded by the town. In other words, the town pays the money. That is a very nice, neat setup to have. The state doesn't have to pay for this, the town pays for it, but if you remove from the towns the right to control it for the benefit of the towns, who are paying for it, I think you have a problem here because why should they bother to do it? Why should they pay for something they don't get the benefit from?

Like our debates on the lobster, it is a limited resource which, if no one is responsible for it, is going to disappear because everybody is going to help themselves to it but nobody is going to worry and be at all concerned about what is left and they will just deplete it and it will be gone. I personally like the idea of the towns regulating it but controlled by the state. They have to submit their plans to the state and they are paying for it and I like that, instead of us, from the general fund possibly, having to pay for this, and as you move up the ladder of government it would be that much harder to control.

I would like to see this bill killed. I think it should remain in the town. I think the commissioner has the power now to make some great improvements in this and that it could be opened in a limited way again from a conservation point of view. I think these powers exist and I don't think this bill is needed. I hope that soon we will all be out eating clams or venison or what have you. I know that the gentleman from Stonington had some mussels last night that he brought down, so we are also dealing with things other than clams, we are dealing with mussels, and quahogs on this.

Mr. Bustin of Augusta moved the previous question.

The SPEAKER: For the Chair to entertain a motion for the previous question, it must have the expressed desire of one third of the members present and voting. All those in favor of the Chair entertaining the motion for the previous question will vote yes; those opposed will vote no.

A vote of the House was taken, and obviously more than one third of the members present having voted for the previous question the motion is entertained. The question now before the House is, shall the main question be put now?

This is debatable with a time limit of five minutes by any one member. Is it the pleasure of the House that the main question be put now?

A vote of the House was taken.

Mr. Greenlaw of Stonington requested a roll call.

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

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

Mr. SILSBY: Mr. Speaker, I would like to pair my vote with the gentleman from Wells, Mr. Mackel. If he was here, he would be voting yes; and I would be voting no.

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

Mr. STROUT: Mr. Speaker, I would like to pair my vote with the gentlewoman from Portland, Mrs. Najarian. If she was here, she would be voting no and I would be voting yes.

The SPEAKER: A roll call has been ordered. The pending question before the House is the motion of the gentleman from Stonington, Mr. Greenlaw, 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 — Alouipis, Ault, Beaulieu, Bennett, Birt, Boudreau, P.; Bunker, Bustin, Carrier, Carter, D.; Carter, F.; Churchill, Clark, Connors, Cox, Devoe, Drinkwater, Durgin, Garsoe, Gillis, Gould, Greenlaw, Hickey, Hutchings, Immonen, Jackson, Jacques, Lewis, Littlefield, Locke, Lunt, Maxwell, McBreairty, McMahon, McPherson, Moody, Nelson, M.; Nelson, N.; Norris, Perkins, Plourde, Spencer, Sprowl, Stover, Tarbell, Tarr, Twitcheil, Tyndale, Valentine.

NAY — Bachrach, Benoit, Berry, Berube, Blodgett, Boudreau, A.; Brennerman, Brown, K. L.; Brown, K. C.; Burns, Carey, Carroll, Chonko, Connolly, Cunningham, Curran, Davies, Dexter, Diamond, Dow, Elias, Flanagan, Fowlie, Gauthier, Gill, Goodwin, H.; Goodwin, K.; Gray, Green, Hall, Henderson, Higgins, Hobbins, Howe, Huber, Hughes, Hunter, Jensen, Joyce, Kane, Kelleher, Kerry, Kilcoyne, Laffin, LaPlante, Lougee, MacEachern, Mahany, Marshall, Masterman, Masterton, McHenry, McKean, Mitchell, Morton, Nadeau, Palmer, Pearson, Peltier, Peterson, Post, Prescott, Raymond, Rollins, Shute, Smith, Stubbs, Talbot, Teague, Theriault, Tierney, Torrey, Trafton, Whittemore, Wilfong, Wood, Wyman.

ABSENT — Austin, Bagley, Biron, Cote, Dudley, Dutremble, Fenlason, Jalbert, Kany, LeBlanc, Lizotte, Lynch, Martin, A.; Mills, Peakes, Quinn, Rideout, Tozier, Truman.

PAIRED — Mackel, Najarian, Silsby, Strout. Yes, 49; No, 78; Absent, 19; Paired, 4.

The SPEAKER: Forty-nine having voted in the affirmative and seventy-eight in the negative, with nineteen being absent and four paired, the motion does not prevail.

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

Mrs. POST: Mr. Speaker, I move that the House accept Report C, "Ought to Pass" as amended.

Committee Amendment "A" is under filing No. 8746 and I would request respectfully that you take it out. Essentially, what my bill does is to set restrictions that a town would have to meet if it were going to enact the clam conservation ordinance. They are pretty restrictive. There are three areas in which a town of which I am most aware at the present time, in which a particular town would want to set different regulations for residents and non-residents. And those are licenses available in the first place, who can dig on what flat, and how much it is going to cost you to get a license. What this bill

specifically says is you can't enact an ordinance now, a clam conservation ordinance, without restricting the total number of licenses available. Now, there are some towns which have been abusing that privilege. There have been towns which have said we still take no non-resident licenses but we will allow an unlimited number of resident licenses. I think that is wrong. What this particular bill does is to stop that. It says, if you want to have a clam conservation ordinance, you have to take a first step and do a clam survey. You have to find out what the resource is, then you decide, and if the Department of Marine Resources have personnel that will help on this, then you decide how many diggers or how much digging that flat can stand. Once you found out how many diggers that flat can handle over a period of, say, a year, a town under this amendment can only restrict two thirds of its licenses to "resident only diggers. So, at least one third of its license has to be available to non-resident diggers.

The second thing that it does, it says that if you want to close off a flat to non-resident diggers, that flat has to be the least productive of all those that are open and there has to be a reason that that flat can only handle a decreased number of diggers. Now, the reason why this is important is that it is impossible for a town, that has ten resident diggers, and ten non-resident diggers, its impossible for a town to set aside a flat and say, this particular flat can only handle ten diggers altogether. It simply can't enforce it. But under this amendment, my amendment, a town would not be able to prohibit non-residents from coming in to dig. If it was going to close off a flat, that would have to be the least productive and it would have to show the Department of Marine Resources that that was necessary for conservation measures.

The next is the fees. One of the reasons that some of the towns charge an increased fee is that they appropriate money at their own town meeting to enforce the clam conservation ordinance. For a lot of our towns a great deal of money that goes to a constable actually goes enforcing the clam conservation ordinance. But the kind of restriction that I put on the bill says that if a town wants to charge more to a non-resident than it does to a resident, it can only do so if all of the money from those fees goes back into the clam conservation program. It can only do so up until the share that the residents is decreased is made up by municipal appropriations or municipal services, and at the very most, it can only charge two and a half times the amount that is charged for a resident fee.

The other difference from the original bill is how recreational digging is handled. What it says essentially is that the only time that a town can enact an ordinance covering recreational digging is that they can close one or more flats for one or more months of the year, if they show the Department of Marine Resources that the projected recreational digging pressure on that particular flat would be enough to deplete the resource. When they close the flat, they can only close it to non-property owners. So, if somebody lives in Arrostook County, and they have a cottage on Islesboro, then that person, who pays taxes in that town and is supporting the conservation ordinance through their own tax money would have just as much right to dig as a recreational digger as anyone else in that town, so that is essentially what I set out to do, to try to leave the control locally for the clam conservation ordinances and yet made it very clear to these towns exactly what kind of guidelines we expect them to live up to.

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

Mr. BLODGETT: Mr. Speaker, Ladies and Gentlemen of the House: While this amendment does move somewhat in the direction of what I think it should do in all fairness, it still has a number of points in here which tends to

make it somewhat of a Rube Goldberg scheme. This business of one third, how is a municipal official going to determine two thirds? Are they going to draw them by lot, or are they going to put them up, how is this going to be done?

Also in here it talks again about the fees. One of the problems that we found out that the good gentlelady from Owls Head alluded to was in the charging of fees and how they are going to be using the money. At the present time, the towns can use this as a source of revenue to provide a little income to hire someone. They use this first and foremost to hire a deputy to go around and chase off the undesirables, the non-residents. If he is busy he gets paid a lot and if he isn't busy, he doesn't get paid too much. What they don't use lapses into surplus or disappears somewhere in the General Fund in the town coffers. If they were not encouraged to do this kind of thing, they would, in fact, try to present a practical conservation program which the people, the residents, would have to live by as well as the non-residents.

So I would urge you again, not to vote for this but support the "Ought to Pass" Report.

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 make just a very few brief comments about the amendment that Mrs. Post has just described to you.

I share her feelings that this perhaps is a direction that we should move in. I think if we had more time, and I had more time to discuss this amendment with some of the people I represent, that I probably would have supported this. Certainly at the time of the discussion of this bill, the final discussion last Friday morning, I didn't feel that I had sufficient time, and frankly, I don't know how she passes what she calls her straight face test. Anyways, I will let that go for the time being.

I think very clearly the point I want to make is that what a number of us have tried to suggest is we cannot let unlimited access to our marine resources continue. I think I tried to suggest that a number of times concerning the lobster resource, and just like the petroleum resources we have, there is just a finite amount. The difference between the sea bed resources and the marine resources is that at least the marine resources are renewable and if we are going to harvest these resources continually without any regard to conservation, we will have, as the gentlewoman from Owls Head suggested, "nothing." Just as New Hampshire has now — no resource whatsoever.

I would like to suggest, I have a list here of the towns that have conservation resources, the gentleman from Waldoboro has the same list, and I don't see one of his towns, one of the towns that he represents, and if I am wrong I stand to be corrected, on this list. Not one of his towns has a clam conservation program. I suggest the reason why he is so strongly supporting this legislation is because the people in the community he represents haven't taken care of the resources that they have in their particular community. I suppose I could really be unkind and tell you what some of the people from Waldoboro are doing downeast, but I know that the gentleman doesn't share that particular conduct but it has created a number of serious problems.

So the reason that I got up to debate this bill is to indicate my support for this committee Amendment as a compromise position and ask you to give it your support too.

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

Mr. BLODGETT: Mr. Speaker, Ladies and Gentlemen of the House: There should be some statement in response to the good gentleman from Stonington. He is very correct, none of the communities that I represent and they are all coastal communities, have these prohibitive

discriminatory practices. I could answer him, the reason for this is, because the people in these towns are very fair minded and they don't believe in these discriminatory practices.

But I would suggest that this area is not, as he would suggest, all fished out or clammed out. In fact, every day, right in that immediate area in those particular towns right there, there are a large number of clambers who clam in that area, day after day. Of course, some of them do range outside of their town and I suppose that they should be considered having the right to do this since they did buy a state license, which should cover the entire State of Maine, the same as a hunting license. We don't prohibit, if you buy a hunting license, to hunt in just one particular town or county. You can hunt in the entire state and I know that he would support that sort of measure.

To comment further on this, some of these towns which exclude the clamming to just their own people, these same people, and I would include here the town of Stonington, some of their clambers go elsewhere, even though they don't allow non-resident clambers to dig in their own town. So, we shouldn't get involved in this sort of an argument at all. I think its a moral issue here of, should we be excluding people in the State of Maine from being able to move freely back and forth once they purchase, say, a commercial license, and to fish freely, in a free enterprise system and an open society.

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

Mrs. POST: Mr. Speaker, Men and Women of the House: I would like to answer a couple of questions that were posed by Representative Blodgett, and that is, how you would determine the one third? Simply, what you do is, you find out you have clam flats enough to handle 24 licenses, then two thirds of those become available for residents only and the other third becomes available to whomever comes to buy them. That is pretty simple.

What the bill says as far as fees are used, is that the license fees fixed in any ordinance shall not exceed the amount necessary to meet the municipal expenditure of the shellfish conservation program. That is pretty specific also. I think that what we are talking about is not necessarily whether we are going to have conservation or not. I think that even under Representative Blodgett's bill, we are not talking about any resident going anywhere they want to, because towns are still going to be able to limit the number of licenses that are available in any one community. Towns are still going, even under his bill, to be able to tell people "you can't come and clam here, because all the licenses have been sold and we can't sell you another one."

Mrs. Post of Owls Head 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 Owls Head, Mrs. Post, that the House accept Report C. Those in favor will vote yes; those opposed will vote no.

ROLL CALL

YEA — Aloupis, Ault, Bachrach, Beaulieu, Bennett, Benoit, Biron, Birt, Brenerman, Brown, K. C.; Bustin, Carter, F.; Churchill, Clark, Davies, Devoe, Drinkwater, Gould, Gray, Greenlaw, Henderson, Hickey, Hobbins, Hutchings, Jackson, Kany, Kilcoyne, LaPlante, Lewis, Locke, Lougee, Mackel, Masterton, Maxwell, McKean, McMahon, Mills, Mitchell,

Nelson, N.; Palmer, Perkins, Plourde, Post, Prescott, Raymond, Sewall, Tarbell, Theriault, Tierney, Trafton, Twitchell, Tyndale, Valentine, Wilfong, Wood, The Speaker.

NAY — Berry, Blodgett, Boudreau, A.; Boudreau, P.; Brown, K. L.; Bunker, Burns, Carey, Carrier, Carter, D.; Chonko, Conners, Connolly, Cote, Cox, Cunningham, Dexter, Diamond, Dow, Durgin, Elias, Fenlason, Flanagan, Fowlie, Gauthier, Gill, Gillis, Goodwin, H.; Goodwin, K.; Green, Hall, Higgins, Howe, Huber, Hunter, Immonen, Jacques, Joyce, Kane, Kelleher, Kerry, Littlefield, Lunt, MacEachern, Marshall, Masterman, McBrearty, McHenry, McPherson, Moody, Morton, Nadeau, Najarian, Nelson, M.; Norris, Pearson, Peterson, Rollins, Shute, Silsby, Smith, Sprowl, Stover, Strout, Stubbs, Talbot, Teague, Tozier, Whittemore.

ABSENT — Austin, Bagley, Berube, Carroll, Curran, Dudley, Dutremble, Garsoe, Hughes, Jalbert, Jensen, Laffin, LeBlanc, Lizotte, Lynch, Mahany, Martin, A.; Peakes, Peltier, Quinn, Rideout, Spencer, Tarr, Torrey, Truman, Wyman.

Yes, 56; No, 69; Absent, 26.

The SPEAKER: Fifty-six having voted in the affirmative and sixty-nine in the negative, and twenty-six being absent, the motion does not prevail.

Mrs. Post of Owls Head requested a roll call on the acceptance of Report B.

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

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

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

Mrs. POST: Mr. Speaker and Members of the House: I want to remind you specifically what you are voting on. What you are voting on is actually no kind of restrictions at all for any kinds of recreational clam digging. You are voting for a bill which the Commissioner of Marine Resources has determined will probably mean the end of municipal ordinances for clam management and they stated that they can't handle it on a state-wide basis, and pretty soon, at least in the southern part of the state, Maine will be in the same kind of condition as New Hampshire, and that is, the flats closed to all digging.

The SPEAKER: A roll call has been ordered. The pending question before the House is acceptance of Report B. Those in favor will vote yes; those opposed will vote no.

ROLL CALL

YEA — Bachrach, Berry, Biron, Blodgett, Boudreau, A.; Boudreau, P.; Brenerman, Burns, Bustin, Carey, Carrier, Carter, D.; Chonko, Connolly, Cunningham, Dexter, Diamond, Dow, Flanagan, Fowlie, Gill, Goodwin, H.; Goodwin, K.; Green, Hall, Hickey, Higgins, Howe, Huber, Hunter, Jacques, Jensen, Joyce, Kane, Kelleher, Kerry, Littlefield, Lunt, MacEachern, Marshall, Masterman, McHenry, McKean, Mitchell, Moody, Morton, Nadeau, Najarian, Norris, Palmer, Pearson, Peterson, Prescott, Rollins, Shute, Silsby, Stubbs, Talbot, Teague, Theriault, Tozier, Whittemore, Wood.

NAY — Aloupis, Ault, Beaulieu, Bennett, Benoit, Birt, Brown, K. L.; Brown, K. C.; Bunker, Carter, F.; Churchill, Clark, Conners, Cote, Cox, Davies, Devoe, Drinkwater, Durgin, Elias, Fenlason, Gauthier, Gillis, Gould, Gray, Greenlaw, Henderson, Hobbins, Hutchings, Immonen, Jackson, Kany, Kilcoyne, LaPlante, Lewis, Locke, Lougee, Mackel, Masterton, Maxwell, McBrearty, McMahon, McPherson, Mills, Nelson, M.; Nelson, N.; Perkins, Plourde, Post, Raymond, Sewall, Smith,

Spencer, Sprowl, Stover, Strout, Tarbell, Tierney, Trafton, Twitchell, Tyndale, Valentine, Wilfong, The Speaker.

ABSENT — Austin, Bagley, Berube, Carroll, Curran, Dudley, Dutremble, Garsoe, Hughes, Jalbert, Laffin, LeBlanc, Lizotte, Lynch, Mahany, Martin, A.; Peakes, Peltier, Quinn, Rideout, Tarr, Torrey, Truman, Wyman.

Yes, 63; No, 64; Absent, 24.

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

The SPEAKER: The Chair recognizes the gentleman from Stow, Mr. Wilfong.

Mr. WILFONG: Mr. Speaker, having voted on the prevailing side, of Report B, I now move reconsideration.

The SPEAKER: The gentleman from Stow, Mr. Wilfong, moves that the House reconsider its action whereby Report "B" was defeated.

Mr. Greenlaw of Stonington requested a roll call.

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

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

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

Mr. HOWE: Mr. Speaker, Members of the House. Having missed a couple of opportunities to speak I will do so now. I will start out by saying, we have no clambers in South Portland, and as far as I know, I have no clam diggers in my district, but I got into this thing because of my concern over what the present ordinances in a number of these towns do to people who are trying to make a living at a not very glamorous profession and not a terribly lucrative profession. There are some constitutional ramifications prohibiting nonresidents from digging in a particular municipality, although those are not as clearcut as they might be. It is my understanding that the State Supreme Court ruled the North Haven ordinance unconstitutional in view of the fact the town failed to prove that prohibiting nonresidents acted as a legitimate conservation measure.

In human terms, it seems to me what these prohibitions amount to is discriminating against not some Connecticut suburbanite who is coming up here to try to make a living at digging clams, but somebody who in many cases is probably in the very next town, and what happens, according to clam diggers I have talked with from Brunswick and Bar Harbor and other places, is that they simply can't dig enough clams in any one municipality in many cases to earn a living and they continually have to violate these ordinances in order to dig enough clams to make a living. They get hauled into district court, are fined \$25, and they go back out because it is the only way they have got to make a living unless they completely get out of the business altogether.

The bill does provide, Report B, for other forms of conservation that are outlined on the bottom of the first and the top of the second page, including that they may prohibit the taking of all shellfish or any species of shellfish and they fix the times when the shellfish may be taken, and they provide that municipal license be required for taking shellfish and they provide limitations in the amount of each species of shellfish and then they provide for the size of the soft shell clams. And the gentlewoman from Owl's Head has also indicated she believes that the towns may still restrict the total number of licenses available. So I submit that passage of Report B is simply not going to deplete our

whole shellfish resources. Therefore, I hope that we reconsider and then adopt Report B.

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

Mr. BLODGETT: Mr. Speaker, Ladies and Gentlemen of the House: In response to one of the earlier speakers that this would do away with all conservation programs, that is a bunch of bunk. There is nothing to that at all. This does continue the conservation program, but the only difference is that it prohibits discriminating against non-residents. If this is the only conservation that we can have to keep nonresidents out, it is not much of a program. Let's go for Report B and have everyone in the state equal.

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

Mr. GREENLAW: Mr. Speaker and Members of the House: The gentleman from Waldoboro knows full well that there are more measures that we can take than just prohibiting nonresidents. I think I was willing to compromise my position on actually opposing this particular bill by supporting the amendment that the gentleman from Owl's Head offered. Other people on the committee weren't willing to do so, and I suggest that this whole process is one of compromise. What I ask you to do is vote against the motion to reconsider and perhaps someone who voted on the prevailing side on the motion to accept Report C would reconsider that motion so we could accept that.

I just don't know how to say it any other way. We cannot let the harvesting of marine resources in this state be completely legislated and controlled by the employment issue. I think we are all concerned about jobs, but if we are going to exploit these resources without any controls whatsoever, eventually we are going to have nothing. Please, please, please consider this.

The SPEAKER: A roll call has been ordered. The pending question is on the motion of the gentleman from Stow, Mr. Wilfong, that the House reconsider its action whereby it failed to accept Report B. All those in favor of reconsideration will vote yes; those opposed will vote no.

ROLL CALL

YEA — Bachrach, Berry, Biron, Birt, Blodgett, Boudreau, A.; Boudreau, P.; Brown, K. C.; Burns, Carey, Carrier, Carter, D.; Carter, F.; Chonko, Connolly, Cote, Cox, Cunningham, Dexter, Diamond, Dow, Fenlason, Flanagan, Fowlie, Goodwin, H.; Goodwin, K.; Green, Hall, Hickey, Higgins, Howe, Huber, Hunter, Jacques, Jensen, Joyce, Kane, Kelleher, Kerry, Lougee, Lunt, MacEachern, Marshall, Masterman, McHenry, McKean, Moody, Morton, Nadeau, Najarian, Norris, Palmer, Pearson, Peterson, Rollins, Shute, Smith, Stover, Stubbs, Talbot, Teague, Theriault, Tozier, Whittemore, Wilfong, Wood.

NAY — Aloupis, Ault, Beaulieu, Bennett, Benoit, Brennerman, Brown, K. L.; Bunker, Bustin, Carroll, Churchill, Clark, Connors, Davies, Devoe, Drinkwater, Durgin, Elias, Garsoe, Gauthier, Gill, Gillis, Gould, Gray, Greenlaw, Henderson, Hobbins, Hutchings, Immonen, Jackson, Kany, Kilcoyne, LaPlante, Lewis, Littlefield, Locke, Mackel, Masterton, Maxwell, McBrearty, McMahon, McPherson, Mills, Mitchell, Nelson, M.; Nelson, N.; Peltier, Perkins, Plourde, Post, Prescott, Raymond, Sewall, Silsby, Spencer, Sprowl, Strout, Tarbell, Tierney, Trafton, Twitchell, Tyndale, Valentine, The Speaker.

ABSENT — Austin, Bagley, Berube, Curran, Dudley, Dutremble, Hughes, Jalbert, Laffin, LeBlanc, Lizotte, Lynch, Mahany, Martin, A.; Peakes, Quinn, Rideout, Tarr, Torrey, Truman, Wyman.

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

The SPEAKER: Sixty-six having voted in the affirmative and sixty-four in the negative, with

twenty-one being absent, the motion does prevail.

The SPEAKER: The pending question is acceptance of Report B.

The Chair recognizes the gentlewoman from Owl's Head, Mrs. Post.

Mrs. POST: Mr. Speaker, I request a vote on the pending motion.

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

Mr. NELSON: Mr. Speaker, I move that this Bill and all its accompanying papers be indefinitely postponed.

Mr. Bustin of Augusta moved the previous question.

The SPEAKER: For the Chair to entertain a motion for the previous question, it must have the consent of one third of the members present and voting. All those in favor of the Chair entertaining the motion for the previous question will vote yes; those opposed will vote no.

A vote of the House was taken, and more than one third of the members present having expressed a desire for the previous question, the motion for the previous question was entertained.

The SPEAKER: The question now before the House is, shall the main question be put now? This is debatable for five minutes under the rules. All those in favor of the main question being put now will vote yes; those opposed will vote no.

A vote of the House was taken.

101 having voted in the affirmative and 8 having voted in the negative, the main question was ordered.

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

A vote of the House was taken.

55 having voted in the affirmative and 74 having voted in the negative, the motion did not prevail.

The SPEAKER: The question now before the House is on the acceptance of Report B. 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 64 having voted in the negative, the motion did not prevail.

Thereupon, on motion of Mrs. Post of Owl's Head, Report C was accepted and the Bill read once. Committee Amendment "A" (H-746) was read by the Clerk and adopted and the Bill assigned for second reading later in today's session.

(Off Record Remarks)

On motion of Mr. Bustin of Augusta, Recessed until three o'clock this afternoon.

After Recess

3:00 P.M.

The House was called to order by the Speaker.

At this point, the rules were suspended to permit the members to remove their jackets.

Divided Report

Tabled and Assigned

Majority Report of the Committee on Transportation reporting "Ought to Pass" as amended by Committee Amendment "A" (H-734) on Bill "An Act Relating to the Maine Turnpike Authority" (H. P. 343) (L. D. 388)

Report was signed by the following members:

Messrs. GREELEY of Waldo
MINKOWSKY of Androscoggin
McNALLY of Hancock

— of the Senate.

Messrs. JACQUES of Lewiston
LITTLEFIELD of Hermon
Mrs. HUTCHINGS of Lincolnville
Messrs. McKEAN of Limestone
STROUT of Corinth
ELIAS of Madison
BROWN of Mexico

— of the House.

Minority Report of the same Committee reporting "Ought to Pass" as amended by Committee Amendment "B" (H-735) on same Bill.

Report was signed by the following member:

Mr. JENSEN of Portland

— of the House.

Reports were read.

Mr. Strout of Corinth moved that the Majority "Ought to Pass" Report be accepted.

On motion of Mr. Greenlaw of Stonington, tabled pending the motion of Mr. Strout of Corinth to accept the Majority Report and tomorrow assigned.

Divided Report

Majority Report of the Committee on Transportation reporting "Ought Not to Pass" on Bill "An Act to Establish Half Rate for Registration and Excise Fees at the Midpoint in the Registration Year" (H. P. 448) (L. D. 554)

Report was signed by the following members:

Messrs. MINKOWSKY of Androscoggin
GREELEY of Waldo

— of the Senate.

Mrs. HUTCHINGS of Lincolnville
Messrs. LITTLEFIELD of Hermon
CARROLL of Limerick
BROWN of Mexico
ELIAS of Madison

— of the House.

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

Report was signed by the following members:

Messrs. STROUT of Corinth
McKEAN of Limestone
JACQUES of Lewiston
JENSEN of Portland

— of the House.

Reports were read.

On motion of Mr. Strout of Corinth, the Minority "Ought to Pass" Report was accepted, the Bill read once and assigned for second reading tomorrow.

Divided Report

Majority Report of the Committee on State Government reporting "Ought Not to Pass" on Resolution, Proposing an Amendment to the Constitution to Provide that the Secretary of State be Elected by Popular Vote and to Establish the Duties of that Office (H. P. 1157) (L. D. 1456)

Report was signed by the following members:

Mr. COLLINS of Aroostook
Mrs. SNOWE of Androscoggin

— of the Senate.

Mr. CHURCHILL of Orland
Mrs. MASTERTON of Cape Elizabeth
Mr. STUBBS of Hallowell
Ms. BACHRACH of Brunswick
Mrs. KANY of Waterville

— of the House.

Minority Report of the same Committee reporting "Ought to Pass" as amended by Committee Amendment "A" (H-724) on same Resolution.

Report was signed by the following members:

Mr. CURRAN of South Portland
Mrs. LOCKE of Sebec
Messrs. VALENTINE of York
DIAMOND of Windham

— of the House.

Reports were read.

The SPEAKER: The Chair recognizes the

gentleman from Windham, Mr. Diamond.

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

Whereupon, Mr. Cote of Lewiston requested a division.

The SPEAKER: All those in favor of the Minority "Ought to Pass" Report being accepted will vote yes; those opposed will vote no.

A vote of the House was taken.

Whereupon, Mr. Cote of Lewiston 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 Chair recognizes the gentlewoman from Portland, Mrs. Najarian.

Mrs. NAJARIAN: Mr. Speaker and Members of the House: I wonder if any of the members of the State Government Committee who signed the report "Ought to Pass" on this bill would explain to the members of the House why they think it is necessary for the people to elect the Secretary of State?

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

Mr. DIAMOND: Mr. Speaker, Men and Women of the House: The amendment which you have, which really sort of explains this whole bill, simply says that the Secretary of State will be elected by the people of the state and he or she will also replace the Governor if the Governor is incapacitated. The question is, why have such a bill? I think we have a serious problem right now that we operate under. Right now, for example, we are eliminating an awful lot of talent to become Secretary of State. We are eliminating an entire party. We are eliminating all the Independents. Essentially, we are eliminating anybody who is not well known politically. I think that the people of Maine see this every time this happens. I know in January, I was newly elected and had a lot of grief from people, took it on the chin, if you will, because they saw it as strictly political. They saw the selection of Secretary of State and the other constitutional officers as strictly political. That is one of the reasons. I think if we could have this person who is going to become Secretary of State elected by all the people of the state, that might put a little more credibility back into that office or at least back into this House here.

As we are operating right now, it would take a one or two to vote error, misjudgement and we could have quite a serious problem on our hands. We are talking about 80 or 90 people maybe selecting this person.

The big question here is, why? Why do we have to do this? I will tell you another reason why. That is, the person who now succeeds the Governor is the president of the other body. What is wrong with that? Well, there are a lot of things wrong with that. Our Maine Constitution says that in order to be a member of this House, you have to be at least 21 years old. In order to be a member of the other House, you have to be at least 25 years old. In order to be Governor of the state, you have to be at least 30 years old, and right now the President of the other body does succeed the governor.

The question could be a technical one. What if we have a President of the other body who is less than 30? We immediately have a problem; he then becomes governor. Worse than that, we are putting somebody in as Governor who is elected by one senatorial district. I say to you, that could be a problem. Why the President of the other body, why not Speaker of the House? Why not the assistant minority leader? Why not any of these people? Why the President of the other body? Is it because he has more constituents than we do? He does have more, but certainly not enough to represent the entire state. Is it because he is older, he or she is older? She — that would be a wild one, wouldn't it? If he or she were older, what does that really mean? Or is it the eventual thing that the President of the other body is, as we all know, wiser? It raises a lot of questions.

The current reason we have is really inconsistent. I think it is about time we let the people of this state elect this person. Then if we should (and we hope it never happens) have a Governor have to leave office, we have somebody who has been elected by the people to this office.

There are a couple of opponents that might say if we are going to have the Secretary of State elected, why not all the constitutional officers? That may be some day, but right now, what we have to have is the Secretary of State because we are talking about this person stepping into that gubernatorial position.

Of course, the last argument is, how could we have somebody run for Secretary of State and maybe, heaven forbid, this person would be of the opposite party of the elected Governor. It is not really a problem. It is that way right now and it has been that way a number of years under previous administrations.

The big problem is overcoming something that has always been. If you look carefully at the reasoning behind why it has always been, look at it carefully. I think you might find the reason for changing that.

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

Mrs. KANY: Mr. Speaker and Members of the House: I hope that you do reject the "Ought to Pass" motion. Perhaps we should reevaluate how we do elect our constitutional officers, but I don't think this is the way to go about it, with just choosing the Secretary of State by election statewide. The Secretary of State really has a very limited administrative sphere and, truthfully, I think he is about the last of our constitutional officers that I would choose to have follow the governor. So I hope you do give this bill your considered judgment and I hope that you do vote against passage.

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

Mrs. BEAULIEU: Mr. Speaker, Ladies and Gentlemen of the House: I introduced this bill in this session because for several years I have heard people running for office, to sit in this House, a majority of them ran on the premise that they were going to bring about change. Many of them went around and told constituents that, yes, our constitutional officers should be elected by the people, and when they got here, they didn't do a thing about it.

When I ran for election, I told my constituents that I was about to bring change too, and I am here and I am aiming to do something about it. I had hoped that we could have addressed the method of election of all constitutional officers, but I felt that many would not subscribe to that so I chose to go at it one step at a time. This, to me, is a necessary first step and I have no qualms about the Secretary of State ever being in the position to take over for the Governor but only if he were elected at large, and I think if some people took a little bit of time to see how much impact the Secretary of State does have on the average citizen, they would find that of all the constitutional officers we have in state government, he has the most impact.

Currently, the Governor is the only statewide elected official to serve in state government. It makes more sense to me to have an official, any kind of official, elected by all the people of the state, but particularly when it is a constitutional office.

Currently, there are only two other states that elect a secretary of state in the same manner as Maine, and we are the only state which provides for the legislative election of the attorney general. I think that the timing of this proposal is also significant from a political point of view, because believe it or not, ladies and gentlemen, neither party can guarantee a majority in the next legislature, primarily due to the new single-member districts. No party has anything to lose from this bill, and I maintain that we may never again have an opportunity to begin discussion on these important issues which I feel the people truly are interested in.

I understand it is not a burning issue with anybody, but I think it is important, and if I ran on the premise of governmental change, as many of you did, it is time to put ourselves on the line.

The function of a legislator, to me anyway, is to

plan, to legislate, to oversee, and I really believe it is not to elect governmental officials, because if that were the case, then maybe we should start electing other officers, such as county sheriffs, district attorneys, etc.

I guess I realize that tradition is my biggest opponent in this proposal, but I would remind all of you that the people of Maine should have an opportunity to let us know what they want, and I would like some support to make sure that they at least have that opportunity and let the debate take place between the people themselves, not necessarily here.

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

Mr. LAFFIN: Mr. Speaker, Ladies and Gentlemen of the House: Being a sponsor of this bill, I believe in a bill or I don't sponsor it in the first place.

We have now 38 states in our nation that elect their secretary of state. The thing that I like about this, which has been mentioned by both Representative Diamond and Beaulieu, is the fact that the people are voting for this office.

I have been in politics a long time, and I know how the game is played. Anyone here who doesn't is just fooling himself. I don't believe that a candidate, regardless of who he is, should be given any reward for running for any elected office. If he wants to run for an elected office and win, then so be it, but if he loses, I don't believe that the Democratic Party or the Republican Party has the right, has the moral right, to the people of this state to appoint such a high office as we are talking about today, the secretary of state.

I have the greatest respect for our present Secretary of State. In fact, if he were a candidate for Governor, I am sure that I could support him very easily, and I am a Republican. We are not talking about the person, we are talking about the office.

The other thing that disturbs me about the Secretary of State not being elected by the people is that he does not have to answer to the people, he only answers to the party in power in this legislature. That is not the intent or the wishes of the people of Maine.

There are only three states that have our system — ours, Tennessee and New Hampshire. I think it is old, it is outdated, it is gone. It is just like the presidential primary. I don't believe the people of this state want a few people deciding who are going to be the delegates and how they are going to vote. I don't believe the people of Maine want the President of the Senate to be elected if death should occur to our Governor. The President of the Senate was not elected by the majority of the people of this state; he was only elected in one district. These are the things that bother me about our present system, and I think that I have been in politics long enough to know and to realize that there are many people in this House and in the other body who do not want to change the political system. I think that many times they would like to have a say in the political bargaining process.

This is a good bill this afternoon, and the big, important part that Committee Amendment "A" will do is that in the event of the death of a Governor, he will be the Governor; consequently, there is not too much that can be said because he will be elected by the people. I am sure that in this age when we are living where so many people are so down on elected officials, I think that this would be one of the right steps in the right direction. I am not saying it is a perfect step and I am not saying that this bill will have all the answers or all the decisions that we would like to make right, but I think it is a right step, because as we go back to our constituents and we tell them what we have done and what we haven't done, I think they are filled with many doubts and fears as to just what we have done. I think that if we pass this bill this afternoon, we move it along and we see what happens, we can always say, I suppose, well, we did what was right and the other body did what was wrong. It is not something that we are all going to get upset over today, we are not all going to work hard probably, but it will come back, it will be here next session, if not by myself and Mrs. Beaulieu, it will be by someone else, because the political system has got to put faith back into the people. The people don't have to put faith in the political system; they trusted

it. Now we have got to put it back to the people.

The SPEAKER: A roll call has been ordered. The pending question is on the motion of the gentleman from Windham, Mr. Diamond, that the Minority "Ought to Pass" Report be accepted. All those in favor will vote yes; those opposed will vote no.

ROLL CALL

YEA — Beaulieu, Bennett, Benoit, Berube, Blodgett, Boudreau, A.; Carey, Carroll, Carter, D.; Clark, Cox, Cunningham, Curran, Dexter, Diamond, Dow, Drinkwater, Durgin, Goodwin, K.; Henderson, Howe, Kilcoyne, Laffin, LaPlante, Littlefield, Locke, Lougee, Lynch, MacEachern, Mackel, Masterman, McBrearty, McHenry, Nadeau, Prescott, Raymond, Rollins, Smith, Strout, Tarr, Theriault, Truman, Valentine, Wood.

NAY — Aloupis, Ault, Bachrach, Bagley, Berry, Biron, Birt, Boudreau, P.; Brennerman, Brown, K. L.; Brown, K. C.; Bunker, Burns, Bustin, Carrier, Carter, F.; Chonko, Churchill, Connors, Connolly, Cote, Davies, Dudley, Elias, Fenlason, Flanagan, Fowle, Garsoe, Gauthier, Gill, Gillis, Goodwin, H.; Gould, Gray, Green, Greenlaw, Hall, Hickey, Higgins, Hobbins, Huber, Hughes, Hunter, Hutchings, Immonen, Jackson, Jensen, Joyce, Kane, Kany, Kelleher, Lewis, Lunt, Mahany, Marshall, Masterton, McKean, McMahon, McPherson, Mills, Mitchell, Morton, Najarian, Nelson, M.; Nelson, N.; Norris, Palmer, Pearson, Peltier, Perkins, Peterson, Plourde, Post, Quinn, Rideout, Sewall, Shute, Silsby, Spencer, Sprowl, Stubbs, Talbot, Tarbell, Teague, Tierney, Torrey, Tozier, Twitchell, Tyndale, Whittemore, Wilfong.

ABSENT — Austin, Devoe, Dutremble, Jacques, Jalbert, Kerry, LeBlanc, Lizotte, Martin, A.; Maxwell, Moody, Peakes, Stover, Trafton, Wyman.

Yes, 44; No, 91; Absent, 15.

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

Thereupon, Majority "Ought Not to Pass" Report was accepted.

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

Mr. CHURCHILL: Mr. Speaker, I move to reconsider and hope that you will all vote against me.

The SPEAKER: The gentleman from Orland, Mr. Churchill, moves that the House reconsider its action whereby the Majority "Ought Not to Pass" Report was accepted. All those in favor of reconsideration will say yes; those opposed will say no.

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

Sent up for concurrence.

On motion of Mr. Garsoe of Cumberland, by unanimous consent, the House voted to take the twenty-eighth tabled and today assigned matter out of order:

"An Act to Improve the Administration of the State's Merit System." (Emergency) (H. P. 239) (L. D. 398) (H. "A" H-608)

Tabled — June 20, 1977 by Mr. Tierney of Lisbon Falls.

Pending — Passage to be Enacted.

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

Mr. GARSOE: Mr. Speaker, Ladies and Gentlemen of the House: I appreciate this courtesy and I want you to know that it is not a ploy to take advantage of any circumstances but rather the fact that I wanted to say a blessing over this little jewel before it goes, and I am going to be away from five-thirty this evening, so, again, I do want you to know that I appreciate this.

I don't expect to stay its passage, but briefly I do want to put on the record a few facts concerning this piece of legislation.

As we have been told, we made a mistake last year in the bargain that was put together to implement the Hay Plan and the attendant changes in the matters of compensating and classifying our state employees. I think we would be making a great mistake to pass this piece of legislation here today.

I want to point out that this was a bargain, that the Governor was right in the middle of it, that the Governor was dragged at least 20 degrees off his course by the negotiations that were ongoing to finally reach the magic number necessary to implement this combination. I would like to point out to you that where I think we are making a mistake today is that this bargain involved increasing the mileage paid state employees, a bonus payment for state employees, a guaranteed minimum increase to all state employees, the compression of the pay grade steps so that steps that formerly took 15 years to accomplish are now reached in 7½ years. On the other side of the coin, we had the 10 percent maximum. No employee, regardless of his move, was to receive over a 10 percent increase, and, as I say, it was put together. Now we are seeing an effort to pull the string on one aspect of this.

The double damage that occurs is that in the compression of those steps that I referred to earlier where it took 15 years for an individual to progress through the steps in his particular pay grade, something over 50 percent of the state employees were eligible for merit increases. By virtue of this compression, we now find over 90 percent of the state employees eligible for merit increases. When you undo one aspect of this bargain and make it retroactive, you are bound to have a fiscal impact that was much greater than the consequential savings that were effected when 60/40 went into effect. I think the only even-handed approach would be that we be given the opportunity to negate the whole ball of wax, and we are not. We are being asked to take out this one aspect of it.

I guess that is all I wanted to say, is that I think we are making a mistake. I ask you to consider these aspects that I think are important. This was a carefully and painfully worked out arrangement. What you are being faced with today seems to me to be saying that you are saying we cannot implement, we cannot make-it-function, that a merit system can be a viable alternative in state government.

I know the horror stories that you have heard; I have heard them too. In every instance that I have been given specifics, I have taken it to the Personnel Department and asked them to run them down and agree, there have been misapplications of this. There have been injuries done to individuals, but I measure a sincere effort on the part of the Governor and his personnel people to upgrade the people who are charged with the responsibility of administering this. I don't think we are giving it a fair chance.

Mr. Speaker, I would formally like to inquire or bring to the Chair's attention that I feel there needs to be a fiscal note on this measure. I don't believe there is one at this point. I would like to leave that with you and I would ask that when the vote is taken, it be taken by the yeas and nays.

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

Mr. TIERNEY: Mr. Speaker, Men and Women of the House: Some of you will recall this morning that I spoke in favor of the Governor's bill dealing with life insurance reform, and in doing so hopefully picked up a few credibility chips with the corner office. I am about to dispel any suggestion which may have crept into your mind that I have taken leave of my senses and I will return to my accustomed philosophical position.

I oppose Mr. Garsoe on so many points that I barely know where to begin. I am opposed, fundamentally, to the concept of merit pay in

public employment. I feel it is absolutely inherently impossible to administer. The only point which I would like to leave with you is that even if you believe in merit pay and even if you believe that the managers in state government should be making the determination that someone, because he does a better job should get a bonus, then our current laws do not lead toward that end. 60/40, in and of itself, is destructive to the philosophy of merit pay.

If I am an employer or if I am a manager and I have people working for me and they are doing a commendable job, then those people should get merit pay. To introduce an arbitrary limitation that only 60 percent of those people can get merit pay, no matter how good a job or no matter how poor a job they can do, flies in the face of common sense and good reason.

This bill — and it takes us back to those rather emotional times last year when we dealt with this issue — would return state employees to the position they were in before the Hay Report and the Hay Compromise was adopted. I urge you to vote for this bill. It would allow those people in mid-management and management positions in state government to give merit pay to all of those employees, not just 60 percent, but all of those employees who truly deserve it. For those who believe in the merit pay system, I urge you, too, to join with us in enacting this piece of legislation.

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

Mr. KELLEHER: Mr. Speaker, Ladies and Gentlemen of the House: I urge you to support the passage of this bill. I was a member of the last session of the legislature when the Hay Report was before us. I thought it was a bad deal for state employees at the time. I think the reactions of this legislature to the position where this bill is now indicates, in fact, that we operated in poor faith in dealing with state employees on the 60/40 merit implementation that came before this body. I never did vote for it. I am delighted to be a member of this body here this afternoon to see us repeal a program that even when people came from the Governor's Office before this body the last session of the legislature trying to sell it, in fact they never really did a good job. I think many members of this legislature who were here two years ago who voted for it, whether they are reluctantly now speaking against the Hay Report, they can see that they made a mistake.

The report from the committee was overwhelming in support of repeal. I can understand the frustrations of the good gentleman from Cumberland. I think in this particular issue, he is not in the ball park. He was a strong supporter of the Hay Report two years ago; I was in opposition to it, as were some of the sponsors of the bill this particular session. I urge you, when the roll call is taken, that you do vote in good faith in dealing with our state employees to repeal the 60/40.

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

Mr. BUSTIN: Mr. Speaker, Men and Women of the House: I wish that I could say that I was amazed, shocked, stunned and astonished at finding the gentleman in the left-hand corner being an apologist for the Governor on this issue. However, I am just a little bit surprised.

The argument that he advanced would have merit, the argument, that is, which says once you make a bargain, don't try to come back and change that bargain. He knows and we know that the people who were primarily affected by that bargain had no part in the making of it. That is what is wrong with his argument. The 60/40 plan was the most indigestible course in a very unsavory meal that was crammed down the throats of our state workers.

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

Mr. HICKEY: Mr. Speaker, Ladies and

Gentlemen of the House: I speak today on behalf of a large number of my constituents, about 1,200 state employees. I support the repeal of the limitation on funding of merit pay increases and to improve upon the administration of the state merit system; I urge the passage of L. D. 398. The present law is arbitrary and expensive. It has created a great deal of ill will among employees and has reduced departmental morale to a dangerously low level. It was designed to save money but is actually costing more money because of the time and paperwork involved in administering it. There are many appeals each day pouring into the Personnel Department by employees denied increases. Reasonable estimates are that there will be a thousand appeals this year — why? Because of the various state departments. The standards for determining a merit increase are not uniform, in some cases, not professional.

Under the present situation, quality can take a back seat to partisanship or favoritism as a basis for judging an employee's work. In other cases, a supervisor may rate the quality of work heavily while another may rate quantity heavily. In some cases, supervisors have had inadequate training in appraising employees' performances. Some supervisors are even competing for merit raises with the same period they are evaluating. The present system often pits one employee against another and against their supervisor, and it doesn't allow management the flexibility to reward some employees who deserve merit increases.

L. D. 398 directs that the Commissioner of Personnel will develop and install a training program for supervisory personnel, including appropriate written guidelines which will insure that all evaluators responsible for doing merit increase ratings do so fairly and equitably. Annual written ratings for each employee will be required and must be on file in the employee's official personnel file. All employees must be educated as to their duties, responsibilities and obligations of his or her specific position. These requirements, I believe, will serve to establish an efficient and fairly administrative merit system. It is to this end that I urge support from members of the House for this bill.

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

Thereupon, Mr. Tierney of Lisbon Falls assumed the Chair as Speaker pro tem and Speaker occupied his seat on the floor.

The SPEAKER pro tem: The Chair recognizes the gentleman from Gardiner, Mr. Kilcoyne.

Mr. KILCOYNE: Mr. Speaker, Ladies and Gentlemen of the House: I am the sponsor of L. D. 398. It is an act to improve the state's merit system. On page one, paragraph three of the bill, it says — "Whereas funds for state employees have been arbitrarily restricted to 60 percent of those who may be eligible." This is the major issue of this bill, the administration of which is a nightmare of inequity.

As you know, it has been brought out here before today, the special session of the 107th Legislature passed a bill which limited funding for merit increases for state workers to 60 percent of those eligible. While funding restrictions were well intended by the 107th, it has created chaos and has led to demoralization of the work force.

Ladies and gentlemen, if ever there was a system designed to destroy the incentive of the state employees or to demoralize the managerial forces, the 60/40 split has succeeded in both areas. Only one other state has limited the number of state employees who may receive a merit increase, and that state is

Arizona. Ladies and gentlemen, they are in trouble.

The bill provides that the policy of the state would be that in those instances where merit increases are earned, they shall be awarded. If not earned and warranted through performance evaluation, they shall be denied. Ladies and gentlemen, I urge your support of this bill.

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

Mr. MARTIN: Mr. Speaker pro tem, Members of the House: The gentleman from Cumberland, Mr. Garsoe, successfully, I think, or otherwise when I am through, managed to get me to my feet to perhaps outline in part for those of you who were not part of what took place and perhaps for others that were, to refresh your memory.

Negotiations took place; in fact, bargaining did take place, but I must indicate to you under what conditions those bargainings did take place. Most of us in this chamber who came back after the last session feel very strongly that some of the things that occurred last time had to be changed. But in order for us to understand that, I think it is important that we understand under what conditions and where and why 60 percent ended up being 60 percent.

I was one of those through all the negotiations, along with the President of the other body and the Governor, who laid out what was finally accepted by both bodies and signed into law. I was one of those who supported another approach than this 60 percent. I was one of those who supported a true merit system, for those who really deserve should be rewarded, but it should not be done in this fashion.

The Governor felt very strongly that 50 percent should be used as a basis. Some of us, myself in particular, felt very strongly that we had to change our present classification system in this state which was, in fact, antiquated. And I think we have succeeded to do that through both the Hay Plan and the review system that we structured during the end of the session, which was chaired by a former member of this body, Roger Snow.

I don't believe, as the gentleman from Cumberland, Mr. Garsoe, indicated to you, that we made anything in cement. I don't believe that we made it so that it could not be changed, because I think if there is anything that has created morale problems among our state employees, it is the 60/40 problem. It is for that reason I intend to support this legislation today, because I think in the long run it is what is right. I ask all of you to give the necessary votes to make this a reality today.

I think we came away from the compromise last year with some achievements, but at the same time some liabilities were created and this to me was the biggest liability that was created, not only for state employees but for the credibility of the legislature with state employees. As a result, I certainly hope that you do not follow the lead of the gentleman from Cumberland, Mr. Garsoe, but instead vote for final enactment of this legislation today.

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

Mr. BAGLEY: Mr. Speaker, Ladies and Gentlemen of the House: I think, and I have checked back in the records of that one-day session that we had closing out the last session. I was the only person here who stood up and said that I would vote reluctantly for the measure but I was definitely opposed and wanted to go on record as being opposed to this 60/40 business.

I wrote to the Hay Company last fall after I was reelected and asked them if they recommended this thing frequently, this 60/40 thing, they admitted they didn't. They said that as far as they knew, some other state, they didn't know which one, had a system somewhat

similar. So apparently it isn't anything that the Hay Company itself spent too much time working on or advocating.

I have been in school work all my life. For the last 35 years, the problem of merit pay for teachers has been very prominent. It has ceased to be prominent now; it is close to being absolute failure. But when I used to go to Atlantic City to the National Superintendents Meeting, when I used to go to various other national meetings, always someone was getting up and explaining how well the merit pay plan was working in their town. I remember the superintendent of schools from Winnetka, which is one of the wealthy suburbs. They had a merit pay plan for teachers. The superintendent explained how it worked. He was very proud of it. Two years later, I went to a national meeting and I asked someone there from that area how the Winnetka merit plan was working. He said, oh, we dropped that last year; it just simply didn't pan out. That has been the history of merit pay throughout.

Of course you know, I am a representative from fairly close to here. Many of my constituents from both Monmouth and Winthrop are state employees. I went house to house. I was up against a good man when I was running for reelection and I knew I had to see as many people as I could. I went house to house, and every time I called on a person who worked for the state, I got the same thing, with one exception. One person thought the thing wasn't too bad and possibly if it were changed, there would be 15 percent that didn't get the merit plan and 85 that did, all reversed, so that 15 percent did get it and 85 didn't. He said, I don't care which way you go. If we can give the top 15 percent a big increase, it will be good. If we can eliminate the bottom 15 percent it will be good. With that exception, no one favored any percentage basis whatsoever. It was the one thing I was asked wherever I went — what are you going to do about the 60/40 thing? So I hope you will go along with the vote for this.

At this point, Speaker Martin returned to the rostrum.

SPEAKER MARTIN: The Chair wishes to thank the gentleman from Lisbon Falls, Mr. Tierney, for acting as Speaker pro tem.

Thereupon, Speaker Martin resumed the Chair and Mr. Tierney of Lisbon Falls returned to his seat on the floor amid the applause of the House.

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

Mr. BIRON: Mr. Speaker, Ladies and Gentlemen of the House: For the past two months, I think you have heard me talk about fiscal responsibility. When I opposed measures such as monies for the epilepsy foundation, I got notes that I was crazy. When I spoke in opposition to a tax break for the blind, I was against the blind, and when I spoke in opposition to a tax break for veterans, I was against veterans. Well, let me tell you something, ladies and gentlemen, this legislature was looking ahead, it was looking ahead at the responsibilities that we have in government, it was looking ahead at a plan called at 60/40, which is the one single-most reason I ran for this office. It is the most ridiculous thing I have ever seen. If there is any reason that I ran for this office, it was to get rid of the 60/40 plan, and the reasons I opposed some of the legislation that you passed was because I knew there were dollars necessary to rectify that situation. Therefore, I urge your support for this bill before you.

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

Mr. BURNS: Mr. Speaker, I would like to pose a question to anyone who may care to answer. One of the deciding factors in the 107th as to why 60/40 was placed into law was it was

discovered that if it were not in law, it could be administratively set the other way, 40/60 — 60 percent not getting an increase. Are there any safeguards in this law where it cannot be administratively set at this time?

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

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

Mr. KELLEHER: Mr. Speaker, definitely, no.

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

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

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

Mr. JENSEN: Mr. Speaker, I would pose a question to perhaps somebody on the committee. What is the cost of this particular bill to the General Fund and what will the cost be to the Highway Fund?

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

The Chair recognizes the gentleman from Perham, Mr. McBreairty.

Mr. MCBREAIRTY: Mr. Speaker and Members of the House: I took liberty to go to the Finance Office and get the figures from them on this bill, and they gave me a figure of \$375,000 for each year. State employees are split up; 43.8 percent are paid from the General Fund; 29 percent from the Highway Fund. I hope that will partly answer the question.

The SPEAKER: The Chair would further respond to the question. The Chair would indicate to the gentleman that the bill contains a provision which carries that amount. The Highway Fund, to which he was obviously referring, it would cost \$287,506.

A roll call has been ordered.

The pending question is on passage to be enacted. All those in favor will vote yes; those opposed will vote no.

ROLL CALL

YEA — Aloupis, Ault, Bachrach, Bagley, Beaulieu, Bennett, Benoit, Berry, Berube, Biron, Birt, Blodgett, Boudreau, A.; Boudreau, P.; Brennerman, Brown, K. L.; Brown, K. C.; Bunker, Burns, Bustin, Carey, Carrier, Carroll, Carter, F.; Chonko, Churchill, Clark, Conners, Connolly, Cote, Cox, Cunningham, Curran, Davies, Devoe, Dexter, Diamond, Dow, Drinkwater, Dudley, Durgin, Elias, Fenlason, Flanagan, Fowlie, Gauthier, Gill, Gillis, Goodwin, H.; Goodwin, K.; Gould, Gray, Green, Greenlaw, Hall, Henderson, Hickey, Higgins, Hobbins, Howe, Huber, Hughes, Hunter, Hutchings, Immonen, Jensen, Joyce, Kane, Kany, Kelleher, Kerry, Kilcoyne, Laffin, LaPlante, Lewis, Littlefield, Locke, Lougee, Lunt, Lynch, MacEachern, Mahany, Marshall, Masterman, Masterton, Maxwell, McBreairty, McHenry, McKean, McMahon, McPherson, Mitchell, Moody, Morton, Nadeau, Najarian, Nelson, M.; Nelson, N.; Norris, Palmer, Peakes, Pearson, Peltier, Perkins, Peterson, Plourde, Post, Prescott, Quinn, Raymond, Rideout, Rollins, Sewall, Shute, Silsby, Smith, Spencer, Sprowl, Strout, Stubbs, Talbot, Tarbell, Tarr, Teague, Theriault, Tierney, Torrey, Tozier, Trafton, Truman, Twitchell, Tyndale, Valentine, Whittemore, Wilfong, Wood, Wyman, The Speaker.

NAY — Garsoe, Mackel, Rollins.

ABSENT — Austin, Carter, D.; Dutremble,

Jackson, Jacques, Jalbert, LeBlanc, Lizotte, Martin, A.; Mills, Stover.

Yes, 137; No, 3; Absent, 11.

The SPEAKER: One hundred thirty seven having voted in the affirmative and three in the negative, with eleven being absent, the motion does prevail.

Signed by the Speaker and sent to the Senate.

By unanimous consent, ordered sent forthwith.

Divided Report

Majority Report of the Committee on State Government reporting "Ought to Pass" on Bill "An Act Providing Automatic Cost-of-Living Wage Supplements for State, Maine Maritime Academy and University of Maine Employees" (H. P. 950) (L. D. 1144)

Report was signed by the following members:

Mrs. LOCKE of Sebec

Messrs. VALENTINE of York

CHURCHILL of Orland

STUBBS of Hallowell

DIAMOND of Windham

Ms. BACHRACH of Brunswick

Mr. CURRAN of South Portland

Mrs. MASTERTON of Cape Elizabeth

Mrs. KANY of Waterville

— of the House.

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

Report was signed by the following members:

Mr. COLLINS of Aroostook

Mrs. SNOWE of Androscoggin

— of the Senate.

Reports were read.

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

Divided Report

Majority Report of the Committee on Health and Institutional Services reporting "Ought to Pass" as amended by Committee Amendment "A" (H-722) on Bill "An Act Concerning Licenses for Camping Areas and Eating Establishments" (H. P. 869) (L. D. 1062)

Report was signed by the following members:

Mr. GREELEY of Waldo

Mrs. SNOWE of Androscoggin

— of the Senate.

Mrs. NELSON of Portland

Mr. FOWLIE of Rockland

Mrs. GILL of South Portland

Mr. KERRY of Old Orchard Beach

Mrs. PRESCOTT of Hampden

Mrs. KANE of Augusta

Messrs. BRENNERMAN of Portland

GOODWIN of South Berwick

TYNDALE of Kennebunkport

Mrs. TRAFTON of Auburn

— of the House.

Minority Report of the same Committee reporting "Ought to Pass" as amended by Committee Amendment "B" (H-723) on same Bill.

Report was signed by the following member:

Mr. PRAY of Penobscot

— of the Senate.

Reports were read.

On motion of Mr. Goodwin of South Berwick, the Majority "Ought to Pass" Report was accepted and the Bill read once. Committee Amendment "A" (H-722) was read by the Clerk.

Mr. Perkins of Blue Hill offered House Amendment "A" to Committee Amendment "A" and moved its adoption.

House Amendment "A" to Committee Amendment "A" (H-760) was read by the Clerk.

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

Mr. GOODWIN: Mr. Speaker, I move the indefinite postponement of this amendment.

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

Mr. PERKINS: Mr. Speaker, Ladies and Gentlemen of the House: Just a little background on this bill. This bill was a bill that I presented on April 26 to the Health and Institutional Services Committee which was to prevent a situation which has been bothering the people of Mount Desert for quite some time, in that we have an out-of-state firm that is running bus tours to the Town of Mount Desert and holding tours and picnics on lands of Long Pond, two or three times per week, and because the Division of Sanitary Engineering of Human Services was powerless to do anything about it, they were forced to issue a license. My bill would give them grounds for refusal of a license to these people who are running bus tours. Because of this, and the committee working on this so long, they have added a part to the bill which would make it inoperable to the Town of Mount Desert, in that my amendment would remove the words "public health ordinances" and make the people who apply for licenses comply to all local ordinances. This would make it workable for the Town of Mount Desert.

Public health ordinances are all very good, except that the Town of Mount Desert and many of my other towns are too small and I guess we just can't afford them. We don't have them, we do have zoning and planning ordinances as per guidelines of the state; thus, in my amendment I have removed these two words from that, feeling that local ordinances being violated should be grounds for refusal by the Department of Sanitary Engineering for refusal of issuance of a license.

I would ask your support today in passage of this amendment to this bill which would, in fact, accomplish the purpose, in that it would prevent the culmination of bus tours on the shores of Long Pond, which is in fact the water supply for the Town of Southwest Harbor, and these people are jeopardizing this water supply by holding these tours on this land. So I ask your support in supporting this amendment.

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

Mr. GOODWIN: Mr. Speaker, Men and Women of the House: I am a little bit at odds in trying to explain this. The way the Committee Amendment is written, as Representative Perkins has stated, is that a person would have to comply with all local public health ordinances before the Division of Health Engineering within the Department of Human Services grants a person a license to operate a catering service or a restaurant or a clam bake, as this particular case is.

In going over this with our staff and people from the Attorney General's Office and the Department of Human Services, we had several drafts on this. We were trying to come up with language that was workable and would probably meet a constitutionality test. The one thing we didn't want to do, the majority of us didn't want to do, was to put the state in the position whereby through our health licensing procedures, whereby we license people based on rules and regulations on sanitation and various other health related areas, that we wouldn't be putting the state in a position to be passing on or approving of local municipal ordinances that didn't really have anything to do with public health, such as a section of a zoning ordinance that would prohibit restaurants in this particular section of town, or prohibit anything but single family dwellings or something of this nature.

The Town of Mount Desert does have a particular problem. It is actually a problem with the judiciary system and not necessarily with the licensing. The courts are the ones that

should be deciding this issue. As I understand it, this particular person is violating local ordinances and the town has taken him to court and the court hasn't done anything. What I am willing to do and what the majority of the committee was willing to do is to go along to the extent where the state will say we will not issue licenses if the particular applicant does not meet the town's specific public health codes, but to get into all the other areas of land use and everything else, I think that we would be setting a bad precedent of denying a public health license based on the fact that an individual had not met a particular requirement of some other type of land use code, and I think that this is a bad precedent for us to be getting into.

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

Mr. PERKINS: Mr. Speaker, Ladies and Gentlemen of the House: I am not often in disagreement with the good gentleman who is the House Chairman of this committee. Let me read to you, if I may, the licensing requirement which is required at present by the Division of Human Services of the people who hold these clam bakes and who are in fact jeopardizing the water supply of one whole town. The license requirement is: Some form of toilet facility, disposable dishes, a cooler, drinkable water, and routine garbage pickup. These are the only requirements that are required for these people to obtain a license. The people of Mount Desert are asking that you make a stipulation so that there will be more stringent controls and that the local control be a provision prior to these people being issued a license so that they do not jeopardize the town's water supply.

I don't think this is setting precedent. The good gentleman and I have talked this back and forth and I guess it is purely now a philosophical point in the fact that it would be my impression that the state zoning and planning ordinances were, in fact, set up for the municipalities and the state's health and welfare, and whether we put in this thing which I would like to remove, public health ordinance, which then makes it inoperable for the town, is the point I am trying to remove, and I would just like to find something for the town.

The good gentleman refers to our differences with the court, on July 9, 1976, we went to the Superior Court in the City of Ellsworth, to Judge Bishop, and asked that he issue a restrainer to Daniel's Tours out of Connecticut, that they hold no more tours on Long Pond in the Town of Mount Desert. On May 25, 1977, the judge issued a ruling. The ruling was that the holding of these tours would not cause irreparable harm to the Town of Mount Desert. The Town of Mount Desert has used its recourses through the courts, has not been satisfied. We are now coming to you folks and asking for your help, and today we would appreciate your help.

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

Mrs. TRAFTON: Mr. Speaker, Ladies and Gentlemen of the House: The whole committee is very sympathetic to the plight of the gentleman from Blue Hill, Mr. Perkins. However, we did feel that in putting something on the statutes, it would have to be a law that would be equitable for all the people in the state. And as the gentleman from South Berwick has pointed out, in our conversations with the Attorney General's Office, it became clear to us that there was a severe constitutional question here of whether we could at the state level issue a health license based on other criteria than health concerns.

I think also we should remember that generally speaking we tend to establish laws at the state level which are sort of a basic standard, and if a municipality would like to have a more stringent standard, then it is up to them to

force this through local ordinances. Recently, the committee also handed out a decision on the mass gatherings, and again this is the approach we took. We set a standard for those mass gatherings but we made it very clear in the legislation that if a municipality would like to have more stringent standards, that they could in fact do so.

I would urge you to accept the 12 to 1 committee report and vote to accept that.

The SPEAKER: The Chair will order a vote. The pending question is on the motion of the gentleman from South Berwick, Mr. Goodwin, that House Amendment "A" to Committee Amendment "A" 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 58 having voted in the negative, the motion did not prevail.

Thereupon, House Amendment "A" to Committee Amendment "A" was adopted.

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

Divided Report

Majority Report of the Committee on Judiciary reporting "Ought to Pass" as amended by Committee Amendment "A" (H-720) on Bill "An Act to Encourage Restitution" (H. P. 1474) (L. D. 1712)

Report was signed by the following members:

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

Messrs. GAUTHIER of Sanford
DEVOE of Orono
HENDERSON of Bangor
NORRIS of Brewer
HOBBS of Saco
BENNETT of Caribou
HUGHES of Auburn
SPENCER of Standish
— of the House.

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

Report was signed by the following members:

Mr. COLLINS of Knox
— of the Senate.

Mr. TARBELL of Bangor
Mrs. SEWALL of Newcastle
— of the House.

Reports were read.

On motion of Mr. Spencer of Standish, the Majority "Ought to Pass" Report was accepted and the Bill read once. Committee Amendment "A" (H-720) was read by the Clerk and adopted and the Bill assigned for second reading tomorrow.

Divided Report

Ten Members of the Committee on Judiciary on Bill "An Act Concerning Administration of the Judicial Department" (H. P. 635) (L. D. 838) report in Report "A" that the same "Ought to Pass" as amended by Committee Amendment "A" (H-698)

Report was signed by the following members.

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

Messrs. SPENCER of Standish
BENNETT of Caribou
HOBBS of Saco
HUGHES of Auburn
DEVOE of Orono
GAUTHIER of Sanford
HENDERSON of Bangor
— of the House.

Two Members of the same Committee on

same Bill report is Report "B" that the same "Ought to Pass" as amended by Committee Amendment "B" (H-699)

Report was signed by the following members:

Mr. TARBELL of Bangor
Mrs. SEWALL of Newcastle
— of the House.

One Member of the same Committee on Same Bill reports in Report "C" that the same "Ought to Pass" as amended by Committee Amendment "C" (H-700)

Report was signed by the following member:

Mrs. NORRIS of Brewer
— of the House.

Reports were read.

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

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

The SPEAKER: The Chair recognizes the Gentleman from Standish, Mr. Gauthier.

Mr. GAUTHIER: Ladies and Gentlemen of the House: There has been an error made. I made an error when I signed the report on L. D. 838. I should not be under that report, I should be under the last report, signed by Mr. Norris, which is Report C. It isn't much of an infraction, but that is where I belong and I would like to have that corrected in case anybody questions it.

On motion of Mr. Tierney of Lisbon Falls, tabled pending the motion of Mr. Spencer of Standish to accept the Majority "Ought to Pass" Report A and tomorrow assigned.

Divided Report

Majority Report of the Committee on Judiciary reporting "Ought Not to Pass" on Bill "An Act Reinstating Public Intoxication as a Crime" (H. P. 1201) (L. D. 1430)

Report was signed by the following members:

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

Messrs. HUGHES of Auburn
NORRIS of Brewer
SPENCER of Standish
GAUTHIER of Sanford
HENDERSON of Bangor
HOBBS of Saco
Mrs. SEWALL of Newcastle
— of the House.

Minority Report of the same Committee reporting "Ought to Pass" as amended by Committee Amendment "A" (H-718) on same Bill.

Report was signed by the following members:

Messrs. CURTIS of Penobscot
— of the Senate.

Messrs. BENNETT of Caribou
DEVOE of Orono
TARBELL of Bangor
— of the House.

Report were read.

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

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

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

Mr. MACEachern: Mr. Speaker, Ladies and Gentlemen of the House: I hope you don't support this motion that is before you now. As many of you know, I have quite a lot of experience in law enforcement. Back when I was enforcing the law, we had an intoxication law; it had several purposes, mainly the protection of the person who is intoxicated. Many many times while I was a police officer, I would find people laying on the sidewalk, laying in the gutter with no protection at all, and opening themselves up to a motor vehicle coming along, running over them and so forth. At that time, I

could pick them up, put them in my car, take them to the police station, put them in the tank and let them sober up, and the next day I could talk to the judge and say "I just locked this gentleman up because of his own self protection, he wasn't hurting anybody, but I had to take care of him so that he would not get injured." At the present time, we don't have an intoxication law. That drunk can lay there in the ditch until somebody runs over him.

I live in Lincoln which is 50 miles from Bangor, which is the nearest place where they have a rehabilitation center. Now, I can't imagine one of my police officers picking up a drunk, hauling him to Bangor, which takes a couple or three hours, and going back to Lincoln while he is on duty. This is the only thing that he can do at the present time with just a common drunk. A drunk can be in a bar and be obnoxious, they can throw him out, but he can be obnoxious outside, there is nothing they can do with him. If they lay a hand on him, they are assaulting him.

I think that this is a good bill, I think it should be passed, and it is a good law enforcement tool. It protects the people that are unfortunate enough to be laying in the street drunk, and it gives the police officer some out.

Supposing you are a businessman and you have a place of business and there is a stoop going into your store and there is a drunk laying there, under the present law, there is nothing that anybody can do but pick him up and haul him to a rehabilitation center. And when you live in a small town, rehabilitation centers are not right around the corner, they are a long ways away. This is not a bill that would put everybody in jail that gets drunk, it is a bill that would protect people that are drunk, it is also a bill that gives the police officer, the law enforcement officer, a tool to work with, and I think you should pass the bill.

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

Mr. MOODY: Mr. Speaker, Ladies and Gentlemen of the House: I hope that you will reject the pending motion before you. Public intoxication is one of the major problems for our law enforcement agencies today. Of course, we are all aware that we currently have on the books a statute called "disorderly conduct". Well, as our judge quotes, Judge MacDonald, disorderly conduct is not worth the paper that it's written on.

Currently, at least in Sagadahoc County, and I would imagine it would be the same in Knox and Lincoln County, because Judge MacDonald is the Judge of District 6 system, there is no way he will convict somebody for disorderly conduct. Therefore, here is John Doe police officer on the street, he comes up to a drunk causing a disturbance, he uses profanity at the police officer, he's drunk, the police officer can't do anything about it, at least in District 6. Our judge has claimed that the current statute on the books for disorderly conduct is too vague and therefore he has ruled it unconstitutional.

Now, of course we are aware that there are some purposes, even though intoxication is not a crime, that an individual if he is incapacitated, he can be brought in for his own safety and released the morning after. However, I am telling you today, that if you want to do that as a police officer, that there is even quite a process, because, number one, before any alcoholic rehabilitation center will accept him as a patient there, first, he has to be not intoxicated but he has to be incapacitated, in other words, inebriated, before you can bring him in against his will. Number two, he has to be examined by a medical physician to make sure he has no medical problems within him. Now, I am telling you, at least in Sagadahoc County, I don't know how the situation is across the state, but we can't find a doctor in Sagadahoc County who will examine these

drunks. At least the doctors I have been to, they don't want these drunks in their office with the possibility of their equipment being damaged, because some of these individuals do get quite rowdy in a doctor's office. Therefore, we have had to travel all the way to Poland before, all the way from Sagadahoc county all the way to Poland to get someone examined before the rehabilitation center would accept them.

To give you an example of a situation that I ran into about two years ago when I was in the Richmond Police Department, I answered a family disturbance. Shortly thereafter, I got another call, so I responded to the residence. I was met at the door by this nude female. She was drunk, she was intoxicated, she used just about every bit of profanity against me that there is in the book. It so happened that the front of the house is only about five feet away from the roadway, so she goes out in the roadway nude. Well, I stood there, and I said, well, I know if I take her in for disorderly conduct, the judge is going to throw it out. I know I can't take her in for public intoxication, so then she told me, "You don't have the right to be in my house, get out of here." So I did. She followed me out to the cruiser nude on Main Street. At that point, her boy friend, who she just had the disturbance with, came driving up, she went over, nude, in the middle of Main Street, it was on a summer night, and I didn't know what to do. So she started pounding on his windshield, and all of a sudden, before I knew it, half the town of Richmond was there watching the show. Finally, she hit me, and at that point, of course, I realized that probably I had enough for Judge MacDonald to convict her on, so I took her down to court. In the process of taking her down to court nude, we had to put her in a straight jacket; somehow she got out of the handcuffs. The next thing I knew, her mind must have snapped because her foot went right through the windshield of my police cruiser. Finally we got her down there and a hearing was held, the judge threw it out of court. Why did he throw it out of court? Because he claimed that she was intoxicated and that she wasn't mentally competent. He even went to the extent to tell me that if I wanted repair costs for the damages done to my cruiser, that the town of Richmond would have to sue her civilly. So therefore, ladies and gentlemen, I hope you will reject the pending motion before you. This will at least give law enforcement officers a tool to work with and, Mr. Speaker, when the vote is taken, I request for the Yeas and Nays.

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

Mr. DRINKWATER: Mr. Speaker, Members of the House: I was rather pleased, having been a police officer for a good many years, to hear the gentleman just before me give us the 'bare' facts. I sympathize with him, I have been through that route.

I very seldom get up here in this House unless it is a bill that I am exceptionally interested in, which is this one, and I have heard a lot of people here get up and proudly say this is my bill. I would like to get up and say this is my shell, because it is not my bill anymore, the shell is mine, but the bill itself is the Tarbell Amendment. The Tarbell amendment — I have been waiting for him to get up but he didn't, so I will explain the amendment.

The amendment to this bill runs like this. If the officer has a problem, and I will stand corrected if I am wrong, if the officer has a problem in the doorway of a store or anywhere, where we have problems, and I understand they do in Bangor and probably in other places, if the problem happens to be in the street even, maybe in a dark street or a light street, in the traffic where a person might become injured, they would have not only the problem with the person being injured but the person that injured them by running into them with a motor vehicle

or however it happened to come about, the officer can approach this person and offer to take them to a detoxification center if there is one available or he can offer to have it done just as soon as he possibly could. He might be tied up with a rather bad accident or an incident that he couldn't leave right then. But he can make this offer to them, that he would do it.

The next offer he could make to them, if that didn't work, or they wouldn't accept it, that he could have some relative or some friend take them home. If this doesn't work, he then can take them to the local jail, lock them up for a period not to exceed 12 hours, at the end of which time they become sober, they can sign a document or be released without any court record.

I feel that in my term of office as an officer, this certainly would, especially in this day, be a very acceptable thing to do and you are protecting this person. You are protecting the person and the person that would be involved with getting him into this problem.

Now, my wife is not easily upset. She has been a police officer also for many years. She has wrestled with drunks, she has been grabbed as she went into barrooms to help me in my work or when she works with other officers, so she is not going to get upset too easily if she is grabbed by a drunk. She just feels that wives of the people here, wives of our friends and other women certainly don't need to be exposed to this. In other words, when you are a police officer, that is one thing, you have to be exposed to this, but if you are not a police officer, it is not necessary. This person probably wouldn't grab another person unless they were intoxicated. So I think this is looking at both sides of it and I think it is looking at the situation wherein you can protect this person and I do think they need protection.

I also am very interested in the bill that I believe is tabled here on the tax on alcoholic beverages to help improve intoxication centers. I think these two things go together and I would recommend, or ask, that you give consideration to voting against the "Ought Not to pass" motion.

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

Mrs. KANY: Mr. Speaker, Members of the House: I am glad to see that the Judiciary Committee did reject the idea of allowing this once again to become a crime and went towards protective custody. I do have one problem with the amendment and that is, it talks about people who appeared to be incapacitated by alcohol in a public place and I would feel a lot better if we were just talking about people who are more or less similar to suicides in that they were in danger of harming themselves or someone else and I wish somebody would address that.

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

Mr. TARBELL: Mr. Speaker, Members of the House: The key word to the bill, as completely redrafted, is "incapacitated." As distinguished from "intoxicated." This is an amendment to the current law under Title 22 under Health and Welfare, which is titled Uniform Alcoholism and Intoxication Treatment Act. Incapacitated is defined as someone who is unconscious because of excessive drinking or has his judgment so impaired that he is incapable of realizing or making a rational decision with respect to his need for treatment.

So, I submit to you that this bill is a radical change from reinstituting public intoxication as a crime. Before it can even be invoked, the person has got to be very very far gone, either unconscious or to the extent that he can't make a rational judgment with respect to treatment.

We have done everything possible under the amendment to go the protective custody route, to take the person to an alcohol treatment facility if it is available in the area, to take the

person to the emergency ward of a hospital, if that is available in the area, to take the person to his home or to his family or any other person, a friend's home, where it is clear that he will receive suitable treatment, if that is available, and if there is just no place to take the individual, as a last resort, to the police station for a maximum of 12 hours. So, I submit to you that we have the highest standard possible before a person could even be picked up under the definition of incapacitated under the Health and Welfare statute.

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

Mr. JOYCE: Mr. Speaker, Ladies and Gentlemen of the House: I really don't know if I should speak today on how to handle a nude woman or on the title "you shouldn't send a boy on a man's job."

I have worked with alcoholics and problem drinkers many hours a week since 1961, when I attended the Yale University School of Alcohol Studies. I have worked with half-way houses, with AA groups, from Kittery up to and including the state prison in Thomaston. I can recall reading that case of the DeWitt Estes case, a drunk in a public case. Poor Dewitt Estes was arrested in our capital, Washington D. C. and was brought before the District of Columbia court of general session and he met a very stern judge in Edmund Dailey. Dailey and Dewitt Estes were friends from way back and as the judge looked down on that hot June day, he said "I have had enough. You have been before this court over 100 times, so I am now going to get rid of you." And he sentenced him to the workhouse for several months. Well, Dewitt thought that he didn't have any friends but it so happened, members of the bar, members of alcoholic associations, came to his aid. You know, they finally got that case before the U.S. Court of Appeals in the District of Columbia circuit, and they met that great Judge Bazelon — remember, Bazelon is a great friend of the attorneys. They throw his name around in law schools more than they did Warren and Burger. Our good friend Judge Bazelon wrote the opinion for the circuit. He said "Woe, judge, when you look down and sentence poor Dewitt to that several months, you violated his constitutional rights as laid out in the 8th and the 14th Amendment, you can't do that." And he sprung Dewitt and this became a classic case. The National Council on Alcoholism got into the record on that case. A person who is powerless to stop drinking and whose drinking seriously alters his normal behavior pattern, is not responsible.

Then we looked in New York City where we see Judge Murdock and I always looked up to Judge Murdock. He was on the teaching staff at Yale University when I was there, that summer, Judge Murdock tells us, "incarceration never cured a drunk, never did and never will." I don't think we have to prolong this much more, I think we can look to that prestigious Judiciary Committee and I think we can support the Majority and vote for the "Ought Not to Pass."

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

Mr. MCKEAN: Mr. Speaker, Ladies and Gentlemen of the House: A short question through the Chair to members of the committee.

Anyone who has been in law enforcement — and I was for a short period of time — knows that people who are high on drugs can act the same or are also incapacitated, just like a person who is drunk. The reason that I would rather be a drunk than an alcoholic is that you have to attend all the meetings.

But for the committee, or Representative Tarbell, why does this not address, the amendment, not address the problem of the person incapacitated on drugs as well as alcohol, as it does in several of our other statutes?

The SPEAKER: The Gentleman from Limestone, Mr. McKean has posed a question through the Chair to any member who may wish to respond if they so desire.

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

Mr. JOYCE: Mr. Speaker, Members of the House: In the Powell case, in the discussion of the Powell case, Justice White pointed out in Robinson Vs. California, this is a classic case for attorneys, and Robinson vs. California, if you want to go down and see Miss Hary and give her the numbers, 370US660, the Robinson case from California, they found that an addict because of his behavior could not be arrested out there. Robinson got hooked up on drugs and then went to California and his behaviour pattern there was repressive to the people and when it finally got to the court, it is an interesting case, I suggest you can get all your answers there.

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

Mr. DUDLEY: Mr. Speaker, Members of the House: I support the position of the gentleman from Lincoln, Mr. MacEachern. We have had a problem with this in the past and we are a long ways from Bangor and I see this as a means of taking care of the person and protecting the person's own life. I have seen quite a lot of it in the area where I do business. I don't think they need to be incarcerated for 30 days but be incarcerated until the next morning or put under cover so that they don't get run over. Generally, in my area they don't give them more than overnight and by then, they are generally quite sober.

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

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

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

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

The SPEAKER: The pending question is on the motion of the gentleman from Standish, Mr. Spencer, 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 — Bachrach, Beaulieu, Berry, Brennerman, Brown, K. L.; Chonko, Clark, Connolly, Cote, Cox, Cunningham, Curran, Davies, Diamond, Flanagan, Gill, Goodwin, K.; Greenlaw, Hall, Henderson, Howe, Huber, Hughes, Jackson, Jensen, Joyce, Kerry, Kilcoyne, Lewis, Maxwell, Nadeau, Najarian, Nelson, M.; Norris, Palmer, Peakes, Plourde, Raymond, Sewall, Spencer, Talbot, Teague, Tierney, Truman, Valentine, Wilfong, Wood, The Speaker.

NAY — Aloupis, Ault, Bagley, Bennett, Benoit, Berube, Birt, Blodgett, Boudreau, A.; Boudreau, P.; Brown, K. C.; Bunker, Burns, Carey, Carrier, Carroll, Carter, F.; Churchill, Connors, Devoe, Dexter, Dow, Drinkwater, Dudley, Durgin, Fenlason, Fowle, Gillis, Goodwin, H.; Gould, Gray, Green, Higgins, Hunter, Hutchings, Immonen, Kane, Kany, Lafin, LaPlante, Littlefield, Locke, Lougee, Lunt, Lynch, MacEachern, Mackel, Mahany, Masterman, McBreairty, McHenry, McKean, McMahon, McPherson, Mills, Mitchell, Moody, Morton, Nelson, N.; Pearson, Peltier, Perkins, Peterson, Post, Prescott, Quinn, Rideout, Rollins, Shute, Silsby, Smith, Sprowl, Strout,

Stubbs, Tarbell, Tarr, Theriault, Torrey, Tozier, Trafton, Twitchell, Wyman.

ABSENT — Austin, Biron, Bustin, Carter, D.; Dutremble, Elias, Garsoe, Gauthier, Hickey, Jacques, Jalbert, Kelleher, LeBlanc, Lizotte, Martin, A.; Masterton, Stover, Tyndale, Whittemore.

PAIRED — Hobbins, Marshall.
Yes, 48; No, 82; Absent, 19; Paired, 2.

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

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

Committee Amendment "A" (H-718) was read by the Clerk and adopted and the Bill assigned for second reading tomorrow.

Divided Report

Majority Report of the Committee on Taxation reporting "Ought Not to Pass" on Bill "An Act to Remove the Town of Carrabasset Valley from the Maine Forestry District" (H. P. 664) (L. D. 805)

Report was signed by the following members:

Messrs. JACKSON of Cumberland
WYMAN of Washington
MARTIN of Aroostook
— of the Senate.

Messrs. TWITCHELL of Norway
COX of Brewer
Mrs. CHONKO of Topsham
Mr. CAREY of Waterville
Mrs. POST of Owls Head
Mr. TEAGUE of Fairfield
— of the House.

Minority Report of the same Committee reporting "Ought to Pass" as amended by Committee Amendment "A" (H-714) on same Bill.

Report was signed by the following members:

Messrs. MAXWELL of Jay
MACKEL of Wells
IMMONEN of West Paris
CARTER of Bangor
— of the House.

Report was read.

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

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

If those members of the House would look at the Committee Amendment, which is under filing number H-714, they would see that it has a price tag for the 1977-1978 of \$35,000, to the Maine Forestry District, and some \$40,000 for the following year. But the thing that is even more convincing that this bill should not pass is an amendment that would be brought forth, it is filing number H-775, which would take Medway out of the district, which would cost the State Forestry District some \$18,850. We never had a hearing on the Medway system and I don't doubt for a moment that that would open the door to other towns that are in the forestry district and what we need more than anything else, is a complete study of the entire Maine Forestry District and not a piece meal approach. So, I would hope that the House would concur with me and accept the Majority "Ought Not to Pass" Report.

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

Mr. MACEachern: Mr. Speaker and Members of the House: I would hope that you won't accept the motion before you.

I had a conversation yesterday afternoon with Mr. Bowen, from the forestry department and this total appropriation is about \$1,600,000, \$1,300,000 of which comes from the unorganized townships.

I probably shouldn't discuss the amendment for Medway, I won't. The portion that comes

from the organized townships is very small, it amounts to around \$300,000. I don't know what the situation is in the town that the bill addresses, Carrabassett Valley. I know in the town of Medway, they were put in the forestry district years ago, when they didn't have an organized fire department. Since that time, they organized a fire department, they no longer need this, yet we are mandating that they pay to the State of Maine some \$18,000 plus every year. It is a small town, they have in the vicinity of 300 voters, and that is a lot of money to them. They already have their fire department and it seems unjust that they should be required to contribute to this forestry district financing. I think that maybe a study would be in order, but at the same time, I think these small towns should have some relief from this tax and I hope that you will support the bill.

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

Mr. DEXTER: Mr. Speaker and Members of the House: This is a Carrabassett Valley bill, not the town of Medway. When I presented this bill, I had the town manager down from Carrabassett Valley and it was my feeling that he made a good presentation. I checked on the status of the bill in the committee room and it was unanimous "Ought to Pass" but I misjudged the powers of the bureaus. They have their domain closer than a bull seal in a harem and believe me, that is pretty close. The town of Carrabassett Valley was unincorporated, they never voted to join the forestry district and I understand perhaps the town of Medway did, I am not sure of that. But anyway, they never had a choice, and at the present time, they are as what is known "a pay-in town", they are paying in \$215,000 for 35 students, plus \$882 tuition which brings up to a little over \$7,000 per student, and they have formed their own fire department. They bought five acres of land there last summer. You may know where it is. I lumber in Carrabassett Valley, my equipment is available, I built 12 miles of road there, the forestry district doesn't come to a building fire and the only argument that they presented during the work session in which I was able to rescue the bill, thanks to a good friend of mine, that is, to get it on the floor, was, that they had to have this money to maintain the reserve, even for your town of Kingfield. I said, What? Yes, for your town of Kingfield. I said "but Kingfield doesn't pay into this forestry tax fund". I am not going to stand here and debate this but I just want to point out, this is a Carrabassett Valley bill. If anybody else wants to get on it, they can come and have their own hearing and rise and fall on their own merits. As far as that goes, that place down the hall with the signatures there are there, it probably doesn't stand much chance anyway.

I ask for a roll call.

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

Mr. CAREY: Mr. Speaker and Members of the House: I think the gentleman from Kingfield, Mr. Dexter, points out the very problem that not only the Taxation Committee has, but the Bureau of Taxation has and the Maine Forest Service has. Therefore, we would hope that you go with the committee on the "Ought Not to Pass" Report, so that we can in fact follow this up and have a study order and I don't care what committee studies it but some body has got to study this entire system and decide at some point or another, when a community has sufficient fire protection to protect itself.

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

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

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

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

The SPEAKER: The pending question is on the motion of the gentleman from Waterville, Mr. Carey, 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 — Beaulieu, Bennett, Benoit, Berry, Boudreau, A.; Boudreau, P.; Brennerman, Burns, Carey, Carroll, Chonko, Clark, Cox, Curran, Davies, Flanagan, Goodwin, H.; Gould, Henderson, Hickey, Howe, Jensen, Joyce, Kany, Laffin, LaPlante, Locke, McBairty, McHenry, Mitchell, Nadeau, Najarian, Nelson, N.; Peltier, Peterson, Post, Raymond, Rideout, Spencer, Talbot, Teague, Tierney, Truman, Twitchell, Wood, Wyman.

NAY — Ault, Bachrach, Bagley, Berube, Biron, Birt, Blodgett, Brown, K. L.; Brown, K. C.; Bunker, Carter, F.; Churchill, Connors, Connolly, Cunningham, Devoe, Dexter, Diamond, Drinkwater, Dudley, Durgin, Fenlason, Fowlie, Gill, Gillis, Gray, Green, Greenlaw, Hall, Higgins, Huber, Hughes, Hunter, Hutchings, Immonen, Jackson, Kerry, Kilcoyne, Lewis, Littlefield, Lougee, Lunt, Lynch, MacEachern, Mackel, Mahany, Marshall, Masterman, Masterton, Maxwell, McKean, McMahon, McPherson, Mills, Moody, Morton, Nelson, M.; Norris, Palmer, Pearson, Perkins, Plourde, Quinn, Shute, Silsby, Smith, Sprawl, Strout, Stubbs, Tarbell, Tarr, Theriault, Torrey, Tozier, Trafton, Valentine, Whittemore, Wilfong.

ABSENT — Aloupis, Austin, Bustin, Carrier, Carter, D.; Cote, Dow, Dutremble, Elias, Garsoe, Gauthier, Goodwin, K.; Jacques, Jalbert, Kane, Kelleher, LeBlanc, Lizotte, Martin, A.; Peakes, Prescott, Rollins, Sewall, Stover.

PAIRED — Hobbins, Tyndale.

Yes, 46; No, 78; Absent, 24; Paired, 2.

The SPEAKER: Forty-six having voted in the affirmative and seventy-eight in the negative with twenty-four being absent and two paired, the motion did not prevail.

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

Committee Amendment "A" (H-714) was read by the Clerk and adopted and the Bill assigned for second reading tomorrow.

Divided Report

Majority Report of the Committee on Taxation reporting "Ought to Pass" as amended by Committee Amendment "A" (H-694) on Bill "An Act Providing for an Investment Tax Credit and a Credit for the Creation of New Jobs" (H. P. 540) (L. D. 658)

Report was signed by the following members:

Messrs. JACKSON of Cumberland
WYMAN of Washington

— of the Senate.

Messrs. MACKEL of Wells
TWITCHELL of Norway
IMMONEN of West Paris
TEAGUE of Fairfield

Mrs. POST of Owls Head

— of the House.

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

Report was signed by the following members:

Mr. MARTIN of Aroostook

— of the Senate.

Messrs. MAXWELL of Jay

CARTER of Bangor
CAREY of Waterville
COX of Brewer

Mrs. CHONKO of Topsham

— of the House.

Reports were read.

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

Mr. CAREY: Mr. Speaker, Ladies and Gentlemen of the House: While I did sign the Minority "Ought Not to Pass" Report, I understand that the gentlelady from Portland, Mrs. Najarian, is going to put this bill into a position, hopefully, that could possibly at least get funded.

Therefore, I would move acceptance of the Majority "Ought to Pass" Report.

Theeupon, the Majority "Ought to Pass" Report was accepted and the Bill read once.

Committee Amendment "A" (H-694) was read by the Clerk and adopted and the Bill assigned for second reading tomorrow.

Divided Report

Majority Report of the Committee on Health and Institutional Services reporting "Ought to Pass" on Bill "An Act Concerning the Sale of Prescription Drugs" (H. P. 1033) (L. D. 1265)

Report was signed by the following members:

Mr. PRAY of Penobscot

— of the Senate.

Mr. FOWLIE of Rockland

Mrs. NELSON of Portland

Mrs. TRAFTON of Auburn

Messrs. BRENERMAN of Portland

GOODWIN of South Berwick

Mrs. KANE of Augusta

Mr. KERRY of Old Orchard Beach

Mrs. PRESCOTT of Hampden

— of the House.

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

Report was signed by the following members:

Mrs. SNOWE of Androscoggin

Mr. GREELEY of Waldo

— of the Senate.

Mr. TYNDALE of Kennebunkport

Mrs. GILL of South Portland

— of the House.

Reports were read.

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

Mr. GOODWIN: Mr. Speaker, I move that the House accept the Majority "Ought to Pass" Report.

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

Mrs. GILL: Mr. Speaker, Ladies and Gentlemen of the House: I would request a Division.

On this bill, the Statement of Facts would require pharmacy selling over the counter drug to a customer, sell them at over the counter price, even if the customer buys them on the doctors orders, which is a doctors prescription.

Under current law, a pharmacist is legally required to check the customers patient profile record even to sell an over the counter drug, if the doctor prescribes it. This is this way for a variety of reasons. I don't think this bill intends to give the pharmacists the opportunity to make a judgment over the doctors judgment. I think when a doctor prescribes something he prescribes for a very valid reason for his patient and even if it should be over the counter preparation, I can use an example, Maalox which you can buy over the counter, a doctor may very validly prescribe it with different directions than normally is on the bottle and he also may prescribe it for a patient who is also taking an antibiotic drug and in this case, the Maalox being antacid and the antibiotic would not react well together. In fact, an antibiotic would be of no value to the patient at all. Where

aspirin products are concerned, this is another area where a person could be on Cumadin, which is anticoagulant for their blood and by taking aspirin they could, in fact, start a bleeding process and go against what the Cumadin or the anticoagulant would be doing for them. This would be another valid reason for an over the counter drug being written as a prescription.

I think when Representative Mitchell brought this bill before the Health and Institutional Services Committee, she brought an ointment that had been prescribed — I didn't see the particular prescription but if a prescription is written and has directions and the doctors signature, I don't know of any pharmacist who would overrule that position.

There is another type of directions that come from a physician. Sometimes the physicians use their prescription blanks, either the backs of them or the front of them without his signature, just to indicate what they would like their patients to take and that way, it is not a signed prescription. It is just like a notepad that the doctor has written down that they would like them to take a five grain aspirin or Maalox with no directions and it is just kind of an informational thing so that the patient doesn't forget what he is supposed to get before he gets from the doctors office to the drugstore. I maintain that when a physician writes a prescription, whether it be for an over the counter product or a prescribed behind the counter product, that a pharmacist should uphold that prescription because he is really dealing in a service for the physician and he is not in actuality prescribing.

I know that the point was brought up that there is an extra charge for a prescription for an over the counter product and this only comes about because of this patient profile that the pharmacist must maintain. In this patient profile, it is a protection for the patient, the physician might write for aspirin and when the pharmacist puts this in his patients profile, he can also tell what other medication that patient happens to be on and if the patient is on a medication that will not be compatible with the prescription that the doctor has just written, then the pharmacist could go out and tell the patient that I am going to call your physician because you are on this medication and you probably neglected to tell him so I will call him and change this. It is for the patients protection and I think any time a pharmacist fills a prescription for a physician and keeps the patient profile, then he should get that extra that he needs to conduct his business.

I would ask that you vote no on the report.

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

Mrs. MITCHELL: Mr. Speaker and Members of the House: I would like to concur with a number of things that Mrs. Gill has said. Part of the problem is that there is no definition of prescription under Maine's statutes. If a doctor uses his prescription pad, much as you would use a notepad, and writes Maalox, Preparation H, or Bactertracin Ointment, you take it to the pharmacy and he really doesn't know if it is a prescription or not and the pharmacy lobby said that they would have to treat it as a prescription if it were written on the paper.

This bill was put in because a constituent had an experience that pointed out to me a situation which was not uncommon. This does happen in several drugstores across the state. The gentleman came to me quite annoyed by a practice which was being carried on in the town. He had taken his prescription, it was simply the word Bactertracin Ointment written on a piece of paper, the doctors pad, he presented it to the pharmacist. The pharmacist walked out around the counter, picked up the Bactertracin Ointment off the shelf, brought it back, sent it upstairs on a dumb waiter, came back down with

a new label on it and he had the privilege of paying 50 cents for watching the drug ride up on the dumb waiter.

I am trying to say with this bill that unless a drug is a prescription drug and that is determined by federal law, the pharmacist cannot give out federal prescription drug without a prescription and unless a doctor specifically says that he wants it to be a prescription because he wants you to take Maalox four times a day instead of three times a day, then that pharmacist should sell you this drug at the over the counter price.

With all due respect and I know many pharmacists try very hard with their patient profiles to make sure that you are not taking any contraindicated drug, that system works only as long as you go to the same drugstore. I think the responsibility to make sure that you're taking only drugs that are compatible belongs with the doctor and I would urge that you vote for the "Ought to Pass" Report.

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

A vote of the House was taken.

Mr. Boudreau of Waterville requested a roll call.

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

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

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

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

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

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

The SPEAKER: A roll call has been ordered. The pending question is on the motion of the gentleman from Waterville, Mr. Carey, that the House accept the Majority "Ought to Pass" Report. Those in favor will vote yes; those opposed will vote no.

ROLL CALL

YEA — Bachrach, Benoit, Berry, Berube, Birt, Boudreau, A.; Brenerman, Brown, K. C.; Burns, Carey, Chonko, Clark, Connolly, Cox, Curran, Davies, Dexter, Diamond, Durgin, Elias, Flanagan, Fowlie, Goodwin, H.; Goodwin, K.; Gould, Green, Greenlaw, Hall, Henderson, Hickey, Howe, Huber, Hughes, Jensen, Joyce, Kane, Kany, Kilcoyne, Laffin, LaPlante, Lynch, MacEachern, Mahany, Marshall, Maxwell, McHenry, McKean, McMahon, Mills, Mitchell, Moody, Nadeau, Najarian, Nelson, M.; Peakes, Pearson, Plourde, Post, Prescott, Raymond, Rideout, Shute, Spencer, Talbot, Theriault, Tierney, Trafton, Truman, Twitchell, Valentine, Wilfong, Wood, Wyman.

NAY — Aloupis, Ault, Bagley, Bennett, Boudreau, P.; Brown, K. L.; Bunker, Carrier, Carter, F.; Churchill, Cunningham, Drinkwater, Dudley, Fenlason, Gill, Gillis, Gray, Higgins, Hunter, Hutchings, Immonen, Jackson, Lewis, Lougee, Lunt, Mackel, Masterman, Masterton, McBreaity, Morton, Palmer, Peltier, Perkins, Peterson, Silsby, Smith, Sprowl, Strout, Stubbs, Tarr, Teague, Torrey, Whittemore.

ABSENT — Austin, Beaulieu, Blodgett,

Bustin, Carter, D.; Connors, Cote, Devoe, Dow, Dutremble, Garsoe, Gauthier, Jacques, Jalbert, Kelleher, Kerry, LeBlanc, Littlefield, Lizotte, Locke, Martin, A.; McPherson, Nelson, N.; Norris, Rollins, Sewall, Stover, Tarbell, Tozier, Tyndale.

PAIRED — Biron, Carroll, Hobbins, Quinn. Yes, 73; No, 43; Absent, 30; Paired, 4.

The SPEAKER: Seventy-three having voted in the affirmative and forty-three in the negative, with thirty being absent and four paired, the Majority "Ought to Pass" Report is accepted.

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

Divided Report

Majority Report of the Committee on Transportation reporting "Ought Not to Pass" on Bill "An Act Appropriating Funds for the Acquisition and Construction of a Site and Facilities for Certain Casco Bay Island Ferry Services and to Repair other such Ferry Facilities" (Emergency) (H. P. 844) (L. D. 1029)

Report was signed by the following members:

Messrs. MINKOWSKY of Androscoggin
McNALLY of Hancock
GREELEY of Waldo

— of the Senate.

Messrs. JACQUES of Lewiston
CARROLL of Limerick
BROWN of Mexico
McKEAN of Limestone

Mrs. HUTCHINGS of Lincolnville

Messrs. LITTLEFIELD of Hermon
ELIAS of Madison

— of the House.

Minority Report of the same Committee reporting "Ought to Pass" as amended by Committee Amendment "A" (H-715) on same Bill.

Report was signed by the following member:
Mr. JENSEN of Portland

— of the House.

Reports were read.

On motion of Mr. Strout of Corinth, the Minority "Ought to Pass" Report was accepted and the Bill read once.

Committee Amendment "A" (H-715) was read by the Clerk and adopted and the Bill assigned for second reading tomorrow.

Divided Report

Majority Report of the Committee on Marine Resources reporting "Ought to Pass" as Amended by Committee Amendment "A" (H-725) on Bill "An Act to Establish Regional Marine Resources Centers" (H. P. 1564) (L. D. 1778)

Report was signed by the following members:

Messrs. LEVINE of Kennebec
CHAPMAN of Sagadahoc

— of the Senate.

Messrs. MILLS of Eastport
CONNORS of Franklin

Mrs. POST of Owls Head

Messrs. JACKSON of Yarmouth
BUNKER of Gouldsboro
BLODGETT of Waldoboro
NELSON of Roque Bluffs
FOWLIE of Rockland
GREENLAW of Stonington

— of the House.

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

Report was signed by the following member:
Mr. HEWES of Cumberland

— of the Senate.

Reports were read.

On motion of Mrs. Post of Owls Head, the Majority "Ought to Pass" Report was accepted and the Bill read once.

Committee Amendment "A" (H-725) was

read and adopted and the Bill assigned for second reading tomorrow.

Consent Calendar First Day

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

(H. P. 1200) (L. D. 1441) Bill "An Act Concerning Required Voting on Certain Boards and Commissions with Quasi-judicial Authority" — Committee on State Government reporting "Ought to Pass" as amended by Committee Amendment "A" (H-758)

(H. P. 1376) (L. D. 1702) Bill "An Act to Provide for the Licensing of Mobile Homes and Modular Housing Dealers and Mechanics" — Committee on Business Legislation reporting "Ought to Pass" as amended by Committee Amendment "A" (H-750)

No objections being noted, the above items were ordered to appear on the Consent Calendar of June 22, under listing of Second Day.

Tabled and Assigned

(S. P. 205) (L. D. 727) Bill "An Act to Implement the Recommendations of the Pomeroy Commission on Medical and Hospital Malpractice Insurance" Committee on Judiciary reporting "Ought to Pass" as amended by Committee Amendment "A" (S-270)

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" (S-270) was read by the Clerk.

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

Consent Calendar Second Day

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

(H. P. 418) (L. D. 530) Bill "An Act to Create a Board of Registration of Substance Abuse Counselors" (C. "A" H-732)

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

Thereupon, the Report was accepted and the Bill read once. Committee Amendment "A" (H-732) was read by the Clerk and adopted and the Bill assigned for second reading tomorrow.

(H. P. 307) (L. D. 362) Bill "An Act Exempting Certain Uses of Gas and Electricity from Taxation under the Sales and Use Tax Law" (C. "A" H-737)

No objections 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.

(H. P. 1310) (L. D. 1634) Bill "An Act to Prohibit the Practice of a Mandatory Retirement Age" (C. "A" H-736)

On the objection of Mr. Davies of Orono, was removed from the Consent Calendar.

Thereupon, the Committee Report was accepted and the Bill read once. Committee Amendment "A" (H-736) was read by the Clerk.

Mr. Davies of Orono offered House Amendment "A" to Committee Amendment "A" and moved its adoption.

House Amendment "A" to Committee Amendment "A" (H-759) 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.

(S. P. 3) (L. D. 6) Bill "An Act to Provide a Mandatory Rehabilitation Program for Minors who Violate the Motor Vehicle Laws while un-

der the Influence of Intoxicating Liquor" (C. "A" S-271)

(S. P. 428) (L. D. 1486) Bill "An Act to Protect the State Retirement System from the Cost of Abnormal Disability Claims" (C. "A" S-269)

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

Passed to Be Engrossed

Bill "An Act Relating to Electric Companies' Fuel Charges" (H. P. 1179) (L. D. 1407)

Bill "An Act to Permit Municipalities to Levy and Collect Service Charges for Certain Municipal Services from Tax Exempt Residential Property Used to Provide Rental Income" (H. P. 1403) (L. D. 1657) (C. "A" H-674)

Bill "An Act to Provide for the Periodic Review of Sales and Property Tax Exemptions" (H. P. 1250) (L. D. 1479) (C. "A" H-652)

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

Second Reader Indefinitely Postponed

Bill "An Act to Revise the Election Laws Concerning Political Activity at Elections and Requirements for Absentee Ballots" (H. P. 1117) (L. D. 1335) (C. "A" H-688)

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

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

Mr. BERRY: Mr. Speaker, I would like to pose a question through the Chair. I wonder if somebody would explain what this bill does?

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

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

Mrs. BOUDREAU: Mr. Speaker, Ladies and Gentlemen of the House: This bill has nothing to do with political activities, the bill now is just the amendment, H-688. All it says in the first part, it specifies the number of absentee ballots that can be issued to a third party at one time. It calls for ten. That figure is not in cement.

In the committee, I told anyone if they wanted to amend that figure to something higher, fine with me. What we are trying to avoid and this applies mostly to major candidates, they have money, they have lots of workers and as soon as the applications are available, they have people out gathering applications. The applications are taken in to the Registrar or city clerk, the ballots are prepared, the ballots are not picked up. They have 300 and 400 waiting there for them, they are tying up ballots by waiting until the last minute and what is happening is that people aren't getting a chance to vote and the ballots aren't being returned. I think they should be able to pick a reasonable number up at one time, do those, go back the next day and get some more, if they want to.

The second part just requires that the clerk keep a list of the people that have absentee ballots out.

The last section the law now states that the ballots must be returned within five days after taking the absentee ballots out. That is the present law but there is no penalty so we just add a penalty.

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

Mr. BERRY: Mr. Speaker, Ladies and Gentlemen of the House: I would like to thank the gentlelady for the explanation. That is what I thought it did and I move the indefinite post-

ponement of this bill and all its accompanying papers.

This may be a problem in some areas, it certainly isn't a problem in mine or in many of the rural areas in which I have had an opportunity to talk about the legislators and this may well apply, as Mrs. Boudreau said, primarily to major candidates but that isn't what the bill says. It applies to every candidate, major and whatever the other ones are.

I think a reasonable number of absentee ballots had ought to be picked up at one time and I think the reasonable number is as many as you think you ought to have or as many as you have applications for. I really can't see what this bill is intending to accomplish and I hope you will support the indefinite postponement motion.

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

Mrs. BOUDREAU: Mr. Speaker, Ladies and Gentlemen of the House: I hope you don't indefinitely postpone this bill. As I said before, if anyone feels that ten is too low, they can always amend it up, 25, 30 or whatever you feel is adequate. I think anyone, and I have gotten absentee ballots and I think they are something you have to guard carefully, you don't want to lose them, you want to be sure they are processed and returned and I don't care who it is. If you go out with 40 or 50 or a 100 ballots, you are taking a great risk in depriving someone of their right to vote.

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

Mr. BOUDREAU: Mr. Speaker, Ladies and Gentlemen of the House: I have been guilty of some of the things this bill deals with. I think what we are really dealing with is older people who sign their applications, who really want to vote and they sign their application and they think you are going to bring them the ballot back in one day or two days, you can go to City Hall and get the ballots and hold onto them for a month and they end up feeling that they are not going to be able to vote. They end up calling city hall and saying, where is my ballot? I filled out my application and the gentleman hasn't returned and am I going to be able to vote? They go and pester city hall and the city clerk and ask to get another application sent to them so they can be sure they are going to vote.

I agree with the gentlelady from Portland, if somebody thinks that 10 is too few and they want 25, that is fine, but I think it is really important that we show these people that we are not just getting their applications so that the other person is not going to get it. We really are getting the application because we sincerely are concerned with them being able to vote and I really think we shouldn't indefinitely postpone this bill.

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

Mr. MILLS: Mr. Speaker, Ladies and Gentlemen of the House: I have listened here with great interest because you can revise this and up it from 10 to 20, 30, 40 or 50 or what have you for a figure. Why is it necessary to have the figures to begin with? Why isn't it a capable thing for any candidate and the Lord knows it is hard enough to get good candidates to run these days, without making the process more complicated than what it was before.

There is no question in my mind that this is a detriment to our voting system if this thing were to be enacted, and I will support the indefinite postponement.

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

Mr. BOUDREAU: Mr. Speaker, Ladies and Gentlemen of the House: I think the converse is true. I know in my case, I had a lot of absentees and when candidates get busy the last five days that they campaign, I know in my case and a few other cases, candidates ended up having 10

or 12 absentee ballots in their hand the day before the election and these people were waiting to vote. I think that can happen, but if we can limit the amount of ballots that a candidate has, if he has time to go out and do the absentees and get the people to vote, fine, he returns them and gets some more and goes out and gets those people voted. I know in my case, I had a lot in the last day and I had to rush around to get people to vote, and these people were really worried about where I was all this time and they thought they weren't going to get to vote. I don't see what the problem is; you can get 10 or 15 and do those and then get some more and then do those.

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

Mr. MARSHALL: Mr. Speaker, Ladies and Gentlemen of the House: Using Mr. Boudreau's rationale, you could have a problem like that with one absentee ballot, but I see no validity in numbers and I ask for a roll call.

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

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

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

ROLL CALL

YEA — Aloupis, Bachrach, Berry, Biron, Blodgett, Brennerman, Brown, K. C.; Bunker, Carey, Carrier, Carter, F.; Chonko, Churchill, Connors, Connolly, Cunningham, Davies, Devoe, Dudley, Elias, Fenlason, Flanagan, Gill, Goodwin, H.; Gould, Gray, Green, Greenlaw, Hall, Hickey, Higgins, Howe, Hughes, Hutchings, Jensen, Kerry, Laffin, LaPlante, Littlefield, Locke, Lougee, MacEachern, Mahany, Marshall, Masterman, Maxwell, McBreairty, McHenry, McKean, Mills, Mitchell, Moody, Nadeau, Nelson, M.; Peakes, Pearson, Perkins, Plourde, Post, Quinn, Raymond, Rideout, Sewall, Shute, Silsby, Smith, Stubbs, Talbot, Theriault, Tierney, Trafton, Twitchell, Valentine, Wilfong, Wood, Wyman.

NAY — Bagley, Beaulieu, Benoit, Berube, Birt, Boudreau, A.; Boudreau, P.; Brown, K. L.; Burns, Clark, Cox, Curran, Dexter, Diamond, Drinkwater, Durgin, Fowlie, Henderson, Huber, Hunter, Immonen, Jackson, Joyce, Kany, Kilcoyne, Lewis, Lunt, Lynch, Mackel, Masterton, McMahon, Morton, Najarian, Nelson, N.; Norris, Palmer, Peterson, Prescott, Spencer, Sprowl, Tarbell, Tarr, Teague, Torrey, Truman, Whittemore.

ABSENT — Ault, Austin, Bennett, Bustin, Carroll, Carter, D.; Cote, Dow, Dutremble, Garsoe, Gauthier, Gillis, Goodwin, K.; Hobins, Jacques, Jalbert, Kane, Kelleher, LeBlanc, Lizotte, Martin, A.; McPherson, Peltier, Rollins, Stover, Strout, Tozier, Tyndale.

Yes, 76; No, 46; Absent, 28.

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

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

Mr. BERRY: Mr. Speaker, having voted on the prevailing side, I move reconsideration and I hope you all vote against me.

The SPEAKER: The gentleman from Buxton, Mr. Berry, moves that we reconsider our action whereby this Bill was indefinitely postponed. All those in favor will say yes; those opposed will say no.

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

Sent up for concurrence.

Bill "An Act to Coordinate, Effectively Utilize and Comprehensively Plan the Service Needs of Maine's Children and Families by Establishing a Maine Council of Families and Children, County Councils on Families and Children and a State Office for Children and Families" (H. P. 910) (L. D. 1158) (C. "A" H-712)

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

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

Mr. PALMER: Mr. Speaker, Ladies and Gentlemen of the House: Before we vote on passage to be engrossed on this particular L. D., I would just like to raise a few questions and perhaps those who know much more about it than I do would give us some answers.

I have looked at this L. D., and I would ask you to just turn to it, L. D. 1158, and I have looked at Section 8515 and Section 8519. They represent the powers and duties of the administrative authority in one case and of the county council in the other case. My only question is in looking at this is that it seems to me that in spite of the fact that I think we all agree on the need of more work in this field, that we are really in effect creating here just another layer of bureaucracy which can't do anything. I can't relate this, for example, to the Bureau of the Maine Elderly. It doesn't have the power or the influence to do anything compared to the Bureau of Maine's Elderly. I am just fearful it is a layer of bureaucracy which will be totally ineffective and carries a price tag of \$225,000.

I admit that I have not had time to look it all over as carefully as I should, but I would really appreciate it, before we vote, if the sponsor of the measure, the committee or anyone would discuss it and give us some good reasons why they think this committee, at this price, in an advisory capacity, working out of the Governor's Office in an advisory capacity, can do a great deal for the particular problems the bill is trying to address?

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

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

Mr. CURRAN: Mr. Speaker, Ladies and Gentlemen of the House: I think that Mr. Palmer has brought up a good question and I will be more than happy to answer that.

The bill, which has a unanimous report, was worked on a great deal. We had two or three bills all dealing with the question of children and children's services. One of the things that worried the committee was that price tag, and we found some of the LEAA money to help fund it and then we put a sunset on it so when the money runs out, we are not obligated to pick it up until we have had a good chance to justify the program, so the cost to the state is \$20,000 and \$30,000 over the next biennium and then we get a chance to evaluate it.

As for the county councils, in our deliberations on what was needed for children's services, we realized that what we need is public support and public involvement and public input, and we saw how well the public attended, we saw how valuable this information was in developing the Task Force Report and wanted to keep that as part of the feed in to the office of children and the council on children and families. So the county level originally, 18 to 27 members has been reduced to no less than 12 nor no more than 18. We have cut those numbers down. We felt that the input from all 16 counties as to what kinds of services, what kinds of gaps, what are the needs, where are the

overlaps coming from would be a valuable part of the total process, so we have kept those councils in as a very critical part of the total document.

I think the emphasis here is that what we are trying to create puts the needs of children and families, and I think that is a good point to suggest here, that we are not looking at children separately but we are looking at families, and part of this is to strengthen the family unit. We felt that if we could address some of these areas, then perhaps we wouldn't be apt to be spending money in creating stop-gap measures for families that have broken down. I think that is central.

The other thing we have tried to do with the bill is put it right out front in the office of the Governor, not tuck it into a subcommittee of something that is already existing or a department that is already existing, but put it right where it needs to be, right out in the open where we can find out what our problems are and find out what our successes are and then, as a legislature, when we look at their reporting to us, we can do something about it in the future.

I hope I have answered the gentleman's question and would certainly try to elaborate even further if there is some doubt.

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

Ms. BACHRACH: Mr. Speaker and Members of the House: I would just like to add one thing. I notice Mr. Palmer was looking at the original bill, and the rewrite, we hope, was strengthened considerably. In the section on Page 7 where it says "submission of plans from state agencies to cooperate under 8523," I think we have strengthened the operational section of the bill so that the state agencies will cooperate fully with the office in carrying out the services that are determined to be necessary under the other sections of the bill.

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

Second Reader Tabled and Assigned

Bill "An Act Creating Job Security for Deputy Sheriffs" (H. P. 1277) (L. D. 1508) (C. "A" H-713)

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

(On motion of Mr. Henderson of Bangor, tabled pending passage to be engrossed as amended and tomorrow assigned.)

RESOLVE, to Authorize a Study of the Judicial Pension System of the State of Maine (H. P. 1273) (L. D. 1501) (C. "A" H-716)

Was 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.

Second Reader Later Today Assigned

Bill "An Act to Eliminate Tax on Marine Worms and Replace it With a Fee for Inspection and to Specify Certain Offenses Concerning the Sale of Marine Worms and Other Commodities" (H. P. 913) (L. D. 1119) (C. "A" H-726)

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

(On motion of Mrs. Post of Owls Head, tabled pending passage to be engrossed as amended and later today assigned.)

Bill "An Act to Require Adequate Polling Facilities in Municipalities" (S. P. 445) (L. D. 1535) (C. "A" S-255)

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

On motion of Mrs. Durgin of Kittery, the House reconsidered its action whereby Com-

mittee Amendment "A" was adopted in concurrence.

The same gentlewoman offered House Amendment "A" to Committee Amendment "A" and moved its adoption.

House Amendment "A" to Committee Amendment "A" (H-765) was read by the Clerk.

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

Mr. TIERNEY: Mr. Speaker, I would like to ask the gentlewoman to explain her amendment.

The SPEAKER: The Chair recognizes the gentlewoman from Kittery, Mrs. Durgin.

Mrs. DURGIN: Mr. Speaker and Members of the House: This amendment would require one booth per 150 voters in municipalities with a population of 15,000 or more for the presidential election and the presidential election only. There doesn't seem to be any problem in the small towns, but apparently there is in the larger communities and they need more booths.

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

Mr. CAREY: Mr. Speaker, I would ask the same gentlewoman a question. Has she taken into consideration voting machines, and how is that handled with her amendment? We have voting machines in our city.

The SPEAKER: The gentleman from Waterville, Mr. Carey, has posed a question through the Chair to the gentlewoman from Kittery, Mrs. Durgin, who may answer if she so desires.

The Chair recognizes that gentlewoman.

Mrs. DURGIN: Mr. Speaker, this was not included in the bill, the voting machines, just the booths. The sponsor of the bill just included the booths.

Thereupon, House Amendment "A" to Committee Amendment "A" was adopted.

Committee Amendment "A" as amended by House Amendment "A" thereto was adopted in non-concurrence.

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

(Off Record Remarks)

The following papers appearing on Supplement No. 2 were taken up out of order by unanimous consent:

Emergency Measure

"An Act to Establish Limits for Elderly Householders' Tax and Rent Refunds" (H. P. 952) (L. D. 1146) (H. "A" H-612 and H. "B" H-639 to C. "A" H-574; H. "A" H-610)

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. 118 voted in favor of same and none against, and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

Passed to Be Enacted

"An Act Relating to Valuation of Real Estate Held by Insurers" (S. P. 101) (L. D. 230) (C. "A" S-248)

"An Act Amending the Maine Property Insurance Cancellation Control Act" (S. P. 116) (L. D. 275) (C. "A" S-243)

"An Act to Make Certain Revisions in Highway Related Laws" (S. P. 117) (L. D. 276) (C. "A" S-246)

"An Act Concerning Confidential Financial Records" (S. P. 324) (L. D. 1084) (S. "A" S-263) to C. "A" S-247)

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

"An Act Concerning Euthanasia of Cats and Dogs" (S. P. 333) (L. D. 1092) (H. "A" H-667 to C. "A" S-213)

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

Mr. McMahon of Kennebunk requested a roll call vote.

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

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

The SPEAKER: The pending question is on passage to be enacted. All those in favor will vote yes; those opposed will vote no.

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

Mr. NADEAU: Mr. Speaker, I wish to pair my vote with the gentleman from Saco, Mr. Hobbins. If he were here, he would be voting no and I would be voting yes.

ROLL CALL

YEA — Aloupis, Ault, Bachrach, Bagley, Benoit, Berry, Berube, Blodgett, Boudreau, A.; Boudreau, P.; Brennerman, Brown, K. C.; Bunker, Carey, Carter, F.; Chonko, Churchill, Clark, Conners, Cunningham, Curran, Dexter, Diamond, Durgin, Elias, Fenlason, Flanagan, Fowlie, Gill, Gillis, Goodwin, H.; Goodwin, K.; Gould, Gray, Greenlaw, Henderson, Hickey, Howe, Hughes, Hunter, Hutchings, Jackson, Joyce, Kerry, Kilcoyne, LaPlante, Lewis, Littlefield, Locke, Lunt, Mackel, Marshall, Masterman, Masterton, Maxwell, McBrearty, McKean, McMahon, Mills, Mitchell, Morton, Najarian, Nelson, M.; Nelson, N.; Norris, Palmer, Peakes, Pearson, Pelletier, Plourde, Post, Prescott, Sewall, Shute, Silsby, Smith, Sprowl, Stubbs, Talbot, Tarbell, Tarr, Teague, Theriault, Tierney, Trafton, Truman, Twitchell, Tyndale, Valentine, Whittemore, Wilfong, Wood, Wyman, The Speaker.

NAY — Beaulieu, Burns, Carrier, Connolly, Cox, Davies, Devoe, Drinkwater, Green, Hall, Higgins, Huber, Immonen, Jensen, Laffin, Lougee, Lynch, MacEachern, Mahany, McHenry, Perkins, Peterson, Quinn, Raymond, Rideout, Spencer, Strout, Torrey, Tozier.

ABSENT — Austin, Bennett, Biron, Birt, Brown, K. L.; Bustin, Carroll, Carter, D.; Cote, Dow, Dudley, Dutremble, Garsoe, Gauthier, Jacques, Jalbert, Kane, Kany, Kelleher, LeBlanc, Lizotte, Martin, A.; McPherson, Moody, Rollins, Stover.

PAIRED — Hobbins, Nadeau.

Yes, 94; No, 29; Absent, 26; Paired, 2.

The SPEAKER: Ninety-four having voted in the affirmative and twenty-nine in the negative, with twenty-six being absent and two paired, the motion does prevail.

Signed by the Speaker and sent to the Senate.

"An Act to Require Implementation of Standards of Treatment for Residential Drug Treatment Centers Related to Special Education" (S. P. 339) (L. D. 1124) (C. "A" S-241)

"An Act to Allow Public Inspection of Absentee Ballot Applications and Envelopes" (S. P. 374) (L. D. 1218) (C. "A" S-249)

"An Act Regarding the Sales Tax for Sales Made Through Vending Machines" (S. P. 396) (L. D. 1355) (S. "A" S-239 to C. "A" S-214)

"An Act to Provide for Marine Resources Education by the Department of Marine Resources" (S. P. 441) (L. D. 1552) (C. "A" S-253)

"An Act to Relieve the Income Tax Burden of the Elderly Retired" (S. P. 442) (L. D. 1530) (C. "A" S-257)

"An Act to Regulate Affiliated Interests of Public Utilities" (S. P. 539) (L. D. 1870) (S. "B" S-240)

"An Act to Continue the Division of Special Investigations within the Department of Public Safety" (S. P. 552) (L. D. 1882)

"An Act Concerning Weekly Benefits Paid to Persons who are Partially Unemployed" (H. P. 125) (L. D. 158) (H. "A" H-641)

"An Act Authorizing the Board of Osteopathic Examination and Registration to Establish Rules and Regulations for Physicians' Assistants, Supervising Physicians and other Delegated Physicians" (H. P. 269) (L. D. 346) (C. "A" H-613)

"An Act to Provide for the Restrictive Licensing of Certain Financial Institutions" (H. P. 474) (L. D. 580) (C. "A" H-627)

"An Act Appropriating Funds to the Department of Human Services for Emergency Medical Training of Ambulance and Rescue Personnel" (H. P. 587) (L. D. 714) (C. "A" H-614)

"An Act Concerning Displaced Homemakers" (H. P. 700) (L. D. 842) (H. "A" H-620 to C. "A" H-599)

"An Act to Authorize Local Control over Special Amusement Permits Issued to Licensees under the Alcoholic Beverages Statutes" (H. P. 875) (L. D. 1068) (C. "B" H-621)

"An Act Creating the Maine Capital Corporation" (H. P. 1011) (L. D. 1250) (H. "A" H-633)

"An Act to Improve the Juvenile Judicial System by Authorizing Juvenile Court Intake Workers in the Department of Mental Health and Corrections" (H. P. 1035) (L. D. 1266)

"An Act to Extend Collective Bargaining Rights to County Employees" (H. P. 1278) (L. D. 1509) (C. "A" H-602) (Later Reconsidered)

"An Act Concerning Recovery of Damages by the Consumer" (H. P. 1303) (L. D. 1541)

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

"An Act to Require Housing Authorities and Other Agencies to Submit Annual Data about Housing Programs" (H. P. 1325) (L. D. 1642) (C. "A" H-623)

"An Act Creating a Maine State Board for Registration of Architects and Landscape Architects" (H. P. 1390) (L. D. 1733) (C. "A" H-600) (Later Reconsidered)

"An Act Relating to Regulation of Traveling Shows" (H. P. 1722) (L. D. 1883)

Finally Passed

RESOLVE, to Evaluate Substate Districts in Maine (S. P. 148) (L. D. 390) (C. "A" S-224)

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

On motion of Mrs. Berube of Lewiston, the House reconsidered its action whereby "An Act to Extend Collective Bargaining Rights to County Employees" (H. P. 1278) (L. D. 1509) (C. "A" H-602) was passed to be enacted.

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

Mrs. BERUBE: Mr. Speaker, I think if we are going to enact this, at least it should be on the record by a roll call and I would ask for one, first of all. Secondly, I don't see how we can possibly allow county employees to be unionized, especially in the sheriff's department when they serve at the pleasure of the sheriff. I don't know, there are an awful lot of things that somehow don't seem right. I don't recall that we have ever debated this thing this session, so I would ask for a roll call, please.

On motion of Mr. Carey of Waterville, tabled pending passage to be enacted and tomorrow assigned.

On motion of Mr. LaPlante of Sabattus, the House reconsidered its action whereby "An Act

Creating a Maine State Board of Registration of Architects and Landscape Architects" (H. P. 1390) (L. D. 1733) (C. "A" H-600) was passed to be enacted.

On motion of the same gentleman, tabled pending passage to be enacted and tomorrow assigned.

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

Consent Calendar

First Day

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

(H. P. 1048) (L. D. 1259) RESOLUTION, Proposing an Amendment to the Constitution to Require the Legislature to Convene in December after the General Election — Committee on State Government reporting "Ought to Pass"

(H. P. 1356) (L. D. 1592) Bill "An Act to Repeal and Correct Certain Laws Relating to Health and Institutions" — Committee on Health and Institutional Services reporting "Ought to Pass" as amended by Committee Amendment "A" (H-767)

No objections having been noted, the above items were ordered to appear on the Consent Calendar of June 22 under listing of Second Day.

Passed to Be Engrossed

Bill "An Act to Provide for the Licensing of Denturists" (H. P. 1689) (L. D. 1877)

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

Mr. McBrearty of Perham offered House Amendment "A" and moved its adoption.

House Amendment "A" (H-778) was read by the Clerk.

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

Mr. PEARSON: Mr. Speaker, may I have an explanation of this, please?

The SPEAKER: The Chair recognizes the gentleman from Perham, Mr. McBrearty.

Mr. McBREARTY: Mr. Speaker and Members of the House: The Statement of Fact reads that this amendment would permit dental lab technicians to make repairs of removable dentures without a prescription from a dentist if no impression or registration of vertical dimension is involved. In other words, if you had a tooth that had broken out or had a cracked denture, it could be repaired by a dental lab technician.

Presently, you can get these kits and try to do it yourself, but I think it would be safer to have a technician who was experienced in this field do it for you. There will be no impressions, so it shouldn't be very dangerous and it should save some people some money.

Thereupon, House Amendment "A" was adopted.

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

Second Reader

Tabled and Assigned

Bill "An Act to Reform the Regulation of Watch, Guard and Patrol Agencies and of Private Detectives" (H. P. 1741) (L. D. 1889)

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

(On motion of Mr. Shute of Stockton Springs, tabled pending passage to be engrossed and tomorrow assigned.)

Amended Bills

Tabled and Assigned

Bill "An Act Recognizing County Charters and Establishing County Charter Commissions" (S. P. 437) (L. D. 1648) (C. "A" S-250)

Was reported by the Committee on Bills in

the Second Reading and read the second time. (On motion of Mr. Davies of Orono, tabled pending passage to be engrossed as amended and tomorrow assigned.)

Bill "An Act to Establish the Fair Credit Reporting Act" (H. P. 1262) (L. D. 1526) (C. "A" H-749)

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

(On motion of Mr. Howe of South Portland, tabled pending passage to be engrossed and tomorrow assigned.)

Bill "An Act to Clarify and Limit the Authority of Municipalities to Establish Shellfish Conservation Programs and to License and Regulate the Taking of Shellfish" (H. P. 715) (L. D. 851) (C. "A" H-746)

Was 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.

Orders of the Day

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

Bill, "An Act to Clarify Election Related Laws" (H. P. 1734) (L. D. 1887)

Tabled — June 20, 1977 (Till Later Today) by Mr. Burns of Anson.

Pending — Motion of the same gentleman to Reconsider Passage to be Engrossed.

On motion of Mr. Burns, the House reconsidered its action whereby the Bill was passed to be engrossed.

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

House Amendment "A" (H-742) was read by the Clerk and adopted.

On motion of Mrs. Mitchell of Vassalboro, tabled pending passage to be engrossed as amended and tomorrow assigned.

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

Bill, "An Act to Revise Certain Motor Vehicle Related Laws" (H. P. 246) (L. D. 336)

Tabled — June 20, 1977 (Till Later Today) by Mr. Goodwin of South Berwick.

Pending — Adoption of Committee Amendment "A" (H-597)

Thereupon, Committee Amendment "A" was adopted.

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

House Amendment "A" (H-669) was read by the Clerk and adopted.

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

Under suspension of the rules, Items 2, 8, 10, 13, 15, 16, 17, 24 and 30 were taken from the Tabled and Today assigned matters:

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

Senate Divided Report — Majority (10) "Ought to Pass" — Minority (1) "Ought Not to Pass" — Committee on Veterans and Retirement on Bill, "An Act to Revise the Judicial Retirement System" (S. P. 497) (L. D. 1776) — In Senate, Majority "Ought to Pass" Report Read and Accepted and the Bill Passed to be Engrossed.

Tabled — June 17, 1977 by Mr. Tierney of Lisbon Falls.

Pending — Motion of Mr. Theriault of Rumford to Accept the Majority "Ought to Pass" Report.

Thereupon, the Majority "Ought to Pass" Report was accepted in concurrence, the Bill read once and assigned for second reading tomorrow.

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

Bill, "An Act to Abolish the Mental Health and Mental Retardation Improvement Fund" (H. P. 1470) (L. D. 1727)

Tabled — June 20, 1977 by Mr. Greenlaw of Stonington.

Pending — Adoption of Committee Amendment "A" (H-630)

On motion of Mrs. Najarian of Portland, Committee Amendment "A" was adopted.

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

Mrs. NAJARIAN: Mr. Speaker and Members of the House: I just feel I should explain a little bit. The House Amendment that I thought I might have to put on because of the objection of the Commissioner of Human Services has been removed, and after consulting with everybody, including our Finance Office, the question he raises is just not applicable to this bill as it has been redrafted.

Thereupon, the Bill was assigned for second reading tomorrow.

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

"An Act to Clarify and Reform the Laws Relating to County Law Enforcement" (H. P. 214) (L. D. 224) (H. "A" H-415 to C. "A" H-387; H. "A" H-416; H. "B" H-563; S. "A" S-183; S. "C" S-200)

Tabled — June 20, 1977 by Mr. Talbot of Portland.

Pending — Passage to be Enacted.

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

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

Bill, "An Act to Base Adjustments of Teacher and State Employee Retirement Allowances on the Consumer Price Index" (S. P. 317) (L. D. 1075)

Tabled — June 20, 1977 by Mrs. Najarian of Portland.

Pending — Adoption of Committee Amendment "A" (S-236).

Thereupon, Committee Amendment "A" was adopted and the Bill assigned for second reading tomorrow.

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

Bill, "An Act Relating to Taxable Personal Property" (H. P. 851) (L. D. 1042) (C. "A" H-647)

Tabled — June 20, 1977 by Mr. Carey of Waterville.

Pending — Passage to be Engrossed.

On motion of Mr. Carey of Waterville, under suspension of the rules, the House reconsidered its action whereby Committee Amendment "A" was adopted.

The same gentleman offered House Amendment "A" to Committee Amendment "A" (H-774) and moved its adoption.

House Amendment "A" to Committee Amendment "A" was read by the Clerk and adopted. Committee Amendment "A" as amended by House Amendment "A" thereto was adopted.

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

The Chair laid before the House the sixteenth 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 20, 1977 by Mr. Greenlaw of Stonington.

Pending — Passage to be Engrossed.

Mrs. Post of Owls Head offered House Amendment "A" and moved its adoption.

House Amendment "A" (H-761) was read by the Clerk.

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

Mrs. POST: Mr. Speaker, Men and Women of the House: This gives the power to accept federal funds only to those plantations that were organized prior to November 1, 1977 and does away with the changes in the formation of a plantation.

Thereupon, House Amendment "A" was adopted.

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

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

Bill, "An Act Relating to Setting Determinant Sentences for Inmates Sentenced Prior to Enactment of the Maine Criminal Code" (H. P. 703) (L. D. 884) — In Senate, Minority "Ought Not to Pass" Report Read and accepted. — In House, House Insisted on its action whereby Majority "Ought to Pass" as Amended by Committee Amendment "A" (H-607) Report Read and Accepted and Bill Passed to be Engrossed as Amended by Committee Amendment "A" (H-607) on June 17.

Tabled — June 20, 1977 by Mr. Connolly of Portland.

Pending — Motion of the same gentleman to Reconsider Insisting.

Mr. Connolly of Portland requested permission to withdraw his motion to reconsider, which was granted.

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

House Report — "Ought to Pass" as Amended by Committee Amendment "A" (H-697) — Committee on Health and Institutional Services on Bill, "An Act to Establish Long-term Foster Care" (H. P. 1453) (L. D. 1693)

Tabled — June 20, 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" (H-697) was read by the Clerk and adopted and the Bill assigned for second reading tomorrow.

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

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

Tabled — June 20, 1977 by Mr. Bustin of Augusta.

Pending — Passage to be Enacted.

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

(Off Record Remarks)

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

Mr. GREENLAW: Mr. Speaker, I move we reconsider our action of earlier in the day on Supplement No. 1 whereby Bill "An Act to Clarify and Limit the Authority of Municipalities to Establish Shellfish Conservation Programs and to License and Regulate the Taking of Shellfish," House Paper 715, L. D. 851, was passed to be engrossed as amended by Committee Amendment "A" (H-746) and hope you will all vote against me.

The SPEAKER: The gentleman from Stonington, Mr. Greenlaw, moves that the House reconsider its action of earlier in the day whereby L. D. 851 was passed to be engrossed. All those in favor will say yes; those opposed will say no.

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

On motion of Mr. Greenlaw of Stonington,
Adjourned until eight-thirty tomorrow morn-
ing.