

# MAINE STATE LEGISLATURE

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**LEGISLATIVE RECORD**

OF THE

***One Hundred and Eighth  
Legislature***

OF THE

STATE OF MAINE

**Volume II**

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

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**Senate Confirmation Session  
September 16, 1977**

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KJ PRINTING  
AUGUSTA, MAINE

## HOUSE

Wednesday, June 22, 1977

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

Prayer by the Reverend Ernest Sjoberg of the United Methodist Church, Richmond.

The journal of yesterday was read and approved.

## Papers from the Senate

The following Communication:  
THE SENATE OF MAINE  
AUGUSTA

June 21, 1977

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

The Senate today Adhered to its action whereby it accepted the Minority 'Ought Not to Pass' Report on Resolve, to Provide for the Development of Recommendations on Coastal Policy Issues" (H. P. 1384) (L. D. 1664)

The Senate today also Adhered to its action whereby it Indefinitely Postponed Bill, "An Act to Prohibit the Sale of Gasoline Below Cost to Destroy Competition" (H. P. 455) (L. D. 560).

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 21, 1977

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

The Senate today voted to Insist and Join in a Committee of Conference on Bill, "An Act Relating to Habitual Truants and School Dropouts" (H. P. 1650) (L. D. 1851)

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 21, 1977

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

The Senate today voted to Insist and Join in a Committee of Conference on Bill, "An Act to Amend the Powers and Duties of the Maine Committee on Aging" (H. P. 229) (L. D. 292).

Respectfully,

(Signed)

MAY M. ROSS

Secretary of the Senate.

The Communication was read and ordered placed on file.

Bill "An Act to Make Additional Corrections of Errors and Inconsistencies in the Laws of Maine; (Emergency) (S. P. 564) (L. D. 1890) (Approved for introduction by a Majority of the Legislative Council pursuant to Joint Rule 25)

Came from the Senate referred to the Committee on Judiciary and ordered printed.

In the House, referred to the Committee on Judiciary in concurrence.

Reports of Committees  
Ought to Pass with  
Committee Amendment

Committee on Human Resources reporting "Ought to Pass" as amended by Committee Amendment "A" (S-283) on Bill "An Act to Amend the Child Abuse and Neglect Laws" (S. P. 337) (L. D. 1122)

Came from the Senate with the Report read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (S-283) and Senate Amendment "A" (S-297).

In the House, the Report was read and accepted in concurrence and the Bill read once. Committee Amendment "A" (S-283) read and adopted in concurrence.

Senate Amendment "A" (S-297) was read by the Clerk and Adopted in concurrence and the Bill assigned for second reading later in the day.

## Divided Report

Majority Report of the Committee on Health and Institutional Services reporting "Ought to Pass" as amended by Committee Amendment "A" (S-282) on Bill "An Act to Provide for the Prevention of Alcohol Abuse" (S. P. 306) (L. D. 976)

Report was signed by the following members:

Messrs. PRAY of Penobscot

GREELEY of Waldo

Mrs. SNOWE of Androscoggin

— of the Senate.

Mrs. PRESCOTT of Hampden

NELSON of Portland

GILL of South Portland

TRAFTON of Auburn

Messrs. KERRY of Old Orchard Beach

BRENERMAN of Portland

GOODWIN of South Berwick

FOWLIE of Rockland

TYNDALE of Kennebunkport

— of the House.

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

Report was signed by the following member:

Mrs. KANE of Augusta

— of the House.

Came from the Senate with the Majority "Ought to Pass" as amended by Committee Amendment "A" (S-282) Report read and accepted and the Bill Passed to be Engrossed as amended by Committee Amendment "A" (S-282)

In the House: Reports were read.

On motion of Mr. Goodwin of South Berwick, the Majority "Ought to pass" Report was accepted in concurrence and the Bill read once. Committee Amendment "A" (S-282) was read by the Clerk and adopted in concurrence and the Bill assigned for second reading tomorrow.

## Divided Report

## Later Today Assigned

Majority Report of the Committee on Transportation reporting "Ought to Pass" as amended by Committee Amendment "A" (S-278) on Bill "An Act to Clarify and Correct Laws Relating to Aeronautics (S. P. 340) L. D. 1154)

Report was signed by the following members:

Messrs. GREELEY of Waldo

McNALLY of Hancock

MINKOWSKY of Androscoggin

— of the Senate.

Mrs. HUTCHINGS of Lincolnville

Messrs. LUNT of Presque Isle

BROWN of Mexico

McKEAN of Limestone

— of the House.

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

Report was signed by the following members:

Messrs. STROUT of Corinth

LITTLEFIELD of Hermon

JACQUES of Lewiston

JENSEN of Portland

ELIAS of Madison

CARROLL of Limerick

— of the House

Came from the Senate with the Majority "Ought to Pass" as amended by Committee Amendment "A" (S-278) Report read and accepted and the Bill Passed to be Engrossed as Amended by Committee Amendment "A" (S-278)

In the House: Reports were read.  
The SPEAKER: The Chair recognizes the gentlemen from Portland, Mr. Jensen.

Mr. JENSEN: Mr. Speaker, I move acceptance of the Minority "Ought Not to Pass" Report in non-concurrence.

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

Mr. STROUT: Mr. Speaker, Ladies and Gentlemen of the House: We have some discussion to be made on this and I see some of the committee isn't here this morning. I would hope that somebody might table it until later in today's session.

Thereupon, on motion of Mr. Jensen of Portland, tabled pending his motion to accept the Minority "Ought Not to Pass" Report in non-concurrence and later today assigned.

## Non-Concurrent Matter

## Later Today Assigned

Bill "An Act Relating to Judicial Review of the Public Utilities Commission Decisions" (H. P. 226) (L. D. 290) which was passed to be engrossed in the House on June 14, 1977.

Came from the Senate passed to be engrossed as amended by Senate Amendment "A" (S-267) as amended by Senate Amendment "A" (S-299) thereto in non-concurrence.

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

## Non-Concurrent Matter

Bill "An Act to Clarify Certain Statutory Provisions for the Licensing of Camps, Eating and Lodging Places" (H. P. 1260) (L. D. 1489) which was passed to be engrossed as amended by House Amendment "A" (H-695) in the House on June 17, 1977.

Came from the Senate passed to be engrossed in non-concurrence.

In the House: On motion of Mrs. Post of Owl's Head, the House voted to insist.

## Non-Concurrent Matter

Bill "An Act to Provide for the Posting of Certain Common Dental Fees" (H. P. 1269) (L. D. 1497) which was passed to be engrossed as amended by Committee Amendment "A" (H-686) in the House on June 20, 1977.

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

In the House: On motion of Mr. Wood of Sanford, the House voted to insist.

## Non-Concurrent Matter

Bill "An Act Relating to Approving and Financing School Construction" (Emergency) (H. P. 477) (L. D. 583) which was passed to be engrossed as amended by Committee Amendment "A" (H-559) as amended by House Amendment "A" (H-677) thereto in the House on June 16, 1977.

Came from the Senate passed to be engrossed as amended by Committee Amendment "A" (H-559) as amended by Senate Amendment "A" (S-290) thereto in non-concurrence.

In the House: On motion of Mr. Lynch of

Livermore Falls, the House voted to recede and concur.

#### Non-Concurrent Matter

Bill "An Act to Clarify the Authority of the Board of Registration in Medicine to Conduct Programs of Medical Education" (H. P. 1349) (L. D. 1621) on which the Minority "Ought to Pass" as amended by Committee Amendment "B" (H-619) Report of the Committee on Education was read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "B" (H-619) in the House on June 17, 1977.

Came from the Senate with the Majority "Ought to Pass" as amended by Committee Amendment "A" (H-618) Report of the Committee on Education read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (H-618) in non-concurrence.

In the House:

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

Mrs. POST: Mr. Speaker, I move we adhere.

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

Mr. LYNCH: Mr. Speaker, I move we recede and concur.

Whereupon, Mrs. Beaulieu of Portland requested a vote.

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

Mrs. POST: Mr. Speaker, Men and Women of the House: We had considerable debate over this bill a couple of weeks ago. The Senate kept it for awhile. It is my bill. I know what adhering means. It is very likely the Senate will kill it. I don't see that there is any need to waste a lot of time debating it, so I simply ask that you vote against the recede and concur motion so we can adhere.

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

Mr. LYNCH: Mr. Speaker, I believe there is something to be achieved by receding and concurring. At least we will have the money that is given by the board of registration to medical students channeled through the Department of Education and given out under the rules that have been laid down by this legislature.

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

Mrs. POST: Mr. Speaker, Men and Women of the House: That is simply not the case with the amendment the Senate adopted. It only set guidelines for when money was going to go through the Education Department, and money can still be given out to private organizations under this bill by the board of registration.

If we kill this bill, the situation stays the same as it is. The money is still available and they still will be able to give it to the Department of Education and anyone else that they wish.

The SPEAKER: The pending question is on the motion of the gentleman from Livermore Falls, Mr. Lynch, that the House recede and concur. All those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

57 having voted in the affirmative and 21 having voted in the negative, the motion did prevail.

#### Non-Concurrent Matter

Bill "An Act Concerning the Fees for Filing Municipal Tax Liens" (Emergency) (H. P. 1724) (L. D. 1884) which was passed to be engrossed in the House on June 16, 1977.

Came from the Senate passed to be engrossed as amended by Senate Amendment "A" (S-298) in non-concurrence.

In the House: On motion of Mr. Davies of Orono, the House voted to recede and concur.

#### Non-Concurrent Matter

Bill "An Act to Repeal Certain Laws Relating to Domestic Relations" (H. P. 1627) (L. D. 1830)

Recalled from the Governor's Office pursuant to Joint Order S. P. 558.

Came from the Senate with Enactment Reconsidered and the Bill passed to be engrossed as amended by House Amendment "A" (H-488) as amended by Senate Amendment "A" (S-295) thereto in non-concurrence.

In the House: On motion of Mr. Spencer of Standish, the House voted to recede and concur.

#### Messages and Documents

The following Communication:

State of Maine

One Hundred and Eighth Legislature

Committee on State Government

June 21, 1977

Honorable John L. Martin

Speaker of the House

House of Representatives

State House

Augusta, Maine 04333

Dear Speaker Martin:

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

Total Number of Bills 166

Unanimous Reports 135

Leave to Withdraw 39

Ought Not to Pass 28

Ought to Pass 23

Ought to Pass as Amended 41

Ought to Pass in New Draft 3

Referred to another Committee 1

Divided Reports 30

Total Number of Amendments 50

Total Number of New Drafts 7

Bills Being Held Over to Next Session 1

Respectfully,

(Signed)

PETER J. CURRAN

House Chairman

The Communication was read and ordered placed on file.

The following Communication: (S. P. 563)

STATE OF MAINE

ONE HUNDRED AND EIGHTH

LEGISLATURE

COMMITTEE ON TRANSPORTATION

June 21, 1977

TO MEMBERS OF THE 108TH

LEGISLATURE

OF THE STATE OF MAINE

In accordance with the Joint Order (S. P. 543), of the 107th Legislature, dated June 24, 1975 directing the Committee to study the condition and operation of the Maine State Ferry Service, I enclose herein the final report of the Committee.

Respectfully submitted,

(Signed)

EDWIN H. GREELEY, Chairman

Committee on Transportation

Came from the Senate read and with accompanying papers ordered placed on file.

In the House, read and with accompanying papers ordered placed on file in concurrence.

(Signed)

(Signed)

(Signed)

(Signed)

(Signed)

(Signed)

(Signed)

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(Signed)

This bill would carve out an exception in the law for natural gas pipeline companies to the extent that it would exempt them from having to comply with that section of the law which requires an applicant to have some "interest" in the land affected by the application.

I can appreciate how this legislation passed. I assume that it was done on the basis that this law would make no substantive changes, as it would only expedite the application process.

However, I feel that the legislation provides for one particular interest, natural gas pipeline companies, an exception which, if appropriate, should be studied and considered with respect to every applicant, and not just one that is able to establish an exemption on the ground that it has no real effect. There is a real effect, and that is making the law and procedures easier for one company or one interest, as proposed to all others who must comply with the existing law. If the law should be changed, then the change should be addressed in a comprehensive fashion on the basis of the desirability of establishing a new procedure, or a different procedure for different applicants.

Although this bill does provide that a bond shall be filed with the Department of Environmental Protection in an amount not to exceed \$50,000, I am advised that there are other departments of government involved which would also have to expend time and money considering an application; yet, these departments have no authority to require bonding to cover the costs which they will incur at this same stage.

A proposal of this sort which involves construction of a pipeline across our state is one that must be and will be examined very closely and diligently. We have existing procedures and laws which govern that process. I cannot endorse making exceptions for one specific company or industry. Maine, right now, will receive no benefit from the natural gas which flows through the pipeline. I am told that for Maine to even apply to receive or use natural gas from the pipeline there would have to be extensive procedures before the Federal government. In other words, there is no guarantee that this state will benefit from this project, even though we in Maine will bear the risk of having the pipeline run across the land of our state. In addition, despite repeated request, I have never been able to secure a straight forward answer as to their support or assistance in helping to make sure that the citizens of Maine receive as much benefit from the natural gas being piped through our state as we are being asked to assume in terms of potential liability. They have never fully responded in writing to these requests. I am not commenting on the desirability of this project, nor on the suitability of this project for this state. This is a matter that will be determined by the appropriate State agencies. I cannot, however, lend my support to a bill which carves out a special exception for one company. In addition, the bonding which supposedly will protect the State in lieu of compliance with existing laws does not cover adequately all of the costs associated with such an involved application.

I respectfully request that you sustain my veto of this measure.

Very truly yours,

(Signed)

JAMES B. LONGLEY

Governor

The Communication was read and ordered placed on file.

The SPEAKER: The pending question now before the House is, shall Bill "An Act to Expedite Construction of Natural Gas Pipelines in the State" House Paper 1247, L.D. 1477, become law notwithstanding the objections of the Governor?

On motion of Mr. Blodgett of Waldoboro,

tabled pending the question, shall the Bill become law notwithstanding the objections of the Governor and tomorrow assigned.

#### Orders

An Expression of Legislative Sentiment (H. P. 1749) recognizing that: Eunice and Roy E. Kelley of Boothbay Harbor Celebrated their 53rd anniversary of their wedding on June 20, 1977

Presented by Mrs. Sewall of Newcastle.

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

An Expression of Legislative Sentiment (H. P. 1752) recognizing that: Cynthia Murray-Beliveau, Anne Hazlewood-Brady, Constance Depew, Paulette Dodge, Linda S. Dyer, Jo Ann Fritsche, Vivian F. Massey, Kim Matthews, Kate McQueen, Merle Nelson, Lois Reckett, Nan Stone, Sharon Renee Talbot and Claire Hussey have been elected to the International Women's Year National Conference at Houston, Texas

Presented by Mrs. Trafton of Auburn (Cosponsor: Ms. Clark of Freeport)

The Order was read.

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

Mrs. TRAFTON: Mr. Speaker and Members of the House: I would like to call the attention of this body particularly to one member of the delegation that we will be sending to the International Women's Year National Convention at Houston, Texas, and that is a member of our own body, Representative Merle Nelson of Portland.

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

An Expression of Legislative Sentiment (H. P. 1751) recognizing that: Kimberly Ricj has been recognized for her excellent academic record by being chosen salutatorian of Lincoln Academy

Presented by Mrs. Sewall of Newcastle.

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

An Expression of Legislative Sentiment (H. P. 1750) recognizing that: Elizabeth Gay of Newcastle has been recognized for her outstanding academic record by being chosen valedictorian of Lincoln Academy

Presented by Mrs. Sewall of Newcastle

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

An Expression of Legislative Sentiment (H. P. 1755) recognizing that: Mrs. Minnie Cyr, 81, of Madawaska, who served in France during World War I as a telephone operator for the Signal Corps, has been a dedicated member of the American Legion for 55 years

Presented by Mr. McHenry of Madawaska (Cosponsor: Senator Martin of Aroostook)

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

An Expression of Legislative Sentiment (H. P. 1756) recognizing that: Father Raoul Fecteau, Pastor of Saint David's Parish in Madawaska retired on June 24, 1977, following 40 years of devotion to the priesthood

Presented by Mr. McHenry of Madawaska (Cosponsor: Mr. Martin of Eagle Lake, Senator Martin of Aroostook)

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

An Expression of Legislative Sentiment (H. P. 1757) recognizing that: Father Roland J. Marcotte, pastor of Saint Louis Parish, Fort Kent retired on June 24, 1977, following 41 years of dedicated service to the diocese

Presented by Mr. Plourde of Fort Kent

(Cosponsor: Senator Martin of Aroostook, Mr. Martin of Eagle Lake)

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

An Expression of Legislative Sentiment (H. P. 1753) recognizing that: Anne Grady of Old Town is the first prize winner in a statewide energy resource contest sponsored by the State Energy Office

Presented by Mr. Pearson of Old Town (Cosponsor: Mr. Gould of Old Town)

The Order was read.

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

Mr. PEARSON: Mr. Speaker, Ladies and Gentlemen of the House: Anne Grady is a ninth grade student at the Joseph Leonard Junior High School in Old Town, soon to be a sophomore at Old Town High School. She was a recent winner in a statewide energy resource essay contest sponsored by the State Energy Office. Anne has just been appointed as an honorary Page immediately before this order, and this is a surprise to her.

Anne is an honor student in Old Town and Representative Gould and I are pleased to sponsor this order and pleased that she could be here today as a Page to hear the order presented.

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

On motion of Mr. Spencer of Standish the following Joint Order: (H. P. 1758)

ORDERED, the Senate concurring, that Bill, "An Act to Clarify Actual Notice Under the Recording Laws in Regard to Exceptions and Reservations" House Paper 1119, Legislative Document 1337, be recalled from the legislative files to the House.

The Order was read.

The SPEAKER: The Chair will order a vote. Pursuant to the rules, this requires a two-thirds vote of the House. All those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

71 having voted in the affirmative and none in the negative, the order received passage and was sent up for concurrence.

#### House Reports of Committees Divided Report

Majority Report of the Committee on Business Legislation reporting "Ought to Pass" as amended by Committee Amendment "A" (H-752) on Bill "An Act to Require Filing and Prior Approval of all Rates for Use by Nonprofit Hospital or Medical Organizations" (Emergency) (H. P. 1539) (L. D. 1769)

Report was signed by the following members:

Messrs. CHAPMAN of Sagadahoc  
PIERCE of Kennebec  
FARLEY of York  
— of the Senate.

Ms. CLARK of Freeport  
Miss ALOUPIS of Bangor  
Messrs. KILCOYNE of Gardiner  
HOWE of So. Portland  
WHITEMORE of Skowhegan

Mrs. BOUDREAU of Portland  
Messrs. JACKSON of Yarmouth  
SPROWL of Hope  
— of the House.

Minority Report of the same Committee reporting "Ought to Pass" as amended by Committee Amendment "B" (H-753) on same Bill.

Report was signed by the following members:

Messrs. PEAKES of Dexter  
RIDEOUT of Mapleton  
— of 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 Majority "Ought to Pass" Report.

I am going to take probably more than a few minutes of your time this morning and bring to your attention certain events that have taken place over the past two months. These events have been deeply troubling me and raise, in my opinion, a basic question concerning the interrelationship of appointed governmental officials and the citizens of this state whom they serve.

It has always been my understanding in our system of government that the people of this state have delegated to us the power to make laws under which they will function. Recognizing the limitations of time, etc., the people, through the Constitution, also permitted us to delegate to other government officials the ability to administer and enforce the laws enacted by the legislature. These agents of government are supposed to administer the laws enacted and, in my view, are required to operate under those laws. The officials of our government in whom we have placed a great deal of trust and authority should always insure that their actions are in accordance with the laws. This is necessary because the citizens of this state have a great deal of respect for their governmental officials and thus, when a governmental official takes a position on a particular issue, the citizens of Maine naturally assume that the official has the legal right to take such action.

As all of you are aware, and I am sure your memories will be refreshed this morning, during my tenure on the Committee on Business Legislation, I have been involved with various pieces of legislation dealing with nonprofit hospital and medical service organizations. The largest of these organizations is Blue Cross and Blue Shield of Maine. During the past two months, there have been many public statements concerning that organization and the manner in which it proceeded to implement certain increases and fees to its members. Being very close to this situation, I followed it, as you did. I was concerned about several public statements made concerning the matter and, as a result, I have requested detailed information from the president of Blue Cross and Blue Shield of Maine. I also conducted a little bit of independent research on the matter and attended the hearing conducted by Superintendent Hogerty on May 25 at the Augusta Civic Center concerning the Blue Cross rates.

At the request of Governor Longley, I readily agreed to serve as sponsor of legislation which Superintendent Hogerty indicated was necessary in order to permit him to review the rates of that organization. I truly believe that Governor Longley sought the introduction of that legislation in reliance on Superintendent Hogerty's opinions that legislation was necessary.

My very close involvement in this matter has caused me to reach several conclusions which, while regrettable, are in my personal opinion fully supported by the facts of this matter and the conclusions are as follows: (1) On April 20, 1977, Superintendent Hogerty of the Bureau of Insurance wrote to Blue Cross and Blue Shield and advised that organization that "because of certain findings contained in the actuaries' report, the proposed rate revisions would result in subscribers' rates that would not be reasonable." For that reason, the superintendent said he was disapproving the rates; (2) During the hearing which the Committee on Business Legislation conducted on May 31, 1977, in Room 135 downstairs, Superintendent Hogerty, in response to a question asked by Senator Pierce, Senate Chairman of the Business Legislation Committee, admitted that he had never sought or received any legal opinion concerning his ability to summarily disapprove membership rates proposed by Blue Cross. He also stated that he had expected the

Maine men and women who composed the Board of Directors of Blue Cross to accept his decision and not question whether he had the lawful authority to act in the manner in which had. However, as we all know, the directors of that organization, did not, as one would say, fall in line and instead questioned whether the superintendent, as a governmental official had the authority to act in the manner in which he did.

I should make it clear that Blue Cross did not say that the superintendent did not have the authority or power to review its rates. What Blue Cross did say was that there was a law that governs the manner in which the superintendent should proceed and that he had not done so. In the letter which I received from the president of Blue Cross, he stated, "recognizing that Blue Cross and Blue Shield of Maine operates under a law enacted by the legislature, our board did not feel it was appropriate for it to establish adhoc procedures for the review of rates by a regulatory agency," which is supposed to operate under laws also enacted by the legislature. To have taken any other position would have placed the organization in the posture of acceding to the suggestion of a state official even though we believe there is a legal basis for the manner in which has acted. Had we done so, we would have contributed to and participated in activities unauthorized by the legislature in the State of Maine.

Our review of the law indicates that Supt. Hogerty has the legal authority to conduct a hearing on our rates. The Supt., any time he wants to order a hearing, may determine whether the rates are reasonable. He has that authority at that time and at this time. We have never said that he did not have the authority to review our rates, if he thinks they are unreasonable. What we have said is that we continue to maintain that the Supt. must abide by the law and should not be permitted to invest new procedures. That has been the consistent position of the Maine Blue Cross and Blue Shield. It is a position which I think we all take in our everyday dealing with citizens or governmental officials.

If a person, for example, in plain clothes comes up to you on the street and tells you he is a police officer and orders you to leave town, what do you do? I would expect that the first thing we would do is ask to see his badge and then ask what authority he has to issue the order. That is the normal way that Maine citizens should deal with their officials. If the official has the authority and is operating properly, it is our duty to obey but we must always inquire as to whether the authority is there. That is the kind of position that the Blue Cross Board of Directors as citizens of this state took toward the Superintendent of Insurance. What was his response, did he say that he would look into the manner in which he was operating, did he say that he would see whether he had the legal authority to act in this manner and the answer is simply, no. Instead, we found across the state in all the media a series of what might be called inflammatory news releases. As a matter of fact, our Superintendent demonstrated what even might be considered a lack of concern, not only for the laws, as written, but a lack of concern for the subscribers of the Blue Cross and Blue Shield of Maine and suggested that Blue Cross was resorting to legal technicalities. What Blue Cross had, in fact, reported or resorted to was the law. That law is the law designed, not only to protect the members of the organization from fiscally insolvent situations but also to protect the organization from the arbitrary and capricious actions of governmental officials and in this case. I suggest that that might indeed, have been what happened.

All the Blue Cross received for standing up to

an official of government, was a fusillade of inflammatory rhetoric and a projected attitude on the part of the Superintendent, that he, as the government, was right and all powerful and that they were doing something terribly wrong by questioning his authority.

I had not wanted to involve myself in the Superintendent's regulatory functions for I have, and still do, have strong affection and respect for his office and therefore, I remained quiet for about two weeks while this media battle raged on. I was, however, becoming increasingly disturbed at the manner in which the Superintendent was conducting the matter.

Therefore, on May 5, 1977, I wrote to the Superintendent. In that letter, I told him that I was convinced that he had the authority to review the Blue Cross rates if he did it in accordance with the law. I stated in my letter to Supt. Hogerty and I quote: "So many of my constituents have inquired as to the current situation concerning Blue Cross and Blue Shield, not to mention Business Legislation Committee members and other legislators. They are concerned as well as confused and much of the confusion flows, I believe, from the various public statements concerning this and related matters. I am convinced that much of the confusion would be eliminated if you were to take the action which the law authorizes you to take, Frank. Therefore, I respectfully request that you acting under the power granted you by the legislature in 24MRS, Subsection 2314, call a hearing as soon as possible to determine whether the proposed rates of Blue Cross and Blue Shield are unreasonable and if you determine that they are, revoke that organizations certificate of authority."

That very same day that the letter was received, Supt. Hogerty approached me personally in my committee room and told me that the hearing was well under way and May 6th, the next day, Supt. Hogerty called a hearing and scheduled it for May 25th at the Civic Center. Since Mr. Hogerty had said in his original letter to Blue Cross and Blue Shield that he was disapproving the rates because of certain findings in his actuaries report, I planned to attend the hearing to ascertain what those findings were. I went to the hearing, which was lightly attended. Although Mr. Hogerty's actuary was present and questioned witnesses presented by Blue Cross; he never took the stand to explain why he felt the rates were unreasonable nor did Supt. Hogerty ever introduce any evidence through witnesses or exhibits to challenge the reasonableness of the rates proposed by Blue Cross and this distressed me. The only thing that I saw come out of the hearing was a loss of membership funds resulting from the expense that Blue Cross was put to in presenting its case and preparing the variety of multi-media materials which were brought to the attention of the people attending that hearing.

The hearing was, in my opinion, an example of a governmental official, who brought an organization before him, and then didn't even explain why he thought the rates were unreasonable. Prior to the hearing, conducted by the Supt., I had been requested to introduce legislation to require prior approval of every contract and rate proposed by Blue Cross. From the public statements of the Supt., I was led to believe perhaps I should have checked the statutes, that he had the legal authority to review the rates of commercial health insurance policies and that this legislation would put non-profit hospital and medical service organizations on a parity with health insurance companies. However, when the legislation came up for public hearing before the Business Legislation Committee, on Tuesday, May 31st, Representative Howe, from So. Portland, asked whether Supt. Hogerty, whether he had the authority to give prior approval to health insurance rates. Mr. Hogerty's response and I

characterize his manner was to obfuscate. After some prodding from Representative Howe and other members of my committee, he finally conceded that he did not have any authority to review the rates charged by commercial health insurance companies. As a matter of fact, in my opinion, the Supt. has more authority under existing law to review the rates of Blue Cross than he does to review the rates of premiums charged to people of commercial health insurance policies.

As you may have surmized, I am deeply disturbed and distressed and yes, even a little bit disappointed at the way in which the situation has been handled. For I have been champion of Blue Cross and Blue Shield when they merited that advocacy and I have been a strong and outspoken adversary when they needed that role also.

I have learned a very hard lesson from this experience. I have learned that governmental officials are not always right and indeed, I guess I should have known it for they are human and we should not rush to defend their positions solely because they are a governmental official. As many of you know, and I have spoken of this before, I have spoken out against Blue Cross and Blue Shield when I thought it was wrong. I must now, in fairness, speak out when I think they are right. I want to publicly commend the men and women who serve on the Board of Directors of Blue Cross and Blue Shield and I am sure that their decision not to cave in to the Supt. was a hard one to make particularly in line with the media coverage of that very same issue. I am sure that it has created a lot of confusion within the organizations membership and I have membership in that organization myself as do most of you but thank goodness, someone is willing to stand up for what they thought was in the best interests of the membership. Perhaps the lesson is that if you don't stand up for what you believe is right, that government will do anything that it wants, regardless if government has the right to do it.

L.D. 1769 before us today is a rewrite of the original L.D. which was introduced as the Governor's Bill to require prior approval of all rates for use by non-profit hospital and medical organizations.

At the work session on the rewrite of this bill, First Deputy Ted Briggs presented to the committee a fine, well documented, presentation. In his presentation, it was concluded that the consulting actuary of the Department of Business Regulation Bureau of Insurance, actuary Presley, on Friday, June 3, 1977, advised that, in his opinion, the data presented at the hearing by Blue Cross and Blue Shield at the Civic Center showed that costs of Blue Cross and Blue Shield are escalating through the roof and that their filed rates are justified. That is the response of the actuary and the Bureau of Insurance to the public media controversy which was spread over the papers for too long.

It was distressing to the members of the Committee on Business Legislation and it still is distressing to their Chairwoman. This bill is reflective of the majority of the committee on Business Legislation and it contains something which, in effect, is something new. It places the burden of proof for the reasonableness of rates, not on the insurer, but on the Bureau of Insurance. The Bureau of Insurance contends that it is in aberration of its regulatory authority. It is the opinion of the majority of Committee on Business Legislation that it is time that the bureau of Insurance assumed that burden of proof in light of what has transpired during these past two months.

I move that we accept the Majority "Ought to Pass" Report.

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

Mr. MASTERMAN: Mr. Speaker, Men and Women of the House: I rise today to support.

not this motion before you, but the amendment of the minority "Ought to Pass" on H-753 and the reason that I do this is because one of the towns that I reside in is the town of Milo and so I have more than a passing interest this piece of legislation.

Our small town has tried to keep its hospital against ever surmounting odds and as I see it, these two committee reports on this particular bill are different in only one respect, the Minority Report includes in addition to the provisions found in the Majority Report, provisions which clarify and specify the powers of non-profit hospital associations, particularly associated hospitals services of Maine, to grant or deny, to participate in hospital status to Maine hospitals under the hospitalization plans. Associated Hospital Service of Maine terminated the participating status of the Milo Community Hospital on the basis that the hospital had carried out a program which reduced the physical size of the hospital without having action reviewed under planning statutes, which essentially, are applicable to planning and review for the purpose of obtaining medical care payments. Milo Community Hospital presently is qualified to receive medicare payments in connection with the care of patients eligible for medicare benefits and yet, Associated Hospital Service of Maine has continually refused to reinstate that hospitals participating status under its Blue Cross plan until the hospital submits itself to the same planning review which is used for the purposes of obtaining approval for receipt of medicare payments. These actions by the Associated Hospital Service of Maine have created severe financial and personal hardships for the Milo Community Hospital. The citizens of the town of Milo and the Blue Cross subscribers, who reside in that hospital service area, although these provisions in the Minority Committee Report resulted from the facts concerning the Milo Community Hospital, which I have just related to you and those relative to a similar situation involving the A. R. Gould Memorial Hospital in Presque Isle, it should be noted that the provisions in question are not enacted in any of the hospitals in any of your respective communities are also subject to the same type of arbitrary action by Associated Hospital Service of Maine, whereby, they can force them to submit to costly and time consuming planning review. When the various statutes and agencies which govern and prescribe the instances where such review is necessary indicate that no such review is required.

I would urge you to defeat this motion and accept the Minority Report, which is amendment 753.

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

Mrs. KANY: Mr. Speaker, Members of the House: I hope somebody will be able to help me. I really don't know how to vote on this bill, basically, because I am wondering what would happen if the Supt. fails to act, just out of negligence or something else? Those rates would definitely go into effect whatever they are but what happens if you get a Supt. who really just does not have these rates reviewed? The reason that I ask that question is because earlier on in the year, I had a constituent who had a question about non-profit hospital insurance and I checked the law relating to discrimination and found that under the insurance code for the private insurance companies and then looked under the non-profit title and it said that numerous chapters relating to the private insurance code would apply to the non-profit insurers if there were rules and regulations promulgated by the Supt. of Insurance. So, I called the Supt. of Insurance and there were no rules and regulations so there were numerous chapters of the insurance code, which I. and I am sure numerous other people had assumed

applied to non-profit insurers, Blue Cross and Blue Shield and did not come under law because no rules and regulations had been promulgated. I really ask, I simply don't know what to do, how can we be assured that a Supt. of Insurance is going to fulfill his duties and obligations?

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

The Chair recognizes the gentleman from Island Falls, Mr. Smith.

Mr. SMITH: Mr. Speaker, Ladies and Gentlemen of the House: I rise in support of Committee Amendment B. In recent years, the Associated Hospital Services of Maine, through its Blue Cross program has terminated the participating status of one Maine hospital and threatened to terminate the participating status of another. Its basis has been that under its own standards the hospitals have not fully complied with applicable planning statutes. Those planning statutes are generally federal in origin and they are administered by state agencies or non-profit organizations. Those statutes have specific standards for compliance and they are generally applicable to planning review for medicare purposes. Under the planning structure, if a hospital desires to be reimbursed for certain expenditures, such as capital expenditures for medicare purposes, it must submit to the planning process. There are instances where the planning process may not apply, such as where the planning agencies may determine that a review is not required. Under the applicable statute or where the hospital may decide on its own to absorb certain costs, and not to pass them onto the medicare program, Blue Cross, however, has attempted to superimpose on the planning process, more stringent standards than those contained in those statutes themselves to require that the hospitals abide by not only planning statutes but by Blue Cross's own standards in order to get benefits under Blue Cross contracts.

In two present cases, this practice has created severe financial and personal hardships for two Maine hospitals. The communities in which they are located and the Blue Cross subscribers reside in the service areas of those hospitals. Blue Cross's present posture leaves it and not the government as a final arbitrator of whether the planning process applies. That decision to be left up to the state and federal government and to the agencies charged with administering the statutes and not the Hospital Associated Services of Maine. It should be noted that there is a consumer effect of Blue Cross's position caused by the fact that if a hospital goes through the planning process, at least in one of the cases contemplated above, the cost would be \$50,000 to \$70,000, which ultimately must be passed onto the consumer. The additional provisions in Minority Committee Report offer two general thrusts. It permits hospitals to look forward to complying to the existing statutory standards. However, those may be from time to time in however they may be applicable. Hospitals which are duly licensed and are in good standing should be able to afford Blue Cross subscribers the use of their facility when illness or injury strikes. Additionally and importantly, the amendment relieves hospitals under financial burden of going through the planning process simply for Blue Cross's purposes and having to pass on that cost to the already overburdened consumer.

One of the two present cases to which I have referred involved the A. R. Gould Memorial Hospital in Presque Isle. Recently, that hospital was able to develop a plan whereby it could provide 20 additional much needed beds in their facility without any major capital expenditure other than for the purchase of the beds themselves. It was advised by the State of Maine Hospital Licensing Bureau that this plan

complied with the state licensing standards and it was advised by the State Planning Agency that administers the federal planning statutes referred to earlier that planning review was also not required. However, Blue Cross has informed the hospital that if it does not submit to this program to planning review at an estimated cost of between \$50,000 and \$70,000, the hospital will lose its participating status under the Blue Cross plan.

Finally, it should be emphasized that even though this issue has been brought before this legislature as a result of factual situations, relating to two particular Maine hospitals, it is clear that unless the proposed amendments to the law are enacted, Blue Cross will continue to be free to take similar such actions against any of the other hospitals in this state, which are located in your respective communities and districts.

I request a roll call when the vote is taken.

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

Mr. KILCOYNE: Mr. Speaker, Ladies and Gentlemen of the House: In answer to Mrs. Kany's questions, there is built into the Blue Cross and Blue Shield rate adjustment system, upper limits and lower limits. The upper limits are based on four months reserve surplus and when reached would reduce the cost of Blue Cross and Blue Shield to its consumers. The lower limit, also based on reserve surplus, is two months. We are presently at 1.9 months now, 1.9 months, now, which is below the lower limit and this triggers off a rate adjustment increase and this method was approved years ago by the Superintendent of Insurance and Blue Cross and Blue Shield officials. Ladies and Gentlemen, this is one reason that I support the Majority "Ought to Pass" Report. Our Blue Cross and Blue Shield plan is in a precarious situation.

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

Mrs. KANY: Mr. Speaker, Members of the House: I am wondering if the Superintendent of Insurance must be impeached or can he be removed for just cause? I don't remember. I truly don't remember. I could go along with the bill if failure to review such rates by the Superintendent of Insurance were grounds for dismissal. Could someone tell me what grounds there must be for dismissal of the Superintendent of Insurance?

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

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

Ms. CLARK: Mr. Speaker, Members of the House: In response to the question from the gentleman from Waterville Mrs. Kany, I would think that the answer is he may be removed from office for just cause which is, in fact, due process.

Mr. Speaker, I would ask a question of the Chair, may I ask for ruling on the germaneness of Report B?

The SPEAKER: The gentleman from Freeport, Ms. Clark, has posed a question through the Chair on the germaneness of Committee Amendment B.

The Chair would advise the gentleman from Freeport, Ms. Clark and Members of the House, the section to which there appears to be a difference between Committee Amendment "A" and "B" deals with standards for granting participating status, and since the legislation in both A and B, except for that section is identical, and since the legislation in Committee Amendment A as well as this bill, deals with non-profit corporations, the Chair would rule that Committee Amendment B is germane.

The gentleman may continue.

Ms. CLARK: Mr. Speaker, Men and Women of the House: I urge your support for the Ma-

jority Committee Report and I would share with you some sections of letters which we have received or copies which have been distributed to members of the committee relative to the Minority "Ought to Pass" Report, Report "B," the issue of A. R. Gould.

This is from C. W. Harrington, who is Administrator of Carey Memorial Hospital in Caribou and he states: "I have been administrator of Carey Memorial Hospital since 1960, and up until this time, I have never had any problems with Blue Cross in getting approval of anything that was justified and needed." Most recently I received approval to add ultra sound services to our hospital from HSA and once it was approved by the State Planning Agency, Blue Cross automatically gave their approval without question. It is my feeling that this authority, which Blue Cross now has, is another safeguard to eliminate duplication for services, and/or unnecessary expansion, and I would hope that you would see fit not to support such an amendment or any other legislative document that would take this authority away from Maine Blue Cross." That is, in effect, what Committee Report B would do.

Also from Community General Hospital in Fort Fairfield, we have another letter which states the same opposition to the same Minority Report.

I would suggest to you, men and women of the House, that the amendment contained in Report B amends the general law that deals with all nonprofit medical and service organizations in Maine and that includes such organizations as the Dental Service Corporation. It also would tend to amend the charter of Blue Cross and Blue Shield, public and special laws, and it violates, I would suggest, the 13th Amendment of Involuntary Servitude requiring one party to contract with another party.

Let me give you an analogy that was shared with Maine. Let's suggest that we have an oil dealer in Presque Isle, Maine. Do you mean that the oil dealer in Presque Isle, Maine can get legislation through this House and the other chamber that would require or order the people of Presque Isle to buy his oil at his price? And the answer is, of course, we wouldn't. That is involuntary servitude between contracting parties, involuntarily contracted, and that is what committee amendment "B" would provide.

I would suggest that we have what might even be suggested or submitted to you as gerrymandering, which is going on in A. R. Gould Hospital. Granted, there have been a number of incidents leading to the current controversy in that hospital but you must remember that as a non-profit medical organization in Maine, Blue Cross and Blue Shield, the major health insurers in this area want to assure their membership that the beds added to A. R. Gould are necessary because if they aren't necessary, they are going to raise the cost to all the members, all the subscribers of Blue Cross Blue Shield across the state. If they had too many beds in one geographical area, the effect is to dilute the medical services for all of the hospitals in the area thus raising costs, because you know and I know that an empty hospital bed costs just as much as a full one.

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

Mr. HOWE: Mr. Speaker, Members of the House: As I guess you know, I am a member of the Business Legislation Committee which reported out the Majority Report.

I think the gentlewoman from Freeport has touched upon the essence of the reasons I didn't support the amendment in Report "B."

It seems to me that there is a real problem at A. R. Gould but I think they are in the wrong place. I think this is a contractual dispute that ought to be in the courts. Blue Cross-Blue Shield is an organization, or business, or whatever, that has consumers, or they use the term

"members" for whom they go out and contract for various types of health services. They essentially negotiate, I suppose, and they look to see that a particular health care facility is offering services that are needed on some cost effective basis, whether it be A. R. Gould or Maine Medical or anywhere else. They go out and they contract with the facility to do business. This amendment would destroy their ability to contract. They would simply have to do business regardless of what the terms are going to be and that destroys the essence of the contract, I would submit. I think it's a dispute that really ought to be in the courts and not in the legislature. As I recall from testimony both at the public hearing and a couple of workshops, the essence of the dispute at A.R. Gould is that they applied for permission to have 20 more beds and they got permission from both the governmental authorities and from Blue Cross—Blue Shield under the terms of the contract. These were going to be private rooms with 20 beds and then Blue Cross — Blue Shield later came back and realized that they had made the 20 private rooms into 20 semi-private rooms and now there were 40 beds instead of 20. Then Blue Cross-Blue Shield said "Sorry that violates the terms of the contract; we have to start doing business over here now." The hospital now has come to the legislature, when again, I submit, it ought to go to the courts with this dispute.

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

Mr. SMITH: Mr. Speaker, Ladies and Gentlemen of the House: I am not going to elaborate very long but the only thing that bothers me is the consumer. I think that Blue Cross is trying to mandate, especially in our area, as to what hospital the people ought to go to. I think they have gone way out of their way in what they are supposed to be doing. The people are going to go where the doctors are and not where Blue Cross wants them to.

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

Mr. JACKSON: Mr. Speaker, what is the question before us right now?

SPEAKER: The pending question is the stance of the Majority "Ought to Pass" Report from the Committee on Business Legislation.

Mr. JACKSON: Mr. Speaker, Ladies and Gentlemen: I would like to pull us back to what I think is the key issue here. The key issue is that early this Spring, the Superintendent of Insurance refused or had a problem with Blue Cross when they submitted their rates. At that point, he maintained that there was no way to review the rates of Blue Cross, and as you remember, there was a public hearing on this and there was quite a bit in the press about it.

A bill was submitted which the Business Legislation Committee reviewed and went through. We had a hearing on it and our feeling was, as shown by Amendment "A," which was the Majority Committee Amendment, that a process should be set up whereby the rates of non-profit organizations can be reviewed by the Commissioner of Insurance and a system can be set up. Now, under the present system, and this was argued by Blue Cross and I think it is very true, there is a means of reviewing, but the only cure that is possible, is to pull their certificate, which is a pretty radical cure. This would allow for an orderly review system without the need, if the Commissioner found the rates were excessive to pull the certificate. I think that is the basic thing that we are arguing here and that is what is covered in the committee amendment and I hope very much the House will adopt it. In my view, and it has been ruled otherwise, but in my view, the problems of A. R. Gould and all of this are side issues and have nothing to do with the basic issue that we should be discussing and talking about here. It seems

to me that we are slipping off onto the amendment more and more and not viewing the chief thing that should be viewed and that is the right of the Commissioner of Insurance to review the rates of Blue Cross and to do it in an orderly way and not have as the only cure available to him, the cancelling of their certificate to do business in the State of Maine.

I hope very much that you will support the majority committee position.

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

Mr. MASTERMAN: Mr. Speaker, Men and Women of the House: Representative Clark asked the Chair to rule on the germaneness of this amendment that we are now talking about, or at least what I am talking about which is 753. You answered her and told her the same thing that I said in my opening remarks, that the committee reports on this bill differed only in one respect. The Minority Report includes an addition to the provisions found in the Majority Report, provisions which clarify and specify the powers of non-profit hospital associations and particularly Associated Hospital Service of Maine to grant or deny participating hospital status to Maine hospitals that are under the hospitalization's plans.

Now, I don't intend this morning to get into any debate with Ms. Clark because I learned many years ago to recognize when I was over-matched. But I would like to leave one thought with you and I am not going to get up again, but doesn't it seem rather strange to you this morning that a federal program, Medicare, accepted what Milo did? We ruined a hospital to comply with regulations, tore off two stories, built a little, small, insignificant hospital, if you will, but we are in compliance with federal regulations and yet Blue Cross will not recognize us?

You, who are familiar with the hospital situation, know that the small hospital cannot exist without Blue Cross participation. Now I did cost standards for some 14 years and I know something about figures too. I submit to you that most of you in this House probably have Blue Cross and Blue Shield and I think you recognize today that a non-profit organization has got to be quite a monopoly. I hope you will defeat this motion and go with this on Amendment "B."

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

Mr. DUDLEY: Mr. Speaker. Members of the House: I would like to plead with you this morning to accept the Minority Report, or Report "A." I live near Milo, in the little town of Enfield in Howland, we are 20 miles from Milo, and I know about the problem and I know how far it is to another hospital. It is 20 miles to Dover or many more miles to Bangor or 50 odd miles to Lincoln. They need the hospital, they need the service, and I think this House should be fair to all of the people in the little towns as well as the big towns.

All this bill, Report "A" does or the Minority Report, it just uses the whole state on an equal basis. It merely makes it just for everybody, not just for a few. I stand today, as always, for justice for all of us, not just for a few. I hope you, in the name of justice, for the people in these small towns, especially in this case, Milo, and the people around Milo that depend on this hospital. A lot of times, when our people are ill, they may have to go all the way to Bangor, and our roads are not like we have here, the road from Milo to Bangor is very poor, they don't even have access to the interstate and so a man that is injured and needs to go to the hospital doesn't have a decent road for the ambulance to take him over. It is necessary to have this hospital. It would be a little different if they were served by the interstate, if they had a good highway for the ambulance. They have a road in some areas where the corduroy is coming up through it to cart somebody over when they are.



say, dying, or nearly dead. So, it is very, very important that this hospital is kept for the people in Milo. It is quite a little town. It is not considered a little town like I represent. It is a fairly good sized town. It is a growing town and they need these hospital beds. The federal government said they did before they would approve them. Milo has a going industry there that is really making Milo grow. They need it and they need the service and please consider them. The only way you can do it is by considering the Minority Report. It is the only thing that will help them and I hope you will see fit to do it, in the sake of justice.

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

Mr. PEARSON: Mr. Speaker, Ladies and Gentlemen of the House: I would say that the remarks of Mr. Dudley from Enfield are right on. I, as a long time admirer of the struggle that the people in the town of Milo have put on to keep their hospital, and with that report, Report "B" being only different in that one respect, I urge you to accept the Minority Report too.

I think that if there were such a thing as a medal of honor for a town, the town of Milo should deserve it because they had a long struggle and the people in Island Falls went through the same thing and in Gould in Eastport.

If you look at the report on the calendar, Report "A" and Report "B" and who signed it, you will see reflected in those reports the difference in the geographical breakdown of the signers of that report. Little towns like Milo, I think, deserve as much consideration as towns like Portland and Bangor.

Ms. Clark of Freeport was granted permission to speak a third time.

Ms. CLARK: Mr. Speaker, Men and Women of the House: I think we should heed the word of Representative Jackson of Yarmouth, that we are moving away from the main issue here and that is, subsequent disapproval of the rates of Maine Blue Cross and Blue Shield and other non-profit medical organizations, which is contained in L. D. 69, the amended version.

Report "B" is enticing in that it does appeal to the current or past controversial hospitals and the dilemmas which they have experienced across the state.

I would urge you not to polarize yourselves into a rural versus more urban area of the state. I would hasten to remind you and plead for your understanding that it is not Blue Cross and Blue Shield of Maine, which approves or disapproves. That is a terribly important point. It is the Health Systems Agency, the Maine Health Systems Agency in Augusta, Maine. Expansion projects for all hospitals or medical care facilities in this state must be reviewed in a reasonable process by this independent agency. It is my understanding that the Health Systems Agency which is, by the way, a successor to the Comprehensive Health Planning Agency, is required to review all projects under Section 1122, Title 21, of the Social Security Act, which mandates the review of all capital expenditures or any capital expenditures.

The majority of the Committee on Business Legislation has supported the rationale of an economical delivery of health care through shared services and proper utilization of beds among all health providers in the State of Maine. It would seem that the addition or reduction of beds in the instance of A. R. Gould within a relatively small area, serviced by four other hospitals in that geographic area, should be subject to careful 1122 review.

It is not our intention here on the floor of the House to debate the appropriateness of the proposed expansion and/or unexpansion and realignment of the 20 bed proposal of A. R. Gould, nor are we addressing the issue at Milo, whose average patient in-care hospital stay

averages one per day. The issue is whether we as a legislative body are going to violate a contractual arrangement between parties or whether we are going to submit to the other body, the Majority Committee Report, which simply places rate review for subsequent disapproval to a logical, structural, organized procedure.

Mr. Smith of Island Falls was granted permission to speak a third time.

Mr. SMITH: Mr. Speaker, Ladies and Gentlemen of the House: I will just take a moment. I hate to disagree with Ms. Clark, but Blue Cross is the one that is threatening to hold up A. R. Gould. They have already gone through MHA and all the necessary procedures and it is Blue Cross that is threatening to take away their benefits.

Mr. Masterman of Milo was granted permission to speak a third time.

Mr. MASTERMAN: Mr. Speaker, Men and Women of the House. I continually see legislation that points to me that we are moving in the direction that we no longer want to recognize the small communities. It seems to me that we like to legislate documents, which will one day, leave us with a few metropolitan areas and we can just forget about the outlying communities. If this means anything to you, think about it.

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

Mr. JACKSON: Mr. Speaker, Members of the House: I would still like to bring us back to our primary question. It is the review of non-profit hospital organizations in the State of Maine by the Commissioner of Insurance. If we want to get to this side issue, why don't we put an amendment on it saying that the Maine Health Systems Agency will OK all hospitals that are applied to it and just completely cut them out of the question and then we won't have this problem. But I don't think we want to get into that, we are considering the Commissioner of Insurance and his right to review non-profit medical organizations in the state as to their rates in trying to make it a better system than the system now, where his only recourse is to pull their certificate of doing business in the state.

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

Mrs. NAJARIAN: Mr. Speaker and Members of the House: I came in late and I haven't heard all of the debate but the Maine Health Systems Agency doesn't have anything to do with rate review. All they do is decide whether or not the facility is needed. So, I don't think that there is any duplication or overlapping, here they have different functions.

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 Dixfield, Mr. Rollins.

Mr. ROLLINS: Mr. Speaker, Ladies and Gentlemen of the House: I am awfully glad this morning to hear that the Health Systems Agency had nothing to do with this. I was a member of that body until about three months ago. If I ever saw an organization that spun their wheels, it was this outfit.

The SPEAKER: The pending question is on the motion of the gentlewoman from Freeport, Ms. Clark, that the House accept the Majority "Ought to Pass" Report. Those in favor will vote yes; those opposed will vote no.

#### ROLL CALL

YEA — Aloupis, Bachrach, Bagley, Beaulieu, Bennett, Benoit, Berry, Berube, Boudreau, A.;

Boudreau, P.; Brenerman, Brown, K. C.; Burns, Bustin, Carey, Chonko, Clark, Connolly, Cote, Cox, Curran, Davies, Diamond, Elias, Flanagan, Garsoe, Goodwin, H.; Goodwin, K.; Hall, Henderson, Higgins, Hobbins, Howe, Huber, Hughes, Jackson, Jacques, Jensen, Kane, Kany, Kilcoyne, LaPlante, LeBlanc, Lizotte, Locke, Mackel, Masterton, McMahon, Mitchell, Morton, Nadeau, Najarian, Nelson, M.; Nelson, N.; Quinn, Raymond, Spencer, Sprowl, Talbot, Theriault, Tierney, Trafton, Truman, Tyndale, Valentine, Whittemore, Wilfong.

NAY — Ault, Austin, Birt, Blodgett, Brown, K. L.; Bunker, Carroll, Carter, F.; Churchill, Conners, Cunningham, Devoe, Dexter, Dow, Drinkwater, Dudley, Durgin, Dutremble, Fenlason, Fowlie, Gauthier, Gillis, Gould, Gray, Green, Greenlaw, Hickey, Hunter, Hutchings, Immonen, Kelleher, Kerry, Lewis, Littlefield, Lougee, Lunt, Lynch, MacEachern, Mahany, Marshall, Masterman, Maxwell, McBrearty, McHenry, McKean, McPherson, Mills, Norris, Palmer, Pearson, Peltier, Perkins, Plourde, Post, Prescott, Rideout, Rollins, Sewall, Shute, Silsby, Smith, Stover, Strout, Tarr, Teague, Torrey, Tozier, Wood, Wyman, The Speaker.

ABSENT — Biron, Carrier, Carter, D.; Gill, Jalbert, Joyce, Laffin, Martin, A.; Moody, Peakes, Peterson, Stubbs, Tarbell, Twitchell. Yes, 67; No, 70; Absent, 14.

The SPEAKER: Sixty-seven having voted in the affirmative and seventy in the negative, with fourteen being absent, the motion does not prevail.

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

Committee Amendment "B" (H-753) was read by the Clerk and adopted and the Bill assigned for second reading later in the day.

#### Divided Report

Majority Report of the Committee on Health and Institutional Services reporting "Ought to Pass" as amended by Committee Amendment "A" (H-768) on Bill "An Act to Establish the Legal Rights of Hospital Patients" (H. P. 755) (L. D. 901)

Report was signed by the following members:

Mr. PRAY of Penobscot — of the Senate.  
Messrs. KERRY of Old Orchard Beach  
GOODWIN of South Berwick  
BRENERMAN of Portland  
Mrs. NELSON of Portland  
TRAFTON of Auburn  
PRESCOTT of Hampden  
Messrs. FOWLIE of Rockland  
KANE of Augusta

— of the House.  
Minority Report of the same Committee reporting "Ought to Pass" as amended by Committee Amendment "B" (H-769) on same Bill.

Report was signed by the following members:

Mrs. SNOWE of Androscoggin  
Mr. GREELEY of Waldo — of the Senate.  
Mrs. GILL of South Portland  
Mr. TYNDALE of Kennebunkport — of the House.

Reports were read.

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

Mr. GOODWIN: Mr. Speaker, Men and Women of the House: Before I make a motion on this, I would like to explain that the Committee Amendments got reversed so that in actuality I would be moving the Minority Report of the Committee as amended by Committee Amendment "B."

I move that we accept the Minority Report.

"Ought to Pass" as amended by Committee Amendment "B."

Thereupon, on Motion of Mr. Goodwin of South Berwick, The Minority "Ought to Pass" Report was accepted and the Bill read once. Committee Amendment "B" was read by the Clerk.

The SPEAKER: The Chair recognizes the gentlewoman from Bethel, Miss Brown?

Miss BROWN: Mr. Speaker, what is the American Hospital Association's Patient Bill of Rights?

The SPEAKER: The gentlewoman from Bethel, Miss Brown, has posed a question through the Chair to anyone who may care to answer.

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

Mr. GOODWIN: Mr. Speaker, Men and Women of the House: The Committee Amendment "B" includes in it a statement that the Patient Bill of Rights will be accepted by each hospital in the state comparable to the American Hospital Association Patient Bill of Rights that they set out as an advisory bill of rights to all the member hospitals. From our survey of the hospitals in the State of Maine, at least half of the hospitals in the state have already adopted this as their bill of rights. The committee felt that we could use this as a standard for the Department of Human Services to use as a measure when approving the various bill of rights that will be promulgated by the hospitals. Also, within the bill we established the guidelines and the standards that we want to be met, but we used that as an additional standard that the hospitals could use so they could develop their own bill of rights.

Thereupon, Committee Amendment "B" was 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" as amended by Committee Amendment "A" (H-754) on Bill "An Act Requiring Immunization of Children Prior to Entering Grade School" (H. P. 1072) (L. D. 1264)

Report was signed by the following members:

Mr. GREELEY of Waldo  
Mrs. SNOWE of Androscoggin — of the Senate.  
Mr. TYNDALE of Kennebunkport  
Mrs. TRAFTON of Auburn  
Messrs. FOWLIE of Rockland  
BRENERMAN of Portland  
Mrs. NELSON of Portland  
Messrs. GOODWIN of South Berwick  
KERRY of Old Orchard Beach  
Mrs. GILL of South Portland  
KANE of Augusta — 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. PRAY of Penobscot — of the Senate.  
Mrs. PRESCOTT of Hampden — of the House.

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-754) was read by the Clerk and adopted and the Bill assigned for second reading later in today's session.

#### Divided Report

Majority Report of the Committee on Health and Institutional Services reporting "Ought to Pass" as amended by Committee Amendment "A" (H-757) on Bill "An Act to Provide for no

Smoking Areas in All State Offices" (H. P. 818) (L. D. 991)

Report was signed by the following members:

Mrs. TRAFTON of Auburn  
NELSON of Portland  
Messrs. BRENERMAN of Portland  
GOODWIN of South Berwick  
Mrs. KANE of Augusta  
Mr. KERRY of Old Orchard Beach  
Mrs. PRESCOTT of Hampden  
Messrs. TYNDALE of Kennebunkport  
FOWLIE of Rockland — 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  
Messrs. PRAY of Penobscot  
GREELEY of Waldo — of the Senate.  
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 we accept the Majority "Ought to Pass" Report.

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

Mr. QUINN: Mr. Speaker and Members of the House: This is my bill and I do support the motion of the gentleman from South Berwick. I won't take you through any long arguments as to why we should have no smoking areas. I will simply observe that the Committee Amendment which you have before you, which is now really the bill, is essentially a copy of the existing Minnesota law which has proven to be very successful in Minnesota, approved by over 80 percent of the state employees according to a Roper Report.

What I really want to ask this morning is, if we can possibly obviate long debate. All points made the other day on no smoking remain germane to this kind of thing. I am practical enough to realize that three members of the other body have signed "ought not to pass." Therefore, I am willing to project that it will come back to us "ought not to pass," but I would therefore request that we vote for it again today as we voted for the other no smoking bill. Let's save time on debate, send it down the hall and if it comes back dead, I will concede and we will let it die and we will all save a lot of time.

Thereupon, the Majority "Ought to Pass" Report was accepted and the Bill read once. Committee Amendment "A" (H-757) was read by the Clerk and adopted and the Bill assigned for second reading later in the day.

#### Divided Report

Majority Report of the Committee on Taxation reporting "Ought Not to Pass" on Bill "An Act to Require State Level Assessment of Industrial Real Property with a Value in Excess of \$1,000,000" (H. P. 1329) (L. D. 1606)

Report was signed by the following members:

Messrs. WYMAN of Washington  
JACKSON of Cumberland  
MARTIN of Aroostook — of the Senate  
Messrs. MAXWELL of Jay  
MACKEL of Wells  
TWITCHELL of Norway  
CARTER of Bangor  
IMMONEN of West Paris — of the House.

Minority Report of the same Committee reporting "Ought to Pass" as amended by Committee Amendment "A" (H-777) on same Bill.

Report was signed by the following members:

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

Reports were read.

On motion of Mr. Carey of Waterville, the Minority "Ought to Pass" Report was accepted and the Bill read once. Committee Amendment "A" (H-777) was read by the Clerk and adopted and the Bill assigned for second reading later in the day.

#### Consent Calendar

##### First Day

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

(S. P. 493) (L. D. 1768) Bill "An Act to Create the Maine Administration Procedure Act" — Committee on State Government reporting "Ought to Pass" as amended by Committee Amendment "A" (S-287)

(S. P. 329) (L. D. 1088) Bill "An Act Concerning the Expiration of Motor Vehicle Inspection Stickers" — Committee on Transportation reporting "Ought to Pass"

(H. P. 415) (L. D. 518) Bill "An Act to Permit the Advertising of Prescription Eyeglasses and other Optical Devices" — Committee on Health and Institutional Services reporting "Ought to Pass" as amended by Committee Amendment "A" (H-784)

(S. P. 415) (L. D. 1411) Bill "An Act to Improve Public Access to State Agency Rules by Providing for their Publication in a State Register by the Secretary of State" — Committee on State Government reporting "Ought to Pass" as amended by Committee Amendment "A" (S-286)

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

#### Consent Calendar

##### Second Day

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

(H. P. 1200) (L. D. 1441) Bill "An Act Concerning Required Voting on Certain Boards and Commissions with Quasi-judicial Authority" (C "A" H-758)

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

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

Mr. TIERNEY: Mr. Speaker, I would like someone to explain exactly what this bill does.

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

The Chair recognizes the gentlewoman from Sebec, Mrs. Locke.

Mrs. LOCKE: Mr. Speaker and Members of the House: This bill came before the State Government Committee. It is also my bill and I wouldn't mind explaining it.

This bill would require that a person who accepts an appointment to an agency with quasi-judicial authority or an agency that acts in appeals capacity pass a positive or negative vote when the vote is taken, except in those situations outlined in the bill. I will read to you the situations outlined in the bill.

"Members shall not abstain from voting on a decision except when a member has a conflict of interest or substantial prejudice in the matter upon which a vote is being taken or a party to the proceeding upon which the vote is being taken.

"A member may be absent when a vote is taken only in the following circumstances: A

member is on annual leave and has notified the agency in advance that he will not be in attendance; the member has a family emergency such as a death or sickness of any immediate relatives; the member is ill or incapacitated; weather conditions prevent a member's attendance; legal proceedings prevent a member's attendance; or the case on which the vote is being taken was commenced more than four weeks prior to the appointment of the member; or other circumstances when approved by a majority of the board, commission or agency."

It was brought to my attention before I sponsored the bill and after it was drafted that there apparently are those public officials who do not show up for meetings and hearings frequently and often abstain from voting. This puts the burden of responsibility on the other members when it comes to decision making when the burden should be fair.

It seems to me that when a person accepts an appointment, they should accept the responsibility that goes along with it, especially when their judgment directly affects the lives of people and have their decisions recorded and available for public scrutiny. That, in essence, is why I sponsored the bill and that, in essence, is what the bill is all about. I hope that answers your questions.

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

Mr. TIERNEY: Mr. Speaker, Men and Women of the House: I feel the gentlelady from Sebec more than answered my question. It sounds like an excellent piece of legislation and I hope we accept the unanimous "Ought to Pass" report.

Thereupon, the Report was accepted and the Bill read once. Committee Amendment "A" (H-758) was read by the Clerk and adopted and the Bill assigned for second reading later in the day.

(H. P. 1376) (L. D. 1702) Bill "An Act to Provide for the Licensing of Mobile Homes and Modular Housing Dealers and Mechanics" (C "A" H-750) (Later Reconsidered)

(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.

(H. P. 1356) (L. D. 1592) Bill "An Act to Repeal and Correct Certain Laws Relating to Health and Institutions" (C. "A" H-767)

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

#### Passed to Be Engrossed

Bill "An Act to Establish Half Rate for Registration and Excise Fees at the Midpoint in the Registration Year" (H. P. 448) (L. D. 554)

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)

Bill "An Act Concerning the Sale of Prescription Drugs" (H. P. 1033) (L. D. 1265)

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

#### Later Today Assigned

Bill "An Act to Revise the Judicial Retirement System" (S. P. 497) (L. D. 1776)

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

#### Amended Bills

##### Later Today Assigned

Bill "An Act Concerning Licenses for Camp-

ing Areas and Eating Establishments" (H. P. 869) (L. D. 1062) (H. "A" H-760 to C. "A" H-722)

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

(On motion of Mrs. Trafton of Auburn, tabled pending passage to be engrossed as amended and later today assigned.)

Bill "An Act to Encourage Restitution" (H. P. 1474) (L. D. 1712) (C. "A" H-720)

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

Mr. Henderson of Bangor offered House Amendment "A" and moved its adoption.

House Amendment "A" (H-773) was read by the Clerk.

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

Mr. HENDERSON: Mr. Speaker, Ladies and Gentlemen of the House: This is a friendly amendment to the bill, an act to encourage restitution. The bill was reported favorably by the Judiciary Committee as amended by Committee Amendment "A", and after having reported it out, we reflected on the role of restitution and we wanted to make it clear to the courts what our intention was. Our intention was not that wealthy criminals be allowed to pay their way out of crime. Our intention was to indicate that the commission of a crime is an offense against society at large, anyone who steals from you, threatens to steal from me, so we wanted to make it very clear that criminal penalties are one thing and they ought to be pursued in relationship to the nature of the crime.

Restitution is a separate thing altogether. A person should not have his criminal penalty reduced because he is wealthy enough to pay restitution. So this amendment clarifies the purpose section of the bill. I would like to just read it briefly.

"The legislature recognized that a crime is an offense against society as a whole, not only against the victim of the crime, and the restitution for victims is therefore ancillary to the central objective of criminal law. It intends restitution to be applied only when other purposes of sentencing can appropriately be served. The legislature does not intend to use restitution to result in preferential treatment for offenders with substantial financial resources."

Mr. Speaker, I move the adoption of the amendment.

Thereupon, House Amendment "A" was adopted.

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

#### Later Today Assigned

Bill "An Act Reinstating Public Intoxication as a Crime" (H. P. 1201) (L. D. 1430) (C. "A" H-718)

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

(On motion of Mr. Kelleher of Bangor, tabled pending passage to be engrossed as amended and later today assigned.)

Bill "An Act to Remove the Town of Carrabassett Valley from the Maine Forestry District" (H. P. 664) (L. D. 805) (C. "A" H-714)

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

Mr. MacEachern offered House Amendment "A" and moved its adoption.

House Amendment "A" (H-775) was read by the Clerk.

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

Mr. MacEACHERN: Mr. Speaker, Members of the House: I think a few words of explanation are due here. Two years ago, I introduced a bill

similar to this amendment. It passed the House and went down to the Senate and in that body, the Chairman of Taxation killed the bill on the basis of the fact that during this session the forestry districts would be abolished. That didn't transpire. This is a small amount of money as far as the forestry budget is concerned, but it is a great amount of money to these small towns.

The Town of Medway, which is taken care of in this amendment, quite a few years ago entered the forestry district because they didn't have an organized fire department. Since that time, they have organized their own fire department. They have a very efficient department and they take care of all their fires. The need of the forestry district to the town no longer exists, and this is the reason for this amendment. I hope you will pass the amendment and also the bill.

Thereupon, House Amendment "A" was adopted.

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

Bill "An Act Providing for an Investment Tax Credit and a Credit for the Creation of New Jobs" (H. P. 540) (L. D. 658) (C. "A" H-694)

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

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

House Amendment "A" (H-766) was read by the Clerk.

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

Mrs. NAJARIAN: Mr. Speaker, Members of the House: This amendment simply reduces the fiscal note on the bill by one half.

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

Mr. GARSOE: Mr. Speaker: The sponsor is not here, and I would pose a question to the gentlelady from Portland as to what his status is on this situation.

The SPEAKER: The gentleman from Cumberland, Mr. Garsoe, poses a question through the Chair.

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

Mrs. NAJARIAN: I am one of the co-sponsors of the bill and he is in complete agreement.

Thereupon, House Amendment "A" was adopted.

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

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) (C. "A" H-715)

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

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

Mr. BIRON: Mr. Speaker, If I may pose a question through the Chair to the sponsor of this legislation or anyone on the committee. I have been led to believe that the different ferries which operate out of Casco Bay are privately owned concerns. Is that true or is that not true? Are we subsidizing through this legislation privately owned corporations?

The SPEAKER: The gentleman from Lewiston, Mr. Biron, has posed a question through the chair to anyone who may respond.

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

Mrs. BEAULIEU: Mr. Speaker, the current ferry service is privately owned and now up for

sale. That is the boat operation factor. This bill deals with facilities.

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

Mr. BIRON: Mr. Speaker, Ladies and Gentlemen of the House: I fully realize that this does not deal with the purchase of any new boats, as you might call them, but it does deal with the expenditure of \$254,000 from the Transportation Department, I guess they have a waterways account. In my estimation, to subsidize a privately owned corporation, I have some problems with it. If we are to allow this bill to go through this body, under that philosophy, any business in the State of Maine that needed help could simply put in legislation and have money given to them to help their private business endeavors. I am in support of the free enterprise system but I am not in support of it to a point where we have to subsidize it with government dollars.

I would move indefinite postponement of this bill and ask for a division.

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

Mr. STROUT: Mr. Speaker, Ladies and Gentlemen of the House: I hope that you will not indefinitely postpone this bill today. When this bill came out originally, there was more money here than I felt the state could put into this program this year. There was some thought that we would put it to study. However, you may have noticed yesterday that I was not on either report when it came out of the committee, because I was under the impression that it was going to be put to study and then I found out that there was an amendment being offered to the bill that would reduce the sum down to \$245,000.

I feel that there is a need here. Actually, what the amendment says, it will be used to acquire land for a passenger terminal, transfer bridge and parking area for the Casco Bay Ferry Service in Portland. I think if the gentleman from Lewiston, Mr. Biron, would look in the Statement of Fact, the City of Portland will construct a bridge at city expense. I feel that there is a need here, and I also would remind him that this does not come out of the transportation budget; this is appropriated from the General Fund. It specifically says right in the amendment that it is appropriated from the General Fund.

I, myself, feel that this is a priority at the present time. Two years ago, we were approached on the idea of having a study on this. Here we are back again either doing something or putting it to a study again. I don't feel that we should put this off. I think that this small portion of what they ask for, we should give it to them.

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

Mrs. BEAULIEU: Mr. Speaker, Members of the House: I would ask all to remember that regardless of what the service is, we are talking about facilities for the service.

I am going to have to ask you to agree with me that the only highway to an island is over the water and that the appropriate means of travel are by boat. The problem we have in Portland is with the on and off ramps. We have a passenger terminal that is absolutely unfit. We have piers that are in terrible condition, but most important of all, we have a vehicular transfer bridge that is unsafe. That bridge was built years ago to have a 25,000 pound capacity. It is now reduced to 5,000 pounds. This is the bridge we use to transfer cars, fire trucks, CMP trucks to do work to service the islands, any kind of equipment, including sand and salt for their roads in the Winter.

For years, we have asked for federal funding aid. The end result has been study after study after study. We are now the proud owners in my city of seven study reports and still no dollars to

do the work with. We are spending approximately \$80,000 a year just to keep the vehicular bridge in operation. That is very expensive, ladies and gentlemen.

We have come to the state for aid before. The first time we came, the state was in the process of taking over the operations of the Midcoast Ferry Service, so we backed off because the needs there were far greater. Last session, we were told again, "no dollars — a study in order." This time we are in a state of emergency, literally in a state of emergency, for one portion of the work that has to be done, and those are the dollars we are asking for.

I have reviewed this carefully, with Commissioner Mallar. He is in full agreement with the entire project but admits that the state, at this time, no matter where the funding is going to come from, could not afford to complete this project but that we need to try to make a strong effort in behalf of the vehicular transfer bridge.

In the past 10 years, the Casco Bay area has received a grand total of \$114,451.20 to help us to meet the needs of our island residents. Granted, there are only some 2,500 people who live on those islands in the winter, but in the summer, that population soars to over 20,000. I believe that if the state can indeed put out \$4 million-plus to help coastal communities and islands with their needs in other areas, then I think we are deserving too. I don't like coming here asking for such a parochial request, but it is a request that involves the safety of people, and we desperately need the states help at this time.

When I presented this bill to the committee, I brought two traffic engineers with me, and I brought a projector and slides and photographs that showed the deteriorating conditions we are faced with. I found out one day last week that I had been given a "leave to withdraw" on the bill, even though I had asked several times to please come to the work sessions so that we could reduce the dollar amount and point out again our desperate needs. I was told that there would be a study order. I wholeheartedly endorsed the study, although we have been studied to death, and in the same breath I wholeheartedly refused the "leave to withdraw."

I contend that we are indeed in need of relief and that the amendment is appropriate, and I ask everyone, please, to help us. If nothing else, get this bill through the process and give me an opportunity to argue and fight my case with the Appropriations Committee, because that is where I am going to have to go.

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

Mr. BIRON: Mr. Speaker, Ladies and Gentlemen of the House: I want to thank Mr. Strout for pointing out that this comes out of the General Fund; that really excites me.

The thing that was brought up by Mrs. Beaulieu is that apparently — I have been in the Portland area and I know of the need, but apparently the federal government has studied the situation and for some reason has not given those dollars to the Portland area for the needed repairs. And knowing Santa Claus, Uncle Sam, as I do, if he didn't give them money, there has to be something wrong. Now they come to us for \$240,000.

First of all, the islands which are serviced by this ferry, which is a private corporation, which I don't see them putting any money in, matching or anything else, to improve their facilities, these islands pay taxes to the city of Portland. I would think that there are federal dollars available for matching funds to local communities for such repairs. I don't deny the need; however, I feel the same about this bill as I do about the \$45,000 parking lot in Lincolnville. Those are local problems and local concerns, and we here in the State Legislature should not

be appropriating \$240,000 for this type of program.

The arguments are good, the arguments are always good on any type of legislation that comes before us, but yet we have to take the responsibility sometimes of saying no. I hope sincerely that today will be the day that you say no.

I am not familiar as to how this bill came out of committee, but if it was asked for a "leave to withdraw," I would imagine that it was a divided report, and I believe it was unanimous "Ought Not to Pass" originally coming out of committee.

I have some serious problems with this bill. I hope you consider it. I don't want anybody to give me the argument that it is going to go on the Appropriation Table anyway. Let's face up to the fact that we have been elected to make some decisions. Let's stop passing the buck and do the things that we have to do.

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

Mr. JENSEN: Mr. Speaker, Members of the House: The last gentleman who spoke talked about quite a bit of federal money that is available for this kind of thing, and I would just suggest that if he can show us where there are any programs designed to ever assist islands for this kind of program, I would like to hear about it because, to the best of my knowledge, there is no such thing.

I guess this problem is somewhat analogous to a situation the City of Portland and many other cities across the country have run into in the last 10 or 15 years. Until, I believe, 1968, the City of Portland had a bus system run by Hudson Bus Lines. It was a private profit-making organization, it ran itself into the ground, eventually it went bankrupt. Four or five communities around Portland ended up getting into a situation where they were forced, in fact, to take over the bus system. They have invested many millions of dollars into that system and this coming year they will subsidize it to the tune of \$750,000. Now, you may well say, "So what, let the City of Portland take it over if they go bankrupt, let them manage it on their own."

I would suggest that you look at the statutes. Presently, Maine law says that if the Casco Bay Lines Ferry System goes out of business, the State of Maine is required by law to take that over. Now this kind of bill is essentially a bill designed to assist in keeping the ferry system going, managing it as a private enterprise to prevent the state from having to take it over. And I submit that in the long run this kind of action is going to save the state and the people of Maine a tremendous amount of money. I would urge you to vote for the bill and against Mr. Biron's motion.

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

Mr. MARSHALL: Mr. Speaker, I would ask the Clerk to read the Committee Report.

Thereupon, the Report was read by the Clerk.

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

Mr. STROUT: Mr. Speaker, Ladies and Gentlemen of the House: Now that you have heard the committee report, I think there is a little explanation due here. I think that some of us were looking at the bill in its entirety when it was presented to us to act on it, and I also feel that we also looked at the possibility of putting all three of the Casco bills out to a study. However, I am not sure at this time, that maybe some of the members were not involved with knowing that the gentleman from Portland, Mr. Jensen, was going to put an amendment on the original bill that would reduce the appropriation. I didn't. That is why I did not sign either report. I went down to sign the report the last day that our Clerk was here, and she said the bill had already been reported

out. I know that maybe some of the members on the committee that reported it out "Ought Not to Pass" maybe now have a different feeling and maybe they will express themselves here today, but I still urge you at this time to vote against indefinite postponement.

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

Mr. BIRON: Mr. Speaker, and Members of the House: It is interesting to note on the Committee Report that the gentleman from Lincolnville signed the bill "Ought Not to Pass", and she is looking for \$45,000 for a parking lot. I would think there would have been a decent deal made there, the way I have heard politics work up here. Even she signed it out "Ought Not to Pass." There has got to be something wrong.

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

Mr. CARROLL: Mr. Speaker, Ladies and Gentlemen of the House: I would urge you to vote not to indefinitely postpone this. I believe in fair play, and I would like to see this bill go forward and go onto the Appropriations Table in the other body and let them act upon it.

We have been told on the many times we met that we were going to go down there and look the situation over and determine all the facts in the case, but we have had so much rain, so much fog, that it was just impossible. We had a deadline to meet to get our bills out of committee; we got them out. I wish now that we had held this one and got permission to hold it over until the next session. I believe in trying to perform my duties in the time allotted to me, and I realize that I have had some shortcomings and I am sure that you have in your life too, and we have to overlook each other for our faults and I am sure that you will all go along with me today and let this go on to the other body.

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

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

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

#### ROLL CALL

YEA — Biron, Carter, F.; Dudley, Gauthier, Higgins, Hughes, Hunter, Jacques, Lizotte, Mackel, McHenry, Moody, Tozier.

NAY — Aloupis, Ault, Austin, Bachrach, Bagley, Beaulieu, Bennett, Benoit, Berry, Berube, Birt, Blodgett, Boudreau, A.; Boudreau, P.; Brenerman, Brown, K.L.; Brown, K.C.; Bunker, Burns, Bustin, Carroll, Chonko, Churchill, Clark, Conners, Connolly, Cote, Cox, Cunningham, Curran, Davies, Devoe, Dexter, Diamond, Dow, Drinkwater, Durgin, Dutremble, Elias, Fenlason, Flanagan, Fowlie, Garsoe, Gillis, Goodwin, H.; Goodwin, K.; Gould, Gray, Green, Greenlaw, Hall, Henderson, Hickey, Hobbins, Howe, Huber, Hutchings, Immonen, Jackson, Jensen, Joyce, Kany, Kelleher, Kilcoyne, Laffin, LaPlante, LeBlanc, Lewis, Littlefield, Locke, Lunt, Lynch, MacEachern, Mahany, Marshall, Martin, J.; Masterman, Masteron, Maxwell, McBreairty, McKean, McMahon, McPherson, Mills, Mitchell, Morton, Nadeau, Najarian, Nelson, M.; Nelson, N.; Norris, Palmer, Pearson, Peltier, Perkins, Peterson, Plourde, Post, Quinn, Raymond, Rideout, Rollins, Sewall, Shute, Silsby, Spencer, Sprowl, Stover, Strout, Stubbs, Talbot, Tarr, Teague, Theriault, Tierney, Torrey, Trafton, Truman, Tyndale,

Valentine, Whittemore, Wilfong, Wood, Wyman, The Speaker.

ABSENT — Carey, Carrier, Carter, D.; Gill, Jalbert, Kane, Kerry, Lougee, Martin, A.; Peakes, Prescott, Smith, Tarbell, Twitchell.

Yes, 13; No, 124; Absent, 14.

The SPEAKER: Thirteen having voted in the affirmative and one hundred twenty-four in the negative, with fourteen being absent, the motion does not prevail.

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

Bill "An Act to Establish Regional Marine Resources Centers" (H. P. 1564) (L.D. 1778) (C. "A" H-725)

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.

Bill "An Act to Create a Board of Registration of Substance Abuse Counselors" (H. P. 418) (L. D. 530) (C. "A" H-732)

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

Ms. Clark of Freeport offered House Amendment "A" and moved its adoption.

House Amendment "A" (H-772) was read by the Clerk.

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

Ms. CLARK: Mr. Speaker, Men and Women of the House: This is one of those technical amendments that I detected before Mr. Burns did.

Thereupon, House Amendment "A" was adopted.

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

Bill "An Act to Prohibit the Practice of a Mandatory Retirement Age" (H. P. 1310) (L. D. 1634) (H. "A" H-759 to C. "A" H-736)

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

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

Mr. BIRT: Mr. Speaker, Members of the House: We had before us this morning a bill that has generated a good deal of interest. It is a philosophy that I guess I personally agree with myself in that I always thought that it was a great waste of talent to retire people at a particular age.

On the other hand, we started out with a very small bill.

It came out of committee with a very comprehensive amendment. This amendment has not had the opportunity of being discussed widely, it didn't have the full advantage of a public hearing, and I think there are some real implications within the bill at the present time which should cause us to give serious thought before we take any action towards passage of it.

I think probably the area that I am most bothered about is the requirement of negotiation of all contracts between labor and management or union and management relative to compulsory retirement. Most of the union contracts in the State of Maine are, as they are all over the country, developed due to the particular rights that are allowed under the collective bargaining laws on the federal level. Most of these contracts have written into them the age when retirement will be allowed or will be required. The pension agreements in all of these contracts are all based on this premise. The amendment would require the renegotiation or removal of mandatory retirement within all of these contracts by 1980 or thereabouts. Whether this should be in conflict with the collective bargaining rights granted under the

federal laws or not, I have some reservations whether it has been explored or not. You also have a lot of contracts that are involved with people where contracts are negotiated outside of the state, and a good example of that would be the truckers, which contracts are negotiated at a national level and they affect people in all of these areas.

I think before we want to go into adoption of a piece of legislation of this type, we should more thoroughly look into what we are getting into, and this morning, because of all of the implications involved in this, I would move for the indefinite postponement of this bill and all its accompanying papers.

Mr. Marshall of Millinocket requested a roll call vote.

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

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

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

#### ROLL CALL

YEA — Biron, Birt, Brown, K. L.; Brown, K. C.; Bunker, Carter, F.; Churchill, Conners, Devoe, Dow, Durgin, Garsoe, Gauthier, Huber, Jacques, Littlefield, Lynch, Mackel, Masterton, McHenry, McMahon, McPherson, Morton, Norris, Peltier, Quinn, Stubbs, Teague.

NAY — Aloupis, Ault, Austin, Bachrach, Bagley, Beaulieu, Bennett, Benoit, Berry, Berube, Blodgett, Boudreau, A.; Boudreau, P.; Brenerman, Burns, Bustin, Carroll, Chonko, Clark, Connolly, Cox, Cunningham, Curran, Davies, Dexter, Diamond, Drinkwater, Dudley, Dutremble, Elias, Fenlason, Flanagan, Fowlie, Gillis, Goodwin, H.; Goodwin, K.; Gould, Gray, Green, Greenlaw, Hall, Henderson, Hickey, Higgins, Hobbins, Howe, Hughes, Hunter, Hutchings, Jackson, Jensen, Joyce, Kane, Kany, Kelleher, Kerry, Kilcoyne, Laffin, LaPlante, LeBlanc, Lewis, Lizotte, Locke, Lunt, MacEachern, Mahany, Marshall, Masterman, Maxwell, McBreairty, McKean, Mills, Mitchell, Moody, Nadeau, Najarian, Nelson, M.; Nelson, N.; Palmer, Pearson, Perkins, Peterson, Plourde, Post, Prescott, Raymond, Rideout, Rollins, Sewall, Shute, Spencer, Sprowl, Stover, Strout, Talbot, Tarr, Theriault, Tierney, Torrey, Tozier, Trafton, Truman, Tyndale, Wilfong, Wood, Wyman, The Speaker.

ABSENT — Carey, Carrier, Carter, D.; Cote, Gill, Immonen, Jalbert, Lougee, Martin, A.; Peakes, Silsby, Smith, Tarbell, Twitchell, Valentine, Whittemore.

Yes, 28; No, 107; Absent, 16.

The SPEAKER: Twenty-eight having voted in the affirmative and one hundred seven in the negative, with sixteen being absent, the motion does not prevail.

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

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

Mr. DAVIES: Mr. Speaker, having voted on the prevailing side, I move we reconsider and I hope you all vote against me.

The SPEAKER: The gentleman from Orono, Mr. Davies, having voted on the prevailing side, now moves that we reconsider our action whereby this Bill was passed to be engrossed as amended. All those in favor of reconsideration will say yes; those opposed will say no.

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

Bill "An Act to Abolish the Mental Health and Mental Retardation Improvement Fund" (H. P. 1470) (L. D. 1727) (C. "A" H-630)

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.

Bill "An Act to Base Adjustments of Teacher and State Employee Retirement Allowances on the Consumer Price Index" (S. P. 317) (L. D. 1075) (C. "A" S-236)

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

Bill "An Act to Establish Long-term Foster Care" (H. P. 1453) (L. D. 1693) (C. "A" H-697)

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

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

House Amendment "A" (H-756) was read by the Clerk.

The SPEAKER: The Chair recognizes the gentleman from South Berwick, Mr. Goodwin. Mr. GOODWIN: Mr. Speaker, Men and Women of the House: This is just another technical amendment that we caught before Mr. Burns did. In the Committee Amendment, we got rid of a couple provisions of the bill and we just forgot to take them out in other sections of the bill. This just strikes those out.

Thereupon, House Amendment "A" was adopted.

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

On motion of Mrs. Najarian of Portland, the House reconsidered its action of earlier in the day whereby Bill "An Act to Provide for the Licensing of Mobile Homes and Modular Housing Dealers and Mechanics," House Paper 1376, L.D. 1702, was passed to be engrossed as amended by Committee Amendment "A" (H-750) pursuant to Consent Calendar rules.

Thereupon, the Report was accepted and the Bill read once. Committee Amendment "A" (H-750) was read by the Clerk and adopted and the Bill assigned for second reading later in today's session.

Mr. Jensen of Portland was granted unanimous consent to address the House.

Mr. JENSEN: Mr. Speaker and Members of the House: I would call your attention to a report supposedly by the Joint Standing Committee on Transportation on the condition and operation of the Maine State Ferry System. This morning it was put on our desks, apparently in response to a study order that was done last year. A study was conducted of the Maine State Ferry System. In reading over the report, I am just a little bit surprised because the original order ordered the committee to conduct this study. The committee did; the committee finished its study sometime last September or October. My name and those of the rest of the members of the committee are on it. However, this is the first time I have ever seen the report. I have talked with other members of the committee here and none of the other committee members have ever seen this report. It seems to me that when a committee does a study and a report is issued, presumably some legislation either at the next session of the legislature or in future sessions of the legislature will be based at least on part on these studies. Also, should any legislation be enacted, the courts are unclear as to what is going to occur or what the

legislative intent is. It seems very clear to me that one of the things the courts will do is, they will look at committee studies.

For the legislature to accept as a committee study something that most of the members of the committee have never seen is something that I find very objectionable. This is why I asked to reconsider acceptance of this report. It would be my feeling that what ought to be done is, we ought to refuse to accept this report and send it over in non-concurrence.

Mr. Garsoe of Cumberland was granted unanimous to address the House.

Mr. GARSOE: Mr. Speaker, Ladies and Gentlemen of the House: I would like to take you back to our action of yesterday where by a good majority the 60/40 bill was sent on its way. In the confusion and in my response to that sudden glare of red that hit my suggestion, I neglected to rise and pair my vote with the gentleman from Lewiston. I don't think I would have willingly given up one third of the votes I had, but I had agreed with him that I would pair with him. Since I neglected to perform that duty on his behalf, I wanted to show that he had made arrangements to have himself paired in favor of the bill.

Reference was made to (H. P. 229) (L. D. 292) Bill "An Act to Amend the Powers and Duties of the Maine Committee on Aging"

In reference to the action of the House Tuesday, June 21, whereby it Insisted and Asked for a Committee of Conference, the Chair appointed the following Conferees on the part of the House:

Messrs. CURRANT of South Portland  
VALENTINE of York  
CHURCHILL of Orland

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

In reference to the action of the House Monday, June 20, whereby it Insisted and asked for a Committee of Conference, the Chair appointed the following Conferees on the part of the House:

Mr. LYNCH of Livermore Falls  
Mrs. TRAFTON of Auburn  
Mr. BAGLEY of Winthrop

(Off Record Remarks)

On motion of Mr. Tierney of Lisbon Falls,  
Recessed until 11:30 this morning.

After Recess  
11:30 a.m.

The House was called to order by the Speaker.

On motion of Mr. Jensen of Portland, the House reconsidered its action of earlier in the day whereby a communication from the Senate, S. P. 563, dealing with the Maine State Ferry Service was ordered placed on file.

On motion of Mr. Jensen of Portland, the Communication and accompanying report was not placed on file in non-concurrence and sent up for concurrence.

An Expression of Legislative Sentiment (H. P. 1754) recognizing that:

Kristina A. Underkoffler of Scarborough has been crowned Miss Maine National Teenager for 1977

Presented by Mr. Higgins of Scarborough (Cosponsor: Ms. Benoit of South Portland)

The Order was received out of order by unanimous consent and read.

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

Mr. HIGGINS: Mr. Speaker, it is a pleasure for me today to present this order not only for

the people of Scarborough but for the State of Maine. Kristina Underkoffler has just graduated from Scarborough High School and was active in the Medical Club and in cheering activities, student council, and the National Honor Society. I know that she will represent the State of Maine ably in the National contest, and I am sure has the blessings and best wishes of this body.

The SPEAKER: The Chair is pleased to recognize Kristina in the back of the Hall, and would the Sergeant-at-Arms please escort her to the rostrum.

Miss UNDERKOFFLER: Thank you. I am very pleased to be here today. I was crowned Miss Maine National Teenager about three weeks ago in Waterville, Maine. I competed with 35 girls for this title and I was very pleased to win. I will be competing for the National Title in Atlanta, Georgia, at the beginning of August, and I am very excited about going. I will represent the State of Maine to my very best. (Prolonged Applause, the Members rising).

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

By unanimous consent, ordered sent forthwith.

#### Orders of the Day

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

An Act to Prohibit the Exclusion of Manufactured Homes from any Municipality (H. P. 1151) (L. D. 1369) (C. "A" H-551)

Tabled — June 17, 1977 by Mr. Morton of Farmington.

Pending — Passage to be Enacted.

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

Mr. MORTON: Mr. Speaker, I would like to move that this bill and all its accompanying papers be indefinitely postponed and speak to that motion.

The SPEAKER: The gentleman from Farmington, Mr. Morton, moves the indefinite postponement of this Bill and all its accompanying papers.

The gentleman may proceed.

Mr. MORTON: Mr. Speaker, Ladies and Gentlemen of the House: I call your attention to this bill. It does carry a committee amendment which waters it down considerably from what it was in the first place, but it still is a bad bill, just as it was when it first came in.

Frankly, this is an anti local control bill, it takes away the police power of the community to control the location of manufactured homes. I would submit to you that it is absolutely unnecessary because there is ample case law and there is ample protection in the Constitution of both the United States and the State of Maine that communities may not pass punitive ordinances. Therefore, I feel that it is absolutely unnecessary for us to pass this here today. It is not needed. There are adequate safeguards, and I would hope that you would go along with indefinite postponement.

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

Mr. HENDERSON: Mr. Speaker, Ladies and Gentlemen of the House: As I think you know from other comments I have made, I am one who does not go along with intrusions into local control unless they affect people's basic rights, and I think this is a case that we ought to consider very seriously.

The bill that came before our Committee on Local and County Government was a bit too rash, I would say, and the gentleman is correct in saying that we have watered it down considerably. Let me just tell you what the basic issues are.

Right now there is nothing in Maine law which says whether a community can or cannot exclude mobile homes completely from their

community, and this issue revolves around mobile homes primarily, although manufactured housing includes prefabs as well. But some communities have attempted to do just that, to not allow the citizens of that community to live in mobile homes, and the Supreme Court, though various decisions, has at least strongly implied that that is unconstitutional.

This bill would do two basic things. Number one, it would say communities may not totally exclude mobile homes from their communities. They can't do that. Secondly it would say that they, on the other hand, may continue as many communities do, to establish zones in their community, if they have a zoning ordinance, to place them in certain areas. That is, if you don't want mobile homes in the downtown business district, that is fine, but you have to have some area where mobile homes are allowed, but you can regulate that. And then as an adjunct to that point, it also says that you may not force people who live in mobile homes to live in mobile home parks. You may have areas which are only for mobile home parks, and you may have other areas where people can live in mobile homes on an individual basis, but you can't force them to live in mobile home parks. I would like to speak a little bit to that latter point.

Some communities, such as mine, the city of Bangor, say that if you want to live in a mobile home, you have to live in a mobile home park, and what this does is grant a monopoly, in effect, to mobile home park operators. And if any of us are interested in the free enterprise system and freedom of choice, then I don't think we can be a party to allowing that monopoly. Not only does it allow a monopoly in where you can go but very often there are other restrictions, such as where you buy certain utilities or certain services from and those are often mandated by the park operators. So there are many evils that can come about, and the bill's intention and the committee's intention is basically to give more freedom to the individual who chooses not to live in a traditional home but in a manufactured home, where it is a prefab or a mobile home.

I would like to make one other point, that this also says that communities may regulate these homes as any other homes for building permit purposes, for sanitary purposes, or zoning, lot size, all that sort of thing, that remains the same. It just says you can't discriminate against people who live in manufactured housing.

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

Mrs. BOUDREAU: Mr. Speaker, Men and Women of the House: I sponsored this bill and it was as a result of several court cases. The background was that local codes and ordinances were used to prevent the construction and or use of certain types of housing, especially the placement of mobile or modular homes. These homes are sometimes the only housing that people can afford and the code tried to regulate personal choices.

Times and tastes do change. A few years ago, old houses, poorly insulated, were selling very fast, but I am sure that this is not happening today, people can't afford them. I feel that no unit of government should dictate the style of housing one chooses. We have had several court cases throughout the state and in all cases the courts have ruled in favor of the consumer.

The State Planning Office favors this bill. The Maine Municipal Association attended all the work sessions on the bill, and they do not object to the redraft, in fact, the effective date of the implementation of this, July 1, 1978, was added at their request.

This legislation will help older people who own large houses, and as they get older, they find that they can't keep them up and the cost of

heating them is too much, yet they have always owned a home. They don't want to move into an apartment. With legislation such as this, they can buy a lot and put a mobile home on it. Also many young people starting out, they can't afford to go out and buy a home.

This was a unanimous committee report. The redraft allows the cities and towns to enforce zoning laws as to where the homes can be located and to the lot size, set back, frontage and everything else that they normally zone. The bill also makes it very clear that the homes have to be attached to the realty.

There have been many recent studies conducted that have proven that the cost of new homes has become beyond the reach of middle income people. Maine pays the minimum wage; we refused to increase that the other day. How do we expect people to go out and buy \$30,000 and \$40,000 homes? Let's be realistic and humane at the same time and pass this legislation, allow people to buy a home they can afford and have a place to put it.

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

Mr. MCKEAN: Mr. Speaker, Ladies and Gentlemen of the House: I live in a mobile home, I have owned one for years, I have close to \$24,000 in my mobile home and my lot that it sits on. I can go to parts of my town that have zoning restrictions on mobile homes, and I can show you homes that you wouldn't pay \$5,000 for. They are tumbled down, they're rickety, and yet I could not put a \$24,000 mobile home on that lot. I would hope that you would consider passing this legislation. There are a lot of people who can't afford to buy a \$50,000 home, but they can afford a \$15,000 to \$20,000 mobile home that looks just as nice and it serves a purpose, it puts a family under a roof. Please support this legislation.

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

Mr. DRINKWATER: Mr. Speaker, Members of the House: Briefly, I live in a mobile home. I applied for a permit approximately three years ago to build on 12 by 70 feet. I could get the permit, but I had to build a 12 by 70 foot, one inch away from the present structure which, of course, eliminated doing it. I am building a new house now and I am in the process of selling my mobile home. I think that this is what has brought this bill forward and I would like to ask everybody to vote in favor of the bill.

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

Mr. MACKEL: Mr. Speaker, Ladies and Gentlemen of the House: I certainly have no objection to the use of mobile homes, I think their time has arrived, but I don't see why we should be dictating from here in Augusta the ordinances that apparently are necessary to control these homes. I think this is a local control matter. I think these problems should be taken up at Bangor, Portland, or wherever the individual lives and wherever that individual is having those problems. I don't see the necessity for us to step into the situation.

Again, I would like to repeat, I think it is a local control issue and I think the people are reasonable or should be reasonable about it and should modify their ordinances, modify their zoning to meet the requirements, to meet the needs of their own locality and not come here to Augusta and ask us to dictate to their communities what should be done.

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

Mr. LaPLANTE: Mr. Speaker, Ladies and Gentlemen of the House: I don't believe that we are dictating to local communities. I think local communities have dictated to their citizens as to what type of home they will live in in that community, and that, from the beginning, should have been unconstitutional. I feel that the bill is even watered down more than it should

be. If someone buys a piece of land, he should have a constitutional right to live in a home that he can afford, in a home that he and his family can live in and be happy in, and not be forced by certain local officials and be told that this home is not good enough for him and his family because the community does not feel that it is good enough for him and his family. His right to own a piece of land, his right to happiness, under the Constitution, goes further than what we are legislating here, but for some reason, local communities have been able to dictate to citizens how they will live, under what kind of roof they will live, and that is the reason that it will take legislation from here, to tell the local officials, give back the citizens their constitutional right to live in a home that they can afford for their livelihood their happiness for them and their family, and we need this very much.

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

Mr. GREEN: Mr. Speaker, Men and Women of the House: I am a local official and we are not always as insensitive and harsh and cruel as the good gentleman from Sabattus would make us out to be. I think we respond to the problems of the people in our community. I know in our community we have zoning laws. The zoning laws are there for a reason, and I think we should not lose track of the fact that they are there for a specific reason, industrial zones, commercial zones, residential zones, and we have a variance process at the local level. This is a local problem and I certainly do not object to the living dwellings of mobile homes or manufactured homes or prefabs or whatever, but I think that this is a problem that can be taken care of at the local level.

We live with these people, Mr. LaPlante, they are our neighbors, they are our friends, and I really object very strongly to state legislation which prohibit us from exercising some sort of flexibility at the local level. We can do that now, we can change ordinances at the local level, we can change zones. We have a zoning board of appeals, we have city councils, we have boards of selectmen — that is what they are elected to do, and we are not as harsh and as cruel as you perhaps make us out to be. Vote against it.

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

Mr. HICKEY: Mr. Speaker, Ladies and Gentlemen of the House: I was one of the members of the committee who voted in favor of the passage of this bill. At the hearings, we were very concerned and very upset about the many communities that will not permit mobile homes, trailers, or any of these types of houses to be located in their communities. With the rising cost of house construction, it has become mandatory that we in some way help these people who have these urgent needs for a home. This was my reason for voting for this act.

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

Mr. LaPLANTE: Mr. Speaker, Ladies and Gentlemen of the House: I commend the good gentleman from Auburn, Mr. Green, for being sensitive and compassionate, but there are too many other communities that are not and this is the reason that this is in here.

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

Mr. HALL: Mr. Speaker, Ladies and Gentlemen of the House: I would like to comment on my good friend Mr. Ross when he said we can change the zoning law. The problem is, my good friend, in the small towns that I represent, that is not so. You don't do it as easy as that. First of all, the people that are on the zoning board, to begin with, are not the people in many many instances that would accept these different ideas.

Mr. Morton of Farmington 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 gentleman from Farmington, Mr. Morton.

Mr. MORTON: Mr. Speaker, I would like to respond to two or three points that were made in the earlier part of the debate. One of the points was that this has to do with a monopoly mobile home park owners. I don't know anything about mobile home parks, but I do think that the greater good of all the citizens of a community has to be taken into consideration. I did not bring the words mobile home into this debate, I am talking purely about local control, and there is no question but that this particular bill negates the zoning ordinances that local communities have on their books.

I will just leave you with this one thought: The very opening remarks of the gentleman from Bangor were that this bill does constitute an invasion of local control. He said that; it is exactly what it does. So if you feel as though the citizens of a given community know what is best for their community, and remember, they are circumscribed by the law, they cannot pass unconstitutional ordinances, so if you feel as though within that limitation they could be allowed the right to govern their own communities, you will vote to indefinitely postpone this bill.

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

Mr. HIGGINS: Mr. Speaker, Ladies and Gentlemen of the House: Mention has been made today of case law and how that has affected the statute surrounding mobile homes. Case law, in fact, has said that municipalities may not exclude totally from within their bounds mobile homes, but they can, in fact, limit to location and other jurisdiction that they have in their own ordinances. If that is what this bill did, I guess I would not mind that at all. If it put into statute what the courts have already determined, I don't think anyone here would have any problem with that. The problem I have, I guess, is the same one that Mr. Morton has, and that is that it is a preemption of all local zoning laws, and I don't think that is fair to the towns who have worked on these zoning laws.

Mention was made of the fact that the mobile homes time has come. I would agree with that, and I think, for example, in the town of Scarborough, we have just passed a new ordinance, if you will, surrounding mobile homes, which does in fact allow them in all areas of the town under a hardship waiver provision and other provisions that go along with it. So I think the fact is that the time has come, but I think to be reasonable about it, it is something that the local people should decide in how they want to accomplish that fact. I agree with the gentleman from Auburn, Mr. Green, that a good many of us — I, also, are municipal officials and I don't think that municipal officials are holier than thou and I think they do respond when the need arises.

I hope you would indefinitely postpone this today and leave it up to the local people to respond to the needs and the wishes of their own locality, taking into account the needs and the wishes of their own locality, taking into account the needs of the people who want the mobile homes and also taking into account the people who already live in the areas in which those mobile homes might possibly be placed.

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

Mr. PEAKES: Mr. Speaker, Ladies and Gentlemen of the House: I served on the planning board in my local community, and I must admit that I had a hostility towards mobile homes when I first came into this state. I would prefer to see them in parks and so forth, but with the increasing cost of housing and with the energy problems that we have in this state, I just feel there is no other way for some of these people but to live in these homes. It is really the only way some of them can have a home. I think they are a proven efficient means of maintaining a household. I strongly feel it is a state problem because of the energy situation and because there is a natural prejudice, there is a disparity of representation on the various boards because of the minority of mobile home owners in the community and I hope you will support this bill.

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

Mr. HOWE: Mr. Speaker, Members of the House: The U.S. and state constitutions do not enforce themselves. The fact that there are court cases, I think indicates that some municipalities simply are not responding. I think that is the reason for the legislation. It is very difficult and expensive to go to court for somebody who can't afford a home, other than a mobile home, to try to challenge these ordinances and I think in some cases, the home rule argument begins to wear a little bit thin. I think there is a form of local control more local, than municipal, and that is the control of the individual to have some control over what type of housing he or she is going to live in. I think this is necessary and useful and desirable legislation.

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

#### ROLL CALL

YEA — Aloupis, Ault, Austin, Bagley, Birt, Boudreau, P.; Brown, K.L.; Brown, K.C.; Bunker, Carey, Carroll, Carter, F.; Churchill, Conners, Cote; Cunningham, Devoe, Dexter, Dudley, Durgin, Dutremble, Fenlason, Garsoe, Goodwin, H.; Gould, Green, Higgins, Hobbins, Huber, Hunter, Hutchings, Immonen, Jackson, Kilcoyne, Lewis, Littlefield, Lizotte, Locke, Lougee, Lunt, Mackel, Marshall, Masterman, Masterton, Morton, Nadeau, Nelson, M.; Norris, Peltier, Perkins, Peterson, Quinn, Rollins, Sewall, Shute, Silsby, Smith, Spencer, Sprowl, Strout, Stubbs, Tarbell, Tarr, Torrey, Trafton, Truman, Valentine, Whittemore.

NAY — Bachrach, Beaulieu, Bennett, Benoit, Berry, Berube, Biron, Blodgett, Boudreau, A.; Brenerman, Burns, Bustin, Chonko, Clark, Connolly, Cox, Curran, Davies, Diamond, Dow, Drinkwater, Elias, Flanagan, Fowlie, Gillis, Gray, Greenlaw, Hall, Henderson, Hickey, Howe, Hughes, Jacques, Jensen, Joyce, Kany, Kelleher, Kelleher, Laffin, LaPlante, LeBlanc, Lynch, MacEachern, Mahany, Maxwell, McBrearty, McHenry, McKean, McMahon, McPherson, Mills, Mitchell, Moody, Najarian, Nelson, N.; Palmer, Peakes, Pearson, Plourde, Post, Prescott, Raymond, Rideout, Stover, Talbot, Theriault, Tierney, Tozier, Wilfong, Wood, Wyman, The Speaker.

ABSENT — Carrier, Carter, D.; Gauthier, Gill, Goodwin, K.; Jalbert, Kane, Kerry, Martin, A.; Teague, Twitchell, Tyndale.

Yes, 68; No, 71; Absent, 12.

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

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

The SPEAKER: The Chair recognizes the

gentleman from Bangor, Mr. Henderson.

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

The SPEAKER: The gentleman from Bangor, Mr. Henderson, having voted on the prevailing side, now moves that the House reconsider its action whereby this Bill was passed to be enacted. Those in favor will say yes; those opposed will say no.

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

The Chair laid before the House the second matter of Unfinished Business:

Senate Report — "Ought to Pass" — Committee on Transportation on Bill, "An Act Appropriating Funds from the General Fund for the Purpose of Developing a Parking Lot in Lincolnville" (Emergency) (S. P. 410) (L. D. 1418)

Tabled — June 17, 1977 by Mr. Tierney of Lisbon Falls.

Pending — Motion of Mr. Biron of Lewiston to Indefinitely Postpone Bill and All Accompanying Papers.

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

Mr. BERRY: Mr. Speaker, I move that this bill lay on the table two legislative days.

Mr. Strout of Corinth requested a Division.

The SPEAKER: The pending question before the House is the motion of the gentleman from Buxton, Mr. Berry, that this bill be tabled for two legislative days. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

Mr. Berry of Buxton requested a roll call.

The SPEAKER: For the Chair to order a roll call, it must have the expressed desire of one fifth of the members present and voting. 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 pending question is on the motion of the gentleman from Buxton, Mr. Berry, that this Bill be tabled for two legislative days. Those in favor will vote yes; those opposed will vote no.

#### ROLL CALL

YEA — Bachrach, Berry, Biron, Blodgett, Boudreau, A.; Brenerman, Brown, K.C.; Burns, Carey, Carroll, Chonko, Clark, Connolly, Cote, Cox, Curran, Davies, Diamond, Dow, Dudley, Durgin, Dutremble, Elias, Flanagan, Fowlie, Goodwin, H.; Green, Greenlaw, Hall, Henderson, Hickey, Hobbins, Howe, Hughes, Jacques, Jensen, Joyce, Kany, Kelleher, Kilcoyne, LaPlante, LeBlanc, Lizotte, Locke, MacEachern, Maxwell, McHenry, McKean, Mills, Mitchell, Nadeau, Najarian, Nelson, M.; Nelson, N.; Peakes, Pearson, Plourde, Post, Prescott, Quinn, Rideout, Spencer, Talbot, Theriault, Tierney, Trafton, Truman, Valentine, Wilfong, Wood, Wyman, The Speaker.

NAY — Aloupis, Ault, Austin, Bagley, Beaulieu, Berube, Birt, Boudreau, P.; Brown, K.L.; Bunker, Bustin, Carter, F.; Churchill, Conners, Cunningham, Dexter, Drinkwater, Fenlason, Garsoe, Gillis, Gould, Gray, Higgins, Huber, Hunter, Hutchings, Immonen, Jackson, Laffin, Lewis, Littlefield, Lougee, Lunt, Mackel, Mahany, Marshall, Masterman, Masterton, McBrearty, McPherson, Moody, Morton, Norris, Palmer, Peltier, Perkins, Peterson, Raymond, Rollins, Sewall, Shute, Silsby, Smith, Sprowl, Stover, Strout, Stubbs, Tarbell, Tarr, Torrey, Tozier, Whittemore.

ABSENT — Bennett, Benoit, Carrier, Carter, D.; Devoe, Gauthier, Gill, Goodwin, K.; Jalbert, Kane, Kerry, Lynch, Martin, A.; McMahon, Teague, Twitchell, Tyndale.

Yes, 72; No, 62; Absent, 17.

The SPEAKER: Seventy-two having voted in



the affirmative and sixty-two in the negative, with seventeen being absent, the motion does prevail.

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

An Act to Authorize Bond Issue in the Amount of \$3,748,000 for Construction of an Educational Wing at Central Maine Vocational-Technical Institute, a Mechanicals Building at Eastern Maine Vocational-Technical Institute, a Multipurpose Instructional Building at Northern Maine Vocational-Technical Institute and a Building Construction Facility at Southern Maine Vocational-Technical Institute (H. P. 1618) (L. D. 1819) (S "A" S-218 to H "A" H-487)

Tabled — June 17, 1977 by Mr. Tierney of Lisbon Falls.

Pending — Passage to be Enacted.

The SPEAKER: This being a bond authorization act, under the terms of the Constitution it requires for its final Passage the affirmative vote of two thirds of the entire elected membership of this House. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

Mr. Kelleher of Bangor requested a roll call.

The SPEAKER: For the Chair to order a roll call, it must have the expressed desire of one fifth of the members present and voting. 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 pending question before the House is on passage to be enacted. Those in favor will vote yes; those opposed will vote no.

#### ROLL CALL

YEA — Alopis, Ault, Austin, Bachrach, Bagley, Beaulieu, Bennett, Benoit, Berry, Berube, Birt, Blodgett, Boudreau, A.; Boudreau, P.; Brenerman, Brown, K.C.; Bunker, Burns, Bustin, Carey, Carroll, Carter, F.; Chonko, Churchill, Clark, Connors, Connolly, Cote, Cox, Cunningham, Curran, Davies, Dexter, Diamond, Dow, Drinkwater, Durgin, Dutremble, Elias, Fenlason, Flanagan, Fowlie, Garsoe, Gillis, Goodwin, H.; Gould, Green, Greenlaw, Hall, Henderson, Hickey, Hobbins, Howe, Huber, Hughes, Hutchings, Jackson, Jacques, Jensen, Joyce, Kany, Kelleher, Kilcoyne, Laffin, LaPlante, LeBlanc, Lewis, Locke, Lougee, Lunt, Lynch, MacEachern, Mahany, Masterman, Masterton, Maxwell, McBrearty, McHenry, McKean, McPherson, Mills, Mitchell, 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, Sprowl, Strout, Stubbs, Talbot, Tarbell, Tarr, Theriault, Tierney, Torrey, Tozier, Truman, Valentine, Whittemore, Wilfong, Wood, Wyman, The Speaker.

NAY — Biron, Brown, K.L.; Dudley, Gray, Hunter, Immonen, Littlefield, Mackel, Marshall, Moody, Stover, Trafton.

ABSENT — Carrier, Carter, D.; Devoe, Gauthier, Gill, Goodwin, K.; Higgins, Jalbert, Kane, Kerry, Lizotte, Martin, A.; McMahon, Spencer, Teague, Twitchell, Tyndale.

Yes, 122; No, 12; Absent, 17.

The SPEAKER: One hundred twenty-two having voted in the affirmative and twelve in the negative, with seventeen being absent, the Bill is passed to be enacted.

Signed by the Speaker and sent to the Senate.

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

Bill, "An Act to Appropriate Money for Improvements to Airports, and to Authorize General Fund Bond Issues in the Amount of \$1,200,000" (H. P. 1409) (L. D. 1684)

Tabled — June 17, 1977 by Mr. Strout of Corinth.

Pending — Adoption of Committee Amendment "A" (H-591)

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

Mr. BERRY: Mr. Speaker, I have some problems with this bill that I still haven't been able to work out and I would hope that someone would table this for two days.

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

Mr. MacEACHERN: Mr. Speaker, I more that this lay on the table for two legislative days.

Mr. Palmer of Nobleboro requested a Division.

The SPEAKER: The pending question before the House is the motion of the gentleman from Lincoln, Mr. MacEachern, that this Bill be tabled for two legislative days pending adoption of Committee Amendment "A". Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

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

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

Resolution, Proposing an Amendment to the Constitution to Permit the Governor to Veto Items Contained in Bills Appropriating Money and Retaining the Power Within the Legislature to Override such Item Vetoes (H. P. 1287) (L. D. 1520)

— In House, Majority "Ought Not to Pass" Report Read and Accepted on June 13.

— In Senate, Minority "Ought to Pass" Report Read and Accepted and Resolution Passed to be Engrossed as Amended by Senate Amendment "A" (S-264)

(House Receded and Concluded on June 16)

Tabled — June 17, 1977 by Mr. Tierney of Lisbon Falls.

Pending — Motion of Mr. Bustin of Augusta to Reconsider Receding and Concurring.

Thereupon, the House reconsidered its action whereby it voted to recede and concur.

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

Mr. KELLEHER: Mr. Speaker, Ladies and Gentlemen of the House: I would hope that this House would not recede and concur and then a motion to adhere to our former action would be in order.

Not to belabor the question dealing with the item veto, I think we all understand if in fact we pass an item veto, we would simply be allowing the Chief Executive of this State, be it James B. Longley or in the instance when I opposed this bill two terms ago, the honorable Kenneth M. Curtis, in my humble opinion, all we would be doing is allowing that individual who is sitting in the corner office to write the Appropriations Act. We would be giving that particular individual in the corner office a weapon and that is exactly what it would be, in dealing with the legislature on a number of other issues because of certain items that we may be personally fighting for our own constituents. We all understand how the Appropriations Act is formed and put together and it takes a 101 votes to pass it and I know the argument is, let the issue stand on its own merits. Well, we all know that this is the declining days of the 108th Legislature and believe me, if certain items come back from the Appropriations Act up here, I believe, that the tempers and the temperature of the House dealing with individual issues would probably see their demise. Not because they wouldn't be worthy but simply because of time it takes in involving itself with debate.

It may be a very noble experience to support this motion. The goo-goo in government like it; the practical people in government, meaning the members of this legislature, whether they

be here today or the future legislature, I would hope that you would oppose it.

We have an Appropriations Committee, we have a process that we go through and I appreciate my good friend from Augusta, Mr. Bustin, who probably feels differently. However, I think this is a poor management bill in terms of the checks and balance system. We have it now. It is fair and I would hope that this House would not recede and concur because it is not good government.

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

Mr. BUSTIN: Mr. Speaker, Ladies and Gentlemen of the House: I understand that the gentleman from Bangor is very excited about this bill but I didn't think he was so excited that he forgot who his friends were.

I, too, would urge you to vote no on this motion and I, too, believe that the time for a civics lesson has passed. We are dealing with one thing in this measure and that is power and a division of power. I have never seen in the years that I have served in this legislature any chief executive get involved in the nitty gritty of legislation as much as this one has. That is not to say that he shouldn't but it sure is to say that the capacity for holding bills hostage, for holding legislators hostage on other measures is certainly there.

When I first came into this legislature, I was ready to vote for any constitutional change that came down the pike. The longer I serve, the more I come to respect that the people who wrote the Maine Constitution really did know what they were doing. True, there are things that change with the passage of time, such as single member districts and this kind of thing but when they wrote into the Constitution a division of power, they knew what they were doing. I say that if you grant item veto power to any Governor, you are breaching that division of power and you are giving too much power to the executive.

I hope you vote no on this motion and then we will adhere.

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

Mr. BOUDREAU: Mr. Speaker, Ladies and Gentlemen of the House: I am not going to raise my voice or get red in the face about this bill. It seems to me that when a bill comes to this floor and has some merit, some people tend to get emotional and make all kinds of statements about divisions of powers in the Constitution and I think any bill we act on now goes through the same process as any appropriation bill would go through in the event of an item veto. The Governor can now veto anything we send to him and we have to either sustain his veto or not. I don't really think that the Governor is going to hold legislators hostage.

The next Governor could be Larry Connolly or Bill Garsoe and they wouldn't do that so I would hope that you would recede and concur.

Mr. Burns of Anson requests 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. 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 pending question before the House is the motion of the gentleman from Waterville, Mr. Boudreau, that the House recede and concur. Those in favor will vote yes; those opposed will vote no.

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

Ms. CLARK: Mr. Speaker, I would like to pair my vote with the gentleman from Lewiston, Mr. Jalbert. If Mr. Jalbert were

here, He would be voting no and I would be voting yes.

#### ROLL CALL

YEA — Alopis, Bagley, Benoit, Berry, Berube, Biron, Birt, Boudreau, A.; Boudreau, P.; Brown, K.L.; Bunker, Burns, Carter, F.; Churchill, Conners, Cunningham, Dexter, Dow, Drinkwater, Dudley, Durgin, Garsoe, Gould, Gray, Green, Henderson, Higgins, Hunter, Hutchings, immonen, Jacques, Joyce, Kany, Lewis, Littlefield, Lizotte, Lynch, MacEachern, Mackel, Marshall, Masterman, McMahon, Mitchell, Moody, Morton, Palmer, Perkins, Post, Quinn, Raymond, Rollins, Sewall, Spencer, Sprowl, Stover, Stubbs, Tarbell, Tarr, Tozier, Trafton, The Speaker.

NAY — Ault, Austin, Bachrach, Beaulieu, Bennett, Blodgett, Brennerman, Brown, K.C.; Bustin, Chonko, Connolly, Cote, Cox, Curran, Davies, Devoe, Diamond, Dutremble, Elias, Fenlason, Flanagan, Fowlie, Gillis, Goodwin, H.; Greenlaw, Hall, Hickey, Hobbins, Howe, Huber, Hughes, Jackson, Jensen, Kelleher, Kilcoyne, Laffin, LaPlante, LeBlanc, Locke, Lougee, Lunt, Mahany, Masterton, Maxwell, McBreairty, McHenry, McKean, McPherson, Mills, Nadeau, Najarian, Nelson, M.; Nelson, N.; Norris, Peakes, Pearson, Peltier, Peterson, Plourde, Prescott, Rideout, Shute, Silsby, Strout, Talbot, Theriault, Tierney, Torrey, Truman, Valentine, Whittemore, Wilfong, Wood, Wyman.

ABSENT — Carey, Carrier, Carroll, Dartter, D.; Gauthier, Gill, Goodwin, K.; Kane, Kerry, Martin, A.; Smith, Teague, Twitchell, Tyndale.

PAIRED — Clark, Jaibert.

Yes, 61; No, 74; Absent, 14; Paired 2.

The SPEAKER: Sixty-one having voted in the affirmative and seventy-four in the negative, with fourteen being absent and two paired. The motion did not prevail.

Whereupon, the House voted to adhere.

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

Mr. BUSTIN: Mr. Speaker, I now move that we reconsider and hope you all vote against me.

The SPEAKER: The gentleman from Augusta, Mr. Bustin, now moves the House reconsider its action whereby it voted to adhere. Those in favor will vote yes; those opposed will vote no.

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

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

Bill, "An Act Relating to the Administration of Medication" (H. P. 1236) (L. D. 1389) (C. "A" H-640)

Tabled — June 20, 1977 by Mr. Burns of Anson.

Pending — Passage to be Engrossed.

On motion of Mr. Burns of Anson, tabled pending passage to be engrossed and specially assigned for Friday, June 24.

#### (Off Record Remarks)

On motion of Mr. Lynch of Livermore Falls, the House reconsidered its earlier action whereby it voted to recede and concur on Bill, "An Act Relating to Approving and Financing School Construction" (H. P. 477) (L. D. 583).

On further motion of the same gentleman, tabled pending the motion of the same gentleman that the House recede and concur and later today assigned.

On motion of Mr. Jensen of Portland.

Recessed until 2:45 in the afternoon.

#### After Recess

2:45 p.m.

The House was called to order by the Speaker.

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

#### Passed to Be Enacted

An Act to Provide for Special Education Facilities for Children at Drug Treatment Centers (S. P. 342) (L. D. 1126) (C. "A" S-242)

An Act to Provide Exemptions from Licensure for Certain Insurance Agents and Officers of Benefit Societies and Amend the Procedure for Licensing (H. P. 807) (L. D. 983) (S. "A" S-265 to C. "A" H-617)

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

An Act to Prohibit Otter Trawling for Scallops in the Penobscot River (H. P. 1147) (L. D. 1381)

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.

By unanimous consent, ordered sent forthwith.

#### Enactor

#### Reconsidered

An Act to Establish a Bill of Rights for Mentally Retarded Persons (H. P. 1473) (L. D. 1735) (S. "A" S-275 to C. "A" H-631)

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

On motion of Mrs. Najarian of Portland, under suspension of the rules, the House reconsidered its action whereby the Bill was passed to be engrossed.

On further motion of the same gentlewoman, under suspension of the rules, the House reconsidered its action whereby Committee Amendment "A" as amended by Senate Amendment "A" was adopted.

The same gentlewoman offered House Amendment "A" to Committee Amendment "A" and moved its adoption.

House Amendment "A" to Committee Amendment "A" (H-792) was read by the Clerk.

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

Mrs. NAJARIAN: Mr. Speaker and Members of the House: I apologize for not reading the committee amendment to the bill until yesterday. There was a section in the committee amendment that disturbed me quite a bit. That was in regard to behavior modification for the mentally retarded. I can't find the committee amendment right at the moment, but what it did, it allowed that painful stimuli could be administered to the mentally retarded patient in an institution, provided the psychologist and the administrator both agreed. I have discussed this with the sponsor and with the Attorney General who drafted the bill and the patient advocate in the Department of Mental Health and Corrections and have amended it to say that treatment programs which involve the use of noxious or painful stimuli may only be employed to correct behavior more harmful to the patient than the treatment program itself would be. Then I have added that the client advocate also be in with the psychologist and the hospital administrator in making the decision on whether to administer that to a patient or not.

Having seen the movie "One Flew Over the Cuckoo's Nest." I am a little apprehensive about this type of thing being used at all, although I understand in some cases patients do do things which are very harmful to themselves, and I would just feel better having somebody involved in that decision other than a couple of professional people. I think that is more protection for the mentally retarded patient.

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

Committee Amendment "A" as amended by Senate Amendment "A" and House Amendment "A" thereto was adopted.

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

By unanimous consent, ordered sent forthwith.

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

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

Tabled — June 20, 1977 by Mr. Henderson of Bangor.

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

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

An Act Concerning Registration on Election Day (H. P. 1664) (L. D. 1864) (H. "C" H-616)

An Act Relating to Municipal General Assistance Programs (H. P. 1673) (L. D. 1868) (H. "B" H-666)

An Act Relating to the Commitment of Mentally Ill Individuals (H. P. 1707) (L. D. 1880) (S. "A" S-262 to H. "A" H-651)

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.

By unanimous consent, ordered sent forthwith.

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

SENATE DIVIDED REPORT — Majority (8) "Ought Not to Pass" — Minority (5) "Ought to Pass" — Committee on Taxation on Bill "An Act to Repeal the Personal Property Tax on Commercial Fishing Vessels and Equipment" (S. P. 233) (L. D. 730) — In Senate, Minority "Ought to Pass" Report Read and Accepted and the Bill Passed to be Engrossed.

Tabled — June 20, 1977 by Mrs. Post of Owl's Head.

Pending — Motion of Mr. Carey of Waterville to Accept the Majority "Ought Not to Pass" Report.

On motion of Mrs. Post of Owl's Head, retabled pending the motion of Mr. Carey of Waterville to accept the Majority Report and tomorrow assigned.

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

HOUSE DIVIDED REPORT — Majority (7) "Ought to Pass" — Minority (3) "Ought Not to Pass" — Committee on Labor on Bill "An Act Concerning Arbitration for Municipal Fire Departments" (H. P. 522) (L. D. 640)

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

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

On motion of Mr. Tierney of Lisbon Falls, retabled pending the motion of Mr. Bustin of Augusta to accept the Majority Report and tomorrow assigned.

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

Bill, "An Act to Control Conversion of Seasonal Dwellings to Year-round Use in Shoreland Areas" (H. P. 1385) (L. D. 1573) (C. "A" H-628)

Tabled — June 20, 1977 by Mr. Spencer of Standish.

Pending — Passage to be Engrossed.

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

House Amendment "B" (H-781) was read by the Clerk.

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

Mr. SPENCER: Mr. Speaker, Ladies and Gentlemen of the House: House Amendment "B" to L.D. 1573 would change the bill which we considered at the end of last week dealing with the conversion of seasonal dwellings to year-round dwellings. It is an effort to eliminate some of the problems which I and some other members of the House saw with this conversion permit bill.

The amendment does several things. It eliminates the definition of seasonal dwelling which is based on the number of days that a person actually resides in the dwelling so you don't get into the situation where you have to count the number of days that someone is there each year to determine whether it is a seasonal or year-round dwelling. What the amendment does, it states that for the purposes of this act, a seasonal dwelling is one which is not adapted to year-round habitation by the absence of sufficient insulation, heating system or year-round water. It then provides that conversion of a seasonal dwelling occurs when you take a dwelling which doesn't have insulation, heating systems or year-round water and make it adaptable to human habitation year round by installing winterized water, insulation and heating systems. That seems to me to be a much more workable definition of a seasonal dwelling and also of the conversion.

The other thing that concerned me about the bill as it was originally presented was that in order to comply with the plumbing code, a converted dwelling would have to be on a lot that was large enough to meet the current requirements of the plumbing code, which requires that every portion of the underground sewage disposal system must be a hundred feet back from the lake. There are a great many people who have bought seasonal homes planning to retire in those homes where the lot is only a hundred feet deep and there would be no way that they could comply with the plumbing code.

Under the proposed amendment, the owner of a seasonal home on such a lot would be able to apply to the local plumbing inspector for a variance from the requirements of this, and if the local plumbing inspector found that the owner would be in substantial compliance with the plumbing code and that the conversion would not result in any degradation of water quality or threat to private water supplies on adjacent lots, he could grant a variance and allow the conversion to occur. The amendment makes the bill, I think, a much more reasonable bill for those people who have substantial investments in seasonal homes and who are planning to retire to those homes. Yet, it still puts the plumbing inspector on notice that a conversion is occurring so that the plumbing inspector will be able to keep his eye on the situation and make sure that if the system fails, adequate corrective steps are taken.

I spent a lot of time trying to straighten out the problems with the original bill, and I think that with these changes, the people in my area who live along the lakes will be able to live with this. I have talked to people in the lake association and I have also talked to people on the other side who are dealing with real estate brokers and so on, and it seems as if everybody feels that this is a reasonable and a flexible approach to this problem.

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

Mrs. MASTERTON: Mr. Speaker, Ladies and Gentlemen of the House: As the sponsor of this bill, I do want to express my appreciation to the good gentleman from Standish for his interest and thoughtful care with which he has addressed my bill. I do want you to know that as sponsor,

this amendment has my full blessings and it has the blessings of the DEP, it has the blessings of the Department of Human Services, the Planning Commission that supported the original bill and all parties concerned. I do urge you to support this amendment and send this bill along its way to be engrossed.

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

Mrs. HUBER: Mr. Speaker and Members of the House: Some of you may recall that I spoke in opposition to this bill last week and I did so because of the way it was drafted. I also am pleased that the solution to some of the problems that existed with the original bill has been found and I fully intend to support the bill and hope you will too.

The SPEAKER: The Chair recognizes the gentleman from Benton, Mr. Hunter.

Mr. HUNTER: Mr. Speaker, Ladies and Gentlemen of the House: I had an amendment that I was going to add, but this replaces the other amendment, so evidently I won't be able to offer it now.

The SPEAKER: The Chair would advise the gentleman from Benton, Mr. Hunter, that if House Amendment "B" is adopted, then we will have to reconsider the adoption of Committee Amendment "A" and indefinitely postpone Committee Amendment "A." If House Amendment "B" is adopted, Committee Amendment "A" will still be attached to the bill, except that there will be two bills that will be conflicting, so if the gentleman is not in favor of House Amendment "B," then it is obvious that he would vote against it and then try to amend Committee Amendment "A."

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

Mrs. POST: Mr. Speaker, I would like to pose a question through the Chair. Does Title 12, Section 4811 include ocean areas as well as lake shore areas?

The SPEAKER: The gentlewoman from Owl's Head, Mrs. Post, has posed a question through the Chair to anyone who may care to answer.

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

Mr. SPENCER: Mr. Speaker, yes. Thereupon, House Amendment "B" was adopted.

The SPEAKER: The Chair recognizes the gentleman from Benton, Mr. Hunter.

Mr. HUNTER: Mr. Speaker, I move the indefinite postponement of this Bill and all its accompanying papers.

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

A vote of the House was taken. 36 having voted in the affirmative and 58 having voted in the negative, the motion did not prevail.

Mr. Spencer of Standish moved that the rules be suspended for the purpose of reconsideration.

Mrs. Sewall of Newcastle requested a vote. The SPEAKER: All those in favor of the rules being suspended will vote yes; those opposed will vote no.

A vote of the House was taken. 75 having voted in the affirmative and 17 having voted in the negative, the rules were suspended.

Thereupon, on motion of Mr. Spencer of Standish, the House reconsidered its action whereby Committee Amendment "A" was adopted.

On motion of the same gentleman, Committee Amendment "A" was indefinitely postponed.

The Bill was passed to be engrossed as

amended by House Amendment "B" and sent up for concurrence.

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

Bill, "An Act to Prevent the Display of Adult Magazines to Minors" (H. P. 1661) (L. D. 1857) — In House, Passed to be Engrossed as Amended by House Amendment "B" (H-581) on June 14. — In Senate, Passed to be Engrossed as Amended by Senate Amendment "B" (S-272)

Tabled — June 20, 1977 by Mr. Perkins of Blue Hill.

Pending — Motion of Mr. Burns of Anson to Recede.

Thereupon, the House voted to recede from its action whereby the Bill was passed to be engrossed as Amended by House Amendment "B".

Senate Amendment "B" (S-272) was read by the Clerk.

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

Mr. MCKEAN: Mr. Speaker, Ladies and Gentlemen of the House: I move the indefinite postponement of Senate Amendment "B".

The SPEAKER: The gentleman from Limestone, Mr. McKean, moves the indefinite postponement of Senate Amendment "B."

The gentleman may proceed.

Mr. MCKEAN: Mr. Speaker, I have an amendment which essentially would take care of the problem and, in the words of the old Watergate, allow for sufficient coverup.

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

Mr. HOWE: Mr. Speaker and Members of the House: This is another round in the great nudity debate on L.D. 1857, and I will do a little recapping here if I may.

We have been dealing with two bills that purport to get dirty books away from minors, 1861, which I believe at this point has passed both houses of the legislature. We have before us again 1857. This is the bill on which I used some visual aids in the first debate on the bill. The other body has put on Senate Amendment "B", which I believe is a satisfactory amendment. It is somewhat different than the House Amendment we put on the other day that was introduced by the gentleman from Sanford, Mr. Wood. In looking back over his amendment, it appeared to some of us that inadvertently his amendment did not deal with the covers of magazines. Senate Amendment "B" does that and it sets up an obscenity standard. It doesn't merely deal with all forms of nudity, and it is that distinction that I think is very important so that we don't enact legislation which is far too broad in scope and includes works of art and a manual on breast feeding.

For the reasons I have just stated, I hope we vote no on the present motion and I would at that time move that we concur.

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

Mr. WOOD: Mr. Speaker, Ladies and Gentlemen of the House: As author of the amendment that the Senate took off, I am in complete agreement with the amendment put on. I think it is the best way to deal with this problem. I have looked at the other two amendments that are being proposed, and I think we are going to have the same problems with those amendments that we had with the bill. I think if we want to do something about the problem, we should not indefinitely postpone the amendment.

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

Mr. BURNS: Mr. Speaker, Ladies and Gentlemen of the House: Would you briefly turn to L.D. 1861, which is currently on the Governor's desk for signature? If this is, in fact, signed and becomes law, we have already enacted the requirements that are currently

contained in Senate Amendment "B," because L. D. 1861 precludes the exhibiting of obscene material to minors.

Now, there is a very distinct difference between obscene matter and nudity. The Supreme Court has ruled that nudity in itself is not obscene, and the guidelines that they laid down with *Miller vs. California*, that is very obvious. Therefore, if we do not indefinitely postpone Senate Amendment "B," we will, in effect, be putting two laws saying the same thing on the books, the only difference being that they would be two sections apart.

The SPEAKER: The pending question is on the motion of the gentleman from Limestone, Mr. McKean, that Senate Amendment "B" be indefinitely postponed in non-concurrence. All those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

28 having voted in the affirmative and 68 having voted in the negative, the motion did not prevail.

Thereupon, the House voted to concur.

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

JOINT ORDER — Relative to Study on Casco Bay Island Ferry (H. P. 1733) — Read in House on June 20.

Tabled — June 20, 1977 by Mr. Carroll of Limerick.

Pending — Passage.

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

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

Bill, "An Act Concerning Penalties for Operating a Motor Vehicle Under the Influence of Intoxicating Liquor or Drugs" (H. P. 1362) (L. D. 1667)

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

Pending — Adoption of Committee Amendment "A" (H-717)

On motion of Mr. Hughes of Auburn, retabled pending adoption of Committee Amendment "A" and tomorrow assigned.

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

Bill "An Act Revising the Disqualification Periods for Persons who Voluntarily Quit Work or are Discharged for Misconduct" (H. P. 113) (L. D. 143)

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

Pending — Passage to be Engrossed.

Mr. Stubbs of Hallowell offered House Amendment "A" and moved its adoption.

House Amendment "A" (H-782) was read by the Clerk.

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

Mr. STUBBS: Mr. Speaker, Ladies and Gentlemen of the House: What this amendment does, it leaves in the section which says that a person must earn eight times his weekly benefit amount if he voluntarily quits, but it also inserts that if he doesn't go to work and there are 12 weeks which he is disqualified, during that 12-week period from which he is disqualified from unemployment benefits, he must report in 12 separate weeks to the employment service.

What this does is, it puts a clamp on some of these people who would like to spend the 12 weeks on the beach in Miami and so forth at this time of the year. It also inserts a phrase to the effect that he will not be disqualified from benefits if he leaves his employment due to serious illness, injury or disability or in the case of pregnancy, injury or disability of a spouse, or if he or she should follow a spouse to another residence, another location, then they would also qualify. But, the main feature of this bill is

the weekly reporting requirement during the 12 week disqualification period for voluntary quitting.

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

Mrs. TARR: Mr. Speaker, Men and Women of the House: I have been waiting a couple of days now for this amendment and this amendment is practically the very same thing that this House helped me defeat in a Committee Amendment last Friday by a good vote, maybe not a big vote but a good vote.

This amendment, when you sign up for work every week, this was in the other amendment. It says that you can sign up for your unemployment, whether you do it by mail, what is going to happen if you are out of state, how are you going to keep control of it? This is liberalizing the very same bill that I am trying to tighten up.

This amendment will cost you an additional million dollars; my bill saved \$2.9 million. It is not doing the job that I am trying to do with the original 143.

In Section 2, he leaves his regular employment to accompany, follow or join his spouse. This means that if I am married and my husband moves to another job, that I have to quit my job to go with him, I would get unemployment. I think this is a decision that the family should sit down and make together. I don't see why, if I have to quit my job because I want to go with my husband that I should get unemployment compensation. This liberalizes your unemployment, your voluntary quit provisions that I am trying to tighten up.

I don't have any problems with the illness provision. This came up in debate the other day. This is a question asked by Representative Libby Mitchell. I have no problems with that. But I would have to move indefinite postponement of this amendment and I would certainly amend my bill to include the objections that Representative Mitchell raised.

So, I urge you to stay with me, like you did on Friday and defeat this amendment. What I am trying to do isn't a radical procedure in my original bill, 143. 41 of the states have tightened up their voluntary quit provisions and this is exactly what I am trying to do and I urge your support to indefinitely postpone this amendment.

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

Mr. BOUDREAU: Mr. Speaker and Members of the House. I hope that the House won't adopt the amendment. I think the purpose of the original bill was to prevent people from waiting that 12 week period out and then beginning to collect. The reporting requirement that Mr. Stubbs has included in this bill simply says a person will have to report. Well, presently the commission has the authority to force or to allow people, especially in the rural areas — if I am on unemployment, I can pick up two or three reporting forms and mail one in each week, so it is not forcing the person to report in person and be available for work.

Secondly, he has rewritten Section 1123, Chapter 26. Under present law, if a person leaves work because of illness, the person has to do three things, he has to notify the employer; he has to take precautions with the employer so that when he does become available for work, he will have to notify the employer that he is available and wants to return to work. Mr. Stubbs has struck that out and says now that if you are sick, and you leave work, you don't have to notify the employer, you don't have to notify the employer that you are going to be seeking your job back when you become healthy again. He has rewritten that section. That liberalizes the voluntary quit laws that we have on the books now.

I would like to say, as Mrs. Tarr said, this amendment includes three of the five provisions of the amendment we killed last week. It essentially liberalizes it. If you are going to force someone to report, you aren't forcing them to report in person once a week because those people can send in a form and that is one way of reporting.

The second thing I think is important is that if a person is going to be sick or is going to go out sick, that that person should notify the employer and should notify the employer when he becomes healthy again that he will return to work and that has been completely struck out by this amendment. I just don't think it is a very good amendment and I hope the House won't adopt it.

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

Mr. STUBBS: Mr. Speaker, Ladies and Gentlemen of the House: I don't want you to be misguided here. If you read the amendment, it says, has reported to the employment service once a week for 12 weeks whether or not the weeks were consecutive in accordance with such regulations as the commissions shall prescribe. If they are reporting by mail, that means that the commission has prescribed that they can do this. The commission can easily prescribe that they report in person to the commission at their local office, there is no problem. It is not a case of just by mail, it will be up to the commission and I would fully expect the commission to take the individual cases under consideration.

There are times when a person could not report personally and I think we all know of particular cases. A person might live a long distance away but whether it be by mail, telephone or individually I think that what we are trying to do here is give them a little bit of latitude so that they won't be bound in too tightly by the law.

I would suggest that what this tries to do is to give people a decent, honorable out if they leave work, for some reason, and there are many many reasons why a person might voluntarily quit work, as we have all heard in the discussions that have gone on prior to this.

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

Mr. BOUDREAU: Mr. Speaker, Members of the House: The commission, as stated in this bill, says that in accordance with the regulations the commissioners prescribe, the commissioners already prescribe regulations. Those regulations are different in every part of the state and as Mr. Stubbs said, there is a good reason why a person might not be able to report in person and the commission has already prescribed regulations that will allow a person in some cases to take two report forms or three report forms and mail one of those in each week. I don't really think that is the issue.

The bottom line is, should someone who quits their job be allowed to collect unemployment, you should vote for this amendment. If you don't think they should, you shouldn't vote for this amendment.

I was talking to a gentleman in this House yesterday, who is on the other side of this issue and I just said to that person, if I am an employer and I provide you a job and you quit, for whatever reason, you are trying to tell me that after you ate for 12 weeks, that I should support you? And that person said: yes, I think that's your responsibility, as an employer, after

I quit the job that you gave me to support me. And I said I am sorry, I just can't buy that.

That is just the basic issue. I think possibly there are good reasons and I think if there were an amendment offered that would say we aren't going to disqualify somebody for leaving their

job due to an illness in their immediate family, etc., I could buy that amendment fine but the voluntary quit bill has been put in to stop people from going on a 12 week vacation, then being eligible to collect and that is the issue. Even if you make them report once a week. If I had my way, I would make them report once a day. They should not be able to wait for 12 weeks and then collect, it is as simple as that.

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

Mrs. TARR: I would just like to remind you again what the purpose of the original L.D. 143, the voluntary quit bill, is for. It would tighten up the fund. We are in debt in that fund, the employers pay the freight for this fund, they are going to have an increase and they are willing to pay it but I am trying to tighten up on the voluntary quit provisions and if you adopt this amendment, you are going to just liberalize it. It will not serve the purpose of what I am trying to do. Now, if I didn't make the motion before, Mr. Speaker, I will make the motion now for indefinite postponement of this amendment and I ask for the yeas and nays.

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 Lisbon Falls, Mr. Tierney.

Mr. TIERNEY: Mr. Speaker, Men and Women of the House: This amendment is not precisely the direction I want to go in either and I guess to that extent I agree with the gentleman from Waterville, Mr. Boudreau. But I think there have been some statements made which are just, frankly, incorrect. I thought I would at least try to straighten the individuals out a little bit who made those remarks.

To begin with, this is not a liberalization of the present law. As the gentlelady from Bridgton, Mrs. Tarr, knows, that if she looks at that information which she, in fact, distributed to us about a week ago, which was prepared by the Department of Manpower Affairs, she will find that the provisions in the law which require individuals to report every week, do indeed save the fund a significant amount of money. But more to the point, rather than to play the numbers game, lets ask ourselves, what are we trying to do? What is the current law, what is wrong with it, what direction should we go in? Because I voted against indefinite postponement of this bill the other day. I think we ought to pass something.

What is the problem with the current law? To my way of thinking, the problem with the current law is an increasing number of young, relatively middle class people, who walk into an unemployment office and say, four months ago I quit my job, where is my check? And no self respecting citizen of this state can possibly allow that type of behavior to go on without getting outraged. And that is the reason why I voted against indefinite postponement and that is the reason why I think we ought to change the law. So, how are we going to do it? Now, I suggest that this is at least a decent way to begin. First of all, the individual in question has to report to the office, the unemployment office, and say that he left his job and you have to determine whether it is a voluntary quit or not. Let's assume it is a voluntary quit. Then, after having reported, he has to register with the employment service every week for 12 weeks.

That is three months. That is a long period of time. Every week he has to come in, show the commission, if the commission is doing its job, where that person looked for employment and to show that that person is able and available for work. If at the end of three months that person still can't find a job, then that person would become eligible for unemployment still susceptible to all the other rules and regulations as far as having to be able to go to work, having to be able to meet all the other requirements which we have in the current law. I think that is a reasonable approach, because the bottom line is precisely what Mr. Boudreau said. Should a person who voluntarily quits ever be allowed to draw unemployment, ever? That is what the issue is and I say, that after that guy has been out for three months, that after he has looked for jobs, then maybe if under certain other suitability requirements that person ought to be able to draw unemployment. Now, much as I am outraged by what I consider to be an increasing number of middle class, young people who decide to take advantage of the system — lets use a couple of other examples which are not so hypothetical. People do things on the spur of the moment all the time. People go to work, they get up in the morning, they have a fight with their wives, they go to work and the boss says something they don't like and they get mad and they quit. They are wrong to do that, they are wrong to quit under those circumstances. They go home and they tell their wife about it, the wife says "you are a fool, go back and try to get your job back" they go back and they can't get it. And they were wrong. I am not defending the person who voluntarily quits under those circumstances, they were wrong. But how much do you want to punish that person, how much do you have to force that person's face down into the mud? This says he has to go to the unemployment office for three months with no other visible means of support for his family, for three months, trying to get a job. That is a long time. I want you to think about that person, the person was wrong, but let's just think about it, how much punishment is fair under those circumstances? Do we really want to permanently tell that person that he is not going to draw unemployment because that is what this bill does. The eight times is just a sham. We all know that, because if he earns the eight times, then the second job becomes the job which cranks into the eligibility requirement and just repeats itself and repeats itself.

I think this is clearly not a liberalization. The other states which are fighting down on voluntary quits, their laws are not analogous to our own because they don't have the attributable to employment clause that we have in our statutes, so you can't compare those. The laws are just too different in the other states. I just ask you how much do we want to punish that person and I think the bill, in its current form, goes too far and I think this is a reasonable middle ground between the position of the gentleman from Westbrook, Mr. Laffin and the gentlewoman's position from Bridgton, Mrs. Tarr.

I would like to close with one final vignette. I had the privilege today at noontime to go out for lunch for the first time with Mr. Benjamin Dorsky of the Maine AFL/CIO and I knew he wanted to talk to me about something. I didn't know what it was and it was my position on the this bill. He was somewhat miffed that I voted against indefinite postponement and I see him sitting in the balcony now, hovering above us, casting his eyes down on all of us but I think it's about time that we do do something in the area of voluntary quits. I think this is a good and decent approach and I certainly hope we support Mr. Stubb's and his amendment.

The SPEAKER: The Chair recognizes the

gentleman from Waterville, Mr. Boudreau.

Mr. BOUDREAU: Mr. Speaker, Ladies and Gentlemen of the House: I have come to have the greatest respect for the gentleman from Lisbon Falls, although on this area we don't agree very often.

I would only suggest that the responsible gentleman who has a family to support is not going to quit his job or shouldn't quit his job and report to the unemployment office one time a week for 12 weeks. My definition of a responsible family man isn't that person. So if we are going to say that we are putting somebody's face in the mud by not letting him collect, I don't think that's true because I don't think a responsible family man would quit the only job he had, the only means of support for his family, I hope he wouldn't.

Secondly, I don't think this is a good compromise because, as I said before, we are changing the disqualification language in the present law by saying that if a person quits because of illness, that person does not have to notify the employer, that person does not have to notify the employer that he wishes to return to work when he becomes healthy again. The person doesn't have to do any of that. This amendment says, if a person quits because of illness that person is eligible for unemployment compensation. I see that as liberalizing the present law and I don't think that is a compromise on a voluntary quit bill.

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

Mr. ELIAS: Mr. Speaker, Members of the House: I, too, would like to ask for your support for Mr. Stubb's amendment and I would like to give you my reasons why I am opposed to Mrs. Tarr's bill.

First of all, with the struggles and the frustrations the Maine people are having with unemployment at the present time, we are being asked to badger and hassle them even further. Perhaps some of our wealthier colleagues aren't aware of the fact that there are many valid reasons why people leave their jobs or are forced to leave their jobs. I feel it is cynical and unfair to anyone, for anyone, to think or even suggest, that these people are loafers or cheaters. Many men in Madison and many other areas or communities in Maine will attest to the fact that it is not easy to draw unemployment and will remind you that it is no cause for pride. Where can you find today any young people graduating from high school, or college, or even any middle aged person, who would prefer the dough as opposed to a good secure job. I know some people and so do you, who are forced to leave their job because of conditions, tensions or demands that are intolerable.

During this recession period, I feel all our actions should show compassion and understanding for these people who are out struggling to find employment. This bill puts further restrictions on the person or people who are out looking for work that they can do and continue to do. I think this is unnecessary and very unfriendly to the working people of Maine and would ask you to support Mr. Stubb's amendment.

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

Mr. MARSHALL: Mr. Speaker, Ladies and Gentlemen of the House: I don't see anything here about the working man and this bill deals with the voluntary quit and as far as "badgering and hassling" those people to leave their job, I might remind the good gentleman from Madison that those people who are working, who are supporting and indirectly carrying a great many people who do voluntarily quit for not so necessary reasons, are badgering and hassling the majority of the working class and I

get pretty upset when I keep hearing legislation regarding voluntary quits and things of that nature and the context of the argument revolves about the working man.

I ask you to vote to indefinitely postpone this amendment and if the motion has not been made, I so move.

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

Mr. WYMAN: Mr. Speaker, Ladies and Gentlemen of the House: I believe I have a responsibility to correct some of the misconceptions that you may be presented on this particular bill and on this amendment. Now, it has been stated by my very good friend from Waterville, Mr. Boudreau, that this amendment and this bill is a liberalization of our unemployment laws in this state. That is not true. I believe that the good gentleman knows that that is not true. If he cares to read the amendment, he will find that, in fact, this amendment is a reasonable compromise between two different points of view. I don't believe there is a person who sits in this chamber, who is not seriously concerned about the problem that we face with our unemployment situation and the problem we face with those who are, in fact deliberately ripping off the system and I know that those people exist and so do you. This is not a question of whether or not we want to get at the unemployment problem or whether we want to protect those who are deliberately lazy and want to quit their job for no good reason. That is not the issue at all. The issue is, if we consider this problem and as we respond to public pressure that our constituents have brought upon us, our challenge is to act in a responsible, a firm and a compassionate way. The question is the avenue we will pursue in dealing with this problem, not whether or not we want to deal with the problem at all because we all agree on that. We all agree that there is abuse. We all agree that the person who is lazy and wants to go on a Bermuda vacation and then collect his unemployment should not be protected. So, I don't think there is any dispute.

I just want to refer you, if I may, if you will just forgive me for becoming a little technical on this but I think that some of the statements that have been made should be corrected. Now, at the end of last week, we defeated Committee Amendment "A" to this bill, which was the report of the majority of the Labor Committee and at one time the unanimous report of the Labor Committee. At the bottom of Page 1 of 644, it says and you may not have that amendment before you but I would like to read it to you, it says "the claimant shall be relieved of this reporting requirement for any week in which the commission finds that the claimant was not actually notified of his obligation to report". Now, I will submit to you, that that is unfairly favorable to the person who voluntarily quits. That is too liberal, so we corrected it in the amendment and what we said was, if you will notice, we have taken out the language of that completely and what we said is that it is the responsibility of the person who quits to report. It is not the responsibility of the commission to notify him that he needs to report. If he doesn't report, he won't get his unemployment. So I think that is a significant change but that is not the most significant change we have made. What we have said is we are going to put back the 12 week waiting period as an option to earning eight times more than the person's weekly unemployment benefits, but we have said beyond that, that during that 12 weeks waiting period, if you read the amendment, you will notice that upon leaving his employment, the first thing he must do is register for work and then report every single week, once a week, for work showing good faith that they are seeking employment during that 12 week waiting period.

Currently, under the law, we know of the

abuse that exists, we know that what a person can actually do is work for a time setting aside each week a little bit of money, his vacation money, and then decide one day if the sun happens to be shining quite brightly that he is going to quit his work and he is going to go on a vacation. So, he takes his savings and goes to Florida for twelve weeks because he doesn't have to report and then at the end of that twelve week period, he can show up and be eligible to receive unemployment, under the current law. Under this amendment, if he takes a vacation, it is going to be interrupted at least once a week because he is going to have to go back and report for work. He is going to have to fill out whatever forms the commission requires him to fill out, saying what businesses he has gone to and applied for work, what the response was and he is going to have to do that every single week of that waiting period.

If that is a liberalization of the current law, then I guess I don't know the meaning of the word, because as far as I am concerned, that is a tightening up of the current law.

If you should decide in your wisdom that this amendment is not an acceptable compromise, despite the fact that both sides of the issue have worked on it over the last 72 hours to try to arrive at something that would be acceptable to all parties, if you decide to adopt Representative Tarr's bill in its pure form without any amendment, what you are saying is that if a person quits, they are going to have to go out and earn eight times their weekly benefits in order to receive their unemployment benefits. If they quit that job in order to earn the eight times to receive their unemployment, then what they in effect have got to do is start all over again and go out and earn another eight times. Then if they quit that job, they are going to have to go out and earn another eight times. So what, in effect, the bill actually should have said is that anyone who quits voluntarily, except for the conditions that are set forth, will never receive their unemployment, ever as long as they live, because that is the effect of this bill.

I know that AIM has taken aim on the abuse and I know that many employers, while well intentioned, would certainly like it from a financial point of view, if they didn't have to pay any unemployment to those who have quit for whatever reason. They certainly are going to be at an advantage.

What is going to happen, however, to the man who has quit and Representative Tierney mentioned perhaps some of the reasons that he would quit would not be good reasons but he quits nevertheless, you can't change the fact that he has quit, he shouldn't have done it but he did it, he has three or four children to support and under Representative Tarr's bill, he is going to have to go out and get another job. If he doesn't get that job, I guess the alternative is pretty clear, he can either choose to let his children starve and I don't believe that I am being melodramatic because as far as I can see, that is the alternative unless he gets food stamps and we all love the food stamp program or unless he goes out and gets some other kind of assistance, what actually is going to happen to that individual, is that he is going to the town where he lives and say, well look, I can't collect unemployment, I can't find a job and I want you, the town, to support my family through general assistance. You know what that means? That means that property taxes in many municipalities is going to up in order to fund the increasing burden that we are going to have in our general assistance program.

If we believe that people who voluntarily quit their work are simply going to dry up and blow away, we are wrong. They are not and they are going to do everything they can to support their family. They may not have an opportunity to correct the mistake they made.

There is one other point that I want to make and then I will be seated. It has been stated, and I am sure that it will be said again before this debate is over on this particular bill, that a person who quits, has quit for absolutely no good reason, they just don't want to work anymore and why should we be asked to support them? They are lazy no good bums.

Let me tell you a story. A young man who happened to work and live in Fairfield had a job in Pittsfield, and in the middle of the winter while he was commuting back and forth to work, his automobile broke down. Under our bill and under this amendment, that is not good reason to quit, just because your car breaks down. Probably realizing that, he started hitch hiking to work in the middle of the winter and he made it on most days but he did miss some days during the most severe blizzards, he couldn't quite make it. In February, this young man managed to move to Pittsfield, a lot closer to his employment, so he was able to get to work without missing a day. So from February until May, he didn't miss a day of work, not one day. Keep in mind that during this time none of the employers had mentioned anything to him about the fact that he had missed some work, no one said a word. In May, the machine that this young man was working on, it was the only machine that he was on, broke down, he didn't break it, it was a malfunction and broke — the next day they called him into the office and they said, Allen, we have been reviewing your records and we found out that you have missed too much work last winter and we are going to have to let you go. They didn't lay off this young man. Actually, under this law, they fired him for misconduct. I believe that is the legal definition and they did it so he wouldn't be able to collect unemployment. This young man was single, he didn't have a wife and family to support and he was fortunate enough to get another job, because he couldn't have collected unemployment.

Under Representative Tarr's bill, he would never collect unemployment, ever. I suppose we could say that that is all right because he did get another job and after all, he didn't have a family to support and I guess he was fortunate there.

I guess my question is, what happens to the man, who has a similar situation happen to him and he does have a family to support? You see people who quit, quit for a number of reasons. They quit for good reasons and reasons that aren't so good. We have taken out transportation. We said that is not a good reason. We have taken out the first part of the first condition of the original committee report, which says, if he leaves his regular employment due to a personal emergency of such a compelling nature that it would be contrary to good conscience to impose the disqualifications and we took that out. What we have left here is I think an acceptable compromise. I feel very strongly about this.

If we feel that the law needs to be tightened further, we can do that another session but I believe that this is a step in the right direction. I believe that this is both firm and compassionate. I would ask you as sincerely as I can to be able to support this and go to your constituents and tell them you have done something responsible about the unemployment picture.

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

Mrs. LEWIS: Mr. Speaker, Ladies and Gentlemen of the House: I am not trying to convince anybody to vote one way or the other, but I would like to correct two errors that I heard — one is that this was never a unanimous report from the Committee on Labor. Since I am on the committee, I would know very well and I never signed the bill out, so it was never a unanimous committee report.

The other thing I would like to correct is that

we keep hearing about people reporting every week. I have heard several people say it and if you look at the amendment and read it, you will see — I will read it to you: "Disqualifications shall continue either until the claimant has earned eight times his weekly benefits or until the claimant has left work, then registered for work with the employment service and then has reported to the employment service, once weekly, for 12 weeks whether or not the weeks were consecutive. To me, that means that the weeks don't have to be consecutive, if you say whether or not, so it is not every week for twelve weeks.

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

Mr. TIERNEY: Mr. Speaker, Ladies and Gentlemen of the House: The gentlewoman is absolutely correct and the reason that we put that is, in the amendment, so it doesn't have to be consecutive, is that if a person doesn't show up during a particular week, then the 12 week suspension becomes a 13 week suspension. Suppose a person doesn't show up for four weeks, then the 12 weeks become a 16 week suspension. In other words, that is something in there, which I thought while I didn't like it necessarily but it was in there, it would help the employer to make sure they show up or their disqualification period becomes longer and longer.

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

Mr. BUSTIN: Mr. Speaker, Ladies and Gentlemen of the House: I just want to add a couple of things. I think sometimes we don't really get a clear picture of some of the pressures that people are under in their employment. Some people voluntarily quit because of the smell; some people voluntarily quit because of the noise; some people voluntarily quit because the workload has been added on to the point where they can't do it anymore; some people voluntarily quit because they thought they would try a night job and they find out it is having a deleterious effect on their children. The part of this bill that bothers me, I guess, probably is the title, and it has bothered me ever since we got into it three or four years ago. My real concern is not the voluntary quit aspect, it is the forced quit, the forced quit aspect of this situation where employers actually force their people to leave their jobs.

Mrs. Tarr's bill, unamended, plays into the hands of our worst employers in this state. It takes advantage of non-skilled and low-skilled workers in minimum wage jobs.

I think we should support the amendment and then pass the bill.

Mr. Boudreau of Waterville was granted permission to speak a third time.

Mr. BOUDREAU: Mr. Speaker, Ladies and Gentlemen of the House: I think Mr. Bustin's testimony, I wish I had written down what he had said about the suitability bill because if I recall, it was the exact same words about creating a low-skilled labor pool, I think was his words, and I don't know what else he said that time but it sounded like the same speech.

Just two points about the remarks of the gentleman from Pittsfield. He says that we are not liberalizing the law. Presently, those people who quit because of illness are disqualified. Those people who quit because they are going to follow their spouse are disqualified. Under this bill, those two people are not disqualified, which essentially means, you are saying that more people who quit their jobs will not be disqualified and that is not tightening it up.

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

Mrs. TARR: Mr. Speaker, Ladies and Gentlemen of the House: I just can't voluntarily quit, Mr. Speaker, I just have to answer Mr. Bustin and I might add that there isn't anybody I enjoy hearing speak on the floor more than

Mr. Wyman — Mr. Bustin may be second but Mr. Wyman is first and he is a hard act to follow and I am not going to try to do that but I would like to remind the men and women of this House that there is an appeals procedure, you know that there is, Mr. Bustin knows that there is and you can appeal, you can have three hearings and you can appeal any decision. You have a hearing and out of 20,000 voluntary quits last year, 20,000 people in the State of Maine quit their jobs last year, 6,000 of those decisions were not called a quit. They were allowed to get their benefits.

I agree that there are employers in the State of Maine that will harass and will cause it to be so difficult for an employee that they have to quit their jobs. Evidently, there were 6,000 of those decisions that were made last year. But that doesn't say that there weren't 14,000 other people who quit their jobs for no good reason attributable to their employment. This is what I am trying to tighten up. Don't vote for this amendment and then go and tell your people that you have done something to tighten up the voluntary quit provisions, because you have not.

I urge you to support the indefinite postponement of this bill.

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

Mr. PERKINS: Mr. Speaker, I would like to pair my vote with the gentleman from South Berwick, Mr. Goodwin. 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 before the House is on the motion of the gentleman from Bridgton, Mrs. Tarr. That House Amendment "A" be indefinitely postponed. Those in favor will vote yes; those opposed will vote no.

#### ROLL CALL

YEA — Alopous, Austin, Bagley, Berube, Biron, Boudreau, P.; Brown, K. L.; Brown, K. C.; Bunker, Carrier, Carter, F.; Conners, Cunningham, Devoe, Dexter, Drinkwater, Dudley, Durgin, Fenlason, Fowlie, Garsoe, Gillis, Gould, Gray, Green, Higgins, Huber, Hunter, Hutchings, Immonen, Jackson, Kane, Lewis, Littlefield, Lizotte, Lougee, Lunt, Lynch, Mackel, Marshall, Masterman, Masterton, McBreaarty, McKean, McPherson, Morton, Palmer, Peltier, Peterson, Post, Rideout, Rollins, Sewall, Silsby, Smith, Sprowl, Stover, Tarbell, Tarr, Theriault, Torrey, Tozier, Tyn-dale, Whittemore.

NAY — Bachrach, Beaulieu, Bennett, Benoit, Berry, Birt, Blodgett, Boudreau, A.; Brenerman, Burns, Bustin, Carey, Carroll, Chonko, Churchill, Clark, Connolly, Cote, Cox, Curran, Davies, Diamond, Dow, Elias, Flanagan, Goodwin, K.; Greenlaw, Hall, Henderson, Hickey, Hobbins, Howe, Hughes, Jacques, Jensen, Joyce, Kany, Kelleher, Kilcoyne, Laffin, LaPlante, LeBlanc, Locke, MacEachern, Mahany, Maxwell, McHenry, McMahan, Mills, Mitchell, Moody, Nadeau, Najarian, Nelson, M.; Nelson, N.; Norris, Peakes, Pearson, Plourde, Prescott, Quinn, Raymond, Spencer, Trout, Stubbs, Talbot, Tierney, Trafton, Truman, Valentine, Wilfong, Wood, Wyman, The Speaker.

ABSENT — Ault, Carter, D.; Dutremble, Gauthier, Gill, Jalbert, Martin, A.; Shute, Teague, Twitchell.

PAIRED — Goodwin, H.; Perkins.  
Yes. 64 No. 75; Absent. 10; Paired. 2.

The SPEAKER: Sixty-four having voted in the affirmative and seventy-five in the negative, with ten being absent and two paired, the motion did not prevail.

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 SPEAKER: The Chair recognizes the

gentleman from Augusta, Mr. Bustin.

Mr. BUSTIN: Mr. Speaker, having voted on the prevailing side, I now move reconsideration and hope you all vote against me.

The SPEAKER: The gentleman from Augusta, Mr. Bustin, having voted on the prevailing side now moves that the House reconsider its action whereby the Bill was passed to be engrossed. Those in favor will say yes; those opposed will say no.

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

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

RESOLUTION, Proposing an Amendment to the Constitution Allowing the Legislature to Impose a Different Rate of Taxation Upon Properties Outside of Incorporated Municipalities and Plantations (H. P. 1009) (O. D. 1212)

Tabled — June 20, 1977 by Mr. Curran of South Portland.

Pending — Adoption of House Amendment "A" (H-707) to Committee Amendment "A" (H-659)

On motion of Mr. Curran of South Portland, tabled pending adoption of House Amendment "A" to Committee Amendment "A" and tomorrow assigned.

The Chair laid before the House the sixteenth matter of Unfinished Business.

HOUSE REPORT — "Ought to Pass" as amended by Committee Amendment "A" (H-703) — Committee on Health and Institutional Services on Bill "An Act to Require that Persons or Agencies Placing Unrelated Children for Adoption be Licensed" (H. P. 416) (L. D. 523)

Tabled — June 20, 1977 by Mr. Goodwin of South Berwick.

Pending — Acceptance of the Committee Report.

On motion of Mr. Brenerman of Portland, tabled pending acceptance of the Committee Report and tomorrow assigned.

The Chair laid before the House the seventeenth matter of Unfinished Business:

Bill, "An Act Relating to the Licensure of Plumbers" (S. P. 256) (L. D. 813) (C. "A" S-258; S. "A" S-273)

Tabled — June 20, 1977 by Mr. Goodwin of So. Berwick.

Pending — Passage to be Engrossed.

On motion of Ms. Clark of Freeport, tabled pending passage to be engrossed as amended and tomorrow assigned.

The Chair laid before the House the eighteenth matter of Unfinished Business:

RESOLUTION, Proposing an Amendment to the Constitution to Require the State to Reimburse Municipalities for at least 50% of Property Tax Exemption Losses (S. P. 366) (L. D. 1227) (S. "A" S-274)

Tabled — June 20, 1977 by Mr. Curran of South Portland.

Pending — Passage to be Engrossed.

On motion of Mr. Curran of South Portland, tabled pending passage to be engrossed as amended and tomorrow assigned.

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

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

The Chair laid before the House the nineteenth matter of Unfinished Business:

SENATE DIVIDED REPORT — Majority (9) "Ought Not to Pass" — Minority (2) "Ought to Pass" as Amended by Committee Amend-

ment "A" (S-260) Bill "An Act Concerning the Blue Sky Law (S. P. 200) (L. D. 598) — In Senate, Minority "Ought to Pass" Report Read and Accepted and the Bill Passed to be Engrossed as Amended by Committee Amendment "A" (S-260)

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

Pending — Motion of Mr. Jackson of Yarmouth to Accept the Majority "Ought Not to Pass" Report.

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

On motion of Mr. Morton of Farmington, the House reconsidered its action whereby it accepted the Majority "Ought Not to Pass" Report.

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

Mr. MORTON: Mr. Speaker, Ladies and Gentlemen of the House: Mr. Speaker, I am sorry that I was a little slow on my feet. I don't want to bleed and die over this particular measure but I think it has some merit and I would like to explain it to the people of the House.

What this measure does is, if you look at the Committee Amendment, it increases the number of people who can incorporate a business in Maine without going to the FCC if they don't make public announcement or a public sale of their stock, increases from 10 to 20 the number of people who can do that. I see it as a measure which will allow small business corporations to increase their capital without going to the expense of the legal procedures of \$2,500 or so to carry out the FCC requirements and do the registering that is necessary. It is not tremendously expensive for them but it is a bother and I cite the example of a small corporation with 10 stockholders that would like to take in an 11th stockholder to increase their capital or for his expertise or for any other reason and suddenly they find themselves coming up against this 10 stockholder ceiling and they can't do it.

We don't need to concern ourselves with major corporations because they are publicly held and they are dealing with thousands of stockholders in most cases. This only discusses going from 10 to 20. I think it is a reasonable bill for small businesses and I hope you would consider supporting it and defeating the "Ought Not to Pass" Report and go for the "Ought to Pass" Report.

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

Mr. HUGHES: Mr. Speaker, Members of the House: I don't have any particular interest in this bill either but it was one that I have been following through the process and it seems to me a useful thing to do for our small businesses.

I am surprised that it got the negative report that it did and would appreciate hearing from some of the thinking of the committee. I just think a small business like this needs this kind of relief from the red tape of FCC regulation. It is a matter of judgment I suppose, whether you say 10, 15 or 20 but raising it to 20 does not seem to me to be a radical move and I would support the bill.

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

Mr. HOWE: Mr. Speaker, Members of the House: I am a member of the committee and I signed the "Ought Not to Pass" Report. We did have some testimony from the Securities Commission I believe it was called, at the state level to the effect that they were concerned that by raising the number of investors under the exemption of the Blue Sky Law, that we might get to the point where we no longer are talking about a small business. I was willing to go up on

the thing but I wanted to see something else on the exemption in the way of a feeling in terms of the total investment so that we knew we were still talking about a small operation because whether we are talking about 10 or 20, there is no guarantee we are still talking about a fairly small business because there is no ceiling put on the total investment or on the individuals maximum investment.

Another possibility was some form of short form registration. I have talked with some attorneys who work in the area of the Blue Sky Law because I knew zero about the Blue Sky Law before the hearing and had researched all the Blue Sky Laws in all of the other states and was sincerely searching for some other state that had a short form of registration on the books to see if they had had it there long enough to be workable and we found none.

The sponsor of the bill suggested to the committee, why don't you amend the bill so that the Securities Commission is charged with developing some regulations between now and next year when the bill would take effect and I think my feeling and the feeling of other members of the committee was that the committee would like to see such regulations before they are promulgated and, in fact, perhaps might write them into the statutes and enact an increase in the number of investors under the exemption at the same time we enact some short form of registration.

It is a complicated area and I talked with one Portland attorney yesterday, who sent me in today's mail, just a rough sketch of the short form of registration. I really don't think it is something that we can whip into the bill with an amendment this quick. One possibility of amending the bill is to put in a ceiling on the maximum investment but I, for one, felt that I would like to study this area some more and not simply raise the exemption without putting some kind of further safeguards into the law so potential investors have some information registered with the state so they know what they are getting into.

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

Ms. CLARK: Mr. Speaker, Men and Women of the House: I have been accused recently of taking a conservative stance. Perhaps that changes my image.

The majority of the members of the Business Legislation Committee concur with the recent remarks of the gentleman from So. Portland, Representative Howe. We suggested to the sponsor of the measure that they place a money limit or ceiling and that was respectfully declined. The last minute proposal from the sponsors of the measure that they place a money of Business Legislation in working session is that we request that the Division of Securities within the Department of Business Regulation promulgate so many rules and regulations and yet there are, as of this date, not many rules and regulations promulgated anywhere relative to this in the country.

I am sympathetic to the contest embodied in this L.D. but the responsibility or the purpose of Blue Sky registration and the mission of Blue Sky Laws is to protect investors. It is not the mission of the Blue Sky Law to promote business or to make easier the act of raising public capital by business organizations. Protection of investors is accomplished through registration requirements which provide for information disclosure as well as through registration requirements which provide for more information disclosure and by enforcement of antifraud provisions in the civil remedy provisions.

It is my understanding also that those who signed the Minority "Ought to Pass" Report, at the time of the signing, it was understood that the number was 25 rather than 20, so there

seems to be — and I am not suggesting any funny business — but there seems to be some misunderstanding in the final report.

I would simply, rather than read to you page after page of prepared remarks on Blue Sky, simply remind you again of the thrust of the Blue Sky Laws. I think the measure before us has merit. I think that it is an issue which the Business Legislation Committee embraces, and that at this time and at this place, with lack of registration and promulgation of rules and regulations, releasing the ceiling and extending is to 20, that it is precipitous.

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

A vote of the House was taken.

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

Mr. JACKSON: I think we had better have a roll call.

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

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

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

Mr. MORTON: Mr. Speaker, Ladies and Gentlemen of the House: I would agree with the gentlelady that if this were to be a public offering it would necessarily have to have these requirements for disclosure. I have no quarrel with that, but this deals with the private offering where there are 10 people who are operating a corporation and they need a little more money to capitalize their corporation to expand and some person, presumably someone with a little finance knowledge, at least enough to have an appreciable amount to invest in a corporation, may be five or ten thousand dollars, privately agrees with them that he would like to come into their corporation, but because of this rule and the 10 stockholders on hand, he cannot do it without their going to the expense of a public offering and the registration with the FCC.

My position on this bill is simply that in a private transaction of this kind, the person involved would be sophisticated enough to discuss the matter with the bankers, lawyers involved and make his own mind up, and I don't see any reason why we can't expand this. This law has been on the books for a good many years, and with the costs of operating businesses today, it does not seem unreasonable to me to allow this private sort of transaction to be expanded a little bit, and the only reason a figure of 20 or 25 is involved is, as I understand it, if the minority report is accepted, the minority report includes a committee amendment which reduces the original bill's 25 down to 20.

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

Mrs. KANY: Mr. Speaker, Members of the House: I can understand the reluctance of the majority of the members of the Business Legislation Committee on this matter. I think normally you would want to encourage this entrepreneur perhaps to register with the FCC. But in this case, really weighing the pros and cons, I do hope that we do pass the bill and the basic reason is, often when you find a small organization, a small company, a small entrepreneur going out and looking for debt capital, that there is too little equity capital in-



involved, and I think this would encourage, with the small organizations, more equity capital available. A lot of companies go under just because of too little equity capital.

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

Mr. JACKSON: Mr. Speaker, Ladies and Gentlemen of the House: Blue Sky does not deal with an end to our problem of the last few days and will bring the sun out. I think what we have to do on this is look at the other side. We are worrying about a small corporation, maybe we should look at the other side and look at the people who are offered stock in it. Basically, the law is to protect them — to use a tired phrase, a consumer bill, a consumer law. The bill, I personally feel, is naught. The question of whether to open it up — do we open it up to 20, 25, 30, 50, what have you. Ten is the present number that is allowed.

In the committee hearing, we saw people from the FCC department, and there I say it, we saw John Quinn, we also saw the sponsor of the bill, but we saw no one else in favor of the bill. The sponsor felt there was strong support for it, but this did not seem to be forthcoming, and the question rested in our minds as a consumer protection measure that ten was sufficient. If a company or a group wants to raise capital larger than 10, then they can go through the filing and then they have to certify and make sure that what they do put down as statements of fact are truly statements of fact.

I would support a short form. I would support cleaning it up and maybe it could be handled faster and slightly more cheaply, but I think these things, I would like to see the proposals for them and I would like to see them handled instead of just blithely opening this up to 20 or 25 or however many new people, and I hope you will support the committee report which was the "Ought Not to Pass" on this bill.

The SPEAKER pro tem: The Chair recognizes the Gentleman from Stow, Mr. Wilfong.

Mr. WILFONG: Mr. Speaker, Members of the House: I would rise today to ask you not to support the majority report of the Business Legislation Committee. I have to admit that when I first saw this bill, I thought there might be a problem with sending it to the Business Legislation Committee, because I am on the Natural Resources Committee and I thought anything dealing with Blue Sky perhaps ought to go there. So I took a little time to look into the blue sky law, and I think that this is a very reasonable request to raise the number of investors from 10 to 20.

Let's assume that I was to start a small ski company, building skis or ski poles up in Stow, and I needed 15 investors, they were friends of mine and I would ask them to privately contribute a portion of my equity capital that was necessary to start the company. I would not be able to do so the way the law presently is unless I were to go through a very expensive legal process in filing of papers that would cost anywhere from two, three to four thousand dollars, even though all 15 of those people happen to be friends of mine, or 11 at this point, because 10 is the limit.

I think it is a very good bill to help small businesses and, as Mrs. Kany said, small entrepreneurs, to encourage them to get their friends, or maybe not their friends, to invest in a small venture. Very large corporations will have to, of course, go through the normal security, filings and so forth, but this is a very reasonable request I think, and it would be an asset to helping Maine small businesses and Maine's economy.

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

Mr. SPENCER: Mr. Speaker, I would like to pose an inquiry to the Chair. As the partial owner of a small business that does have 10 in-

vestors and is unable to expand because of the limitations without incurring substantial legal fees, am I in conflict under House Rule 19?

The SPEAKER pro tem: Will the gentleman from Standish restate the situation?

Mr. SPENCER: The situation is that the company has 10 investors currently. In order to bring in any additional investors, it would be necessary to file a registration statement which would cost a few thousand dollars, a couple thousand dollars, I am not sure of the precise figure. I feel as though it does create a conflict.

The SPEAKER pro tem: Pursuant to House Rule 19, the Chair will excuse the gentleman from voting.

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

Ms. CLARK: Mr. Speaker, Men and Women of the House: Again, I would reflect that it is the feeling of the majority of the Committee on Business Legislation that they are in sympathy with the positive and good intentions of this bill, but we feel that we would be making a mistake to expand the present number of exemptions.

The registration process will not guarantee business success or honesty of promoters in the offering of securities and I have and would share with you, if I didn't think I would be boring you to tears, numbers of instances documented in the State of Maine of recent cases where violations of registrations and that awful word of rip-off of Maine investors' money has occurred. The Registration Blue Sky Law does serve to keep honest people honest and from becoming carried away sometimes with their own enthusiasm in harming investors, whether they intend to or not. It serves to give the prospective investors all of the information necessary to make an investment decision before money is committed.

The SPEAKER pro tem: A roll call has been ordered. The pending question is on the motion of the gentleman from Yarmouth, Mr. Jackson, that the Majority "Ought Not to Pass" Report be accepted in non-concurrence. All those in favor will vote yes; those opposed will vote no. Mr. Spencer of Standish has been excused pursuant to House Rule 19.

#### ROLL CALL

YEA — Aloupis, Bachrach, Beaulieu, Berry, Boudreau, A.; Brown, K.L.; Brown, K.C.; Burns, Bustin, Carrier, Clark, Connors, Connolly, Cox, Curran, Diamond, Durgin, Fowle, Garsoe, Gray, Hall, Howe, Immonen, Jackson, Jensen, Kane, Kelleher, Kerry, Kilcoyne, Lewis, Lizotte, Locke, Masterton, Maxwell, McHenry, McKean, McMahon, Moody, Nelson, N.; Pearson, Shute, Sprowl, Stover, Talbot, Tarr, Theriault, Torrey, Wood, Wyman.

NAY — Austin, Bagley, Bennett, Benoit, Berube, Biron, Blodgett, Boudreau, A.; Brernerman, Bunker, Carey, Carroll, Carter, F.; Chonko, Churchill, Cunningham, Davies, Devoe, Dexter, Dow, Drinkwater, Dudley, Elias, Fenlason, Flanagan, Gillis, Goodwin, K.; Gould, Green, Greenlaw, Henderson, Hickey, Higgins, Hobbins, Huber, Hughes, Hunter, Hutchings, Jacques, Joyce, Kany, Laffin, LaPlante, Lunt, Lynch, MacEachern, Mackel, Mahany, Marshall, Masterman, McPherson, Mills, Mitchell, Morton, Nadeau, Nelson, M.; Norris, Palmer, Peltier, Perkins, Peterson, Post, Prescott, Quinn, Raymond, Rideout, Rollins, Sewall, Silsby, Smith, Strout, Stubbs, Tarbell, Tierney, Tozier, Trafton, Truman, Valentine, Wilfong.

ABSENT — Ault, Birt, Carter, D.; Cote, Dutremble, Gauthier, Gill, Goodwin, H.; Jalbert, LeBlanc, Littlefield, Lougee, Martin, A.; McBreairey, Najarian, Peakes, Plourde, Teague, Twitchell, Tyndale, Whittemore.

EXCUSED — Spencer

Yes, 49; No, 79; Absent, 21; Excused, 1.

The SPEAKER pro tem: Forty-nine having voted in the affirmative and seventy-nine in the

negative, with twenty-one being absent and one excused, the motion does not prevail.

Thereupon, the majority "Ought to Pass" Report was accepted in concurrence and the Bill read once. Committee Amendment "A" (S-260) was read by the Clerk and adopted in concurrence and the Bill assigned for second reading tomorrow.

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

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

Tabled — June 20, 1977 by Mr. Greenlaw of Stonington.

Pending — Passage to be Enacted.

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

Mr. RAYMOND: Mr. Speaker, on the enactment of this bill I would like to ask for a roll call vote please.

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

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

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

Mr. STROUT: Mr. Speaker, Ladies and Gentlemen of the House: I guess in the last week or so I have been told a good many things; in fact, I just had a few comments as I got up. I do feel, however, that I should say a few words today as sponsor of this L. D.

The time has come when we must make a decision in this body, whether you are with me or you are against me. The town road improvement fund, as I see it on this particular day, unless we pass L. D. 1383, is going the same route that it did the last session of the legislature, and I would remind the members who were here then with me, that I see no other way of getting this put back in the budget unless we go with the one cent increase in the gas tax.

I guess my position is, as I look over the allocations to the highway budget for 1977, that I think we have to look at priorities. This body, yesterday, passed L. D. 398 that meant \$1,900,000 to the Highway allocation. This body, yesterday, passed and move to the second reader L. D. 1144, a cost of living increase for state employees that affects the highway allocations \$2½ million. These two bills alone are \$4,400,000. We have a surplus left in our highway allocations of \$4,300,000. I see no way of getting any additional money for the towns and the larger communities without the bill that is before us.

There are a couple of other bills that I believe, in my opinion, make sense and they have my priority, one we passed this morning, the half year registration bill. However, in the remaining days, some of these bills are going to go by the wayside. If we could pass this bill today and send it to the other body, I feel that we would have the program that would put us back in a position where we could repair some of those roads that are deteriorating 50 percent faster than we are maintaining them.

The other day I had distributed a draft that showed what the highway allocation budgets have increased in the last six years. I think we stayed on an even keel. You know, it is amazing to me that when we have an increase each year of 10 percent expenses, how we can continue to keep our allocations on an even keel.

I know that I have had people come to me in the last few days and say, why do you fight a dead horse? If you are able to get through here,

you are going to be faced with a veto. I have been faced with vetoes in the last two years and I have overridden vetoes that increased the income tax of the people, an education budget. We had no problems overriding those vetoes, and I think when you look at a program that is as serious as this is, that I have no problem, if this measure was to get through these two bodies and come back to me, in overriding a veto.

Just this afternoon, the Taxation Committee met to try to arrive at reporting out a highway allocation. As of this hour, the committee has not come up with an agreeable highway allocation. What is going to happen in the next few days? Someone is going to have to compromise. If I lose this battle, I am one who will probably compromise. I feel very strongly that I would like to see the TRI program to back as it was in 1975. I would like to see more money in the resurfacing program, and I really felt, when I put this bill in, that some of the larger communities, numbering 282 in this state, needed additional money for snow removal reimbursement. I think it is a good bill, I think it puts us on the right track, and I would hope today that if the people had taken the time in the last week and really looked at what this bill does for your communities, that the light would be green on enactment.

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

Mr. KELLEHER: Mr. Speaker, Ladies and Gentlemen of the House: First of all I want to assure my good friend from Corinth, Mr. Strout, that he hasn't got to worry about any veto message because I don't think there are votes enough in this House to send it down to the Governor's desk to be vetoed. I can sympathize with him, as I said before to other members of the Transportation Committee, and particularly you members who come from rural areas, about TRI money. Mr. Strout is shaking his head and saying that there is no way in the world that we can change the Highway Allocation Act. Well, I understand they need 101 votes to pass that act, and I think this House could almost go into a committee as a whole to set the priorities so that you people of rural areas can get your TRI money. I think that is an obligation for all of us to do, particularly those of us who come from the cities and have the benefit of nice federal highways, I-95 that goes right by my community in Bangor and enters into the tip of Aroostook County.

I don't believe it is necessary for us to pass a gas tax for town road improvement money. And as a gentleman that used to serve on the Highway Transportation Committee for many many years, and a man for whom I have the greatest respect, Mr. Dudley used to say, "take a good look at their equipment account or "take a good hard look at their surplus accounts."

I urge the House not to support the one cent increase in the gas tax, because in my humble opinion, I don't think it is necessary.

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

Mr. DUDLEY: Mr. Speaker and Members of the House: I served on that Transportation Committee for many years and I voted for gas taxes in the past when I thought there was a need for them, and it has been very adequately pointed out that the cost of living has gone up and this would cost money, and this I understand, but also the cost of the revenue has gone up, gone up considerably, going way up this year. There is one of the greatest increases in gasoline consumption this year ever.

Scare tactics are not going to work in this House. They are trying to tell you you couldn't get your TRI money, and I am from the country, you couldn't get this and you couldn't get that. How do they know? They haven't put out the highway allocation act; they can't agree

amongst themselves. They haven't even looked at the equipment accounts to see how many millions of dollars, I bet there is not a member on the committee that can tell you how much is in the equipment account, how much is in surplus, and they are not going to stuff this down my throat, that we need one extra cent in the gas tax, even if I don't get any town road improvement money, because that wouldn't be so. This is decided in Highway Allocation Act, and it isn't even before us yet. So they are not going to use that for a scare tactic.

The fact of the matter is, revenue is up to correspond with expenses as of the present time. Our gas tax is more than any state, there is no state in the Union that is more than us, let's put it this way. We are one of the top ones now. We are getting out of line in this gas tax, Our highways are quite adequate, better than in most states, and they will continue to be with the present tax.

That highway allocation act is not going to be used to frighten me. I know that they can't even agree in the committee as a whole now; that is why it is not before us. I think it would be unwise. The people that you talk with, that you are representing — I represent people on the streets back home, I don't represent some department that wants to be bigger and bigger and build another two or three million dollar building across the street.

Let me tell you too, I was here when we raised this gas tax that was supposed to be spent on the highways, and this revenue that was supposed to be spent on the highways and this revenue that has come in is dedicated, and I think you understand that that is to be spent on the highways. They have dug wells, artesian wells, and had these district places like in Bangor, they even have one in West Enfield now, buildings and all kinds of things. This is a stretch of the imagination to think that is highways. So if they have money to build million dollar buildings and buildings all over the state, that is the fault of the allocation act. You allocated for things other than highways, and if you give them more money, they will be building airports or something, they will spend the money. The people back home don't support any increase in the gas tax at this time. The only support that I can find is from some department head here in Augusta.

I am not afraid to lose the town road improvement money. We had a good amount last year, we had an adequate amount in years past and we will have the same amount this year, or nearly the same amount, and our roads are not in as bad a shape as they were ten years ago. I can remember when I served in this House, the mailmen had a hard time delivering the mail in my area; they are not having any problem now. The roads are quite adequate, and the mailman is not complaining, I have not seen one mailman attended any hearings we have had here this year. I remember when mailmen came in here from all over the state and told us of the road conditions, of them being unable to deliver the mail in rural areas. This is no longer the case, so they can't frighten us with that anymore. So please don't be frightened, and you would be using judgment, in my opinion, if you vote against this increase in tax today.

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

Mr. HALL: Mr. Speaker, Ladies and Gentlemen of the House: I beg to differ with my seatmate, Mr. Dudley. I don't know how many towns he has even contacted, but this I can assure you, every morning I am on the telephone from 6:30 until 8 o'clock, and I have a bunch of letters here from every one of the town officials in the 13 towns in my area that are willing to go on record of supporting a cent tax if this is the only way we are going to get revenue to fix our roads. I would like to take

Mr. Dudley and Mr. Kelleher on a couple of roads in my area in the back end of a four wheel drive that I have, and I will guarantee you that within five minutes that would change their thinking on whether we have good roads or not.

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

Mr. DIAMOND: Mr. Speaker, Men and Women of the House: Just a quickie. Yesterday, at a meeting we had, a Democratic caucus, men who I respect greatly eased my concerns about TRI and said we could have this without the penny increase in the gasoline tax, and this meant an awful lot to me. In fact, I talked to him privately afterwards, and he reassured me again, so I think those of you who are voting for this penny tax increase might want to put your minds at ease and might want to talk with Mr. Carroll sometime. He seemed quite positive, first this could happen without any tax increase, and that is what I want.

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

Mr. KELLEHER: Mr. Speaker, Ladies and Gentlemen of the House: I think if you heed Mr. Diamond's words, you would be voting correctly. I have the greatest faith in Mr. Carroll and absolute trust in Mr. Strout, and you can believe me, if those two gentlemen want the TRI money in the highway allocation act, it is going to be in there, because George Carroll doesn't die hard and neither does the good gentleman from Penobscot County. We are going to fix your roads, Mr. Hall, because we are going to be sure that that committee puts that TRI money in there for you, and we don't have to do it with a cent increase in the gas tax.

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

Mr. JENSEN: Mr. Speaker and Members of the House: The Transportation Committee met this afternoon from about 1:30 until nearly three o'clock discussing the budget, and there were four proposals in front of us. One of them had a \$3 million TRI; one of them had \$2½ million for TRI; one of them had \$2 million for TRI and one had \$1.5 million. So perhaps it can't be found in the budget, but I find it strange that of the \$4.3 million that we have in surplus and the four plans that we are pretty much considering right now as to how to use that surplus, each one of them has a substantial amount of money for TRI in them.

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

Mr. STROUT: Mr. Speaker, Ladies and Gentlemen of the House: I fully realize what the good gentleman from Portland has said: I fully realize what the good gentleman from Windham has said. What I am saying to you is, I know that there is a \$4.3 million surplus. I know that I am going to do everything that I can to put TRI in the budget, but the money is just not going to be there. We have two programs that have passed this House in the last 24 hours and when we get down to the final end, and if you don't believe me, that is fine, but we get down to the final end and you start cutting out, who is going to lose? You have passed the pay raise, you have passed the merit bill, where is the money?

I would just like to make a couple of comments to the good gentleman who neighbors me from over in Enfield. Maybe the reason he is not here supporting TRI today is because the Town of Enfield doesn't have many town roads. In fact, according to my schedule, they only get \$457, the reason being that you get \$200 for the first mile and you get \$150 for each mile thereafter. So he doesn't have many town roads

anyway. The good gentleman who represents the Town of Howland. Let me tell you that Howland gets \$944. They have got about five or six miles. I can understand his position. Let's look at the town of Mattawamkeag. There again it doesn't have many town ways. But he does have a major highway that goes between the Town of Howland and Enfield, which is the interstate system. I don't have this; that is why I am here supporting this bill.

I will admit, this is a bill for rural communities. I will admit that, but it does a lot more than just TRI. It gives us resurfacing that we can increase so that we can do this on a five year cycle instead of the present eight. You know, if you want to know the real truth of where I stand on the highway allocation, I will tell you. My position will be, if this bill fails today, that I will go with resurfacing instead of TRI — that is my position. Number one, it is because I want to pick up some of the federal money that we are paying now four cents a gallon gas tax to the federal government and if we don't put a little bit more money here, we don't get this back, we let the State of New Hampshire or some other state get it. That is fine with me.

You know, I am not going to get all up tight today if you vote this bill down, but I can tell you that my position will be, when the highway allocation comes out, I will be putting more emphasis on resurfacing and stop-gap programs where we can do some good for some of the major highways that are off the interstate and the Maine Turnpike system.

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

Mr. NORRIS: Mr. Speaker, I would ask a question through the Chair to the good gentleman from Corinth, Mr. Strout. What would take place if this tax doesn't go ahead and all the surplus is depleted and the interstate mileage becomes available for the third bridge across the Penobscot River between Bangor and Brewer? Would there be any funds to seed that 90 percent federal money without this gas tax?

The SPEAKER pro tem: The gentleman from Brewer, Mr. Norris, has posed a question through the Chair to the gentleman from Corinth, Mr. Strout, who may answer if he so desires.

The Chair recognizes that gentleman.

Mr. STROUT: Mr. Speaker, I believe the question that the good gentleman asked was would there be money in this present allocation for the Bangor/Brewer bridge?

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

Mr. GOULD: Mr. Speaker, Ladies and Gentlemen of the House: I would like to remind all of you good people, if you take a ride out in the country and hit a pothole, it is a pain in the axle.

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

Mrs. POST: Mr. Speaker, Men and Women of the House: I hate to follow that one, but you know, a few weeks ago I had an opportunity to read a publication that isn't usually available to me. It is called the Republican Message, and I wanted to remind some of my Republican friends here some of the comments on the news and views that was on the back page. This was talking about a gas tax that might be imposed possibly on another level. In discussing this proposal, they were talking about points that were not acceptable, and one would be an increased taxation on gasoline. In talking about suggesting a tax that will fall directly on the shoulders of the lower and middle income wage earner, the guy who drives 15 miles a day to the paper company in Rumford, the construction

worker who must drive every day to his job site, both will have to pay a lot more for gasoline under this plan. We in Maine cannot afford an additional tax on the already strained pocket-books.

It goes on to say that such a proposal is ideal for New York City where thousands of people need the incentive to abandon their cars for public transportation. In Maine, however, we simply cannot for long stand the burden.

I would hope that in a good bipartisan spirit that we would not move for passage of this particular bill today, and in terms of town road improvement and snow removal for those of you who are new in the House, we went through this same debate last year and a group of several people got together and refused — we had a bill in asking for an increase in the gasoline tax and were told if we didn't pass that tax we couldn't have snow removal, your towns weren't going to get reimbursed for snow removal this year and you weren't going to have town road improvement. Well, this House refused to pass the transportation allocation act until snow removal was put in and the money was available, and we failed by one vote of getting the town improvement fund in. So if you people here just want to stand a little pat, we can set our priorities and get the programs funded without a gasoline tax increase.

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

Mr. CARROLL: Mr. Speaker, Ladies and Gentlemen of the House: I made a motion to take \$3 million out of surplus for town road improvement. We do have proposals. We met today, we tried to have a vote of the committee. I am merely one chairman, I have another chairman to contend with. He refused to vote and insisted that we were not ready to vote. My patience has been tried to no end, but I am willing to use just a little bit more patience. I do believe we have a very sorry case in the State of Maine of lack of confidence in the Department of Transportation, and I would hope that by putting the town road improvement money and certain funds back in the budget that had been promised back in 1955 when you voted a tax increase, that we would show we acted in good faith.

I know we have passed some bills that are going to cost additional money. I know it is possible that we could be faced with additional costs, but I maintain that we should not be baiting them with bait by saying that there is so much money there going for a pay raise. I say that we must cross the bridges as we come to them, and the first bridge I have to cross is the lack of good faith in removing the highway improvement fund from the highway budget two years ago. I want to thank everybody. I insist that is the place where it belongs, that this is something that goes right back to the smallest echelons of your rural communities where we are buying school buses for transportation. At the same time, we are taking money away from the roads that they have to travel over, money that might build a road where the students would have to travel.

I think that we do have serious problems, we do disagree, but I am thoroughly convinced that we can agree, but this is a little game of somebody else has got to give just a little, and I am not going to give any more. I have given on my part of the distance. I am willing to walk the last mile with anybody if it is necessary to walk that last mile, but want them to act in good faith. I am sick and tired of hearing that if you vote for this, you are going to get this. I don't want to bait a trap for the next legislative body because they are not committed to our actions. We have no right to commit the next legislature to funding the town road improvement. You can pass all the tax you want to this day, but two years from now you will be right back at the

same store, hitched by the same holder, waiting for somebody to release you.

We have a serious problem. There are a lot of unhappy people, but I do feel that we have got to break bread together, we have got to work together and we have got to come out with a highway allocation budget. I am sure that one of these proposals will fly. I can't tell you it is going to fly this afternoon, but I think one of them is going to go before it is done. I am not trying to shoot down my friend Representative Strout or his tax proposal. I have refrained as much as possible from talking about it and I am not trying to shoot him down today. I admire the fight he has put up. I have said to him many many times that we have a man down on the second floor that is not exerting the leadership that he should be exerting at this time. He has made it known in no uncertain terms that he will veto a gas tax and he is definitely opposed to it, and I just feel at this time that this legislation should either be tabled or put off to a later date and that we should wait and put the town road improvement money back in the highway allocation act, send it out here and then you people can work on it and do what you want.

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

Mr. FENLASON: Mr. Speaker, Ladies and Gentlemen of the House: I feel that I have to put in a plea for this increase in tax. I live where we have those potholes, where we have the bad roads, and I will cite two or three of them to you. The road from Route 1 into Grand Lake Stream we are hoping to get fixed and resurfaced in a year or maybe two. We had a very bad situation, I have spoken about it before on the floor of the House this session, between Topsfield and Vanceboro where the road was ruined by big trucks coming from a paper company and going across into Canada. This needs to be fixed. And if you want a real bad one, I wish you would ride with me from Lincoln to Danforth on Route 169. From what I have heard, I gather that if we can put this one cent tax on, we can get a much better resurfacing program. This is what we need. I urge you to vote for this cent increase.

The SPEAKER pro tem: A roll call has been ordered. This being an emergency measure, it requires a two-thirds vote of all the members elected to the House. All those in favor of this Bill being passed to be enacted as an emergency measure will vote yes; those opposed will vote no.

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

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

#### ROLL CALL

YEA — Bagley, Beaulieu, Birt, Boudreau, A.; Boudreau, P.; Brown, K.L.; Carey, Carter, F.; Connors, Cox, Devoe, Dow, Drinkwater, Fenlason, Flanagan, Gillis, Gould, Gray, Greenlaw, Hall, Hunter, Hutchings, Immonen, Littlefield, Lougee, Lunt, MacEachern, Mahany, Masterman, Maxwell, McBreairty, McHenry, McKean, Morton, Nelson, M.; Nelson, N.; Norris, Peakes, Pearson, Peltier, Perkins, Peterson, Plourde, Prescott, Quinn, Sewall, Shute, Silsby, Smith, Strout, Stubbs, Torrey, Tozier, Whitemore.

NAY — Aloupis, Austin, Bachrach, Bennett, Benoit, Berry, Berube, Biron, Blodgett, Brennerman, Brown, K.C.; Bunker, Burns, Bustin, Carrier, Carroll, Chonko, Churchill, Clark, Connolly, Cunningham, Curran, Davies, Dexter, Diamond, Dudley, Durgin, Elias, Fowlie, Goodwin, K.; Green, Henderson, Hickey, Higgins, Hobbins, Howe, Huber, Hughes, Jackson, Jacques, Jensen, Joyce, Kane, Kany, Kelleher, Kerry, Kilcoyne, Laffin, LaPlante, Lewis, Lizotte, Locke, Lynch,

Mackel, Marshall, Masterton, McMahon, McPherson, Mitchell, Moody, Nadeau, Najarian, Palmer, Post, Raymond, Rideout, Rollins, Spencer, Sprowl, Stover, Talbot, Tarbell, Tarr, Theriault, Tierney, Trafton, Truman, Valentine, Wilfong, Wood, Wyman.

ABSENT — Ault, Carter, D.; Cote, Dutremble, Gauthier, Gill, LeBlanc, Martin, A.; Mills, Teague, Twitchell, Tyndale, The Speaker.

PAIRED — Garsoe, Jalbert.

Yes, 54; No, 81; Absent, 13; Paired, 2.

The SPEAKER pro tem: Fifty-four having voted in the affirmative and eighty-one in the negative, with thirteen being absent and two paired, the Bill fails of passage to be enacted.

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

Mr. KELLEHER: Mr. Speaker, having voted on the prevailing side, I now move that we reconsider our action and I would ask the House to vote against my motion.

The SPEAKER pro tem: The gentleman from Bangor, Mr. Kelleher, moves that we reconsider our action whereby this Bill failed of passage to be enacted. 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 to the Senate.

The Chair laid before the House the twenty-first item of Unfinished Business:

"An Act to Provide Lifeline Electrical Services." (H. P. 1669) (L. D. 1867) (H. "A" H-561; H. "B" H-656; S. "A" S-235)

Tabled — June 20, 1977 by Mr. Connolly of Portland.

Pending — Passage to be Enacted.

On motion of Mr. Connolly of Portland, retabled pending passage to be enacted and tomorrow assigned.

The Chair laid before the House the twenty-second item of Unfinished Business:

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)

Tabled — June 21, 1977 (Till Later Today) by Mrs. Post of Owls Head.

Pending — Passage to be Engrossed.

On motion of Mrs. Post of Owls Head, under suspension of the rules, the House reconsidered its action whereby Committee Amendment "A" was adopted.

The same gentlewoman offered House Amendment "A" to Committee Amendment "A" and moved its adoption.

House Amendment "A" to Committee Amendment "A" (H-787) was read by the Clerk.

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

Mrs. POST: Mr. Speaker and Members of the House: What this amendment does specifically is say that when diggers count and seal their worms in containers, they don't have to do so in the actual facilities of the worm dealer but can do it at their home base and can have the worms transported by container to the dealer.

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

Committee Amendment "A" as amended by House Amendment "A" thereto was adopted.

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

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

House Divided Report — Majority (7) "Ought to Pass" — Minority (6) "Ought Not to Pass" —

Committee on State Government on Bill, "An Act to Amend the Maine Human Rights Act" (H. P. 162) (L. D. 200)

Tabled — June 20, 1977 by Ms. Goodwin of Bath.

Pending — Acceptance of Either Report.

On motion of Mr. Curran of South Portland, retabled pending acceptance of either Report and tomorrow assigned.

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

House Divided Report — Majority (10) "Ought to Pass" as Amended by Committee Amendment "A" (H-734) — Minority (1) "Ought to Pass" as Amended by Committee Amendment "B" (H-735) — Committee on Transportation on Bill "An Act Relating to the Maine Turnpike Authority" (H. P. 343) (L. D. 388)

Tabled — June 21, 1977 by Mr. Greenlaw of Stonington.

Pending — Motion of Mr. Strout of Corinth to Accept the Majority "Ought to Pass" Report.

On motion of Mr. Strout of Corinth, retabled pending his motion to accept the Majority Report and tomorrow assigned.

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

House Divided Report — Report "A" (10) "Ought to Pass" as Amended by Committee Amendment "A" (H-698) — Report "B" (2) "Ought to Pass" as Amended by Committee Amendment "B" (H-699) — Report "C" (1) "Ought to Pass" as Amended by Committee Amendment "C" (H-700) Committee on Judiciary on Bill "An Act Concerning Administration of the Judicial Department" (H. P. 635) (L. D. 838)

Tabled — June 21, 1977 by Mr. Tierney of Lisbon Falls.

Pending — Motion of Mr. Spencer of Standish to Accept Report "A" — Majority "Ought to Pass"

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

Mr. NORRIS: Mr. Speaker, I move that the House substitute the bill for the report and would speak briefly.

The SPEAKER pro tem: The gentleman from Brewer, Mr. Norris, moves that the House substitute the bill for the report.

The gentleman may proceed.

Mr. NORRIS: Mr. Speaker, Ladies and Gentlemen of the House: This may take a little time. I know the hour is late, but if you know the history, and I will go briefly into the history of the court problem. Once there was a time the counties controlled the courts and then the legislature granted the power to organize the district court and that worked very well and worked reasonably well and was quite profitable and was controlled by the judges, so there was a commission formed and they came back to the legislature and the legislature gave them the authority to organize the superior court. Everything was fine. I sat on the committee, Performance Audit, in the last session that did this work and we came out with a report and everything was fine and dandy. Then we got involved with federal funds and along came a situation to administer the courts. That is where we find ourselves today, with different people with different views and different problems, and I give you this brief history only to let you know that I believe that even though it may be stated differently, that it is the will and the wisdom of the legislature to make the determination as to how the courts will be funded.

We studied long and hard and we listened to the different people involved, and in order to keep it brief, we came out with three reports. The majority report of the committee, in my opinion, does nothing, it keeps the system as it

is. If that is what the legislature wants, that is fine; I am not hung up that tight.

The second report takes the district court, separates it from the superior court, keeps the office of administration in the superior court and in the supreme court but takes the district court out. And the bill as was presented does away with the philosophy and the idea of the court administrator, and that is the report I signed and sent down to you.

I have put on my report the fiscal note, and to make a long story short, it is about \$80,000 less over the biennium than the report that was signed by the majority of the committee.

I will finish with this because I did this to put before this House and this legislature the opportunity to make the choice. I had dinner last night with a very learned judge and an old friend, and he reiterated something to me that I think makes very very good sense. You can have all of the streamlining on the top of a system, that is the top of the funnel, you can increase the capacity up to the top, but until you increase the capacity at the bottom of the funnel, and that is the number of judges you have, you are going to have a problem. You can have all the administrators in the world and you can streamline and you can do all of these things, but until you get an adequate number of judges to do the job right, then you are going to have the backup. So my bill allows the control and the administration of the courts to be handled by the judges. I lay that before you and all you have to do is vote yes.

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

Mr. SPENCER: Mr. Speaker, Ladies and Gentlemen of the House: I would urge you to vote against the motion of the gentleman from Bangor, Mr. Norris. The question that we face, I think, is a very fundamental one and one that this House should take as seriously as any issue which we have considered during the whole course of this legislature.

One of the most pressing concerns of the people of this state and of this legislature in the years that I have been in the legislature has been the breakdown in our system of law and order and the inability of our court systems to deal in a swift and effective manner with those who break the law.

The last legislature adopted a system to try to begin to deal with the problems of delay, misuse of court room space, other problems that plague the judiciary. In many cases, there was a year before a case could get to trial, witnesses could die, could move away, so the person who was accused of a crime would ultimately not be found guilty because the court system didn't work. The last legislature established a system to try to address this problem, and like whenever you undertake a major change in a system that has functioned in which a great many people have an interest, it has been a difficult time, and that difficult time has been compounded, I think, by personality problems.

The Judiciary Committee heard several days of testimony from members of the judiciary at all levels, from attorneys, from members of the public, and looking at this whole situation, a very strong majority of the committee came to the conclusion that the present administrative structure should be retained largely intact. We have suggested that some changes be made to try to strengthen the role of the chief judge of the district court so that the problems and the conflicts which have been created between the administrative office and the district court judges can be ameliorated so that through time and through persuasion the changes that need to be made in the court system can be made, not by fiat but by cooperation and agreement.

I think if this legislature votes to do away with the system of court administration, which is essentially what the proposal that is now

before us would do, I think we will have lost perhaps the most important opportunity that we have had to take a meaningful step towards correcting the fundamental problems with the court system which all of you are aware of, which all of your constituents are aware of. I think that this issue is crucial and that the court administrative system must be retained.

The basic issue, as I see it, is whether the courts are going to be run for the convenience of the lawyers or whether they are going to be run for the convenience of the public. I think that the courts have got to be run so that justice is served, so that justice is swift, so that the courts are managed in an efficient and effective way. I urge you to support the court administrative system to give it more time to try to work out some of the problems which may have occurred between the relationships between the various parts of the system. But, if you are really concerned about the administration of justice in Maine, I think that this system has got to be retained, so I would urge you to vote against the motion of Mr. Norris, so that we could accept the "Ought to Pass" Report, supported by the Majority of the Judiciary Committee.

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 go along with Mr. Norris this evening, vote yes, and substitute the bill for the report. The creation of the Administrative System is nothing but a totalitarian bureaucratic octopus. That is just about exactly what it amounts to.

To cite a few examples within our own District 6 circuit of the district court system, it wasn't long ago but in Knox County in Rockland, the judge was holding court in the hall of the county building, due to the administrative procedures that he would have to go to get some repairs done that he needed. As a matter of fact, it took him two months to even buy some shades for his courtroom under this system. It is nothing but a duplication and it is a bureaucratic mess.

Now, I have heard during caucuses, at least in our caucus, one member say "I am against disposing of the administrative system, because this is an anti-Belshaw bill, that is absolutely incorrect, this is an anti-code administration bill. After all, our judiciary system, at least at the district court level, and the district court level is the only court within the State of Maine which does not operate at a deficit. I think that is something that we should be proud of. Now, there is no inferiority complex, I feel, at least talking to the judge in my area, between him and the superior court judge, none whatsoever. One thing we must keep in mind is simply this, that your district court judges in this state have voted to do away with the administration and the superior court justices have voted to keep it. They claim that it makes the superior court system work better. Well, as I heard my judge say many a time, your district court level, of course, is the lowest level of the judiciary system. The district court is the people's court. The district court is the court that has to deal from day to day with many more of the average John Q's problems than does the superior court.

Therefore, ladies and gentlemen, I hope you will vote yes and substitute the bill for the report and Mr. Speaker, when the vote is taken I request a roll call.

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

Mr. GREEN: Mr. Speaker, Men and Women of the House: Just to respond to a couple of comments made by the good gentleman from Standish, Mr. Spencer, with regards to this bill. He says, is the court going to be run at the convenience of the lawyers or is it going to be run at the convenience of the public? I would just

say that lawyers represent the people, represent the public, and the only reason that I am speaking on this issue here today, and I would hope that the House would go along with the good gentleman from Brewer, Mr. Norris, on this, is that about a month ago when this bill was before the Judiciary Committee and they were having a public hearing on it, I went up and attended the hearing and all the judges throughout the state were there testifying in opposition to its superior court judges. The district court judges, apparently, are in favor of the bill.

I went back home that Friday and I was talking with a friend of mine who is an attorney in Auburn and he related a story to me about a client he was representing. Apparently in Maine, I am not terribly familiar with Maine law with regards to divorce statutes, but apparently, once a divorce has been filed, there is something like a 60 day period before you actually have to have it into court. Well, he ran into a particular situation with regards to his client. And notwithstanding his ability, perhaps, to have the case prepared to go to court, but he was forced into court at the 61st day, after that deadline was up, and he was not prepared for the case. It was the court administrative system that put him in that situation. I would just say that that is not fair to the client that he was representing, it is not fair to him and it is not fair to the court, it is not fair to all people concerned.

I would hope you would support the motion of the good gentleman from Brewer, Mr. Norris, and pass this bill on its way.

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

Mr. DUDLEY: Mr. Speaker, Members of the House: I am a cosponsor of this bill and the hour is late and I am not going to talk long but the gentleman from Standish, Mr. Spencer, for an attorney, in my opinion, is very poorly informed about the subject matter.

First of all, we did have a congestion in the courts but it was caused by sickness of judges and not enough judges. We hired, I think if my memory serves me right, at least two extra judges and now we have helped the judges serving on the court and that is what relieved the pressure from the lower court, not the administration of it. It has been the poorest administration since I have been in state government and that dates back quite a while. We had a very satisfactory lower court system, it was working well for nearly a \$100,000 less than this new system costs. This promoted me, I wanted to do something while I am here, to save the state money everywhere I can, without hurting anybody. I saw this as an opportunity to save the state nearly \$100,000 and if the gentleman from Lewiston Mr. Jalbert were here he would bring you the facts from the Appropriation's Committee. I am sure Mr. Norris is aware of it, he is on the Appropriations Committee. Mr. Norris from Brewer supports the original bill and I support it and I support everything he says. Mr. Kelleher, as the co-sponsor, is going to tell you a lot more about it.

Our court system was well managed before we had this administrative system. It has been nothing but chaos. The judge, in my area, the people from my area, the attorneys from my area want the bill, in its entirety, the same report that Mr. Norris supports. These are the people I represent, not the superior court judges. I support the people that have to go to the court and they were getting good service and the service is not that bad now but it is absolute chaos when they even want to buy a pencil or a pencil sharpener, the red tape that they have to go through to acquire it. Besides, it is costing us a lot of money. We don't need to send for anyone from any state on the West Coast to administer our courts. This is provoking people

in Maine, the idea that we have to send for an administrator, clear across this great land of ours. There are plenty of people capable of running our courts right here in the State of Maine. Any one of the judges. So I do hope, the hour is late and I don't have to get into great detail, but if you force me to, I will talk for another hour on this subject but I would rather not. All you have to do is support the motion of the gentleman from Brewer, Mr. Norris and we will be well on our way to do something right for the State of Maine.

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

Mr. HENDERSON: Mr. Speaker, Members of the House: I just love to hear the gentleman from Enfield for another hour or so I thought I would say a few words in opposition to the current motion.

First of all, I think the reality is that if the bill is substituted for the report, I suspect that ultimately there will be no bill, that this is something that will not ultimately pass this system, legislative system. Quite frankly, as I said before, I don't particularly mind that. But, I think you have to consider the other alternative, which was the majority report of the committee. The committee was fragmented for quite a long time and it still is to some degree but I think it attempts to address the legitimate concerns that are now floating about. You can bet your boots that the bill is, if anything, is a lawyer's bill, I just mean this in a neutral sense, by gosh, this is really it because the people who are upset are primarily the lawyers and the judges because somebody and wouldn't it be a hard nosed out of state woman, has tried to put their house in order, has tried to straighten things out, and lawyers, as much as they are trained in logical thinking, things don't always work that way. They are not administrators, lets face it.

Now there have been some problems. People haven't been able to deal with this personality very well and there has been a lack of consultation with the district court judges. The Committee Amendment, the majority report, requires that kind of consultation. It sends a clear message to the boss of the court administrator, the chief justice, that things are not working right and you can tell what is happening here and we are going to lose the whole shebang if things don't get straightened out. But let's give us a system to straighten it out. This says, among other things, that things that are going to be done in the district court have to be done with the consultation of the chief judge, that he get involved formally in this process, and I think that is a reasonable approach. I think it is a responsible position to take and I certainly hope you will oppose the current motion so that we can move to that position.

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

Mr. KELLEHER: Mr. Speaker, Ladies and Gentlemen of the House: I cosponsored this document with Mr. Dudley because at the early part of the session it looked like we were both going to put in similar bills.

I was here when we created the system that we are operating under now and I was one of two people, I was the one in this body and the other was in the Senate, that came up with similar proposals in going before the Performance Audit Committee which, in fact, consolidated both bills at that time and resulted in somewhat of the system that we have today. There is a lot of interest throughout this state by trial lawyers dealing with this system that we are under, and more important than that, there is a tremendous amount of interest from the judicial branch itself, not the Chief Justice of this state. That gentleman seems to be very satisfied with the present system and

also satisfied with the court administrator Mrs. Belshaw. This is not an anti-Belshaw bill, by any stretch of the imagination. I, as one of the cosponsors, never had the pleasure of meeting this lady, until the day that we had the hearing, the first day of the hearings up in Judiciary Committee.

Mr. Henderson has tried to inform you people this afternoon that if you fail to accept this bill as it is now, that we all know what the ultimate end will be in the other body and he is dead wrong on his assumptions that no bill will pass. He is not trying to influence you by the actions of the other body, by saying that it won't pass and I don't want to influence you by saying that I know that there is tremendous support and perhaps something will pass. He indicated that if you look at the Committee Report that he signed, that it is a workable agreement because without any interference or input from the court administrator that there has to be an agreement by the Chief Justice of the district court who is appointed, who serves at the pleasure of Mr. Dufresne and I am sure that we all know that we have a new chief judge of a few months ago. I am not saying that if you don't agree with me you are not going to have your job but the possibility of that threat is apparent and is always there. I want to remove that burden of responsibility on the good chief justice of the state and also on the chief justice of the district court. LEEA money funded the court administrative system as we have it now and there is an appropriation for \$200,000 or around that amount to operate and continue the operation of this court system. I am not sure that there isn't support for funding but there is an opportunity here to save some tax dollars and still efficiently run the judicial courts of this state. Under the old system, you had a court administrator who took care of all the administration with a few staff people that operated at less than \$50,000 a year, and operated efficiently. There were backlogs in the judicial court process, as Mr. Spencer pointed out, but whose fault is that? I don't appoint the judges of this state. They are appointed by the Governor. I don't serve in the judicial courts. The judges, themselves, run the courtrooms and, believe me, they run them. When they send a bill down to your county commissioner to pay for heat, lights, attorney fees, witness fees, we pay it and we don't question it because we don't have the authority to question it and I don't think we should. The operations of the courts should be under the supreme right of the judges themselves and not under some court administrator saying, "yes, Mr. Spencer, we are going to hear your case on the 27th day of June and you, Mr. Henderson, we are going to hear yours on the 15th of July." That discretion should be left up to the judges themselves. Mrs. Belshaw is a very capable lady and I have the highest respect for her but I don't respect the court administrative system that this state has today, nothing to do with that lady.

Keep the bill alive. There is no question there will be some amendment suggested. There is no question that both Mr. Dudley and I and others who support the complete removal of the administrative court, can work out some agreements as well as in the other body. Don't get flushed out of the bush today. Substitute the bill for the report because there is a lot of support in every one of your areas as you well know and then we will see where we go from there.

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

Mr. JOYCE: Mr. Speaker, Ladies and Gentlemen of the House: I attended most of the hearings at the Judiciary Committee and the hearings were a tragedy. Their complaints were so picayune I thought that that group, and really it was a clique that is opposing this court administrator. I thought their complaints would

be better handled by a Little League umpire or a girl scout leader or perhaps, a kindergarten teacher. Oh, didn't they bellyache then. What a plush area they must have now. Don't disturb it, that seemed to be their cry.

Yes. I mixed with those judges for over a quarter of a century. I could tell you how it was and I can tell you how it is. You have the makings of a streamlined system there now and I know the prestigious Judiciary Committee has put considerable time into this bill. Haven't we been able to see here that Report "A", 10 members of the Judiciary have agreed on that Report "A"? I think they have earned, by their hard work, our support.

You should have been there and heard the crybabbling. I sat through it. There is truly a clique to upset the smooth operation. You have to run the courts as one system and you are all aware of that pyramid style organization. You can have only one person at a top. That is where the buck has to stop. The Supreme Court Justice, the chief, has got to be there. He has got to be the one responsible.

I ask that you defeat the motion before this body at this present time and support Report "A".

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

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

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

Mr. PEAKES: Mr. Speaker, Ladies and Gentlemen of the House: I have had the experience of practicing in a court house with 40 or 50 court rooms where people lose their identity, and I have been practicing in Maine for about five years. I want to say that I was very pleased with the Maine system, especially in the district court level. I have never had a time where I had to go back because my case wasn't heard that day. This is not true in the Superior Court. Many times, being an outlying attorney, I somehow got at the back of the list. I have worked with these judges at the district level. I know how compassionate they are with the people that come in. They give them their time. Many times I am down there at 6:30 at night, and I know, in talking with these judges that they are very much opposed to this system and I don't feel that these courts have been running badly. I think they are a peoples' court. I think we should keep it that way and make it responsive to the people and not to an administrator.

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

Mr. DEVOE: Mr. Speaker, Men and Women of the House: We have already heard a lot of comments about this topic and most likely will hear many more. What has impressed me during the hearings is that we do not have, in my view, much disagreement over whether court administration is good or bad or has been an improvement or has been lacking in improvement over what we had prior to two years ago. Much of the argument seems to be centered on the personality and sometimes the so-called abrasiveness of the person who happens to occupy the present position as court administrator.

In my view, it is unfortunate that this legislature has to be given the job of coping with this situation. If you look at the statute, it seems to me that there is room for the Chief Justice to reign as court administrator if he chooses to do so. For some reason the Chief Justice has not chosen to do this, and therefore, we are given the task of doing it. Yet, I fear, if we adopt the motion of the gentleman from

Brewer, Mr. Norris, this afternoon, the cure is going to be worse than the problem was.

I just ask you to keep in mind two things when you are voting on the pending motion. Court administration is a good thing even though the present administrator may be highly unpopular. So, let's not scrap the system that we already have, merely because the present person occupying the court administrator's position does some unpopular things or does them in a way that just manages to grate every district court judge's sensitivities.

The second thing I would like to leave with you this afternoon, and then I will sit down, is that we have a judicial system, in my view, where the Chief Justice of the Supreme Judicial Court, is at the top of the system, as the leader of all of the judges in the state, in my view, and I say this with some trepidation, because I have talked with our own local district court judges several times on this matter since January, but what kind of a court system, men and women of this House, do we have if all of the judges of one of the court systems that we have, namely the district courts, can impose their will on the chief Justice of the Supreme Judicial Court of this State? What kind of a system do we have, if that can be brought about and that is exactly what will be brought about if you adopt L. D. 838, the bill in place of the report.

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

Mr. KELLEHER: Just so that there will be no confusion on my part or on Mr. Dudley's part or on Mr. Norris's part, L. D. 838 does not take the supreme power, the supreme right, the divine guidance away from the supreme court justice of this state. Mr. Dufresne is still king, and he can call the court anytime he wants to. All the judges are responsible to him. In no way in L. D. 838 has that authority been removed so don't be confused by thinking that district court judges, superior court judges are going to be dictating to that gentleman. And if you had attended the hearing, and if you could have seen the supreme court judge, the chief judge there, you would have certainly known who was calling the shots and it wasn't the Indians, it was the chief.

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

Mr. TARBELL: Mr. Speaker, Ladies and Gentlemen of the House: I will support Report "C", the report which is the bill sponsored by the gentleman Mr. Kelleher and Mr. Dudley. Report "C" is a responsible court administration bill. It retains the chief justice of the law court as the superior justice in control over all of the court system in the judicial branch in the State of Maine. The law court chief justice would appoint a chief judge of the superior court, he would appoint a chief judge of the district court that are responsible and answerable to him. It is a delegation of authority. The chief judge of your superior court would have, and have to have, a court administrator and administration staff who would administer all of the courts under the superior court. Similarly, the chief judge of the district court would have a court administration staff, a head clerk, who would administer administration under all of the district courts. The advances in administration that have been made under the current system over the last few years would be perpetuated and extended, this is a court administration bill.

This bill, Report "C", structurally is different from the current system, whereby, court administrators in court administration would be within the orbit of the respective trial court inside the court system. A superior court judge would keep a thumb and keep an eye on the administration of all superior courts and how his

administrators are doing and the chief judge of the district court would have to do the same with respect to his court administrators. Both judges would have to be answerable to our law court chief justice, so it retains court administration. It retains the superiority of the law court chief justice and I submit to you that it is a responsible bill both in terms of the advances that have been made in our judicial system in the last few years in the superior court, and also would be responsible in terms of the number of dollars necessary to appropriate.

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

Mr. NORRIS: Mr. Speaker Members of the House: I am not going to debate this any further. Apparently Mr. Dudley didn't understand the figures and so for the benefit of the House, the majority report of the committee would have a price tag of \$346,344 over the biennium and the price, and I got these figures from the Legislative Finance Office, of the bill that we are now attempting to substitute for the report would be \$266,726 or \$79,600, approximately an \$80,000 savings over the biennium. I simply want to bring that out because apparently some people did not understand it. It is about \$40,000 a year that would be saved if we should go this way.

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

Mr. SPENCER: Mr. Speaker, Ladies and Gentlemen of the House: If the House is to substitute the bill for the report, essentially what we will be doing is going back to the system that existed prior to the establishment of the court administrative system with the superior court and the district court having separate administrative structures and with the judges who should be deciding the cases trying to cope with the administration of the courts to a large extent.

The experience under this system was that the courts were extremely poorly administered. There have been some bugs and some conflicts in trying to move to a more efficient system. But I would repeat what I said before, that if you are really interested in doing something serious about getting the courts working smoothly, you have got to have administration and you have got to have administration by people who know how to administer rather than by people who know how to decide cases. You may find a judge occasionally who is a good administrator, but they have no training in administration, they have no background in it, and in the long run, the courts are not going to be as well run as if we can get a system of court administration that works smoothly.

The only way that justice can be achieved, and I think that ultimately that is the bottom line of what we are talking about, is if we have a system that works smoothly and can decide cases and resolve disputes in a quick and expeditious manner.

When I first started practicing law in this state, I was ordered by one of our judges to go down and represent a criminal defendant. I don't do criminal law, but I had to accept this one case. That case was completely mishandled by the court system, and as a result of that, so much time went by that that defendant is still out on the streets, he never had a trial, and this was because the whole administrative structure of the courts was not being properly handled. I think that is the kind of thing that this legislature, in passing court administration, tried to deal with. I think there have been some problems, but to do away with it completely, as this motion would suggest, is to me to do violence to the basic needs of the people of this state for a system that runs smoothly. There is very strong feeling among all of our constituents that the courts are not working and

one of the biggest problems is this tremendous time lag that has existed between the time something happens, between the time someone is arrested and the time that the thing is finally brought to trial.

Before this court administrative system was put in, as an attorney you could go in and you could get a continuance whether you had a reason or not in almost any court in this state. You could delay, you could delay, you could delay and you could get away with it, and that was one of the fundamental reasons that we had these big backlogs built up, and I think that we have got to move to correct that. I think that there are a lot of small reasons why people are disturbed about the present system, but I think that in the long run, the future of the judicial system of this state hangs in the balance and that we have got to have a system that runs smoothly. I urge you to reject the motion which is now before you.

The SPEAKER pro tem: A roll call has been ordered. The pending question is on the motion of the gentleman from Brewer, Mr. Norris, that the Bill be substituted for the reports. All those in favor will vote yes; those opposed will vote no.

#### ROLL CALL

YEA — Aloupis, Austin, Beaulieu, Berry, Berube, Birt, Blodgett, Boudreau, A.; Boudreau, P.; Brown, K. L.; Bunker, Carey, Carrier, Carroll, Churchill, Conners, Diamond, Drinkwater, Dudley, Durgin, Garsoe, Gould, Gray, Green, Hunter, Hutchings, Kelleher, Kerry, Kilcoyne, Laffin, Lewis, Littlefield, Lizotte, Locke, Lougee, Lunt, Mahany, Marshall, Maxwell, McBrearty, McHenry, McKean, McPherson, Moody, Nadeau, Nelson, N.; Norris, Palmer, Peakes, Pearson, Peltier, Perkins, Plourde, Raymond, Rideout, Sewall, Shute, Silsby, Smith, Sprowl, Stover, Strout, Stubbs, Tarbell, Tarr, Torrey, Truman, Valentine, Whitemore, Wood, Wyman.

NAY — Bachrach, Bagley, Bennett, Benoit, Biron, Brenerman, Brown, K. C.; Burns, Bustin, Carter, F.; Chonko, Clark, Cox, Cunningham, Curran, Davies, Devoe, Elias, Fenlason, Flanagan, Fowle, Gillis, Goodwin, K.; Greenlaw, Hall, Henderson, Hickey, Higgins, Howe, Huber, Hughes, Immonen, Jackson, Jacques, Jensen, Joyce, Kane, Kany, LaPlante, Lynch, Mackel, Masterton, McMahon, Mitchell, Morton, Najarian, Nelson, M.; Post, Prescott, Quinn, Spencer, Theriault, Tierney, Trafton, Wilfong.

ABSENT — Ault, Carter, D.; Connolly, Cote, Dexter, Dow, Dutremble, Gauthier, Gill, Goodwin, H.; Hobbins, Jalbert, LeBlanc, MacEachern, Martin, A.; Masterman, Mills, Peterson, Rollins, Talbot, Teague, Tozier, Twitchell, Tyndale, The Speaker.

Yes, 71; No, 55; Absent, 25.

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

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

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

RESOLVE, to Appropriate \$8,956 to the Town of Milbridge to Reimburse it for Burglary Loss (Emergency) (H. P. 1759) (L. D. 1891) (Presented by Mr. Conners of Franklin) (Approved for introduction by a Majority of the Legislative Council pursuant to Joint Rule 25)

Under suspension of the rules, the Bill was read once.

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

Mr. BURNS: Mr. Speaker, may we have an explanation of this bill?

The SPEAKER pro tem: The gentleman from North Anson, Mr. Burns, has posed a question

through the Chair to anyone who may care to answer.

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

Mr. CONNERS: Mr. Speaker, Ladies and Gentlemen of the House: Last November 2, the Town of Milbridge safe was broken into and \$18,956 worth of food stamps was stolen. They had the equivalent of \$10,000 in insurance. This left a balance of \$8,956. We went to Mr. Wiley, head of the food stamp program, and he said that this was the only way that we could do it. Under the law, he couldn't allow this to go; no way could he do this on his own, it had to come through the legislature. He recommended that we do this through the legislative process.

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

Mr. GREEN: Mr. Speaker, I move that this Bill and all its accompanying papers be indefinitely postponed and ask for the yeas and nays.

Thereupon, on motion of Mr. Tierney of Lisbon Falls, tabled pending the motion of Mr. Green of Auburn to indefinitely postpone and tomorrow assigned.

#### Consent Calendar

##### Second Day

(S. P. 493) (L. D. 1768) Bill "An Act to Create the Maine Administrative Procedure Act" (C. "A" S-287)

(S. P. 329) (L. D. 1088) Bill "An Act Concerning the Expiration of Motor Vehicle Inspection Stickers"

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

(H. P. 415) (L. D. 518) Bill "An Act to Permit Prescription Eyeglasses and Other Optical Devices" (C. "A" H-784)

On the objection of Mr. Brenerman of Portland, was removed from the Consent Calendar.

Thereupon, the Report was accepted and the Bill read once. Committee Amendment "A" (H-784) was read by the Clerk and adopted and the Bill assigned for second reading tomorrow.

(S. P. 415) (L. D. 1411) Bill "An Act to Improve Public Access to State Agency Rules by Providing for their Publication in a State Register by the Secretary of State" (C. "A" S-286)

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

#### Passed to Be Engrossed

Bill "An Act to Provide for the Prevention of Alcohol Abuse" (S. P. 306) (L. D. 976) (C. "A" S-282)

Was reported by the Committee on Bills in the Second Reading, read the second time, passed to be engrossed as amended in concurrence.

#### Tabled and Assigned

Bill "An Act to Amend the Child Abuse and Neglect Laws" (S. P. 337) (L. D. 1122) (C. "A" S-283; S. "A" S-297)

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

(On motion of Mr. Quinn of Gorham, tabled pending passage to be engrossed as amended in concurrence and tomorrow assigned.)

#### Tabled and Assigned

Bill "An Act to Require Filing and Prior Approval of all Rates for Use by Nonprofit Hospital or Medical Organizations" (Emergency) (H. P. 1539) (L. D. 1769) (C. "B" H-753)

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

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

Mr. WOOD: Mr. Speaker, I move that we reconsider our action whereby Committee Amendment "B" was adopted.

On motion of Ms. Clark of Freeport, tabled pending the motion of Mr. Wood of Sanford to reconsider adoption of Committee Amendment "B" and tomorrow assigned.

Bill "An Act to Establish the Legal Rights of Hospital Patients" (H. P. 755) (L. D. 901) (C. "B" H-769)

Bill "An Act Requiring Immunization of Children Prior to Entering Grade School" (H. P. 1072) (L. D. 1264) (C. "A" H-754)

Bill "An Act to Provide for no Smoking Areas in All State Offices" (H. P. 818) (L. D. 991) (C. "A" H-757)

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

#### Tabled and Assigned

Bill "An Act to Require State Level Assessment of Industrial Real Property with a Value in Excess of \$1,000,000" (H. P. 1329) (L. D. 1606) (C. "A" H-777)

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

(On motion of Mr. Birt of East Millinocket, tabled pending passage to be engrossed as amended and tomorrow assigned.)

#### Tabled and Assigned

Bill "An Act Concerning Required Voting on Certain Boards and Commissions with Quasi-judicial Authority" (H. P. 1200) (L. D. 1441) (C. "A" H-758)

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

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

Bill "An Act to Provide for the Licensing of Mobile Homes and Modular Housing Dealers and Mechanics" (H. P. 1376) (L. D. 1702) (C. "A" H-750)

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

On motion of Mrs. Najarian of Portland, the House reconsidered its action whereby Committee Amendment "A" was adopted.

The same gentlewoman offered House Amendment "A" to Committee Amendment "A" and moved its adoption.

House Amendment "A" to Committee Amendment "A" (H-795) was read by the Clerk.

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

Mrs. NAJARIAN: Mr. Speaker and Members of the House: The purpose of this amendment is to take care of some problems that the Commissioner of Business Regulation had with the bill. Some of it is kind of technical. It is agreed to by all members of the committee and the sponsor of the bill and I don't think there is any problem with the amendment.

Thereupon, House Amendment "A" to Committee Amendment "A" was 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 following papers appearing on Supplement No 2 were taken up out of order by unanimous consent:

The following Communication:  
The Senate of Maine  
Augusta

June 22, 1977

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

Dear Clerk Pert; The Senate today adhered to its action whereby it accepted the Minority 'Ought Not to Pass' Report on Bill, 'An Act Relating to Setting Determinant Sentences for Inmates Sentenced Prior to the enactment of the Maine Criminal Code' (H. P. 703) (L. D. 884).

Respectfully,  
(Signed) MAY M. ROSS  
Secretary of the Senate

The communication was read and ordered placed on file.

#### Divided Report Tabled and Assigned

Majority Report of the Committee on Taxation reporting "Ought Not to Pass" on Bill "An Act to Establish the 1977 State Valuation Omnibus Reform Act" (S. P. 465) (L. D. 1608)

Report was signed by the following members:

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

Mrs. MACKEL of Wells  
Mr. POST of Owls Head  
Mr. TWITCHELL of Norway  
Mrs. CHONKO of Topsham  
Mr. IMMONEN of West Paris  
— of the House.

Minority Report of the same Committee reporting "Ought to Pass" as amended by Committee Amendment "A" (S-300) on same Bill.

Report was signed by the following members:

Messrs. CARTER of Bangor  
TEAGUE of Fairfield  
CAREY of Waterville  
COX of Brewer  
— of the House.

Came from the Senate with the Majority "Ought Not to Pass" Report read and accepted. In the House: Reports were read.

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

Mr. CAREY: Mr. Speaker, I move we accept the minority "Ought to pass" Report.

On motion of the same gentleman, tabled pending his motion to accept the Minority Report in non-concurrence and tomorrow assigned.

#### Divided Report

Majority Report of the Committee on Business Legislation reporting "Ought to Pass" as amended by Committee Amendment "B" (S-292) on Bill "An Act to Provide Home Health Care Coverage in all Health Care Policies and Contracts" (S. P. 341) (L. D. 1125)

Report was signed by the following members:

Mr. FARLEY of York  
— of the Senate.

Miss ALOUPIS of Bangor  
Mrs. BOUDREAU of Portland  
Ms. CLARK of Freeport  
Messrs. WHITEMORE of Skowhegan  
KILCOYNE of Gardiner  
JACKSON of Yarmouth  
RIDEOUT of Mapleton  
SPROWL of Hope  
HOWE of South Portland  
— of the House.

Minority Report of the same Committee reporting "Ought to Pass" as amended by Committee Amendment "A" (S-293) on same Bill.

Report was signed by the following members:

Messrs. PIERCE of Kennebec

CHAPMAN of Sagadahoc

— of the Senate.

Mr. PEAKES of Dexter  
— of the House.

Came from the Senate with the Minority "Ought to Pass" as amended by Committee Amendment "A" (S-293) Report read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (S-293)

In the House: Reports were read. The SPEAKER pro tem: The Chair recognizes the gentlewoman from Freeport, Ms. Clark.

Ms. CLARK: Mr. Speaker, it isn't without some hesitation and reluctance and fear and trepidation that I move that this House accept the Majority "Ought to Pass" Report with Committee Amendment "B".

The SPEAKER pro tem: The gentlewoman from Freeport, Ms. Clark, moves that the House accept the Majority "Ought to Pass" Report in non-concurrence.

The Chair recognizes the same gentlewoman.

Ms. CLARK: Mr. Speaker, Men and Women of the House: The reports of the Committee on Business Legislation are essentially the same. There is one distinct difference. Committee Amendment "A" would mandate health insurance, home health care coverage for all subscribers of health insurance policyholders in this state. Committee Amendment "B" mandates that the home health coverage be made available and that the policyholders have the option to purchase that coverage if they should desire that coverage.

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

Mrs. NAJARIAN: Mr. Speaker and Members of the House: I am opposed to the majority report for the following reasons and I would like to explain to you why. I had a bill in similar to this mandating home health coverage for the elderly. This would include everybody and I favor that. But the reason I think we ought to make it mandatory is, the bill had two purposes — one, to try to keep down the cost of health insurance, and the second purpose was to try to keep families or people in their homes when their health care could be provided there just as well as in a hospital.

In the hospital, as you know, it costs over \$100 a day in most cases, or close to it. A nursing home costs about \$25 to \$28 a day, and that is seven days a week. Home health coverage, if those same services could be provided, usually don't have to be provided on a daily basis, maybe once or twice a week, etc., but it is not as costly as a nursing home or a hospital.

If you don't require people to buy home health coverage, many people won't because I am sure that there will be some increase in their premiums. I don't know what it will be, but it will cost them something, so some people might opt not to buy that coverage. What is likely to happen is that when that person goes to a doctor and the doctor sees that they need some kind of special care, they are going to ask, "What does your insurance policy cover? Does it cover hospitalization and do you have home health care coverage?" If the patient says, "No, I don't have home health coverage," then the doctor, to help the patient, is going to recommend either a hospital or a nursing home. If you require everybody to buy home health coverage, then the physician has the option and if their medical care could be provided just as well at home as in a hospital or nursing home, then the doctor is apt to devise a plan whereby that patient could be covered in their own home. That is why I prefer the minority report, which has been adopted in the Senate, and I hope that you will consider those reasons and also vote against the pending motion. I ask for a division.



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

Mr. BUSTIN: Mr. Speaker, I would pose a question to the gentlewoman from Portland, Mrs. Najarian, as to whether or not she has any idea what the premium increase would be on Blue Cross-Blue Shield or other hospital insurance for this benefit whether people want it or not?

The SPEAKER pro tem: The gentleman from Augusta, Mr. Bustin, has posed a question through the Chair to the gentlewoman from Portland, Mrs. Najarian, who may answer if she so desires.

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

Mrs. KANY: Mr. Speaker and Members of the House: I suppose I should have let Mrs. Najarian answer that question, but I have been involved in this particular subject last session and got very interested. I might say that I believe that you might find that the price of that insurance may go down, because often home health coverage is a lot less expensive than hospitalization.

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

Mr. BUSTIN: Mr. Speaker, Men and Women of the House: One of the things I do in private life is negotiate a contract with Blue Cross-Blue Shield governing 19,000 subscribers and their families. I have been involved with these kind of discussions, and the gentlewoman may believe that the premiums are going down, but I know for a fact that they are not, and I am wondering if anyone wants to tell us how much they are going up. They are going up, the question is how much are they going up for this benefit?

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

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

Mr. JACKSON: Mr. Speaker, I think the answer is very clear that if you allow this to be an optional thing, maybe we will know. People will have the choice instead of being taken by the neck and being told that they are going to buy this coverage whether they like it or not, they will have the choice to decide what they will pay for it and they will know what the bill is and we will have a feeling for it. Maybe sometime we will want to mandate it, but not now, and let's find out what the cost will be.

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

Mrs. NAJARIAN: Mr. Speaker and Members of the House: I have no way of knowing what the insurance companies are going to require for this coverage, but I feel that over time. Representative Bustin is absolutely right, insurance coverage is increasing the cost of the premiums to the point where I know many people have cancelled their insurance and are simply putting their premium money in the bank. But I do feel that if everybody had this, that eventually your prices would go down because there would be less hospitalization and less people going into nursing homes. So I think in that sense, after we have had some experience with this and people utilize the home health coverage, the total premiums will go down.

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

Mr. NORRIS: Mr. Speaker, Ladies and Gentlemen of the House: I hesitate to get into this, but I had a similar bill before the same committee and the private insurance carriers didn't object to the bill. The only people who objected were the Maine Teachers Association

and the Blues. Again, we are singing the Blues today and they are being shored up by the Maine Teachers on this one because of negotiations.

I would say that in all of the pieces of legislation that were presented to this committee, this probably being the most reasonable and the most necessary, I would hope that you would defeat the motion before the House and I would hope that you would go with the other report and at least we would have a chance to find out whether treating people in a less expensive milieu is the better way to go, see in fact whether the rates won't go down, because I am sure in this one narrow area it would be an excellent chance to mandate and to find out really once and for all if you can treat people for less money in a milieu that is less money than expensive hospital care, that we mandate it and try it.

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

Mr. BUSTIN: Mr. Speaker and Members of the House: Mr. Norris speaks to gain both one way or the other because of attaching what he may feel be a negative reputation of the Maine Teachers Association on this bill. Let me assure you that the Maine Teachers Association has no position on this bill and I know because I sit in on the meetings when they take positions on insurance issues. They do not. I can assure you that any group of any substantial size was to sit down and negotiate the benefits that they get for the dollars they pay would like to have something to say about what they are buying. That seems to be the issue here. Give any group, whether it be mill workers or teachers or state employees or any other group that makes this kind of arrangement with Blue Cross-Blue Shield or any private carrier, the option and see what happens.

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

Ms. CLARK: Mr. Speaker, I would like to respond to the remarks by the gentleman from Brewer, Mr. Norris. The people who spoke in opposition to this measure were precisely, Representative Norris, Mr. Paul Ackley representing the Associated Industries of Maine, Laura Franciose, R.N., representing Blue Cross-Blue Shield of Maine, and David Hughes representing Union Mutual. Let's not drag red herrings across the issue. Decisions about coverage require a careful and individualized balancing of the costs of providing such coverage and the importance and value of the coverage to the group or the individual. Should all policyholders, regardless of the nature of their contract, be required to have such coverage? The majority of the Committee on Business Legislation deemed that this coverage is essential and they also reported out that it should be mandated to be made available by the insurer. The insurer must make that coverage available rather than requiring policyholders to buy such coverage.

I urge your support of Report "B".

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

Mr. LYNCH: Mr. Speaker, Ladies and Gentlemen of the House: I would like to ask a question.

Is there any place in the State of Maine that home health care coverage is now being offered? Is anyone aware of it?

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

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

Mrs. KANY: Mr. Speaker and Members of the House: Yes, definitely. We have it in our area of the state and we are not alone. It is

available and I hope that we would see more of it because it certainly is less expensive to send a nurse to visit one person, once a day perhaps, than it is to keep someone in a nursing home or a hospital as you can well imagine.

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

Mr. LYNCH: Mr. Speaker, Ladies and Gentlemen of the House: Can I ask now what has been the experience with policies prior to this coverage and afterward?

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

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

Mr. BUSTIN: Mr. Speaker and Members of the House: I think Mr. Lynch asked whether or not coverage was available. I think Mrs. Kany answered that service was available. The answer doesn't go with the question. I am not sure of the answer but I don't think there is any coverage offered, Mr. Lynch.

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

Ms. CLARK: Mr. Speaker, I would like to attempt to respond to the question by Representative Lynch.

The answer is that there is home health care coverage in some policies covering health insurance in the state. There are 13 certified home health agencies in Maine. The experience has been favorable for those who seek to use the coverage that is available. The question here is not whether home health care coverage is good and/or essential. The report is unanimous on that aspect. The issue here is the singular difference between the report, whether we are going to mandate it for all policyholders or are we going to mandate the option so that policyholders can decide whether they are going to buy that coverage.

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

Mrs. BEAULIEU: Mr. Speaker, Ladies and Gentlemen of the House: I need to ask a question in a totally different capacity.

In my school system, we pay for coverage for our people. I would like to know if this means that if it is mandated that this kind of coverage is going to have to be offered to all of our employees and how much would it cost my school system through my school budget to pay for it?

The SPEAKER pro tem: The gentleman from Portland, Mrs. Beaulieu, has posed a question through the Chair to anyone who may care to answer.

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

Mr. JACKSON: Mr. Speaker and Members of the House: In answer to the question, if we mandate the coverage, you will buy the coverage. What it will pay is not known at this point. If you pick Report "B", it will not be mandated and you can decide whether you will buy the coverage or not and you can weigh the cost when you do that.

The SPEAKER pro tem: The Chair recognizes the gentleman from Brewer, Mr. Cox.

Mr. COX: Mr. Speaker, Ladies and Gentlemen of the House: I must confess my ignorance of some of the details of this proposal.

I would like to direct a question through the Chair to anyone who may care to answer. My question is: just what is this home health care comprised of?

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

Mr. PEAKES: Mr. Speaker, Ladies and

Gentlemen of the House: This type of care would be in lieu of hospitalization. It would be as ordered by the doctor. If he felt that it was suitable for this care to be carried out in the home, that would be the order. As to whether the key issue here is whether you believe that this type of coverage should be mandated against the insurance companies or not.

I have had some experience in home health care in my area. In fact, in one part of our building, they operate a service out of it. It seems to do very well in the community. In fact, I think the indication is that it does, in the long run, save hospital expenses and health care expenses. The decision is right there with the doctor, whether this person is going to be cared for in their home or in a hospital. I guess we all know what it costs, about \$100 a day just for the bed in the hospital. When you add the other luxuries, you get maybe a \$200 bill going.

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

Mrs. LEWIS: Mr. Speaker, Ladies and Gentlemen of the House: I wonder if I am reading these amendments correctly. It seems as though this health care has to be provided by a home health provider. This isn't just anybody who comes in, it is this particular home health provider. Then when it describes a home health care provider, it is very definite. A home health care provider means a home health care agency which is certified under Title XXVIII of the Social Security Act 1965 as amended and goes on. Do we have such home health care providers every place in the state so that if anybody anywhere in this state should have to buy this insurance, can we be positive that the person would have such service available?

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

Mrs. POST: Mr. Speaker, Men and Women of the House: Just to make sure that this piece of legislation conforms to the special house rules, I want to make sure that everyone is aware that all the folks on Matinicus would have to pay for the home health coverage, they would not be able to receive the services because, in fact, there is no coverage on that particular island.

The SPEAKER pro tem: The Chair will order a vote. The pending question is the motion of the gentlewoman from Freeport, Mrs. Clark to accept Majority "Ought to Pass" Report as amended by Committee Amendment "B". Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

Mr. Morton of Farmington requested a roll call.

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

A vote of the House was taken and 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 Chair recognizes the gentleman from Farmington, Mr. Morton.

Mr. MORTON: Mr. Speaker, Ladies and Gentlemen of the House: I don't expect to turn that vote around that I saw up there on the board tonight but I do think there is one thing you should be aware of. The only difference between these two bills is that one says that all policies offered shall have the coverage available. Of course, if there is a charge extra for that, you will have to pay for it. The gentleman from Augusta has said that there would be a higher charge. I submit if he knows that there would be a higher charge, then he must know somewhere near what it might be.

In my opinion, ladies and gentlemen, there

will be no higher charge. That is purely my opinion. I am going to tell you why. I think all of you are just as capable of figuring out why as I am. The gentleman from Dexter, Mr. Peakes, touched on it. It costs \$100 to \$200 a day to provide care in a hospital. A home health care specialist or just people that the doctor allows to take care of these people in the home, in most instances, is not going to cost anywhere near as much as that per day. I think we can establish that and I don't think anybody would disagree with that.

The next thing that I am sure you all know is that the rates of insurance premiums depend on the cost of the coverage. How much they have to pay out is how much they have to build the rates from. It is pretty obvious to me that if we are going to be able to provide coverage for less and I would say considerably less than the cost of providing coverage in a hospital, that the premium for that particular service is eventually going to go down. That has nothing to do with the general rise in prices of medical services all over the country. None of us are going to deny premiums are going to go up. We are talking about one specific little service here. It is very obvious to me that the prices will not go up, that they are most likely to go down for this service and if the gentleman from Augusta has any specific dollars and cents that he can put on this bill. I wish he would tell us what they are.

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

Mr. BUSTIN: Mr. Speaker, Ladies and Gentlemen of the House: I do not have any dollars and cents.

Let me tell you the way most of these options work. Usually they don't start with mandation by the Maine legislature. The first thing that happens is that the company develops a program. Then they give it to their underwriters and their actuaries and they find out how much it is going to cost. Then they tell the customer how much it is going to cost. The customer decides whether he wants to buy that product, get those services to get the benefits from the premiums that are going to be charged. No one has ever presented me or anyone else that I know with even step number one, the program and what it is going to cost.

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

Mr. GARSOE: Mr. Speaker, Ladies and Gentlemen of the House: The thing that maybe has not been considered here is, I think we have seen ample evidence throughout recent history that if you offer a program, you have a tendency to broaden the acceptance of the program, expand the number of people available. If I can run a parallel on those who might be put in the hospital today being eligible for home care, I think it is equally possible since we are dealing in unknowns on both sides that more people will become eligible or the doctors will prescribe more people under this home care activity. I think the gentleman from Yarmouth gave us — in fact, I think the Majority Report gives us a reasonable exercise so lets try it and if we get anyone doing it, we will have a yardstick because in my private life, I negotiate the end results with teacher associations of the contracts that the gentleman from Augusta negotiates with Blue Cross, an activity that I was engaged in until four o'clock this morning. I want to tell you that this year with no expansion services, that we are looking at a 16 percent increase in the cost of the present coverage.

The gentlelady from Portland's suggestion and really the gentleman from Farmington suggestion that by doing this, we are going to reduce the cost reminds me of the merchant who, in his sales pitch, tried to convince people that he was selling the article at a loss and they

asked him how he could do it and he said, volume.

Ms. Clark of Freeport was granted permission to speak a third time.

Ms. CLARK: Mr. Speaker, Men and Women of the House: While I fully recognize that my credibility on the floor today is a low minus zero, I would like to share with you my experience. I have been on the Committee of Business Legislation for five years and I have listened at public hearings and studied whether it is legislative order or in working sessions the issue of home health coverage for five years; in those five years, the volume of statistics and information materials has reached at least a total of two feet and there has been to date absolutely zero statistical evidence which would substantiate claim that costs are going down.

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

Mrs. NAJARIAN: Mr. Speaker and Members of the House: Just in response to the last statement and some others that have been made, the home health coverage that has been provided by insurance companies, up to now, has been very limited. It has been one service or you had to have a hospital stay prior to having home health coverage. So, I don't think because of its limitations that have been on it that you can make any deductions that because of that costs have not gone down.

It is my feeling that if you just leave it optional, you are still not going to get any experience from this because in many cases, they will opt not to do it. I firmly believe that if all people had a home health coverage, that the total health insurance premiums will go down because there will be less hospitalizations and there will be less nursing home stays and that is bound to reduce your costs because nursing homes for private patients can go up to \$45 a day, \$40 a day for hospital and there is \$100 or more dollars a day. Home health care coverage in Portland as the most expensive in the state is \$28 a day and you don't need home health coverage everyday in the week like you do in a nursing home or in the hospital.

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

Mr. PEAKES: Mr. Speaker, Ladies and Gentlemen of the House: I don't often get up and oppose my floor leader or committee leader. However, there is another area to this that I think is very important to all of us and to our families. That is, most of us don't like being in the hospital. A lot of these older people would much rather be in their home and if they can have one of these nurses come in and turn them over, bathe them or provide some kind of therapy to them, they are much more comfortable in their own home with their families and friends.

I recently went into one of the smaller hospitals in the area and I thought I was going to get a bill for \$350 to \$400. The room was \$92 and the bill I got was around \$700. It was a perfectly, normal, routine matter and it probably could have all taken place in the home.

I submit to you that the hospitals are there to fill their rooms, the doctors are there to practice in these hospitals, to keep these rooms full and there is already a great deal of reluctance for the doctors to go into this home health care field and if we leave it optional, it just isn't going to work as well. I know that in the final result there is going to be lower medical costs to all of us.

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

Mr. HALL: Mr. Speaker, Ladies and Gentlemen of the House: Aren't we about ready to vote this? We have been on this now long enough.

The SPEAKER pro tem: A roll call has been

ordered. The pending question before the House is the motion of the gentlewoman from Freeport, Ms. Clark, that the House accept the Majority "Ought to Pass" Report. Those in favor will vote yes; those opposed will vote no.

#### ROLL CALL

YEA — Aloupis, Austin, Bachrach, Bagley, Beaulieu, Bennett, Benoit, Berry, Birt, Blodgett, Boudreau, A.; Boudreau, P.; Brown, K. C.; Bunker, Burns, Bustin, Carter, F.; Chonko, Churchill, Clark, Connors, Cox, Cunningham, Diamond, Drinkwater, Dudley, Durgin, Elias, Fenlason, Flanagan, Fowlie, Garsoe, Gillis, Goodwin, K.; Gray, Green, Greenlaw, Hickey, Higgins, Howe, Huber, Immonen, Jackson, Joyce, Kane, Kilcoyne, Laffin, LaPlante, Lewis, Lynch, Mackel, Mahany, Masterton, McBreairty, McHenry, McKean, McMahan, McPherson, Mitchell, Nadeau, Nelson, M.; Nelson, N.; Pearson, Peltier, Plourde, Post, Prescott, Raymond, Sewall, Shute, Silsby, Smith, Sprowl, Stubbs, Tarbell, Tarr, Theriault, Tierney, Trafton, Truman, Valentine, Whittemore, Wilfong, Wyman.

NAY — Biron, Brenerman, Brown, K. L.; Davies, Hall, Henderson, Hughes, Hunter, Kany, Kelleher, Locke, Lougee, Maxwell, Morton, Najarian, Norris, Peakes, Quinn, Spencer, Torrey, Wood.

ABSENT — Ault, Berube, Carey, Carrier, Carroll, Carter, D.; Connolly, Cote, Curran, Devoe, Dexter, Dow, Dutremble, Gill, Goodwin, H.; Hobbins, Hutchings, Jacques, Jalbert, Jensen, Kerry, LeBlanc, Littlefield, Lizotte, Lunt, MacEachern, Marshall, Martin, A.; Masterman, Mills, Moody, Palmer, Perkins, Peterson, Rideout, Rollins, Stover, Strout, Talbot, Teague, Tozier, Twitchell, Tyn-dale.

Yes, 84; No, 21; Absent, 45;

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

Thereupon, the Bill read once.

Committee Amendment "B" (S-292) was read by the Clerk and adopted and the Bill assigned for second reading tomorrow.

#### Non-Concurrent Matter Tabled and assigned

Bill "An Act to Provide for the Licensing of Denturists" (H. P. 1689) (L. D. 1877) which was passed to be engrossed as amended by House Amendment "A" (H-778) in the House on June 21, 1977.

Came from the Senate with that Body having Adhered to its former action whereby the Bill was passed to be engrossed as amended by Senate Amendment "A" (S-279) in non-concurrence.

In the House: On motion of Mt. Tierney of Lisbon Falls, tabled pending further consideration and tomorrow assigned.

#### Non-Concurrent Matter

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) on which Report "C" "Ought to Pass" as amended by Committee Amendment "A" (H-746) of the Committee on Marine Resources was read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (H-746) in the House on June 21, 1977.

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

In the House: On motion of Mrs. Post of Owl's Head, the House voted to Insist and ask for a Committee of Conference.

The following Communication: (S. P. 566)

#### State of Maine Office of The Governor Augusta, Maine

June 21, 1977

Honorable Joseph Sewall  
President of the Senate

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

This is to formally notify you of our nomination of Patricia H. DiMatteo of Falmouth to the University of Maine, Board of Trustees.

In accordance with Private & Special Law 1967, chapter 177, section 1 as amended, this nomination is subject to review by the Joint Standing Committee on Education and to confirmation by the Legislature.

Thank you for your continued assistance in the area of appointments.

Sincerely,  
(Signed) JAMES B. LONGLEY  
Governor

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

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

#### Consent Calendar First Day

(S. P. 353) (L. D. 1361) Bill "An Act Relating to Secured Transactions under the Uniform Commercial Code" Committee on Business Legislation reporting "Ought to Pass" as amended by Committee Amendment "A" (S-291)

No objections being noted, the above item was ordered to appear on the Consent Calendar of June 23, under listing of Second Day.

Mr. Churchill of Orland was granted unanimous consent to address the House:

Mr. CHURCHILL: Mr. Speaker, Ladies and Gentlemen of the House: I hate to do this so late in the day. It is against all principles.

Maybe, you all noticed the blue insert that appeared in the Bangor Daily News of the employees of St. Regis Paper Company by which I am employed as well as Representative Shute and I would like to say that today was the official dedication ceremony of a new paper machine expansion program whereby \$85 million dollars was spent. This has created a very healthy employment situation in my community and I wish to express a thank you to St. Regis Paper Company and for my constituents in surrounding towns.

The new paper machine is the length of two football fields. The sheet of paper running on the machine is 280 deckle inches, a sheet width or wider than two express lanes. There will be visiting hours this summer and are usually between ten in the morning and two in the afternoon. Anyone interested in the sightseeing tours, stop at the main entrance on passing through Bucksport, Maine and I am sure they will be glad to accommodate you.

(Off Record Remarks)

On motion of Mr. Tierney of Lisbon Falls,  
Adjourned until 11:30 tomorrow morning.