

# MAINE STATE LEGISLATURE

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**LEGISLATIVE RECORD**

OF THE

***One Hundred and Eighth  
Legislature***

OF THE

STATE OF MAINE

**1978**

**Second Regular Session**

January 4, 1978 — April 6, 1978

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**Senate Confirmation Session**

June 14, 1978

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**First Special Session**

September 6, 1978 — September 15, 1978

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**Second Special Session**

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**Third Special Session**

December 6, 1978

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APPENDIX

## HOUSE

Thursday, February 2, 1978

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

Prayer by the Reverend Stephen W. Holmes of the Winthrop United Church of Christ.

Reverend HOLMES: Let us Pray. Grant to our world and to us, O Lord, the love of carrying power and yet save us from the vanity of spirit, from envy, apathy and ill-will. We ask that you fill our minds with wisdom from above which is pure, peaceable and full of mercy, touch our minds with light and understanding, that by having a right understanding we may have compassion and courage and patience working with your help for the better order of the ages. Create in us a clearer insight, a juster and a wiser spirit and by Thy spirit temper our minds to forbearance. In the name of our Lord, Jesus Christ. Amen.

The journal of yesterday was read and approved.

House Reports of Committees  
Ought Not to Pass

Mr. Cote from the Committee on Legal Affairs on RESOLVE, Authorizing Edward E. Benner, Jr., Mable C. Benner of St. George and the Administrators of the Estate of Daniel E. Benner to Bring Civil Action Against the State of Maine (H. P. 1946) (L. D. 2025) reporting "Ought Not to Pass"

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

## Ought to Pass in New Draft

Mr. Kelleher from the Committee on Public Utilities on Bill "An Act to Provide for the Payment of Costs for Relocation Utility Facilities in an Urban Renewal Area" (Emergency) (H. P. 1904) (L. D. 1965) reporting "Ought to Pass" in New Draft (H. P. 2072) (L. D. 2131)

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

## Divided Report

Majority Report of the Committee on Education reporting "Ought Not to Pass" on Bill "An Act to Provide for Alternative Election Procedures for School Budgets on Local Basis" (H. P. 1909) (L. D. 1970)

Report was signed by the following members:

Mr. Pierce of Kennebec, Mr. Katz of Kennebec, Mr. Usher of Cumberland — of the Senate.

Mr. Connolly of Portland, Mr. Bagley of Winthrop, Mr. Plourde of Fort Kent, Mrs. Lewis of Auburn, Mr. Lynch of Livermore Falls, Mr. Fenlason of Danforth, Mr. Birt of East Millinocket, Mrs. Beaulieu of Portland — of the House.

Minority Report of the same Committee reporting "Ought to Pass" as amended by Committee Amendment "A" (H-999) on same Bill.

Report was signed by the following members:

Mrs. Mitchell of Vassalboro, Mr. Wyman of Pittsfield — of the House.

Reports were read.

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

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

The SPEAKER: The gentleman from Livermore Falls, Mr. Lynch, moves that the House accept the Majority "Ought Not to Pass" Report.

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

Mr. WYMAN: Mr. Speaker, Ladies and Gentlemen of the House: It is, indeed, a pleasure for me to rise this morning in support of this legislation, (L. D. 1970). It is a pleasure because I firmly believe in the principles that this

bill espouses, and it is also a pleasure because this particular piece of legislation is sponsored by my distinguished and capable seatmate, Representative Wood. I was tempted to tell you this morning that I would support this legislation notwithstanding its sponsorship, but I thought better of that.

The great philosopher and theologian, Dr. Harry Emerson Thorsdick once pointed out that democracy is based upon the conviction that there are extraordinary possibilities in ordinary people.

(L. D. 1970) that you have before you this morning is predicated upon that very optimistic assessment. It is an attempt to strengthen and encourage greater citizen interest in participatory democracy, which is the very bulwark of our political system. It will accomplish this by allowing individual towns in school administrative districts to vote locally on approval of the school budgets.

There have been many differing interpretations on the true significance of last December's referendum election, and admittedly, there are those who would seek to translate the people's vote into a personal mandate for a variety of personal programs, policies and programs. Notwithstanding these efforts, there can be little question that the people of this state are demanding a greater role in the formation of those decisions which affect their lives to a very large degree.

I think it is oftentimes difficult for us to resist the temptations, to seize and exercise that political and economic power over people's lives, power which flows inequitably and quite naturally from the seat of government here in Augusta.

Indeed, the increased complexities, the increased problems that the State of Maine faces has required greater state involvement and consequent regulation. Whether such a development is good or bad, whether you support it or not, I think most of you will agree that in most cases it has been necessary and in most cases it has been well intentioned.

L. D. 1970 affords us who serve in the people's house a unique opportunity to turn back to the people of Maine greater control over the determination of their own destiny. It has been argued and will be argued this morning, I expect, that this legislation, if passed, will disrupt and eventually destroy the SAD system. Nothing could be further from the truth. In fact, passage of this bill will strengthen the SAD system by restoring people's confidence that the system can still reflect the people's wishes and that the system can still reflect the people's priorities among the many competing demands of education. It will encourage people to become more greatly involved, and that can only bear good for our educational system.

I strongly support the SAD concept and I would never recommend to you legislation which I thought would weaken it. The issue before us today is not the SAD's. The true issue is whether we want to encourage people toward greater participation in the school budgetary process.

We may have to sacrifice some time and we may have to sacrifice some efficiency, but, ladies and gentlemen, I would remind you this morning that democracy was never intended and never designed to be efficient. This bill should be important to each of us because it symbolizes our faith and it is an opportunity for us to take an important step of faith by placing the sound judgment and good will of the people of Maine as our top priority.

The term "local control" has been used as a demagogic catch-phrase by those who would turn back the clock on the education of our children; yet, this should not preclude rational and discerning men and women from recognizing that the integrity of the individual citizen deserves our highest respect.

We have the opportunity, as Adali Stevenson said, to enhance the people's business con-

ducted by all the people in open meetings where we can say that we think, and what we think should be done about what we think.

I think Thomas Jefferson best delineated the distinction between aristocracy and democracy in a letter he wrote to his French friend, Dupont D'leMours, and in that letter he said, we both consider the people as our children, but you love them as infants whom you are afraid to trust without nurses, and I as adults whom I freely leave to self-government.

If we believe that the principles of individual liberty established by the founding fathers more than 200 years ago have merit today, if we believe that the worth of the individual can still be preserved in an age that has grown increasingly impersonal and technologically complex, if we believe that the Declaration of Independence and the United States Constitution can have full relevance and meaning even as we approach the 21st Century, and also if we truly believe that the individual's right to participate in his government and in his society is an unalienable right which must be neither abridged nor dispensed by political powers, if we truly believe all these things, then I say to you today, we have no choice but to support this bill. Let us set aside this morning the personal antagonisms and the heated emotions of last fall. As a matter of fact, let me say parenthetically that last fall I had the misfortune to engage Representative Post in a debate, and I am very pleased and very relieved that this morning we are on the same side of this issue.

Let us consider for a moment what is truly in the best interest of all of Maine people. I believe I have quoted everyone this morning except for Senator Katz and Mrs. Adams, but I have always believed that someone has said it much better than I could have and, indeed, the late Senator Robert Kennedy very eloquently summed up the case for (L. D. 1970) when he said, "All great questions must be raised by great voices, and the greatest voice is the voice of the people. Speaking out in prose or painting or poetry or music, speaking out in homes and halls, streets and farms, courts and cafe's, let that voice speak and to still the issue here will be the gratitude of mankind."

Ladies and gentlemen of the House, I strongly urge and would respectfully recommend that you join with Representative Mitchell and me in adopting the Minority "Ought to pass" Report as amended.

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

Mr. McMAHON: Mr. Speaker, Ladies and Gentlemen of the House: I cannot attempt to achieve the level of eloquence of my good friend from Pittsfield, but it is the unfortunate lot of my other good friend from Springvale that his other seatmate opposes this bill, and I would like to tell you why.

I definitely support the majority report, and I hope you will. Notwithstanding my philosophical approval of what the gentleman from Springvale is trying to do, I want to ask you to do a few things before voting on this.

First of all, I would ask you to read the bill, L. D. 1970, and see if you understand it at first reading. I didn't, and I suspect that if some of you can't, your constituents certainly won't. We have to look at this on two different levels, the philosophical level which you just heard very eloquently explained by the good gentleman in many cases is the same as the working level; in this case. It is not. If this were implemented, no one would understand it, to begin with, notwithstanding the fact that it is voluntary on the local level, which I certainly approve of.

On the surface, this bill seems like the ultimate in local control, so it is difficult for me, and perhaps unpopular for me, a former teacher and one who advocates local control, to stand up to oppose this bill, but I do, and I do so because I look ahead to what might be the result if this is enacted into law, and I think the

result ultimately will be confusion and disillusionment on the part of the people who, on the surface, perceive this to be a bill that will help them when, in fact, it may not.

We now have SAD budget meetings held each spring. Under the provisions of the new law passed last year, those districts, either on their own or by petition, may adopt a local format of their own choosing. In my district, in SAD 71, the school directors unanimously, on their own, adopted a 22 line item budget, and at the school district budget meeting last year which I moderated, the meeting was exciting, well attended and there was absolutely no problem at all with the new format.

It is difficult to get people to attend meetings. If this is enacted, will people go to their individual town meetings with the expectation that they are going to have the final say on their budget only to find that perhaps the other towns in their districts have voted differently on that budget and then there will be a school districtwide meeting anyway. Do you think they will go to that second meeting? It is hard enough to get them there now the first time, but if they got to their town meeting and they vote to cut a particular article, if it is a line item budget, or the total if it isn't, and other town meetings in the same school district may vote to raise or cut different parts of the school budget. Those people are going to go home from that town meeting thinking that they have done their duty, only to be called to a district meeting. Most of them are going to throw up their hands and say, why bother, you can't beat the system. That will happen on the working, practical level. I have seen it as a school district moderator and as a town moderator and as a selectman. That is why I oppose this bill.

If you look at the editorial passed out by the good gentleman from Sanford, it, too, is very eloquently worded and a difficult piece of writing to disagree with. Look at the second paragraph — "Unless the State Legislature makes some changes, many Maine townspeople will once again be misled by a trusted process." That is romanticized as small town democracy, the method of approving local budgets. Look at the third paragraph — "Last year most voters walked away from their local town meetings believing that all of the important decisions had been made, etc." The next paragraph — "What really happened in many cases was this, the town's major expenditure, etc., was decided at a later date." That is just exactly what will happen if you enact this bill.

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

Mr. LYNCH: Mr. Speaker, Ladies and Gentlemen of the House: Let's cut through the rhetoric and get down to one or two basic problems. We have long sought alternate proposals for funding and deciding the funding of SAD's. We have not yet come up with what would be an adequate solution for everyone. Unless you are involved in the budget process, you don't understand the complications that would come about by such an alternate procedure.

I offered the four sponsors of this bill, carte blanche, to take an SAD in their area as a pilot project for one or two years to see if they could come up with a better procedure for adopting school budgets than we have at the present; it has not been accepted.

Look at the amendment. The amendment shows you the problems that will come about. We now have a district budget meeting and there is provision for a subsequent meeting if the voters in the district cut their budget drastically and then want to reconsider it. But look at the amendment. It says, "Subsequent district budget meetings shall be held and the voting at these meetings shall be done at a single place within the district." In other words, get back to present law. "These meetings shall be held in accordance with the provisions and procedures set forth in Section 226

and may continue in this manner until an alternate budget is adopted." The amendment foresees the problems that we are trying to tell you will occur, and are we going to have a continuation of budget meetings? I would not impose this on the SAD's in the State of Maine, but I would go along with a pilot project if one of the sponsors will pick his district and let it be tried for a year or two. If they get into trouble, they will be back asking for special legislation to bail them out.

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

Mr. CAREY: Mr. Speaker and Members of the House: I am one of the four sponsors. I did not receive the carte blanche that the gentleman from Livermore Falls mentioned. However, if it came through the mail and looked like a credit card, I probably would have thrown it away anyway.

The problem probably stems within the committee with the first line of a memorandum that was sent to the committee, a statement, on the 13th of January of this year, which said, "The Department of Education and Cultural Services opposes L. D. 1970." That, by itself, indicates to me that this certainly is a reasonably good bill.

I don't have any problems with this particular bill in reading it, as Mr. McMahon pointed out — he mentioned that we have accepted in some areas the line item format. Don't get down the wrong trail, the fork in the road, that has absolutely nothing to do with this bill. You can do the line item thing whether you want to or not, whether you accept this bill or not. He did mention something very interesting and that was having difficulty in getting people to the meetings, and that is exactly why this bill came about.

As for being unable to amend when you vote in your own town on an SAD budget, do not let that worry you. If the budget is defeated, it would then obviously be heard at a single meeting where all municipalities would have to participate together. We do not have any problems with that. How many of you either live in an SAD or live near an SAD that has voted down a school, that has voted down a school again, that has voted down a school again and has had as many as five or six votes before they finally accepted the school. It appears to me that the Department of Education is not that concerned about how many times people go to the polls to vote for a school, so I am not really worried about that particular aspect of the program.

I would like to point out to you that along with Mr. Wyman, I, too, have debated Mrs. Post. Mrs. Post and I were on opposite sides of the issue on the Uniform Property Tax. Now that issue has been settled, but I think Mrs. Post will bear out the fact that in many of our debates, one of the real fine subject matters brought up was the fact that people were not able many times to get to the SAD meetings to work on a budget or, in fact, the budget may have been controlled by certain segments of the population. This is one of the things that they wanted and obviously Mr. Wood got that tone from the public and this is why I was so pleased to be asked to be a cosponsor of it and said that I would cosponsor it, because I have been out in the field and I have talked to people and unlike Mr. McMahon, I am not afraid of the people being able to do what I think is right in their own behalf.

I do hope you would accept in this body the minority report and reject the pending motion.

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

Mr. McMAHON: Mr. Speaker, Ladies and Gentlemen of the House: My good friend Mr. Carey is putting words in my mouth, as he is able to do very effectively as a speaker before this body. He knows darn well what I said and what I meant but for his benefit, perhaps I should repeat it.

The arguments evidenced by Mr. Carey and

by the good gentleman from Pittsfield, Mr. Wyman, are the superficial arguments, the popular ones, the ones that appear to be what you should support. If you support them, you can truly go home and you can say to your constituents, "I did something for you, I increased your ability to go to your town meeting, if you live in a district and vote on your SAD budget." You can be very popular.

I am reminded of some of the legislators that went home after passing L. D. 1994 a few years ago. They were able to go home with that very same attitude and it took a couple of years before those of us who voted against it were forgiven by our constituents for doing so.

Let us look down the road at the practical effect. I do not want to be branded the guy who is against local control, I am not. I cosponsored the legislation last session, which passed allowing line item format. That is not the issue and Mr. Carey knows it.

Let me pose this as a hypothetical situation. Let us assume that an SAD district is made up of five towns. Let us assume that that district has adopted a line item format. Let us assume that the town meetings each of the five component towns in that district, each make a different change so you have five different sets of changes in that one SAD budget. What are you going to have? You are going to have budget meeting anyway, as the gentleman, Mr. Lynch, told you. You are going to follow the present law anyway, so what is going to happen? As I told you before, the gentleman from Waterville, Mr. Carey, may find things different in the city, but I am a veteran of town meetings and I know that you cannot get a person back to a second town meeting. If he does something that he is proud of and leaves and comes to find out that his vote counted for nothing, he is not going to come back again. There is where I am afraid you are going to pulling the wool over the eyes of the people in the state if you pass this bill.

Please consider this on the working level. Look ahead five years, and as Mr. Lynch suggested, and I am not on that committee, I have not discussed bill with any of the members of the committee except my seatmate and we are on opposite sides, but think about the implications of what you might be doing here. As Mr. Lynch suggested, perhaps you might find it appropriate to do it as a pilot project to see if it works; I would support that. But I am betting that the outcome will be as we predict right now.

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

Mrs. PRESCOTT: Mr. Speaker, Ladies and Gentlemen of the House: I support Mr. Wood's bill but I wish it were stronger than it is. I would like to see a bill where we are going to have a public hearing on the school budget one day and we would go back in and have an election day the following day and vote on the budget then. That is what I would like to have seen proposed.

I do not know how I feel about a pilot project, but I don't think that that is a very good idea. I do not think that you are going to accomplish very much by experimenting with school budgets in the state.

We have all been talking about local control, but I don't think we are talking about the same thing. I think some of us are talking about local control and talking about giving it to school boards while others are talking about giving it back to the citizens. I think local control belongs to the citizens, and in an SAD, a board of directors is composed of board of directors from the different towns in that SAD, the five towns or the three towns or the two towns, and you have different directors on those boards. If you have a large town, that large town dominates, usually, all of the budget and they usually dominate meetings. The larger towns have the control and all the district directors are those people with the control at those meet-

ings.

The meetings are usually held in the evenings. They are usually held late at night and only the most committed pro or con stay on for the meeting.

I come from an area that is rural and we do have a district and we do have people that we are asking to drive 20 or 30 miles to a district budget meeting. We are talking about people who are working people, people who have to get babysitters, retired people and senior citizens and we are asking them to leave their homes for two or three hours, sit through a meeting which is sometimes confusing and it is complex, then drive home perhaps at eleven o'clock at night. Well, I am suggesting that they are throwing up their hands now and that they are saying, why bother to attend? I think we ought to make it easier for these people to attend these meetings and I think that this proposal perhaps will do that.

I think probably many people are not attending these meetings because they feel it is a rubber-stamp format, and I think probably that is the case. Our towns are spending at least one half their budgets on schools, and I think we ought to be allowing more citizens an opportunity to come and vote on those budgets and this is one way to do it.

I think you should support the minority report.

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

Mr. MORTON: Mr. Speaker, Ladies and Gentlemen of the House: The gentleman from Pittsfield, Mr. Wyman, quoted a great many learned people this morning in his beautifully constructed speech. As I sat here, I was trying to think of something that I could come up with that would be real fetching and all I could think of was a line in the show Oklahoma, "We have gone about as far as we can go."

I was quite involved in the construction of the legislation which we presently have on the books which allows for the designing of a format by the people, by petition or by the school board if it so desires, and I was also very involved in providing for the safety valve legislation we included for a second meeting if drastic action was taken that the people wanted to take a second look at. I think that is about as far as we can go in providing opportunity for input on the school budget.

This bill right here would be chaos. The gentleman from Waterville mentions the fact that they vote several times on a school building. I think that that is a little different kind of a proposition. A school building is something that is large and dramatic and the people have a very emotional involvement in it. The school budget is something a little bit more prosaic. It comes along every year as compared to a school building every 20 years and it is something that has to be handled with some dispatch if you are going to avoid complete disruption in the school system.

I hope that you all do not think that the large towns in a school district dominate the district. I happen to represent the largest town in my nine-town SAD, but I want you to know that we are underrepresented on that board and it has never been a problem. The chairmanship of the board rotates, and I cannot remember when we have had a chairman from Farmington. It has been a long time. But democracy is working in the SAD boards and it would be allowed to continue with some degree of efficiency. I believe this bill would be an exercise in futility and I hope you will follow the Chairman of the Education Committee.

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

Mr. BURNS: Mr. Speaker, Ladies and Gentlemen of the House: One more point that has not been touched on in this debate that I would like to bring forward. I concur with the idea of the bill, the local control and let the people do their thing in the local area. However, if this

thesis was brought forward to this body, we would find that each of us would be either in our own county or in our own city debating a bill like this without the benefit of what the people in the other parts of the state are saying. The voters in the SAD are the legislative body. That is in law; therefore, if we brought thesis to us, we would also be separated, and until we can get this ironed out or change the legislative body of the SAD's, I am going to have to vote against this bill.

The pilot project mentioned by the committee chairman is quite intriguing; I would like to see it followed through.

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

Mr. WOOD: Mr. Speaker, Ladies and Gentlemen of the House: I feel in a somewhat awkward position of trying to mediate between two opposing factions that happen to be sitting in a close proximity to me. I did not prepare a speech because I know that Representative Wyman was going to do that, but I would like to try to answer some of the questions that were raised.

It is my understanding that if we accept the "ought not to pass" report, all of you people who are in favor of the pilot project would not see that because the bill would be dead, so I would suggest that if you like the pilot project, maybe we could keep the bill alive and suggest an amendment.

One of the reasons that I did not immediately accept the pilot project is, if you will look at the sponsorship of the bill, you will see that there is Representative Post and Representative Wood and we tried to decide who was going to do it and Representative Post said that the people on the coast would have the better ability at understanding this problem and I said that the people in Shapleigh would have a better understanding and since we could only choose one district, we have not been able to resolve that issue. So if you like the pilot project, you might want to keep the bill alive long enough to see Representative Post and myself come to some kind of resolution of this conflict.

The issue has been raised that there is a distinction between voting on school construction as opposed to voting on a budget. I believe the gentleman from Farmington, Mr. Morton, said that a school building was large and dramatic. I would suggest that a school budget totaling \$3 million is rather large and dramatic. At least it is in my district. I am not aware of the finances of other districts, but we are dealing with probably one of the most expensive items when we deal with the school budget and my people consider it large and dramatic.

It is interesting to note that in all other policymaking decisions within a school district, in terms of school construction and in terms of the way they got into the school districts, they were allowed to vote in their individual towns, but when it comes to the budget, they are not. I do not see the reason or the logic in allowing them to vote in almost everything else on the local level but when it comes to the budget, they vote district wide, and I would say that that sort of negates the argument of a legislative body. If the voters of the legislative body, if that is the concept for working with, why not apply it to school construction?

Representative McMahon has said that the process is complicated. Well, the process is complicated and the bill is cumbersome, and for a very good reason. This bill came about as a result of a school board member in my area coming to me and saying, we have a real problem in our district, there is low voter turnout. I would like you to see if we can have meetings within the district to vote on the budget. She said, I think that that will accomplish what we are looking for, I called Department of Education and they said, no, you have to have one meeting, we have worked out a bill that would allow an alternative way of going at the budget. We made the process cumbersome because we

wanted to make sure that the towns knew what they were getting into and the voters knew what they were getting into.

There are two checks and balances on this. First of all, you have to have 10 percent of the voters sign a petition. My assumption would be that you can get almost anyone to sign a petition, but then there is a subsequent vote on it so that you are going to get a very strong majority feeling in the district on how we are going to vote on our school budgets. Once those voters have decided they want to vote locally, then we are allowing a year leeway in order to gear up the process so that they can vote in their own towns.

In the issue of five towns dealing with a line item budget, you are dealing not in individual towns in vote, you are dealing in district wide vote. If you have a line item and all but two lines of that budget were approved, you would go back to a further subsequent meeting district wide to discuss just those two lines and to come to some kind of resolution of those two lines. I do not see the problem of five towns acting in five different ways. We are talking about a district wide total and then a resolution of any conflicts on that budget.

We went to the subsequent meeting district wide because of the feeling of the Education Committee that you would continually vote locally without any input of the other areas and continually keep voting down budgets. So we felt that after the initial vote if they went to the district wide meeting, this could be resolved. I can assure you that the voters in my district, if they go to a town meeting and vote one way and they do not get their way, I am sure they will go to the next meeting to make sure they do get their way.

There is some talk about this being imposed on school districts. Right now on school districts we imposed that they have just one meeting. We do not allow any flexibility in the law. I am not imposing anything on school districts. I am allowing for more flexibility in the way they come to their budgets. I think that if any of you have gone to a district meeting, you will see that there is a very low turnout. In our area, I have 700 voters in one of my towns, 40 of them went to the school district meeting. Yet, when they voted on school construction, which was a local vote, over half of the voters turned out. So, I think this bill will go a long way toward ensuring greater voter participation.

It was put in at the request of one of my constituents, but I did not write "by request" because I believe strongly in it. It seems to me to be an honest, simple, straightforward, fair way of dealing with budgets. I did not realize it was going to gain the wrath of the Department of Education.

I think it is a good bill and I would hope that you would accept the Minority "Ought to Pass" Report.

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

Mr. TARBELL: Mr. Speaker, I would like to pose a question through the Chair to any members of the committee or any interested members of the House who are informed on this matter.

I have heard in the debate this morning that there is one particular area that may have virtue to this bill and that is, if each local municipality were able to have a local town meeting and register its sentiment on a town-by-town basis which is underneath the umbrella of an SAD, is it possible for that local sentiment to be then conveyed to the SAD district meeting or would it be necessary for each person again from each municipality to go to the SAD meeting to vote and make its local sentiments stick? If it is possible for each town to register their own local sentiment in town meeting and have that conveyed to the SAD meeting by an emissary, then I can see some virtue to this particular approach because you can have a town-by-town basis articulating and setting

forth its particular sentiment on the budget.

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

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

Mrs. POST: Mr. Speaker, Men and Women of the House: I would like to answer the question of the gentleman from Bangor. Each one of these towns in a school administrative district is represented by someone on the school board. Now, we are all politicians and I think if we had an election in our town and our town voted down the school budget substantially and the general feeling was that they voted it down because it was not too much, then when we came to meet at that subsequent budget meeting, we probably would not need an emissary to tell us what the feeling of the people in our town was; that is where the carry-over takes place.

When the original bill was put in, what it said was, for those towns who want to, those school districts that want to, they want to have an alternative in how they adopt their budgets, they may go onto this system of having a ballot in each community and then you total up the number of votes and the budget either fails or it passes, or if it is a line item budget, each line either fails or it passes. You total up the votes. This is not a very unusual system for school districts.

Right now, you have this kind of budget system for capital outlay, you approve a change in selection of school building sites, you approve a change in the method of sharing costs, you approve an agreement to add another municipality, approve an agreement to merge, to approve a proposed lease agreement, to authorize school directors to contract for school secondary pupils, to authorize school directors to dispose of real property and on and on and on. We already use this kind of process, this kind of voting process, on a town by town basis within a school district for all those major policy decisions except, if you want to turn the next page, its budgets. Under budgets it says you have to have a meeting in one central place where people go and they vote.

The legislative body of a school district are that comprise that school district. In some instances, presently they vote on a town-by-town basis such as we are proposing and then when they adopt a budget, the statutes, for some reason, made an exception for that and say you have a central place. All we are asking is for those school districts who want to, it doesn't affect you in a city, it doesn't affect you if you are in a unit by yourself, if you have a city council to approve it presently, it doesn't affect you. It is for those areas all over the state who are in school districts who want a chance to vote that initial time on a ballot in their own towns that we allow them to make that choice. That is all we are doing. We are not imposing it on anyone, and that is why I personally would not want to choose one of my school districts to be a pilot project. I don't want to tell my school district that they have to choose this and I don't want this body to do that. All I want is for them to be able to go out and decide for themselves, and that is all they are asking for.

Originally, the bill said that the budget had to be either approved or disapproved by this voting balloting process. I think a valid concern was raised in the Education Committee, and what the concern was, how did the directors really know how much people wanted to lower it by, especially if you don't have line item, or where the cuts want to be made. How do directors know? You might go through several balloting procedures. I think we could have put that process into effect and it would not have created chaos, but the situation was that we recognized that concern, so we said, okay, as a compromise but we are willing to accept is at

least let the people in the towns vote on a ballot basis in their own communities the first time around and let them register their feelings that way. The next time around, when it comes to a school budget meeting, or the next time the board goes back and makes some changes in that budget, if the school board doesn't get the message of what the people wanted in their own particular community, then I think they have to face that themselves. At least it is a chance for people to be able to do this.

I think the most important thing is that people have said again and again, we are going to have chaos if we do this. I would just like to remind you, we already use it for all kinds of other major policy decisions within the SAD's. It is my understanding that in Vermont they use a system very similar to this and chaos hasn't taken place. I think it is kind of ironic to say that somehow chaos is going to take place if we set up a system where people can actually go into their own town meetings, into their own communities and put a ballot in a ballot box.

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

Mr. BAGLEY: Mr. Speaker and Members of the House: I have three very brief statements to make on this. The first one, in regard to what the last speaker said, all these methods of voting by towns — every single one of those methods has a yes or no vote, whereas on a budget there is a chance to amend upward or downward. That is the chief difference on that one.

The second one is the cost. We have had an estimate from one of our school districts with only five towns in it that will probably cost \$3,000 if they have those votes in each town. In SAD 3, there are 13 towns. Not only would it cost to have ballot clerks, ballots printed and so forth in 13 separate towns, but there would be the matter of trying to get that budget explained in each of 13 separate towns so that the people in each town was sure of what the result was going to be.

It seems to me that our present system is working pretty well and we had better leave it as it is.

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

Mr. MACKEL: Mr. Speaker, Ladies and Gentlemen of the House: There are three things about this bill which I like. First of all, as Mr. Wood has indicated, the bill originated at the local level; it reflects the will of the people at the local level. I think that is very important and we should consider that.

Secondly, it does facilitate involvement of the people at the local level, and I think that is also very important and it is on a positive side insofar as this bill is concerned.

Thirdly, we are not imposing, this bill does not propose to impose this system on the local level, it is one which is voluntary, one which the people themselves could decide. I say to you, why don't we allow them to make this decision and not make the decision here for them.

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

Mr. CARROLL: Mr. Speaker, Ladies and Gentlemen of the House: In 1965, I came before this body as a very staunch supporter of the school administrative district system. Today, a few years older, whether I am wiser or not, you may judge me by my statements, but I want you to realize that we are going to one meeting that is programmed. The proponents of the budget program that meeting, and they have laid out right to a tee as to how that meeting is going to go. This is what we call in the small towns going to town meeting and prior to the meeting wheeling and dealing. We wheel and deal so when the meeting comes up we have complete control over the whole list of articles to be heard before the townspeople, so I have great reservations as to the present system and the local control over the school budget.

The school budgets have grown like Topsy

and even greater than Topsy will every grow. This is why I say that we must search for other methods of controlling the escalating costs in the field of education. And I will point out to you, in the Town of Newfield, New York, where there is a one town school district, they voted down a school budget five times — not one, five times. There was not chaos, there was not a disruption of the school system, but they went back to the drawing board and to their pencils and they sharpened them just a bit sharper, and after five meetings they came up with a budget the townspeople would accept and felt they could afford.

I think we have a very, very serious problem. We have very, very few people attending the budget meetings and voting on the school administrative district budgets. Many of these people have been completely turned off because they feel no longer that their vote counts. We must search for another method and just because the department across the way doesn't like it, that doesn't bother me a bit. I am no longer in their favor and haven't been for quite a number of years and I don't worry the least bit if I am looked upon with disfavor by any group that continues to program the budget meetings as they have in the last few years. I don't know of any town or any district that has voted down a school budget in the last 10 years, and if the gentleman from Winthrop will stand up and name off the school districts that have voted down a budget in the last five years, I would be very pleased to hear how they did it and how it was accomplished.

Thereupon, Mr. Wood of Sanford requested a roll call vote.

The SPEAKER: For the Chair to order a roll call, it must have the expressed desire of one fifth of the members present and voting. All those in favor of 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 Livermore Falls, Mr. Lynch, that the Majority "Ought Not to Pass" Report be accepted on L. D. 1970. All those in favor will vote yes; those opposed will vote no.

#### ROLL CALL

YEAS: Ault, Bagley, Berube, Birt, Blodgett, Boudreau, A.; Boudreau, P.; Brown, K. L.; Burns, Bustin, Carter, F.; Clark, Connolly, Cox, Cunningham, Curran, Devoe, Dexter, Durtremble, Fenslon, Garsoe, Gillis, Gould, Hall, Immonen, Jackson, Jalbert, Lewis, Lunt, Lynch, Masterman, Maxwell, McBrearity, McMahon, Morton, Palmer, Pearson, Peltier, Peterson, Plourde, Raymond, Rideout, Rollins, Silsby, Torrey, Whittemore

NAYS: Aloupis, Austin, Bachrach, Beaulieu, Bennett, Benoit, Berry, Biron, Brenerman, Brown, K. C., Bunker, Carey, Carrier, Carroll, Carter, D.; Chonko, Churchill, Connors, Cote, Davies, Diamond, Dow, Drinkwater, Dudley, Elias, Flanagan, Fowlie, Gill, Goodwin, H.; Goodwin, K.; Gray, Greenlaw, Henderson, Hickey, Higgins, Howe, Hughes, Hunter, Hutchings, Jacques, Jensen, Joyce, Kane, Kany, Kelleher, Kerry, Kilcoyne, Laffin, LaPlante, Littlefield, Lizotte, Locke, Lougee, MacEachern, Mackel, Mahany, Marshall, Martin, A.; McHenry, McKean, McPherson, Mitchell, Moody, Nadeau, Najarian, Nelson, M.; Paul, Peakes, Perkins, Post, Prescott, Quinn, Sewall, Shute, Smith, Spencer, Sproul, Stover, Strout, Stubbs, Tarbell, Tarr, Teague, Theriault, Tierney, Tozier, Trafton, Truman, Twitchell, Valentine, Violette, Wilfong, Wood, Wyman, The Speaker.

ABSENT: Durgin, Green, Hobbins, Huber, Masterton, Mills, Nelson, N.; Norris, Talbot, Tyndale

Yes, 46; No, 95; Absent, 10.

The SPEAKER: Forty-six having voted in



the affirmative and ninety-five in the negative, with ten being absent, the motion does not prevail.

Thereupon, the Minority "Ought to Pass" Report was accepted and the Bill read once. Committee Amendment "A" (H-999) was read by the Clerk and adopted and the Bill assigned for second reading tomorrow.

#### Consent Calendar Second Day

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

(H. P. 1951) (L. D. 2030) Bill "An Act to Include 'Mobile Home' in the definition of 'Homestead' for the Purposes of the Homestead Exemption from Certain Attachments"

On the objection of Ms. Bachrach of Brunswick, was removed from the Consent Calendar.

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

Ms. BACHRACH: Mr. Speaker, I would like to request from anyone who would like to answer whether the intent in this bill is to establish that mobile homes will be real property rather than personal property in all respects or simply in respect to the attachments referred to in the bill?

The SPEAKER: The gentlewoman from Brunswick, Ms. Bachrach, has posed a question through the Chair to anyone who may care to answer.

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

Mr. TARBELL: Mr. Speaker, in brief answer to the question posed, the intent of the bill is to provide that in the case where a mobile home owner has a mobile home not on a piece of land that he does not own, that the mobile home will enjoy an exemption from attachment, or an exemption in bankruptcy up to the value of \$5,000, which is the same exemption that a dwelling home now enjoys under attachment or bankruptcy. The only change that this particular bill would make in the current law is that it would extend to mobile home owners the same \$5,000 exemption that we passed last year that extends to owners of a home that is located on land that the homeowner owns in addition to the home.

It is fairly sophisticated, technical, legal problem here, but all this bill does is extend the same \$5,000 exemption from attachment and in bankruptcy that a homeowner enjoys.

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

(H. P. 1888) (L. D. 1945) Bill "An Act to Increase Retirement Benefits for Teachers who Taught Prior to July 1, 1942" (C. "A" H-997)

(H. P. 1896) (L. D. 1953) Bill "An Act to Amend the Maine Potato Branding Law" (C. "A" H-998)

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.

#### Tabled and Assigned

(H. P. 1866) (L. D. 1916) Bill "An Act Relating to Preventive Discipline in the Schools" (C. "A" H-1001)

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

Thereupon, the Report was read and accepted and the Bill read once. Committee Amendment "A" (H-1001) was read by the Clerk.

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

(H. P. 1893) (L. D. 1950) Bill "An Act to Suspend Public Law 1977, Chapter 499, 'An Act Relating to Habitual Truants and School Dropouts' until July 1, 1979" (Emergency) (C.

"A" H-1000)

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

#### Enactor

##### Tabled and Assigned

An Act to Enable the Purchase and Administration of Barbiturates for the Euthanasia of Pets and Animals (S. P. 617) (L. D. 1905) (C. "A" S-445)

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

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

Mr. WOOD: Mr. Speaker, an amendment is being prepared in order to make this an emergency. We did not do that in the committee, and I wish someone would table this for one day.

Whereupon, on motion of Mr. Lizotte of Biddeford, tabled pending passage to be enacted and tomorrow assigned.

##### Passed to be Enacted

An Act Concerning Brake Requirements on Agricultural Vehicles (H. P. 1857) (L. D. 1924) (H. "A" H-978 to H. "A" H-977)

An Act to Provide a Lower Registration Fee under the Transportation of Christmas Tree Statutes (H. P. 1894) (L. D. 1951) (C. "A" H-979)

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

##### Orders of the Day

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

Senate Report. — "Ought to Pass" as Amended by Committee Amendment "A" (S-444) — Committee on Legal Affairs on Bill "An Act to Amend the Crime of Assault on a Law Enforcement Officer" (S. P. 661) (L. D. 2032) (In Senate, referred to the Committee on Judiciary)

Tabled — February 1, 1978 by Mr. Cote of Lewiston.

Pending — Acceptance of the Committee Report.

On motion of Mr. Cote of Lewiston, retabled pending acceptance of the Committee Report and specially assigned for Monday, February 6.

The Chair laid before the House the second tabled and today assigned 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) (H. "A" H-993 to C. "C" H-989)

Tabled — February 1, 1978 by Mr. Palmer of Nobleboro.

Pending — Passage to be Engrossed. The SPEAKER: The Chair recognizes the gentleman from Franklin, Mr. Conners.

Mr. CONNERS: Mr. Speaker, Ladies and Gentlemen of the House: I have a few brief things I would like to state in opposition to this bill.

The amendment that we passed the other day for \$50,000 to be taken from the shellfish fund, I think if you read that amendment, you will see that in the next time around — it says "authorize and appropriate request from the General Fund for funds to keep this program going." The \$50,000 gives three Scientist 1 to assist the area biologist and we have one area biologist in Hancock and Washington County. It takes in both of the counties, so those three Scientists would be working with the area biologists, and under this bill, these towns have to be under this by July 1, 1979. That area alone would take those three Scientists 1 to do the job before July 1, 1979. This leaves the rest of the state without the proper help that they need. So you can look for an appropriation of at least \$100,-

000 requested the next time around for this same type of program.

The cost to the towns — and I have tried to get somewhere near a reasonable figure from them — it would be somewhere between \$15,000 and \$25,000, depending on the number or the area of the flats that they have for these towns to qualify for a conservation program.

I have talked with a lot of towns down through the district and they claim that the townspeople would not vote for that type of money for a clam conservation program. Now, if they do not, under this bill, this opens up all of the clam flats all along the coast of Maine to any licensed digger. Is this conservation? When these flats are opened up, anyone can dig in them, so where does your conservation come in then? What is going to happen? Your state is going to have to take over the conservation program. This is fine by me, personally, if they want to do this, but if we are going to do this, let's do it right out so that everyone in this House and the people outside know what is going on. Let's not take the backdoor approach and throw whatever conservation has been done into utter chaos. Let's do it in a straightforward manner. If we are going to pass this bill, this is just what is going to happen. We are going to have to go to a state conservation program and this is going to cost a lot of money out of the General Fund.

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

Mr. GREENLAW: Mr. Speaker and Men and Women of the House: The previous speaker from Franklin, Mr. Conners, is misinformed and I would like to correct some information.

The House Amendment that was placed on the bill the other day was the result of a conversation I had with the Commissioner of Marine Resources. After reading the bill over the weekend, it was his opinion that he was not sure exactly how much additional help he needed. I talked about the idea of giving him three additional people using the shellfish fund revenues we have. He said he would rather have it so he could hire these people if in fact he felt that the department needed them. I think it is a rather novel approach using some dedicated revenues for this particular purpose. It could be that the commissioner finds that he does not have any additional costs and that the four area biologists that we presently have can handle the problem. If, in fact, he does find that there are some additional costs and he needs some additional people to help the communities write their conservation programs, I think we have found a responsible mechanism to do so. I don't know how much it is going to cost the local communities to implement this, but as I said yesterday, it is time that we have to take a serious look at the conservation of this resource.

The gentleman from Franklin, Mr. Conners, suggests that this a backdoor approach to open these flats to any resident of the state and I would take serious issue with this. I think if we were debating the bill that Mr. Blodgett originally introduced, we would be opening the back door to letting anyone dig where they wanted and without regard to conservation needs. I think the fact that we are saying here that we are attempting to strengthen the hand of the communities, we are attempting to strengthen the hand of the Department of Marine Resources in saying that we acknowledge that we have a conservation problem here and we are doing the very best we can at this time to insure that resource to be properly managed, this is a responsible action, the most responsible thing we can do.

It may not work out as we all designed and hoped for but it is a good start, it is a solid start, it is a partnership program between the local communities to continue to manage the resource and the state that has some of the technical expertise. If, in fact, things do not work out, I am sure that you would all agree

that we have the vehicle and the opportunity to come and change the law another year. I think it is a good solid start and I hope you all support the motion before the House, which is passage to be engrossed.

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

Mr. BOUDREAU: Mr. Speaker, Ladies and Gentlemen of the House: I agree with many of the things that Mr. Greenlaw has said and I can see where the people of coastal areas of the state want to have some kind of conservation program. My only problems with the bill are in Sections 6 and 7 of the amendment. I would suggest that those people who live inland are scared, probably, that some people will not be allowed to dig in the summertime for purposes of recreational digging. In Part 7 of the amendment, there is a stipulation that says that licenses for recreational digging could be limited to municipal residents if the town makes a determination that there is a depletion of the stock. I would suggest that if there is a depletion of the stock and if the town wants to make a decision that there is a problem and they have to limit the number of licenses, then why couldn't the town give out some nonresident licenses in that three-month period? I can see where that might be legitimate, where they might want to close it off for three months because of depletion of the stock, but it would seem to me to be fair that the town say, we have a problem here, we are going to close it off for three months, we are going to provide for 100 or 200 licenses and of those 200, a percentage of those will be available to nonresidents for recreational digging.

That language exists in Section 6 of the amendment where it says that 25 percent of the licenses issued will be available to nonresidents. I would think it would be much more fair, in the event where the town decides there is a depletion of the stock and they want to limit the number of licenses, if they still could allow nonresidents to purchase a small amount of licenses within that three-month period. I think that would satisfy those people inland who really feel they might be getting shut out of the whole deal because, really, if there is going to be a problem with recreational digging that would force the towns to close off the flats for three months, that problem will occur in the summertime. There are not a whole lot of people along the coast in January or February digging claims. So, if there are some recreational diggers in the summer, the town will have to make a decision there are too many diggers and that there is a real problem with the stock. If they do make that decision, that is fine, but I think if some nonresidents could get licenses at the same time, that it would be more fair to everyone in the state.

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

Mrs. POST: Mr. Speaker and Men and Women of the House: First of all, I would just like to point out to Representative Boudreau that we are dealing with Committee Amendment "C" — Committee Amendment "B" is no longer before us and that 25 percent he referred to is not in Committee Amendment "B". We are dealing with Committee Amendment "C" to the bill. In fact, Committee Amendment "C" is the bill at this point.

I would like to deal very briefly with the question of recreational digging because I think there is a lot of confusion over this due to some statements that were made on the floor of the House yesterday. Presently, any town that has a conservation ordinance can close off its flats to nonresident recreational digging all year long. They can say, we will have no nonresident recreational digging at all, not only June, July and August, but September, October and every other month of the year. There are many towns that are presently doing that now. That is with the present law.

The option you have before you, if you are in-

terested in recreational digging, if you live in an inland town and you would like your people to be able to go down the coast and dig a half peck of clams, if that is what you are interested in and that is your major concern with this particular bill, the way you make the situation better is by passing this bill. This bill says that the only time a town can close its flats to nonresident recreational digging is when they have a real conservation problem and the time that is apt to exist is if you happen to live next to a state park, get a lot of tourists coming in and that constant turnover of the flats is going to do damage to your clams. They have to prove it to the satisfaction of the commissioner and the commissioner has to agree that there is a real conservation need and only then can they close it for that three-month period. You may want it to be open all year around to nonresident recreational digging. I think there are some real conservation programs in doing that in terms of shellfish management, but at least this particular bill says that every town that has clam flats, at least nine months of the year those clam flats have to be open for nonresident digging. If that is what you are concerned with, I just wanted to make sure that that was very clear.

I hope you will vote for passage of this bill.

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

Mr. BOUDREAU: Mr. Speaker, Ladies and Gentlemen of the House: I understand the gentleman very well, but in Committee Amendment "C", under Section 7, it does say that if a municipality decides there is a depletion of the stock, they can close the flats for three months. If that decision is made, that is fine with me, but I say that if the town makes the decision to close the flats because of depletion of resource, then the real issue is the number of licenses you are going to issue in terms of conservation. So if you decide to close the flats, if you decide there is resource problem, can't you establish a system whereby some nonresidents could get a permit within that three-month period, even if it is only 10 percent of the licenses issued? Under this bill, a town can say in June, there are a lot of recreational diggers around, there is a depletion of the stock, we are going to close the flats for three months to nonresidents. If there is that problem and the town makes that decision, that is fine, but can't we have a few licenses issued to nonresidents within that three-month period, out of all the licenses, whether they make a decision to issue 100 licenses or 50 licenses, can't a small percentage of those being issued be issued to nonresidents, even in the three-month period?

The issue is how many licenses and how many people are going to be digging. If every resident in the town digs, that is not going to help the conservation problem. There might be a correlation between people from out of town getting together with the residents and there would be too many diggers. I would agree with that, but if you are going to have a conservation program and because of the depletion of the resource you only want to issue a few licenses, can't we issue a few of those to nonresidents in that three-month period?

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

Mr. BLODGETT: Mr. Speaker, Ladies and Gentlemen of the House: This compromise is something we can live with in both the open and closed towns. It is something that we can live with in both the coastal communities and the inland communities. This compromise will allow any town to develop or continue its conservation programs, despite some of the gross exaggerations that have been circulating recently. With this, towns can still limit commercial digging, but they have to show a need to restrict the number of commercial licenses in accordance to the yield of the clams. This is what the whole issue is supposed to be based on — shellfish conservation, the harvesting of the

state resource based on the number of clams and not simply to keep it restricted to the town's residents. The compromise would also guarantee some rights for those people living inland, which Mr. Boudreau is so concerned about. They would be able to go down to the coast and dig a mess of clams for a little family picnic.

Under the present law, as has been pointed out by Mrs. Post, towns can arbitrarily shut off all this type of digging, but under the compromise, any restriction on recreational digging must be based on a shortage of the resource and not on the whim of a particular group who might want to hog all the resource which, in fact, belongs to all the people of the state.

I would ask you to support this compromise, vote in favor of it.

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

Mr. GREENLAW: Mr. Speaker, Men and Women of the House: I want to answer the question of the gentleman from Waterville, Mr. Boudreau, very directly. The answer to his question is, yes. The present amendment allows communities to issue licenses for recreational digging to both residents and nonresidents. There are ordinances presently in effect that do allow both recreational residential digging and recreational non-residential digging. I hope this resolves the question in the gentleman's mind.

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

Mr. BOUDREAU: Mr. Speaker, Ladies and Gentlemen of the House: I can see the concern of the people on the coast with the shellfish problem, but my question has not yet been answered. If the town does make a decision that there is a problem with the stock and they want to limit the number of people digging in a three-month period, whether it be in January or April, whenever it is, why, in that three months period, if a decision is made to issue 100 licenses based on the stock available, why cannot a percentage of that 100 be given to nonresidents?

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

Mr. GREENLAW: Mr. Speaker, Men and Women of the House: If the gentleman from Waterville would just listen to my answer, I said they in fact can do that. It is possible under the present bill before us.

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

Mr. BOUDREAU: Mr. Speaker, Ladies and Gentlemen of the House: That might be the way the law is now, but under this amendment, it says that recreational digging may be limited to municipal residents for not more than three months if the municipality can show this restriction is necessary. That is what it says in the amendment. If the town makes a decision that is necessary, then it is going to be simply for residents only. That is how I read it.

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

Mr. JACKSON: Mr. Speaker, Ladies and Gentlemen of the House: I think we touched on this question in another aspect when Representative Connors was talking about possible state involvement. There is no question, in my mind anyway that I guess in most of the committee's mind, that the shellfish flats belong basically to the state. There may be a couple of exceptions to this in Washington County.

The state has delegated this to the towns. The towns, in order to manage the flats, under this amendment would have to make a true effort to manage the flats. The true effort represents spending of money, the planning of the flats, the putting of clams in, protecting of the flats, surveying them in all the various steps involved here.

Presently, a town setting up a conservation program, be it a good one or a sham one, can exclude all nonresidents from the flats. In this



particular Section 7, we are talking about recreational digging only; we are not talking about commercial digging.

Many towns do exclude all nonresidents from recreational digging on their flats. Under this bill, they could exclude nonresident people for up to three months any time of the year from recreational digging and then if you read beyond, it says the only way you can do this is if there is substantial damage to the shellfish stock during periods of potential great recreational digging, so you even pin down when, but you have to show that there is going to be a substantial damage to the flats from this recreational digging.

I think it would be nice to be able to open the flats to recreational digging all the time. I think if it comes down to a question of who should get first chance at the stock, the town that is making an effort, spending money, using its own taxpayers' money to manage the flats, should have the first chance to do that. They are paying the bill and they are making the effort and they can only close it on this basis for up to three months. I think they have a right, because they are footing the cost of having possibly a slight edge in the recreational digging, if there is not enough to go around.

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

Mr. CONNORS: Mr. Speaker, Ladies and Gentlemen of the House: Representative Greenlaw spoke of responsible legislation. I wonder how many of us here have asked our town officials what the possibility is of raising \$15,000 or \$20,000 in their town for clam conservation program? If we pass this bill here, we are passing something that the towns cannot afford to do. Therefore, it is going to throw this whole thing into the wrong perspective and then the state is going to have to take it over after we go through a period of trying to adjust. So if this is the purpose of this bill, let's sit down and go over this and come up with a state conservation program. I wonder how many of you have asked your towns if they could afford to go under this.

I would request a roll call

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

Mrs. POST: Mr. Speaker, Ladies and Gentlemen of the House: I think this has been mentioned so many times, I do have to talk about cost. There are many towns now who presently have conservation ordinances that are meeting these kinds of standards and they are not doing it for fifteen or twenty thousand dollars. And yes, I have asked my town, which has a conservation program, whether they can afford to do this, because those towns are managing their flats already, they are already doing clam surveys, trying to be responsible, they are allowing some nonresident diggers, they are interested in their clam resources and there are other towns in this state already that have good clam conservation programs now that meet these present guidelines, and they are not doing it for fifteen or twenty thousand dollars.

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

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

The SPEAKER: The pending question is on passage to be engrossed as amended. All those in favor of L. D. 851 being passed to be engrossed as amended by Committee Amendment "C" as amended by House Amendment "A" thereto will vote yes; those opposed will vote no.

The Chair recognizes the gentleman from South Portland, Mrs. Gill.

Mrs. GILL: Mr. Speaker, I would like to pair my vote. If Representative Masterton were here, she would be voting yes and I would be voting no.

The SPEAKER: The gentleman from South Portland, Mrs. Gill, wishes to pair her vote with the gentleman from Cape Elizabeth, Mrs. Masterton. If Mrs. Masterton were here, she would be voting yea, and if the gentleman from South Portland, Mrs. Gill, were voting, she would be voting nay.

#### ROLL CALL

YEA: Bachrach, Beaulieu, Bennett, Benoit, Berry, Biron, Birt, Blodgett, Boudreau, A.; Breneman, Brown, K.C.; Burns, Bustin, Carey, Carrier, Carroll, Chonko, Churchill, Clark, Connolly, Cote, Cox, Cunningham, Curran, Davies, Dexter, Diamond, Dow, Du-tremble, Elias, Fowlie, Goodwin, H.; Goodwin, K.; Gray, Greenlaw, Hall, Henderson, Hickey, Howe, Huber, Hughes, Hutchings, Jackson, Jacques, Jalbert, Jensen, Kany, Kelleher, Kilcoyne, LaPlante, Lewis, Lizotte, Locke, Lunt, Lynch, MacEachern, Mahany, Marshall, Martin, A.; Masterman, Maxwell, McHenry, McKean, McMahon, McPherson, Mitchell, Moody, Morin, Nadeau, Najarian, Nelson, M.; Palmer, Paul, Peakes, Post, Prescott, Quinn, Raymond, Rideout, Sewall, Spencer, Stubbs, Tarr, Teague, Theriault, Tierney, Tozier, Trafton, Truman, Twitchell, Violette, Whittemore, Wilfong, Wood, Wyman.

NAYS: Aloupis, Ault, Austin, Berube, Boudreau, P.; Brown, K.L.; Bunker, Carter, D.; Carter, F.; Connors, Devoe, Drinkwater, Dudley, Fenlason, Flanagan, Garsoe, Gillis, Gould, Higgins, Hunter, Immonen, Joyce, Kerry, Laffin, Littlefield, Mackel, McBrearty, Norris, Pearson, Perkins, Peterson, Plourde, Rollins, Shute, Silsby, Smith, Sprowl, Stover, Strout, Tarbell, Torrey, Valentine.

ABSENT: Bagley, Durgin, Green, Hobbins, Kane, Lougee, Mills, Nelson, N.; Peltier, Talbot, Tyndale.

PAIRED: Gill, Masterton.

Yes, 95; No, 42; Absent, 11, Paired, 2.

The SPEAKER: Ninety-five having voted in the affirmative and forty-two in the negative, with eleven being absent and two paired, the Bill is passed to be engrossed as amended.

Sent up for concurrence.

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

Bill, "An Act to Permit Persons Other Than Arborists to Take Down Trees by Topping or Sections" (Emergency) (H. P. 1858) (L. D. 1925) (C. "A" H-981)

Tabled - February 1, 1978 by Mr. Tozier of Unity.

Pending - Passage to be Engrossed.

On motion of Mrs. Najarian of Portland, under suspension of the rules, the House reconsidered its actions whereby Committee Amendment "A" was adopted.

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

House Amendment "A" to Committee Amendment "A" (H-1004) was read by the clerk.

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

Mrs. Najarian: Mr. Speaker and Members of the House: What the bill does, it is really the committee amendment which replaces the original bill, 1925. That amendment liberalizes the present law defining an arborist. It says that an arborist is not a person who fells trees by topping or by section providing they earn less than \$250 a year. Well, I received calls from my local arborists and executive director of the arborists calling to my attention to this and the potential damage that this could do to homeowners and made some inquiries, two insurance agents have informed me that most homeowners do not have coverage, liability coverage for professional services that they

hire. So while this bill, as it originally came out of the committee, might not be a problem in rural areas where buildings are far apart and you have the wide open spaces, but there is a potential problem in the urban areas where the buildings are close together and there is almost no way you can fell a tree without it falling on someone's house. I just thought we were opening up the law to potential abuses by some enterprising entrepreneur who is going to try and make some money and not having any liability coverage, some unexpected homeowners might be caught with a big bill to pay for damage to their homes.

What my amendment says is, this arborist or this person who is not an arborist who earns less than \$250 a year by felling trees by topping or by section could not solicit or advertise his services and that he must also inform the homeowner for whom he is going to do the work whether or not he has liability insurance and how much if he has some.

I see this as a protection to the homeowner. And talking to the proponents of the bill, my impression is that they simply, if a neighbor asks them to cut down a tree, fell a tree for them by topping or by section, that they would be able to do that and they had no intention of making a business out of this, since everybody agrees there is no way to enforce this law or to police it to know when somebody has passed the \$250 limit. I guess that is about it.

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

Mr. STROUT: Mr. Speaker, Ladies and Gentlemen of the House: I will have to move the indefinite postponement of this amendment. I would like to explain my reasons.

First off, I guess I don't see any real necessity for the amendment. I don't see the reasons behind the gentleman from Portland, unless her only intention here is to weaken the committee amendment that the committee agreed on. If this amendment were adopted, it is my belief and only my belief at this point, that it would in fact weaken the bill.

I guess I am concerned with trying to say that you are going to tell a person before he can help another person take down a tree that you have to have insurance. Basically, I think what this amendment is trying to do is to discourage a person who doesn't have insurance. I know the amendment doesn't say that anybody has to have insurance, but what it is trying to read in here is that the arborists in the State of Maine are trying to say that if you don't have insurance, you are going to get discouraged.

On the first part of the amendment, I don't know why anyone is concerned about somebody who is soliciting up to \$250 a year. I really can't get the drift here of why anyone opposes this amount.

At the hearing, it was brought out very specifically that arborists have people working for them that are not licensed, they are not qualified. Granted, the arborist is the one who is running the operation but, nevertheless, there are people who are working for them who are not qualified now.

I am for the committee amendment, we agreed on this. I just feel that there is an attempt here to weaken the bill, and I think the amendment ought to be defeated.

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

Mr. CARROLL: Mr. Speaker and Members of the House: I will have to concur with Representative Strout's motion, because in their wisdom in drawing up this amendment, if a person can only earn \$250, he has got to go out and pay \$150 for insurance, what makes you think he is going to go out and do anything at all?

I would suggest that she withdrew her amendment and increase the amount of money that a person can earn to \$500, and perhaps I could accept it.

The SPEAKER: The Chair recognizes the

gentlewoman from Portland, Mrs. Najarian.

Mrs. NAJARIAN: Mr. Speaker, Ladies and Gentlemen of the House: My amendment does not require the person to buy insurance. It only says that this person must inform the homeowner whether or not they have any insurance, any liability coverage, in case something goes wrong. It is just so that the homeowner will know what he is getting into or the potential damage — it could happen, and just so he will go into this with his eyes open. The person is not required to buy the liability insurance.

Mr. Strout said that many arborists do not perform this work themselves but they have people doing it that are not licensed arborists. I will say that that happens in many professions, including surgeons, who do not do the operation but they have people, residents, do the operation.

I don't care whether you accept this amendment or not. I think it improves the bill for many people of the state, but if you don't, I am going to vote against the whole bill and maybe some others will too. I was just trying to what the proponents wanted to do and at the same time protect some other people.

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

Mr. HALL: Mr. Speaker, Ladies and Gentlemen of the House: I think the whole thrust of the bill, to begin with, was just to allow somebody like me help my neighbor cut a tree down and take more than one or two cuttings on it if he so desires.

The way the law is written now, if you take more than one cut, you are an arborist or you are in their ball park. If this amendment is going to make the difference between the passing or failure of this bill, I don't think it is that important. I think the main thing is that if my neighbor needs some help, I should be able to help him cut that tree. I don't want some arborist that doesn't know as much, tell me that I am going to be in violation of the law for doing something like this.

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

Mr. DEXTER: Mr. Speaker, Ladies and Gentlemen of the House: In the Statement of Fact, it says the purpose of this amendment is to prohibit persons who are not licenses arborists from advertising their services to top or section trees. I probably have cut more trees than anybody here in this hall. If I want to advertise in my little old paper to take down my neighbor's tree, I believe I should have the right to do so. I challenge anyone here to say that they can cut down a tree any better than I can.

The SPEAKER: The Chair recognizes the gentleman from Unity, Mr. Tozier.

Mr. TOZIER: Mr. Speaker, Men and Women of the House: This was my bill. I introduced it to help the homeowner to hire anybody they wanted to cut a tree. It is not a controversial bill; if it were, I wouldn't have introduced it.

I apologize for the condition that the bill is in right now. I could go along with most any amendment — I don't know how I am going to go on this particular one yet, I am trying to make up my mind now. The only opposition that I see we have to it is a Keith Jones, or an arborist from Portland, and a Robert Palmer, I believe is an arborist from Portland, and I feel if two arborists can kill this bill, then it is not much good in the first place.

I probably will vote for the indefinite postponement of this House Amendment "A" but it really doesn't make that much difference to my people. They probably will keep on cutting trees anyway. I cut trees, and I wouldn't be in conflict of interest if I voted, would I?

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

Mr. HOWE: Mr. Speaker and Members of the House: I understand, at least I did a few minutes ago, what the sponsor of the bill is attempting to do, and I really don't oppose that,

but I think what some of the previous speakers have got to remember is that where the gentlewoman from Portland and I live, the houses are a little closer together, the trees are a little closer together, and sometimes some of the limbs being cut off those trees might fall on some of our houses. Some of you may not have that kind of a problem up where you are, and I think that is all we are concerned about, that if one of those limbs being cut by a licensed or an unlicensed arborist falls on one of those houses, that the homeowner is either going to be insured or knows ahead of time that the arborist is not insured.

I would oppose the present motion and support the gentlewoman's amendment.

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

Mr. PEARSON: Mr. Speaker, I would like to pose a question through the Chair to Mr. Howe, if he cares to answer, and that is, do the cities have the option of enacting a local ordinance which would take care of this problem and not mandate what we will do in the rest of the state?

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

Mr. HOWE: Mr. Speaker, I don't know.

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

Mr. CARROLL: Mr. Speaker, they have answered all the questions and this amendment isn't necessary. I concur with the motion on the floor of indefinite postponement because you do have local option, you have local ordinances and you can stop people from moving into your community and performing this service without insurance. So we are coming right back to local control again.

The SPEAKER: The pending question is on the motion of the gentleman from Corinth, Mr. Strout, that House Amendment "A" to Committee Amendment "A" be indefinitely postponed. All those in favor will vote yes; those opposed will vote no.

86 having voted in the affirmative and 12 having voted in the negative, the motion did prevail.

Thereupon, Committee Amendment "A" was adopted.

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

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

Bill, "An Act to Establish and Apply a Policy on the Classification of Major Policy-influencing Positions Below the Head of State Department and Agencies" (H. P. 2051) (L. D. 2111) (H. "A" H-995) (H. "B" H-1002)

Tabled — February 1, 1978 by Mr. Curran of South Portland.

Pending — Passage to be Engrossed.

On motion of Mr. Curran of South Portland, retabled pending passage to be engrossed as amended and specially assigned for Monday, February 6.

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

Bill, "An Act Concerning Substitution of Generic Drugs by Pharmacists" (H. P. 1914) (L. D. 1975) (House reconsidered Passage to be Engrossed on January 31)

Tabled — February 1, 1978 by Mr. Goodwin of South Berwick.

Pending — Adoption of Committee Amendment "A" (H-987)

Mr. Brenerman of Portland offered House Amendment "B" to Committee Amendment "A" (H-1007) was read by the Clerk.

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

Mr. BRENERMAN: Mr. Speaker and Members of the House: This amendment keeps the original major intent of this legislation, and

that was to eliminate the outdated National Formulary and the United States Pharmacopeia as the list from which pharmacists could prescribe drugs. That list now does not include many of the modern and more common drugs used today, nor does it include compound drugs. The committee has decided to remove the section dealing with oral prescriptions because of problems with writing proper language to do what we on the committee had intended. The area of oral prescriptions is one that we feel is in need of more study than we could put in in this second sessions.

To pass the committee amendment, or the other amendment that has come across our desks, in their present forms may cause more problems than is now in the present law. Rather than pass provisions that satisfy no one, we have decided to eliminate them in order to study them more fully.

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

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

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

By unanimous consent, ordered sent forth with.

(Off Record Remarks)

On motion of Mr. Carter of Bangor, Adjourned until twelve o'clock noon tomorrow.