

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

LEGISLATIVE RECORD

OF THE

***One Hundred and Eighth
Legislature***

OF THE

STATE OF MAINE

1978

Second Regular Session

January 4, 1978 — April 6, 1978

INDEX

Senate Confirmation Session

June 14, 1978

INDEX

First Special Session

September 6, 1978 — September 15, 1978

INDEX

Second Special Session

October 18, 1978

INDEX

Third Special Session

December 6, 1978

INDEX

APPENDIX

HOUSE

Monday, February 27, 1978

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

Prayer by the Reverend H. James Rains of the Church of the Good Shepherd, Rangeley.

REVEREND RAINS: Let us pray. O God, the source of all wisdom, whose statutes are good and gracious and whose law is truth, guide and support our Governor and the Senators and Representatives and the Legislature of this state; that by just and prudent laws they may promote the well-being of all our people. And grant, O Lord, to the people of the State of Maine represented here a discerning spirit to understand and sympathize with the difficult decisions and complex issues with which their representatives must struggle, and may Thy blessing be upon us all, through Jesus Christ, Our Lord. Amen.

The members stood at attention during the playing of the National Anthem by the Massachusetts High School Band of Waterboro.

The journal of the previous session was read and approved.

Papers from the Senate

The following Communication:

THE SENATE OF MAINE
AUGUSTA

February 24, 1978

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 Crime of Assault on a Law Enforcement Officer" (S. P. 661) (L. D. 2032).

Respectfully,

Signed:

MAY M. ROSS
Secretary of the Senate

The Communication was read and ordered placed on file.

The following Joint Order, an expression of Legislative Sentiment recognizing that:

the Orono High School football team is the Little 10 Champion for 1977 (S. P. 710)

Came from the Senate read and passed.

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

Reports of Committees

Ought to Pass with Committee Amendment Amended in Senate

Committee on Labor reporting "Ought to Pass" as amended by Committee Amendment "A" (S-455) on Bill "An Act to Facilitate the Making of Decrees by the Industrial Accident Commission" (S. P. 643) (L. D. 2010)

Came from the Senate with the Report read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (S-455) and Senate Amendment "A" (S-476)

In the House, the Report was read and accepted in concurrence the Bill read once. Committee Amendment "A" read and adopted in concurrence Senate Amendment "A" read and adopted in concurrence and the Bill assigned for second reading tomorrow.

Non-Concurrent Matter

Joint Resolution in Honor of the Fiftieth Anniversary of the Future Farmers of America (H. P. 2129) which was read and adopted in the House on February 23, 1978.

Came from the Senate read and adopted as amended by Senate Amendment "A" (S-485) in non-concurrence.

In the House: The House voted to adhere. By unanimous consent, ordered sent forthwith to the Senate.

Non-Concurrent Matter

Joint Resolution Requesting the Members of the Maine Delegation to the Congress of the United States to Urge the President of the United States to Approve the Application of Governor Longley for a Presidential Declaration that a Disaster Exists in Maine Because of Severe Winter Storms suffered in January and February, 1978 (H. P. 2123) which was read and adopted in the House on February 17, 1978.

Came from the Senate Indefinitely Postponed in non-concurrence.

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

Non-Concurrent Matter

Bill "An Act to Revise the Effective Date of the Act which Prohibits the Practice of Mandatory Retirement Age"

(Emergency) (H. P. 1985) (L. D. 2068) on which the Majority "Ought to Pass" in New Draft under New Title RESOLVE, Authorizing Certain Employees of the State of Maine to Request an Extension of Employment After Their Mandatory Retirement Age, Years of Service Requirement or Age and Years of Service Requirement (Emergency) (H. P. 2101) (L. D. 2140) Report of the Committee on Human Resources was read and accepted and the New Draft passed to be engrossed as amended by House Amendment "B" (H-1067) and amended by House Amendment "A" (H-1077) thereto in the House on February 23, 1978.

Came from the Senate with Bill and accompanying papers Indefinitely Postponed in non-concurrence.

In the House:

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

Mr. DOW: Mr. Speaker, I move the we recede and concur.

The SPEAKER: The gentleman from West Gardiner, Mr. Dow, moves that the House recede and concur.

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

Mr. SPROWL: Mr. Speaker, I ask for a division. I hope that you won't vote for this motion so that I can make a motion to insist and ask for a committee on conference.

I think the body at the other end and the chairman of this committee was a little confused, and I don't think the Senate really knew what the bill was all about. I hope that you let me make this motion.

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

A vote of the House was taken.

Mr. MacEachern of Lincoln requested a roll call vote.

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

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

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

ROLL CALL

YEA — Berry, Biron, Birt, Brown, K. C.; Burns, Bustin, Carter, D.; Chonko, Clark, Connors, Connolly, Cox, Dow, Goodwin, K.; Greenlaw, Howe, Jensen, Kany, Laffin, MacEachern, Mahany, Masterman, Maxwell, McMahon, Nadeau, Najarian, Nelson, M.; Nelson, N.; Paul, Perkins, Post, Quinn, Raymond, Rideout, Talbot, Theriault, Tozier, Twitshell.

NAY — Ault, Austin, Bachrach, Benoit, Berube, Blodgett, Boudreau, A.; Boudreau, P.; Brenerman, Brown, K. L.; Bunker, Carey, Carrier, Carroll, Carter, F.; Churchill, Cote, Cunningham, Curran, Davies, Devoe, Dexter, Diamond, Drinkwater, Durgin, Dutremble, Elias, Fenlason, Flanagan, Fowlie, Garsoe, Gill, Gillis, Goodwin, H.; Gould, Gray, Green, Hall, Hickey, Higgins, Huber, Hunter, Hutchings, Immonen, Jackson, Jacques, Joyce, Kane, Kelleher, Kerry, Kilcoyne, Lewis, Littlefield, Lizotte, Locke, Lougee, Lunt, Lynch, Mackel, Marshall, Martin, A.; Masterton, McBairty, McHenry, McKean, McPherson, Morton, Palmer, Pearson, Peltier, Peterson, Plourde, Prescott, Rollins, Sewall, Silsby, Smith, Sprowl, Stover, Strout, Stubbs, Tarr, Teaque, Torrey, Trafton, Truman, Whittemore, Wilfong, Wood, Wyman, The Speaker.

ABSENT — Aloupis, Bagley, Beaulieu, Bennett, Dudley, Henderson, Hobbins, Hughes, Jalbert, LaPlante, Mills, Mitchell, Moody, Norris, Peakes, Shute, Spencer, Tarbell, Tierney, Tyndale, Valentine, Violette.

Yes, 38; No, 91; Absent, 22.

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

Thereupon, on motion of Mr. Sprowl of Hope, the House voted to insist and request and a Committee of Conference.

Non-Concurrent Matter

Later Today Assigned

Bill "An Act to Amend the Statutes Relating to Airmobiles" (H. P. 2126) (L. D. 2153) which was referred to the Committee on Natural Resources in the House on February 23, 1978.

Came from the Senate passed to be engrossed without reference to a Committee in non-concurrence.

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

Orders

An Expression of Legislative Sentiment (H. P. 2145) recognizing that:

Maine's hardworking citizens working in agriculture contribute mightily to Maine's economy and fully deserve the recognition which February 28th, "Agriculture Day," accords them

Presented by Mr. Torrey of Poland. (Cosponsors: Mr. Mahany of Easton, Senator Hichens of York)

The Order was Read.

The SPEAKER: The Chair recognizes the gentleman from Poland, Mr. Torrey.

Mr. TORREY: Mr. Speaker, Ladies and Gentlemen of the House: I would just call your attention to this order, that tomorrow is going to be recognized as Maine Agriculture Day. We expect to have some of the Maine Agriculture Queens and Princesses introduced. There will be a few exhibits out in the corridor from the Farm Bureau people, the Grange people. We will have a milk bar and a few other snacks. As Maine agriculture has a great importance to live animals, we do expect to have a pair of live baby lamb twins there.

We hope that you will visit with some of the friends in the hallway tomorrow and enjoy the day.

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

House Reports of Committees

Ought to Pass in New Draft New Drafts Printed

Mr. Talbot from the Committee on Human Resources on Bill "An Act Providing for Notice to Parents Under the Child Abuse and Neglect Statutes" (H. P. 1905) (L. D. 1966) reporting "Ought to Pass" in New Draft (H. P. 2143) (L. D. 2160)

Mr. Hughes from the Committee on Judici-

ary on Bill "An Act to Amend the Maine Juvenile Code" (Emergency) (H. P. 1917) (L. D. 1978) reporting "Ought to Pass" in New Draft (H. P. 2142) (L. D. 2163)

Reports were read and accepted, the New Drafts read once and assigned for second reading tomorrow.

Mrs. Post from the Committee on Taxation on Bill "An Act Relating to the Taxation of the Unorganized Territory" (H. P. 2059) (L. D. 2117) reporting "Ought to Pass" in New Draft (H. P. 2139) (L. D. 2159)

Report was read.

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

Mr. CAREY: Mr. Speaker and Members of the House: This is the result of a summer-long study by the Taxation Committee. This bill has some questions that have to be answered by the Justices, and I would hope that someone could table this unassigned while we prepare the questions for the Justices and then we would find out if it is constitutional or not.

Thereupon, on motion of Mr. Quinn of Gorham, tabled pending acceptance of the Committee Report and tomorrow assigned.

Ought to Pass

Pursuant to Joint Order H. P. 1986

Mr. Drinkwater from the Committee on Local and County Government on RESOLVE, for Laying of the County Taxes and Authorizing Expenditures of Lincoln County for the Year 1978 (Emergency) (H. P. 2140) (L. D. 2161) reporting "Ought to Pass" — pursuant to Joint Order (H. P. 1986)

Mr. Gray from the Committee on Local and County Government on RESOLVE, for Laying of the County Taxes and Authorizing Expenditures of Piscataquis County for the Year 1978 (Emergency) (H. P. 2141) (L. D. 2162) reporting "Ought to Pass" — pursuant to Joint Order (H. P. 1986)

Reports were read and accepted, the Resolves read once and assigned for second reading tomorrow.

Consent Calendar

First Day

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

(H. P. 2066) (L. D. 2129) Bill "An Act to Authorize the Town of Lincolnville to Withdraw from the Appleton-Hope-Lincolnville Community School District" (Emergency) — Committee on Education reporting "Ought to Pass" as amended by Committee Amendment "A" (H-1085)

On the objection of Mr. Quinn of Gorham, was removed from the Consent Calendar.

Thereupon, the Report was accepted and the Bill read once. Committee Amendment "A" (H-1085) was read by the Clerk and adopted. Under suspension the rules, the Bill was read the second time, passed to be engrossed as amended and sent up for concurrence.

By unanimous consent, ordered sent forthwith to the Senate.

Tabled and Assigned

(H. P. 2018) (L. D. 2093) Bill "An Act to Clarify the Education Laws" — Committee on Education reporting "Ought to Pass"

On the objection of Mr. Lynch of Livermore Falls, was removed from the Consent Calendar.

Mr. Quinn of Gorham moved that the Report be accepted.

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

At this point, a message was received from the Senate borne by Senator Speers of Kennebec of that body, proposing a Joint Convention of both branches to be held at eleven o'clock in

the Hall of the House for the purpose of extending to Vincent L. McKusick, Chief Justice of the Supreme Judicial Court, and members of the Judiciary, an invitation to attend the convention and to make such communication as he may be pleased make.

Thereupon, the House voted to concur in the proposal for a Joint Convention and the Chair appointed Mr. Quinn of Gorham to convey a message to the Senate to that effect.

Mr. Quinn subsequently reported that he had delivered the message with which he was charged.

Second Reader

Later Today Assigned

Bill "An Act to Revise the Administration and Toll System of the Maine Turnpike" (H. P. 2132) (L. D. 2157)

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

On motion of Mr. Biron of Lewiston tabled pending passage to be engrossed and later today assigned.

Amended Bill

Indefinitely Postponed

Bill "An Act to Provide Residents of the Islands in Casco Bay with Additional Transportation Service" (H. P. 2042) (L. D. 2107) (C. "A" H-1072)

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

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

Mr. KELLEHER: Mr. Speaker, Ladies and Gentlemen of the House: I move the indefinite postponement of this bill and all its accompanying papers.

A few years ago, the Public Utilities Committee held hearings in Portland dealing with the Casco Bay Ferry Lines, and one of the bills that we heard, which was an extremely controversial bill, was to provide radar on the ferry services from Portland to the respected islands that it served. Looking at this bill here this morning that came out of the Transportation Committee, I believe 10 for and 3 against, would allow independent carriers or independent boats to carry six or less passengers from the mainland at Portland to the respective islands. I object to this bill, not because of the fact that there is going to be provided under this document alternate services for the islanders but it absolutely divorces itself from all the safety regulations and rules under the PUC.

This bill, when it originally came out, said that vessel carrying six or less passengers for compensation may transport passengers between the mainland and these islands designated in this section at any time except that these vessels shall not transport passengers or personal baggage between the mainland and these islands at a time when authorized vessels carrying seven or more passengers for compensation from the mainland to these islands and from these islands to the mainland as scheduled to depart in the same designation within two hours. That has been amended out the bill to say within 30 minutes.

If you will look at this bill, and I can understand to some degree the problems that they have down on those islands in terms of transportation, it completely absorbs itself from all the safety regulations. There is nothing in the bill that provides for rate regulations. Water taxi service is no different from taxi services in your own communities when they use automobiles. They have to have insurance, they have to meet all the safety regulations, they have to be inspected.

I believe the bill is a bad bill. I think I understand the situation somewhat, seeing how we studied some alternate service bills before the PUC a few years ago. I am really sorry that it came out the Transportation Committee without a definite "Ought Not to Pass" because I think in good sense and good judgment, this bill

is not necessary.

I would hope that you would support my motion this morning to indefinitely postpone.

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

Mr. CONNOLLY: Mr. Speaker and Members of the House: With all due respect to the Chairman of this Commission, I think he is really completely ignorant of the situation that the people in the islands in Casco Bay face and to what is really required through this piece of legislation.

If this particular bill passes, it would allow residents of the islands in Casco Bay to use private carriers who would carry six people or less, fishing boats if you will, to run them between the mainland and the island where they live only after Casco Bay Lines have stopped running their service in the evening to that particular island, at least 30 minutes after the Casco Bay Lines have stopped or 30 minutes or earlier prior to the time when Casco Bay Lines begins their operation in the morning. According to Coast Guard regulations which apply in this case, Representative Kelleher, and I am not sure if you understood that or not, people who would engage in this kind of service would be required to have, (1) a motor boat operator's license; (2) the way that they obtain that license is through written examination; (3) they would also be required to have a radio operator's license and their boats would be equipped to have certain safety features, required to have Mae West type of life jackets, radio, fire extinguishers, etc.

I would point out to the gentleman from Bangor, who may not be familiar with the fishing vessels in Casco Bay, that most of the boats that would get involved in this type of operation, do have radar on them now, but if the gentleman's main concern was the lack of radar, then I do not think of any of the people from Portland who are supporting this legislation would at all objected to an amendment being put on this bill to require radar in all instances.

On Friday, some of us who were involved with this legislation were told that some people we thought were originally going to support this bill were going to oppose it today, but we were not given any reasons why that opposition was going to be given on the floor. We would have been amenable to any kinds of suggestion and any types of amendments to deal with the problems that Representative Kelleher seems to be pointing out today.

I hope that you would defeat the motion to indefinitely postpone, and I would request a roll call.

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

Mr. JENSEN: Mr. Speaker, Ladies and Gentlemen of the House: I would rise in support of the present bill and in opposition to the pending motion.

I guess I would like to make three points. First of all, this is a strictly local issue involving the City of Portland and the Portland islands. It is an issue upon which the entire 12-member Portland delegation is unanimous in supporting this bill. In fact, we would like something a great deal stronger than this bill. However, we are willing to accept what is presently proposed. If the members of the House and the other body begin to get involved in strictly local issues and imposing their will upon the will of the locally elected legislators, I think we are going to ask for a lot of trouble. I would ask you to consider that very carefully.

The second point I would like to make is that Casco Bay is the only bay, the only cove or inlet, in the entire State of Maine that has any regulation whatsoever as far as the state is concerned. There is no other area in the entire State of Maine. Why Casco Bay should be singled out for this kind of incredible regulation is beyond me.

Thirdly, I would like to explain the kind of situation where small boats would be used. Pres-

ently, during different parts of the year, there are different degrees of service offered. During the summer, you are never going to have a situation where people are going to hire a small boat and go from the mainland to the islands, because the way things operate, Casco Bay Lines does, in fact, operate ferries back and forth to the major islands from very early in the morning until very late at night and often into the next morning, so you are talking only a two or three hour period, perhaps between two, four or five o'clock in the morning when there would be no service. The problem occurs during the rest of the year, say, during the fall, or in the winter and spring. If somebody on one of the Casco Bay islands wishes to take a course at the University of Maine in Gorham, he can take a Casco Bay Lines ferry over from the island in the early evening. He gets out of class at nine thirty or quarter of ten. He has to take a bus from Gorham back into Portland and then get from the Portland bus stop at the University down to the terminal. By the time he gets down there, it is going to be quarter of eleven or eleven o'clock and the last boat, during a good part of the year, leaves at ten-thirty. How is that person going to get across? Well, he has several alternatives. He can swim, he can get his own boat and go back and forth, assuming that he can afford that, or he can call a special water taxi from Long Island and pay \$20 or \$25. None of those opportunities or alternatives seem very reasonable to me or the Portland delegation or even the people of the islands. So what we are proposing is that after the last Casco Bay boat leaves the mainland, if somebody has a friend, a lobsterman or fisherman or whatever, and wishes to go from the mainland to the island and can convince his friend to come in and pick him up or even he happens to be there anyway, getting bait or doing whatever he has to do, he will be able to pay him a couple of dollars under whatever conditions he wishes to impose or agree upon with the fishing vessel operator to take him across the island. That way he will be able to attend things such as the University classes.

Other functions, as you may be aware, occur four and five nights a week at the Cumberland County Civic Center. People living on the islands are effectively prevented from attending any of those things.

Thirdly, city council meetings occur Monday night, at this point, often running until midnight, one or even two o'clock in the morning. What this bill would do would be allow those people to attend city council meetings, voice their opinions, participate in the Democratic system, and then from that point, arrange to go back to the island in a small boat. Again, the alternatives are essentially nonexistent and what I would like the House to do is to vote against the motion to indefinitely postpone this bill and instead vote to continue this bill and send it over to the other body.

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

Mr. STROUT: Mr. Speaker, Ladies and Gentlemen of the House: I am going to make a couple of brief comments.

First, I would like to remind the good gentleman from Bangor, I believe he said that this came of committee 10 to 3 "Ought to Pass." He should have said 10 to 3 "Ought Not to Pass."

The second thing I would like to ask the gentleman from Portland, Mr. Jensen, isn't this an attempt to drive the Casco Bay Ferry Service out of business?

The other thing is, what will happen to Casco Bay Lines down the road? In the near future, won't the state be asked to provide ferry service to take over these responsibilities?

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

Mr. JENSEN: Mr. Speaker, Ladies and Gentlemen of the House: The answer to the questions are all no. The fact is that the proposal we are offering is to allow a small boat to go back

and forth on an adhoc basis after Casco Bay Lines have finished its run. It is a bit beyond me how you can possibly have any sort of interference or competitive situation with a ferry if you are not running at the same time that that ferry is running. If you are running after that ferry has said it is not economical, there are not enough people for me to come and run a full boat; back and forth, I would lose my shirt. The fact is, it is not competition in any fashion.

I would hope and expect that the City of Portland and the island residents would not be coming to the state for support in the future years. What they would like to do is allow the present system to work in a little better fashion, and that is what we are asking.

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

Mr. KELLEHER: Mr. Speaker, Ladies and Gentlemen of the House: I would like to remind each and every member of the Portland delegation, but particularly the good gentleman from Portland, Mr. Jensen, that when the Public Utilities Committee held hearings at Franklin Towers in Portland dealing with ferry service, there was one gentleman from Portland, and I think I am looking at him right now, particularly when we were dealing with safety provisions for the Casco Bay Ferry Lines, when this legislature, not the 12 or 10 members from Portland but this legislature as a whole, took a complete look at the safety provisions that should be provided in the law for a ferry service to those islands. And do you remember the bill that we had down in Portland and that we argued in this House and we fought the lobby with on the other side dealing with radar and safety? It seems at that time that the gentleman and other members of the delegation certainly appreciated the input of the Maine Legislature in trying to set up some reasonable guidelines for public safety on those vessels. Now they want you to arbitrarily just do dismiss that position under Title 35, which wipes out all the standard provision when it comes to safety. I don't think that this legislature is about to do that. It is not a local issue when it comes to safety, Mr. Jensen. When there is a public law being passed, each and every one of us are held responsible for those laws.

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

Mr. CONNOLLY: Mr. Speaker, Members of the House: Briefly, one point that has not been made that I think you should understand that is in the legislation, it is not in the amendment, it is still in the bill as it has been amended, that if this were to pass, it would, in effect, be a two-year experimental program and in 1980, the appropriate committee of the legislature, namely, the Joint Standing Committee on Public Utilities, would review the effects that this legislation has had on the operation of ferry service in Casco Bay and would then make the determination of whether or not to continue, to stop it or to make some other sort of recommendation for changes.

The issue, as Representative Kelleher presents it, on safety is not the issue at all. Safety requirements are built, in by the fact that the Coast Guard has to provide certain kinds of licenses and inspects the boats. Again, I would just remind you that the boats that would be involved would be fishing vessels, most of which are equipped with radar, and if Representative Kelleher or some other member of the House wants to back the bill up and mandate that radar be required, then I don't think anyone would have any objections to that at all.

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

Mr. LAFFIN: Mr. Speaker, Ladies and Gentlemen of the House: I am so glad this morning that Representative Connolly from Portland mentioned that in this bill it is only for two years. They don't even know if it is going to work or not but they are willing to give it a chance, and I certainly hope that the members

of this House will listen to Mr. Kelleher this morning because he is right on target. Not only is it a safety issue but this is also a scabber's bill. They want people to go and pick up people to take revenue away from Casco Bay and they are having a hard enough time to survive now. They are having trouble now meeting their bills. People will plan on leaving early, people will plan on going home late just so they will not have to pay those rates set down by the Public Utilities Commission. If you are going to do this, then do away with all the laws and regulations that control the Casco Bay Lines. Do away with them all so they can all be on a competitive basis.

What would happen if I had a small boat and I want to take people back and forth to the islands and I am not going to set a set fee, I am going to say, give me a buck or whatever the case may be. Well, I cannot afford a buck — well, hop on, I will take 50 cents. That is not regulation. This is what is bad about this bill, and the safety, to be sure, and when the gentleman from Portland, Mr. Jensen, says that it is a local issue, it is not a local issue. Every issue that comes before this House that pertains to the Public Utilities Commission, who makes regulations, it is the business of this House. Was the Portland delegation so concerned when we had a bill presented on the floor of this House against Public Utilities charging for information services? You bet your life they didn't care. They took their own thoughts. Some voted for me; some voted against me, but still they did not want to interfere when the Public Utilities Commission went before the Public Utilities Committee and said, don't interfere with this, we want to regulate it. It will be in the rate structure and, consequently, they put in for a \$36 million increase.

I certainly support Representative Kelleher today to kill this once and for all.

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

Mr. BRENERMAN: Mr. Speaker, Members of the House: I would like to remind the gentleman from Westbrook, again, that there is no competition with Casco Bay Lines because there will be no boats, under this bill, running at the same time Casco Bay Lines is running. These boats will be running after hours. I would also remind him that any boat ride on Casco Bay Lines is cheaper than any charge that someone who carried a friend of theirs over would charge.

A lady from Peaks Island called me a few weeks ago in support of the bill and she said that her husband had to work at night on the mainland, and because he worked so late, he could not get back home most nights because there was no boat after ten-thirty. This would help to have her husband back each evening, because he could find a friend who would carry him back, maybe for the expenses.

I ask the House to vote against the indefinite postponement of the Bill.

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

Mrs. MASTERTON: Mr. Speaker, Ladies and Gentlemen of the House: I agree with the previous good speaker. One of the facts that has been overlooked in this debate is the fact that the island population is probably doubled by summer people. A lot of these people commute weekends. They come in on the late plane Sunday night and they are too late to get from the airport to the last scheduled Casco Bay Line trip to the islands, so they have to spend the night in a hotel in Portland.

Now, I have spent the summer out on Great Diamond Island, so I can speak first-hand of the inconvenience of the ferry's schedule. I think we ought to let these people have the flexibility to have some sort of an organized taxi service after hours of the ferry service. They are already doing this, most of them who have boats. They are going back and forth at night

anyway, and sometimes they take friends, but for those who don't know people with boats, I think it would really add to the vacation possibilities and the economic impact on the city of Portland.

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

Mr. CARRIER: Mr. Speaker and Members of the House: I would like to ask one question. It is my understanding that there are two association groups on the island, and I would like for somebody to tell me how they stand, whether they are in favor of this bill or not.

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

Mr. CONNOLLY: Mr. Speaker and Members of the House: In response to the question, one of the groups gives wholehearted endorsement to the proposal, and I believe the other group supports the proposal with the appropriate amendment.

Mr. Speaker, I move the vote be taken by the yeas and nays.

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

Mr. CARRIER: Mr. Speaker and members of the House: I am in a different position than many of the members here this morning because I happen to own a little piece of real estate on Peaks Island, a very small piece. You wouldn't think so by the taxes I pay to them, but it is small. I am not a resident of Peaks Island. I do travel over there occasionally during the summer. I don't live there, but I have owned property down there for about four years and never at any time have I been caught having to stay on the island because of the present service.

What really bothers me, I am very bothered by the liability part of it. There is nothing in this bill that says they have to carry so much liability insurance. I think it is very unwise for any individual to get into this type of service if they can only carry six passengers or less. The liability insurance would be tremendous, along with the radar, if they haven't got it, because it would have to be installed.

I understand it would be a convenience to some people, but as it was stated, people do it anyway. There is one on Great Diamond, Mr. Rand, he does it continuously, he has got a water taxi business.

Some of the things they say is right, but some of it I question. The population does swell up in the summer. I think there is a population year-round of about 1,000 or 1,100, and it swells up to about 5,500 in the summer, but if there is some inconvenience, it doesn't seem to be of the amount that it requires boats or for us to pass this, because, really, they can do this. If I brought my boat out there, I would do it anyway, so what is the difference. They all do it.

I submit to you, ladies and gentlemen, that it is a matter of safety. Somebody has tried to make the boats on Casco Bay real safe, checking on the life preservers and on the life lines and on the radar, and that is a terrific expense that they have put them through and the fees haven't gone too much.

Personally, as an owner down there, like I say, I am not a full-time resident and that is probably what makes the difference, but I am very satisfied with the present service and I will vote to indefinitely postpone this bill.

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

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

The SPEAKER: The pending question is on the motion of the gentleman from Bangor, Mr. Kelleher, that this Bill and all its accompany-

ing papers be indefinitely postponed. All those in favor will vote yes; those opposed will vote no.

ROLL CALL

YEA — Ault, Austin, Bachrach, Benoit, Berube, Biron, Birt, Boudreau, P.; Brown, K. L.; Brown, K. C.; Bunker, Burns, Carrier, Carter, D.; Churchill, Clark, Conners, Connolly, Cote, Cox, Cunningham, Devoe, Dexter, Drinkwater, Dudley, Durgin, Fenlason, Garsoe, Gillis, Gould, Gray, Higgins, Huber, Hughes, Hunter, Hutchings, Jackson, Jacques, Joyce, Kelleher, Kilcoyne, Laffin, Littlefield, Lizotte, Lougee, Lunt, Lynch, Marshall, Martin, A.; Masterman, Maxwell, McMahon, McPherson, Moody, Morton, Nelson, N.; Palmer, Perkins, Peterson, Plourde, Prescott, Quinn, Raymond, Rollins, Sewall, Silsby, Smith, Sprowl, Stover, Strout, Stubbs, Tarr, Teague, Theriault, Tozier, Trafton, Twitchell.

NAY — Aloupis, Berry, Blodgett, Boudreau, A.; Brennerman, Bustin, Carey, Carroll, Carter, F.; Chonko, Curran, Davies, Diamond, Dow, Dutremble, Elias, Flanagan, Fowlie, Gill, Goodwin, H.; Goodwin, K.; Green, Greenlaw, Hall, Henderson, Hickey, Howe, Jensen, Kane, Kerry, LaPlante, Lewis, Locke, MacEachern, Mackel, Mahany, Masterton, McHenry, McKean, Nadeau, Najarian, Nelson, M.; Paul, Pearson, Peltier, Post, Rideout, Shute, Talbot, Torrey, Truman, Valentine, Violette, Whittemore, Wilfong, Wood, Wyman, The Speaker.

ABSENT — Bagley, Beaulieu, Bennett, Hobbs, Immonen, Jalbert, Kany, McBreaity, Mills, Mitchell, Norris, Peakes, Spencer, Tarbell, Tierney, Tyndale.

Yes, 77; No, 58; Absent, 16.

The SPEAKER: Seventy-seven having voted in the affirmative and fifty-eight in the negative, with sixteen being absent, the motion does prevail.

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 would ask the House to vote against me and I request the yeas and nays.

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

Mr. CONNOLLY: Mr. Speaker and Members of the House—I am really quite amazed at the vote and some of the reasons that were given for opposing this particular piece of legislation, and I am not sure if it is perhaps a Machiavellian scheme to kill this legislation or if there really is some misunderstanding of the issues involved.

I am not sure if this request of mine is going to be very popular, but I would hope that in the interest of at least deciding this issue on the merits, that someone would table this for one day.

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

Mrs. NAJARIAN: Mr. Speaker, I move that this be tabled for one day.

Whereupon, Mr. Garsoe of Cumberland requested a division.

The SPEAKER: All those in favor of tabling for one day will vote yes; those opposed will vote no.

A vote of the House was taken.

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

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

Mr. CONNOLLY: Mr. Speaker and Members of the House: Let me review the issue for you once more so that at least you all, I hope, would have an understanding of what is involved with legislation.

There is an outfit in Portland, a regulated monopoly called Casco Bay Lines, that is given the sole responsibility for running ferry service between the mainland in Portland and the is-

lands in Casco Bay. There are two outfits who have exception to that, one has already been mentioned, a Mr. Rand, who charges \$22 for a one-way service between the islands and the mainland. This particular piece of legislation would say that small boat operators who wish to carry six or less passengers and charge a fee for that service may do so but only 30 minutes or later after Casco Bay Lines have stopped running for that day or 30 minutes or earlier before Casco Bay Lines begin their service in the morning.

The reason for the legislation is that Casco Bay Lines stop their service at relatively early hours in the evening for the most part of the year, nine-thirty to ten-thirty, depending on the islands that you want to travel to. There are a number of year-round residents on the islands who are in the city of Portland or off the islands for later than that nine-thirty or ten-thirty departure. They would like to be able to have the opportunity to hire someone for whatever fee that person wants to charge, but hopefully it will be less than the \$22 that Mr. Rand charges, and use that service to go back and forth to the islands after Casco Bay Lines has stopped running.

The bill is not an intention to have any competition with Casco Bay Lines. The bill requires that it be a two-year program. At the end of the two years, the Joint Standing Committee on Public Utilities of this Legislature will determine whether or not it is effective, whether it should be continued, whether changes should be made or whether it should be stopped altogether.

There are safety requirements built into the legislation in the fact that the Coast Guard gives licenses for radio operators and for motor boat operators and they will also inspect the boats to see that there is safety equipment aboard.

I hope you understand the issue, and I would hope that you would reconsider.

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

Mr. KELLEHER: Mr. Speaker, Ladies and Gentlemen of the House: Mr. Connolly's arguments are no better now than they were five minutes ago. I would hope that you would vote against my reconsideration motion and let's get rid of it once and for all.

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

Mrs. NAJARIAN: Mr. Speaker and Members of the House: I hope you will vote to reconsider this issue. Just imagine if any of us lived on that island and had to put up with the kind of inconveniences these people have to put up with. I am sure the majority of you wouldn't be voting the way you are today.

I appreciate very much your concern for the safety of these islanders; however, you are forcing upon the residents of these islands more protection than they want. They would rather have the convenience of being able to go back to take part in events or happenings or whatever, their jobs on the island, and be able to get back there at night without depending on a taxi service which I am told is very unreliable and, in addition, charges \$20 per passenger, no matter how many passengers he has. He doesn't split that \$20 fee up if he has four passengers so they would each pay \$5; it is \$20 for every person, which is very expensive and the residents on the island aren't wealthy people.

They have made numerous trips up here to this legislature pleading with us from Portland to do what we can. They have gone to I don't know how many hearings, and here we are just casting aside their desires for I don't think very good reasons. If we live on the mainland and we don't have transportation, there is nothing to prevent us from asking a neighbor to take us downtown or wherever and there is no requirement that they have liability coverage, insurance, and all of that jazz that we are imposing on them simply because they have to go a

couple miles to the island.

I really hope you reconsider. I am appalled at the way this House has voted on this issue.

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

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

The SPEAKER: The pending question is on the motion of the gentleman from Bangor, Mr. Kelleher, that the House reconsider its action whereby the Bill and all accompanying papers were indefinitely postponed. All those in favor of reconsideration will vote yes; those opposed will vote no.

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

Mr. GARSOE: Mr. Speaker, I request permission to pair my vote with the gentlewoman from Portland, Mrs. Beaulieu. If Mrs. Beaulieu were here, she would be voting yes; if I were voting, I would be voting no.

ROLL CALL

YEA — Alopis, Berry, Blodgett, Boudreau, A.; Brennerman, Bustin, Carey, Carroll, Carter, F.; Chonko, Clark, Connolly, Cox, Curran, Davies, Dexter, Diamond, Dow, Dutremble, Elias, Flanagan, Fowlie, Gill, Goodwin, H.; Goodwin, K.; Green, Greenlaw, Henderson, Hickey, Howe, Jensen, Kane, Kany, LaPlante, Locke, MacEachern, Mackel, Mahany, Marshall, Masterton, McBrearty, McHenry, McKean, Nadeau, Najarian, Nelson, M.; Paul, Pearson, Peltier, Post, Rideout, Shute, Stubbs, Talbot, Tarbell, Theriault, Torrey, Truman, Valentine, Violette, Wilfong, Wood, Wyman, The Speaker.

NAY — Ault, Austin, Bachrach, Benoit, Berube, Biron, Birt, Boudreau, P.; Brown, K.L.; Brown, K.C.; Bunker, Burns, Carrier, Carter, D.; Churchill, Conners, Cote, Cunningham, Devoe, Drinkwater, Dudley, Durgin, Fenalson, Gillis, Gould, Gray, Hall, Higgins, Huber, Hughes, Hunter, Hutchings, Immonen, Jackson, Jacques, Joyce, Kelleher, Kerry, Kilcoyne, Laffin, Lewis, Littlefield, Lizotte, Lougee, Lunt, Lynch, Martin, A.; Masterman, Maxwell, McMahon, McPherson, Moody, Morton, Nelson, N.; Palmer, Peterson, Plourde, Prescott, Quinn, Raymond, Rollins, Sewall, Silsby, Smith, Sprowl, Stover, Strout, Tarr, Teague, Tozier, Trafton, Twitchell, Whittemore.

ABSENT — Bagley, Bennett, Hobbins, Jalbert, Mills, Mitchell, Norris, Peakes, Perkins, Spencer, Tierney, Tyndale.

PAIRED — Beaulieu, Garsoe.

Yes, 64; No, 73; Absent, 12; Paired, 2.

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

Sent up for concurrence.

Passed to Be Engrossed Amended Bills

Bills "An Act to Provide Municipalities with the Authority to Establish Standards for the Installation of Wood Stoves" (H. P. 2037) (L. D. 2101) (C. "A" H-1079)

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 Make Trafficking in Five Pounds or More of Marijuana a Class C Crime under the Maine Criminal Code" (H. P. 1999) (L. D. 2080) (C. "A" H-1048)

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.

Passed to Be Enacted Emergency Measure

An Act Concerning Pilot Projects for more Effective and Efficient Delivery of Services to Preschool Handicapped Children (S. P. 684) (L. D. 2106) (C. "A" S-465)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure and a two-thirds vote of all the members elected to the House being necessary, a total was taken. 121 voted in favor of same and none against, and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

Passed to Be Enacted

An Act to Permit Persons Other Than Arborists to Take Down Trees by Topping or Sections (H. P. 1858) (L. D. 1925) (S. "A" S-460)

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

Mrs. Huber of Falmouth requested a roll call vote.

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

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

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

ROLL CALL

YEA — Alopis, Austin, Bachrach, Berry, Berube, Biron, Birt, Blodgett, Boudreau, A.; Brennerman, Brown, K. L.; Brown, K. C.; Burns, Bustin, Carey, Carrier, Carroll, Carter, D.; Carter, F.; Churchill, Clark, Conners, Connolly, Cote, Cox, Cunningham, Curran, Davies, Devoe, Dexter, Diamond, Dow, Drinkwater, Dudley, Durgin, Dutremble, Elias, Fenalson, Flanagan, Fowlie, Gill, Gillis, Goodwin, H.; Goodwin, K.; Gould, Gray, Hall, Henderson, Hickey, Higgins, Howe, Hughes, Hunter, Hutchings, Immonen, Jackson, Jacques, Jensen, Joyce, Kane, Kany, Kerry, Kilcoyne, Laffin, LaPlante, Lewis, Littlefield, Lizotte, Locke, Lougee, Lynch, MacEachern, Mackel, Mahany, Marshall, Masterton, Maxwell, McBrearty, McHenry, McKean, McMahon, Morton, Najarian, Nelson, N.; Palmer, Paul, Pearson, Peltier, Peterson, Plourde, Post, Prescott, Raymond, Rideout, Rollins, Sewall, Shute, Smith, Sprowl, Strout, Stubbs, Talbot, Tarbell, Tarr, Teague, Theriault, Torrey, Tozier, Trafton, Truman, Twitchell, Valentine, Violette, Whittemore, Wilfong, Wood, Wyman, The Speaker.

NAY — Garsoe, Greenlaw, Huber, Martin, A.; Nelson, M.; Quinn.

ABSENT — Ault, Bagley, Beaulieu, Bennett, Benoit, Boudreau, P.; Bunker, Chonko, Green, Hobbins, Jalbert, Kelleher, Lunt, Masterman, McPherson, Mills, Mitchell, Moody, Nadeau, Norris, Peakes, Perkins, Silsby, Spencer, Stover, Tierney, Tyndale.

Yes, 116; No, 6; Absent, 29.

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

Signed by the Speaker and sent to the Senate.

An Act Authorizing Municipalities to Provide Textbooks and Other Secular Services to Elementary and Secondary Pupils Attending Private Schools (H. P. 1889) (L. D. 1946) (C. "A" H-1041)

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

Mr. Morton of Farmington requested a roll call vote.

The SPEAKER: For the Chair to order a roll call, it must have the expressed desire of one

fifth of the members present and voting. All those desiring a roll call will vote yes; those opposed will vote no.

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

ROLL CALL

YEA — Alopis, Austin, Bachrach, Benoit, Berry, Berube, Biron, Birt, Blodgett, Boudreau, A.; Brennerman, Brown, K.C.; Bustin, Carey, Carrier, Carroll, Carter, D.; Carter, F.; Chonko, Churchill, Clark, Conners, Connolly, Cote, Curran, Davies, Devoe, Dow, Dudley, Durgin, Dutremble, Elias, Fenalson, Flanagan, Fowlie, Gill, Gillis, Goodwin, H.; Goodwin, K.; Gould, Greenlaw, Hall, Henderson, Hickey, Howe, Huber, Hughes, Hutchings, Jackson, Jacques, Jensen, Joyce, Kane, Kany, Kelleher, Kerry, Kilcoyne, Laffin, LaPlante, Lewis, Lizotte, Locke, Lynch, MacEachern, Mackel, Mahany, Marshall, Martin, A.; Masterton, Maxwell, McHenry, McMahon, McPherson, Najarian, Nelson, M.; Nelson, N.; Norris, Palmer, Paul, Pearson, Peltier, Peterson, Plourde, Prescott, Quinn, Raymond, Rideout, Rollins, Sewall, Shute, Sprowl, Stover, Strout, Stubbs, Talbot, Tarbell, Tarr, Teague, Theriault, Torrey, Trafton, Truman, Twitchell, Valentine, Violette, Whittemore, Wilfong, Wood, Wyman, The Speaker.

NAY — Ault, Brown, K.L.; Brown, K.C.; Bunker, Burns, Cox, Cunningham, Dexter, Diamond, Drinkwater, Garsoe, Gray, Higgins, Hunter, Immonen, Littlefield, Lougee, Masterman, McBrearty, McKean, Morton, Post, Smith, Tozier.

ABSENT — Bagley, Beaulieu, Bennett, Boudreau, P.; Green, Hobbins, Jalbert, Lunt, Mills, Mitchell, Moody, Nadeau, Peakes, Perkins, Silsby, Spencer, Tierney, Tyndale.

Yes, 110, No, 23; Absent, 18.

The SPEAKER: One hundred ten having voted in the affirmative and twenty-three in the negative, with eighteen being absent, the motion does prevail.

Sent up for concurrence.

An Act to Provide for the Sale of Electricity to Public Utilities (H. P. 2036) (L. D. 2100) (C. "A" H-1047)

Was 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.

At this point, the Senate entered the Hall of the House and a Joint Convention was formed.

In Convention

The President of the Senate, Joseph Sewall, in the Chair.

On motion of Senator Speers of Kennebec, it was Ordered, that a Committee be appointed to wait upon The Honorable Vincent McKusick, Chief Justice of the Supreme Judicial Court, and inform him that the two branches of the Legislature are in Convention assembled, ready to receive such communication as pleases him.

The President appointed:

Senators:

COLLINS of Knox
CURTIS of Penobscot
MANGAN of Androscoggin

Representatives:

SPENCER of Standish
HOBBINS of Saco
BENNETT of Caribou
HENDERSON of Bangor
HUGHES of Auburn
NORRIS of Brewer
SEWALL of Newcastle
DEVOE of Orono
TARBELL of Bangor
JOYCE of Portland

Subsequently, Senator Collins of Penobscot, for the Committee, reported that the Commit-

tee had attended to the duty assigned to it and that the Chief Justice and members of the Judiciary were pleased to that they would forthwith attend the Convention.

At this point, the Honorable Chief Justice and members of the Judiciary entered the Convention Hall amid the applause of the Convention, the audience rising.

The Chairman of the Convention then presented the Chief Justice of the Supreme Judicial Court, the Honorable Vincent McKusick, to the Convention, amid prolonged applause, the audience rising.

The Chief Justice then addressed the Convention as follows:

President Sewall, Speaker Martin, distinguished Members of the 108th Legislature, my colleagues of the Judiciary, Ladies and Gentlemen: As some of you will remember firsthand from having served with him, my father came to this House from Piscataquis County for two terms, and then he represented that county for four terms at the other end of the hall. I would like to think that he is with us in spirit here today.

I come as head of the Judicial Branch to report to you of the Legislative Branch on the state of the Judiciary. Civics textbooks tell us that our three great branches are separate and independent; that the powers of government are constitutionally divided among them; and we know of course that one branch may not validly encroach upon the others. Yet, the three branches are crucially interdependent and, if the public is to be served, they must support and complement each other in numerous essential ways.

Specifically, although we judges in our adjudicatory function are fiercely independent and must be, the results of your deliberations here in these halls are felt directly in the courtrooms around the state. You enact the substantive law which we judges apply. You, by statute, decide questions of court structure, court jurisdiction and venue, court facilities, court budgets, and judicial salaries. To discharge those heavy legislative responsibilities, you must be kept informed about the courts.

In studying in improvements made in the courts, particularly over the last 20 years, I have been struck by the fact that they have come about because of effective cooperation between the Legislature and the Judiciary, as well as the Chief Executive.

To cite just one example, the 1961 Legislature created our Maine District Court, to replace over 110 part-time municipal court judges and trial justices of patchwork jurisdiction and venue. This and many other legislative responses to the needs of our courts puts Maine, as I am about to report, in a generally good position as compared with other states. Of course, there now are and always will be needed improvements to be made in our courts, but the splendid history of cooperation between our two branches of government can make one supremely confident that working together we will identify court needs and will move forward to find appropriate solutions to those needs.

I come to you today in my sixth month as Chief Justice. A good part of my time and effort in the past half year I have devoted to studying our Maine courts, watching how they operate, visiting court facilities, meeting and talking with judges, clerks, court reporters and others working in the court system, thinking about our courts and where they should be going and where they ought to be going.

Early this month the first annual Judicial Conference of the State of Maine gathered together our entire judicial partnership, including our retired judges. From Thursday through Saturday, our judges conducted an intensive self-appraisal. My report to you now is based on both my own observation and upon the combined judgment of our judiciary.

I would first like to give you my broad overview of the status of our judicial system. I find that we here in Maine are in general in fairly good shape particularly as compared with other states. While I am anxious that we not fall into smug inaction, I see eight significantly good points about our Maine courts:

1. We here in Maine have appointed, not elected, judges. Maine plainly focuses responsibility for making judicial appointments in the Chief Executive and our governors have a tradition of seeking quality in judicial appointments.

2. We here in Maine have an integrated statewide court system in the sense that the District Court, the Superior Court, the Supreme Judicial Court, and come next July 1, the Administrative Court, are all coordinated parts of a single Judicial Department. All 4 courts have coordinated jurisdictions, except for the remaining right to a de novo trial in the Superior Court of Class D and Class E offenses on appeal from the District Court. There is one exception to our judges being all appointed and to the integration of all courts into the Judicial Department, that exception, of course, is the Probate Court—or rather the 16 county probate courts. You will remember that both of the Probate Court studies, that conducted for the Legislative Research Committee in 1968 and that done by the University of Maine Bureau of Public Administration in 1967, recommended correction of that situation. You are also aware of the hard work now being continued by the Probate Law Study Commission. I hope that all those valuable efforts will before long bear fruit.

3. We here in Maine have Rules of Civil and Criminal Procedure and Rules of Evidence as good as any in the country, kept up-to-date to match Maine needs by the Supreme Judicial Court after consultation with expert reporters and advisory committees of practitioners.

4. We here in Maine have had in full operation now for 13 years a state-wide, state-financed District Court with full-time judges and now with not-so-limited jurisdiction. The District Court now has jurisdiction over civil damage suits as high as \$20,000 over actions to quiet title and foreclose mortgages, over divorce and other family law cases, involving child custody and the setting apart and division of property without dollar limit, over juvenile matters, and over any crimes and offenses except those most serious ones punishable by imprisonment at Thomaston. Maine was a leader in recognizing how important this basic trial court is, important in the sheer number of cases handled (over 90% of all court cases) and its closeness to our citizens and the visibility of its operations.

5. Here in Maine our clerks of court are appointed and serve under a merit system; they are not elected as still is the case in many states. And we have in place an Administrative Office of the Courts, operated under the direct supervision and responsibility of the Chief Justice, to take care of non-judicial functions, such as fiscal, personnel, procurement, and clerical matters, thus freeing us judges for judging.

6. Here in Maine our judges are publicly accountable, to a high degree, as a natural consequence of our small-town environment. In a small town, and even our cities are relatively that, we lead our lives and we judges do our judging right out in the open. That makes for a public accountability of a sort that cannot exist in the anonymity of the metropolis.

I do not for a minute to suggest that I am not wholeheartedly in favor of the enabling legislation by which the Supreme Judicial Court would by rule create a Committee on Judicial Responsibility and Disability, with three of seven members lay persons recommended by the Governor. In my judgment, the rule is necessary in order for the public to have available an established body to investigate promptly any complaints against a judge and in order for

us to be prepared for the situation, which we trust will never happen of having a bad apple turn up in the ranks of the judiciary. The historical principle of the independent judiciary strongly supports your invoking the inherent responsibility of the courts themselves to correct or punish judicial misfeasance. With the help of such a Committee on Judicial Responsibility and Disability, the Supreme Judicial Court willingly assumes the duty of keeping the house of the judiciary in order.

7. Here in Maine we have a Judicial Council created and maintained by the Legislature and charged, by Title 4, section 451, with making a continuous study of our court system. By statute, the fifteen members of the Judicial Council are broadly representative of the courts, the bar, and the lay public. The Chief Justice, the Chief Judge of the District Court, the Attorney General, and the Dean of the Maine Law School serve on the Judicial Council ex officio, and the other eleven members are appointed by the Governor. Over the past half century, the Judicial Council and the Legislature have worked together with great profit in identifying problems in our courts finding solutions for them. The Council often conducts studies at the specific request of the Legislature; in fact, that judicial discipline and disability legislation resulted from a study requested last year by a special legislative order and conducted by the Judicial Council in collaboration with your Judiciary Committee. Incidentally, one of the responsibilities assigned by the Legislature to the Judicial Council is the convening of a sentencing institute for judges, prosecutors, law enforcement officers, correctional officials, and defense attorneys. Planning of the 1978 Sentencing Institute in on the agenda for the March meeting of the Judicial Council.

8. Finally, here in Maine our substantive statutory law is in pretty good shape to ease the decision-making process of the courts. For example, over the years, you of the Legislature have enacted more than 30 of the uniform acts drafted by the Commissioners on Uniform State Laws. As a further example, the Maine Criminal Code, new within the past two years, although it inevitably creates at the outset some new questions that have to be resolved by the courts, promises, nonetheless, to improve the administration of criminal justice, and that is a major part of the work.

These then are the eight reasons I think that we here in Maine can be proud of what we already have in our judicial system.

There are also some shortcomings in our court system; I would be remiss if I reported only the good things to you. At this point I will mention two areas of particular concern, and do not be surprised that the first is judicial salaries. I applaud you for your action last year in increasing judges' pay, \$3,000 last July and \$3,000 next July. That helped a good deal; but Maine still has the dubious distinction of being 50th among the states in the compensation of its Supreme Court, \$2,500 behind the nearest competitor, Idaho.

The second problem area is court facilities. As I travel about the state visiting as many as I can of our 49 trial court locations, I find a great disparity in the quality of our courtrooms and support facilities. Some are quite fine, the source of pride to their communities. Many others are plainly inadequate poor courtrooms and work areas, or grossly inappropriate space for juries, attorney-client conference rooms, or public waiting rooms, or automobile parking.

Although we must design and build court facilities with our innate Maine thrift, we, at the same time, would hope to have facilities that will instill in our citizens pride and respect for the courts; facilities where we working in the courts can work efficiently to keep abreast of our heavy and growing caseloads, and where citizens with business at the courthouse can conduct it without delays, discomfort, or embarrassment. Merely as one example of our in-

adequate court facilities, I cite the Cumberland County Courthouse. It is bursting at its granite seams. The Cumberland County Commissioners have worked miracles in getting the most out of that building—built 70 years ago when court business was only a small fraction of that of 1978. However, its limits have been reached and, indeed, passed. The public, including jurors, litigants, witnesses, simply are not being adequately served, and the Superior Court in Cumberland County is falling behind in its caseload because it has only one jury courtroom available full-time. Incidentally, 28 percent of all criminal jury trials in the State last year were held in that court house. Again, I cite the Cumberland County situation as only one example.

To meet the problems of court facilities, we first of all need to make a statewide investigation of what and where our space needs are. We should not rely solely upon our eyeball impressions. Furthermore, we may have to set priorities. Some situations cry out for prompt remedy; others may be remedied in order of urgency over the next two, three, four or so years. But most of all, if Maine is to meet this, as its other court problems, we will need the combined wisdom of all three branches of government and the support of a concerned and informed public.

The Judicial Department at present has 46 active judges — the Supreme Judicial Court has 7 active and 1 active retired justices; the Superior Court, 14 active and 1 active retired; and the District Court, 20 active and 3 active retired. To that number, two Administrative Court judges will be added on the 1st of next July. This is our judicial partnership, of which I am, if you like, merely the managing partner.

You may well ask, how is our judicial partnership going? My sense is that it is going very well indeed, that spirit is high. I believe there is a warm "court family" feeling which has been reinvigorated and reinforced by the first annual Judicial Conference and the service that the public gets can only be benefitted by that "court family" feeling.

By the same statute that makes the Chief Justice "the head of the Judicial Department," the Supreme Judicial Court is given "general administrative and supervisory authority" over the Department. Thus, the Supreme Judicial Court acts, if you like, as the management committee of Maine's judicial partnership. It is the decision-maker on any matters of policy in court management.

I have received nothing but wholehearted cooperation from every single one of my judicial partners. I count myself lucky to indeed to have the opportunity, given me by the Governor and this Legislature through confirmation, to be associated with as fine a group of men and women as any state has assembled in its judiciary.

Let me now report specifically on each of the courts in the Judicial Department; first, the Supreme Judicial Court. In addition to its court management responsibilities the court has three other separate and distinct functions:

Appellate casework.

Single Justice casework.

Superintendence of the bar.

The Court's principal appellate work is performed when it sits as the Law Court, as it does for seven months of the year. The single-most significant feature of the Law Court's jurisdiction is that it is almost completely obligatory. The Law Court has to hear any appeal brought to it from the Superior Court, and also aggrieved litigants have a right to direct appeal from the Public Utilities Commission and, in practical fact, also from the Industrial Accident Commission. Our jurisdictional statutes have over the years been liberally amended to permit various other cases to be taken to the Law Court — for example, on report before any Superior Court decision, on certifications of questions of Maine law by any of the 106 federal

courts, on appeal by the State in criminal cases from adverse pretrial orders, and so on. In addition, the Justices of the Court as you of course know, have a constitutional responsibility on solemn occasions to render advisory opinions on important questions when requested by the Governor or by the Legislature. Incidentally, over the past 25 years the Justices have responded to questions from the Legislature on 55 separate occasions. Edith Hary provided me with that interesting statistic.

These jurisdictional statutes of the Law Court add up to what has become a very heavy caseload and one that is rapidly increasing. In 1967, just ten years ago, only 90 new cases were filed in the Law Court in the whole year. A sharp upturn started in 1973. Last year, in 1977, the Law Court received 323 new cases. At the same time, the Law Court cases individually are not getting any easier either.

I am reporting this situation to you, not for the purpose of seeking a legislative remedy — at least for now. We are marshalling all available internal resources to cope with our workload. You have provided us a seventh Justice, and we are fortunate also to have the continuing help of Chief Justice Dufresne. Like our four active retired judges on the other courts — and, incidentally, I am delighted that all of them are able to be with us today, with the exception of Judge Poulin, who had some specially assigned cases — like our four active retired judges on the other courts, Chief Justice Dufresne continues to serve on the bench and yet he gets not one penny more in compensation or pension.

My colleagues on the Law Court, as all our judges, work terribly hard. The Law Court is streamlining in every way possible its internal operations. We are determined to get on top of our backlog and then to keep abreast of our docket, and we are making progress toward that goal.

The Law Court is also concerned with the cost of appeals and with the delay after judgment below in getting cases in order for oral argument before the Court, particularly in criminal cases, where the public has an interest, as does the defendant, in a speedy trial and appeal, we are taking steps to cut down on costs and delay on appeal.

As to Single Justice casework, each one of us on the Supreme Judicial Court has statutory authority to sit as a trial judge in any Superior Court case, except a jury case or a divorce case. However, as a practical matter, the workload generated by the other functions which belong to the Law Court alone sharply restricts our availability to do trial work. The necessary exception is a habeas corpus of a case involving review of action taken by a Superior Court Justice. There the Chief Justice follows the rule of assigning one of the Supreme Judicial Court justices to hear the case in order to avoid the slightest feeling on the part of the public that a colleague on the very same court would not render even-handed justice.

The fourth and final function of the Supreme Judicial Court is superintendence of the bar. The Court now has under final advisement proposals for either partial or total unification of the bar. The Court hopes to resolve this matter as soon as it can, consistent with the great significance and considerable difficulty of the issues involved.

On admissions to the bar, the Supreme Judicial Court, acting through a Single Justice, with right of appeal to the full Court, has the final authority. In this work, the Court has the help of the Board of Bar Examiners, whose certificate that an applicant has both "good moral character" and "learning in the law" is a threshold requirement before the application can even come to the Court. Last year, the Court admitted 197 new lawyers.

The Court recognizes the need for both practicing lawyers and the public to have clear

rules of law governing the professional conduct of lawyers. The Court has recently created a Select Commission on Professional Responsibility, headed by Dr. Strider, President of Colby College, and served by Dean Prunty of the Maine Law School as counsel and reporter. That commission consists of four lay persons and eleven lawyers and is now working to formulate a code of lawyer conduct to be submitted to the Court for adoption as a rule.

Let us turn now to the Superior Court and the District Court. These are our trial courts — the very heart of our judicial system. The Superior Court has, almost without exception, general trial jurisdiction over all civil and criminal cases. It has full equity jurisdiction, and it is our only court with jury trials. It also is an appellate court for civil appeals from the District Court and for appeals from governmental agencies. As for the District Court, I have already pointed out the very extensive civil and criminal trial jurisdiction now vested in that court.

You will have in hand later today the 1977 Annual Report of the Administrative Office of the Courts. Incidentally, you will also have later, and perhaps I omitted mentioning this earlier, the full text of this talk, and I, in this oral presentation, in view of the pressures upon your time, am going to omit some of the details. But in the 1977 Annual Report of the Administrative Office of the Courts, I would suggest you give particular attention to the caseload statistics for the Superior and District Courts that appear at the rear of that Report. Two facts stand out from those statistics:

First, the sheer numbers of cases handled by our two trial courts is staggering. In the year reported, the Superior Court had 15,587 new civil and criminal cases docketed, about evenly split between the two, civil and criminal, and the District Court received 187,300 new cases, a total of over 200,000 cases. Of course, these cases are not fungible; they vary from a traffic infraction to murder, from a small claims suit to a suit to enjoin as unconstitutional a public law enacted by this Legislature last year. However, the total number alone does give you an accurate impression of the very heavy workload being carried by our 34 active trial judges and the staffs of our trial courts. Furthermore, when you apply to that total number some appropriate multiplier for the multiple litigants, witnesses, jurors, victims of crime, and other members of the public that may be impacted by a case or its precedent, you have a meaningful, though admittedly rough, measure of the significance of these trial courts.

In the second place, these statistics show that our trial courts, like the Law Court, are experiencing an increase in their caseloads, in some instances a rapid increase. Statewide, the Superior Court in 1977 had a startling increase in criminal case filings of 23 percent over 1976. On the civil side, the Superior Court statewide faced an increase of 9 percent in case filings. In the District Court, the statewide increase was a more modest 4 percent, but some court locations had a much higher increase: Rumford, 19 percent; Waterville, 18 percent; Skowhegan, 11 percent. From these figures, you can appreciate the challenge our trial courts are facing to cope with their mounting caseloads.

In the Superior Court, the Regional Presiding Justices, Judges Glassman, Rubin, Naiman, and Roberts, have responsibility for judge assignments within their respective regions and for managing day-to-day operations. They have met with me once every month, followed by a combined meeting with the State Court Administrator and the regional administrators. Minutes of those meetings go to every Superior Court judge. I similarly have met regularly with Chief Judge Danton on the operations of the District Court.

One thing was made apparent by the Judicial Conference, that is the need for and the great

enefit to be derived from coordination between the two trial courts in addressing common or similar problems. Just one example of such common problems: Both courts and even the Law Court may in a single criminal case be involved with selecting and setting fees for court-appointed counsel.

We are working hard to achieve this desirable coordination among the courts in a number of ways. Chief Judge Danton, representing the District Court, is going to join me and the Regional Presiding Justices of the Superior Court in our monthly meetings. Furthermore, the committees of judges which I have appointed to address particular matters of concern to the courts have members from all the courts. The following multi-court committees are at work or are soon to be appointed upon recommendation of the Judicial Conference:

- Committee on Continuing Judicial Education
- Committee on the Court Planning Capability Project
- Committee on Court Facilities
- Committee on De Novo Trials
- Committee on Court Legislation
- Committee on Court-Appointed Counsel

In my fully prepared text which you will have later, you will find detailed comments on several matters of interest in regard to District Court, and I would particularly commend that part of my report to you.

Let us move now to the Administrative Court. Next July 1, its jurisdiction will be substantially expanded. With some exceptions, it will have exclusive jurisdiction to revoke or suspend licenses issued by any state agency. At the request of Judge Rogers, the Judicial Department is already giving his court help on accounting functions, and the State Court Administrator is working with him and others to help identify the staffing and other needs to meet his Court's enlarged responsibilities. The setting up of what is almost a new court is a matter of high priority for our attention in the next few months.

Last September 16, I came to public employment after earning my living for twenty-five years in the private sector. In my judgment, we citizens of the State of Maine get an awful lot for every dollar spent in the Judicial Department. About \$7-1/4 million, or only about 7/10ths of 1 percent, out of total state appropriations is going to the Judicial Department in this current fiscal year. That pays not only salaries and the whole range of other operating expenses for courts at 50 different locations, pensions for retired judges, etc., but also pays for outside counsel fees and transcript costs for indigent criminal defendants, a very substantial figure, per item and expenses of jurors, etc. The fiscal controls maintained over the Judicial Department by the Administrative Office are as tight, if not tighter, than those of any business enterprise with which I have in the past been associated. The judges and non-judges alike, numbering about 300 in total, are hardworking and conscientious people, rendering an immensely important public service that in one way or another touches the lives of practically all Maine citizens.

For 21 years, to last September, the courts of Maine have sailed on a course of steady improvements, charted by my predecessors, Chief Justice Williamson and Chief Justice Dufresne, and I am proud to keep the courts on that same course.

Oliver Wendell Holmes, the poet-physician father of the Yankee from Olympus, once said: "The great thing in this world is not so much where we stand, as in what direction we are moving. To reach the port of heaven must sail sometimes with the wind and sometimes against it — but we must sail and not drift, nor lie at anchor."

Ladies and Gentlemen of the 108th Legislature, your courts continue very much under sail! (Prolonged applause, the audience

rising.)

At the conclusion of the address, the Chief Justice and members of the Judiciary withdrew amid the applause of the Convention, the audience rising.

The purpose for which the Convention was assembled having been accomplished, the Chairman declared the same dissolved.

The Senate then retired to its Chamber, amid applause of the House, the members rising.

In the House

The House was called to order by the Speaker.

Orders of the Day

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

Senate Divided Report — Majority (11) "Ought to Pass" — Minority (2) "Ought Not to Pass" — Committee on Education on Bill "An Act to Provide a \$250,000 Grant to the New England College of Osteopathic Medicine" (S. P. 667) (L. D. 2055) — In Senate, Majority "Ought to Pass" Report accepted and the bill Passed to be Engrossed.

Tabled — February 24, 1978 by Mrs. Mitchell of Vassalboro.

Pending — Motion of the same gentlewoman to accept the Majority "Ought to Pass" Report in concurrence.

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

Mr. WYMAN: Mr. Speaker, Ladies and Gentlemen of the House: I would hope that you would not accept the Majority "Ought to Pass" Report. I am not going to pontificate upon this bill. We heard a great deal of testimony in favor of the bill before the committee, and my vote against the bill is not based upon any opposition that I have to osteopathic medicine or the importance of the medical schools and St. Joseph's, which I believe is the school in question, but I do believe that this particular piece of legislation is the most unconscionable and objectionable form of pork barrel legislation that I have seen come before this House since January 5, 1977.

I believe that is incomprehensible, at least it is to me. If we cannot afford to support our university that the taxpayers of Maine voted down in bond issue for the university in the last referendum, we cannot afford to help our elderly, we cannot afford financial aid to do all that we ought to for our poor and needy and yet we are being asked today, in this bill, to appropriate a quarter of a million dollars grant to a private school for more bricks and mortar. The School may be in need of this building, but I think that this form of assistance is too much for me to not object to.

I would hope that you would not accept the "Ought to Pass" Report and I would request a roll call.

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

Mr. BIRT: Mr. Speaker, Ladies and Gentlemen of the House: I rise this morning in support of accepting the Majority "Ought to Pass" Report. I did give this bill a lot of thought and a lot of recognition in what we were doing and after doing all of those things, I am completely convinced that I could satisfy my own conscience in supporting it.

Some of the advantages that I see this and some of the reasons why I do none of the big businesses that can be said to be operating within the State of Maine and with the influx of students from out-of-state attending private and public institutions and how much they contribute to the economy, it is estimated that about \$25 million is contributed to the economy of the State of Maine.

In a conference that I had the privilege of attending in Providence, Rhode Island, last fall, it was pointed out that it was a good business investment, higher education for students from

out-of-state attending schools within the state.

We have done things of this type in previous legislatures. I think the most notable example was certainly one of the most interesting and moving bills I ever happened to hear in all the years that I have served in this legislature was a hearing that we heard on renal dialysis. At that time, dialysis was something new, the equipment was quite expensive, it was more expensive than one of the hospitals felt they could afford and they came to the legislature and the legislature provided a grant to the Maine Medical Center for a \$150,000 for buying dialysis equipment. Since then, the Maine Medical Center has been able to develop facilities for kidney transplants and continuing use of dialysis equipment. I think this is an excellent example of what can be done.

This will be the only osteopathic school in the northeast. It has been initially accredited by the National Board of Osteopathic Medicine. There are several of these schools throughout the midwest but there are none in this area. It is the intent to take 60 students per year and eventually you will find it will reach a full enrollment of about 240 students. These students will eventually go into medicine in the areas of family practitioners, rural medicine, probably the biggest single need in the State of Maine with a full explanation of it, they would support it. I hope you do accept the "Ought to Pass" Report.

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. Those in favor will vote yes; those opposed will vote no.

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

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

Mrs. NAJARIAN: Mr. Speaker, I would like to pair my vote with the gentleman from Vassalboro, Mrs. Mitchell. If Mrs. Mitchell were here, she would be voting yes; and I would be voting no.

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

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

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

ROLL CALL

YEA — Ault, Benoit, Berube, Birt, Blodgett, Boudreau, A.; Boudreau, P.; Brennerman, Brown, K. L.; Brown, K. C.; Burns, Carey, Carroll, Carter, D.; Carter, F.; Chonko, Churchill, Clark, Connors Connolly, Cote, Cox, Cunningham, Curran, Davies, Dexter, Dow, Drinkwater, Durgin, Elias, Fenlason, Flanagan, Garsoe, Gill, Gillis, Goodwin, H.; Goodwin, K.; Gould, Gray, Greenlaw, Hall, Henderson, Hickey, Higgins, Hobbins, Huber, Hunter, Hutchings, Immonen, Jackson, Jacques, Jalbert, Jensen, Kane, Kany, Kelleher, Kerry, Laffin, LaPlante, Lewis, Lizotte, Locke, Lunt, MacEachern, Mahany, Marshall, Martin, A.; Masterman, Masterton, Maxwell, McBreairty, McHenry, McMahon, McPherson, Nelson, N.; Norris, Paul, Peakes, Peterson, Plourde, Prescott, Quinn, Raymond, Rideout, Rollins, Sewall, Shute, Sprawl, Teague, Theriault, Tozier, Trafton, Truman, Violette, Whittemore, Wood, The Speaker.

NAY — Aloupis, Austin, Bachrach, Berry, Biron, Bunker, Carrier, Diamond, Fowlie, Howe, Hughes, Littlefield, Lougee, Mackel, McKean, Morton, Peltier, Silsby, Smith, Stover, Tarr, Torrey, Twitchell, Wyman.

ABSENT — Beaulieu, Bennett, Bustin,

Devoe, Dudley, Dutremble, Green, Joyce, Kilcoyne, Mills, Moody, Nelson, M.; Palmer, Pearson, Perkins, Post, Spencer, Strout, Stubbs, Talbot, Tarbell, Tierney, Tyndale, Valentine, Wilfong.

PAIRED — Bagley, Lynch, Mitchell, Najarian.

Yes, 98; No, 24; Absent, 25; Paired, 4.

The SPEAKER: Ninety-eight having voted in the affirmative and twenty-four in the negative, with twenty-five being absent and four paired, the Majority "Ought to Pass" Report is accepted.

The Bill read once and assigned for second reading tomorrow.

The Chair laid before the House the second 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) — In House, Passed to be Enacted on February 16 (having previously been passed to be engrossed as amended by House Amendments "A" (H-995), "B" (H-1002), "D" (H-1006) and "E" (H-1016) — In Senate, Passed to be engrossed as amended by Senate Amendment "B" (S-477) and House Amendments "A" (H-995), "B" (H-1002), "D" (H-1006) and "E" (H-1016) in non-concurrence.

Tabled — February 24, 1978 by Mr. Curran of South Portland.

Pending — Motion of the same gentleman that the House Insist.

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

Mr. LYNCH: Mr. Speaker, I would move that the House recede and concur.

The amendment put on in the other body removes two people, and I think you ought to consider the effect before you vote. Do you want to politicize education in the State of Maine or would you like to continue as it is? I think that is essentially the difference. With the change in administration, you would have a change at the top of the Department of Education.

Most of you are familiar with the confusion that has existed over school funding, and I am afraid if a change is made, you will compound the confusion by having new people introduced into the Department of Education every four years.

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

Mr. CURRAN: Mr. Speaker, Ladies and Gentlemen of the House: I rise perhaps for the first time to oppose the good gentleman and ask you not to recede and concur but to defeat that motion and move to insist.

We have had a great deal of discussion on this. The committee did not feel that it was going to politicize the Education Department. We treated this department as we did all the other departments of the state. The effect of the amendment is to make the assistant to the commissioner and the deputy commissioner the unclassified positions in the department and put back into the classified service the associate commissioners of the various bureaus of school management, construction and vocational education. I would reiterate to this House and remind you that we do have a five-year grandfathering clause on all of these positions.

As an educator, I feel that this is one of the areas that we should have perhaps fresh people coming in from time to time. They are definitely policy-making positions in this state and I, for one, feel that they should be open to the commissioner to make decisions on who is going to sit in on that policy making, so I hope you will not recede and concur but move to insist.

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

Mr. QUINN: Mr. Speaker and Members of the House: I support Mr. Curran wholeheartedly.

I would remind you that this report was unanimous from the committee and, furthermore, a report similar to this, more extensive in nature, was unanimous from the preceding committee in the 107th Legislature.

This is good legislation. It is an attempt to modernize state government. It is an attempt to make it responsive and to make it efficient, and the only people who disagree with this is the man who was out in the lobby for the last two days, running up and down the hall, who is really politicizing, defending his own job. This is good legislation and I would urge you to vote no on the recede and concur motion in order that we vote to insist.

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

Mr. DIAMOND: Mr. Speaker, Men and Women of the House: This L. D. 2111 is essentially that of changing the jobs of those individuals who have policy making positions on state government agencies. This has gone through fine. It has a very good background to it and most people in the past four years have agreed to it, but this new Senate Amendment, S-477, is doing some things to it which kind of frighten you a little bit because they are saying that the Education Department, for example, should not be put in this role. Other agencies, like Human Services, the DOT, the Department of Corrections, they have similar jobs, in fact, the jobs that we have included as far as unclassifying are congruent, right down the line. What is happening here is the education lobby or the people out in the halls are kind of worried now that the associate commissioners are going to have to answer questions and be a little more accountable.

In 1972, I worked in the department of Education for a short time and attending the administrative council meetings, which is indeed, policy making meeting, and the associate commissioners were all there and they had a great deal of input. The input was direct to the commissioner, as was the deputy commissioner's job. These people are no different, believe me, than the other jobs in other departments and other agencies. I think if we start entertaining an amendment such as this, S-477, then we are going to have to start, by all rights, looking at the entire agency list and say, should we not indeed take out those jobs which have some congruency?

I hope you would kind of hold to what you have done and realize that these positions are not different and to kind of think that education is not political, I don't think that was a naive statement, but I really don't think that is the case either, because if anything is political this past two years, I found it has been education.

I agree with the Representative from South Portland, Mr. Curran, that we do need changes over there in the brick building. Maybe this is a good way to start it.

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

Mr. BUSTIN: Mr. Speaker, Men and Women of the House: I would join with the gentleman from Livermore Falls, Mr. Lynch, in asking you to vote to recede and concur on this particular issue. The issue of politicizing education, as Mr. Diamond has pointed out, is really a strange one. We all know that education politics in Maine, education is a very political issue that cannot be avoided.

The question comes on this amendment, as to whether or not, when an administration changes, and yes, there is a grandfather clause, but as time rolls around faster than you might think, when an administration changes, are you going to change wholesale, the whole top administration of the Education Department? I say that is bad business. It makes it even more political. Now, this particular bill is not something I am crazy about from beginning to end, but I know that I am against this particular portion of it. What you are talking about is adding more to the spoiled system of the

state bureaucracy. I do not think it is wise in this business. I understand the thinking of the State Government Committee. I think what you are running into here is a direct conflict between good government theory and practical political reality. I would hold with the practical political reality since that is where we deal most of the time.

I would ask for a roll call on the motion when the time comes, Mr. Speaker.

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 Danforth, Mr. Fenlason.

Mr. FENLASON: Mr. Speaker, Ladies and Gentlemen of the House: I trust that you will vote this morning to recede and concur. It takes a long time and it takes good people to do these jobs in education, which the denial of this amendment would change from classified to unclassified.

I think the greatest harm would be that we would cease to attract good people and qualified people to these jobs and this is what we need.

In many cases, the people who fill these jobs are people who have long experienced and training in education. We need these good people in these jobs and I hope you vote to recede and concur.

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

Mr. GREENLAW: Mr. Speaker, Men and Women of the House: I would urge you to vote against the pending motion, the motion to recede and concur so that we could insist on this particular bill before us today.

It seems to me that the legislation we have before us is an extension of a previous legislative decision that would allow the Chief Executive of this state to appoint commissioners to the various heads of departments of state government. What this bill, in effect, does is suggest to a commissioner that if after a period of time he feels it is appropriate for a change in the associate or deputy commissioners, that he has an opportunity to make those types of policy decisions.

I do not think that there has been sufficient justification made by some of the previous speakers to suggest that some of the associate commissioners of education be exempt from this type of provision. I think the bill that the State Government Committee has put out is a sound one, although I would have preferred to see it go a little bit deeper into some of the policymakers of the various departments of state government.

I would urge you to vote against the pending motion.

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

Mr. LYNCH: Mr. Speaker, Ladies and Gentlemen of the House: Although I am concerned primarily with education, I am concerned with the bill as a whole. We reorganized state government. It has not all been peace and harmony and we are going to expand what we started out a short time ago. I am sure it is going to create more trouble.

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

Mr. CURRAN: Mr. Speaker, Ladies and Gentlemen of the House: I think there is another area in this amendment that you should be aware of. I believe I am interpreting it correctly. If you have the amendment and the redraft of 2111, it says that in Section 6, Subsection 2, paragraph A, subparagraph 5, strike out all of A through J. Now, A through J includes the

state librarian the director of the state museum, the executive director of arts and humanities, and the director of historic preservation, who are presently unclassified. Then, it puts back into the bill, the assistant to the commissioner and the deputy commissioner as the only two positions that would be unclassified. Then, it goes on further to say, strike All of Section 16, Page 9 of the redraft, which is the language on the State Museum, Arts and Humanities, Maine State Library, and Bureau of Vocational Education in which we have set up the appointment procedure, by the commissioner with the advice and consent of the majority of the commissions and for their removal and for their compensation. I think I am reading the amendment correctly and it would put all of these people into the classified service, which they are not presently in.

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

Mr. BUSTIN: Mr. Speaker, Ladies and Gentlemen of the House: I think the legislature may have a very direct interest in this particular amendment from this perspective. If we look at recent history, and you want to find out some answers from the Education Department, is it possible to get them from the very top, from people who are afraid of losing their jobs? Now, this may be exactly what is at stake here. When the muzzle goes on at the very top, do you want to put the muzzle on the next three people down too? I don't think it is in our best interest when we want answers to some of the questions we have.

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

Mrs. BACHRACH: Mr. Speaker, Ladies and Gentlemen of the House: In hearing from the various departments on this bill, we had two points of view presented to us. One, that a commissioner needs to have his own team with the same philosophy to work together and the other that certain people needed to be protected because of their area of expertise which would not easily be replaceable.

In considering the different departments, the Department of Human Services were agreeable to a man that they were willing to serve in unclassified positions and do their job and risk being not continued by the commissioner.

This seemed to be pretty much the case, also in the Education Department. We heard at hearings, no testimony in opposition to having these people unclassified and working as a team with the commissioner. I don't understand why there is a problem now. I feel that we should keep the bill the way it is.

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

Mr. HUGHES: Mr. Speaker and Members of the House: Just a question. I am confused about the debate. If we want to provide the commissioner more flexibility in choosing his deputy assistant, which way would we vote?

The SPEAKER: The Chair would advise the gentleman that the pending motion before this House is to recede and concur, which would adopt the Senate Amendment. If the House is opposed to the Senate Amendment, they would vote no. If they are in favor of the Senate Amendment, they would be voting yes.

Mr. Lynch of Livermore Falls was granted permission to address the House a third time.

Mr. LYNCH: Mr. Speaker, and Ladies and Gentlemen of the House: You have heard it said that there was no testimony from the department. I am not worried about the department. I am worried about protecting the legislature in the future. I am concerned that you, in the future, get the information that you deserve to get, not what is filtered by appointees of any future Governor. Look out for your own protection.

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

Mr. KANY: Mr. Speaker and Members of the House: I have a constituent, which falls under

this particular bill that we would be unclassifying, so it is kind of tempting for me to go along with the recede and concur motion but I won't. The State Government Committee gave this bill a lot of thought. We are trying to improve our whole personnel system here in the State of Maine and I hope that you do vote against the recede and concur motion and go along with Representative Curran is suggestion and then insist.

I want to clear up one misconception. I think a lot of people believe that just because someone is unclassified, they can be summarily dismissed. That is not true. Often, within the statutes, even for an unclassified employee, you will find that there is statutory language in which you can have a very lengthy maze of a process on dismissing someone. So, do not think that just because someone would be unclassified that they necessarily could be dismissed at someone's whim.

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

ROLL CALL

YEA — Ault, Austin, Birt, Blodgett, Boudreau, P.; Brown, K. L.; Bunker, Bustin, Carter, F.; Connors, Cox, Dow, Drinkwater, Durgin, Fenlason, Gillis, Gould, Hall, Hickey, Hunter, Immonen, Joyce, Kelleher, Kerry, Laffin, LaPlante, Lewis, Littlefield, Lizotte, Lougee, Lunt, Lynch, MacEachern, Marshall, Masterman, Maxwell, McBreairty, McKean, McMahon, McPherson, Nelson, N.; Norris, Pearson, Peltier, Peterson, Plourde, Prescott, Rollins, Shute, Smith, Strout, Talbot, Torrey, Truman, Twitchell, Whittemore, Wyman.

NAY — Alopous, Bachrach, Benoit, Berry, Berube, Biron, Boudreau, A.; Brenerman, Brown, K. C.; Burns, Carey, Carrier, Carroll, Carter, D.; Chonko, Churchill, Clark, Connolly, Cote, Cunningham, Curran, Davies, Dexter, Diamond, Elias, Flanagan, Fowlie, Garsoe, Gill, Goodwin, H.; Goodwin, K.; Gray, Green, Greenlaw, Henderson, Higgins, Hobbins, Howe, Huber, Hughes, Hutchings, Jackson, Jacques, Jalbert, Jensen, Kane, Kany, Locke, Mackel, Mahany, Martin, A.; Masterton, McHenry, Morton, Nadeau, Najarian, Nelson, M.; Paul, Peakes, Perkins, Post, Quinn, Raymond, Rideout, Sewall, Silsby, Sprowl, Stover, Tarr, Teague, Theriault, Tozier, Trafton, Violette, Wood, The Speaker.

ABSENT — Bagley, Beaulieu, Bennett, Devoe, Dudley, Dutremble, Kilcoyne, Mills, Mitchell, Moody, Palmer, Spencer, Stubbs, Tarbell, Tierney, Tyndale, Valentine, Wilfong. Yes, 57; No, 76; Absent, 18.

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

Thereupon, the House voted to insist and by unanimous consent, ordered sent forthwith to the Senate.

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

Bill, "An Act to Clarify the Investigation Powers of the Department of Environmental Protection under the Oil Conveyance program" (H. P. 1959) (L. D. 2041) (C. "A" H-1070)

Tabled — February 24, 1978 by Mr. Blodgett of Waldoboro.

Pending — Passage to be Engrossed.

On motion of the gentleman from Waldoboro, Mr. Blodgett, tabled pending passage to be engrossed and later today assigned.

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

Bill, "An Act to Revise the Salaries of Certain County Officers" (H. P. 1942) (L. D. 2108) (C. "A" H-1030) In House, Passed to be Engrossed as amended by Committee Amend-

ment "A" (H-1031) on February 15. In Senate, Passed to be Engrossed as amended by Committee Amendment "A" (H-1030) as amended by Senate Amendment "A" (S-472) there in non-concurrence.

Tabled — February 24, 1978 by Mr. Henderson of Bangor.

Pending — Further Consideration. The SPEAKER: The Chair recognizes the gentleman from Augusta, Mr. Bustin.

Mr. BUSTIN: Mr. Speaker, Ladies and Gentlemen of the House: I have an amendment being prepared in Legislative Research, which is not ready, and I would really appreciate somebody tabling this bill until later.

On motion of the gentleman from Gorham, Mr. Quinn, tabled pending further consideration and later today assigned.

Mr. Lynch of Livermore Falls was granted unanimous consent to address the House.

Mr. LYNCH: Mr. Speaker, Ladies and Gentlemen of the House: I would like to call the attention of the members of the House to a hearing that will be held Tuesday, March 7, at two o'clock in the afternoon in Room 114. It is a rather innocuous bill titled "An Act to Insure Local Control over Education Policy."

(Off Record Remarks)

By unanimous consent, unless previous notice was given to the Clerk of the House by some member of his or her intention to move reconsideration, the Clerk was authorized today to send to the Senate, thirty minutes after the House recesses for lunch, all matters Passed to be Engrossed in Concurrence and all matters that require Senate concurrence; and that after such matters has been so sent to the Senate by the Clerk; no motion to reconsider would be allowed.

On motion of Mr. Morton of Farmington, Recessed until four o'clock in the afternoon.

After Recess 4:00 P.M.

The House was called to order by the Speaker.

The Chair laid before the House the following matter:

Bill "An Act to Amend the Statutes Relating to Airmobiles" (H. P. 2126) (L. D. 2153) which was tabled earlier in the day and later today assigned pending further consideration.

On motion of Mr. Blodgett of Waldoboro, the House voted to recede and concur.

The Chair laid before the House the following matter:

Bill "An Act to Revise the Administration and Toll System of the Maine Turnpike" (H. P. 2132) (L. D. 2157) which was tabled earlier in the day and later today assigned pending passage to be engrossed.

Mr. Biron of Lewiston offered House Amendment "A" and moved its adoption.

House Amendment "A" (H-1086) was read by the Clerk.

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

Mr. CARROLL: Mr. Speaker, Ladies and Gentlemen of the House: I now move indefinite postponement of House Amendment "A".

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

Mr. BIRON: Mr. Speaker, Ladies and Gentlemen of the House: I would like to pose a question through the Chair to the gentleman from Limerick, Mr. Carroll. I would like to know his opposition to House Amendment "A".

Apparently the debate has been well orchestrated. The amendment that you have before you this afternoon makes the pending legislation an emergency. Those of you who have been approached by those who are interested in

this legislation have been told this seriousness of this legislation and the importance of this legislation being passed. In concurrence with their argument, I present this House Amendment which would make this bill an emergency.

I have read newspaper articles which indicate to me that the proponents of this legislation, many other road construction matters which ought to take place in various parts of the state are dependent upon the passage of this legislation. One of the most serious arguments that is being given in favor of the legislation is that we need to get congressional approval to continue a toll on the turnpike. I would imagine that if congressional approval is necessary, the seriousness and the passage of this legislation, an emergency preamble should be put on this so that we may get this approval. Only in concurrence with those who are proponents of this legislation in good faith, in an attempt to help them with their efforts, I present the House Amendment, which would make the legislation, if passed by this body and by the other body, would give them an opportunity to take the matter to the congressional delegation and then get the amendments necessary so that we can put tolls on the Maine Turnpike, and that is the purpose of the amendment. I would request a division.

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

Mr. GREEN: Mr. Speaker, Ladies and Gentlemen of the House: I would just rise today to urge this House to reject the pending motion of indefinite postponement and accept the good gentleman from Lewiston, Mr. Biron's amendment. The Transportation Committee and, indeed, the efforts behind this bill coming before us again this session as so important, and the members of the committee that I spoke with in regards to this bill told me that it had to come out this year because if it did not and we waited until 1980 or 1981, it would automatically become a toll-free highway and we could not have that — it is an emergency. So, indeed, if it is an emergency, let's reject the current motion of indefinite postponement, accept Mr. Biron's very appropriate amendment with an emergency preamble on it and proceed.

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

Mr. JENSEN: Mr. Speaker, Ladies and Gentlemen of the House: I would just like to comment for the record that this is kind of a ridiculous amendment. As Mr. Biron well knows in talking about an emergency, it is all a matter of what kind of dimensions you are talking about. An emergency that needs to be dealt with right now is one kind of an emergency; another kind of an emergency is something that needs to be dealt with within a period of years. It seems to me that this is that kind of an emergency. If we wait until 1979 or 1980 or 1981, sure, we might possibly be able to get it through, get it sent to the Congress and get it taken care of, but it seems to me in doing that, you are cutting things awfully close. Furthermore, what I suspect would end up happening is that the Maine Turnpike Authority would certainly find new things to do to keep themselves in existence another year or two so the legislature would have time to pass another bill, get it to the Congress and get everything taken of. I do not want that kind of thing to happen.

This piece of legislation is basically a good bill. It ought to be passed the way it is.

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

Mr. BIRON: Mr. Speaker, Ladies and Gentlemen of the House: I am in full agreement with the gentleman from Portland. That is the reason that you have the amendment before you. I am convinced of their arguments; their arguments that this is an emergency measure. We need to get some support from the congressional delegation as to making an exemption to the rules and allow us here in the State of

Maine to put tolls on the turnpike. I am in full agreement with the committee, and I simply offer this amendment to make the job easier. This is apparently what we are attempting to do here today, to pass legislation which would enable the State of Maine to put tolls on the turnpike. I don't want to wait until the last minute, like Mr. Jensen has talked about, and that is the reason for the amendment you have before you.

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

Mr. LAFFIN: Mr. Speaker, Ladies and Gentlemen of the House: I would like to ask any member of the Transportation Committee a question through the Chair. Is it true that it is possible in 1981 to receive 90 percent federal funding of that part of the turnpike that now has a toll if we wait until then?

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

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

Mr. JENSEN: Mr. Speaker, Ladies and Gentlemen of the House: In answer to the gentleman's question, there would be 90/10 money available from the federal government only if they were to agree to widening the turnpike to six or eight lanes and that money would only be available for that additional widening. That is not an absolutely sure thing but it is likely. There would be no money available for regular routine maintenance, snow plowing, an inch or two of overlay or anything of that sort. The interstate program right now is changing its interstate afflux, there are likely to be more changes in the future, but it is very unlikely that any money will be available for regular routine maintenance. Even if there was money available, it would be available only from Portland south, not from Portland north.

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. 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 and voting. Those in favor will vote yes; those opposed will vote no.

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

The SPEAKER: The Chair recognizes the gentleman from Bangor, Miss Aloupis.

Miss ALOUPIS: Mr. Speaker, I would like to pair my vote with the gentlewoman from Auburn, Mrs. Lewis. If Mrs. Lewis was here, she would be voting no and I would be voting yes.

The SPEAKER: The pending question before the House is on the motion of the gentleman from Limerick, Mr. Carroll, that House Amendment "A" be indefinitely postponed. Those in favor will vote yes; those opposed will vote no.

ROLL CALL

YEA — Austin, Bachrach, Bennett, Benoit, Birt, Blodgett, Boudreau, A.; Brennerman, Brown, K. L.; Brown, K. C.; Burns, Carroll, Carter, D.; Churchill, Clark, Cote, Cox, Cunningham, Curran, Davies, Dexter, Dow, Drinkwater, Durgin, Elias, Fenlason, Flanagan, Fowlie, Gill, Goodwin, K.; Gould, Gray, Greenlaw, Hall, Hickey, Higgins, Huber, Hughes, Hunter, Hutchings, Immonen, Jackson, Jensen, Joyce, Kany, Kelleher, Kilcoyne, Littlefield, Lizotte, Locke, Lougee, Lunt, Lynch, MacEachern, Mahany, Masterman, Masterton, Maxwell, McHenry, McKean, McMahan, McPherson, Morton, Nelson, M.; Nelson, N.; Norris, Palmer, Paul, Peakes, Pearson, Peltier, Perkins, Peterson, Plourde, Post, Prescott, Quinn, Rideout, Rollins, Sewall, Silsby, Smith, Sprowl, Strout, Tarbell,

Tarr, Teague, Theriault, Tozier, Twitchell, Violette, Whittemore, Wilfong, Wood, Wyman.

NAY — Berry, Berube, Biron, Boudreau, P.; Bustin, Carey, Carrier, Carter, F.; Chonko, Conners, Connolly, Diamond, Green, Henderson, Hobbins, Howe, Kane, Laffin, Mackel, Martin, A.; Moody, Nadeau, Najarian, Raymond, Talbot, Torrey, Trafton, Truman, Valentine.

ABSENT — Ault, Bagley, Beaulieu, Bunker, Devoe, Dudley, Dutremble, Garsoe, Gillis, Goodwin, H.; Jacques, Jalbert, Kerry, LaPlante, Marshall, McBreairty, Mills, Mitchell, Shute, Spencer, Stover, Stubbs, Tierney, Tynedale.

PAIRED — Aloupis, Lewis.

Yes, 95; No, 29; Absent, 24; Paired, 2.

The SPEAKER: Ninety-five having voted in the affirmative and twenty-nine in the negative, with twenty-four absent and two paired, the motion does prevail.

Mr. Biron of Lewiston offered House Amendment "B" and moved its adoption.

House Amendment "B" (H-1087) was read by the Clerk.

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

Mr. CARROLL: Mr. Speaker, I now move the indefinite postponement of House Amendment "B".

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

Mr. BIRON: Mr. Speaker, Ladies and Gentlemen of the House: The House Amendment that you have before you is similar to the House Amendment that I presented last year which was adopted by this body. The House Amendment that you have before you simply changes the intent of the legislation to a point where we will be providing adequate revenues for the maintenance of the Maine Turnpike.

I believe that most of you here are concerned with the possibility of \$5 million coming out of state revenue for the maintenance of the turnpike and none of you here, nor am I, are interested in putting on a one cent gasoline tax to take care of that possible problem.

However, there was a question posed earlier by the good gentleman from Westbrook, Mr. Laffin, to any member of the committee in reference to dollars which would be made available from the federal government. Mr. Jensen was correct in his statement. However, Mr. Jensen did not mention the possibility that by 1981 the federal government "might" pass legislation which would provide the State of Maine with 90/10 for maintenance of the turnpike, and that is why I questioned it, and I say that is only a possibility, but that is why I questioned the need for this legislation here at this time, but if we are all convinced that we need to pass legislation, then I submit to you, why not pass legislation that would simply bring in the amount of money necessary to maintain the Maine Turnpike, and that, by the admission of the Department of Transportation, is \$5 million.

The proposal that you have before is a one-toll system similar to what you see in the State of New Hampshire. New Hampshire has been very successful with their one-toll system and the amendment that you have before you proposes that we put a one-toll system in at York.

Those who will rise in opposition to this amendment will say people will bypass the one-toll system. The one-toll system in New Hampshire is not bypassed and you can simply bypass that by going five miles. Here in the State of Maine you would have to go 17 miles to bypass a one-toll system.

The one-toll system will bring in the adequate revenue necessary to maintain the Maine turnpike without putting an additional gasoline tax burden on anyone in the state. However, it does something which I think we should all consider here today and that is, it takes the burden off the people in the southern part of the state who, for 20 years, have paid for the Maine turnpike, who, 20 years ago, were

told that if we float a bond issue and if we pay for it for 20 years, at the end of the 20 years it is going to be free. That is the legislative intent. It is in the record. I am not smoking you, that is a fact. Now we come back and say, it is going to cost \$5 million. I am not going to argue with that point, but I can't stand here today as a legislator from the Lewiston-Auburn area and support a plan which, under the proposed legislation that you have, does (1) set the amount of tolls to be collected by the commissioner the bill that you have before you says that; (2) that the commissioner will bring his proposed barriers to the legislature and he gives us all of 40 days to make a decision and if we don't make that decision, he puts them where he wants. I can't support that plan, and that is the plan that you have before you.

A single-toll system tells you, the legislators and the people who should be concerned, exactly what the bill will do. We will have a one-toll system, we will have it at York, we will charge 75 cents going in and 75 cents coming out. The people of Maine will travel all of Maine without paying an additional dime. Don't you think it would be fair for us to do that after maybe misleading the people in the southern part of the state in telling them it was going to be completely free? None of us here want to make it completely free. We don't want to raise the gasoline tax. I agree with you, but do we want to put the burden on the people who have already paid? I don't think so.

This is a plan that will give you an opportunity to treat those people fairly, to bring in the money necessary to maintain the Maine Turnpike, and I think it is a plan that we should very seriously consider. The only argument I have ever heard against this plan is that people will bypass it and that argument doesn't hold water. It never has and it never will. I fully realize that it doesn't put as much money into the hands of the bureaucrats but that is fine as far as I am concerned, because I am not going to have the people of Lewiston and I don't think any of you want to have your constituents pay for more than they have to. Under the plan that you have here today, there is nobody on that Transportation Committee who can tell you what the toll is going to be and where the tolls are going to be. They can't tell you that because they don't know. I am telling you exactly where the toll will be and where it is going to be, and that is the major difference. It brings in the money necessary. It got the support of this body in the last legislative session, and I sincerely hope that you support the amendment that you have before you.

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

Mr. HUGHES: Mr. Speaker and Members of the House: I didn't vote with the gentleman from Lewiston on his last amendment, but I think in this amendment he hits the heart of the issue. He certainly is right to say that you can raise enough money through a one-toll system, that in such a system you can avoid taxing further the residents of the southern part of the state who have paid for that road over the last 21 years.

I find it very difficult to figure out why the Department of Transportation is actually opposed to this one-toll concept. It raises the amount of money they say they need. The only answer I can come up with is, essentially that it doesn't provide the additional money they would like to have to do some of the ancillary things on the turnpike that they would like to do. I suppose when you have one toll, there is kind of an upper limit of a dollar or so that is feasible to charge. While that dollar or so may bring in enough money to operate the turnpike, which is all they say they want, if, indeed, they have plans to expand to three, four or six lanes in the future, it may not bring in that kind of money.

I guess I agree with the gentleman from Lewiston, Mr. Biron, in that it is very likely, with

the interstate system coming near completion, with the highway lobby wanting that money to continue to go into highway construction, that those funds are going to become available for maintenance and for widening projects. I think we ought not to set ourselves up to a continuation of a toll system which taxes people unfairly.

This bill, as amended by Mr. Biron, would do the minimum necessary to operate that turnpike not at a loss to Maine people. It would do it more satisfactorily than would the committee version, in my opinion. I ask you to support his amendment.

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

Mr. GREEN: Mr. Speaker, Men and Women of the House: I would like to pose a question through the Chair. What exactly was the Department of Transportation's primary objection to the good gentleman from Lewiston's suggesting a one-toll barrier in southern Maine? To me, it makes sense. I would like to hear from someone on the committee.

The SPEAKER: The gentleman from Auburn, Mr. Green, has posed a question through the Chair to any member of the Transportation Committee, who may respond if they so desire.

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

Mr. STROUT: Mr. Speaker, Ladies and Gentlemen of the House: In answer to the question, I think this year compared to last year, the cost that the gentleman from Lewiston gave of \$4.7 million to maintain was accurate. I believe a year ago I supported that amendment that he offered, but in answer to the gentleman from Auburn, the cost that we are looking at is not 1978 or 1979, we are looking at 1983, when possibly this would be converted. The cost at that time, from the projections we have now, is \$6,061,192, and the one toll will not cover that cost. I do feel, however, that at some time in the future there has got to be an expansion at the southern end of the turnpike. In order to do that, we have got to have \$8 million. The bill that we have before us, if not amended, will take care of this and bring in the \$8 million that is needed.

However, another argument that I have, and I don't know that the committee feels this way, I just don't feel, and I know the good gentleman from Lewiston knew I was going to say this, we are putting all of the cost on the out-of-state people. I feel this is wrong. I don't think we should sock it to all tourists for just one city.

I believe the proposal we have is fair, I think that is the one we should go with, and I think personally what the gentleman from Lewiston is trying to do is kill the bill again this year.

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

Mr. BIRON: Mr. Speaker, Ladies and Gentlemen of the House: In response to the figures that were just given to you, the figures that I have here are figures that were made available to me by the Department of Transportation. Those figures indicate that the 75-cent toll would bring in adequate revenues to maintain the turnpike.

If the Maine Turnpike is to be expanded, Mr. Jensen, a member of the Taxation Committee, has talked about 90/10 dollars that were made available. I can't see why the people of Maine would have to pay any additional dollars for that. Today we wouldn't be wrestling with this problem if the turnpike had been built the same way I-95 was built, with 90/10 dollars. This is the point that I am trying to make. For 20 years the people in the southern part of the state have paid and have paid dearly for that road. Now there is a possibility, and a very very strong possibility, that they won't have to anymore. Yet, there are some people who would prefer to have them pay, not only for a tree barrier system but, in addition to that, a fine, a \$10 million fine. Not only are we going to say that you

have got to pay for 20 years, but you have got to pay a \$10 million fine because you have paid for 20 years, so you can pay again.

The legislation that you have before you, if it is not amended, should receive a Pulitzer Prize. It is incredible that anybody would write this piece of legislation and expect it to be passed as written. It gives a tremendous amount of power to the Commissioner in the Department of Transportation. I don't think it is power that many of us here want to give to that individual. In addition to that, it has got so many "maybe's" in it. This amendment simply clarifies what the tolls will be.

I will be the first one in this body, if I should be re-elected, to introduce a bill to remove the one-toll system if 90/10 dollars are made available, and we will know that by 1980 or 1981. If they are not made available, now we have a funding mechanism, and that is what we are interested in at this point, a funding mechanism, not a dream, not a promise, not maybe. What exactly is going to happen in 1981 if we don't have any federal dollars? This tells you exactly what will happen. The bill that you have before you tells you nothing. It tells you the commissioner will set tolls at whatever level he wants. It tells you the commissioner will put barriers wherever he wants. That is the problem with the legislation that you have before you.

If you are concerned and you don't want a gasoline tax, and rightfully so — but don't tell me that the one-toll system doesn't provide enough revenue, because according to the Department of Transportation, it does. Don't ask me today to support a bill that doesn't tell me how much my constituents are going to pay, that doesn't tell me where the tolls are going to be and expect me to vote for that in good conscience. I don't think any of you here can vote for that in good conscience, but I think you can vote in good conscience to say that we will have a one-toll system and it will cost 75 cents, because you know what you are voting for. But under the proposal that you have, you don't know what you are voting for, so I urge you to support the amendment.

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

Mr. CARROLL: Mr. Speaker, Ladies and Gentlemen of the House: From the explanation I just received, I can only assume that the gentleman has not read the legislation. He has incorrectly explained certain phases and certain facets of this legislation. I would like to point out to him that his 75 cent dream is a cheap ride, it may be cheap if you ride the full length of the turnpike, but how about if you get on and only go 20 miles and you are socked 75 cents? We have a piece of legislation here that is going to have a three-barrier system. It is going to be approved by the Maine Legislature. The toll system must be approved by the Maine Legislature.

I can assure you that the committee spent many hours on this legislation. We went over it, we held hearings and we tried every way we could to come up with a reasonable answer. This, to me, is the most reasonable answer we have. We are trying to open up the turnpike so the people in the southern part of the state, down in Wells, will have additional access roads so when they are congested this summer and they sit there for two hours, and if you have ever traveled down there and sat on Route 1 waiting to get somewhere, it would do away with that problem. You will have access to get onto the turnpike and to use it at a reduced rate. If you are a commuter you will get a reduced rate.

You will also have barrier systems where you will have free travel zones. You will have more access roads, more facilities available for the people of the State of Maine at a reasonable and reduced cost. I don't think it is fair for a man who gets on down in Kittery and only rides a short distance to soak him 75 cents. I don't think it is fair to Lewiston if you travel a

short distance to pay 75 cents. You are talking about someone who gets on and rides the full length, that is a cheap ride. I agree. I think it is a bargain. But I am trying to point out to you that this legislation is opening up the turnpike for all the communities along the turnpike. We are going to have additional access roads and there are going to be additional facilities for the people of the State of Maine. There is going to be a reduced fair, commuter passes. I don't see how you can vote against this legislation.

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

Mr. HUGHES: Mr. Speaker and Members of the House: A lot of questions have gone unanswered in this debate and I hope to answer some of them. I think the one that is still unanswered, at least to my satisfaction, is, what is wrong with that source of money? Nobody has really said it is not going to bring in that much money. I think the figures are accurate, and if it brings in as much money as is estimated by the DOT as needed, then it ought to be sufficient.

But we were asked the question, why hit the out of staters so hard? Or, I am against hitting the out of staters for this whole package. I think if you will think back to the original rationale for continuing tolls at all, it is simply because out of staters pay a higher percentage of turnpike tolls than they pay of gas tax revenue. That is why we, I think, have pretty thoroughly discarded the idea of discarding tolls completely and going to a gas tax increase, because out of staters pay a much higher percentage of those turnpike revenues.

The whole philosophy of this bill and this concept is to hit out of staters and I guess it is just a matter of how hard you want to hit them. I think if they are typically out-of-state visitors who come into the state once or twice, whose presence during a three-month summer season necessitates these large roads in the first place, and necessitates the possibility of expanding to four and eight lanes, then it is not unfair to ask them to take that burden and pay that toll once as they arrive in the state. It is a burden they have been paying all the way up from New York, in the first place, so that is why we hit the out-of-staters a little harder in Mr. Biron's amendment than under the proposal of the Department of Transportation.

You would still have the possibility of commuter tickets and you would still have the possibility of additional exits and entries in Wells and wherever else it seems necessary to put them, all that we are bringing in too.

We would also save a great many millions of dollars in some conversion costs. For example, the toll booth in York is already there, it is right across the road, all built, ready to go. This bill refuses to set a price tag in what it is going to cost to create new barrier systems, to tear down the old ones and make all of the changes necessary, because it says in the fiscal note that those factors are not known yet.

Last year, on this exact same issue, this House took a stand twice by very strong votes to adopt the one-toll concept if we are going to continue tolls on the Maine turnpike. I simply would recall that to your mind and ask that you do so again, because there has not been sufficient new evidence to change at least my mind and I suggest the mind of anyone else in this House.

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

Mr. DAVIES: Mr. Speaker and Members of the House: It is unusual that I find myself on the same side as the good gentleman from Lewiston, but I am rather pleased that today is one of those occasions.

My reason for supporting the one-barrier concept as opposed to the three-barrier concept is one of energy conservation, particularly for those small businessmen, the people who are the truckers in the State of Maine. When you

are driving an 18-wheeler and you have got to go through about 12 gears up and down when you are driving on the Maine Turnpike, each barrier that you have to stop at costs you a large amount of fuel. It drives down your fuel efficiency by a great margin, and that costs truckers money, it costs the people who ship by those truckers money, and it costs all of us who consume those goods that are shipped. I think this simple cost will probably save several hundreds of thousands of dollars over the lifetime of the road, and I think that this, too, has to be a factor that we have to consider. Do we want to force the costs of our small businessmen up? I don't think we really want to. I don't think we want to waste energy, as well. That is the reason why I am going to support the amendment that Mr. Biron has presented today.

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

Mr. GREENLAW: Mr. Speaker and Members of the House: I would like to respond to the comments of the gentleman from Lewiston, Mr. Biron, and the gentleman from Orono, Mr. Davies, as they pertain to the amendment and not to the entire bill, because I believe it is the amendment that is before us today.

I think the gentleman is correct. The 75 cent toll at York would, in fact, generate the necessary revenue that we need to maintain the turnpike facility. I don't think anyone has said that it wouldn't.

Second of all, as to why the gentleman from Auburn, Mr. Hughes, raised the question of why not the 75 cent toll at York. I would suggest that it would hit very hard at the residents of York that come onto the turnpike at that facility, and I think what we are talking about is trying to develop a toll road that would be equitable to all people who use the turnpike.

I think what we are really talking about is continuing to use the concept of that person who uses the turnpike to pay for the maintenance of the turnpike. I think, also, that while we are continuing the tolls to some extent, we in fact probably are reducing the toll in many respects by at least 50 percent and in some cases maybe more.

To the gentleman from Orono, Mr. Davies, I would suggest that the maximum number of barriers this bill would provide for if a person drives the whole length of the turnpike would be three. A person has to go through two barriers with the present situation, so at worst it would cause the additional paying of toll at one barrier, and at best it may reduce paying of toll by one barrier, or you may not, depending on where you get on or off the turnpike, have to pay any tolls at all.

I think the proposal that is before us today is perhaps not in the best interest of everyone, and I hope you do support the motion of the gentleman from Limerick, Mr. Carroll, to indefinitely postpone this amendment.

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

Mr. VALENTINE: Mr. Speaker and Members of the House: I would like to pose a question through the Chair to the gentleman from Lewiston, Mr. Biron. I have sent a couple of notes without response. I am curious, as was just referenced by Mr. Greenlaw, as to what would happen to the residents of York, Kittery and Elliot who, under that proposal, literally would be the only people in the state who could not travel within the state without paying the 75 cents. That is my only real concern.

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

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

Mr. BIRON: Mr. Speaker, Ladies and Gentlemen of the House: In response to the question by Mr. Valentine, under the proposal that I brought before the Legislature last year, and this is something that I would present again, hopefully I could back up the bill, the amend-

ment that I have does not have a commuter pass, not because it was intended that way. The commuter pass concept could very easily be put on this bill.

As you realize, if I lived in York and if I was to go to Portsmouth, for example, and it was going to cost me 75 cents, I surely would not take the turnpike, and I don't think anybody in that area would. I don't think they do now. Let's not kid ourselves; let's not say that these people are taking the turnpike when they have a free access road that they can use. However, those who commute on a daily basis and those who have a need on a daily basis, I would fully support a further amendment, and the reason the amendment is not here is just an oversight, because it wasn't intended that way, to provide a commuter pass for those people who use it on a daily basis.

I agree that those who just get on the turnpike and go for 10 or 15 miles should not have to pay 75 cents, but I also come back and say that those people who have been paying for 20 years, that includes the good people from York and Kittery and Lewiston and Augusta, those people have been paying for 20 years and should not continue to pay to use a road in the State of Maine that everywhere else in the state is free. This would provide the revenues necessary. I think that is so important, ladies and gentlemen. The big problem is the revenue, and this will provide enough to maintain the Maine Turnpike. Those people on the committee have said, yes, it is. Well, I can't understand why they want to build a three-barrier system when they can have one barrier that does the same job. To this day, no one has been able to answer that.

I fully understand Mr. Valentine's problem, and I wish I could say I have the amendment but I don't. I brought it down to the Legislative aides and when it came back it wasn't on there and I didn't have the time to get it back on. That is in answer to your question, but I would fully support that.

The SPEAKER: The Chair recognizes the gentlewoman from Kittery, Mrs. Durgin.

Mrs. DURGIN: Mr. Speaker and Members of the House: Mr. Biron states that the people in the southern part of the state are going to be relieved of this toll. Well, it is the people in Elliot and Kittery and York who are going to pay this toll. From Wells to Augusta, there will be no toll, and I am sure that people are going to drive that 10 or 12 miles to bypass this. I doubt if there would be enough revenue to maintain the toll house, let alone maintain the road. You might just as well free it as to put this amendment on, and I say, let's kill it and bury it right off quick.

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 Limerick, Mr. Carroll, that House Amendment "B" be indefinitely postponed. All those in favor will vote yes; those opposed will vote no.

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

Mr. BUSTIN: Mr. Speaker, I request permission to pair my vote with the gentleman from Lewiston, Mr. Jalbert. If he were present and voting, he would be voting yes and if I were voting, I would be voting no.

The SPEAKER: The Chair recognizes the gentlewoman from Bangor, Miss Aloupis.

Miss ALOUPIS: Mr. Speaker, I wish to pair my vote with Mrs. Lewis of Auburn. If she were here, she would be voting nay and I would be voting yea.

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

Mr. TARBELL: Mr. Speaker, I wish to pair my vote with the gentleman from Millinocket, Mr. Marshall. If he were here, he would be voting yea and I would be voting nay.

ROLL CALL

YEA — Ault, Austin, Bachrach, Bennett, Birt, Boudreau, A.; Brown, K. C.; Burns, Carrier, Carroll, Carter, D.; Chonko, Churchill, Connors, Connolly, Cox, Cunningham, Curran, Dexter, Diamond, Dow, Drinkwater, Durgin, Elias, Fenlason, Flanagan, Fowle, Gill, Gould, Gray, Greenlaw, Hall, Hickey, Higgins, Hobbins, Huber, Hunter, Hutchings, Jackson, Jensen, Joyce, Kany, Kelleher, Kilcoyne, Laffin, Littlefield, Lougee, Lunt, Lynch, MacEachern, Mackel, Mahany, Martin, A.; Masterman, Masterton, Maxwell, McHenry, McKean, McMahon, McPherson, Morton, Nadeau, Norris, Palmer, Paul, Peakes, Pearson, Peltier, Perkins, Peterson, Plourde, Quinn, Rideout, Sewall, Silsby, Smith, Sprowl, Strout, Stubbs, Talbot, Tarr, Teague, Theriault, Torrey, Tozier, Truman, Twitchell, Valentine, Violette, Whittemore, Wilfong, Wood, Wyman.

NAY — Benoit, Berry, Berube, Biron, Blodgett, Boudreau, P.; Brenerman, Brown, K. L.; Carey, Carter, F.; Clark, Cote, Davies, Goodwin, K.; Green, Henderson, Howe, Hughes, Kane, Lizotte, Locke, Moody, Najarian, Nelson, M.; Nelson, N.; Post, Prescott, Raymond, Rollins, Tierney, Trafton.

ABSENT — Bagley, Beaulieu, Bunker, Devoe, Dudley, Dutremble, Garsoe, Gillis, Goodwin, H.; Immonen, Jacques, Kerry, LaPlante, McBreairty, Mills, Mitchell, Shute, Spencer, Stover, Tyndale.

PAIRED — Alopis, Bustin, Jalbert, Lewis, Marshall, Tarbell.

Yes, 93; No, 31; Absent, 20; Paired, 6.

The SPEAKER: Ninety-three having voted in the affirmative and thirty-one in the negative, with twenty being absent and six paired, the motion does prevail.

Mr. Nadeau of Sanford offered House Amendment "F" and moved its adoption.

House Amendment "F" (H-1096) was read by the Clerk.

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

Mr. NADEAU: Mr. Speaker, Ladies and Gentlemen of the House: If you look at the amendment, under Subsection 335 of the Bill, once the bill is presented to the legislature, under the present bill we would have 40 days to decide on what to do. My amendment gives it the full legislative session so that we don't come under the gun come the 39th or 40th day. I just feel that after last year's attempt, you remember the turnpike bill came in later in the session, and if the committee can't come up with something in 40 days, I hope we can do something by the end of the session before the recommendation comes through from the Commissioner of Transportation. I urge the adoption.

Thereupon, House Amendment "F" was adopted.

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

By unanimous consent, ordered sent forthwith to the Senate.

The Chair laid before the House the following matter:

Bill "An Act to Clarify the Investigation Powers of the Department of Environmental Protection under the Oil Conveyance Program" (H. P. 1959) (L. D. 2041) (C. "A" H-1070) which was tabled earlier in the day and later today assigned pending passage to be engrossed.

Mrs. Huber of Falmouth offered House Amendment "A" and moved its adoption.

House Amendment "A" (H-1093) was read

by the Clerk.

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

Mrs. HUBER: Mr. Speaker and Members of the House: The amendment you have before you on blue paper is House Amendment "A". It came in this afternoon. The Committee Amendment "A" on pink paper is the bill at this point and the House Amendment is the bill if you pass it this afternoon.

I would like to give you just a brief explanation if I may. If you have the pink committee amendment in front of you, filing number 1070, you will notice that the title of the bill at that point is An Act to Clarify the Investigation Powers of the Department of Environmental Protection under the Oil Conveyance Program. That title was put on the original bill because it was intended that funds from the oil conveyance program would be used to investigate what you all know as mystery spills, pollution of the waters for which no particular occurrence could be determined at brief look.

In working with the bill in committee, it was the strong feeling of the entire committee that the funds from the oil conveyance fund should not be used for such a purpose, inasmuch as they are right now used to reimburse those who are hurt by oil spills specifically. We felt that this was going at it backwards and we preferred to see that the department reimburse, if necessary, by funds or a penalty paid by the polluters. The committee amendment was an attempt to so indicate to you and it was passed unanimously from the Committee on Natural Resources. However, as the bill hit the desks, we discovered that the language was, indeed, a good deal broader than we had intended and, in fact, gave the Department of Environmental Protection what amounted to, if they so chose, double funding, the legislature's appropriation plus any penalties that they might assess a polluter, because the committee amendment calls for the recovery of funds to the DEP upon anyone who was found to be in violation of any provision of law, any order, rule, regulation, license permit, etc. This was clearly not what the committee had in mind and not what the committee intended to bring before you.

House Amendment "A" corrects that mistake. In fact, it states that any person who is found to have discharge any pollutant without a license as required by the laws, in other words, someone who was not already under the control of the Department of Environmental Protection, could be sued by the state. The damages could be recovered and the Department of Environmental Protection would receive only those funds necessary to pay for any cost and expenses actually incurred in retaining consultants or other assistance outside the DEP to aid in investigating and establishing the violations. Those of us on the committee, some of us on the committee, I should say, feel that this does, in fact, accurately reflect the statement of the majority of the committee. I hope you will vote "Ought to Pass" on Committee Amendment "A".

The SPEAKER: The Chair would inquire from the gentlewoman from Falmouth, Mrs. Huber, in the course of her supporting her position on this amendment suggested that this amendment would now become the bill and that the pink amendment would no longer be the bill that was the bill? Has the Chair followed that discussion properly?

Mrs. HUBER: It was my assumption, Mr. Speaker. In looking at the bill, I see that it does amend the bill by striking all the title and I believe the pink amendment also amended the bill by striking out all the title.

The SPEAKER: It is the purpose of the amendment to become the bill?

Mrs. HUBER: That is right.

The SPEAKER: The Chair understands that the gentlewoman from Falmouth, Mrs. Huber, withdraws House Amendment "A" at this time.

On motion of Mrs. Huber of Falmouth, under suspension of the rules, the House reconsidered its action whereby Committee Amendment "A" was adopted. On further motion of the same gentlewoman, Committee Amendment "A" was indefinitely postponed.

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

House Amendment "A" (H-1093) was read by the Clerk.

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

Miss BROWN: Mr. Speaker, Ladies and Gentlemen of the House: Although I went along with the committee originally in reporting out this amendment, I had very strong reservations about it. I now have even stronger reservations about it.

Today, as I received this amendment to L. D. 2041, presented by the good gentlelady, Mrs. Huber, I feel that this has too many strong changes in the law that never had a public hearing. On the outset, the title of the bill is entirely different. Originally we were just supposed to be dealing with oil pollution cleanup; we no longer are; we are dealing with any pollutant investigation.

I have a lot of trouble with this because the amendment provides that anyone who is found with this because the amendment provides that anyone who is found in violation to this provision of the law — administered by DEP is liable for any cost and expensed actually incurred in retaining consultants or assistance outside of the department for the cleanup. Also in the bill it says this "shall be" recovered by the Attorney General, "shall" require that the Attorney General. It doesn't suggest that in some cases he could do it, it says that he "shall" do it.

In the first line of the amendment, it says any person who is found to have discharge, in the third line, it said without a license. The person could be a private homeowner. How about a private homeowner who has a septic tank? It pollutes the water system — the original problem when this bill came before our committee was because of the town of Gray and their pollution problem down there. The original bill was to deal with oil pollution. This doesn't, this is an open blanket for any pollution coming in under DEP. They already have a budget. This is just another way for them to double their budget. We already give them enough money.

I would ask for a division on this and move the indefinite postponement.

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

Mr. BLODGETT: Mr. Speaker and Members of the House: This amendment which has just been proposed by Mrs. Huber just clarifies, as she said, the intentions of the committee. It is an amendment which makes sense. It simply says where we have some of these mystery spills or mystery pollutants coming in, that once the DEP does make an investigation, if there are extraordinary costs outside of what the department can normally handle, that the state may try to recover these unusual costs from the person who is finally found responsible for it. This doesn't mean that they are going after any people who already are licensed because they can then. These are people who are not normally licensed and who they cannot normally recover the costs from. It simply says that the state can recover the costs, which they should be able to do, if someone is responsible. These costs cannot be recovered at the present time.

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

Miss BROWN: Mr. Speaker, Ladies and Gentlemen of the House: That may be rue, but it bothers me that in this amendment the costs are not defined at all. Even the cost of the Attorney General could be involved in this amendment.

The SPEAKER: The Chair will order a vote.

The pending question is on the motion of the gentlewoman from Bethel, Miss Brown, that House Amendment "A" be indefinitely postponed. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

Mr. Blodgett of Waldoboro 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. Those in favor will vote yes; those opposed will vote no.

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

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

Mr. BLODGETT: Mr. Speaker, Ladies and Gentlemen of the House: I would hope that you would vote against the indefinite postponement of this amendment. We need to have this in order to have the state recover the reasonable costs or expenses above what would normally be expected in stopping some of these incidents that we are experiencing now around the state, whether it be in Gray or in some other area. We do need to have this. We can't always rely on the oil conveyance fund in order to do it, so I would urge you to vote against the indefinite postponement.

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

Miss BROWN: Mr. Speaker, Ladies and Gentlemen of the House: This amendment doesn't do anything to protect an individual who is investigated on a pollution case and found not liable and not in violation. This individual will certainly incur many costs, including engineering fees and attorney fees. Perhaps the state will also be put to a greater expense, but the individual has no way to recover his cost if he is found not guilty. This amendment is very unfair.

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

Mr. BLODGETT: Mr. Speaker, Ladies and Gentlemen of the House: In response to the statement, if a person is not found guilty, they obviously are not going to pay any costs. It is only one who is found guilty of this. That should be clearly understood among the members of the House here. You fine someone who is innocent, you don't expect them to pay the costs if they are innocent; it is only if they are guilty.

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

Mr. BOUDREAU: Mr. Speaker, Ladies and Gentlemen of the House: I would suggest that if we are going to be fair, then we should say that if the government is going to prosecute somebody for this violation and the government loses the case, then the government should pay the costs incurred by myself or any other individual who was brought to court or whatever by the government for this so-called violation.

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

Mr. WILFONG: Mr. Speaker, Ladies and Gentlemen of the House: I think perhaps this amendment ought to be clarified a little bit, since the remarks of the good gentleman from Waterville might indicate that he doesn't understand what the amendment does. The amendment only deals with the reimbursement of the costs of finding out who the polluter was.

Let's take a look at the Gray case, for instance. They find that the wells are being polluted. They need to find out where the pollution is coming from. There is no one in this body, I think, who will deny that the state ought to start investigating, so the Department of Environmental Protection begins an investigation. They find that XYZ company has been causing the problem. They need to recover the costs in finding out that XYZ caused the problem. All

this amendment does is allow them to recover the costs. To recover any further costs, the state would have to take them to court, and that is the situation that presently exists. This allows them to recover the cost for determining who caused the pollution. In Gray's case, if we don't do that and we find out that XYZ company was indeed polluting the wells, then the state will be out the money. I don't think there is anyone in this body that would believe it should be the state's responsibility to incur the cost of finding out who was polluting the town's wells and water supply.

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

Mr. TARBELL: Mr. Speaker, Ladies and Gentlemen of the House: If an individual or a citizen in the State of Maine or a company is being investigated and according to this bill expert witnesses are to be called in to determine the source of pollution, I would submit to you that it might also be necessary for the person under investigation to defend himself by calling in an expert witness to prove that he or she is not the source of the investigation. And if we are going to have one side paying the cost for investigation and expert witnesses, it seems to me that in all fairness and justice, we ought to be giving to the other side if that side prevails, in other words, the person that is investigated, the cost of having to hire and put him or herself out for incurring expert witnesses for investigation in defending such charges.

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

Mr. BOUDREAU: Mr. Speaker, Ladies and Gentlemen of the House: I would concur with the good gentleman from Bangor. In the case where the government does conduct an investigation, they may in some way cause some cost to be incurred by myself or any other individual being investigated. That was the point I was trying to make. Therefore, if the government is going to force me to hire a lawyer or do whatever it is necessary to defend myself and I am proven innocent, then all I am saying is that it would only be fair for the government to pick up that cost as well.

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

Mr. NORRIS: Mr. Speaker, Ladies and Gentlemen of the House: I am confused this afternoon. I think this is a serious piece of legislation, but apparently the committee had a public hearing on one bill with the title, then they redrafted that bill and presented it to this House and now we have seen another amendment, and I am sure with all good intentions, that changes the bill entirely, including the title. I am confused inasmuch as I think it is awfully late, it is late in the day, it is late in the session to be writing legislation of this magnitude without the proper input from all parties concerned.

I am going to go along with the gentlewoman from Bethel this afternoon and vote for the indefinite postponement of this amendment, which will mean the demise of the bill.

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

Ms. CLARK: Mr. Speaker, Men and Women of the House: L. D. 2041, in its original version, is my bill. It was I who presented this bill before the Committee on Natural Resources, and as the sponsor of that measure, I did have discussions with members of the committee relative to their Committee Amendment "A" to the original bill.

I have also talked with that gentlewoman from Yarmouth, Representative Huber, relative to the blue amendment, House Amendment "A" before us, and it is my feeling and my position that House Amendment "A" does embody the spirit and intent of the legislation that I introduced at the request of the Council members of the Town of Gray.

L. D. 2041 actually had embodied in it a concept which would have allowed some flexibility

in investigating pollution incidences that may be suspected of being oil related and then the funding therein and the costs inherent therein. I think that House Amendment "A", as presented by Representative Huber, maintains the integrity of the concept which I hoped to bring before this legislature and which I think is appropriate and, indeed, fitting.

I know of no other agency in state government, other than the office of the Attorney General, who would be empowered by this legislature to recover costs and expenses which are directly related within investigations dealing and related with pollutants.

I hope that we approve House Amendment "A" this afternoon.

The SPEAKER: A roll call has been ordered. The pending question is on the motion of the gentlewoman from Bethel, Miss Brown, that House Amendment "A" be indefinitely postponed. All those in favor will vote yes; those opposed will vote no.

ROLL CALL

YEA — Aloupis, Austin, Bachrach, Berube, Birt, Boudreau, P.; Brown, K. L.; Carey, Carrier, Carter, F.; Churchill, Connors, Cote, Drinkwater, Durgin, Fenlason, Flanagan, Fowlie, Gill, Gray, Higgins, Hobbins, Hunter, Hutchings, Joyce, Kane, Kelleher, Laffin, Lizotte, Lougee, Lunt, MacEachern, Mackel, Masterman, Maxwell, McKean, McPherson, Nelson, N.; Norris, Palmer, Pearson, Perkins, Peterson, Raymond, Sewall, Silsby, Smith, Sprowl, Stubbs, Tarbell, Tarr, Teague, Torrey, Tozier, Twitchell, Whittemore.

NAY — Ault, Bennett, Benoit, Berry, Biron, Blodgett, Boudreau, A.; Brenerman, Brown, K. C.; Burns, Bustin, Carroll, Carter, D.; Chonko, Clark, Connolly, Cox, Cunningham, Curran, Davies, Dexter, Diamond, Dow, Elias, Goodwin, K.; Gould, Green, Greenlaw, Hall, Henderson, Hickey, Howe, Huber, Hughes, Jackson, Jensen, Kany, Kilcoyne, Littlefield, Mahany, Martin, A.; Masterton, McHenry, McMahon, Moody, Morton, Nadeau, Najarian, Nelson, M., Paul, Peakes, Peltier, Plourde, Post, Quinn, Rideout, Rollins, Talbot, Theriault, Tierney, Trafton, Truman, Valentine, Violette, Wilfong, Wood, Wyman, The Speaker.

ABSENT — Bagley, Beaulieu, Bunker, Devoe, Dudley, Dutremble, Garsoe, Gillis, Goodwin, H.; Immonen, Jacques, Jalbert, Kerry, LaPlante, Lewis, Locke, Lynch, Marshall, McBairty, Mills, Mitchell, Prescott, Shute, Spencer, Stover, Strout, Tyndale.

Yes, 56; No, 68; Absent, 27.

The SPEAKER: Fifty-six having voted in the affirmative and sixty-eight in the negative, with twenty-seven being absent, the motion does 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 Chair laid before the House the following matter:

Bill "An Act to Revise the Salaries of Certain County Officers" (H. P. 1942) (L. D. 2108) (C. "A" H-1030) which was passed to be engrossed as amended by Committee Amendment "A" in the House on February 15. In Senate, passed to be engrossed as amended by Committee Amendment "A" (H-1030) as amended by Senate Amendment "A" (S-472) thereto in non-concurrence.

Pending — Further consideration.

On motion of Mr. Bustin of Augusta, the House voted to recede from its action whereby the bill was passed to be engrossed as amended.

On further motion of the same gentleman, the House voted to recede from its action whereby Committee Amendment "A" was adopted.

Senate Amendment "A" to Committee Amendment "A" was read by the Clerk and

adopted.

Mr. Bustin of Augusta offered House Amendment "B" to Committee Amendment "A" and moved its adoption.

House Amendment "B" to Committee Amendment "A" (H-1094) was read by the Clerk.

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

Mr. BOUDREAU: Mr. Speaker, Ladies and Gentlemen of the House: Just for the record, the Kennebec County Committee had voted on salary increases for the county commissioners at a meeting we held a few weeks ago and we voted not to give the commissioners a raise. I realize at this point that my friend, Representative Bustin, has the votes to pass this raise, but for the record, I don't think that the county commissioners deserve a raise. I think they ran for the job and they should take the money they were getting last year and do the same thing this legislature is doing and being paid what we thought we were going to be paid when we ran. Just for the record, I am opposed to the increase in pay for the county commissioners and I move the indefinite postponement of this amendment and would ask for a division.

The SPEAKER: The gentleman from Waterville, Mr. Boudreau, moves the indefinite postponement of House Amendment "B" to Committee Amendment "A".

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

Mr. BUSTIN: Mr. Speaker, Men and Women of the House: The way that my good friend from Waterville, Mr. Boudreau, phrased that, he implied that he knows that I have done a heavy lobby job here in the House and I have my votes all lined up, and you all know that that is not true. What he also may have meant and what is the case is that we did have a roll call vote of the Kennebec County Delegation on this issue, and the way it came out is, 15 people favored these raises, 5 were against and one abstained. I would hope that the prevailing sentiment would be the overwhelming majority of the Kennebec County Delegation, and I hope you will vote no and then pass the amendment.

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

A vote of the House was taken.

16 having voted in the affirmative and 64 having voted in the negative, the motion did not prevail.

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

Mr. Lizotte of Biddeford offered House Amendment "C" to Committee Amendment "A" and moved its adoption.

House Amendment "C" to Committee Amendment "A" (H-1095) was read by the Clerk and adopted.

Committee Amendment "A" as amended by Senate Amendment "A", and House Amendment "B" and House Amendment "C" thereto was adopted in non-concurrence.

The Bill was passed to be engrossed as amended by Committee Amendment "A" as amended by Senate Amendment "A" and House Amendments "A", "B" and "C" thereto in non-concurrence and sent up for concurrence.

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

Divided Report

Six Members of the Committee on Natural Resources on Bill "An Act to Facilitate the Operation of the Spruce Budworm Suppression Act" (Emergency) (S. P. 678) (L. D. 2095) report in Report "A" that the same "Ought to Pass" as amended by Committee Amendment "A" (S-487)

Report was signed by the following members:

Messrs. BLODGETT of Waldoboro
GREEN of Auburn
Ms. BENOIT of South Portland
Messrs. HALL of Sangerville
DEXTER of Kingfield
WILFONG of Stow

— of the House.

Four members of the same Committee on the same Bill report in Report "B" that the same "Ought Not to Pass"

Report was signed by the following members:

Messrs. O'LEARY of Oxford
REDMOND of Somerset
— of the Senate.
Miss BROWN of Bethel
Mr. HUNTER of Benton

— of the House.

Two members of the same Committee on the same Bill reports in Report "C" that the same "Ought to Pass" as amended by Committee Amendment "B" (S-488)

Report was signed by the following member:

Mr. TROTZKY of Penobscot
— of the Senate.

Mrs. HUBER of Falmouth

— of the House — abstaining.

Came from the Senate with the Bill and accompanying Papers Indefinitely Postponed.

In the House: Reports were read.
On motion of Mr. Blodgett of Waldoboro, tabled pending acceptance of the Committee Report in non-concurrence and tomorrow assigned.

House Reports of Committees

Leave to Withdraw

Mr. Goodwin from the Committee on Health and Institutional Services on Bill "An Act to Clarify the Rights and Responsibilities of Institutions to Provide Medical Care" (H. P. 1992) (L. D. 2067) reporting "Leave to Withdraw"

Report was read and accepted and sent up for concurrence.

Ought to Pass with

Committee Amendment

Mr. Twitchell from the Committee on Taxation on Bill "An Act to Correct the Inequitable Taxation of Mobile and Modular Homes" (H. P. 1976) (L. D. 2059) Reporting "Ought to Pass" as amended by Committee Amendment "A" (H-1092)

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

Consent Calendar

First Day

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

(H. P. 2016) (L. D. 2091) Bill "An Act to Clarify Admission Procedures at Pineland Center" — Committee on Health and Institutional Services reporting "Ought to Pass" as amended by Committee Amendment "A" (H-1091)

No objection having been noted, the above item was ordered to appear on the Consent Calendar of February 28 under listing of the Second Day.

(Off Record Remarks)

On motion of Mr. Hickey of Augusta,
Adjourned until 9:30 tomorrow morning.