

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

***One Hundred and Eighth
Legislature***

OF THE

STATE OF MAINE

1978

Second Regular Session

January 4, 1978 — April 6, 1978

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APPENDIX

HOUSE

Tuesday, March 7, 1978

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

Prayer by the Reverend Edward J. Granholm of Pownal, Minister of the Deaf in New England.

Reverend GRANHOLM: The Bible admonishes us to watch and pray. This morning, I would invite you to watch and pray, as I will be using my hands in the sign language, the language of the deaf, as well as my voice.

Our Father in Heaven, Holy be Your name. Your Kingdom come, Your will be done on earth as in Heaven. Father, we know that Your will is that mankind serve You. Help us to truly be, as we say in our pledge to the flag, one nation under God. Help us to remember the principles upon which our America was established. Help us to seek for Your guidance in government. Pray this morning that each one of these legislators would seek for Your will, for Your wisdom, in their deliberations today that Your perfect will might be done through this session. In the name of Jesus Christ, Our Lord and Savior, we pray. Amen.

The journal of yesterday was read and approved.

Papers from the Senate

The following Joint Order, an Expression of Legislative Sentiment recognizing that: Mrs. Christine Webber of Eliot is retiring after faithful service as Town Clerk, then as Town Treasurer, for the past fifteen years (S. P. 727) Came from the Senate read and passed.

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

The following Joint Order, an Expression of Legislative Sentiment recognizing that: Mrs. Dorothy Wood of Eliot is retiring after faithfully serving as Town Clerk for the past ten years (S. P. 726)

Came from the Senate read and passed.

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

Non-Concurrent Matter

Joint Resolution Expressing Opposition to the Killing of Harp Seals (H. P. 2178) which was read and adopted in the House on March 6, 1978.

Came from the Senate Indefinitely Postponed in non-concurrence.

In the House: On motion of Mr. Green of Auburn, the House voted to adhere.

Messages and Documents

The following Communication:

STATE OF MAINE
ONE HUNDRED AND EIGHTH
LEGISLATURE
COMMITTEE ON AGRICULTURE

March 6, 1978

The Honorable John Martin
Speaker of the House
State House, Augusta, Maine 04333
Dear Speaker Martin:

The Committee on Agriculture is pleased to report that it has completed all business placed before it by the Second Session of the 108th Legislature.

Bills received in Committee	9
Unanimous Reports	9
Ought to Pass as Amended	7
Ought to Pass	1
Leave to Withdraw	1
Ought Not to Pass	0

Sincerely,
Signed: LUMAN P. MAHANY
Chairman

The Communication was read and ordered placed on file.

Orders

An Expression of Legislative Sentiment (H. P. 2188) recognizing that: Fred Keyte has completed fifty-nine years of service with the Dexter Fire Department and forty-five years with the Dexter Police Department

Presented by Mr. Peakes of Dexter.

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

An Expression of Legislative Sentiment (H. P. 2189) recognizing that: Mabel Chandler of Dexter, a retired school teacher whose husband served as a member of the Legislature in 1921-22 representing Dover, will celebrate the 100th anniversary of her birth on March 22, 1978.

Presented by Mr. Peakes of Dexter.

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

An Expression of Legislative Sentiment (H. P. 2190) recognizing that: Police Chief Harold B. Knox, former President of the Maine Chiefs of Police and board member of the New England Chiefs of Police Association, is retiring from the Dexter Police Department after 31 years of dedicated service.

Presented by Mr. Peakes of Dexter.

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

An Expression of Legislative Sentiment (H. P. 2186) recognizing that: The Golden Bucks of Bucksport High School, coached by Gerry Kane, have won the State Class B Boys' Basketball Championship for the academic year 1978.

Presented by Mr. Churchill of Orland. (Copsponsor: Senator Cummings of Penobscot)

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

A Joint Resolution (H. P. 2187) in memory of Matthew W. McManus of Washburn, who lead a devout and exemplary life of service to his fellow men and women.

Presented by Mr. Peterson of Caribou. (Copsponsors: Mr. Martin of Eagle Lake, Mr. McBreairty of Perham, Mr. Rideout of Mapleton) The Order was read and adopted and sent up for concurrence.

On motion of Mr. Laffin of Westbrook, the following Joint Resolution: (H. P. 2185)

Joint Resolution Opposing Invocation of the Taft-Hartley Act
Upon the Striking Mineworkers of America

WHEREAS, for the past three months, the United Mineworkers of America and the Bituminous Coal Operators Association have been attempting to resolve the current strike; and

WHEREAS, both parties have been attempting to resolve the dispute by collective bargaining in accordance with federal statutes; and

WHEREAS, the membership of the United Mineworkers voted this weekend on a proposed settlement of this strike and rejected this proposed contract as not meeting their deeply felt needs; and

WHEREAS, it is widely felt that the Federal Government will soon invoice the Taft-Hartley Act in an effort to impose a settlement on the strike; and

WHEREAS, this imposition may extend to the Federal Government actually becoming the operator of the mines and the employer of the miners; and

WHEREAS, this course of action would be a federal statement that both parties of the strike may no longer use the normal collective bargaining process to settle the strike without governmental interference; now, therefore, be it

RESOLVED: That we, the members of the 108th Legislature assembled at Augusta in the second regular session, do hereby express our

opposition to invocation of the Taft-Hartley Act as a method of forcing a solution on the striking mineworkers, and hereby declare our support for a continuing effort, aided by federal mediation, to settle the strike by the usual process of collective bargaining, without direct federal intervention; and be it further

RESOLVED: That, upon passage in concurrence, the Clerk of the House make suitable copies of this resolution available to the public.

The Resolution was read.

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

Mr. LAFFIN: Mr. Speaker, Ladies and Gentlemen of the House: As you all know, yesterday the President of the United States invoked the Taft-Hartley Act which, of course, is anti-labor piece of legislation that was put in against the coal miners of this country.

The President said, "The country cannot afford to wait any longer." I am wondering if the President is thinking that the country cannot wait any longer for the men who have that dreaded black lung disease that is inflicted upon them when they work in these mines. I don't see a thing in there about that this morning. We can go to the moon and we can do a lot of things in this country, build highways from sea to sea, but we can't conquer that dreadful disease when every month that goes by a miner dies in the coal mines.

The second thing he says is threatening to inflict further harm on the economy. What more harm is there in an economy when the government moves in and stops bargaining units from bargaining. That is the harm right there. To be sure, they continue to bargain, but when they are under the Taft-Hartley Act, an 80-day back to work cooling off period, who does that help? I will tell you who that helps. That helps the rich coal operators who for years have held down the miners, they gave them camps and tents to live in, who sucked the miners' blood right out of them, that is who it affects. I can tell you, the way the miners have lived is unreal and you wouldn't believe it. Their children had to be born on floors, in tents, in camps just to get that mine working so that people could have coal to burn. The coal miners were given no consideration whatsoever for the working people in those coal mines. The working people were slaves to the coal operators. The working people did absolutely nothing but work, and who made the money? The coal operators, and they always have made the money.

The other thing that disturbs me is that when you work in the coal field, the coal operators owned the camp, the doctors, the houses, the stores and everything, but John L. Lewis, who is a credit to the coal operators, took them away from that. The coal operators then had homes and cars and schools and teachers and hospitals that the mine owners didn't own. That is what we are talking about today. We are talking about a President who has stepped in and supported the coal operators to get the coal moving. He has taken away the 160,000 united mine workers that are out on strike, that they have to, by law, go back to work. They don't have a choice now. They have to go back to work, and the three-member board of inquiry that is required under the Taft-Hartley Act, I believe they met sometime yesterday, I am not sure of the exact time, but injunctions are going on today to have the Taft-Hartley Act put into operation ordering the miners back to work. And the Taft-Hartley Act is nothing more than a haven for coal operators who make big money and continue to hold down the miners who put out the coal for this nation to use.

The other thing that I object to, and even though the Taft-Hartley Act was passed in 1947, it has only been used 54 times since 1947, and it was enacted and passed by Congress on the override of President Truman. I will tell you, the restoration of Taft-Hartley Act is an anti-labor law which has fallen to the victims of the big coal operators of this country. I think that

this legislature should put its foot down and say, we can't do anything about it, to be sure, because it is law, there is nothing we can do about it, but we should have our feelings. If we have our feelings about seals and we have our feelings about other things in these fields, then we certainly ought to have our feelings and consideration for the men who have that dreaded disease who have to work under those conditions and support them this morning in denouncing the President's order that he made these people go back to work.

What has he done for the coal operators? I will tell you, he has done everything for them, and the way that it is now, the coal operators do not have to pay one cent more than they paid three months ago when the miners went out on strike. They don't have to pay one cent more. They can, but they won't, I can assure you, so the miners have got to go back to work by law, they are bound by law, and they will go back to work, I can assure you. There may be a little trouble, but the miners will support the law of this land. And I am asking the members of this House this morning to support my resolution and stand firm behind those workers.

You know, we can always disagree on many issues, you disagree with me and I disagree with you, but when we work on one issue that is taking people out of slavery, that is an issue that all people should be concerned with. Whether you agree or don't agree on how long they should bargain or what the bargaining is, that is not the issue. The issue is the President making those people go back to work, and that is the issue that the American people today, and it is a very sad day in my heart because I have lived down there and I have seen the abuses and you could write horror books on the abuses of those miners working in camps under slavery conditions. I have seen them; I know what I am talking about. I have seen these conditions.

I am not going to get upset over this this morning, but I want the members of this House to realize and know the situation that has been taking place in this country, and that is important. I ask that the members of this House support my resolution this morning.

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

Mr. MARSHALL: Mr. Speaker, I gladly move this questionable resolution be indefinitely postponed; and request the yeas and nays.

The SPEAKER: The gentleman from Millinocket, Mr. Marshall, moves that the Resolution be indefinitely postponed.

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

Mr. DAVIES: Mr. Speaker and Members of the House: The good gentleman from Westbrook, Mr. Laffin, in his sensitive and delicate way has really touched upon the key issue in this whole matter of the invocation of the Taft-Hartley Act in the coal miners' strike. I support the resolution that he has put forward today. My reasoning is somewhat different than his and let me explain it to you.

Right now, the United States is caught in a fairly cold winter. There are a number of people who have become reliant upon a steady supply of coal to their power plants for their electricity and in some cases for their heat. With the strike that is in existence, that supply has dwindled, even though the companies knowing full well in advance that they were going to have a strike stockpiled huge amounts of coal in an attempt to break the union, but they didn't estimate that the coal miners of America were going to have the resolve that they did of lasting as long as they have in speaking out their rights under collective bargaining, but they have. So that supply of coal is dwindling, and as a person who is involved with energy matters very closely, I am concerned about that because I think it is inappropriate for people to be cold when they don't want to be

cold, or not to have electricity when it is necessary.

We also have to face the fact that these coal miners, in their collective bargaining agreement, have not accepted the terms that have been laid upon them by the operators of the coal mines, and for good reason, because the terms of that contract leave out many things that are absolutely essential for a coal miner to exist — the health care that goes along with treating black lung and other diseases that are common with coal miners, the right to have a medicare card so that they can get that health care and the opportunity for wildcat strikes on the job rather than using a grievance procedure.

Let me tell you a little bit about working in a coal mine, not that I know all that much about it, but from having talked with coal miners about this problem, if you have got a grievance in the coal mine, usually that grievance is dealing with health or safety, and if you want to go the grievance procedure, anybody that is familiar with the state personnel grievance procedure knows how long a grievance procedure can take to work. It would be nice if we had the situation where we could allow that to work because it is probably the best process, but when you are working in a coal mine and there is a possibility that 10 million tons of rock and coal are going to fall on your head because the mine owners have been skimping on their safety equipment or procedures, then you want to get out of that mine and you want to get that problem resolved before it falls on your head rather than using a grievance procedure. Those are two key provisions that the coal miners would like to have in their contract which the mine operators have simply refused to insert.

I believe very strongly in the collective bargaining process, and I think that by the intervention by the President using Taft-Hartley, he has done something that breaks down the collective bargaining process.

Now, it is appropriate that we put pressure on both sides now right now because we do want to resolve, but the Taft-Hartley Act puts all the pressure on the miners and puts absolutely none on the coal operators. All this does is give them 80 days to take more coal out of the mines to stockpile it so that they can break the back of the union. Any person who believes in union democracy and collective bargaining would be wise to go with Mr. Laffin and vote for this resolution.

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

Mr. KELLEHER: Mr. Speaker, Ladies and Gentlemen of the House: I request the yeas and nays on the good gentleman's motion from Millinocket and I wish he would lay a little word of wisdom on the House why we should support him.

The SPEAKER: The yeas and nays have requested.

The Chair recognizes the same gentleman.

Mr. KELLEHER: Mr. Speaker, I would like to know what wisdom he would like to give us this morning to support his motion.

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

Mr. MARSHALL: Mr. Speaker and Members of the House: In response to the good gentleman from Bangor, Mr. Kelleher, I doubt if being a freshman here I could impart any more knowledge upon him, but speaking for myself, I don't believe that this type of resolution — and I voted against the resolution on the seals, I vote against this type of resolution. I think the conditions now in the country resulting from the strike has put an undue burden on those people who need fuel not only for their homes but for industry which needs the coal to maintain its production. I think the indication of the Taft-Hartley Act is in accordance with the law, and I don't think that I, as a Representative, will take the time to vote for this type of resolution in opposition to that, and I hope that may

satisfy Mr. Kelleher's question.

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

Mr. CONNOLLY: Mr. Speaker and Members of the House: It was unfortunate, I wanted to be a cosponsor for this particular resolution yesterday when I heard Mr. Laffin was going to introduce it, but I got to him too late and he had already sent it down to the printers.

I am glad that Mr. Marshall, who I understand represents a workingmen's district, has given us reasons why he opposes this particular resolution. I think that your view of this resolution and your view of the imposition of the Taft-Hartley Act in this case depends upon whom you are in sympathy with. If you are in sympathy with the residents of the area where the coal strike is taking place, then I think you begin to feel relieved that perhaps the economy of the region is going to begin to get back on its feet and you would support the indefinite postponement of this resolution. Or if you are in sympathy with the owners of the coal mine, you are perhaps relieved that the mines haven't been seized by the federal government, which was one of the actions that two weeks ago President Carter threatened, and if you are in sympathy with the owners, then you perhaps would be voting for indefinite postponement of this resolution. Or if you are in sympathy with Arnold Miller, I think that you are perhaps hurt by the fact that the union voted against you and voted no on the contract and you perhaps begin to realize that you don't really have a feel for how the membership of your union feels about this particular issue. If you are in sympathy with the miners, if you are sympathy with the workers, then I think your feelings are that, nobody is going to hold a club over my head, a legal club or any other kind of a club, and force me to go back to work.

Two weeks ago, it was rumored on the radio early in the morning, that the President was supposed to go on TV at nine o'clock in the evening and announce the fact that he was going to seize the mines and force the miners back to work, but before he went on TV later that afternoon, he announced the fact, and Arnold Miller was present when he announced the fact that the union was going to send out a contract, that leadership was going to send out a contract and its membership was going to vote on that contract within the next two weeks and that the vote would then stand, but it seems to me that that whole vote process was a sham, because two weeks ago the President was going to invoke the Taft-Hartley Act, then he said, "We will send out the contract for a vote, but if the vote is no, not to go back to work, then we will impose the Taft-Hartley Act anyway."

I would hope you would vote against the motion of indefinite postponement and show support, if in name only, for the miners who have rejected the contract two days ago.

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 Millinocket, Mr. Marshall, that this Joint Resolution be indefinitely postponed. All those in favor will vote yes; those opposed will vote no.

ROLL CALL

YEA — Aloupis, Ault, Austin, Bagley, Benoit, Biron, Birt, Blodgett, Boudreau, A.; Boudreau, P.; Brown, K. L.; Bunker, Burns, Carter, D.; Chonko, Clark, Connors, Cunningham, Curran, Dexter, Diamond, Dow, Drinkwater, Dudley, Durgin, Elias, Fenslon, Fowlie, Garsoe, Gillis, Gould, Gray, Green,

Greenlaw, Huber, Hunter, Hutchings, Immonen, Jackson, Kilcoyne, Lewis, Littlefield, Lizotte, Lougee, Lunt, MacEachern, Mackel, Marshall, Masterman, Masterton, McBrearty, McKean, McMahon, McPherson, Mitchell, Morton, Nelson, N.; Norris, Palmer, Paul, Peltier, Perkins, Peterson, Quinn, Raymond, Rollins, Sewall, Shute, Silsby, Smith, Sprowl, Stover, Tarbell, Tarr, Teague, Torrey, Tozier, Twitchell, Whittemore, Wilfong.

NAY — Bachrach, Brenerman, Brown, K. C.; Bustin, Carey, Carrier, Carroll, Carter, F.; Connolly, Cote, Cox, Davies, Flanagan, Goodwin, K.; Hall, Hickey, Hobbins, Howe, Hughes, Jacques, Jalbert, Jensen, Joyce, Kane, Kany, Kelleher, Kerry, Laffin, LaPlante, Locke, Mahany, Martin, A.; Maxwell, McHenry, Nadeau, Nelson, M.; Pearson, Plourde, Prescott, Rideout, Talbot, Tierney, Trafton, Truman, Valentine, Violette, Wood, Wyman, The Speaker.

ABSENT — Beaulieu, Bennett, Berry, Berube, Churchill, Devoe, Dutremble, Gill, Goodwin, H.; Henderson, Higgins, Lynch, Mills, Moody, Najarian, Peakes, Post, Spencer, Strout, Stubbs, Theriault, Tyndale.

Yes, 80; No, 49; Absent, 22.

The **SPEAKER**: Eighty having voted in the affirmative and forty-nine in the negative, with twenty-two being absent, the motion does prevail.

House Reports of Committees

Leave to Withdraw Tabled and Assigned

Mr. Mackel from the Committee on Taxation on Bill "An Act Increasing Benefits for Certain Claimants under the Elderly Householders Tax and Rent Refund Act" (Emergency) (H. P. 1983) (L. D. 2070) reporting "Leave to Withdraw"

Report was read.

On motion of Mr. Tierney of Lisbon Falls, tabled pending acceptance of the Committee Report and tomorrow assigned.

Mr. Twitchell from the Committee on Taxation on Bill "An Act to Provide for a 2% Income Tax Credit for Taxable Years Ending in 1978" (H. P. 1891) (L. D. 1948) reporting "Leave to Withdraw"

Report was read and accepted and sent up for concurrence.

Divided Report Later Today Assigned

Seven Members from the Committee on Judiciary on Bill "An Act to Lower the Costs of Medical Malpractice Arbitration" (Emergency) (H. P. 1964) (L. D. 2051) report in Report "A" that the same "Ought to Pass" as amended by Committee Amendment "A" (H-1120)

Report was signed by the following members:

Messrs. SPENCER of Standish
HUGHES of Auburn
JOYCE of Portland
NORRIS of Brewer
HOBBINS of Saco
HENDERSON of Bangor
BENNETT of Caribou

— of the House.

Three Members of the same Committee on same Bill report in Report "B" that the same "Ought to Pass" as amended by Committee Amendment "B" (H-1121).

Report was signed by the following members:

Mr. COLLINS of Knox

— of the Senate.

Mrs. SEWALL of Newcastle

Mr. DEVOE of Orono

— of the House.

Three Members of the same Committee on same Bill report in Report "C" that the same "Ought to Pass" as amended by Committee Amendment "C" (H-1122)

Report was signed by the following members:

Messrs. MANGAN of Androscoggin
CURTIS of Penobscot

— of the Senate.

Mr. TARBELL of Bangor

— of the House.

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

Mr. TIERNEY: Mr. Speaker, I move that the House accept Report "A".

On further motion of the same gentleman, tabled pending his motion to accept Report "A" and later today assigned.

Divided Report

Later Today Assigned

Majority Report of the Committee on Energy on Bill "An Act to Revise the Authority of the Oil Burner Men's Licensing Board to Inspect and Approve Most Fuel Burning Equipment" (H. P. 2056) (L. D. 2120) reporting "Ought to Pass" in New Draft under New Title, Bill "An Act to Empower the Oil Burner Men's Licensing Board to Inspect and Approve Coal and Wood Fuel Central Heating Equipment" (H. P. 2184) (L. D. 2176)

Report was signed by the following members:

Messrs. TROTZKY

FARLEY of York

— of the Senate.

Messrs. DAVIES of Orono

HOWE of South Portland

TORREY of Poland

CONNOLLY of Portland

JENSEN of Portland

Mrs. TRAFTON of Auburn

Mrs. HUBER of Falmouth

— of the House.

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

Report was signed by the following members:

Mr. REDMOND of Somerset

— of the Senate.

Messrs. BOUDREAU of Waterville

RIDEOUT of Mapleton

Miss BROWN of Bethel

— of the House.

Reports were read.

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

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

On motion of Mrs. Tarr of Bridgton, tabled pending the motion of the gentleman from Orono Mr. Davies, that the Majority "Ought to Pass" Report be accepted and later today assigned.

Passed to be Enacted

"An Act to Correct the Inequitable Taxation of Mobile and Modular Homes" (H. P. 1976) (L. D. 2059) (C. "A" H-1092)

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.

Orders of the Day

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

RESOLUTION, Proposing an Amendment to the Constitution to Grant to the Supreme Judicial Court the Power to Remove a Judicial Officer from Office (H. P. 1886) (L. D. 1943)

Tabled — March 6, 1978 by Mr. Tierney of Lisbon Falls.

Pending — Final Passage.

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

Mr. KELLEHER: Mr. Speaker, Ladies and Gentlemen of the House: This Resolution before this body today, I would hope this body would not give it final passage.

We have a process in our Constitution, Separ-

tations of Powers and Duties of Each Respective Branch of Government, executive, judicial and legislative, and under the existing law in our Constitution, when it comes to removing justices from the bench, it is a very simple procedure but one which is understandable in terms of working. We impeach here in this House and they try them over in the other body and I think this, in good judgment and for good government sake, we should keep the Constitution as it is presently written and not tamper with it to give I believe, unreasonable powers to the court in removing judicial officers.

The Constitution of this state was put together by some very wise individuals, and this particular amendment to the Constitution, I believe, it is the first time that the process has been approached in trying to remove the proceedings that we have now and the proceedings, as I just stated before, are impeachment proceedings are here and the trial is held in the Senate, and I think we should preserve that. If I understand it correctly, it needs 101 votes. I would like to see it shot by 101 votes.

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

Mr. HUGHES: Mr. Speaker, Ladies and Gentlemen of the House: If the gentleman was correct in saying that this bill in any way tampered with impeachment power in this House, of this legislature, then I would agree with him in opposing this bill, but the bill in no way does that. Impeachment power remains preserved in the House of Representatives to impeach and in the Senate to try the impeachment.

What this does is add something to the law. It adds, in addition to that power of impeachment, the power of the courts themselves to remove judges for conduct unbecoming a judge in violation of the Code of Ethics or whatever charge might be brought against them. It in no way tampers with the impeachment powers of this House and I want to make that very clear.

Unfortunately, the impeachment power is a very cumbersome power. It is not often used because it is so cumbersome. It would, for example, involve calling this entire legislature together, perhaps when we are not in session, to act as the grand jury in the House of Representatives to hear charges, and in the case of the Senate to act as a jury in actually trying that case. It is such a cumbersome power that it certainly is not used often, and for that reason and the good conduct of our judges, we have not had an impeachment in as many years as anybody around here can remember.

There seems to be a real need, I think, for some kind of proceeding more easily invoked than the impeachment proceedings to discipline judges when they need disciplining, to remove them when they need to be removed. This is a suggestion by the judiciary itself that in addition to the impeachment power there be a procedure whereby citizens can complain to a committee which we have established by statute, and that committee can recommend to the Supreme Court of the state that a judge be removed, if that seems to be the wise course. The Supreme Court, if this constitutional amendment passes, would then have the power to remove the judge. It does not detract from the impeachment power, it simply adds another avenue and a more reasonable and more expeditious avenue for citizens to seek redress of grievances against judges whom they see as guilty of malfeasance in office. I commend this Constitutional Resolution to your passage.

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

Mr. KELLEHER: Mr. Speaker, Ladies and Gentlemen of the House: I think the important point is that it is not necessary and that we shouldn't be handing over to the Supreme Court of this state any additional powers in dealing with the judges in terms of removal. Why hasn't it in the past been necessary to support this type of resolution?

I disagree with Mr. Hughes when he says the process is cumbersome. I think that what Mr. Hughes is trying to say, and perhaps the court themselves or the commission is, that they want to grant certain extraordinary powers to the court in their own housekeeping. If that is the case, why does the Maine Senate have to approve? Why does the Judiciary Committee have to have hearings in dealing with nominations from the Governor? Why don't we turn around and let those nominations go to the court themselves for their own approval? The reason is, you have to have to have an independent body in dealing with appointments or even dealing with charges of misconduct in government.

I am not as clever in debate on the floor or as articulate as my good friend, but I do happen to think that the Constitution, as it is presently written, is perfect, dealing with this issue anyway.

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

Mr. CARTER: Mr. Speaker, Ladies and Gentlemen of the House: I would like to second what the good gentleman from Auburn, Mr. Hughes, has stated. I am not a lawyer and have never professed to be one, but I am very much interested in this legislation.

As some of you may recall, I originated the bill, which led to the order which finally led to the two pieces of legislation. One of them is already on the Governor's desk, L. D. 1957. This particular document, I think, is very necessary, but I am troubled with it and I would like to explain to you what I have done.

In seeking guidance on this piece of legislation, I went to the Attorney General's Office, because I was concerned, as some others were, about the verbiage in the proposed Resolution, and the very last sentence reads: "Under such terms as provided by statute or by rule of court." Now, the question rose as to which would take precedent in the event that we both vote a statute or by rule of court dealing with the particular problem, and as far as the Attorney General's Office could determine, when you are dealing with strictly statutes and rule of courts, there are no problems, but when you have a constitutional amendment, then they were unable to answer the question. To wit, they state, "We are unable to state categorically which of the hypothetical conflicting provisions would be prevail." They did recommend that to straighten any potential conflict out, the proposed legislation should be amended.

So to that extent, Mr. Speaker, I would now request that we suspend the rules for the purpose of reconsideration.

The SPEAKER: The gentleman from Winslow, Mr. Carter, moves that the rules be suspended for the purpose of reconsideration.

The Chair hears objection; the Chair will order a vote. The pending question is on the motion of the gentleman from Winslow, Mr. Carter, that the rules be suspended. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

65 having voted in the affirmative and 7 in the negative, the motion did prevail.

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

Mr. CARTER: Mr. Speaker, I now move that we reconsider our action whereby the bill was passed to be engrossed.

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

Mr. TARBELL: Mr. Speaker, Members of the House: I would oppose the reconsideration motion before us, and I would also take issue with the remarks made by the gentleman from Bangor, my colleague from Bangor, Mr. Kelleher.

Last week, this body passed enabling legislation so that the judicial branch of the State of Maine could adopt, by rules, a commission, a commission on judicial responsibility and disability. That commission, without a Constitu-

tional Amendment, which is before us today, would not have the power nor would the court, the judicial branch, have the power in extreme cases to remove judges from office.

What kind of cases did the judiciary envision that might be necessary to remove judges from office? Well, if you will remember last summer when we were in session, one of our judges on the bench in the state of Maine lay in a coma, incapable of doing any judicial work. He was the only judge in that court; there was no one to take up the docket load and to administer the cases.

The judicial branch could not intervene and take any action. The only action the legislative branch could take would be to impeach such a judge.

I submit to you that is an extremely harsh and inhumane remedy. Such a situation has prompted the legislation which we passed through this House last week to create the Commission on Judicial Responsibility and Disability and also prompted the Resolution to amend the Constitution of the State so that the judicial branch in such extreme cases would have the constitutional power to take the ultimate sanction of removal.

The legislature retains two remedies, one of address and one of impeachment, to exercise its removal power over members of the judicial branch.

The legislation before us today is designed to take care or to provide the judicial branch with the powers to assert and exercise housekeeping powers over its own branch. We, as a co-equal branch, the legislature, in no way, are preempted or interfered with exercising duties and prerogatives.

There is a tradition between the two branches, the legislature and the judicial branch, a tradition, that I submit to you ought to be looked at in the context of passage of this bill.

A few years ago, it was necessary for the judicial branch to adopt civil rules of procedure, which it felt it had the power to do under its own authority. However, it came to the legislature and asked that the legislature pass enabling legislation authorizing and requesting the court to promulgate civil rules of procedure. The court did so and this branch, the legislature, then codified the rules into statute. In other words, with the civil rules, the criminal rules, the evidence rules and with this enabling legislation to create the Commission on Responsibility and Disability last week, there has been a harmonious cooperation and partnership between the two co-equal branches of government.

What is before you today, amendment to the Constitution so that the judicial branch may remove judicial officers, is another instance of maintaining that cooperative tradition.

The good gentleman from Winslow, Representative Carter, has pointed out that there appears to be an inherent conflict of the face of the bill before you that has come out of the Judiciary Committee. He refers to the language that the provisions for procedures of removal by the judicial branch can be set forth by statute, which means by the legislature, or by rule of the court, which means by the judicial branch.

Now, why is there this seeming contradiction? The intent of the Resolution is to enable the court, by its own rules, to remove judges. However, as has been the tradition with the civil rules, the criminal rules, the evidentiary rules and this enabling legislation that created the commission last week, the court wishes to involve, as I understand it, the participation and cooperation of us, the legislature to codify what rules it does adopt by statute, legislative enactment and statute. It is this positive light, this affirmative cooperation, that is the spirit that underlines the bill, not the negative one that has been pointed out that the two branches will go in opposite directions and that they will

fight.

The reason for the language is to promote and to preserve and to perpetuate the cooperation that the two branches enjoy.

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

Mr. RAYMOND: Mr. Speaker, I would like to direct a parliamentary inquiry to the Chair.

The SPEAKER: The gentleman may state his inquiry.

Mr. RAYMOND: Mr. Speaker and Members of the House: On February 17, when this bill was engrossed, a reconsideration motion was made and a voice vote defeated that reconsideration motion. Is the reconsideration motion that is on the floor proper now?

The SPEAKER: The Chair would advise the gentleman from Lewiston, Mr. Raymond, that the gentleman is correct in that the motion to reconsider was, in fact, made by voice vote and defeated on February 17.

However, this body, just a few minutes ago, moved to suspend the rules; therefore, as a result to suspend the rules, the motion to reconsider is now properly before this body.

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

Mr. HUGHES: Mr. Speaker and Members of the House: I rise to support the motion to reconsider this amendment and I think it would be useful — it is a very short Constitution Amendment — to read it to the House in its entirety.

It would enact in Article 6, Section 7 of the Constitution to read, "Removal of Judicial Officers: The Supreme Judicial Court shall have the power and authority to remove from office any judicial officer, including the judge of probate, under such terms as are provided by statute or by rule of court." I think probably that is the same kind of concern that we have heard expressed here earlier, that somehow by passage of this amendment with that language in it, we might set up a situation where the courts, through their rule, wanted to do something different from this legislature through its statutes, and we probably ought to be very reluctant to allow that situation to develop. I don't think it will, but I think probably the concern that it might is well placed, and therefore I would support some amendments or some attempts to make some amendments in that language and therefore support the reconsideration motion.

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

Mrs. NAJARIAN: Mr. Speaker, Ladies and Gentlemen of the House: I have had some serious concerns about this constitutional amendment all along, and I guess as I read the proposed amendment, I don't think it really is going to solve ultimately the problem, and for that reason I would be opposed to reconsideration.

It says, "In the absence of a statute, by rule of court." That means that the rule of court would prevail if we didn't have a statute that covered or prohibited that rule. I just think that the legislature would have an awfully difficult time thinking of every conceivable reason why the court might want to remove a judge. In the absence of having thought of that possible reason, then the court could rule that a judge could be removed.

I think this is mixing up the powers of the legislature and the judiciary to an extent that is certainly not necessary.

This morning is the first time that I have learned that there has been a judge incapacitated and unable to perform his duties. That was never brought to the attention of the legislature. We have the method to remove judges in addition to impeachment, and that is why the address of both branches of the legislature to the Governor.

This constitutional amendment has no limits on why a judge can be removed. It doesn't say physical or mentally incapacitated. As Mr.

Hughes said, it could be for violating the code of ethics or whatever charge is brought against him, and that is what frightens me — whatever charges might be brought against him. I remember all the dissension in the courts last year over the administration of the courts and the Supreme Justice removed the Chief of the District Court. Had he had the power of removal, there was such strong feeling there that he might have removed the judge of the District Court. It might stifle dissent in the court system. I think this is really a dangerous way to proceed. There has not been a need for it. Judge McKusick said to us the other day that we have had a grand judiciary and fortunately we have had no rotten apples, and if this advisory committee that we passed the other day advises the legislature or the judiciary, and they can still do that, they can bring to our attention cases they think this legislature needs to address. Therefore, I hope that we eventually indefinitely postpone this amendment.

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

Mr. CARTER: Mr. Speaker, Ladies and Gentlemen of the House: I think the good gentleman from Bangor, Mr. Tarbell, put his finger right on the problem when he stated that the only method of removal from office now is through the impeachment process. He is absolutely correct. Even though there is a statute on the books that deals with removal of a justice due to ill health, that particular section of the law has never been challenged, and had it been challenged, I have been assured by quite a few different people who are knowledgeable in this area, it would have been termed unconstitutional, because the only power that the legislature has for removal is by impeachment. Nowhere is the Constitution is the legislature granted the authority to remove anybody other than by the impeachment process.

In my proposed amendment, it would assure that the ultimate right of removal would remain with the legislature. However, the courts could by, rule of court, facilitate removal in areas such as have been mentioned before, but still, the ultimate power would remain with the legislature, because in this area, they would remain supreme.

I realize that it is a very difficult area when you are dealing with separation of powers, but when the Constitution was originally drafted, the three branches were separated equally, except for the area of impeachment, which rests with the people or the legislature.

I would hope that you would go along with the reconsideration motion so that I may offer this amendment and everything can proceed on a proper course.

The SPEAKER: The Chair recognizes the gentleman from Rockland, Mr. Gray.

Mr. GRAY: Mr. Speaker, Men and Women of the House: I would like to correct one thing now, that there is more than one avenue of approach to remove judicial offices, and if he would read the L.D. that is presently under discussion, 1943, he would see that Article 6, Section 4, reads, under Tenure of Judicial Officers, "All judicial officers shall hold their offices for a term of seven years from the time of their respective appointments, unless sooner removed by impeachment or by address of both branches of the legislature to the executive" and then, of course, the section that they want to add in is in the bill.

One who has been interested in judicial officers for the past few months, I can tell you that the procedures that are presently being offered under this really isn't the answer to addressing problems with the judiciary.

Address by the legislature is really just a formal resolution passed by both Houses to the Governor. He may or may not want to honor it. I believe since 1856 there have been 13 addresses that have been approved by the legislature. In some instances, the Governor has honored this address and in other cases he hasn't. The

address procedure is not only brought against judicial officers but other elected officials too, such as sheriffs, etc.

I would like to pose a couple of questions through the Chair to anyone who might want to respond. The gentleman from Bangor, Mr. Tarbell, indicated that there was no procedure presently for replacing judges who are incapacitated due to health reasons. I know judges fill in for other judges who are on vacation, and I am wondering if judges can't be replaced on a temporary basis? I believe they are from time to time. I know in our county, the judge of probate was temporarily replaced.

The second question I would ask — where does this leave us if 1943 isn't passed? Where does this leave 1957, that we passed the other day? It would seem to me that we were coercing to approving a bill that is presently unconstitutional and it would seem that by doing so, we sort of got the horse before the cart. I was wondering if someone would like to respond to those questions.

The SPEAKER: The gentleman from Rockland, Mr. Gray, has posed some questions through the Chair to anyone who may care to answer if they so desire.

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

Mr. TARBELL: Mr. Speaker, Ladies and Gentlemen of the House: Woe be the day when this hallowed hall is coerced into passing legislation that it doesn't wish to pass.

The bill we passed last week enables a commission to be established to take sanctions short of removal in the case of judicial responsibility and disability. The ultimate sanction of removal was not included in that bill. It could not be included in that bill because it takes a constitutional amendment. The constitutional amendment is before us today. The question is, do we want to take, as a matter of legislative policy, and this is for the legislature to decide, do we want to take the next step and permit the judicial branch of the government to have, under its own housekeeping authorities, the power to remove judges pursuant to the enabling legislation we passed last week? The legislation that we passed last week will stand. It is good law, once it passes and is enacted and signed by the Governor. It will lack, however, one aspect, the removal power. The removal power is before us in the constitutional amendment today.

The good gentleman from Winslow, Mr. Carter, has been extremely cooperative and extremely concerned and has spent a great deal of his time in working with both pieces of legislation in the hopes that we can provide some remedial legislation on the books. However, the legislative branch does not need another mode of removing judges, we have got two, impeachment and address. I submit to you that the amendment that he would like to present today would let the legislature remove judges by statute, so we would have three procedures — impeachment, address and by statute. The legislature doesn't need a third alternative. The gentleman from Bangor is absolutely correct in that regard.

The purpose of the bill is to provide the judicial branch with a means of removal, and if the legislative decision of this body is not to provide a means of removal, then so be it, but I submit to you that the legislature doesn't need a third avenue to use, and to provide that the legislative branch could remove, by statute judges, is a further denegeration and downgrading of our judicial branch which I also contend, and has been contended by members here today, is a co-equal branch of government.

The first question raised by the gentleman from Rockland was whether or not judges could fill in for one another if they were temporarily disabled. The legislation we passed last week is for permanent mental and physical disability, where a judge simply could not perform his duties on the bench. If the legislature

wants to deny the judicial branch the ultimate sanction of removal in those circumstances and use the two legislative remedies, address or impeachment, for those kinds of cases, then that is the legislative policy that we can make here today.

I would urge you not to reconsider, not to amend this measure, but to go along with the Resolution in its present form so that the judicial branch can keep its own house and police itself when it takes the noble initiative to do so, and when it doesn't, we as a legislative branch have our powers of impeachment and address.

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

Mr. HUGHES: Mr. Speaker, a question to the Chair. Am I correct that under the rules we are not allowed to debate the amendment at this point?

The SPEAKER: The Chair would answer in the affirmative.

Mr. HUGHES: Mr. Speaker, that being the case, even though the debate is getting awfully close to the amendment with several speakers so far, I do feel that we have to give the gentleman a chance to present his amendment so that it can be fully and more candidly debated than it is possible under the rules at this point. Then if Mr. Howe does or does not want to accept it, fine, and the two-thirds vote will still be necessary for the adoption of the constitutional amendment as it finally emerges.

I would urge you all to give the chance for the gentleman from Winslow, Mr. Carter, to address the problem he sees in the constitutional amendment and debate that amendment when it is before us.

The SPEAKER: The pending question is on the motion of the gentleman from Winslow, Mr. Carter, that the House reconsider its action whereby the Bill was passed to be engrossed. All those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

64 having voted in the affirmative and 7 having voted in the negative, the motion did prevail.

Mr. Carter of Winslow offered House Amendment "B" and moved its adoption.

House Amendment "B" (H-1123) was read by the Clerk.

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

Mr. CARTER: Mr. Speaker, Ladies and Gentlemen of the House: I have stated before why I wanted to present this amendment and why I feel it is necessary.

The Attorney General's Office agrees that hypothetically these two provisions could be conflicting with one another. My amendment would prevent any conflict. I the event that there were statutes dealing with the particular item, then the statute would prevail.

Going back, I would like to call to your attention a section in Title IV, Section 103. It deals by statute with the removal of a justice of the Superior Court and I will read the passage to you. This is the passage which I alluded to before that has never been challenged. Had it been challenged, I would have been assured that it would have been ruled unconstitutional, because the legislature does not have the power under the Constitution to pass any statutes dealing with removal of a justice other than by the impeachment process.

"Any justice of the Superior Court who, prior to his retirement age, is unable by reason of failing health to perform his duties as such justice may, upon petition to or by order of the Superior Court and approved by a majority of the justices of the Superior Court, be retired prior to his retirement, and when so retired, he shall receive the same benefits as he would receive had he retired at full retirement age, and such retirement shall terminate his service."

If this section of Title IV had ever been challenged, it would have been declared unconstitutional. My proposed amendment will correct

this. Whatever is on the books now will meet the challenge, meet the test if ever challenged, and if the Superior Court, by rule of court, sets up rules for disability and removal for other causes and there is no legislation in that particular area, then the rule of court will prevail. If the legislature is not satisfied with the rules of court, then it can simply pass legislation and change it. This is what my amendment will do. I would hope that you would support the adoption of this amendment.

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

Mr. TARBELL: Mr. Speaker, Ladies and Gentlemen of the House: House Amendment "B" before us would permit the legislature to act first on a constitutional plain of passing statutes that would remove or set up powers to remove judges. If the legislature — and this is according to this amendment — did not act and preempt the field, so to speak, by passing statutory provisions for removal of judges, then the court, the branch of the judiciary, would be permitted to enter into the field and do so. In other words, this amendment gives the first right to the legislature to pass statutory provisions removing judges. If the legislature decides not to do so, only then can the courts step in. So the essence of the bill is to add a third removal power under our constitutional legislative power — impeachment by the legislature, address by the legislature and now removal by statutes of the legislature. That would further erode and denigrate the judicial branch as a separate branch of government. That completely undermines the whole rationale for proposing the resolution to you today.

I would urge the indefinite postponement of the amendment and call for the yeas and nays.

The SPEAKER: The gentleman from Bangor, Mr. Tarbell, has requested a roll call vote. 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 adoption of House Amendment "B". All those in favor of House Amendment "B" being adopted will vote yes; those opposed will vote no.

ROLL CALL

YEA — Bagley, Benoit, Biron, Birt, Boudreau, A.; Brenerman, Bustin, Carey, Carrier, Carroll, Carter, D.; Chonko, Churchill, Clark, Connolly, Cox, Curran, Davies, Diamond, Dow, Dudley, Elias, Flanagan, Fowlie, Goodwin, H.; Green, Greenlaw, Hall, Henderson, Hickey, Higgins, Hobbins, Huber, Hughes, Hunter, Jacques, Jaibert, Jensen, Joyce, Kany, Kelleher, Kerry, Laffin, LaPlante, Lizotte, Locke, MacEachern, Mahany, Marshall, Martin, A.; Masterton, Maxwell, McBreairty, McHenry, McKean, McMahan, Mitchell, Moody, Morton, Nadeau, Nelson, N.; Norris, Paul, Peakes, Pearson, Plourde, Post, Quinn, Raymond, Rideout, Spencer, Stover, Teague, Tierney, Torrey, Tozier, Trafton, Truman, Twitchell, Valentine, Violette, Whittemore, Wilfong, Wood, Wyman

NAY — Aloupis, Ault, Austin, Bachrach, Blodgett, Boudreau, P.; Brown, K. L.; Brown, K. C.; Bunker, Burns, Carter, F.; Conners, Cote, Cunningham, Devoe, Dexter, Drinkwater, Durgin, Fenlason, Garsoe, Gillis, Gould, Gray, Howe, Hutchings, Immonen, Jackson, Kane, Kilcoyne, Lewis, Littlefield, Lynch, Mackel, Masterman, McPherson, Najarian, Nelson, M.; Palmer, Peltier, Perkins, Peterson, Rollins, Sewall, Shute, Silsby, Smith, Sprowl, Stubbs, Talbot, Tarbell, Tarr

ABSENT — Beaulieu, Bennett, Berry, Berube, Dutremble, Gill, Goodwin, K.; Lougee, Lunt, Mills, Prescott, Strout, Theri-

ault, Tyndale

Yes, 85; No, 51; Absent, 14.

The SPEAKER: Eighty-five having voted in the affirmative and fifty-one in the negative, with fourteen being absent, the motion does prevail.

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

By unanimous consent, all matters acted upon in concurrence and all matters requiring Senate concurrence were ordered sent forthwith to the Senate.

(Off Record Remarks)

On motion of Mr. Tierney of Lisbon Falls, Recessed until 11:30 A.M.

After Recess
11:30 A.M.

The House was called to order by the Speaker.

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

Bill, "An Act to Amend the Charitable Solicitations Act to Change the Responsibilities of Religious and Small Organizations" (Emergency) (H. P. 2015) (L. D. 2090) (C. "A" H-1100) — In House, Passed to be Engrossed as amended by Committee Amendment "A" (H-1100) on February 28. — In Senate, Passed to be Engrossed as amended by Committee Amendment "A" (H-1100) and Senate Amendment "A" (S-512) in non-concurrence.

Tabled — March 6, 1978 by Mr. Tierney of Lisbon Falls.

Pending — Motion of Mr. Birt of East Millinocket to Recede and Concur.

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

Ms. CLARK: Mr. Speaker, Men and Women of the House: I request this morning that you vote against the pending motion to recede and concur so I can offer motion to adhere and this bill will go back to the other body in fact. This Bill was introduced in this second regular session by the gentlewoman from Auburn, Representative Trafton, as a means of addressing those kinds of concerns which have arisen and which are documented as the result of passage of the Charitable Solicitations Act in the first regular session of this 108th Legislature.

In the other body, Senate Amendment "A" was attached and it is in opposition to that amendment that I stand this morning asking you to vote against the motion to recede and concur.

Senate Amendment "A" provides a religious exemption, and across-the-board religious exemption under the Charitable Solicitations Act. The effect of that religious exemption is that any organization which, even by the farthest stretch of the imagination, calls itself a religion will be completely and totally exempted from registering their exemption certificate under the Charitable Solicitations Act.

At the public hearing on this bill, we listened to a number of concerned citizens who spoke generally as individuals and secondarily as members of an organized religious denomination. They were all learned people. We respectfully listened to them. We asked questions; we received answers. Their main areas of concern followed these three lines: Number one, they supported L. D. 2090 as an improvement over what might have been interpreted and infrequently, yet documented, experienced as some of the difficulties under the Charitable Solicitations Act that we passed last spring. Let me repeat that — they supported L. D. 2090.

Secondly, they asked for a religious exemption and, thirdly, they asked that L. D. 2090, that vehicle which was allowed into this second regular session through the screening process

of leadership and legislative counsel, be used as a vehicle to repeal the entire Charitable Solicitations Act.

The Committee on Business Legislation responded thusly in reverse order. Three — the Committee on Business Legislation declined to participate in what we interpreted as a violation of the rules under which we operate, and we declined to use L. D. 2090 as a vehicle to repeal the Charitable Solicitations Act.

Two — we declined to provide the religious exemption in the unanimous committee report, for we are knowledgeable of those numbers of consumer and citizen concerns relative to a number of organizations in this state who, with a stretch of the imagination, may be inclined to come under a total and complete religious exemption.

Three — we proudly reported out L. D. 2090, the facets of which will be explained to you this morning by that acknowledged expert in this area, the gentlewoman from Auburn, Representative Trafton.

Again, I would ask that you vote against the motion to recede and concur so that we may send this in fact down to the other body.

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

Mr. BIRT: Mr. Speaker, Ladies and Gentlemen of the House: With your permission, I would withdraw my motion.

The SPEAKER: The gentleman from East Millinocket, Mr. Birt, withdraws his motion to recede and concur.

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

Ms. CLARK: Mr. Speaker, I move that we adhere.

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

Mr. BIRON: Mr. Speaker, I move that we recede.

The SPEAKER: The gentleman from Lewiston, Mr. Biron, moves that the House recede.

The gentleman may proceed.

Mr. BIRON: Mr. Speaker, Ladies and Gentlemen of the House: The motion to recede this morning would simply enable myself or any other interested legislator to put our own amendments on this bill and give us an opportunity to voice our opinion as to the problems we have with the legislation and give you an opportunity to vote either in favor or against the amendments that we present. I think we should have that opportunity here this morning, to give those on both sides of the question an opportunity to voice their opinions, and I sincerely hope you will support the motion to recede.

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

Ms. CLARK: Mr. Speaker, Men and Women of the House: I would ask that you vote against the motion to recede.

There are two members of this body who have proposed amendments to L. D. 2090. Mr. Speaker, is it appropriate that I address the contents of those amendments?

The SPEAKER: The Chair would answer that question that it is not really proper to discuss the amendments themselves. It is possible to discuss the relationship of the amendments to the pending bill, however.

Ms. CLARK: Mr. Speaker and Members of the House: Two members of this body have presented amendments which have been distributed. One of those amendments was presented last session —

The SPEAKER: The Chair recognizes the gentleman from Lewiston, Mr. Biron, and inquires for what purpose the gentleman rises?

Mr. BIRON: Mr. Speaker, I have some problems with that ruling you just made. I am sure that if I, myself, or Mr. Laffin would have stood up and tried to debate an amendment —

The SPEAKER: The Chair would be more than happy to tell the gentleman from Lewiston, Mr. Biron, and to rephrase, perhaps, for his benefit, what the Chair indicated to the

members of this body.

The aspects of the amendment may not be discussed. However, the gentlewoman from Freeport is perfectly within the realm of germaneness to discuss the fact that the amendments were in fact introduced in a prior session. As long as the gentlewoman refrains from discussing the merits or demerits of that amendment, it is entirely proper to discuss the fact that the amendments are before us.

What I am indicating to the gentleman from Lewiston, Mr. Biron, and to the members of the House is that the only reason why the motion to recede would be in order would be to amend. Therefore, the gentlewoman from Freeport, Ms. Clark, is within the realm of the germaneness of the question to discuss why the motion to recede should not prevail.

The gentlewoman may proceed.

Ms. CLARK: Mr. Speaker and Members of the House: One of the two amendments which has been distributed this morning may be appropriately presented or included in the omnibus errors and inconsistency bill, and I think the sponsor of that amendment is aware of that avenue. I am sure that she is also aware that the Committee on Business Legislation is sensitive to the contents of that amendment.

Another amendment which has been distributed this morning in similar in fact to an amendment which was introduced in the first regular session and which, I would remind this body, was defeated.

It is on that basis that I ask that with eleven days remaining in this legislative session that it is appropriate this morning that we adhere, thereby we would negate the necessity of not only addressing the issue again but reengrossing a measure, should an amendment be added at this time.

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

Mr. BIRON: Mr. Speaker, Ladies and Gentlemen of the House: It is interesting to note that the people who are in favor of the present legislation are here this morning opposing a motion to recede which would give other members of this House an opportunity to voice their opinion on this legislation. I would sincerely hope that if they are so strong about their bill and how good it is, then they should not oppose anyone else voicing their opinion. If there bill is so good, it should pass without any problems. And I would sincerely hope you would give myself and other members of this body an opportunity to place their amendments before you, and then if you disagree with those amendments, you have the obvious right to vote for or against them.

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

A vote of the House was taken.

Whereupon, Mr. Biron of Lewiston 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 Chair recognizes the gentleman from Lewiston, Mr. Biron.

Mr. BIRON: Mr. Speaker, Ladies and Gentlemen of the House: I rose to ask for a roll call not because I felt we could win, only because I would like to point out to you this morning that if the motion now pending, if this motion is defeated, is accepted by this body would put the bill in non-concurrence and many of you have been lobbied one way or another on this piece of legislation, and if the motion which will be made is passed by this body, it will put the bill in non-concurrence and the interest that you

have in this legislation, you will not have the opportunity to voice that interest in this legislation if you defeat this motion.

I would sincerely hope that would vote to recede, thereby giving everybody an opportunity to voice their opinion.

The SPEAKER: A roll call has been ordered. The pending question is on the motion of the gentleman from Lewiston, Mr. Biron, that the House recede. All those in favor will vote yes; those opposed will vote no.

ROLL CALL

YEA — Biron, Carey, Carrier, Diamond, Dudley, Hall, Hickey, Hunter, Jacques, Kelleher, LaPlante, Lewis, Lougee, Mackel, McKean, Norris, Raymond, Stubbs, Torrey, Wood, Wyman

NAY — Aloupis, Ault, Austin, Bachrach, Bagley, Benoit, Birt, Blodgett, Boudreau, A.; Boudreau, P.; Brenerman, Brown, K. L.; Brown, K. C.; Bunker, Burns, Bustin, Carroll, Carter, F.; Chonko, Churchill, Clark, Conners, Connolly, Cote, Cox, Cunningham, Curran, Davies, Devoe, Dexter, Dow, Drinkwater, Durgin, Elias, Fenlason, Flanagan, Fowlie, Garsoe, Gillis, Goodwin, H.; Gould, Gray, Henderson, Higgins, Hobbins, Howe, Huber, Hughes, Hutchings, Immonen, Jackson, Joyce, Kane, Kany, Kerry, Kilcoyne, Laffin, Lizotte, Locke, Lunt, Lynch, MacEachern, Mahany, Marshall, Martin, A.; Masterman, Masterton, Maxwell, McBreairty, McMahon, McPherson, Mitchell, Moody, Morton, Nadeau, Nelson, M.; Nelson, N.; Palmer, Paul, Peakes, Peltier, Perkins, Peterson, Plourde, Post, Prescott, Quinn, Rideout, Rollins, Sewall, Shute, Silsby, Smith, Spencer, Sprowl, Stover, Talbot, Tarbell, Tarr, Teague, Tierney, Tozier, Trafton, Truman, Twitchell, Valentine, Violette, Whittemore

ABSENT — Beaulieu, Bennett, Berry, Berube, Carter, D.; Dutremble, Gill, Goodwin, K.; Green, Greenlaw, Jalbert, Littlefield, Mills, Najarian, Pearson, Strout, Theriault, Tyndale, Wilfong

EXCUSED — Jensen

The SPEAKER: Under the rules the Record will show that the Chair allowed the gentleman from Portland, Mr. Jensen, to refrain from voting under House Rule 19. The Record will further show that the Appropriation Committee Democrats are meeting at the present time.

Yes, 21; No, 109; Absent, 19; Excused, 1.

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

Thereupon, on motion of Ms. Clark of Freeport, the House voted to adhere.

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 Require the Licensing of Insulation Installers" (H. P. 1941) (L. D. 2105) (C. "A" H-1115)

Tabled — March 6, 1978 by Mr. Tierney of Lisbon Falls.

Pending — Passage to be Engrossed.

On motion of Mr. Tarbell of Bangor, the House reconsidered its action whereby Committee Amendment "A" was adopted.

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

House Amendment "A" to Committee Amendment "A" (H-1125) was read by the Clerk.

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

Mr. TARBELL: Mr. Speaker, Ladies and Gentlemen of the House: This measure was before us yesterday and some questions were raised. We sat down for about three hours yesterday afternoon with a few members of the House and an individual of the Senate and pro-

posed a collective amendment which would clear up some questions of the bill.

The blue amendment that you have before you would be the entire bill if the House so adopted it. Section 1481 is a list of items that must be disclosed in an insulation contract before the insulation is installed. This is a disclosure bill. It simply requires that these particular items be mentioned in the contract. Failure to disclose those items in a written contract to a consumer would be, under this bill, a civil violation and subject to a \$200 fine. Furthermore, it would trigger a violation of the Unfair Trade Practices Act.

The remaining provision, which is a new one, is an exemption provision. The exemption provision is designed to exempt out any persons or firms that are not in the insulation business and who do not advertise or publicize or solicit insulation business, as long as their gross labor receipts for a given year are under \$2,500 and as long as their gross materials for a given year are for \$4,500. What the exemption will do is to protect the average, ordinary carpenter that a consumer might call up and say, "Can you come over and cap the top of my house with some insulation?" The carpenter says, "Sure, I would be glad to come on over." It is designed to ensure that the only people who will be required to meet the disclosure requirements are those who are publicly holding themselves out to be in the insulation business in the State of Maine. Those people would have to disclose. If they did not disclose the information, they would violate the civil provisions and violate the Unfair Trade Practices Act.

I think that simplifies the bill, and I hope that it answers some of the questions and concerns yesterday. If there are any further questions, I think we would be willing to help out by answering them.

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

Mr. DAVIES: Mr. Speaker and Members of the House: Several members of the Energy Committee have been involved in the drawing up of the amendment that Mr. Tarbell has offered and we feel that it does do the job that we set out to do in better form than the original bill that came out of the committee and it does have our support.

Thereupon, House Amendment "A" as amended by House Amendment "A" thereto was adopted.

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

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

Mr. KELLEHER: Mr. Speaker, is the House in possession of L. D. 2150?

The SPEAKER: The Chair would answer in the affirmative. The House is in possession of An Act to Encourage Early Resolution of Discrimination Complaints and to Clarify the Subpoena Power of the Maine Human Rights Commission, Senate Paper 703, L. D. 2150.

Mr. KELLEHER: Mr. Speaker, I now move the House Reconsider its action whereby this bill was passed to be enacted on March 6.

Whereupon, Mr. Raymond of Lewiston requested a vote.

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

Mr. CARRIER: Mr. Speaker, Ladies and Gentlemen of the House: First of all, I would request a roll call.

We enacted this bill yesterday by almost double the votes, and I hope that you do not vote to reconsider.

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

Mr. TALBOT: Mr. Speaker, Ladies and Gentlemen of the House: First of all, let me thank the gentlelady from Waterville, Mrs. Kany, for holding this bill. Let me further thank the gentleman from Bangor, Mr. Kelleher, for asking for a reconsideration motion, although he

doesn't agree with my position. My position is simply this — I hope you do reconsider, not so I can take action on the bill itself, but I would like to take action on the amendment of this bill.

I know that you don't like to see me up again today, especially on this particular piece of legislation, but I hope you will bear with me. Although I have been defeated twice on this particular piece of legislation, and because we have the democratic process here in the House, I have one more opportunity, if you will give it to me.

In driving back home last night, after I was defeated for the second time, I couldn't help but wondering about my loss, about why I lost, and would I try again now that the bill was being held. I guess I don't have the opportunity or the time to tell you now how far I have come and how far the Human Rights Commission has come. I would like to take that time, but I don't have it.

We have come a long ways in this state as far as human rights are concerned, and I would sincerely hope that you would understand that. I was one of those people, as I explained before in the House, that had the idea of a Human Rights Commission way, way back when, and to see it become a reality over a long period of time, it means something very, very important to me. Therefore, I am ready to make a deal. No, don't take that wrong now. I am ready to make a public compromise. That is, if you will reconsider and if you will reconsider, and vote for this particular motion I will not touch the bill, I will only try to kill the amendment and that is up to you. Now, you say, well, why should I compromise when I have the upper hand? Well, that is because I think that I know that this body believes in justice and equality, it is a fair-minded body and therefore will extend me that courtesy.

I know that I have been defeated twice, and I also understand that I may go down a third time. I also know that won't be novel. I hope that you would reconsider.

I have a couple of things that I would like to explain to you that I hope I can explain to you. Now that I think it over, maybe I better explain it to you now because I might not have another chance. That is that in the bill itself, after we get by the "pursuant to a complain" and that kind of thing, it states that provided there is reasonable cause to believe that those materials or the testimony of the persons and material are material to the complain, the commission may not issue subpoenas, except as provided in this section. As I understand this, and I called the Human Rights Commission, if a subpoena was issued against me and I thought that was grossly a misconduct and not appropriate, I could go to the Superior Court and have it squashed. The amendment does just the opposite. The amendment says that the Human Rights Commission must go to Superior Court first, which I think is a hurdle and another form of harassment. So, without bothering you with any more of your time, I do hope you do vote for reconsideration.

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 on fifth of the members present having expressed a desire for a roll call, a roll call was ordered.

The SPEAKER: The pending question is the motion of the gentleman from Portland, Mr. Talbot, that the House reconsider its action whereby the Bill was passed to be enacted. All in favor of the motion to reconsider will vote yes; those opposed will vote no.

ROLL CALL

YEA — Bachrach, Bagley, Benoit, Blodgett, Boudreau, A.; Boudreau, P.; Brennerman,

Brown, K. C.; Bustin, Carroll, Chonko, Clark, Connolly, Cox, Curran, Davies, Diamond, Dow, Elias, Fowlie, Goodwin, H.; Gould, Gray, Hall, Henderson, Hickey, Hobbins, Howe, Huber, Hughes, Jacques, Kany, Kelleher, Kerry, Kilcoyne, Laffin, Locke, MacEachern, Marshall, Martin, A.; Masterton, McHenry, McKean, McMahon, Mitchell, Moody, Nadeau, Nelson, M.; Norris, Paul, Peakes, Plourde, Post, Prescott, Rollins, Spencer, Talbot, Torrey, Truman, Valentine, Violette, Whittemore, Wood, Wyman

NAY — Aloupis, Ault, Austin, Biron, Birt, Brown, K. L.; Bunker, Burns, Carrier, Carter, F.; Churchill, Conners, Cote, Cunningham, Devoe, Dexter, Drinkwater, Dudley, Durgin, Fenlason, Flanagan, Garsoe, Gillis, Higgins, Hunter, Hutchings, Immonen, Jackson, Joyce, LaPlante, Lewis, Littlefield, Lizotte, Lougee, Lunt, Lynch, Mackel, Mahany, Masterman, Maxwell, McBreairty, McPherson, Nelson, N.; Palmer, Peltier, Perkins, Quinn, Raymond, Sewall, Shute, Silsby, Smith, Sprowl, Stover, Stubbs, Tarr, Teague, Tierney, Tozier, Traf-ton, Twitchell

ABSENT — Beaulieu, Bennett, Berry, Berube, Carey, Carter, D.; Dutremble, Gill, Green, Greenlaw, Jalbert, Jensen, Kane, Mills, Morton, Najarian, Pearson, Peterson, Rideout, Strout, Tarbell, Theriault, Tyndale, Wilfong

Yes, 64; No, 61; Absent, 25.

The SPEAKER: Sixty-four having voted in the affirmative and sixty-one in the negative with twenty-five being absent, the motion does prevail.

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

Mr. GARSOE: Mr. Speaker and Members of the House: I not that the House Chairman is not in his seat. I wonder if someone would table this for one legislative day.

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

The Chair laid before the House the following matter:

House Divided Report "A" (7) "Ought to Pass" as amended by Committee Amendment "A" (H-1120) — Report "B" (3) "Ought to Pass" as amended by Committee Amendment "B" (H-1121) — Report "C" (3) "Ought to Pass" as amended by Committee Amendment "C" (H-1112) — Committee on Judiciary on Bill "An Act to Lower the Costs of Medical Malpractice Arbitration" (Emergency) (H. P. 1964) (L. D. 2051) which was tabled earlier in the day and later today assigned pending acceptance of Report "A".

Thereupon, Report "A" was accepted and the Bill read once. Committee Amendment "A" (H-1120) was read by the Clerk and adopted and the Bill assigned for second reading later in the day.

Mr. Bagley of Winthrop was granted unanimous consent to address the House.

Mr. BAGLEY: Mr. Speaker, Ladies and Gentlemen of the House: You may remember a few weeks ago when you went into a chain grocery store you saw a sign that said, "If you want cheaper beer, sign here." they would have got just as many signatures. The point is, they were working to repeal the retail pricing power of the Maine Milk Commission.

I have a friend, a school teacher in Winthrop, two weeks ago she went to New Hampshire to visit some relatives. While she was there, she bought a quart of milk. Now, she uses Hood's Nu-Form milk. When she got back, she bought another quart of Hood's Nu-Form milk in Winthrop. I have checked two or three other stores and I find that the price on Hood's Nu-Form milk in other places in Maine is just the same as it is in Winthrop. She remarked to my wife that the price in New Hampshire was different. So, I asked her about it and she had brought the carton back and I have two cartons

here. The one from Winthrop controlled by the commission is 44 cents a quart. New Hampshire has no such rule. This was purchased in the town of Bedford, which is part of the Manchester really, it has the same relationship as Hallowell does with Augusta. You can't tell when you go from one to the other unless you happen to see the town line sign. The biggest city there is Manchester. The price there was not 44 cents, the price was not 50 cents, the price was 56 cents for exactly the same thing that you buy in Maine for 44 cents. In other words, you pay 27 percent more in New Hampshire, where there is no control, than you pay in Maine where there is control. So the next time anybody tells you that a grocery company is so interested in the welfare of the customers that they want to cut the price of milk, you tell them that in New Hampshire without any controls, the same milk is selling for 27 percent more.

Mr. Goodwin of South Berwick was granted unanimous consent to address the House.

Mr. GOODWIN: Mr. Speaker, Ladies and Gentlemen of the House: If Mr. Bagley would like to drive home with me tonight, I can take him to a store in New Hampshire where I can buy milk at probably about a dollar and thirty some odd cents a gallon, about half a mile from my house.

On motion of Mr. Shute of Stockton Springs. Recessed until four o'clock in the afternoon.

After Recess

4:00 P.M.

The House was called to order by the Speaker.

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

The following Joint Order, an Expression of Legislative Sentiment recognizing that: the Gorham High School Girls' Basketball Team has won the State Class B Basketball Championship for the academic year 1978 (S. P. 728) Came from the Senate read and passed.

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

A Joint Resolution in memory of Wilbur G. Clark of Sanford, Optometrist and community leader (S. P. 729)

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

Non-Concurrent Matter

Later Today Assigned

Bill "An Act to Improve the Short-term Investment Capabilities and Debt Management of the State" (H. P. 1975) (L. D. 2061) which was passed to be engrossed as amended by Committee Amendment "A" (H-1098) in the House on March 1, 1978.

Came from the Senate passed to be engrossed as amended by Committee Amendment "A" (H-1098) and Senate Amendment "A" (S-517) in non-concurrence.

In the House: On motion of Mr. Tierney of Lisbon Falls, tabled pending further consideration and later today assigned.

Non-Concurrent Matter

Bill "An Act Relating to the State Board of Social Worker Registration" (H. P. 1936) (L. D. 2016) which was passed to be engrossed as amended by Committee Amendment "A" (H-1197) and House Amendment "A" (H-1116) in the House on March 3, 1978.

Came from the Senate passed to be engrossed as amended by Committee Amendment "A" (H-1197) as amended by Senate Amendment "B" (S-520) thereto in non-concurrence.

In the House: On motion of Ms. Clark of Freeport, the House voted to recede and

concur.

Consent Calendar First Day

In accordance with House Rule 49, the following item was ordered to appear on the Consent Calendar, First Day:

(S. P. 637) (L. D. 1996) Bill "An Act Relating to the Maine State Employees Accident and Sickness or Health Insurance Plan" — Committee on Business Legislation reporting "Ought to Pass" as amended by Committee Amendment "A" (S-514)

Under suspension of rules, the Bill was given Consent Calendar Second Day notification. Pursuant to the rules, the Bill was passed to be engrossed as amended in concurrence.

Passed to be Engrossed Amended Bill

Bill "An Act to Lower the Costs of Medical Malpractice Arbitration" (Emergency) (H. P. 1964) (L. D. 2051) (C. "A" H-1020)

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

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

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

The SPEAKER: The gentleman from Orono, Mr. Devoe, moves that this Bill and all its accompanying papers be indefinitely postponed. The gentleman may proceed.

Mr. DEVOE: Mr. Speaker, Members of the House: This bill was offered prior to any arbitration having taken place anywhere in the State of Maine under the Medical Malpractice Act. I feel it would be a more sensible approach for this House to let the legislation which is presently in place have a chance to work and that we develop some experience and some knowledge of how it will work in actual practice.

As I view it, all of the three reports which have come out of our Judiciary Committee, which, by the way, was sharply divided on this issue, are attempting to address a theoretical problem rather than an actual problem. It is my recollection of the sponsor, when he came in to present the bill in the first place, he admitted that we had not had any experience under the medical malpractice act. We had no knowledge of how arbitration was going to work, and it was a theoretical suggestion on the sponsor's part, as I recall it, that the bill which he was proposing would correct what he viewed theoretically to be a problem. It may actually turn out to be as the sponsor says, but I think it would be a more prudent approach for this legislature, Mr. Speaker, to indefinitely postpone this statute, or this proposal, and let us develop some experience so that we can make a better, more informed judgment on how the bill is working in actual practice.

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

Mr. TIERNEY: Mr. Speaker, Ladies and Gentlemen of the House: I would like to thank the gentleman from Orono, Mr. Devoe, for moving indefinite postponement of my bill. I think it was a particularly charitable act to inflict on the Majority Leader on this nice afternoon.

This is not really a partisan bill. It is a relatively minor bill, and I would like to note that although the committee report was divided three ways, all members of the Judiciary Committee, including the good gentleman from Orono, Mr. Devoe, voted "ought to pass." There were three "ought to pass" reports on the bill, and Mr. Devoe felt that we had to do something in the area, presumably, because he did not sign an "ought not to pass" report committee, and he sat very ably in his seat this morning and allowed the Report A to be adopted.

I would hope we would not overturn the unan-

animous decision of the Judiciary Committee to have this entire bill indefinitely postponed at this time. All we are trying to do is lower the cost of medical malpractice arbitration. I don't think medical malpractice arbitration will ever be used if we leave it the way it is now because it is so expensive. This bill, among other things, allows arbitration to take place in a district court room, so it doesn't cost the parties any money. It allows the use of some of the equipment which is currently on hand in district courts, which is tape recorders and the like, so it could save money for the various parties. I think the good gentleman's motion is entirely coming at the wrong time. I hope we do not move to indefinitely postpone this bill and I hope that we can engross it this afternoon.

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

A vote of the House was taken.

Whereupon, Mrs. Sewall of Newcastle 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 oppose 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 Auburn, Mr. Hughes.

Mr. HUGHES: Mr. Speaker and Members of the House: I do also join with the gentleman from Lisbon Falls, Mr. Tierney. The majority of the committee feels strongly that this report is the best one, but it is correct to point out that everyone on the committee favors at least some version of this bill and we ought not to let it die at this point. The whole goal of our medical malpractice bill which we passed last year was to lower the cost of processing those claims, the legal fees and all that kind of thing, and we, in this body, supported that medical malpractice bill heavily in order to do that. But there are a number of claims that are very small in nature, and the kind of claim which is best served by one arbitrator rather than three, and that is the basic thrust of this bill, really.

The compromise which is supported by the majority of the Committee on Judiciary is to allow one arbitrator rather than a panel of three in small cases, up to \$30,000, and I simply urge you to pass that eventually, but at this point, at least oppose the motion to indefinitely postpone the entire bill.

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

Mr. TARBELL: Mr. Speaker and Members of the House: I support the motion by the gentleman from Orono, Representative Devoe, for the indefinite postponement of this bill. The Judiciary Committee, in the eyes and judgment of this legislative body, has been wrong before, and it can be wrong again. We don't have any experience with the bill. We have no experience with arbitration. One of the fears is, if we complicate the bill even more than it is at this point in time, after passing it last year, that those in the medical profession, be they physicians or hospitals, will not even go and adopt the arbitration route. If the arbitration route is not adopted, then the whole underlying rationale to save costs will not even be met, the bill will not even be used.

I hope that we move to indefinitely postpone to that we can rely on acquiring some experience with this particular bill as it now stands on the statute books.

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

Mr. JOYCE: Mr. Speaker, Ladies and Gentlemen of the House: As a member of the Judiciary Committee, I am opposed to indefinite

postponement of this bill. We wrestled with it for many hours.

This bill would kind of simplify things. It wouldn't make these high paid lawyers turn everything into a federal case before we decide it. When I say a federal case, in law enforcement it was a popular term. You know, you get some small, little thing that can be handled talking between two people and a lot of people like to blow it way out of proportion and then nobody can handle it. All this bill does is say, if it is a small case, let's sit down with one arbitrator, and it makes it a very simplified process. I don't want anybody in the House trying to confuse you, because it makes it a simple thing.

As I say, I am opposed to this indefinite postponement.

The SPEAKER: The Chair recognizes the gentlewoman from Newcastle, Mrs. Sewall.

Mrs. SEWALL: Mr. Speaker, Men and Women of the House: I favor the indefinite postponement today because I think we are fighting a battle we have no experience with. We don't know what we are fighting. Nothing has happened with medical malpractice so far.

When Representative Tierney presented the bill, it seemed like a good idea. This would, it seemed, save money, because as it is now, you have three arbitrators unless both parties agreed to have one arbitrator. So the one arbitrator option is open, but only if you agree. If you wanted three arbitrators, if there was a disagreement, you got three. With this, if there is a disagreement, you would have one. It seemed like a money-saving device to start with, but then we found out that in a medical malpractice situation, which is quite different than a labor negotiation, which is maybe what Mr. Tierney was more familiar with, instead of arguing over the meaning of a word or something, you are arguing over pain and suffering. You are not arguing over whether or not a sponge was left inside you, that is pretty much fact. Any arbitrator is going to have an easy time with that, but you are arguing over pain and suffering, and the money, in fact, isn't so much spent with the arbitration, and I believe there is a clause in there which allows the arbitrator to charge a lesser fee is they want to anyway, but the money comes in the findings. You are paying the lawyers before you go to the arbitrators, in the findings and the pretrials, so actually I can't see that this bill is needed, at least until we have some experience in it, and I would move the indefinite postponement today.

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

Mr. SPENCER: Mr. Speaker, Ladies and Gentlemen of the House: I rise to oppose the motion of indefinite postponement. I think that the bill as drafted has the potential to reduce the costs for a person who has a small malpractice claim. In actual practice, if you have an arbitrator appointed by each side and then a neutral, the neutral always makes the decisions, and in the small cases, I think we ought to allow the option of not having three people being paid to participate in that decision-making process. The doctor and the patient can present their arguments to the arbitrator during the hearing and then the arbitrator can make the decision. I don't see any need to have two more people sitting there on the panel when ultimately the neutral will be the one who makes the decision.

The SPEAKER: The Chair recognizes the gentlewoman from Newcastle, Mrs. Sewall.

Mrs. SEWALL: Mr. Speaker, we have that option now. If both parties agree on one arbitrator, it is one arbitrator.

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

The Chair recognizes the gentleman from

Orono, Mr. Devoe.

Mr. DEVOE: Mr. Speaker, I request permission to pair my vote with Mr. LaPlante. If he were here, he would be voting in favor of the bill and therefore against the motion to indefinitely postponed, and I would be voting in favor of the motion to indefinitely postpone.

ROLL CALL

YEA — Alopous, Austin, Bagley, Birt, Blodgett, Boudreau, P.; Bunker, Churchill, Connors, Cunningham, Dexter, Drinkwater, Dudley, Durgin, Fenlason, Garsoe, Gill, Gillis, Gould, Gray, Higgins, Huber, Hunter, Hutchings, Jackson, Kane, Lewis, Littlefield, Lunt, Mackel, Masterman, Masterton, McBreairty, McPherson, Morton, Peltier, Perkins, Peterson, Sewall, Shute, Silsby, Smith, Sprowl, Stover, Tarbell, Tarr, Teague, Torrey, Twitshell, Whittmore.

NAY — Bachrach, Bennett, Benoit, Biron, Boudreau, A.; Brenerman, Brown, K. C.; Burns, Bustin, Carey, Carrier, Carroll, Carter, D.; Clark, Connolly, Cote, Cox, Curran, Davies, Diamond, Dow, Dutremble, Elias, Flanagan, Fowle, Goodwin, K.; Greenlaw, Hall, Henderson, Hickey, Hobbins, Howe, Hughes, Joyce, Kany, Kelleher, Kerry, Kilcoyne, Laffin, Locke, Lougee, Lynch, MacEachern, Mahany, Martin, A.; McHenry, McKean, Mitchell, Moody, Nadeau, Najarian, Nelson, M.; Nelson, N.; Paul, Peakes, Pearson, Plourde, Prescott, Quinn, Raymond, Rideout, Rollins, Spencer, Tierney, Tozier, Trafton, Truman, Valentine, Violette, Wilfong, Wood, Wyman, the Speaker.

ABSENT — Ault, Beaulieu, Berry, Berube, Brown, K. L.; Carter, F.; Chonko, Goodwin, H.; green, Immonen, Jacques, Jalbert, Jensen, Lizotte, Marshall, Maxwell, Mills, Norris, Palmer, Post, Strout, Stubbs, Talbot, Theriault, Tyndale.

PAIRED — Devoe, LaPlante.

Yes, 50; No, 73; Absent, 26; Paired, 2.

The SPEAKER: Fifty having voted in the affirmative and seventy-three in the negative, with twenty six being absent and two paired, the motion does prevail.

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

Finally Passed Emergency Measure

RESOLVE for Laying of the County Taxes and Authorizing Expenditures of Washington County for the Year 1978 (H. P. 2156) (L. D. 2168)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure and a two-thirds vote of all the members elected to the House being necessary, a total was taken. 118 voted in favor of same and none against, and accordingly the Resolve was finally passed, signed by the Speaker and sent to the Senate.

Passed to be Enacted

"An Act to Clarify County Law Enforcement" (S. P. 671) (L. D. 2075) (S. "A" S-502 to C. "A" S-493; S. "A" S-508)

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.

The Chair laid before the House the following matter:

House Divided Report — Majority (9) "Ought to Pass" in New Draft under new title, Bill "An Act to Empower the Oil Burner Men's Licensing Board to Inspect and Approve Coal and Wood Fuel Central Heating Equipment" (H. P. 2184) (L. D. 2176) — Minority (3) "Ought Not to Pass" — Committee on Energy, which was tabled earlier in the day and later today assigned pending the motion of Mr. Davies or Orono to accept the Majority Report.

The SPEAKER: The Chair recognizes the

gentlewoman from Bridgton, Mrs. Tarr.

Mrs. TARR: Mr. Speaker, Men and Woman of the House: I have a lot of questions on this bill. I have talked with both Mr. Howe of Portland and Representative Huber, and I still have some questions on this bill. I think it might be helpful to the members of the House if we have some explanation.

I am concerned mainly on Page 2 of the document, "Approval Process: No oil burning equipment or coal or wood central heating equipment shall be sold or offered for sale in this state unless the equipment is approved by the Oil Burner Men's Licensing Board, devices listed for a specific purpose by the Underwriters Laboratories or any other national recognized testing facility may be considered as meeting the requirements for the standards of the board; all other equipment shall be submitted to the board for review; the board may require the equipment to be tested by the Southern Maine Vocational-Technical Institute."

I am concerned that even though the State of Maine has a stamp of approval on this for the State of Maine, other states are bringing equipment into SMVTI for approval and are being sold in other states.

As I understand it, then the Oil Burner Licensing Board would have a stamp of approval, yes, this is safe; yes, this meets our requirements, going nationally as far as I can tell. I am not sure about the liability on this with the stamp of approval. There is a difference, there must be, between approval and devices that are listed for the Underwriter's Laboratory. So I would appreciate it if someone on the Energy Committee would help. I would either like to table it or indefinitely postpone it.

The SPEAKER: The gentlewoman from Bridgton, Mrs. Tarr, has posed a series of questions through the Chair to anyone who may respond if they so desire.

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

Mr. HOWE: Mr. Speaker and Members of the House: I was prepared to respond to any such questions this morning but the gentlewoman tabled it instead. I am not sure precisely what your questions are, so I will go through the same routine that I was ready to go through this morning. I hope I cover whatever questions you have.

Right now, the Oil Burner Licensing Board has the authority to require that some testing lab approve a prototype of a furnace, an oil burning furnace before it is sold in the state. It has nothing to do with inspecting installations in your home. It has to do with a manufacturer bringing one sample of the kind of thing they want to market in Maine into the testing lab, whether it is Underwriter's Laboratory out in the midwest or some other nationally recognized facility, including the energy Testing Services Laboratory at SMVTI which we created by legislation a year ago.

The Oil Burner Licensing Board also has authority to require approval of anything that is added onto such oil burning devices, and coming into the marketplace now are all sorts of alleged energy saving devices, including add-on boilers or furnaces that would be hooked up in series of an oil burning furnace but which you use wood and sometimes coal or both. The board has the authority to require that before these can be sold now, they must be approved by somebody which that board recognizes. What they cannot require approval of is a furnace or a boiler which burns just wood or just coal, or just those two things, which is not connected to an oil burning device.

We are not talking about your parlor stoves or your Jotul or anything like that but envision, if you will, somebody taking one of these stoves, rapping a copper tube around it and running their water supply or suggesting the purchase to run the water supply, which would now go to a furnace around that stove and what

is going to happen is that that copper tube, if that stove gets hot enough, is probably just going to explode because of some pretty crude engineering. This is the kind of thing that the Energy Testing Lab and other people have seen being put on a market place. They want to be sure that this type of device is well engineered and safe before it is marketed in Maine.

We tinkered with the definitions for quite some time to be sure that we were not including ordinary wood burning stoves, a radiant heater, in other words, something that has a fire box and heats the room or rooms around it by heat radiating out of that. We are not including those. We are only including more sophisticated devices that use wood or coal for fuel and designed to be hooked up to a central heating system, either forced hot air or water or steam system.

As far as the liability question, this occurred to us and we did what we felt was sufficient. We called the people who would be testing these devices and said, "Do you feel you need that kind of protection?" They said, "No, we feel we are all right now, just the same way we operate when we are inspecting fuel burning devices." That simply did not appear to be an issue. The people who might stand to lose without that protection didn't feel that it was necessary and it simply stopped right there.

I hope that answers the questions. Basically what we are trying to do is to be sure that these kinds of devices are well engineered and safe before they are sold in Maine. If the manufacturer has already gone to get UL approval and, by the way, I did check at one point whether UL listing or UL approval are the same, because I always thought they might be different, but I was told they were the same thing, that listing an approval by UL amounted to the same thing or is the same thing, just two different terms.

If the manufacturer has already had it approved somewhere else, a laboratory that the Oil Burner Licensing Board will recognize, that is all it takes. If it hasn't had that kind of testing and approval, then they want to sent it down to SMVTI to be put through the kind of testing that I have witnessed. I have been through the lab twice and several members of the Energy Committee have been down there.

By the way, the Commonwealth of Massachusetts has taken a tour through the facility we created last year and is now requiring approval by the Maine Energy Testing Lab before these devices can be sold in Massachusetts.

I hope that answers your questions.

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

Mrs. TARR: Mr. Speaker, Men and Women of the House: I talked with the fire marshal today on this and evidently Mr. Bisset had had some input into this bill. There is some doubt, really, as to whether UL approval and listing is the same thing, and listing is not the same thing as being approved. That is why you are getting the answers you are on liability. He felt that there was a legitimate concern on the liability. He wasn't sure if the Oil Burner Licensing Board put a stamp of approval on that and anything did happen where the liability would lie.

When I said I would either like to table it or indefinitely postpone it, that was so we could get some kind of opinion on the liability question, and if you would like to do that, that is fine with me.

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

Mr. HOWE: Mr. Speaker and Members of the House: Of those two options, I would much prefer the gentlewoman table it.

On motion of Mr. Torrey of Poland, tabled pending acceptance of the Majority "Ought to Pass" Report and tomorrow assigned.

The Chair laid before the House the following matter:

Bill "An Act to Improve the Short-term In-

vestment Capabilities and Debt Management of the State" (H. P. 1975) (L. D. 2061) which was tabled earlier in the day and later today assigned pending further consideration.

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

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

On further motion of the same gentleman, tabled pending his motion to recede and concur and tomorrow assigned.

On motion of Mrs. Tarr of Bridgton,
Adjourned until nine thirty tomorrow morning.