

# MAINE STATE LEGISLATURE

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**LEGISLATIVE RECORD**

OF THE

***One Hundred and Eighth  
Legislature***

OF THE

STATE OF MAINE

**1978**

**Second Regular Session**

January 4, 1978 — April 6, 1978

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**Senate Confirmation Session**

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September 6, 1978 — September 15, 1978

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APPENDIX

## HOUSE

Wednesday, March 8, 1978

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

Prayer by Father William A. Bartoul of St. Joseph's Maronite Church, Waterville.

Father William A. Bartoul of St. Joseph's Maronite Church, Waterville.

Father BARTOUL: Let us pray. Hear me, O Lord, as I pray with this assembly, the gathering developed minds and Thou talents and those wise through experience. Strengthen and guide this fellowship who have won the confidence of their peers and the support of their neighbors. Help each person here present to carry their heads high under the weight of their responsibility, the responsibility of insuring justice and honesty according to their laws of country, state, conscience and God.

Heavenly Father, the membership of this House of Representatives carries a history of dedicated persons utilizing the law to serve man, not to enslave him, a history of persons dedicated to hearing the voices of the people from their homes and guaranteeing them the action that comes from words and thoughts, deliberation, fairness and truth, because a Representative must live in the very surroundings that he guards. Enlighten their minds, O Father, to the temptation that will come upon them most abundantly, for wherever the power and authority of persons is strong, so too will be the temptations to misuse and abuse that power and authority. Whenever man is given great tools to work with, he is always threatened by the ever present opportunity to work selfishly and to use in a corrupt way that which was entrusted to him.

Finally, O Lord, through the many hours and days to come of diligent work, enlighten the very souls of the men and women gathered here that they may seek the truth in a spirit of service, for when the legislators compromise on what is good, it is then that they sacrifice the very grounds for their election in the abandonment of the faith of the people whom they serve.

To be a Representative is an honorable position, but honorable only because it is an office of service. The greater the effect of their service, the greater will be their office. So guide these Representatives, O Lord, and grant them Your light, wisdom and strength to love and to serve You and their neighbor. This we ask, O Father. Amen.

The journal of yesterday was read and approved.

#### Petitions, Bills and Resolves Requiring Reference

The following Bill was received and, upon recommendation of the majority of the Committee on Reference of Bills, was referred to the following Committee:

#### Appropriations and Financial Affairs

Bill "An Act to Provide Compensation and Benefits Agreed to by the State and the Maine State Troopers Association (Emergency) (H. P. 2200) (Presented by Ms. Goodwin of Bath) (Cosponsor: Mr. Morton of Farmington) (Approved for introduction by a Majority of the Legislative Council pursuant to Joint Rule 25) (Ordered Printed)

Sent up for concurrence.

By unanimous consent, ordered sent forthwith to the Senate.

#### Orders

An Expression of Legislative Sentiment (H. P. 2192) recognizing that: Ellen Berry of Brownville, a flutist in the Penquis Valley High School Band, has been chosen for the United States Collegiate Wind Band, a highly selective musical organization which will make a concert tour of seven European countries during July and August of 1978

Presented by Mr. Masterman of Milo (Cosponsor: Senator Pray of Penobscot).

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

An Expression of Legislative Sentiment (H. P. 2191) recognizing that: Vera Billings of Deer Isle, who has served as Treasurer and Tax Collector for twenty-four years, is retiring

Presented by Mr. Greenlaw of Stonington.  
The Order was read and passed and sent up for concurrence.

An Expression of Legislative Sentiment (H. P. 2193) recognizing that: the Oak Grove-Coburn Tigers have won the State Class D Boys' Basketball Championship for the academic year 1978

Presented by Mrs. Mitchell of Vassalboro. (Cosponsor: Senator Katz of Kennebec)  
The Order was read and passed and sent up for concurrence.

An Expression of Legislative Sentiment (H. P. 2194) recognizing that: James Silvia, Jr., an American Artist, has been recognized for his devotion to Black Identity and his efforts to achieve cultural awareness

Presented by Mr. Talbot of Portland.  
The Order was read and passed and sent up for concurrence.

An Expression of Legislative Sentiment (H. P. 2196) recognizing that: the 42nd Bombardment Wing of Loring Air Force Base, Maine, has been named the most outstanding Wing within the entire Strategic Air Command

Presented by Mr. McKean of Limestone.  
The Order was read and passed and sent up for concurrence.

An Expression of Legislative Sentiment (H. P. 2197) recognizing that: Donald V. Vereault of Old Town has attained the rank and distinction of Eagle Scout in the Boy Scouts of America

Presented by Mr. Pearson of Old Town.  
The Order was read and passed and sent up for concurrence.

An Expression of Legislative Sentiment (H. P. 2198) recognizing that: the following graduating seniors are the top ten senior students at Edward Little High School in Auburn: Thomas R. Berube, Lisa Sizeland, Mark Albert Doyon, Catherine Pissath, Jody Lynn Harris, Sebastian Theodore Ventrone, Jane Ann Farrell, Monique Marie Bergeron, Patricia Ann Bell, and Paul Dana Ervin

Presented by Mrs. Trafton of Auburn. (Cosponsors: Mr. Hughes of Auburn, Mr. Green of Auburn).

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

On motion of Mr. Diamond of Windham, the following Joint Resolution: (H. P. 2199)

Joint Resolution Urging the Maine Department of Human Services to Request that a Federal Pilot Program Providing Jobs to Food Stamp Recipients be Established in Maine

WHEREAS, Congress, in the 1977 Food Stamp Act, has authorized a federal pilot project to provide part-time CETA jobs to enable eligible people to pay for food stamps; and

WHEREAS, Congress has directed the U.S. Department of Agriculture to implement two of these pilot projects in New England; and

WHEREAS, the pilot project would permit healthy unemployed persons, whose income is less than the amount they must pay for food stamps, to obtain temporary employment long enough to earn the amount of money required for them to pay for their allotment of food stamps; and

WHEREAS, implementation of such a pilot program in Maine is greatly needed to help the State meet its problem with unemployed recip-

ients of public assistance while enabling those recipients to earn the money necessary to purchase food stamps without giving up their pride; now, therefore, be it

RESOLVED: That we, the Members of the 108th Legislature, in the Second Regular Session now assembled, respectfully request and urge that the Maine Department of Human Services petition the U.S. Department of Agriculture to have Maine designated as a site for a pilot program providing CETA jobs to eligible individuals to assist them in paying for food stamps; and be it further

RESOLVED: That, upon passage in concurrence, a suitable copy of this resolution be prepared by the Clerk of the House for transmission to David Smith, Commissioner of Human Services.

The Resolution was read.

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

Mr. DIAMOND: Mr. Speaker, Ladies and Gentlemen of the House: Just to give you a little background quickly, the U.S. Congress has directed the USDA, the Department of Agriculture, to implement two work projects in seven geographic regions throughout the United States and our region of New England. There will be two pilot projects implemented in New England.

Under this pilot project, anyone who has been registered for employment for more than 30 days, is healthy, has no dependents at home either ill or small that requires this person's supervision, and the income earned is less than the amount of food stamps they are receiving, they would then qualify for this pilot project if it were in the State of Maine, or anywhere as far as that goes. If they qualify as a person or persons under this pilot project, the employment shall not exceed 40 hours a week, regardless. The regular employees could not be laid off to provide jobs or openings for these people, and the job openings could not replace previous CETA jobs. These jobs would be sponsored under the CETA program.

All in all, again, there will be two pilot projects done or implemented in New England. This resolution is asking that the Human Services Department, which has been rather lethargic, with me at least, when I have been trying to contact them, I have called them about five times, to have them implement this or seek out aggressively to have this pilot program brought to the State of Maine. This has not happened. They seem to be of the opinion that you would cause a lot of 'administrivia' and, indeed, it would provide a lot of red tape. I realize this because it is a first-time project. I still think, because we have a federal food stamp program of \$5.6 billion in this country, this kind of an exploratory investigation by the State of Maine, having it come to Maine, would indeed help us.

These programs, if they came to Maine, again, if Maine was a sponsor, a town in Maine could then also be a sponsor. If your town or my town did become a sponsor of this program, we would then have the assistance dollarwise and manpowerwise to implement this kind of program to see how it goes, see how it works. It is going to be tried anyway, and I think if we could have it come to the State of Maine, one of our towns in the State of Maine could receive this service and we could indeed see first hand whether or not this kind of program is good for our people.

I have further information, but I will not go through all the details now. If you have any questions, I would be more than happy to explain to you in depth.

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

Mr. GARSOE: Mr. Speaker and Members of the House: Speaking as one individual, I thank the gentleman for his explanation, but if this program is designed to affect healthy, single, unencumbered persons to provide government-

tal jobs on top of every program we have here in the state, we now have CETA, the top employer in the State of Maine, I want a chance to vote no on this and I request a division.

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

Mr. DIAMOND: Mr. Speaker, Men and Women of the House: I never mentioned the word 'single.' All I mentioned was 'healthy, having no people at home that required this person's supervision.' Also, this person would not be working more than 40 hours a week.

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

Mrs. NELSON: Mr. Speaker, Men and Women of the House: I stand to speak in favor of this resolution. Welfare, I thought, used to be for the most helpless, the most unfortunate of our society, perhaps a severely disabled person, an unemployed widow with children.

The definition of eligibility recipients has broadened enormously. Now circumstances can occur whereby seemingly able bodied people become eligible for our welfare programs. Given the cost of welfare and the limited resources of our government, surely it does not seem unreasonable to expect those persons who are physically able to contribute to the economy or the economic strength of the system by working where it is appropriate. It is not in the best interest of our nation to encourage the best in people. It is in the best interest of our nation to encourage the best in people, not the worst. And was not America founded on the work ethic? I believe, as I am sure many of you do, that there is no more free lunch.

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

Mr. CONNOLLY: Mr. Speaker and Members of the House: For once, one of the very few times in the legislature, I find myself in agreement with the gentleman from Cumberland, Mr. Garsoe.

I would move for the indefinite postponement of this particular order, and I would pose a few questions. It seems to me that this is a make-work kind of order if this particular program comes to Maine.

I have three questions I would like to pose to the sponsor. Who is going to create the jobs and what kind of jobs are they going to be? Are the people who perform these kinds of jobs going to be paid for the work and will they receive at least the minimum wage? Who is going to decide who is going to do the work? Is it going to be the local community, the local welfare director or is it going to be the state? In anticipation of the answers to those questions, I would hope that you would support the motion of indefinite postponement.

The SPEAKER: The pending question is on the motion of the gentleman from Portland, Mr. Connolly, that the Resolution be indefinitely postponed. All those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

27 having voted in the affirmative and 76 having voted in the negative, the motion did not prevail.

Mr. Diamond of Windham requested a roll call vote on passage.

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 Portland, Mr. Connolly.

Mr. CONNOLLY: Mr. Speaker and Members of the House: I did pose a question, and the most significant question that I posed was, will the people who are required to work under this proposal be paid for the work that they do and will they receive at least the minimum wage as

compensation for that work?

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

Mr. DIAMOND: Mr. Speaker and Members of the House: They will, indeed, receive at least the minimum wage. To answer the first question, they will be paid, but what they receive will be in food stamps and not in dollars. For example, if they are receiving \$100 worth of food stamps and are paying \$60 for those, they will have to work the amount of hours equivalent to \$40. You are paid the difference. What they receive then is the food stamps and not the dollars.

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

Mr. DEXTER: Mr. Speaker, Men and Women of the House: I rise to support this resolution, although realizing I am opposing one of my leaders, but I have done that before. Having been just elected to the board in Kingfield, my town is interested, I can assure you.

One gentleman said something about make-work programs. What is CETA? What are all these programs that we have been having?

I wish to go on record as supporting this resolution.

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

Mr. RAYMOND: Mr. Speaker, Ladies and Gentlemen of the House: I will also vote to indefinitely postpone this order. Can you imagine some of our retired citizens at the age of 67 and 67 getting food stamps and obliging these people to go find a job? What would they be doing? Where would you find a job? We have got about 8 percent unemployment in this state already.

It is all right to talk about CETA programs, talk about 20 and 30 year olds that can work, but I don't think our retirees at 65 and 67 getting food stamps should be forced to go to work in order to supplement their income.

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

Mr. BOUDREAU: Mr. Speaker, Ladies and Gentlemen of the House: Up until now, I am pretty confused about this order. If I recall, we talked last session about unemployment and about food stamps and about what was suitable work and what should they work and when should they work and what kind of work should they do. I would just simply ask, the criteria in this order for healthy, unemployed persons, I think we talked about that in the last session, people who could work and who couldn't, and I was just wondering what the criteria are going to be to put these people to work in terms of what is suitable work going to be and who is going to make decisions as to whether or not they are healthy enough to do that type of work and that type of stuff.

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

Mr. GARSOE: Mr. Speaker, Ladies and Gentlemen of the House: My opposition to this comes from the fact put so well by the gentlelady from Portland, Mrs. Nelson, that this is an extension, this is a weening away from the private sector of healthy, unencumbered people, and I just want a chance to vote yes on the motion for indefinite postponement. I would ask you to consider this as you vote, whether or not there is going to be a limit ever to the welfare programs or the make-work programs, governmental employment, as compared to private sector employment. I can assure you, you will be on good ground in voting with me, because we are going to be flying before you not too long from now a proposal that will be an incentive for the private sector to put people to work in our tax plan that is coming in shortly. I think this is the sensible and reasonable and long lasting way that we should attack the problem of unemployment, not by continually expanding and continually enlarging the category of people that are going to be put to work at, I insist, make-work governmental jobs.

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

Mr. DIAMOND: Mr. Speaker, Members of the House: Contraire, Mr. Garsoe, that is not the case at all. What is happening is, if you have people in your town and your town is a sponsor, it will not bump anybody else out of a job and these people could, indeed, work in town halls, school buildings, town offices, anywhere there might be need for some help, that is all we are doing. We are not taking people away from your town, we are not doing that at all. We are simply saying that those folks in town who could contribute to that town, so be it; let's do it; let's get on with it.

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

Mr. BOUDREAU: Mr. Speaker, Ladies and Gentlemen of the House: I guess I am going to have to support the gentleman from Windham this morning. It seems to me that in the past we have had some problems of taking people out of the private sector and putting them to work, as we saw in the last session. So if we can find jobs for people and help them pay for their food stamps, I guess that is better than nothing.

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

Mr. HALL: Mr. Speaker, Ladies and Gentlemen of the House: I have always been in favor of no work-no eat; no eat — no work, or whatever you want to say. So I am in favor of this this morning, because I think it is one thing to find a job for the people, then put it to the test. If they don't want to work, then don't give them any food stamps.

The SPEAKER: The pending question is on adoption of the Joint Resolution. A roll call has been ordered. Those in favor will vote yes; those opposed will vote no.

#### ROLL CALL

YEA — Ault, Bennett, Benoit, Berry, Berube, Birt, Blodgett, Boudreau, A.; Boudreau, P.; Brown, K. C.; Burns, Carey, Carrier, Carroll, Churchill, Clark, Cote, Cox, Curran, Davies, Dexter, Diamond, Dow, Durgin, Dutremble, Elias, Flanagan, Fowlie, Gill, Gillis, Goodwin, K.; Gray, Green, Greenlaw, Hall, Hickey, Higgins, Hobbins, Hughes, Hutchings, Jackson, Jacques, Jensen, Joyce, Kilcoyne, Laffin, LaPlante, Littlefield, Lizotte, Locke, Lynch, MacEachern, Mahany, Marshall, Martin, A.; Maxwell, McHenry, McKean, McMahon, McPherson, Mitchell, Morton, Nadeau, Nelson, M.; Nelson, N.; Norris, Paul, Pearson, Perkins, Peterson, Plourde, Prescott, Quinn, Rideout, Rollins, Silsby, Spencer, Stover, Strout, Teague, Tierney, Trafton, Truman, Twitchell, Valentine, Violette, Whittemore, Wilfong, Wood, Wyman.

NAY — Aloupis, Austin, Bachrach, Bagley, Brown, K. L.; Bunker, Carter, F.; Conners, Connolly, Cunningham, Devoe, Drinkwater, Fenlason, Garsoe, Gould, Huber, Hunter, Immonen, Kane, Kelleher, Lewis, Lougee, Lunt, Mackel, Masterman, Masterton, McBreairty, Palmer, Peltier, Raymond, Sewall, Shute, Smith, Sprowl, Talbot, Tarbell, Tarr, Torrey, Tozier.

ABSENT — Beaulieu, Biron, Bustin, Chonko, Dudley, Goodwin, H.; Henderson, Howe, Jalbert, Kany, Kerry, Mills, Moody, Najarian, Peakes, Post, Stubbs, Theriault, Tyndale.

Yes, 91; No, 39; Absent, 20.

The SPEAKER: Ninety-one having voted in the affirmative and thirty-nine in the negative, with twenty being absent, the Resolution is adopted.

Sent up for concurrence.

#### Ought to Pass in New Draft

Mrs. Boudreau from the Committee on Business Legislation on Bill "An Act Relating to the Installation of Sprinkler Systems in all New and Existing Hotels" (H. P. 1995) (L. D. 2066) reporting "Ought to Pass" in New Draft under New Title Bill "An Act Relating to the Installa-

tion of Smoke and Heat Detection Systems in Certain Hotels" (H. P. 2195) (L. D. 2178)

Report was read and accepted, the New Draft read once and assigned for second reading later in the day.

#### Consent Calendar First Day

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

(H. P. 1908) (L. D. 1969) Bill "An Act to Facilitate Central Licensing and Concerning Membership on the Maine Athletic Commission" (Emergency) — Committee on Business Legislation reporting "Ought to Pass" as amended by Committee Amendment "A" (H-1128)

No objections having been noted, the House Paper was ordered to appear on the Consent Calendar, under listing of Second Day, later in the day.

#### Orders of the Day

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

House Report — "Leave to Withdraw" — 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)  
Tabled — March 7, 1978 by Mr. Tierney of Lisbon Falls.

Pending — Acceptance of the "Leave to Withdraw" Report.

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

Mr. TIERNEY: Mr. Speaker, I move this item lie on the table unassigned.

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

Mr. GARSOE: Mr. Speaker, I would request a division.

The SPEAKER: The pending question before the House is on the motion of the gentleman from Lisbon Falls, Mr. Tierney, that this item lie on the table unassigned. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

67 having voted in the affirmative and 33 in the negative, the motion did prevail.

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

"An Act to Encourage Early Resolution of Discrimination Complaints and to Clarify the Subpoena Power of the Maine Human Rights Commission" (S. P. 703) (L. D. 2150) (S. "A" S-478)

Tabled — March 7, 1978 by Mr. Palmer of Nobleboro.

Pending — Passage to be Enacted.

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

Mr. TALBOT: Mr. Speaker, I move that this lie on the table until later in today's session.

The SPEAKER: The Chair recognizes the gentlewoman from Lewiston, Mrs. Berube.

Mrs. BERUBE: Mr. Speaker, I would request a division.

The SPEAKER: The pending question before the House is on the motion of the gentleman from Portland, Mr. Talbot, that this item be tabled until later in today's session pending passage to be enacted. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

Whereupon, Mr. Talbot of Portland requested a roll call vote.

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

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

The SPEAKER: The pending question before the House is on the motion of the gentleman from Portland, Mr. Talbot, that this item be tabled until later in today's session pending passage to be enacted. Those in favor will vote yes; those opposed will vote no.

#### ROLL CALL

YEA — Alopous, Bachrach, Bagley, Bennett, Benoit, Berry, Blodgett, Boudreau, A.; Brenerman, Burns, Bustin, Carroll, Carter, D.; Chonko, Clark, Connolly, Cox, Curran, Davies, Diamond, Dow, Durgin, Dutremble, Elias, Fowlie, Goodwin, K.; Gray, Hickey, Hobbins, Howe, Huber, Jensen, Kany, Kilcoyne, Laffin, Locke, MacEachern, Marshall, Maxwell, McHenry, Mitchell, Nadeau, Nelson, M.; Norris, Peltier, Plourde, Post, Prescott, Rideout, Spencer, Talbot, Tarbell, Tarr, Tozier, Valentine, Violette, Wilfong, Wood, Wyman.

NAY — Ault, Austin, Berube, Birt, Boudreau, P.; Brown, K. L.; Brown, K. C.; Bunker, Carey, Carrier, Carter, F.; Churchill, Connors, Cote, Cunningham, Dexter, Drinkwater, Fenlason, Flanagan, Garsoe, Gill, Gillis, Gould, Green, Greenlaw, Hall, Higgins, Hughes, Hunter, Hutchings, Immonen, Jackson, Jacques, Joyce, Kane, Kelleher, LaPlante, Lewis, Littlefield, Lizotte, Lougee, Lunt, Lynch, Mackel, Mahany, Martin, A.; Masterman, Masterton, McBreairty, McKean, McMahon, McPherson, Morton, Nelson, N.; Palmer, Paul, Pearson, Perkins, Peterson, Quinn, Raymond, Rollins, Sewall, Shute, Silsby, Smith, Sprowl, Stover, Strout, Teague, Tierney, Torrey, Trafton, Truman, Twitchell, Whittemore.

ABSENT — Beaulieu, Biron, Devoe, Dudley, Goodwin, H.; Henderson, Jalbert, Kerry, Mills, Moody, Najarian, Peakes, Stubbs, Theriault, Tyndale.

Yes, 59; No, 76; Absent, 15.

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

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

Mr. TALBOT: Mr. Speaker, Ladies and Gentlemen of the House: I would request a roll call on passage to be enacted.

I asked awhile ago that this be tabled until later in today's session for a reason. I thought, and I may have been wrong, that the House would be courteous enough to allow me to do that.

I have some pertinent information on this particular bill which I have been trying to get for the last couple of days. We have spent a lot of time on this bill. It is an important piece of legislation, and I asked for the common courtesy to have it tabled until later in today's session so I would have that information. I sent a note to the chairman of the committee, Representative Berube from Lewiston, and she politely told me no. Just last Monday when her colleague, Mr. Raymond, came to me and asked me, because the bill was in trouble, would I table it for her sake I said I certainly would. Anything she wanted, I certainly would do, because that also was a common courtesy. I didn't fight the tabling motion yesterday that Mr. Garsoe made on this particular piece of legislation, because I thought that was a courtesy also. I sent another note to my leader down here in the corner, and he said he would side with the chairman of that particular committee, Mrs. Berube.

I have some pertinent information on this particular piece of legislation and I am at the finish line. This is the finish line for me and the Human Rights Commission, as far as I am concerned. So I would ask for a roll call and that is all I can do at this point.

I believe what I am doing is for the benefit of the people of this state and the Human Rights Commission and I am trying to prove that point. I am at the finish line, and if you don't let me do that, that is an injustice in itself, but you

don't have to, you hold the upper hand, as I said yesterday.

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

Mr. KELLEHER: Mr. Speaker, Ladies and Gentlemen of the House: I was the member of this House yesterday that reconsidered this bill so we could discuss it yesterday morning for Mr. Talbot, and after lengthy discussion, the good gentleman from Cumberland, Mr. Garsoe, for one reason or another, thought perhaps we should table it because the House chairman wasn't present. I really didn't vote to table it, because I didn't think it was that necessary that the House chairman had to be here, considering the fact that other members of the committee, I believe, could speak as well for the committee or, for that matter, any member could speak for the committee as any of us chairmen.

I guess my question to you, Mr. Talbot, is this. If you have some pertinent information regarding this bill, perhaps the wisdom that you possess might enlighten all of us to the fact that we might further consider it. Just what information have you got coming that is so dramatic that it might sway the position of this House dealing with this issue? I think it is important that you level with us this morning and tell us exactly what type of information you are waiting for us to hear.

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

Mr. TALBOT: Mr. Speaker, Ladies and Gentlemen of the House: With my great wisdom, I will try to do that. The information that I have coming is coming from the Attorney General's Office and will enlighten you insofar as how many agencies in state government do have subpoena powers, what the status of those subpoena powers are and what is going to be the outcome of the administrative procedures act, that kind of information, information that will enlighten you insofar as the comparison between the duties and the powers of the Human Rights Commission and the fact of what they have now for powers and what this legislature has taken away from them and what status the Human Rights Commission is at now insofar as their diluted powers are concerned. That is the kind of information that I have.

I don't think that by waiting until later in today's session that is really going to upset anybody, because in another hour or so, we are going to be walking around the halls for three hours. You know, I don't think that is asking for too much. I think I would be asking too much if I said table it for another day. I realize that we have spent some time on this bill, but that is what we are here for, to send out legislation that is going to benefit the people of the State of Maine, not hinder the people of the State of Maine. That is the kind of information that I have, that is the kind of information that I would like to present you with.

Mr. Speaker, not that I am a parliamentarian, but would it be in order to reconsider the tabling motion?

The SPEAKER: It would not be in order to reconsider a tabling motion but a tabling motion can be made because intervening debate has, in fact, taken place, but the gentleman from Portland, Mr. Talbot is not in the position to make that motion, since he already has been debating and obviously has been the intervening action.

Mr. TALBOT: Mr. Speaker, what I am trying to do is just get it tabled until later in today's session.

The SPEAKER: The Chair would advise the gentleman from Portland that he is not in a position to do that.

The Chair recognizes the gentlewoman from Lewiston, Mrs. Berube.

Mrs. BERUBE: Mr. Speaker, is it possible to debate this right now? It is not the tabling motion that is before us, right?

The SPEAKER: The Chair would answer in

the affirmative. The gentlewoman may continue the debate if she so desires.

Mrs. BERUBE: Mr. Speaker, Members of the House: I am sorry that Mr. Talbot feels that he was not given the courtesy of tabling this until later in today's session.

I feel that this issue has been before us for quite some time. The committee had a very good hearing on this. I would like to remind him — you know, I am a very poor card player. In fact, nobody invites me to play bridge because I have never mastered the art of finesing. I can't play cards and, you know, I had a very good hand the other day, I think, when we voted against the indefinite postponement of Senate Amendment "A". We had a vote of 70 to 55 and, at that point, I would think that I had a heck of a good set of cards in my hands, but at his request, I moved that it be tabled. There was no reason to table it and we did table it. We debated it again another day and we enacted it by a vote of 82 to 43.

Two days ago, Monday afternoon, I had to leave and it was the first time I have ever left because of personal reasons. I wasn't feeling well, but at that moment, they enacted it and it was immediately held. I was not notified, and yesterday a lot happened too, so I feel that today it is not right that we not delay this thing any further. We have debated it, we know what the issues are and, Mr. Speaker, may I just briefly touch on some of the remarks that Mr. Talbot made on the bill.

He said that we are diluting and taking away powers from the Human Rights Commission. This bill does not do that at all. They continue to retain subpoena powers. All the bill says is that they will do like the others and go to court and have the superior court judge sign the paper. If, indeed, the accusation or the complaint is based on fact, there will be no problem.

As far as diluting, I think we have strengthened the Human Rights Commission from the time of its inception in 1971. When we voted for it originally, under the complaint section, 4611, it said, for example, "Any person who has been subject to unlawful discrimination may seek redress," etc. In 1975, we changed this and we said, "Any person who believes he has been subject to unlawful discrimination."

As far as the procedures, we have also changed those in their favor; we changed them three times. We even changed one in the Errors Bill in 1976, that changed it a little bit that nobody knew about so that we are not taking away powers from the Human Rights Commission but merely trying to protect the general public against undue use of this power.

I hope that you will, once again, vote for this passage of this bill.

The SPEAKER: The Chair recognizes the gentleman from Biddeford, Mr. Lizotte.

Mr. LIZOTTE: Mr. Speaker, Ladies and Gentlemen of the House: I have a lot of respect for the gentleman from Portland, Mr. Talbot, but the only thing we are trying to do here is to be fair and to be fair for everyone in the State of Maine.

As you all know, in most cases, an employee brings a complaint against an employer. That employee has legal counsel, usually at no cost, but the employer has to go out and get himself an attorney. The only thing we are trying to do here this morning is to be fair to all and let a judge decide whether a subpoena should be issued or not. That is all this amendment does.

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

Mrs. KANY: Mr. Speaker, Members of the House: Originally, I had planned to get up for a tabling motion but I feel a need to respond to a couple of comments that have just recently been made. One is that Representative Berube, Chairwoman of the Performance Audit Committee, was talking about having the Human Rights Commission go to court, like the others, to get a subpoena and I assumed that "like the

others" means other agencies. I just wanted to point out to members of this House that even the Personnel Department has its own subpoena power, so there are many agencies that do and that is exactly the information that Mr. Talbot is seeking in the Attorney General's Office, just how many at the present time have the subpoena power themselves, without having to go through the Attorney General's Office.

I just wanted to point that out to you, and I hope you take that into consideration. No one, including Representative Talbot, has objected to the unanimous report of the Performance Audit Committee. I personally understand that you are trying to resolve a situation that has occurred and has been a problem to many people and that you have addressed that problem and done an excellent job. The objection is to an amendment put on by the Senate, not to the bill itself, not to your unanimous committee report, but to an amendment put on in the other body by a member of that body.

I hope that someone will table this until later in today's session and then Representative Talbot can present you with information which he is now seeking.

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

Mr. CARRIER: Mr. Speaker and Members of the House: I feel that the information about subpoenas with other bureaus is irrelevant. I do believe that there have been some abuses with this subpoena power within this particular Human 'Wrong' Commission and I think it should get straightened out. For one thing, I want to tell you that I think those of us who have opposed this bill moderately, I want you to be well aware that last Monday when this bill was enacted and with a vote of, I think it was 80 to 43 or 82 to 43, that we could have asked for reconsideration and we did not. I want you to be aware of that fact, because we did not ask for reconsideration not due to the fact that we didn't know we should, but we did think it was a fair vote and we let it go that way. I want you to know that we were aware that we could have asked for reconsideration and with that kind of vote, chances are that you would never have it and the bill would have been on its way, it would have probably been law by now.

I do hope you pass this bill for enactment. I think it is a good bill. I think it will straighten out, I hope it will, a situation which has been very displeasing to many municipalities, especially mine in Westbrook, and many school committees and many other individuals in this state. I never voted to establish the commission in the first place but it was established and I think that maybe it has done some good. I question it and I question the people that work for it. I sincerely hope that you will vote for its enactment, because this will only help to make it a better commission, if it has any good to it at all.

Mr. Dow of West Gardiner moved the bill be tabled and later today assigned and further requested a roll call vote.

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

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

The SPEAKER: The pending question is on the motion of the gentleman from West Gardiner, Mr. Dow, that this matter be tabled and later today assigned. All in favor of that motion will vote yes; those opposed will vote no.

#### ROLL CALL

YEA — Bacharch, Bagley, Bennett, Benoit, Berry, Biron, Blodgett, Boudreau, A.; Brenerman, Burns, Bustin, Carey, Carroll, Carter,

D.; Clark, Connelly, Cote, Cox, Curran, Davies, Diamond, Dow, Durgin, Dutremble, Elias, Fowle, Goodwin, K.; Gray, Greenlaw, Hall, Hickey, Hobbins, Howe, Huber, Hughes, Jensen, Kane, Kany, Kilcoyne, Laffin, LaPlante, Locke, MacEachern, Mahany, Marshall, Masterton, Maxwell, McHenry, McKean, Mitchell, Nadeau, Najarian, Nelson, M.; Norris, Paul, Pearson, Peltier, Plourde, Post, Prescott, Rideout, Spencer, Talbot, Tarbell, Tarr, Torrey, Tozier, Trafton, Truman, Twitshell, Valentine, Violette, Wilfong, Wood, Wyman.

NAY — Aloupis, Ault, Austin, Berube, Birt, Boudreau, P.; Brown, K. L.; Brown, K. C.; Bunker, Carrier, Carter, F.; Connors, Cunningham, Devoe, Dexter, Drinkwater, Fenlason, Flanagan, Garsoe, Gill, Gillis, Gould, Green, Higgins, Hunter, Hutchings, Immonen, Jackson, Jacques, Joyce, Kelleher, Lewis, Littlefield, Lizotte, Lougee, Lunt, Lynch, Mackel, Martin, A.; Masterman, McBrearty, McMahon, McPherson, Morton, Nelson, N.; Palmer, Perkins, Peterson, Quinn, Raymond, Rollins, Sewall, Shute, Silsby, Smith, Sprowl, Stover, Strout, Stubbs, Teague, Tierney, Whittemore.

ABSENT — Beaulieu, Chonko, Churchill, Dudley, Goodwin, H.; Henderson, Jalbert, Kerry, Mills, Moody, Peakes, Theriault, Tyn-dale.

Yes, 75; No, 62; Absent, 13.

The SPEAKER: Seventy-five having voted in the affirmative and sixty-two in the negative, with thirteen being absent, the motion does prevail.

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

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

The Chair laid before the House the third tabled and today assigned 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 (4) "Ought Not to Pass" 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)

Tabled — March 7, 1978 by Mr. Torrey of Poland.

Pending — Motion of Mr. Davies of Orono to accept the Majority "Ought to Pass" Report.

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

Mr. HOWE: Mr. Speaker, Ladies and Gentlemen of the House: This bill was tabled yesterday on the motion of Mrs. Tarr so that we could try to answer some of her questions with respect to the liability of persons who would test coal and wood burning central heating equipment. The committee assistant of the Energy Committee and I have consulted with a number of parties, including Carl Flink, the Director of the Maine Energy Testing Services Laboratory at SMVTI, William Kelleher, the Assistant Attorney General who advises the Oil Burner Men's Licensing Board, and we also placed a call to Underwriters Laboratory in Long Island this morning. The upshot of those conversations is, first of all, that the Maine Tort Claims Act provides immunity to state boards and agencies from the types of liability which they might otherwise incur if a product failed after they had approved it.

Second of all, the definition of approved in the present law, with respect to this board, and the same definition we continue to use says that approval shall mean acceptable to the Oil

Burner Men's Licensing Board as to designs, construction, intended use and so forth. It does not imply any guarantee as to the safety of the product.

Thirdly, the label that the Oil Burner Men's Licensing Board puts any equipment which has received this approval actually does not use the term approval. It says that the equipment meets the recommended specifications of the Oil Burner Men's Licensing Board.

With that information, I feel, and I think at this point Representative Tarr feels safe that the Oil Burner Men's Licensing Board and the testing Laboratory at SMVTI would not have to fear from a liability suit, if the product failed, that they had tested and listed.

From Underwriter's Laboratories, we learned that they used to use the term "approved" on their labels. Someone filed a law suit against them because they apparently felt that "approved" at least implied that UL was guaranteeing the safety of the product. UL now uses the term "listed."

As to the general merits of the bill, I have brought some visual aids this morning. They are perhaps not quite as dramatic as those I brought in the debate last year, but I think what I would like to do, Mr. Speaker, if this is in order, is to, rather than ask that this be tabled now in mid morning with so few items left on the calendar before us this morning, is to hope I can persuade you to accept the Majority Report and then table it until later in today's session for two reasons; one is that I would hope that some of you who have particular concerns about the need of this legislation would take a close-up look at the material I brought with me and, second of all, because I have drafted an amendment at the request of Mr. Jackson, who as a constituent was concerned about some terminology in the bill.

I will just briefly show you what I have brought. They are 8 by 10 glossies of some of the types of equipment that the SMVTI testing lab has conducted tests on and the types of faults they have found in them.

(Holding up posters) This is a combination oil and wood or coal boiler, in other words, a hot water system as opposed to a hot air system. One of the things that Mr. Flink pointed out to me is that it has a label on it saying it meets the American Society of Mechanical Engineers' Standards when, in fact, this boiler did not meet ASME standards. It is an illegal label, and when they put this boiler under pressure tests, the sides of it buckled out. This gentleman here, the technician has a straight edge up against some chalk lines he has drawn both vertically and horizontally on the boiler. You can see in the picture where the sides of this boiler have buckled out under a 30 pound pressure test, which is what this boiler is supposed to be rated at. They would find it acceptable if the steel moved 30 thousandths of an inch and in some of these pictures it appears that it has moved as much as a quarter of an inch.

These photographs show the testing of the Danish Tarn Boiler, which uses either wood or coal and is designed to be used as a straight central heating system in itself, not added onto an existing oil burning unit. This was put under a 60 pound pressure test with no heat in it and down inside here there is some kind of a metal or iron plate and I don't know just where down inside the boiler this is, but you will see that it is buckled. There is a straight edge being held up against it and it is buckled very noticeably. This unit failed the pressure test, was returned to the factory in Denmark and another prototype was received at the school three days ago. The manufacturers put in more back stays against the piece that buckled to prevent it from buckling, to make it stronger. This shows the pressure temperature gage at 60 pounds and only 70 degrees of temperature, so it shows that it was under a pressure test but not a heat test. It was the pressure alone which caused the steel to buckle.

These are photographs of a boiler manufactured in Ridgeway, Pennsylvania, which the testing lab has been testing and has continued to fail pressure tests and other tests for the last six months. It has been redesigned and the technician from the lab it going to Pennsylvania for three days to put this under rigorous tests to try to make it explode, to see if, in fact, now it has been redesigned to make it safe.

The problem with this unit is that this is a woodstove that is designed to be hooked up to a hot water heating system in your home. This is a top view of the circulator pipe through which the water goes to heat up. This is the manifold on one end of those pipes. There is a straight edge on it and you can see, if you look closely enough, that it is buckled under pressure. They also fired this one up and what would happen, this uses a circulator pump to pump the water around, it is not just a gravity system. If you were asleep one night in your house and there was a wood fire going in this thing, the electricity failed in your home, the circulator pump would stop so that the water would no longer be moving. If there was a good hot wood fire going, at some point all that water would boil away and the system would get red hot. At some point, about the time all the water boils away, the safety pressure relief valve would release and the cold water would come rushing into that red hot boiler and more than likely there would be a latent heat explosion, literally an explosion where this thing, this metal unit, would blow apart all over the cellar. They did such a test on it and within ten minutes the water was boiling and the system was physically jumping up and down on the floor of the lab. At 22 minutes under fire with the circulator pump off, the temperature gauges showed that it reached the point where had cold water come into it then, there would have been a latent heat explosion. In redesigning this unit according to ASME standards, the manufacturers added a double manifold to provide more water space, which would mean it would take longer before all that water boiled away. They provided a tappet on the back of the unit for the pressure relief valve, and they have added fuseable plugs, so if the inside of this unit got hot enough, those metal plugs would melt and cold water would come into the fire chamber and put the fire out rather than into the hydrocoil here and explode the furnace. Better to flood the cellar than to blow up the house, Mr. Flink explained.

These photographs show the results of a latent heat explosion on Henry Street at Willard Beach in South Portland. This is not a unit that SMVTI tested. In fact, it is a 50-year-old coal furnace that has been converted to oil with a hydrocoil, which you may know as a tankless water heater. The reason I brought this is to show you what, in fact, can happen in one of these systems if there is a latent heat explosion. This is a corner of a cellar where there used to be a furnace. This is the side of a washing machine after it had been blasted by parts of that furnace and boiler when it had blown apart. This was the pipe that went into the hydrocoil and this is the pipe that came out of it. This is all they could find, little pieces of the exploded hydrocoil around the cellar when they got finished. I don't know why there is a picture of this bathroom on here.

What happened was that the water system in the house went up above the second floor into the attic, and the pressure relief valve had been improperly installed, it was in the attic. It froze, the waterline to the hydrocoil froze, so no water was coming into the furnace. There was a fire in the furnace and all the water boiled away. At some point those pipes thawed out while there was still a fire in the furnace. The cold water came rushing into the red hot hydrocoil and the thing literally exploded. Thirty seconds before that, the owner of the house was standing next to the furnace. He got to the top of the stairs and it blew up.

These pictures show a coal fire burning inside a Thermopride coal or wood fired hot air furnace manufactured in Gallatin, Missouri. The testing lab burned out three of these units after five days each under a coal fire. If you examine them closely, you will see that the sides of the heat exchange area buckled and the metal actually burned out or burned through because of the intense heat of a coal fire. The lab has now approved these only as an add on device to an existing system and only for use with wood and not coal. It is the licensing board that has told people not to burn any coal in them.

More pictures of a faulty hydrocoil system in a boiler which shows faulty wells and buckling as the result of a pressure tests.

The last one that I have, if you would like to come take a look, are advertisements of the types of units we are proposing would require approval at the lab or some other lab such as UL.

We are only asking that the Oil Burner Men's Licensing Board be given the authority to require approval, if you will, of furnaces and boilers that use coal or wood, because the same and some other types of dangers are inherent in these types of furnaces and boilers that are inherent in oil fired furnaces and boilers. The danger of a faulty manufactured unit being placed in the cellar of your home is as great as one using some other type of fuel. We are not talking about parlor stoves. We don't want to hassle people making ordinary woodstoves. We are talking about those wood and coal fired units specifically designed to be used as a central heating system.

If you have any questions, I would be glad to answer them and I would be glad to show any of this material to anyone close up.

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

Mr. JACKSON: Mr. Speaker, Ladies and Gentlemen of the House: My seatmate wants to give up and she has asked me to try and make good terms for her.

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

Mr. DEVOE: Mr. Speaker, Men and Women of the House: I appreciate the presentation which the gentleman from South Portland has given us.

The more I look at this bill the more questions I have concerning it. I would like simply to offer some comments and perhaps at the end a question or two for anyone who might care to answer it.

First of all, I am curious about how many people are on the Oil Burner Men's Licensing Board? Secondly, is there anyone in the House today who can tell us what the criteria are for appointees to the Oil Burner Men's Licensing Board? I am very interested.

It has always been my view of this board that it was for the purpose of preparing standards for people who are going to go into businesses of repairing furnaces and stoves. I think it is quite a jump beyond the original statutory purpose of this board for this legislature to give this particular board virtual veto power over all wood and coal furnaces that are going to be sold in the State of Maine for use in central heating plants. It is this jump which I see the legislature perhaps about to take that greatly concerns me.

I am also curious as to whether there are any other licensing boards in the State of Maine that have the veto power which this bill proposes to give to the Oil Burner Men's Licensing Board. It is almost as if you gave, if there were a state board governing the training or the licensing of auto mechanics, the Auto Mechanics Licensing Board the power to approve cars that would be sold in the State of Maine. It is as if you had a typewriter repairmen's licensing board and you gave that board of typewriter repairmen the power to veto the sale of typewrit-

ers that were offered in the open market in this state. It is this kind of principle that I see that is in this particular L. D. 2176 that greatly concerns me.

The gentleman from South Portland says we are only asking for this power to extend to coal and wood furnaces. I submit to you that if this legislature passes this bill, next year I can see a bill coming in as an amendment to this statute whereby you want to extend the power to oil burners. Notice that they have not decided to tackle the oil industry in this particular bill. It is a rather modest start of coal and wood, but I submit that the next step would be, let's tackle the manufacturers of oil burners.

If there is someone here in the House who can satisfy me that those who are appointed to the Oil and Burner Men's Licensing Board are, by statute, required to be experts in the manufacturing of coal and wood furnaces, I would feel a little more at ease with this particular bill.

Secondly, I question whether or not the state should hide behind the skirts of sovereign immunity and say, well, even if the people at the vocational-technical institute do examine this, and let's say they might make a mistake, nevertheless, they can't be sued because of sovereign immunity. I question whether this is a proper function for Southern Maine Vocational-Technical Institute or any VTI in the state, to be given veto power over the sale of merchandise.

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

Mr. DAVIES: Mr. Speaker and Members of the House: I would advise my colleague from Orono that I doubt if the next legislature will be bringing in a bill to amend this law, should it be passed, to include oil burners, because the law is already on the books and has been on the books for a number of years. And when this board was originally created, it was the Wood, Coal and Oil Burner Men's Board, and the first two items were dropped off originally because people moved away from coal and wood and shifted over to oil. And as it stands right now, the Oil Burnermen's Board has the right to veto the sale of oil burners in the state that do not meet certain safety standards.

In addition, the membership of the Oil Burnermen's Board, I am not sure of the exact number and I will defer to Mr. Howe on that, but I believe all of them are required to be knowledgeable about the operations, maintenance, construction and use of oil burners and other burner devices so that they are informed on this subject and do have knowledge on this and where their knowledge does not extend to the construction techniques, they are authorized to send items to Southern Maine Vocational Institute's testing lab to have further corroboration of their thoughts on the safety of the devices. So, we are simply extending this right to an area that is being reopened because of the great interest in new fuel or fuels that have not been used very much in recent past, and as more and more people shift over to wood and coal as their source of heat, the devices that are coming on the market to burn these fuels have got to be tested. I don't think any one of us want our constituents to go out purchasing a furnace or boiler system that will burn coal or wood, not knowing whether or not it is going to be safely constructed, so that when it is installed, it is not going to explode or do other damage to individuals or to property. I think we are merely making a wise move by authorizing that these devices, before they go on sale in the State of Maine, be tested to examine them for safety considerations.

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

Mr. HOWE: Mr. Speaker, Members of the House: A few comments with the respect to Mr. Devoe's comments.

As Mr. Davies has pointed out, there would

be no need to come in at another session to require the approval of oil burning equipment, and I will quote to you from present law, Title 32, Section 2301, Subsection 4, Oil Burner Installation: "Oil burner installation shall mean the installation, alteration or repair of oil burning equipment, including industrial, commercial," etc. Then it says, "No oil burning equipment shall be installed unless it has been approved by the Oil Burner Licensing Board. Approved shall mean acceptable to the Oil Burner Licensing Board as to design, construction, installation or intended use as required by the standards adopted by the board; devices listed for specific purpose by Underwriter's Laboratories may be considered as meeting the requirements or standards. All other equipment shall be submitted to the board for review. The board may require such equipment to be tested by either the Department of Industrial Corporation at the University of Maine or the Southern Maine Vocational-Technical Institute." That is respect to oil burning equipment in the law now. We are using the very same language with respect to coal and wood burning central heating equipment.

I think Mr. Blodgett has a little bit more information on the makeup of the board, unless I have that right in front of me. The Oil Burner Men's Licensing Board shall consist of an executive secretary, which will be the Commission of Business Regulation or a representative appointed by said commissioner, with the approval of the majority of the board and five other members. Four of said appointed members shall be oil burnermen who have been active in the trade, two of whom shall have at least five year's experience and the other two shall have had at least ten years' experience. Two of the oil burnermen members shall be appointed from a slate, at the time of each such appointment, from three persons nominated by the Maine Oil Dealers Association. One of said appointed members shall be a member of the public.

There are no people in this state apparently being licensed as coal and wood burnermen. However, Carl Flinks at the testing lab, the director of the testing lab, is one of the old timers who still retains a coal burnerman's license. There used to be such a thing and perhaps there will be one day again, but the problem right now is that oil burner men know more about this area than anybody else does.

We did not see fit to create a new agency. I think I can anticipate what some of Mr. Devoe's comments would have been in opposition to the creation of a new bureaucracy, had we chosen to go that route. I think the Oil Burner Men's Licensing Board, if we are going to do this at all, knows more about furnaces and boilers than anybody else, although there is a different type of fuel going into the firebox underneath and, for safety sake, I think it is important that we test these things before they are sold in the State of Maine.

I guess I am not quite as suspicious as he is as to what oil burnermen are going to do when let loose on coal and wood burning equipment. SMVTI isn't the only place that is testing these. I have taken a couple of tours of that place and was very impressed with the calibre of the staff and the kinds of equipment that they have. He is meeting today with federal energy officials and state officials and representatives of a number of manufacturers.

Other states are looking to our testing lab to use its results before products can be marketed in their states. The Commonwealth of Massachusetts has already done so. None of these devices can be sold there until our testing lab has approved them. If one of these manufacturers has already gone to Underwriter's Laboratory or some other nationally recognized testing facility, then they won't have to go to SMVTI.

I think it is a reasonable step and one that I view as being necessary to protect the safety of the people who would buy these devices.

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

Mr. BLODGETT: Mr. Speaker, Ladies and Gentlemen of the House: I have some serious problems with this bill. First, I feel very uncomfortable that every wood burning stove sold in the State of Maine should have to have a stamp of approval by the Oil Burner Men's Licensing Board. There is no criteria that is mentioned here at all and what we are depending on is, once the act is passed, then they may go ahead and establish any criteria which they would like to.

The whole issue appears to be a question of safety for having oil burnermen, yet, from the testimony here, it would appear that really it has to do with the quality of the product as far as their misrepresenting in their advertising and that sort of thing. It should be a matter, then, for the Attorney General's Office for this, this advertising or labeling, rather than a safety question, because the most glaring problem here has to do with these explosions, as Mr. Howe pointed out but, in this particular case, that furnace that was changed over from an old coal furnace to an oil furnace, that should have been taken care of by the oil burnermen or the oil installers, whoever put that change in. This bill wouldn't do anything to correct that situation. There is nothing there with just boilers; it says "central heating equipment." That is a very broad statement.

I would move, therefore, that this bill and all of its accompanying papers be indefinitely postponed.

The SPEAKER pro tem: The gentleman from Waldoboro, Mr. Blodgett, moves that this Bill and all its accompanying papers be indefinitely postponed.

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

Mr. DAVIES: Mr. Speaker and Members of the House: I would call the attention to my good friend from Waldoboro, Mr. Blodgett, the first section of the bill, L. D. 2176, he mentioned in his remarks that this was going to cover all wood stoves. In fact, that is a red herring and it specifically excludes most wood stoves, and I would read the section of the bill that covers it.

Section 2 of the bill reads, "Coal and Wood Central Heating Equipment." Coal and wood central heating equipment shall mean any heating plant equipped with a furnace or boiler using coal or wood or both as fuel and designed specifically to be attached to or as an integral part of a central heating distribution system. Fireplace stoves and radiant room heaters, "which are things like Yotul stoves, "as defined by the National Fire Protection Association or Underwriter's Laboratories, Inc., shall not be considered to be within the definition of central heating equipment." This deals only with those devices attached to a heat circulating system, whether it is a boiler or furnace, that is used to spread the heat around the house rather than moving that heat by radiation. It has to be hooked up with a central heating system that can only burn wood, coal or both. So it specifically excludes stoves Morses and Yotuls and things of that sort. It does not cover them at all and we have specifically excluded them because we don't there to be any doubt whatsoever. We are only dealing with central heating systems.

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

Mr. HOWE: Mr. Speaker and Members of the House: A couple of comments with respect to the photographs I showed. One of them did show an explosion, but if the gentleman would look closely at the photographs, he will see broken welding seams, bent back stays and buckled sheet iron on boilers and furnaces, heat exchanges and hydrocoils, and some of these buckled or broke open at the seams when



only under pressure tests, without even any heat put to them. These things are coming from manufacturers who would otherwise be selling them right now to the people in the market in Maine, but are going back for further tests and redesigning of these units before they can be sold. It is primarily a question of safety. Mr. Flink is not primarily interested in faulty advertising, except to the extent the two are the same. If somebody says the unit is safe to burn both coal and wood and if it is all right for wood but when you put coal in it, the thing comes apart at the seams, that is both a safety question and faulty advertising.

As to the fact that we are not writing the regulations in here, if the legislature chooses to do so, we can do that with every licensing board and regulatory agency in state government. In fact, we don't, we write enabling legislation and the agency that is in charge of carrying out that legislation must write regulations, put them up for public hearing and we now have legislation which puts those to an end after I don't know how many years it is unless they can be justified. I don't think we are doing anything any differently here with the writing of the regulations to carry out the intent of this legislation than we are any other regulatory agency in state government.

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

Mr. BIRON: Mr. Speaker, Ladies and Gentlemen of the House: I rise to support the motion to indefinitely postpone this bill, only because I feel that we have the proper vehicle under present state laws to handle the situation. As all of you know, we have an office of Consumer Protection, and if a woodstove is being sold in this state that is substandard, we presently have the vehicle that can handle the problem and it is not necessary, in my opinion, to add to the bureaucracy, and I think we are adding to the bureaucracy with this legislation.

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

Mr. HALL: Mr. Speaker, Ladies and Gentlemen of the House: There is a small concern in my hometown that makes these furnaces. They have got a pretty good reputation and they make a pretty good furnace. I would like to pose a question to someone who might answer this — if what you are proposing goes through, are they going to be harassed or subject to inspection there or after it is sold and put into the homes?

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

Mr. HOWE: Mr. Speaker and Members of the House: I would question the use of the word 'harass;' however, this legislation has nothing to do with the installation in their homes. Nobody is going to come looking inside anybody's home to see if it is put in right. It is a process of testing one single copy of the thousands of these that might be made at a testing laboratory somewhere before they are sold on the market. Anything that is sold and in somebody's house now would stay there.

I would also like to comment on Mr. Biron's remark as to the Consumer Fraud Division. The Consumer Fraud Division does not have this type of authority. The Consumer Fraud Division can act if somebody defrauds the public by saying some piece of equipment will do something it won't do. If, however, the item on the market has not been misrepresented, yet turns out to be faulty, and that is possible, it is quite possible, the Consumer Fraud Division could not act. The Consumer Fraud Division more typically acts in the instance that Mr. Blodgett refers to of misleading advertising. This agency would be charged with testing equipment for safety before it is sold.

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

Mr. MACKEL: Mr. Speaker, Ladies and Gentlemen of the House: I do have two ques-

tions. I would like to know if the federal government has any agency which establishes safety standards for this type of equipment? Secondly, would the approval by the licensing board, approval of any particular type of equipment, in any way relieve a manufacturer of any liability if he were to manufacture equipment and put it on the market that was not, in fact, safe.

The SPEAKER pro tem: The gentleman from Wells, Mr. Mackel, has posed a question through the Chair to anyone who may care to answer.

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

Mr. HOWE: Mr. Speaker, I can't tell him a great deal about the federal government standards. The federal government has so many standards for so many things that I would probably be safe in saying yes. However, I think that the fire marshal and the oil burnerman's board and testing lab are more likely to rely on standards created by private standard setting associations, such as the National Fire Protection Association and particularly the American Society of Mechanical Engineers.

With respect to the liability of the manufacturer, I think this would not relieve the manufacturer of any liability, because the board and the testing facility is not saying that anything is guaranteed to be safe. What it is really saying is that the equipment, when it has passed the test, is meeting certain criteria, certain standards as to design, intended use, construction and so forth. It is not guaranteeing to the public that the equipment is fail safe but it has been put fairly rigorous tests, particularly pressure tests and the thing has been fired up and it has been used just as it would be used in the home. If the thing doesn't come apart at the seams and signs of problems like that, they will put a label on it which says it meets the standards and it can be sold, but it is not a guarantee to the purchaser that the thing is safe.

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

Mrs. TARR: Mr. Speaker, Men and Women of the House: Since I stopped this yesterday and got this whole thing going, I feel I just have to get up one more time on this bill.

I do think that Mr. Howe has done his homework on this and has answered, for the most part, my objections to it. I know the motion is for indefinite postponement and I know this House will do what they wish with that, but I will tell you, after all that work, I just haven't got the heart to vote for indefinite postponement.

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

Mr. SPROWL: Mr. Speaker, Ladies and Gentlemen of the House: I am amazed that we are still debating this bill. I had a meeting with the platform committee. When I left you were debating it and now that I am back, you are still debating it. I guess the only reason I stand before you today is that there were questions raised as to "Was there anyone here who perhaps knows what is going on in the oil industry?" I don't know if I am that one, but I do have five licensed oil burnermen who work for me and I am licensed myself. I see no problem with this bill. I think that it is a good bill and I think that there should be someone out there looking over these installations to see if they are done properly. We do this with oil furnaces and if they find something wrong, our licenses are on the line, if we don't correct them properly. I think it is a good bill and I don't think that we should indefinitely postpone the bill.

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

Mr. DEXTER: Mr. Speaker, Men and Women of the House: I would like to take you back to the Stanley Steamer days. I guess there are a few here who can remember them, but at that time, Henry Ford was starting his big project way out in the middle west, and he spread

the rumor that the internal combustion engine was much safer than our good old Stanley Steamer's. As you know, the Stanley brothers came from Kingfield.

I am not going to debate this anymore, I think we have talked long enough. Mr. Speaker, I request the yeas and nays so we can get a quorum in here and get this over with.

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

Mr. JOYCE: Mr. Speaker, with ten days remaining in this session, with regret to some, I move the question.

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

A vote of the House was taken, and more than one third having voted for the previous question, the motion for the previous question was entertained.

The SPEAKER pro tem: The question now before the House is, shall the main question be put now. This question is debatable for five minutes by any one member. All those in favor of the main question being put now will vote yes; those opposed will vote no.

A vote of the House was taken.

56 having voted in the affirmative and 27 having voted in the negative, the main question was ordered.

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

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

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

#### ROLL CALL

YEA — Ault, Austin, Bennett, Berube, Biron, Birt, Blodgett, Boudreau, P.; Brown, K. L.; Bunker, Carey, Carrier, Carroll, Carter, D.; Carter, F.; Churchill, Connors, Devoe, Dexter, Diamond, Dow, Drinkwater, Durgin, Fenlason, Garsoe, Gillis, Gray, Hall, Hickey, Hunter, Hutchings, Jacques, Littlefield, Lizotte, Lougee, Lunt, MacEachern, Marshall, Masterman, Maxwell, McBreairty, McHenry, McKean, McPherson, Morton, Nelson, N.; Palmer, Perkins, Peterson, Post, Rideout, Rollins, Sewall, Shute, Silsby, Smith, Stover, Strout, Teague, Tozier, Twitchell Wilfong.

NAY — Bachrach, Bagley, Benoit, Berry, Boudreau, A.; Brenerman, Brown, K. C.; Burns, Bustin, Chonko, Clark, Connolly, Cote, Cox, Cunningham, Curran, Davies, Dudley, Elias, Flanagan, Fowlie, Gill, Gould, Green, Greenlaw, Higgins, Hobbins, Howe, Huber, Hughes, Immonen, Jackson, Jensen, Joyce, Kane, Kany, Kelleher, Kilcoyne, Laffin, LaPlante, Lewis, Locke, Lynch, Mackel, Mahany, Martin, A.; Masterton, McMahon, Mitchell, Nadeau, Najarian, Nelson, M.; Norris, Paul, Pearson, Peltier, Plourde, Prescott, Quinn, Raymond, Spencer, Sprowl, Stubbs, Talbot, Tarr, Tierney, Torrey, Trafton, Truman, Valentine, Violette, Whittemore, Wood, Wyman.

ABSENT — Alopis, Beaulieu, Dutremble, Goodwin, H.; Goodwin, K.; Henderson, Jalbert, Kerry, Mills, Moody, Peakes, Tarbell, Theriault, Tyndale.

Yes, 62; No, 74; Absent, 14.

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

Thereupon, the Majority "Ought to pass"

Report was accepted, the New Draft read once and assigned for second reading later in the day.

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

Bill, "An Act to Improve the Short-term Investment Capabilities and Debt Management of the State" (H. P. 1975) (L. D. 2061) — In House, Passed to be Engrossed as Amended by Committee Amendment "A" (H-1098) on March 1. — In Senate, Passed to be Engrossed as Amended by Committee Amendment "A" (H-1098) and Senate Amendment "A" (S-517) in non concurrence.

Tabled — March 7, 1978 by Mr. Curran of South Portland.

Pending — Motion of the same gentleman to Recede and Concur.

On motion of Mr. Curran of South Portland, table pending the motion of the same gentleman to recede and concur and later today assigned.

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

The following Communication:

THE SENATE OF MAINE  
AUGUSTA

March 7, 1978

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

Dear Clerk Pert:

The Senate today voted to Adhere to its action whereby it Indefinitely Postponed "Joint Resolution, Expressing Opposition to the Killing of Harp Seals", (H. P. 2178).

Respectfully,

Signed:

MAY M. ROSS  
Secretary of the Senate

The Communication was read and ordered placed on file.

The following Joint Order, and Expression of Legislative Sentiment recognizing that: the Greenville High School Girls' Basketball Team has won the State of Maine Class D Championship for 1978 (S. P. 731)

Came from the Senate read and passed.

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

The following Joint Order, and Expression of Legislative Sentiment recognizing that: The Jay High School Tigers are the State of Maine Class C Boys' Basketball Champions for 1978 (S. P. 730)

Came from the Senate read and passed.

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

#### Non-Concurrent Matter

Bill "An Act to Extend the School Budget Adoption Date" (Emergency) (H. P. 2125) (L. D. 2151) which was referred to the Committee on Education in the House on February 22, 1978.

Came from the Senate Passed to be Engrossed as amended by Senate Amendment "A" (S-521) without reference to a Committee in non-concurrence.

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

#### Passed to Be Enacted Emergency Measure

"An Act to Amend the Child Welfare Laws" (H. P. 1990) (L. D. 2065) (H. "A" 1114 to C. "A" H-1065)

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. 110

voted in favor of same and one against, and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

#### Emergency Measure

"An Act to Continue the Potato Tax at the Rate of \$.025 per Hundredweight" (H. P. 2033) (L. D. 2097)

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. 110 voted in favor of same and none against, and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

#### Passed to Be Enacted

"An Act to Provide Interpreter Service for the Hearing Impaired" (S. P. 720) (L. D. 2169)

"An Act Providing for Notice to Parents under the Child Abuse and Neglect Statutes" (H. P. 2143) (L. D. 2160) (H. "A" H-1119)

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

"An Act to Permit Law Enforcement Officers, Agencies and Associations to Make Limited Solicitations for Advertising in or Purchase of Certain Publications Published by Them" (H. P. 2153) (L. D. 2167) (H. "A" H-1104)

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

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

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

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

#### ROLL CALL

YEA — Alopous, Ault, Bachrach, Bagley, Bennett, Benoit, Berube, Biron, Birt, Boudreau, A.; Boudreau, P.; Brennerman, Brown, K. C.; Bustin, Carrier, Carter, F.; Chonko, Churchill, Clark, Connolly, Cox, Cunningham, Curran, Davies, Devoe, Dow, Dudley, Elias, Furlason, Flanagan, Fowlie, Garsoe, Gill, Gillis, Goodwin, H.; Gould, Green, Hall, Higgins, Hobbins, Howe, Huber, Hughes, Hunter, Hutchings, Jackson, Jacques, Jensen, Joyce, Kany, Kelleher, Kilcoyne, Laffin, LaPlante, Lewis, Littlefield, Lizotte, Locke, Lunt, Lynch, MacEachern, Mackel, Mahany, Marshall, Martin, A.; Masterton, Maxwell, McBrearty, McHenry, McKean, McMahon, McPherson, Mitchell, Nadeau, Nelson, M.; Nelson, N.; Norris, Palmer, Paul, Peltier, Plourde, Post, Prescott, Quinn, Raymond, Rideout, Spencer, Sprowl, Stover, Strout, Stubbs, Talbot, Tarbell, Trafton, Truman, Twitchell, Valentine, Violette, Whittemore, Wilfong.

NAY — Austin, Brown, K. L.; Bunker, Burns, Carroll, Connors, Dexter, Diamond, Drinkwater, Durgin, Gray, Greenlaw, Hickey, Immonen, Lougee, Masterman, Morton, Perkins, Peterson, Rollins, Sewall, Shute, Silsby, Smith, Tarr, Teague, Torrey, Tozier, Wood, Wyman.

ABSENT — Beaulieu, Berry, Blodgett, Carey, Carter, D.; Cote, Dutremble, Goodwin, K.; Henderson, Jalbert, Kane, Kerry, Mills, Moody, Najarian, Peakes, Pearson, Theriault, Tierney, Tyndale.

Yes, 100; No, 30; Absent, 20.

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

Signed by the Speaker and sent to the Senate.

(Off Record Remarks)

At this point, Speaker Martin returned to the rostrum.

SPEAKER MARTIN: The Chair would like to thank the gentleman from Stonington, Mr. Greenlaw, for acting as Speaker pro tem.

Thereupon, Speaker Martin resumed the Chair and Mr. Greenlaw returned to his seat on the floor.

On motion of Mrs. Huber of Falmouth,  
Recessed until four o'clock in the afternoon.

After Recess  
4:00 P.M.

The House was called to order by the Speaker.

The SPEAKER: The Chair is very pleased to recognize in the back of the hall of the House Miss Maine, Terry Lee Kilpatrick from Lincoln, who is the guest of the gentleman from Lincoln, Mr. MacEachern. She is presently a freshman at the University of Maine at Orono, and when she was elected, she was the youngest Miss Maine in the state's history.

The Chair would ask Mr. MacEachern of Lincoln to escort Miss Maine to the rostrum.

Thereupon, Miss Maine was escorted to the rostrum by Mr. MacEachern of Lincoln, amid applause of the House, the members rising.

Miss KILPATRICK: Hello. I have written a few things down because I really wasn't too sure what I was going to say, but I did want to say, I don't think I have ever been in a room this large with so many charming men before.

If I could take a couple minutes and speak to you about the Miss Maine Pageant. You are probably wondering what prompted me to become Miss Maine, and the first thing I had to do was run in a local pageant, because the girls who win the locals are the girls that compete in the Miss Maine Pageant.

The Miss America Foundation is the largest scholarship foundation for girls in the world, and last year they gave away over \$10 million in scholarships. Since the Miss Maine Pageant was established in our state, our colleges and universities have received over \$15,000 of these scholarship dollars and I have received \$2,500 myself.

These scholarships are given to girls from the local right up through. There are three runners up in the local and they receive scholarships up to \$500. Miss Maine receives a \$1,000 scholarship, and Miss America this year received a \$20,000 scholarship. We really appreciate your support for the Miss Maine Pageant. It has opened up a lot of doors for me. I have done things from speaking to the House to riding on a windjammer in July in Boothbay Harbor and it has been so exciting. So I would like to take this opportunity to thank you for your support and consideration and hope that you will support the girls from here on out as Miss Maine. Thank you very much.

Thereupon, Miss Maine was escorted from the hall of the House by Mr. MacEachern of Lincoln amid applause of the House, the members rising.

The following papers appearing on Supplement No. 2 were taken up out of order by unanimous consent:

#### Consent Calendar First Day

(S. P. 689) (L. D. 2123) Bill "An Act Concerning the Number of Persons Required to be Covered by an Existing Group Health Insurance Policy for its Renewal or Replacement" committee on Business Legislation reporting "Ought to Pass"

On the objection of Ms. Clark of Freeport, was removed from the Consent Calendar.

Thereupon, the Report was accepted, the Bill read once and assigned for second reading to-

tomorrow.

#### Consent Calendar Second Day

(H. P. 1908) (L. D. 1969) Bill "An Act to Facilitate Central Licensing and Concerning Membership on the Maine Athletic Commission" (Emergency) (C. "A" H-1128)

On the objection of Mr. Kelleher of Bangor, was removed from the Consent Calendar.

Thereupon, the Report was accepted and the Bill read once. Committee Amendment "A" (H-1128) was read by the Clerk and adopted and the Bill assigned for the second reading tomorrow.

#### Passed to Be Engorssed

Bill "An Act Relating to the Installation of Smoke and Heat Detection Systems in Certain Hotels" (H. P. 2195) (L. D. 2178)

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

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)

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

Mr. Howe of South Portland offered House Amendment "A" and moved its adoption.

House Amendment "A" (H-1129) was read by the Clerk.

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

Mr. HOWE: Mr. Speaker, and Members of the House: Before we debated the bill this morning, a couple of members were concerned about referencing oil burning equipment in the bill. The reason that was done was because the committee assistant who drafted the bill was going to put these references under the same section, but simply to avoid any confusion, what we have done is to strike those references from the bill and put them back where they were in the present law so that references to oil burning equipment requiring approval and this new equipment requiring approval are in separate sections.

I would hope to persuade you that there was no substance to this change, but merely where these references are placed in the law.

Thereupon, House Amendment "A" was adopted.

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

#### Passed to Be Enacted Emergency Measure

"An Act to Extend the School Budget Adoption Date" (H. P. 2125) (L. D. 2151) (S. "A" S-521)

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. 119 voted in favor of the same and none against, and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

The following paper appearing on Supplement No. 3 was taken up out of order by unanimous consent:

#### Committee of Conference Report

Report of the Committee of Conference on the disagreeing action of the two branches of the Legislature on Bill "An Act to Amend the Crime of Assault on a Law Enforcement Officer" (S. P. 661) (L. D. 2032) ask leave to report: that the House recede from passage to be enacted, recede from passage to be engrossed as amended by Committee Amendment "A" (S-444) read and adopt Committee of Conference Amendment "A" (H-

1130) in non-concurrence; that the Senate recede from committing to the Committee on Judiciary; recede from passage to be engrossed as amended by Committee Amendment "A" (S-444); read and adopt Committee of Conference Amendment "A" (H-1130) and pass the Bill to be engrossed as amended by Committee Amendment "A" (S-444) and committee of Conference Amendment "A" (H-1130) in concurrence.

Signed:

Messrs. COTE of Lewiston  
CARRIER of Westbrook  
SHUTE of Stockton Springs

— of the House

Messrs. KATZ of Kennebec  
CONLEY of Cumberland  
LOVELL of York

— of the Senate.

Report was read.

Mr. Carrier of Westbrook moved that the Committee of Conference Report be accepted.

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

Mr. BURNS: Mr. Speaker, I would pose a question in regard to this amendment. It is changed to say that only a complaint may be brought by the chief administrative officer of the law enforcement agency. Does this mean that if a state trooper or a fish and game officer were the subject of this, would it take the initiation of the commissioner of Public Safety or the Inland Fish and Game Commissioner?

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

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

Mr. CARRIER: Mr. Speaker and Members of the House: To respond, to the best of my knowledge, this is actually what came in good faith. Actually there were some objections before. Somebody wanted to have things medically indicated and all this stuff, but this was put in in order to prevent officers from putting malicious, non-founded assault against any individual. In other words, those who would have the control of this would be the chief in charge or whoever is in charge in the safety department. It would have to be put in with the approval of the one who is in charge of that particular department.

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

Mr. McKEAN: Mr. Speaker, a point of order. Many of us do not have copies of the amendment. I would like to have a chance to look at it before we continue with this bill.

#### House at Ease

Called to order by the Speaker

Thereupon, the Committee of Conference Report was accepted.

The House voted to recede from passage to be enacted; the House voted to recede from its action whereby the bill was passed to be engrossed as amended by Committee Amendment "A";

Conference Committee Amendment "A" (H-1130) was read by the Clerk and adopted.

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

The Chair laid before the House the following matter:

"An Act to Encourage Early Resolution of Discrimination Complaints and to Clarify the Subpoena Power of the Maine Human Rights Commission" (S. P. 703) (L. D. 2150) (S. "A" S-478) which was tabled earlier in the day and later today assigned pending passage to be enacted. Roll Call requested.

The SPEAKER: The Chair recognizes the gentlewoman from South Portland, Ms. Benoit.

Ms. BENOIT: Mr. Speaker, I move the rules be suspended for the purpose of reconsideration.

The SPEAKER: The gentlewoman from south Portland, Ms. Benoit, moves the rules be suspended for the purpose of reconsideration. The Chair recognizes the gentlewoman from Lewiston, Mrs. Berube.

Mrs. BERUBE: Mr. Speaker, I object, sir.

The SPEAKER: The Chair will order a vote. All those in favor of the rules being suspended will vote yes; those opposed will vote no.

A vote of the House was taken.

27 having voted in the affirmative and 71 having voted in the negative, the motion did not prevail.

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

Mr. TALBOT: Mr. Speaker, Ladies and Gentlemen of the House: As I said this morning and as I said just a few minutes ago, this is absolutely the last time, this is the finish line, and I want to make absolutely sure that you understand what is happening and you understand exactly what you are voting on. I also said this morning that I would have some information to share with you concerning subpoena powers, agencies that have subpoena power and that sort of thing. So if you will bear with me, because it is my last chance, it is quite lengthy. I will explain that to you.

There are at least 41 boards and regulatory agencies that apparently have the power to issue subpoenas in the course of investigations and investigative hearings, and that of the 41 which possess specific authority to issue subpoenas, only one, Energy Resources, is required to go through Superior Court in order to have subpoenas issued. Many of the others have a specific provision that they may go to Superior Court for enforcement of their subpoenas if the person subpoenaed fails to comply. Even in those cases where this right is not specifically set out, it is implied. Similarly, in all cases in which a person is subpoenaed, that person always has the option of going to the Superior Court and requesting a hearing on whether or not the subpoena must be complied with.

Under the provisions of § 9060 of the Maine Administrative Procedure Act, which will go into effect this summer, any agency which does not presently have subpoena power may issue subpoenas providing that the approval of the Attorney General's Office is procured in advance. With regard to those agencies which have existing statutory subpoena power, the Administrative Procedures Act sets out certain standards for the issuance of subpoenas and specifically provides a procedure for a witness subpoenaed to challenge the issuance of that subpoena. It would appear that these provisions of the APA would provide sufficient standards for the protection of a person subpoenaed by an administrative agency without the necessity of going to Superior Court.

The proposed amendment to L. D. 2051 which would require the Maine Human Rights commission to go to the Superior Court in order to issue a subpoena does not set out any standards for the Superior Court to utilize in determining whether or not a subpoena should be issued. In addition to the lack of standards against which the Superior Court can measure the appropriateness of the issuance of an administrative subpoena, there are other problems created by requiring the Human Rights Commission to go to the Superior Court in order to issue a subpoena, rather than simply relying on the already existing provision that a person subpoenaed can always go into court and attempt to quash the subpoena.

For the most part, the Human Rights Commission to date has issued subpoenas at the request of an employer who does not wish to make his records available to the Commission without some form of his records and the rights of his employees. The requirement that the

Commission go to the Superior Court and ask that the subpoena be issued might well also require that the employer show up at court by his or her own attorney in order to explain the reason for the subpoena. This would involve or could involve considerable expense to a small employer.

A second argument against the requirement that the Human Rights Commission go to the Superior Court in order to obtain its subpoenas is the already overcrowded docket of the Superior Court and the consequent time delays which would result from the necessity of obtaining a hearing in order to have the issuance of the subpoena approved. The time delay caused in the investigation by the necessity of going to the Superior Court might well be one to one and a half to two months.

In addition to the time delays, the requirement of going to court which would necessitate the use of attorneys would be expensive for the Commission as well as for the employer.

Finally, the statute of limitations for bringing actions under the Maine Human Rights Act is short, only two years. During that two years the complainants must file a complaint with the Commission; that complaint must be processed; investigated; considered by the Commission; voted on by the Commission; if there is a finding of reasonable grounds to believe that discrimination has occurred there follows a period of conciliation; and only after conciliation attempts have failed is the case referred for legal action. A substantial delay in the period of investigation such as that which could be caused by the requirement of going to the Superior Court in order to obtain a subpoena could very well create serious time problems for investigating and making a determination of the case and referring it to legal counsel within the two years statute of limitations. The Human Rights Commission presently has only two investigators and receives in the neighborhood of six to ten complaints per week. Therefore, any additional delays in the course of processing a complaint would necessarily work a great hardship on an already understaffed agency.

Finally, there is no real need for prior court approval for the issuance of a subpoena since there is already provision made for subsequent court review in the event that the witness subpoenaed contests the validity of the subpoena.

Mr. SPEAKER, I won't take up anymore of your time. Is the motion, at this time, to either kill the bill or pass the bill? I can't touch the amendment, am I right, Mr. Speaker?

The SPEAKER: The Chair would answer in the affirmative.

Mr. TALBOT: I can only ask that the bill be indefinitely postponed?

The SPEAKER: The Chair would answer in the affirmative.

Mr. TALBOT: Mr. Speaker, then I so move.

The SPEAKER: The Chair recognizes the gentleman from South Portland, Ms. Benoit.

Ms. BENOIT: Mr. Speaker, Men and Women of the House: I would just briefly add a little to what Representative Talbot has said. According to Terri Ann Lunt-Aucoin, Executive Director of the Human Rights Commission, she has told me that the commission issues, at the most, one or two subpoenas each year and these subpoenas have always been issued as a result of a complaint having been filed by a citizen of the State of Maine. Only once has a subpoena issued by the commission been opposed, and in that instance, in a hearing before the court, the commission's subpoena was upheld. Truly, when a subpoena is issued, if a person opposes the issuance, the matter goes before the Superior Court.

I might also add that I really think no matter how you may feel about the Human Rights Commission itself, that it is rather unfair to make their powers more restrictive than the powers of other agencies or commissions.

I would urge you to support Mr. Talbot's

motion of indefinite postponement.

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

Mr. SPENCER: Mr. Speaker, Ladies and Gentlemen of the House: I rise also in support of the motion of indefinite postponement. If this bill passes, it will be more difficult for the Human Rights Commission to get a subpoena than for the whole range of state agencies that we have that now can obtain its subpoenas under the Administrative Procedures Act.

Under Section 9060 of the Administrative Procedures Act, any state agency can get subpoena simply by going down to the Attorney General's Office and getting the approval of an Assistant Attorney General. I think to require the Human Rights Commission, to single that commission out, and require that commission to go to the Superior Court to get a subpoena, would be a strong indication of legislative disapproval of that commission and I for one would not be willing to make that vote.

I think if we do anything with this matter, we ought to be treating the Human Rights commission like any other state agency, and the most that should be required would be what we require of the agencies that don't even have specific subpoena power.

I would urge you to vote for indefinite postponement of this bill and later if someone with another bill, at another time, wants to include the Human Rights Commission under the Administrative Procedures Act under the same terms as other agencies, then we could do that, but I think to pass this bill as it is would be a real slap at the Human Rights Commission.

The SPEAKER: The Chair recognizes the gentleman from Stockton Springs, Mr. Shute.

Mr. SHUTE: Mr. Speaker, Ladies and Gentlemen of the House: The Performance Audit Committee has studied this bill at great length and gave a lot of consideration to it. I think most members of the committee feel that this is reasonable legislation.

I am not particularly concerned whether it costs an employer a few dollars to go to Superior Court or not. I am more interested in the civil rights of the Maine citizens than I am the Human Rights Commission. I think the citizens of the state should be given some consideration in this matter and not one small group of people on a commission.

I think if there are problems with other agencies, the gentleman from Portland, Mr. Talbot, mentioned 41 other agencies that had some form of subpoena power, I think if there are problems with those agencies, someone should bring in a bill next session and let the Performance Audit Committee study those agencies and, if it warrants it, remove that subpoena power also. We are not really concerned with those other agencies today.

As I understand it, I haven't heard any great amount of complaints about other agencies and their subpoena powers, so I hope you will vote against indefinite postponement and vote to enact the legislation.

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

Mr. TALBOT: Mr. Speaker, Ladies and Gentlemen of the House: Just one more thing. I checked with Mr. Timothy Wilson, who was, from the beginning of the commission, the Executive Director, until last year when the Governor appointed a task force to look into the commission and its provisions. I checked with him today, Mr. Wilson, and he said they didn't even discuss in their findings the subpoena powers of the Human Rights Commission, and he agreed with me that they must have that subpoena power for investigative reasons and the same reasons which you heard me speak about, the same reasons you heard the gentleman from Standish, Mr. Spencer, speak about.

I agree wholeheartedly with the gentleman from Stockton Springs, Mr. Shute, that the citizens of this state must come first but I also re-

alize, when he talks about that and he talks about the Human Rights Commission, he is talking about the handicapped, the low income people, the elderly, he is talking about all those groups that now fall under the Human Rights Commission. When we vote against the Human Rights Commission, then we are voting against all those particular groups. So I would hope you would support indefinite postponement.

The SPEAKER: The Chair recognizes the gentleman from Stockton Springs, Mr. Shute.

Mr. SHUTE: Mr. Speaker, Ladies and Gentlemen of the House: I resent the remarks made by the gentleman from Portland, Mr. Talbot, a moment ago. I certainly haven't voted against the aged or the mentally ill or anyone else. For his information, he said the people who want to remove the subpoena powers of the Human Rights Commission now are the people who wanted to destroy it a year ago. I didn't vote to destroy the Human Rights Commission. Six years ago, I voted to create the Human Rights Commission. The gentleman from Portland might remember that, but I think if there are problems with an agency, they should be taken care of. As far as making any suggestions that anyone who is against the Human Rights Commission, which I am not—I am against some of the actions taken by that commission, I am not against the Human Rights Commission and certainly not against the aged or elderly.

The SPEAKER: The Chair recognizes the gentleman from So. Portland, Ms. Benoit.

Ms. BENOIT: Mr. Speaker, Men and Women of the House: I would like to comment on the remarks made by Representative Shute because I, too, am a member of the Performance Audit Committee and I did vote this bill out "Ought to Pass."

However, when we voted it out "Ought to Pass," it did not have this amendment on it. This amendment, I believe, changes the intent of the bill that we put out "Ought to Pass," and for that reason, I am in favor now indefinitely postponing this bill.

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

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

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

#### ROLL CALL

YEA — Bachrach, Bennett, Benoit, Berry, Blodgett, Boudreau, A.; Brenerman, Brown, K. C.; Bustin, Carroll, Carter, D.; Chonko, Clark, Connolly, Cox, Curran, Davies, Devoe, Diamond, Dow, Fowlie, Goodwin, H.; Greenlaw, Hickey, Hobbins, Howe, Hughes, Jensen, Kane, Kany, Laffin, Locke, Masterton, McHenry, Mitchell, Moody, Najarian, Nelson, M.; Paul, Peakes, Post, Prescott, Spencer, Talbot, Trafton, Truman, Valentine, Violette, Wilfong, Wood, Wyman.

NAY — Aloupis, Austin, Berube, Biron, Birt, Boudreau, P.; Brown, K. L.; Bunker, Burns, Carey, Carrier, Carter, F.; Churchill, Conners, Cunningham, Dexter, Dudley, Dutremble, Fenlason, Flanagan, Garsoe, Gill, Gillis, Gould, Gray, Green, Hall, Higgins, Huber, Hunter, Hutchings, Immonen, Jackson, Jacques, Joyce, Kelleher, Kilcoyne, LaPlante, Lewis, Littlefield, Lizotte, Lougee, Lunt, MacEachern, Mackel, Mahany, Marshall, Martin, A.; McBreaarty, McKean, McPherson, Nadeau, Nelson, N.; Palmer, Pearson, Peltier, Perkins, Peterson, Plourde, Quinn, Raymond, Rideout, Rollins, Sewall, Shute, Silsby, Smith, Sprowl, Stover, Strout, Stubbs, Tarbell, Tarr,

Teague, Tierney, Torrey, Tozier, Twitchell, Whittemore.

ABSENT — Ault, Bagley, Beaulieu, Cote, Drinkwater, Elias, Goodwin, K.; Henderson, Jalbert, Kerry, Lynch, Masterman, Maxwell, McMahon, Mills, Morton, Norris, Theriault, Tyndale.

Yes, 51; No, 80; Absent, 20.

The SPEAKER: Fifty-One having voted in the affirmative and eighty in the negative, with twenty being absent, the motion does not prevail.

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

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The Chair laid before the House the following matter:

Bill "An Act to Improve the Short-term Investment Capabilities and Debt Management of the State" (H. P. 1975) (L. D. 2061) In House — Passed to be Engrossed as Amended by Committee Amendment "A" (H-1098) on March 1.

In Senate — Passed to be Engrossed as Amended by Committee Amendment "A" (H-1098) and Senate Amendment "A" (S-517) in non-concurrence — which was tabled earlier in the day and later assigned pending the motion of the gentleman from South Portland, Mr. Curran, that the House recede and concur.

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

Mr. MARSHALL: Mr. Speaker, I move that the House recede.

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

Mr. CURRAN: Mr. Speaker, I request a Division on the motion.

The SPEAKER: The pending question before the House is the motion of the gentleman from Millinocket, Mr. Marshall, that the House recede. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

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

Thereupon, the House voted to recede and concur.

By unanimous consent, ordered sent forthwith to Engrossing.

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(Off Record Remarks)

On motion of Mr. Palmer of Nobleboro,  
Adjourned until nine-thirty tomorrow morning.