

# MAINE STATE LEGISLATURE

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



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

**LEGISLATIVE RECORD**

OF THE

***One Hundred and Eighth  
Legislature***

OF THE

STATE OF MAINE

**1978**

**Second Regular Session**

January 4, 1978 — April 6, 1978

INDEX

**Senate Confirmation Session**

June 14, 1978

INDEX

**First Special Session**

September 6, 1978 — September 15, 1978

INDEX

**Second Special Session**

October 18, 1978

INDEX

**Third Special Session**

December 6, 1978

INDEX

APPENDIX

**LEGISLATIVE RECORD**

OF THE

***One Hundred and Eighth  
Legislature***

OF THE

STATE OF MAINE

**1978**

**Regular Session**

January 4, 1978 — April 6, 1978

INDEX

**Senate Confirmation Session**

June 14, 1978

INDEX

**Second Special Session**

September 6, 1978 — September 15, 1978

INDEX

**Third Special Session**

October 18, 1978

INDEX

**Fourth Special Session**

December 6, 1978

INDEX

APPENDIX

**HOUSE**

Wednesday, October 18, 1978

This being the day designated in the proclamation of the Governor for the meeting of the One Hundred and Eighth Legislature in extra session, the members of the House of Representatives assembled in their hall at 10:00 o'clock in the morning and were called to order by the Speaker.

Prayer was offered by Father Valmont Gilbert of St. Augustine's Catholic Church, Augusta.

Father GILBERT: Let us pray. Almighty, eternal Father, Creator of the Universe, you know the longings of men's hearts; you desire that their rights be protected. In your goodness, unite in heart and spirit the representatives of your people here in Maine. They have come together this morning in this Special Session called by the Governor. Watch over their deliberations and guide them so that those they represent may always enjoy freedom, security and peace. We ask this in the name of Jesus, your Son. Amen.

The members stood at attention during the playing of the National Anthem by the Morse High School Marching Band, Bath.

A roll call was taken. 143 members answered to their names and accordingly a quorum was found to be present.

Those who were absent were:  
Messrs.

Biron, Elias, Lunt and Mrs. Kane.  
(Mr. Bennett of Caribou, Mrs. Tarr of Bridgton, Ms. Goodwin of Bath and Mr. Mills of Eastport resigned.)

On motion of Mr. Tierney of Lisbon Falls, it was

**ORDERED**, that a message be conveyed to the Senate, that a quorum of the House of Representatives was present for the consideration of such business as may come before the House.

Thereupon, Mr. Tierney of Lisbon Falls was appointed to convey the message and subsequently reported that he had performed the duty assigned him.

On motion of Mr. Quinn of Gorham, it was **ORDERED**, that a message be conveyed to His Excellency, the Governor, that a quorum of the House of Representatives was present for the consideration of such business as may come before the House.

Thereupon, Mr. Quinn of Gorham was appointed to convey the message and subsequently reported that he had performed the duty assigned him.

**Messages and Documents**

The following Proclamation:

State of Maine  
**PROCLAMATION**  
By The Governor

WHEREAS, there now exists in the State of Maine an extraordinary occasion whereby there are excess revenues which have been overcollected from the taxpayers of Maine and which should be returned to said taxpayers; and

WHEREAS, the 108th Maine Legislature and this Governor have an opportunity to demonstrate to the people of the State of Maine that overcollected taxes should be returned to the people; and

WHEREAS, we have been informed that we are in a position to give to the people of this state an additional \$20 million in direct tax relief while still leaving a reasonable balance for contingencies;

NOW, THEREFORE, I, James B. Longley, Governor of the State of Maine, by virtue of the constitutional power vested in me as Governor, convene the Legislature of this state, hereby

requesting the Senators and Representatives to assemble in their respective chambers at the Capitol at Augusta on Wednesday, the Eighteenth Day of October, 1978, at ten o'clock in the morning, in order to receive communications and enact a tax relief plan which will return \$20 million directly to the people of the State of Maine.

Given at the Office of the Governor at Augusta, and sealed with the Great Seal of the State of Maine, this Second day of October, One Thousand Nine-Hundred and Seventy-Eight and of the Independence of the United States of America, the Two Hundredth and Second.

S/JAMES B. LONGLEY  
By the Governor  
S/DORIS HAYES  
Deputy Secretary of State  
A true copy  
Attest: S/DORIS HAYES  
Deputy Secretary of State

The Communication was read and ordered placed on file.

**Petitions, Bills and Resolves  
Requiring Reference**

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

**Taxation**

Bill "An Act to Provide for Property Tax Relief" (H. P. 2347) (L. D. 2214) (Presented by John L. Martin, Speaker of the House, on behalf of the Governor)

(Ordered Printed)

Sent up for concurrence.

By unanimous consent, ordered sent forthwith to the Senate.

At this point, a message was received from the Senate, borne by the Assistant Majority Floor Leader, Senator David G. Huber of that body, informing the House that a quorum was present and that the Senate was ready to transact such business as might properly come before it.

At this point, a message came from the Senate, borne by the Majority Floor Leader, Senator Jerrold Speers of that body, proposing a Convention of both branches of the Legislature to be held immediately in the Hall of the House for the purpose of extending to His Excellency, Governor James B. Longley, an invitation to attend the convention and make such communication as pleases him.

Thereupon, the House voted to concur in the proposal for a Joint Convention to be held immediately and the speaker appointed Mr. Jalbert of Lewiston to convey that message to the Senate.

Subsequently, Mr. Jalbert reported that he had performed the duty assigned him.

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

**In Convention**

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

On motion of Senator Speers of Kennebec, it was

**ORDERED**, that a Committee be appointed to wait upon the Honorable James B. Longley, Governor, and to inform him that the two branches of the Legislature are in Convention assembled in the Hall of the House of Representatives, and extend to him an invitation to attend the Convention and present such communication as he may be pleased to make.

The Chairman appointed:

Senators:

WYMAN of Washington  
JACKSON of Cumberland  
MARTIN of Arostook

Representatives:

CAREY of Waterville  
MAXWELL of Jay  
TWITCHELL of Norway  
COX of Brewer  
CHONKO of Thompson  
POST of Owls Head  
IMMONEN of South Paris  
TEAGUE of Fairfield  
MACKEL of Wells  
CARTER of Bangor

Senator Wyman, for the Committee, subsequently reported that the Committee had attended to the duty assigned to it, and the Governor was pleased to say that he would forthwith attend the Convention.

Whereupon Governor James B. Longley entered the Convention Hall amid prolonged applause, the audience rising.

The Governor then addressed the Convention as follows:

Mr. President, Mr. Speaker and Honorable members of the Senate and House of Representatives of the 108th Maine Legislature:

I wanted to meet with you briefly this morning for two basic reasons:

First of all, I want to thank the 108th Legislature for its response to the call of this special session to consider additional tax relief for the people of this state. I am deeply grateful for the positive and constructive attitude exhibited by a majority of the members of this legislature in response to this call.

Secondly, since this may be the last time we meet together, I wanted to say to you that it has been one of life's great experiences and challenges to be involved in the American Democratic process, a process that continues to be the greatest in the history of mankind. We have served together during times of great challenge for our state. We have not always agreed and there have been times when we have defended our own positions and publicly questioned and challenged the positions taken by others. However, I believe history will record our combined periods of service as one of fiscal responsibility balanced with humanitarianism, as one of concern and compassion for the priority of people needs, of commitment to fighting for the broad general interests of the elderly, the struggling working men and women having difficulty with inflation and taxes paying their bills, the youth who need and will need quality jobs to stay in Maine, fighting for the overburdened taxpayers in our state... among the most overburdened and short-changed in the country.

Yes, these have been our priorities, at least mine, and I believe most of yours . . . as contrasted with the narrow special interests fostered and festered occasionally by liberal spenders and special interests and some well-paid lobbyists who protect and promote the few at the expense of the many. By the same token, as a Governor who has had a short intensive course in Government, I am told and I do believe that this, the Maine Legislature, and, yes, the lobbyists for the most part, are among the best and most honest and free of taint and scandal in the country. In addition, as I hope you will demonstrate again today, when the chips are down, you're also among the fairest.

That is the major reason we are here today. By returning an additional \$20 million to the people of this state, we can further balance the scales of fiscal responsibility balanced with humanitarianism and further demonstrate to the people of Maine that their ability to pay is being given consideration in the decision-making process in Augusta and that we together, you and I, are both the representatives as well as real lobbyists for the people who are not here or also do not have paid lobbyists here in or around Augusta to represent them.

However, in fairness to this Legislature and to state employees and others looking to government for services, I feel I should also give

you a brief update on the state of the state today. There have been some interesting developments in the last 24 hours.

First of all, we are convinced the state's finances are in excellent condition, far superior to what we faced four years ago . . . two years ago . . . and, yes, far superior now, even after we return another \$20 million to what the appropriations committee recommended and this Legislature endorsed a few months ago.

In that regard, let me be specific:

(1) When we ended the last fiscal year on June 30th, we brought forward into this new year a balance of \$13 million due to savings in government and accurate revenue projections, conservative on the sound, low, proven side, which has been our track record.

(2) As all of you are aware, revenues have been exceeding estimates, yes, even revised estimates, for several months and that positive trend continued into this fiscal year. As a matter of fact, revenues for July and August exceeded estimates by \$5 million.

It was at that point that we knew for a certainty that we could propose an additional \$20 million in tax relief for the people of Maine and still meet our other responsibilities, including collective bargaining with the remaining unit of state employees, for as you already know, we have finalized with good faith on both sides and the Legislature has endorsed and we are already meeting and paying fair increases and budgets to two state employee bargaining units who settled months ago.

In any event, with \$5 million already assured for the first two months of the fiscal year, we were then in a position to ask the Legislature to revise estimates by only an extremely conservative \$6 million for the remaining 10 months of the fiscal year. Based on these facts alone, this would have left a \$4 million balance after funds were appropriated for tax relief. In addition, we were informed that at least \$2 million of unexpended funds lapsed at the end of each year.

It is also important to note that, based on this information alone, the balance was and is better than the Appropriations Committee recommended to you and you left us in the Regular Session, because at that time, the \$4 million balance was to cover a 14-month period, whereas now, under our officially revised financial plan, our proposed \$4 million, the same amount you endorsed as fiscally responsible and adequate, we're now projecting to cover only 8 months as contrasted with your 14 months.

In addition to the recommendation and justification we shared with you supporting the refund of \$20 million of overpaid and overcollected taxes at the time we wrote you and called this Special Session, our revenues have actually further strengthened since that time and improved the need and the justification, if not the moral responsibility and duty to return this \$20 million to the taxpayers of Maine who paid in this money.

(3) Specifically, our revenues for September exceeded estimates by \$1.6 million, and I am informed that we are already assured of an additional \$800,000 for October.

I respect and appreciate the good faith challenge presented in the past few days and I also appreciate the concern which has been expressed by some that funds must be available for any collective bargaining agreements reached in the final months of this fiscal year. I submit to you that the concrete financial data we now have is positive proof that we will have sufficient dollars to meet our responsibilities in that area and still not deny the people of Maine the tax relief they need and deserve. We are in better shape than the Appropriations Committee recommended to you and you endorsed and I approved of 14 months compared to the much shorter period of 8 months. In addition, I am advised as well as report that the Legislative History is quite interesting with respect to those supporting public employee collective

bargaining in State Government.

Furthermore, while I respect the right of anyone, including public employees, to demonstrate, as long as it is within the law, and while I am tremendously impressed and appreciative of the overwhelming majority of State employees, the history and objective of collective bargaining was to take employee compensation out of the political arena, to eliminate pressure and lobbying and political activity from the commendable objective I, as Governor, and I believe you, as Legislators, want . . . fair salaries, fringes and working conditions for State employees arrived at under the Collective Bargaining Law.

Under the Collective Bargaining Law that protects and benefits State employees, they are entitled to, as are the Legislature and Governor and people of Maine, discussion and debate at the bargaining table and not in the hallways or on your telephones, because that is what the Collective Bargaining Law was intended to correct and eliminate.

On that note, I want to again commend the Legislature for, almost without exception, honoring the collective bargaining process and as Governor, I want to go on record and say that whether the Public Employee Collective Bargaining Law survives or not and where it goes in the future, I believe, will depend on whether or not the Collective Bargaining Law is honored and respected. I believe it will survive only if it is honored and respected. I believe it will survive only if future Legislators and Governors do not allow politics and pressure to transgress the law or if public employees respect the law and do their pressuring and lobbying and posturing at the bargaining table under the law, as the collective bargaining law was designed to perform.

Frankly, I feel if public employees in the future show a disregard for the law, collective bargaining or otherwise, and try to have their cake and eat it too at the expense of the Legislative and executive branches of Government, at the expense and public service needs of the taxpayers and other innocent citizens, then I feel Public Employee Collective Bargaining will not succeed, at least as it was intended to operate and succeed to the mutual protection and benefit of public employees and innocent citizens and taxpayers outside of Government who are entitled to have the laws protect them as well, rather than have the laws disregarded or used as a club against them.

I believe your Legislative liaison, one of the most dedicated, honest and fair persons I've ever met, Representative Bill Garsoe, will also say that our office of Employee Relations has bargained in good faith with State employees and will continue to do so. I think this is demonstrated by the fact that this Legislature has already approved fair agreements with two major bargaining units.

We haven't tried to win any Public Relations battle or bargain in the media. However, there are two sides to any story and you should know that I feel our office of Employee Relations, at the direction of Mr. Mosher, has and is trying to be fair and bargain in good faith with all state employees. In addition, I feel they should be judged by what they've done and I'm proud and grateful and I feel you should be as well for the reports of fairness and honesty and decency and professionalism we've received from A.F.S.M.E. and the Maine State Troopers Association, who I am told came to the bargaining table in good faith and I know received good faith in return and with whom we signed contracts many months ago.

In any event, I say to you today that we are convinced we can meet all our responsibilities and still give the people of this State this very important and needed tax relief. We are equally convinced that the people will respond with a renewed confidence in government. The people of Maine, the people of America, want to believe, they want to have confidence in those of

us in government. Please don't let them down.

In calling this session, we tried as best we could to submit a plan that could be philosophically embraced by the majority of the members of this Legislature and we tried to submit a plan that would directly return these overcollected dollars to the people of Maine. We have tried in every way to share this bill in advance with you and to answer your questions. We stand ready now to assist you in any additional manner possible as you begin these deliberations.

Because of the good faith which has been demonstrated by this Legislature in responding to the call of this Special Session, I pledge to give careful consideration to any bill that reaches my desk, and I will try in every way to respect the will of the Legislature, so long as I can be assured that \$20 million of the money that belongs to the people and was paid by the people of Maine is returned to the people of Maine.

Further on the subject of the state of the State you should know:

(1) We have underway studies prepared to share with the new Governor, whoever it is, transitional efforts towards my objective of doing everything possible to help the new Governor be the best Governor in the history of this State. To that end we are:

(A) Reporting to you that our unemployment rate in Maine is presently at 4.8%, which is the lowest it has been since 1973. Also, the growth of our personal income continues to be very strong. However, folks, we are at a crossroads in this area. I say this because I am told that if everyone took jobs that were available, the unemployment rate, as low as it is now, could be cut in half. This tells me that the key has to be quality jobs and it tells me that we must do everything possible to widen the differential of what can be earned by taking these quality jobs as related to what can be collected from unemployment compensation or prolonging unfairly and unnecessarily workmen's compensation claims. In that regard, in the midst of attempting to correct or alleviate a situation in which I am advised Maine unfortunately has one of the most expensive and I'm told one of the most unfair Worker's Compensation systems in the country and it is now hurting us, as some of you well know and some of you have brought to our attention.

(B) We are planning to recommend to the new Governor for his presentation to the new Legislature a "Maine Plan" combining an anti-inflation program with a tax equity and tax reform proposal. Parenthetically, to the extent inflation is eroding paychecks and purchasing power and to the extent government spending should and could be limited or reduced, I am planning to present a budget and a plan to the new Governor whereby taxes could be further reduced twenty or thirty or even fifty million dollars beyond this \$20 million we hope you will return to the people of Maine today.

(2) The Indian Land Claims case currently appears to be moving closer to the direction the Attorney General and the Governor and some members of the Congressional Delegation have fought for, such as:

(A) Recognition that this is a Federal responsibility and that the State of Maine has been more than fair in meeting its responsibilities as contrasted to the Federal government's refusal to recognize our Indian Tribes in the past.

(B) That present Maine citizens, non-Indians as well as Indians, are innocent and should not be penalized by any liberal do-gooders that wanted to re-write history and penalize or deny equal rights to one group of citizens to unfairly enrich or benefit another group.

(C) That equal rights and equal protection under the United States Constitution do not allow any person or body to confiscate land. Furthermore, to the extent property rights are sacred, we do not have the right to stipulate that because one person or property owner

owns one foot or one acre or more of land his or her rights are less sacred than one who owns a different amount.

(D) That there should be only one class of citizenship in Maine and this country, and that is first class. Therefore, Maine would not be a party to furthering any Federal policy that directly or indirectly could lead to a "Nation within a Nation" status for one group of citizens to either the advantage or disadvantage of one group of citizens as contrasted with any other groups to the extent of separate laws in the areas of civil or criminal jurisdiction or Maine laws governing matters relating to the environment and taxation. We cannot and must not be a divided state. We must have one class of citizenship for all citizens, and that should be first class.

I will have nothing further to say on this matter until I have the benefit of the counsel of the Attorney General and have had an opportunity to study the written details as well as seek clarification on any questions. Furthermore, as has been my posture with the Congressional Delegation, as has been my posture with the congressional delegation as well as welcome and seek input from members of this Legislature and others to the extent available and necessary before publicly stating my position on what I am advised is a new direction and posture by the White House.

More than two thousand years ago, Aristotle said so well:

"If liberty and equality, as is thought by some, are chiefly to be found in democracy, they will be best attained when all persons alike share in the government to the utmost."

Parenthetically, I feel this is the question the Legislature faces today. I hope and plead that you will meet this test of democracy and extend equal rights to the taxpayers of Maine who have done and are doing more than their share to pay for from their paychecks and pocketbooks for you and for me, for others on the public payroll, but also those programs and people we support and promote with their tax dollars. This overcollection is their money. A rebate, according to the dictionary, is in the verbal form "to give back", and in the noun form "part of the amount paid", but I prefer the consumer standard form — give back what they've overpaid.

Let's not practice a double standard or a standard twice if not ten times higher and harsher to give money back to 375,000 taxpayers than you've applied to spending their money or taxing them to take more and more away either through direct taxation or the worse cancer of inflation that automatically increases revenues that automatically increases their taxes and leaves them with less and less while those who spend get more and more.

I submit that history has proven, and will again today, that without a doubt, a democracy is indeed the best place to find liberty and equality and I further submit that we have before us today a golden opportunity to allow the people of the State of Maine to further share in the fruits of our democratic form of government in Maine and America.

Let us be as responsive and, yes, as quick to act to return money to the people as we have been in the past to take money from the people.

At the conclusion of the governor's address, the Governor withdrew amid applause, the audience rising.

The purpose for which the Convention was assembled having been accomplished, the Chairman declared the same dissolved and the Senate retired to its Chambers amid applause of the House, the members rising.

#### In the House

The House was called to order by the Speaker.

(Off Record Remarks)

On Motion of Mr. Tierney of Lisbon Falls,  
Recessed until one o'clock in the afternoon.

#### After Recess

1:00 p.m.

The House was called to order by the Speaker.

#### (Off Record Remarks)

The following paper from the Senate appearing on Supplement No. 1 was taken up out of order by unanimous consent:

The following Joint Order: (S. P. 779)

ORDERED, the House concurring, that three hundred twenty-five (325) copies of the Legislative Record for this Special Session be printed, one copy for each of the members of the Senate, House of Representatives, the Secretary of the Senate and Clerk of the House, and the remainder to be deposited with the State Law Librarian for exchange and library use; and be it further

ORDERED, that suitable index be prepared for such Legislative Record, under the direction of the Director of Legislative Research.

Came from the Senate, read and passed and ordered sent forthwith.

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

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

#### Consent Calendar

##### First Day

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

(H. P. 2347) (L. D. 2214) Bill "An Act to Provide for Property Tax Relief" Committee on Taxation reporting "Ought to Pass" as amended by Committee Amendment "B" (H-1297)

On the objection of Mr. Carey of Waterville, was removed from the Consent Calendar.

Thereupon, the Report was read and accepted and the Bill read once.

Committee Amendment "B" (H-1297) was read by the Clerk.

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

Mr. GARSOE: Mr. Speaker, could we have an explanation of this amendment?

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

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

Mr. CAREY: Mr. Speaker and Members of the House: The amendment makes two changes in the bill. The first change would be on the bottom of page two. It allows the \$64 to be paid to those under the Elderly and Rent Relief Act, just as any other homeowner, and then Section 8 is a certification of surplus. By the 15th of January—it is a fail-safe type of amendment—the State Budget Officer would have to certify to the Legislature that there is sufficient money after all contingencies are accounted for, and I would say including the current negotiations, although we want to keep the legislature out of the collective bargaining process at this time, but that would be one of the contingencies that would have to be accounted for. If, after all those contingencies are accounted for, the State Budget Officer still feels that there is \$20 million available, he would then certify to the legislature that there is enough money to carry out the purpose of this act. Then the money would automatically go out to the people upon their filings, obviously.

If there are not sufficient funds, the legislature then would have to take some direct action. No monies would go out unless this legislature took action to reduce the amount of monies that were going to go out to fall within the balance, change this direction and go out

with something else, sales tax, income tax, but it is a decision that the legislature would make upon certification or non-certification on the 15th of January by the State Budget Officer.

The SPEAKER: The Chair recognizes the gentleman from Nobleboro, Mr. Palmer.

Mr. PALMER: Mr. Speaker, I would like to ask one more question through the Chair of the gentleman from Waterville. In other words, if the 109th Legislature determined, after the budget officer had made these decisions, that there was not indeed \$20 million but there might be \$15 million available, would that automatically be paid out in proportionate share, like three quarters of the \$64 and three quarters of the \$32, or does the legislature have to start all over from ground zero?

The SPEAKER: The gentleman from Nobleboro, Mr. Palmer, has posed a question through the Chair to the gentleman from Waterville, Mr. Carey, who may answer if he so desires.

The Chair recognizes that gentleman.

Mr. CAREY: Mr. Speaker, to the gentleman from Nobleboro, Mr. Palmer, at that point the legislature comes into play, and the legislature will then determine and that, interestingly enough, is the paragraph that is on page two of your Committee Amendment "B." If the surplus is not sufficient to provide the full benefits, no benefits shall be provided under this Chapter until the legislature, in its first session, determines what benefits. So at that particular legislature, the first session of the 109th, would determine how much money is available and then how they want to have it redistributed to the people. If there is only three quarters of the money, they may want to have just three quarters of the money distributed. If they decide at that point that we have just got enough money to take care of the owners and not the renters, they might decide to knock out the renters and just give money back to the owners. That decision would be made by the next legislature at a time that it is shown that there is not sufficient money.

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

Mrs. HUBER: Mr. Speaker, I would like to pose a question through the Chair. I would like to ask Representative Carey if he could tell me what "document" and "certify" mean. Does that mean that an estimate would be sufficient under the terms "document" and "certify"?

The SPEAKER: The gentleman from Falmouth, Mrs. Huber, has posed a question through the Chair to the gentleman from Waterville, Mr. Carey, who may answer if he so desires.

The Chair recognizes that gentleman.

Mr. CAREY: Mr. Speaker, I share the gentleman's concern, because what he is documenting in fact is an estimate, but it is an estimate that is within six months of the expected revenue figure as opposed to an estimate when the Budget Committee and the Appropriations Committee works, which may be in effect 30 months in advance. So he is still certifying to what he feels, or his Department of Finance and Administration feels will be the monies coming in, but he can make, obviously, a much better determination within 6 months of the end of the fiscal year than he could as the Appropriations Committee has to make at this time, 30 months in advance. But he is, Mr. Speaker, certifying an estimate.

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

Mrs. LEWIS: Mr. Speaker, if I may pose a question. On page two it says that the first regular session determines what benefits, if any. Now, when I read "if any," it seems to me that that means we are not really committed to any benefits whatsoever, so that actually this amendment completely undermines the original bill because there is no guarantee whatsoever that anybody is going to get any tax relief at all.

The SPEAKER: The gentlewoman from Auburn, Mrs. Lewis, has posed a question through the Chair to anyone who may care to answer.

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

Mr. CAREY: Mr. Speaker, the gentleday from Auburn is exactly correct. The two words "if any" were discussed in committee and they were brought forth by the gentleman from the other body, Senator Jackson, as a member of the committee, and he spoke in his capacity as a member of the committee and not as a member of the other body at that particular time. He was concerned that the surplus might be so low as to make a return to the general public ridiculous, that we may in fact have a surplus which would only provide \$6 for owners and \$3 for renters; \$18 for owners and \$9 for renters; but a figure certainly would not reflect the intent of the legislature that if there is \$20 million there, \$64 goes to the owners and \$32 to the renters. It is at that point that the next legislature would have to say that this is a ridiculous amount to try to return to the people; let's see if there is not a better use that we could put that money to, maybe in the sales tax field, maybe a one-shot income tax exemption, maybe a changing of the tax tables or what have you. But as the amendment was presented, it was presented with the idea of a safety valve, that if the money would actually make the legislature look ridiculous in returning it—and you may recall that at one time we were promised a \$50 rebate and not everybody was getting the \$50 rebate under the income tax, some people were only down to \$7—if we are getting into that ridiculous position, then the legislature ought to have some other alternatives that they can turn to to better use the money.

Mr. Raymond of Lewiston requested a roll call.

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

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

The SPEAKER: The pending question is on the adoption of Committee Amendment "B" (H-1297). All those in favor will vote yes; those opposed will vote no.

#### ROLL CALL

YEA—Bachrach, Bagley, Beaulieu, Benoit, Berry, Birt, Boudreau, P.; Brenerman, Brown, K. L.; Bunker, Burns, Bustin, Carey, Carrier, Carter, F.; Chonko, Churchill, Clark, Connolly, Cote, Cox, Cunningham, Curran, Davies, Devoe, Diamond, Dow, Drinkwater, Dutremble, Fenlason, Flanagan, Fowlie, Garsoe, Gill, Goodwin, H.; Gould, Green, Greenlaw, Hall, Henderson, Hickey, Higgins, Howe, Huber, Hughes, Immonen, Jensen, Joyce, Kany, Kerry, Kilcone, Laffin, LaPlante, Locke, MacEachern, Mackel, Mahany, Marshall, Martin, A.; Masterman, Masterton, Maxwell, McBreairey, McHenry, McKean, McMahon, McPherson, Mitchell, Morton, Nadeau, Najarian, Nelson, M.; Nelson, N.; Norris, Peakes, Pearson, Peltier, Peterson, Plourde, Post, Prescott, Quinn, Rideout, Rollins, Shute, Spencer, Strout, Stubbs, Talbot, Teague, Theriault, Tierney, Torrey, Tozier, Trafton, Truman, Twitchell, Valentine, Violette, Wilfong, Wood, Mr. Speaker.

NAY—Aloupis, Ault, Austin, Berube, Blodgett, Boudreau, A.; Carter, D.; Connors, Dexter, Durgin, Gillis, Gray, Hunter, Hutchings, Jackson, Kelleher, Lewis, Littlefield, Lizotte, Palmer, Paul, Perkins, Raymond, Sewall, Silsby, Smith, Sprowl, Stover, Tarbell, Tyndale, Whittemore.

ABSENT—Biron, Brown, K. C.; Carroll, Dudley, Elias, Hobbins, Jacques, Jalbert,

Kane, Lougee, Lunt, Lynch, Moody, Wyman. Yes, 102; No, 31; Absent, 14; Vacant, 4.

The SPEAKER: One hundred and two having voted in the affirmative and thirty-one in the negative, with fourteen being absent and four resigned, the motion does prevail.

Under suspension of the rules, the Bill was read the second time.

Mr. Connolly of Portland offered House Amendment "C" and moved its adoption.

House Amendment "C" (H-1296) was read by the Clerk.

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

Mr. CONNOLLY: Mr. Speaker and Members of the House: Without taking a great deal of time, the purpose of this amendment is to include tenants of public housing projects across the state as eligible recipients of the \$32 renters rebate as provided for in Committee Amendment "B." I understand that this was an issue that was raised yesterday at the public hearing and there was some discussion as to whether public housing tenants should be eligible for the rebate. I guess the Committee at that point, in trying to dispose of the matter, felt that they had a problem with the definition of public housing and public housing tenants, so they didn't deal with the issue. But this morning we were able to resolve that through discussions with attorneys in the Attorney General's Office and also people at the Department of Taxation.

I would like to make it clear that when we refer to public housing tenants, we are not talking about students who live in dormitories, we are not talking about people who live on government bases, we are not talking about people who live in boarding homes or nursing homes; we are talking about low income elderly and low income people who live in housing projects of which I understand there are 42 across the state. It is my understanding that there are approximately thirty three or thirty four hundred such units that would be eligible. Half of those are elderly, low income elderly, and remainder are low income people, people whose rent is based on a quarter of their income.

The cost for this particular amendment, if it is adopted, is in the vicinity of \$100,000 to \$200,000. The information we have received from the Finance Office and from the Department of Taxation, for this amount we don't need an additional appropriation because this amount can be absorbed in the \$20 million that is now called for in the appropriation in the bill.

It, to me, is a matter of discrimination, whether we discriminate against people who live in public housing projects as opposed to the public at large, whether they be renters or owners. I would just like to say that there has been a question raised as to whether or not people who live in public housing projects, because those units do not pay property taxes, should be considered as eligible. There is already a precedent for that under the Elderly Householders Rent Relief Act. Elderly people whose income makes them eligible for relief under that particular act receive that assistance now whether or not they live in public housing, so there is already a precedent.

If anybody has any questions, I would be glad to answer them, but, again, I would point out that as far as the financial considerations are concerned, the money is already provided for in the \$20 million and an additional appropriation is not called for.

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

Mr. CAREY: Mr. Speaker and Members of the House: I will take no position on this amendment whatsoever except to point out that I have checked with the Bureau of Taxation and they have said that in fact there is sufficient money within the \$20 million, as Representative Connolly from Portland has said.

The SPEAKER: The Chair recognizes the

gentleman from Wells, Mr. Mackel.

Mr. MACKEL: Mr. Speaker, Ladies and Gentlemen of the House: I would like to oppose this particular amendment. We did take it into consideration during our deliberations in committee and, actually, to me at least, it was more than the definition that bothered me. I do believe that the primary criteria for return of these funds is based on paying property tax either directly or indirectly. That is, directly, I think that is quite obvious, what was paid into the community; or indirectly through rentals, that, to me, is the criteria used to become eligible as this bill is written now. This would expand the eligibility to include people who do not pay property tax either directly or indirectly. So for that reason, I do object to this particular amendment.

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

Mr. CONNOLLY: Mr. Speaker and Members of the House: In response to the question, I would just point out now that in Title 30 there is a provision that housing authorities in different cities and towns across the state can make payments in lieu of taxes to that town. In some communities that happens, housing authorities, for their public housing units, make that surtax or tax charge in lieu of the regular property tax payments, so that is a provision that is allowable currently under the law and in some communities that happens. So I think that would deal with your argument, Representative Mackel.

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

Mr. McMAHON: Mr. Speaker, Ladies and Gentlemen of the House: This bill that we have been asked to consider today is entitled "An Act to Provide Property Tax Relief." The inhabitants of the state that this amendment is designed to assist do not pay property tax. Therefore, the amendment is inconsistent with the bill and with our reason for being here.

I would further suggest that if you adopt this amendment, it would open the door to students who live in dormitories the year round and perhaps the indians who live in subsidized housing here in the state. It is just a different direction from what the bill goes in, and for that reason, I move its indefinite postponement.

The SPEAKER: The gentleman from Kennebunk, Mr. McMahon, moves that House Amendment "C" be indefinitely postponed.

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

Mrs. KANY: Mr. Speaker and Members of the House: In Waterville such is the case. Our Waterville Housing Authority has housing in which there is payment in lieu of property taxes, and I consider that actually a de facto property tax. For that reason, I plan on supporting this amendment.

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

Mr. TARBELL: Mr. Speaker, I would like to pose a question through the chair. I would like an explanation of how this thing can possibly be absorbed without an additional fiscal note. If we are returning \$20 million in the original bill on a \$64/\$32 basis and you are going to include another \$100,000 or \$200,000, how is the mathematics of this thing going to work out?

We are also told that the administrative costs of implementing this bill are also included within the \$20 million, so how much of a cushion do we really have here? Who has a precise handle on the mathematics?

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

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

Mr. CONNOLLY: Mr. Speaker, in response to the question, I had a discussion with Representative Carey, who talked earlier, when we were preparing this amendment with Mr. Hal-



perin and others at the Department of Taxation, and they assured him—I don't have the figures before me—but they assured him that the cost of this, which again I would point out is estimated to be between \$100,000 and \$200,000, could easily be absorbed, even if it were as high as \$300,000, which it isn't, could easily be absorbed within the \$20 million appropriation. I think that part of the feeling for that reasoning was the fact that the entire \$20 million was not going to be spent, that some of that money would remain unspent and at least enough to cover this particular amendment.

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

Mrs. HUBER: Mr. Speaker, I am concerned about the germaneness of this amendment and I would ask the Chair for a ruling.

The SPEAKER: The Chair would ask the gentlewoman on what basis she assumes that the amendment is not germane.

Mrs. HUBER: Mr. Speaker, as the two gentlemen from the Kennebunk area have already pointed out, the amendment deals with not property tax relief but some other kind of income relief and the act is called "An Act to Provide for Property Tax Relief."

The SPEAKER: The Chair will have to draw on his limited knowledge of how housing authorities work, and that is to say that it is my understanding that in those communities that do make in lieu of property tax payments to the municipalities, they are in fact, to some degree, a form of property tax that is being used by the municipality and chargeable to the housing authorities. Based on that assumption, the Chair would rule that the amendment is in fact germane.

The pending question is on the motion of the gentleman from Kennebunk, Mr. McMahon, that House Amendment "C" be indefinitely postponed. All those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

Whereupon, Mr. Kelleher of Bangor requested a roll call vote.

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

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

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

Mr. CONNOLLY: Mr. Speaker and Members of the House: Briefly, again, in response to the major argument as I saw it of Representative McMahon, I would just point out again, perhaps he wasn't listening when I spoke the first time, that the term "public housing" as used in the statutes and is commonly defined would mean tenants of public housing projects, and it does not include students who live in dormitories nor people who live on government reservations or installations nor people who live in publicly owned nursing homes or boarding homes.

To the other question about whether or not it is property tax relief as opposed to some other relief, I would say again that communities can receive in lieu of property taxes payments from housing authorities for the existence of public housing in their particular community. It seems to me, in communities where those payments are made, that is exactly the same as property taxes.

The SPEAKER: A roll call has been ordered.

The pending question is on the motion of the gentleman from Kennebunk, Mr. McMahon, that House Amendment "C" be indefinitely postponed. Those in favor will vote yes; those opposed will vote no.

#### ROLL CALL

YEA—Aloupis, Ault, Austin, Beaulieu, Benoit, Berube, Birt, Boudreau, A.; Brown, K.

L.; Brown, K. C.; Bunker, Burns, Carey, Carroll, Carter, D.; Carter, F.; Churchill, Clark, Conners, Coxe, Cox, Cunningham, Devoe, Dexter, Drinkwater, Durgin, Fenlason, Fowlie, Garsoe, Gill, Gillis, Gould, Gray, Green, Higgins, Huber, Hunter, Hutchings, Immonen, Jackson, Jalbert, Kilcoyne, LaPlante, Lewis, Littlefield, Lizotte, Locke, Lougee, Mackel, Mahany, Marshall, Martin, A.; Masterton, Masterton, Maxwell, McBreairty, McHenry, McKean, McMahon, McPherson, Morton, Nadeau, Nelson, M.; Nelson, N.; Palmer, Paul, Peakes, Peltier, Perkins, Peterson, Prescott, Raymond, Rollins, Sewall, Shute, Silsby, Smith, Sprowl, Stover, Stubbs, Teague, Torrey, Tozier, Twitchell, Whittemore, Wood.

NAY—Bachrach, Bagley, Blodgett, Boudreau, P.; Brennerman, Bustin, Carrier, Chonko, Connolly, Curran, Davies, Diamond, Dow, Dutremble, Flanagan, Goodwin, H.; Greenlaw, Hall, Henderson, Hickey, Howe, Hughes, Jensen, Joyce, Kany, Kelleher, Kerry, Laffin, MacEachern, Mitchell, Najarian, Norris, Pearson, Plourde, Post, Quinn, Spencer, Strout, Talbot, Tarbell, Theriault, Tierney, Trafton, Truman, Tyndale, Valentine, Violette, Wilfong, Wyman, The Speaker.

ABSENT—Berry, Biron, Dudley, Elias, Hobbins, Jacques, Kane, Lunt, Lynch, Moody, Rideout.

VACANT—Bennett, Goodwin, K.; Mills, Tarr.

Yes, 86; No, 50, Absent, 11; Vacant, 4.

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

Mr. Burns of Anson offered House Amendment "B" and moved its adoption.

House Amendment "B" (H-1294) was read by the Clerk.

Mr. BURNS: Mr. Speaker, Ladies and Gentlemen of the House: This amendment goes along with the bill up to the point that it would reduce the return by \$5 million. The \$5 million would be set aside as a fund to build or improve county jails. The county jails are in deplorable condition. We have four counties that are currently rebuilding — two meet satisfactory conditions. I feel this should be set aside and be able to be utilized if the people themselves so desire.

There are a couple of changes as far as the \$5 million is concerned. This would be providing (1) that there is a \$5 million surplus as of July 1, 1979 and (2) that no other funds be available on a cost-sharing basis. It would reduce the relief on the package that is being offered to \$48 for property owners and \$24 for renters.

I believe that there are several others who wish to speak on this so I will sit down.

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

Mr. GARSOE: Mr. Speaker, I believe that when we find an amendment that diverts funds into the construction of jails, then I must challenge the germaneness of this.

The SPEAKER: The gentleman from Cumberland, Mr. Garsoe, has posed a question of the Chair on the question of the germaneness of House Amendment "B".

The Chair has been known to stretch germaneness questions or been accused of stretching germaneness questions, but the Chair cannot stretch it on this one. The Chair would rule that House Amendment "B" is not germane.

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

Mr. MACEACHERN: Mr. Speaker, Ladies and Gentlemen of the House: I probably will vote for this bill but I do it with a lump in my throat.

During the 107th Legislature, we passed an increase in the income tax and in doing so, we really rapped the middle income people, the people from \$18,000 to \$50,000. These are the people who are responsible for the surplus, so-

called surplus, that we have now. They are the people who have paid it. In my opinion, if we are going to give any rebate, we should give that rebate to the people who have paid it and not to me. I didn't pay it; I am not in that income category, but under this particular bill, I am entitled to \$64 rebate, which my neighbor, who earns in excess of \$20,000, paid. I think that this is the wrong approach. We should have approached it from the viewpoint of giving it back to the people that we took this money from rather than giving it back to everybody. This is nothing more than a welfare bill as far as I am concerned.

I disagree with the principle of it. I will vote for it because I think people want it, but I think it is wrong, I think any money that we have to give away should go back to the people that have paid it. It is our responsibility to see that that is done. We are the ones that really dug into their pockets a couple of years ago and we are the ones that should give it back to those same people.

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

Mr. JACKSON: Mr. Speaker, Ladies and Gentlemen of the House: I debated whether I would stand up at this point or wait until this bill came back from the other body. I am sure that it will leave this House and go to the other body.

In my opinion, the title of this bill is not germane to the content of the bill and I am opposed to the bill and the conception that goes behind it and the reason that it came to the floor of this House and will go to the floor of the other body.

I feel that it is a tax rebate bill, pure and simple. It happens to decide we will redistribute the wealth by giving it and giving lip service to the homeowners and property owners and pay it to them instead of the people who actually created the surplus, the people who paid income tax within this state and continue to pay and are going to continue to build a surplus.

I think that it does not address the problem, and the philosophical theory that comes behind this bill I have a great deal of trouble with. I think in presenting the bill, we are being challenged in our ability to handle the money of the taxpayers of this state. We are saying that this legislature is not to be trusted with the taxpayers' money and the quicker we get rid of any surplus, the better, because we may use it in some way that is not good. I think if you accept that premise, and the premise is presented here implicitly in the bill, we ought to all resign and consider a new form of government. I don't accept that premise. I think this legislature has the ability to handle the purse strings and to make the decisions.

I furthermore feel that we are passing up one of the greatest opportunities that we could have. We have the chance here to use \$20 million, 2 percent of the budget, we could use that money to give real tax relief to the people of this state. We will be, in a few weeks, floating a bond issue and the interest on that could be ended by doing that, we could pay for it right now. We could remove the sales tax from clothing and shoes and things that everybody in the state uses and give the people of this state something that will last many years and they will get the benefit from for many years. Instead, we are shoveling the money out to them, giving them something that will pay their groceries, agreed, for one week out of the year, and in doing it, the assumptions I cannot accept.

I would ask for a division and I will vote against this bill.

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

Mrs. MASTERTON: Mr. Speaker, Ladies and Gentlemen of the House: I would like to speak on behalf of the people who have built up that surplus, the people of my district, Cape



Elizabeth.

In the last few days, I have had conversations with about 50 or 60 of my constituents on the subject of this bill. Not a single one of them I have spoken to wants this \$64 redistribution of the wealth, as they call it. What they really want is a downward trend in taxation and a permanent solution to the inflation squeeze or to reduce our debt.

These are people who, two or three years ago, suddenly were called upon to shoulder the \$18 million deficit in educational finance. These are the people who have always generously supported education in our communities, but they resented having their state income taxes doubled overnight in order to pay for poorly planned state subsidy programs for education.

My constituents view the continuing phenomenon of surplus as unhealthy, a phenomenon not to be perpetuated indefinitely. They would like to attack this surplus disease at its source; in other words, to pay less in state income tax to begin with, allowing, of course, for a reasonable but declining rate of inflation and reasonable support of needed state services. They know that the surplus is fed by inflation.

My constituents are not unaware of the value of educational, elderly, medical and other social services. They are not unaware of the underfunding of the VTI's or of the state mental institutions or the state prisons. We, too, in Cape Elizabeth are fighting to support children in college or VTI's parents in nursing homes and hospitals or Augusta Mental Health Institute. We, too, are faced with the frustrations and vagaries of the court systems and the prisons. Just because we are residents of the wealthy town of Cape Elizabeth does not mean that we are not working hard for our living, that we are not squeezed by inflation or that we are not faced with the ordinary problems of life common to all Maine people.

Very simply, the people who have talked to me are confused about the amount of surplus available for this rebate. Is it \$11 million, is it \$23 million or is it more? They are skeptical about returning a surplus that is not in hand. They read the papers sufficiently to know that there is a difference of opinion on the size of the surplus and a difference over the consequence of this rebate on future state finances. Their attitude is, "better safe than sorry."

Let us recognize, too, that certain needs in this state have been swept under the carpet for the last few years. For example, the VTI's — their buildings have deteriorated badly; their teaching supplies and equipment have been sadly neglected; their instructor salaries are, for the most part, inadequate, to the point where the important mission of the VTI's to provide jobs for young people entering the labor market and upgrade mature work skills in the interest of an expanding Maine economy, this mission has become a mere shadow of its potential.

Is such negligence a good thing, given the relative poverty of the state, given our hope of revitalization of our economy? The VTI's are only one example of viable needs. I can tout out others and you can too. What I am trying to point out is that the long-range interest of our state can be best served if in the next session we can address the surplus question with more accurate information as to its size, address the disposal of it in a reasoned manner, with a wider array of choices before us, and do all of this in the context of a regular session, not in one day or two days or perhaps even more special session.

As a member of this legislature, I will not be bullied, weasled or bamboozled into supporting this one-time tax return on the eve of the general election. That would be imprudent. This time, I am putting prudence before politics and I urge you to do the same by defeating the passage of this measure in this House.

The SPEAKER: The Chair recognizes the

gentleman from Bangor, Mr. Kelleher.

Mr. KELLEHER: Mr. Speaker, Ladies and Gentlemen of the House: First of all, I would like to commend the Governor in terms of calling us back into session. I really don't believe what the good gentlewoman said about tempting any of us to be bullied or bamboozled. I think the Governor and the legislative leaders used some good judgment in bringing us back into session with the anticipation of the fact that there is sufficient dollars to handle this program.

When the Taxation Committee, and there are a variety of members on it from both political parties and both political persuasions, both liberals and conservatives, can come out with a unanimous document, the vast majority of leadership, for once in my life seeing them working well together in returning some tax dollars to the people of the state, can come up with an agreement to the solution, the Chief Executive himself, not known to be a fellow that flagrantly throws money around but feels quite confident that there is in fact sufficient dollars to return, I think the legislature, in its wisdom, would look well and wise before heeding to the remarks made by the gentleman from Yarmouth and the good gentlelady from Cape Elizabeth.

Now, \$64 isn't a lot of money to some people, but believe me, the vast majority of the people of this state feel it is a fair and just return if the dollars are there and I think they are — \$64 to some people in my legislative district looks like a lot of money when they go to pay their weekly grocery bill or their electrical bill; \$64 is a lot to people in the rural areas when they are trying to educate their children. It is not a lot of money, but it is a unique thing in the 10 years I have been here that we have been able to return some tax dollars back to the people of the state of Maine that belongs to everybody, that it isn't just the high wage earners in Cape Elizabeth who feel that perhaps they deserve a little more direct attention from the state, because I can remember when Cape Elizabeth came before the legislature, as well as Portland, Bangor and other communities, looking for money for needed projects in the area. The legislature, at that time, didn't draw a line saying, well, we are going to use on a scale of ten your ability to pay or not pay. That is what government is supposed to be about, to use funds when available freely and fairly for everybody.

There is a \$20 million surplus that is going to be available, and I am delighted to see that we are going to return it back in some way.

I have the highest regard for my friend over there in the corner, Mr. Palmer, and high regard for the good gentleman over in the other corner, Mr. Tierney, and they seem to be working in agreement on this particular issue — at least I hope they are.

I urge the passage of this document and I request the yeas and nays.

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

Mr. BAGLEY: Mr. Speaker, Ladies and Gentlemen of the House: The first sentence in this Proclamation says, "Whereas, there exists in Maine an extraordinary occasion whereby there are excess revenues." Now, for years and years and years and years, those of us who have been around a while remember that we had an excess collection. This isn't particularly extraordinary except as you view it in the last few years — it is a usual thing. And what did we do with the money? We used it for construction year after year for buildings at the state teachers colleges. Some of our buildings at other state institutions were built without paying interest out of the surplus which was accumulated year after year by a deliberate attempt to set the estimated incomes fairly low.

Now, last spring we did a good job; we reduced some taxes and so forth. I am retired, I am not a farmer or lumberman or fisherman,

so I didn't benefit from that. My income is so low that I don't benefit from that, but you took away taxes on some utilities. I do all right on that; I save 35 cents a month, which gives me a chance to buy an extra loaf of bread every two months, which is good.

The politicians, I think, were snowed by this Proposition 13. I wonder how many of you people have given your people an alternative in regard to this thing. You go up to a man and say, "Would you like to have \$64?" What is he going to say? Have you told him the possibilities of doing something else? Have you told him that the state is going to bond itself in the next few weeks \$14,900,000 and that the interest on that will be \$3,400,000 that could be saved?

I don't know whether you all know, I was over in the Treasury Department yesterday. The Treasury Department sent a letter to the Governor — and the copy of it is on file in the Treasury Department — three months ago suggesting that instead of issuing these bonds that we use this money for this purpose. The Governor didn't want to do that because he preferred to send it back to the taxpayers at an added cost over the next few years of \$3.4 million to the taxpayers who are going to get this \$64.

We owe \$269 million — I think that is the right figure. The Retirement System is underfunded, so much so that the actuary has already made plans to ask the legislature next session for \$8.5 million more each year of the biennium for the teachers and one and one half percent extra over what they did the last two years for each million dollars that the state employees get as an increase.

I am going to tell you one thing more that they told me over in the Treasury Department. The Treasury Department mails out the checks and they mailed them out last year budgeted at 13 cents a stamp. Well, now it has gone to 15 cents a stamp and they simply counted the number of checks they sent out and multiplied by two, the increase, and that came out to \$25,000, and they put that in the budget and that has been sliced out. I suppose that means that all of us retirees who live within 25 miles of Augusta are going to be expected to walk in and pick up our checks from now on.

There are so many of these things, and the main thing that I am going by is the fact that I talked to my people — two of them want the \$64. One of them told me that he had a state income tax last year of \$700 and a federal income tax of way over \$4,000 and he wants this \$64. I remarked that that would be a rather small drop in his pocket and he agreed that it would; yet, he wants it. Other than that, people have told me all over the two towns that they think this would be a ridiculous way to spend the money and we should use it for something else more practical, so it seems to me that this is a poor bill.

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

Mr. HOWE: Mr. Speaker, Ladies and Gentlemen of the House: It seems to me that we have been brought here today by the Governor in order to prove one of his favorite political theories; namely, that we politicians act more out of concern for our own political futures than we do out of the true interest of the people of Maine. The real irony of that charge, it seems to me, which the Governor so often made is that by passing this bill today we will be more guilty of that charge than we have been at any time since he has been Governor. Only a man capable of the most extraordinary political knack could have brought this legislative body to this position today.

Prior to watching this legislative vessel launch down the well-greased skids, I would like to offer a few comments for the record. There are a couple of facts which I think some of us have forgotten and which many of our constituents probably didn't even know.

First of all, you may recall that the present administration took office holding a \$14 million

surplus left by the preceding administration. The present administration spent that surplus just to keep the shop open. Without that surplus, the deficit created by this administration's first budget, which was at the time the largest budget in the state's history, would have been \$32 million rather than \$18 million. I don't point that out as a criticism of the devious liberal spending patterns of the Longley administration but simply to point out that much of the rhetoric emanating from the second floor regarding state spending is pure political hogwash.

Secondly, we should remind ourselves and the people of Maine that we are here in the middle of October 1978 being asked to spend millions of dollars which will not all be in the State Treasury until the end of June in 1979. Not only is the process of projecting the state's income between now and then a little more than educated guess work, so is the process of projecting many of the state's debts and the largely unfulfilled, the first time in the history of the state, collective bargaining which looms large in that process.

We have heard a great deal about how we must bring business practices to government, and I find no fault in that admonition, but I would like to talk to you for a minute about the insurance industry.

Insurance companies are required by both state law and by sound business practices to maintain what are called reserves. Reserves are usually expressed as a certain percentage of the company's expected liabilities. They are intended to provide a financial cushion beyond which the company expects to have to pay out in claims, and the state surplus, I submit, is nothing more nor less than a reserve of funds sitting there to provide a cushion in case of an emergency or other contingencies. This state has had unpaid claims awaiting for years and the deteriorating physical plant at SMVTI is just one of those claims.

The present issue before us, it seems to me, gives rise to two questions. The first question is whether any of the money coming into the surplus between now and next June 30 can be considered a surplus. In other words, is any of it money beyond what our needs are going to be? I don't think anybody on the second or third floor of the State House or anywhere else in the State of Maine right now knows the answer to that question, but I submit that any person, particularly one schooled in business administration, who was going to act responsibly would act on the side of caution and wait a few months to see what our expenses are going to be before we spend money we have not yet taken in.

Let us assume for a moment that there will be something in the neighborhood of a \$20 million surplus coming in during this fiscal year more than what will be needed for government operations. The second issue is not whether there should be a surplus but how much or how small that surplus should be, just as with an insurance company. To say there should be no surplus at all is irresponsible and contrary to sound business practices. Furthermore, to say that the next governor should make it or break it on his own and not be allowed to start his term with some amount of financial margin is foolishness. Each governor of the State of Maine cannot act in a vacuum with complete disregard for the consequences of his acts on future governors. After all, this has been the government of the people of the State of Maine since the year of our Lord, One Thousand Eight Hundred and Twenty, and it will continue to be the government of the people in Maine no matter which person or which party or which non-party is temporarily entrusted with its care.

The present administration inherited a legacy from all previous administrations and so will the next administration, and if the estate which the next governor inherits is fi-

nancial disarray, no amount of political rhetoric at this time is going to change that fact.

What we are doing, I think, is nothing short of possibly lighting a fuse on a time bomb set to go off in the lap of the next governor, whether that governor be the steel executive turned tree farmer/politician, from Nobleboro or the longshoreman turned lawyer/politician from Portland or the businessman turned Baptist preacher/non-politician from Bangor.

Let me take you for a moment to the wild West. The politicians in the capitol of the great State of California had a surplus — boy, did they have a surplus. While their computerized, up-to-the-minute property tax assessment machinery kept valuations skyrocketing upwards at the same rate as the dizzying increase of the price of real estate in that great golden state, Governor Brown and the legislature were accumulating a surplus of \$5 billion—that is "B" as in "Big Bucks"—\$5 billion. You know how many times \$20 million goes into \$5 billion? 250 times, and that wasn't projected surplus, that was real setting there in the treasury surplus. Now, if you equate a situation in Augusta, Maine with a situation in Sacramento, California, you needn't listen to anymore that I have to say.

In my brief stay here as a legislator, I have often been dismayed by how little faith we legislators have in our ability to justify and explain our actions to our constituents. How often and how long we have let the front pages of the newspapers and the six o'clock news programs be dominated by innuendoes, half truths and unsubstantiated claims. How often and how long we have let the rhetoric go unchallenged. Even if it were true that we always act out of political self interest, which it is not, one would think that we might now and then have enough pride in ourselves as human beings to stand up and challenge what we know to be wrong.

I have no faith in my ability to turn the tide here today, but I do have faith in my ability to explain my actions to constituents in District 35. Fortunately for me, because I have no opponent, I will have two years instead of two weeks to do that. As a result, I can either be accused of being irresponsible and, for the moment at least, unanswerable to the people of District 35, when it could be said that I could approach this matter with somewhat more objectivity than some of my good friends here who are neither unopposed nor retiring from this body.

I want to say something, however, about one individual among us who will be facing an opponent at the polls in just 20 days who yet has the courage to face into this raw, mellowed or political wind and raise his lone voice in the name of sanity. I have high regard for his young opponent and I hope, indeed, that the citizens of Senate District 6 fully appreciate the honesty and the integrity and the sheer common sense of Senator David Huber.

I have reserved my last comments for the specific content of the bill. I view the bill as specifically calculated to lure Democrats and the Republicans alike, Republicans, presumably, because it will cut state spending and Democrats because we have been chanting for so long about needed property tax relief, but I see it as not really accomplishing any of these goals but, instead, mocking them both. For a rebate resulting from over collection in taxes, it would return that money back through the same channels for which it was collected but it doesn't do that. If it were property tax relief, it would lower people's property tax bills in proportion to the tax burden, either individually as with the so-called circuit breaker or by communities with a homestead exemption, but it doesn't do that. It is a gimmick which sends most Maine citizens a small check or a credit with no real relationship at all to any of the taxes which they pay.

For example, my tenants pay more to me in rent than I pay in either mortgages or taxes

combined; yet, I get back twice what they do, and the self-described, staunch Republican who called me last night from Scarborough, who pays twice as much in state income tax as I do, won't get back anymore. He was very strong in his belief that he is not at all alone out there in seeing through this charade. There is something that all of us know all too well here, and that is that the front pages of our state's newspapers and the electronic media, while supposedly giving a spy glass through which citizens can get a better view of the inside of the operation of their government sometimes do more to obscure than vision.

If the 184 citizens who are paid by their neighbors to come to these chambers to see beyond what the neighbors can see and to act upon their increased knowledge, nevertheless, act as though they know nothing more than the neighbors do, then they are not doing the job they are paid to.

The bill is a sham, the session is a sham, and although I voted for that amendment, I think it makes a further mockery of this process.

With all due respect to my friend, the Speaker, who introduced this bill for the Governor, I cannot, in good conscience, support it.

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

Mrs. BACHRACH: Mr. Speaker, Men and Woman of the House: When I heard about this proposal, I first thought I would participate in Uncle Jim Longley's Christmas Club, which is about what it amounts to with this amount of money. When my Democratic leadership espoused it, I figured it would be a good time to be cooperative, but now I have a few questions and I hope that someone will answer them so that I can vote for this bill.

First of all, as has been said before, this is certainly not property tax relief—property tax relief should be an on going thing and not just a one-shot deal. When I hear about the needs in relation to child abuse, county jails, salaries and equipment at SMVTI and so forth, I really wonder whether this money is a surplus at all. It doesn't seem to me that money which is needed for a lot of good purposes can be called a surplus.

I certainly can sympathize with people who would like a few bucks to help with the grocery bills, but I don't believe they realize that it will be months before anything happens, it will only be subtracted from their income tax next April. Most of them will have already paid with holding taxes on what is owing to the state and I have heard no one say how on earth they are going to have it subtracted if they have already paid withholding taxes. In fact, in some instances, the state will owe them money and, therefore, I feel that the amount set aside to pay for remitting all this money to various people is insufficient. In fact, a good deal of it will be eaten up by the cost of sending it back.

I also would like to add that those who file and pay no income taxes will have to fill out a long and complicated blank and will have a very hard time getting money back at all.

I certainly would like to hear from my leadership, a very important and cogent argument as to why I should vote for this in view of these difficulties.

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

Mr. LaPLANTE: Mr. Speaker, Ladies and Gentlemen of the House: I don't intend to support L. D. 2214. I think calling a Special Session because of a surplus in state finances is not an extraordinary circumstance but a very ordinary one. Any surplus in state finances should be and must be an ordinary circumstance and only the amount should be extraordinary.

Reasons for calling these two Special Sessions by the Governor is purely for political reasons. It is an attempt to split and destroy the traditional two party system and insert a third, the Longley party, which is independent of all the democratic political process and inde-

pendent of the needs of the citizens of Maine, and that need is a true and honest tax relief program. False titles and political rhetoric were used to sensationalize the calling of these sessions.

At the first session, the public was led to believe that a tax limitation bill was being introduced but it would not have limited taxes nor reduce taxes. L. D. 2214 is presented as a bill to provide for property tax relief and it will not provide property tax relief. A true homestead relief act was presented by members of this legislature at the previous special session and it was rejected by the other body. A return of approximately \$1.23 a week to some and down to approximately 15 cents a week to others for one year, a one-shot period, demeans the intelligence of our citizens and for this it is not a tax relief.

If we do, in fact, have \$20 million, and we should wait until we are certain, we should pay on the states bonded indebtedness. In this way, we would save approximately \$2 a week for one year for all our taxpayers. This would serve as an automatic savings to all taxpayers without the need to decide who deserves more in return than others, especially, since this morning the Governor stated that all our citizens must be first-class citizens and considered only as first-class citizens, why, in this bill, is he requesting that some receive more than others? Again, this is political rhetoric.

The cry out there is that if you have a surplus, pay your debts and in this way you will save us a tax increase. This 15 cents or a dollar a week saving for one year will only, in the future, cause disturbance when you may have to go back and get 40 cents to \$2 a week in return from the taxpayers.

In light of this, I think this whole thing is false, is a sham, is in poor taste of the governmental process.

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

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

The SPEAKER: The pending question is on passage to be engrossed of L. D. 2214 as amended by Committee Amendment "B." Those in favor will vote yes; those opposed will vote no.

#### ROLL CALL

YEA—Aloupis, Ault, Austin, Bachrach, Beaulieu, Benoit, Berry, Berube, Birt, Blodgett, Boudreau, A.; Boudreau, P.; Brennerman, Brown, K.L.; Brown, K.C.; Bunker, Burns, Bustin, Carey, Carrier, Carroll, Carter, D.; Carter, F.; Chonko, Churchill, Clark, Connors, Cote, Cox, Cunningham, Curran, Davies, Devoe, Dexter, Diamond, Dow, Drinkwater, Durgin, Dutremble, Fenalson, Flanagan, Fowle, Garsoe, Gill, Gillis, Goodwin, H.; Gould, Gray, Greenlaw, Henderson, Higgins, Hobbins, Hughes, Hunter, Hutchings, Immonen, Jalbert, Jensen, Joyce, Kany, Kelleher, Kerry, Kilcoyne, Lewis, Littlefield, Locke, Lougee, MacEachern, Mackel, Mahany, Marshall, Martin, A.; Masterman, Maxwell, McBreairty, McHenry, McKean, McMahan, McPherson, Morton, Nadeau, Najarian, Nelson, N.; Norris, Palmer, Pearson, Peltier, Perkins, Peterson, Plourde, Post, Prescott, Quinn, Rideout, Rollins, Shute, Silsby, Smith, Sprowl, Stover, Strout, Tarbell, Teague, Theriault, Tierney, Tozier, Trafton, Truman, Twitchell, Valentine, Violette, Whittemore, Wilfong, Wood, Wyman, The Speaker.

NAY—Bagley, Connolly, Hall, Hickey, Howe, Huber, Jackson, LaPlante, Lizotte, Masterton, Mitchell, Nelson, M.; Paul, Peakes, Raymond, Sewall, Spencer, Stubbs, Talbot, Torrey.

ABSENT—Biron, Dudley, Elias, Green, Jac-

ques, Kane, Laffin, Lunt, Lynch, Moody, Tyndale.

Yes, 116; No, 20; Absent, 11; Vacant, 4.

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

By unanimous consent, ordered sent forthwith to the Senate.

On motion of Mr. Martin of Eagle Lake, Recessed until the sound of the gong.

#### After Recess

8:15 P.M.

The House was called to order by the Speaker.

The following Senate Paper appearing on Supplement No. 4 was taken up out of order by unanimous consent:

#### Non-Concurrent Matter

Bill, "An Act to Provide for Property Tax Relief" (H. P. 2347) (L. D. 2214) which was Passed to be Engrossed as Amended by Committee Amendment "B" (H-1297) in the House on October 18, 1978.

Came from the Senate, Passed to be Engrossed as amended by Committee Amendment "B" (H-1297) as amended by Senate Amendments "A" (S-637) and "B" (S-638) thereto in non-concurrence.

In the House:

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

Mrs. NAJARIAN: Mr. Speaker, Ladies and Gentlemen of the House: I move that the House recede and concur.

I believe that based on the past revenue projections by the Governor and the amount by which revenues have consistently exceeded estimates, even when those estimates have been raised, that there is a good possibility that the \$20 million will be there next January in addition to taking care of some of the responsibilities that we have to the state employees and others. If not, there is a provision that if it is not available, what is available will be prorated.

I know that people in Portland need property tax relief, and even though I do not consider this a true property tax relief, measure, it will be something for them which they might not get at any other time.

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

Mr. MORTON: Mr. Speaker, Ladies and Gentlemen of the House: I have been thinking long and hard about this situation as we went through the day today and it disturbs me a great deal that by receding and concurring on this particular amendment, we will be turning over to the budget department the ability to determine how much tax rebate there will be under this bill. I am sure you can say, with no problem at all, that we were doing that if we went with the full \$20 million.

I think it is only fair to point out to you that \$20 million, while not perhaps a large proportion of the total billion dollar budget of the State of Maine, is still a significant amount of money. If, for instance, the budget department has to certify an amount somewhat less than this, and who knows how much somewhat less might be, fifteen, ten, two, the lower the number gets, the less significant the estimates are. In fact, in order to estimate within \$20 million of a billion dollar budget, you are only at 2 percent error and a 2 percent error is not a very big error to charge anyone with. So, in my opinion, \$20 million is significant; anything less is not significant, and I think it would be most unwise to automatically give up the prerogatives of this legislature to deal with monies that are available below \$20 million.

Therefore, I hope, that you will not see fit to support this recede and concur motion and will get to the point where we can adhere.

The SPEAKER: The Chair recognizes the

gentleman from Lewiston, Mr. Jalbert.

Mr. JALBERT: Mr. Speaker, Ladies and Gentlemen of the House: I have listened very intently to the remarks of the lady from Portland, Mrs. Najarian, and the remarks of the gentleman from Farmington, Mr. Morton. I think I have listened to ten different plans today.

I might say that the amendment itself that we had before us, which was Committee Amendment "B", the contingency involved is what made me somewhat leery. I can understand the safeguards. There can be several areas where taking into account all outstanding contingencies could involve themselves in. Also, the comment that would involve itself into the surplus could come into the picture. Frankly, that scares me. I think this is placing a tremendous amount of power in the hands of the budget officer.

However, I have worked for weeks on figures. There have been figures that have been given to you which have been taken from a percentage, quite high in my opinion, from what we are spending now projected into the next two years. I am not going to go into a projection for two years, but I am going to try to attempt to tell you just where we will be, in my humble opinion, from my own projections after several attempts at arriving at what the final figure will be. I will be brief.

As of June 30, 1978, we had \$35.2 million. We had to reduce \$22 million from that amount because we were taking in \$436 million and spending \$458 million, which left us with a total of \$13.2 million. In the months of June, July and August of this year, we drew \$6.6 million in excess of what was anticipated, so that amount, added to the \$13.2 brought us up to \$19.8 million. We had, of course, an excess revenue from the revised estimate anyway of \$4.4 million, which left us with \$24.2 million.

Now, based on the fact that we had collected \$6.6 million for July, August and September in excess of our anticipated revenue, I feel, and that is how I arrived at my figures and I was very careful about them, I didn't make the months of November or January high, I did not make the month of December all that high in the sales tax category, although I am firmly convinced that it will be the highest in the state's history, I also kept in mind that February is a bad month and that we are going to come out with a loser, but if we gain \$6.6 million for three months in the months of July, August and September, certainly it is fair to assume that I could add \$12 million for the remaining nine months and be safe in doing it.

I took an average of the lapse balances over the last 14 years, and they average around four to five million dollars, sometimes even more, sometimes less, but I settled for a figure of \$3.5 million, which gave me an estimated surplus total at the end of June 30, 1979 of \$39.7 million. The proposed tax package being \$20 million, reducing that from that \$39.7 million, leaves us with a total of \$19.7 million for the end of the biennium. On the basis of that projection, and this is not the first time that I have tried and attempted to make projections, I have been off somewhat at times but not to any great amount and the record will show it.

I don't like the present amendment. I would have preferred a clean bill and I even would have bought the Morton amendment. I am convinced that we will not be faced with a veto in spite of the fact that I am certain the Chief Executive is not particularly fond of this amendment himself.

Because I think we should go home and I think we should not be here beyond one day, and we have reached a point where we have got to get together somewhere and agree on something, and being thoroughly convinced that the money will be available on January 15th and it will satisfy all the parties concerned, I will go along with the motion, reluctantly, to recede and concur.

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

Mr. TALBOT: Mr. Speaker, Ladies and Gentlemen of the House: I will try to be brief because I am under the impression that we can rap this up and go home. I would, at least, for the record, state my reasons for having to, within my own conscience, vote against this particular piece of legislation.

As I said during the last special session, that the general public is under the impression that they would much rather have a government that works in excellence in their behalf rather than have the \$64 or the \$32 that they are going to get in tax rebate sometime this year or next year.

The thing that keeps haunting me and I keep worrying about is the fact that for the last six years that I have been here, the one thing I noticed is that all of our state programs and those institutions that are funded by state dollars are always underfunded, and I can't see giving \$20 million back to the people when the services are still going to be inadequate to their specifications. I speak of the South Portland Boy's Training Center, the Child Abuse and Neglect Program, Thomaston State Prison, the Maine Institute for the Blind and many others. The one that I think has top priority is the handicapped. As far as the handicapped and as far as the valuation of programs in northern Maine, it is almost nil; we don't have any, and I can attest to that. So I find it very, very inadequate for me to sit in this House, in the last moments of this special session, and vote to give \$20 million back to the people which I don't really have any way of knowing that they don't want or do want because I have not received any mail on it nor one telephone call on it. I have not received anything at all on a tax rebate, so I can't in good conscience vote for this particular piece of legislation.

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

Mr. COX: Mr. Speaker, Ladies and Gentlemen of the House: My commitment to this bill is to the amended bill as the Taxation Committee reported it out. I feel no commitment to any amended version of the bill beyond that.

Therefore, I shall probably vote against the motion to recede and concur.

When the vote is taken, I request that it be taken by the yeas and nays.

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

Mr. WYMAN: Mr. Speaker, Ladies and Gentlemen of the House: It is with a great deal of reluctance that I shall vote for the motion to recede and concur. Just for the record, I would like to make a couple of observations that I think are important for us all to note in considering this matter at this late hour.

First of all, and this has been said but I think it needs to be reiterated, this particular proposal is not in any way and does not in any way address the issue of true tax reform in this state. The pressure to deal in a meaningful way with the regressive burden and inherent injustice of our tax system will be just as great in January, in a year from now, as it is today; in fact, I expect it will be greater. I hope none of us are under any impression that this particular rebate plan is going to address the very dire need to correct the unfairness of our tax system.

Secondly, I think it is important to note that the Committee Amendment which was attached to this particular bill, which requires that the legislature shall consider outstanding contingencies at the time that the rebates are returned, is very important for us to recognize, because the greatest outstanding contingency, I personally believe, that we will face in January will be the funding of the contract with our public employees, and when that contract is arrived at following the fact-finding process, I would hope that all of us would realize and would abide by a very strong and unequivocal

moral commitment that we have to our employees, who have not been given a meaningful raise in four years, that this contingency will be a very high priority when we return to the legislature and that all of us recognize this and prepared to deal with it.

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

Mr. MORTON: Mr. Speaker, Ladies and Gentlemen of the House: I don't intend to be on my feet again this evening and I think I can see how the land lies but I, again, urge you people to consider what is taking place here in the House tonight.

If we go with Senate Amendment "B" to Committee Amendment "B", which is part of recede and concur, we are saying that if the surplus is not sufficient to provide the full benefits, the state budget officer shall certify the amount of the surplus and the benefits will be prorated. In effect, what we are doing is giving the state budget officer the opportunity to distribute \$2 to renters and \$4 to people who own homes, if that is what the figures come out to, or the full for \$32 and \$64, but I think if it gets to anything below \$20 million, the thing begins to give figures back to the people which are patently absurd.

The position of this House when we sent this bill down to the other end of the hall was that if it was less than \$20 million, this legislature should determine what would happen to that money and how much, if any, should be returned to the people under the bill. I think that that is the position I want to be on. I want to say to the people that at least I am willing to take the responsibility for distributing that money or not distributing it, as the case may be, based on the priorities that exist when the 109th Legislature convenes.

I don't like this idea of a blank check to the budget department below \$20 million. I think it smacks of giving away the store and I don't want that kind of a vote on my conscience. So I hope that the majority of this House tonight will take into consideration the vote that we took earlier today, it is a very substantial vote, hang onto our position, defeat the motion to recede and concur so we can adhere to the position of retaining control of how the state's money is spent here in the legislature where that control belongs.

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

Mrs. KANY: Mr. Speaker and Members of the House: I would just like to remind Mr. Morton, whom I admire greatly by the way, that the next legislature will be here on January 20th to mind the store.

I am voting to recede and concur just because I personally feel that the estimates are extremely conservative. Obviously, inflation will still be with us. We can expect sales taxes to be coming in even higher, income taxes too, and I feel that the estimates are extremely conservative.

Another reason I guess I am interested, even though I probably would have been interested in voting for this anyway. I know that in our particular town there are many people who are all excited over their property tax and our local budget and they have had many, many signatures to get a budget recall onto the ballot on November 7th, and they are just talking about basically what would be a \$51 difference on a \$30,000 assessed house and here we are giving back, basically, \$64 to that same homeowner. So I am personally very glad to be able to vote to recede and concur.

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

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

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

Mr. CAREY: Mr. Speaker, Ladies and Gentlemen of the House: I will try to answer to the gentleman from Farmington, Mr. Morton. I have been here for a considerable amount of time. I have gone through these exercises where I have listened to the gentleman from Lewiston, Mr. Jalbert, quote annually figures on estimated revenues, estimated expenditures, and he has been consistently, within a very few percentage points, correct in his estimates, I have no fear that the Trotzky amendment on this bill will really never come into play, that the \$20 million, will be there.

The SPEAKER: A roll call has been ordered. The pending question before the House is on the motion of the gentleman from Portland, Mrs. Najarian that the House recede and concur. All those in favor will vote yes; those opposed will vote no.

The Chair recognizes the gentleman from Cape Elizabeth, Mrs. Masterton.

Mrs. MASTERTON: Mr. Speaker, I would like to pair my vote with Representative Green of Auburn. If he were here, he would be voting yes and I would be voting no.

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

Mr. JACKSON: Mr. Speaker, I would like to pair my vote with Representative Garsoe from Cumberland. If he were here, he would be voting yea and I would be voting nay.

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

Mr. MCKEAN: Mr. Speaker, I wish to pair my vote with the gentleman from Franklin, Representative Connors. If he were here, he would be voting nay and I would be voting yea.

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

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

#### ROLL CALL

YEA—Aloupis, Beaulieu, Benoit, Berube, Birt, Blodgett, Boudreau, A.; Boudreau, P.; Brenerman, Brown, K. L.; Brown, K. C.; Bunker, Burns, Bustin, Carey, Carrier, Carroll, Carter, D.; Carter, F.; Chonko, Churchill, Clark, Cote, Cunningham, Curran, Davies, Devoe, Dexter, Dow, Drinkwater, Durgin, Du Tremble, Elias, Fenlason, Flanagan, Fowhe, Gill, Gillis, Goodwin, H.; Gould, Gray, Higgins, Hobbins, Hughes, Hunter, Hutchings, Jacques, Jalbert, Joyce, Kany, Kelleher, Kerry, Lewis, Littlefield, Locke, Lougee, MacEachern, Mackel, Mahany, Marshall, Masterman, Maxwell, McBreairty, McHenry, McMahon, McPherson, Najarian, Nelson, N.; Norris, Palmer, Pearson, Peltier, Perkins, Peterson, Plourde, Post, Shute, Silsby, Smith, Sprowl, Stover, Tarbell, Teague, Theriault, Tierney, Tozier, Trafton, Twitchell, Valentine, Violette, Whittemore, Wilfong, Wood, Wyman, The Speaker.

NAY—Austin, Bachrach, Bagley, Connolly, Cox, Greenlaw, Hall, Henderson, Hickey, Huber, Immonen, Jensen, Kilcoyne, Laffin, Lizotte, Mitchell, Morton, Nelson, M.; Paul, Prescott, Raymond, Rollins, Spencer, Strout, Stubbs, Talbot, Torrey.

ABSENT—Ault, Berry, Biron, Diamond, Dudley, Kane, LaPlante, Lunt, Lynch, Martin, A.; McHenry, Moody, Peakes, Quinn, Rideout, Sewall, Truman, Tyndale.

PAIRED—Connors, Garsoe, Green, Howe, Jackson, Masterton, McKean, Nadeau.

Yes, 95; No, 27; Absent, 17; Paired, 8; Vacant, 4.

The SPEAKER: Ninety-five having voted in the affirmative and twenty-seven in the negative, with seventeen being absent and eight paired, the motion does prevail.

By unanimous consent, ordered sent forthwith.



**House at Ease**

Called to order by the Speaker.

Mr. Wyman of Pittsfield presented the following Joint Resolution and moved its adoption: (H. P. 2348) (Cosponsors: Mr. Hall of Sangerville, Mr. Austin of Bingham, Mrs. Locke of Sebec)

**JOINT RESOLUTION CONCERNING ENFORCEMENT****OF PUBLIC LAW 1977, Chapter 676**

Whereas, the Maine State Legislature, has enacted Public Law 1977, Chapter 676, which establishes a condition of reciprocity between the State of Maine and any state, district, province or country which prohibits, in any way, the transportation of wood, pulpwood or logs from that state, district province or country to this State; and

Whereas, the Legislature has reasonable cause to believe that the Canadian Province of Quebec, through law has imposed restrictions on the transportation of wood, pulpwood or logs upon Maine truck owners and operators; and

Whereas, these restrictions are causing undue financial deprivation to hundreds of Maine truckers and their families and are perpetrating an unfair and discriminatory practice against these Maine truckers; and

Whereas, the provisions of Public Law 1977, Chapter 676, require that the State of Maine shall impose similar restrictions upon the truck owners and operators from the Province of Quebec; and

Whereas, there has been failure, despite a sufficient period of time, to enforce the clearly stated provisions of chapter 676 against the Canadian Province of Quebec: now, therefore, be it

Resolved, That we the members of the 108th Legislature assembled at the second special session respectfully and urgently request commencement of immediate enforcement of the provisions of Public Law 1977, chapter 676 as it presently pertains to the Canadian Province of Quebec; and be it further

Resolved, That upon passage of this resolution in concurrence, a suitable copy of this resolution be sent to the Honorable James B. Longley, Governor of the State of Maine.

The Resolution was read and adopted and sent up for concurrence.

By unanimous consent, ordered sent forthwith.

The following paper appearing on Supplement No. 5 was taken up out of order by unanimous consent:

**AN ACT TO PROVIDE FOR PROPERTY TAX RELIEF (H. P. 2347) (L. D. 2214) (S. "A" S-637 and S. "B" S-638 to C. "B" H-1297)**

**WAS REPORTED BY THE COMMITTEE ON ENGROSSED BILLS AS TRULY AND STRICTLY ENGROSSED.**

Mr. Morton of Farmington requested a roll call vote.

The SPEAKER: For the Chair to order a roll call, it must have the expressed desire of one fifth of the members present and voting. All those desiring a roll call 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 Standish, Mr. Spencer.

Mr. SPENCER: Mr. Speaker, Ladies and Gentlemen of the House: At the last special session, I spoke about the danger of calling the legislature into session, putting it under tremendous pressure to act on major issues without time for proper consideration. I stand here tonight on the verge of enactment of this legislation. I have voted against it right along; I don't think it is wise, and I would point out that the gentleman from Farmington, Mr. Morton, has raised what I think is a very profound prob-

lem, which is that this piece of legislation is entirely unconstitutional. It delegates to the State Budget Officer the power to spend money, which we can't do. It violates the separation of powers clause. It hasn't been properly thought out and I don't think we should pass it.

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

Mr. TIERNEY: Mr. Speaker and Members of the House: With all due respect to the gentle counselor from the City of Standish, Mr. Spencer, I fear that in one sense nothing could be more dangerous than members of my profession who reach immediate judgment, especially based on issues of this type of importance and at this time of night and trying to give people the impression that the bill is obviously unconstitutional.

Ladies and gentlemen of the House, we have a judiciary to decide those kinds of problems. I think if this House, at this hour, all of a sudden decides to turn around and look over our shoulders at every piece of legislation we have passed in the last two years, I am afraid every time we turned around I think we would be in sad shape.

I don't think the bill is unconstitutional, if you want to know one lawyer's opinion, for what it is worth. The good gentleman from Standish didn't cite any cases, so I won't either.

All we are asking the Executive Department to do is certify whether or not the surplus exists—that is a certification process. The ultimate power still resides in the people.

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

Mr. SPENCER: Mr. Speaker and Members of the House: What we are asking the budget officer to do is to look at all outstanding contingencies, any possibilities, and then decide how much money there will be at the end of the year, and on the basis of that determination, the budget officer is going to spend somewhere between zero and \$20 million. That simply is, to me, it appears to be very clear that that is a violation of Article III. I don't think that it is wise, I don't think this legislature should do it, and I think it points out the problem that the Chief Executive of this state has created by calling us into these special sessions right before the election when we don't have time to consider these things, and I think that it defeats the basic problem that we all find ourselves faced with, I less than some of you because I don't have to be reelected.

The SPEAKER: A roll call has been ordered. The pending question is on passage to be enacted. All those in favor of this bill being passed to be enacted will vote yes; those opposed will vote no.

The Chair recognizes the gentlewoman from Cape Elizabeth, Mrs. Masterton. Representative Green from Auburn. If he were here, he would be voting yea and I would be voting nay.

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

Mr. JACKSON: Mr. Speaker, I would like to pair my vote with the Representative from Cumberland, Mr. Garsoe. He would be voting yea and I would be voting nay.

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

Mr. MCKEAN: Mr. Speaker, I wish to pair my vote with the gentleman from Franklin, Representative Conners. If he were here, he would be voting nay and I would be voting yea.

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

Mr. HOWE: Mr. Speaker, I would like to pair my vote with the gentleman from Sanford, Mr. Nadeau. If he were here, he would be voting yea and I would be voting nay.

**ROLL CALL**

YE—Aloupis, Ault, Austin, Beauhieu, Benoit, Berube, Birt, Blodgett, Boudreau, A.; Boudreau, P.; Bruner, Brown, K. L.; Brown, K. C.; Bunker, Burns, Bustin, Carey, Carrier, Carroll, Carter, D.; Carter, F.;

Chonko, Churchill, Clark, Cote, Cunningham, Curran, Davies, Devoe, Dexter, Dow, Drinkwater, Durgin, Dutremble, Elias, Fenlason, Flanagan, Fowlie, Gill, Gillis, Goodwin, H.; Gould, Gray, Greenlaw, Hall, Higgins, Hughes, Hunter, Hutchings, Jacques, Jalbert, Joyce, Kany, Kelleher, Kerry, Lewis, Littlefield, Locke, Lougee, MacEachern, Mackel, Mahany, Marshall, Masterman, Maxwell, McBreairty, McHenry, McMahon, McPherson, Najarian, Nelson, N.; Norris, Palmer, Pearson, Peltier, Perkins, Peterson, Plourde, Post, Prescott, Shute, Silsby, Smith, Sprowl, Stover, Strout, Tarbell, Teague, Theriault, Tierney, Tozeir, Trafton, Twitchell, Valentine, Violette, Whittemore, Wilfong, Wood, The Speaker.

NAY—Bachrach, Bagley, Connolly, Cox, Henderson, Hickey, Hobbins, Huber, Immonen, Jensen, Kilcoyne, Laffin, Lizotte, Mitchell, Morton, Nelson, M.; Paul, Raymond, Rollins, Sewall, Spencer, Stubbs, Talbot, Torrey, Wyman.

ABSENT—Berry, Biron, Diamond, Dudley, Kane, LaPlante, Lunt, Lynch, Martin, A.; Moody, Peakes, Quinn, Rideout, Truman, Tyndale.

PAIRED—Conners, Garsoe, Green, Howe, Jackson, Masterton, McKean, Nadeau.

Yes, 99; No, 25; Absent, 15; Paired, 8; Vacant, 4.

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

Signed by the Speaker and sent to the Senate. By unanimous consent, ordered sent forthwith.

The following paper from the Senate was taken up out of order by unanimous consent:

The Following Joint Order, An Expression of Legislative Sentiment recognizing that:

Jim Beattie of South Portland, who on October 15, 1978 was the winning pitcher for the New York Yankees in a crucial World Series Game, has become the first graduate of South Portland High School, the first Ivy-Leager, and the first Maine native within memory ever to win a World Series Game (S. P. 780)

Came from the Senate read and passed and ordered sent forthwith.

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

**(Off Record Remarks)**

On motion of Mr. Palmer of Nobleboro, that gentleman was charged with and conveyed a message to the Senate informing that body that the House had acted on all matters before it and was ready to adjourn without day.

On motion of Mr. Tierney of Lisbon Falls, that gentleman was charged with and conveyed a message to His Excellency, the Governor, to inform him that the House of Representatives had acted on all matters before it and was ready to adjourn without day.

At this point, a message came from the Senate, borne by Senator Speers of Kennebec, informing the House that the Senate had transacted all the business before it and was ready to adjourn without day.

**(Off Record Remarks)**

The SPEAKER: The Chair recognizes the gentleman from Easton, Mr. Mahany.

Mr. MAHANY: Mr. Speaker and Members of the House: I move the House of Representatives adjourn without day.

The SPEAKER: The gentleman from Easton, Mr. Mahany, moves that the House adjourn without day. Is this the pleasure of the House?

The motion prevailed and at 9:49 P. M., Eastern Daylight Saving Time, Wednesday, October 18, 1978, the Speaker declared the House adjourned without day.