

# MAINE STATE LEGISLATURE

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**LEGISLATIVE RECORD**

OF THE

***One Hundred and Ninth  
Legislature***

OF THE

**STATE OF MAINE**

**Volume I**

**FIRST REGULAR SESSION**

**January 3, 1979 to May 4, 1979**

## HOUSE

Wednesday, April 11, 1979

The House met according to adjournment and was called to order by the Speaker pro tem. Representative Elias of Madison.

Prayer by Sister R. Mildred Barker of the United Society of Shakers, Sabbathday Lake.

Sister BARKER: Eternal Father, strong to save. Eternal Mother, strong to love, send your spirit upon us. Fill us that we may in some small way share in your essence which is all love and wisdom. Direct those of us who have been chosen to represent your people in paths of ever greater service, ever reminding us that those who serve are always called to meekness and the recognition to serve truly is to be the least.

Let us not only have the gift of service but the gift of wisdom as well. Help us to remember that true wisdom comes not from books but from insight into that divine self which you are continually revealing to those of us who are open and receptive to your life-giving spirit.

In all of life's decisions, but particularly in those that affect the well-being of your people, help us to be guided by love of you and of our fellow men, not by selfish whim. Bless us that we may ever be a source of blessing of all whom we have met and touched. These things we ask through Eternal Christ, who has always been, who is now and always will be the alpha and the omega, the beginning and the end, the one who makes all things new. Amen.

The journal of yesterday was read and approved.

## Papers from the Senate

Bill "An Act Coordinating Regional and Inter-city Public Transportation Programs" (Emergency) (S. P. 495) (L. D. 1556)

Came from the Senate referred to the Committee on Transportation and ordered printed.

In the House, was referred to the Committee on Transportation in concurrence.

## Reports of Committees

## Leave to Withdraw

Report of the Committee on Labor reporting "Leave to Withdraw" on Bill "An Act to Provide for Extension of the Time Period During which Notice must be Given under the Workers' Compensation Act" (S. P. 278) (L. D. 846)

Came from the Senate with the Report read and accepted.

In the House, the Report was read and accepted in concurrence.

## Messages and Documents

The Following Communication: (S. P. 497)

State of Maine  
SENATE CHAMBER  
President's Office  
Augusta, Maine 04333

April 9, 1979

Honorable Roland Sutton  
Honorable Jasper Wyman  
Chairmen, Labor Committee  
State House  
Augusta, Maine 04333

Please be advised that Governor Joseph E. Brennan is nominating Gary F. Thorne of Old Town to serve as the public alternate member of the Maine Labor Relations Board.

Pursuant to Title 26 MRSA, Section 968, this nomination will require review by the Joint Standing Committee on Labor and confirmation by the Senate.

Sincerely,  
S/JOSEPH SEWALL  
President of the Senate  
S/JOHN MARTIN  
Speaker of the House

Came from the Senate Read and Referred to the Committee on Labor.

In the House, was read and referred to the Committee on Labor in concurrence.

## Petitions, Bills and Resolves

## Requiring Reference

The following Bill was received and referred to the following Committee:

## Appropriations and Financial Affairs

Bill "An Act to Provide Compensation and Benefits Agreed to by the State and the Maine Teachers' Association for Employees in the Bargaining Unit of Administrators at the Vocational-Technical Institutes and the School of Practical Nursing" (Emergency) (H. P. 1302) (Presented by Mr. Pearson of Old Town) (Cosponsor: Mr. Morton of Farmington)

(Ordered Printed)

Sent up for concurrence.

## Orders

An Expression of Legislative Sentiment (H. P. 1300) recognizing that:

Christopher Jamieson of Millinocket has been chosen State of Maine "Boy Scout of the Year" for 1979

Presented by Mr. Marshall of Millinocket (Cosponsors: Senator Pray of Penobscot and Mr. Birt of East Millinocket)

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

An Expression of Legislative Sentiment (H. P. 1301) recognizing that:

the Sterns High School Stage Band, under the Direction of Mr. Jerry Walker, has won the Division II Championship for the State of Maine for 1979

Presented by Mr. Marshall of Millinocket (Cosponsors: Senator Pray of Penobscot and Mr. Birt of East Millinocket)

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

## House Reports of Committees

## Ought Not to Pass

Mr. Brown from the Committee on Public Utilities on Bill "An Act to Prohibit Telephone Charges for Information or Directory Assistance Calls" (H. P. 527) (L. D. 649) reporting "Ought Not to Pass."

Mr. Reeves from the Committee on Public Utilities on Bill "An Act to Make it Mandatory for Utilities to Notify Fire Chiefs and Municipal Officers when they Increase the Voltage through a Municipality" (H. P. 526) (L. D. 648) reporting "Ought Not to Pass"

Were placed in the Legislative Files without further action pursuant to Joint Rule 22, and sent up for concurrence.

## Leave to Withdraw

Miss Gavett from the Committee on Public Utilities on Bill "An Act to Require the Public Utilities Commission to Investigate the Establishment of a Separate Customer Charge Classification for Electric Service to Any Grange of Patrons of Husbandry" (H. P. 564) (L. D. 710) reporting "Leave to Withdraw"

Mr. Lowe from the Committee on Public Utilities on Bill "An Act to Prohibit Telephone Companies from Requiring Service Deposits Prior to Providing Phone Service to Businesses" (H. P. 444) (L. D. 561) reporting "Leave to Withdraw"

Reports were read and accepted and sent up for concurrence.

## Ought to Pass in New Draft

Mr. Jackson from the Committee on Business Legislation on Bill "An Act to Provide for Continuing Education for Real Estate Brokers and Salesmen" (H. P. 364) (L. D. 480) reporting "Ought to Pass" in New Draft (H. P. 1303) (L. D. 1559)

Report was read and accepted, the New Draft read once and assigned for Second Reading Tomorrow.

## Divided Report

Majority Report of the Committee on Health and Institutional Services reporting "Ought not

to Pass" on Bill "An Act to Provide for Non-smoking Areas in Restaurants with a Seating Capacity of 50 or more Persons" (H. P. 433) (L. D. 550)

Report was signed by the following members:

Mrs. GILL of Cumberland  
Mr. CARPENTER of Aroostook  
— of the Senate.

Mrs. PAYNE of Portland  
Mr. CLOUTIER of South Portland  
Mrs. CURTIS of Milbridge  
Mr. NORRIS of Brewer  
Mrs. MacBRIDE of Presque Isle  
Mr. MATTHEWS of Caribou

— of the House.

Minority Report of the same Committee reporting "Ought to Pass" on same Bill.

Report was signed by the following members:

Mr. HICHENS of York

— of the Senate.

Messrs. BRODEUR of Auburn  
VINCENT of Portland

— of the House.

Reports were read

The SPEAKER pro tem: The Chair recognizes the gentlewoman from Hampden, Mrs. Prescott.

Mrs. PRESCOTT: Mr. Speaker, I move acceptance of the Majority "Ought Not to Pass" Report.

The SPEAKER pro tem: The gentlewoman from Hampden, Mrs. Prescott, moves that the Majority "Ought Not to Pass" Report be accepted.

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

Mr. VINCENT: Mr. Speaker, Ladies and Gentlemen of the House: I rise in opposition to the acceptance of the "Ought Not to Pass" report as the sponsor of the bill.

This bill is fairly easy to explain in its capacity. What it does is, it pertains to reference of seating capacity over 50, which eliminates your smaller restaurants. It allows for 25 percent of the seating space to be set aside for non-smokers.

Non-smokers constitute a majority of the population. I don't think that even for those that smoke there hasn't been somebody who has gone into a restaurant, trying to enjoy an expensive or semi-expensive, good meal and have it spoiled by cigar smoke or somebody constantly chain smoking at the table adjoining.

I feel it would be a good idea if some of the restaurants would volunteer to this, but in the State of Maine it seems they are not doing this.

This law is on the books in several other states that set aside floor space, and as a result of it, they find more people or non-smokers coming into the restaurant than before. Some of the non-smokers have a tendency of avoiding restaurants or staying away from restaurants as a result of the heavy smoking that goes on in restaurants.

This bill also excludes lounge areas where there are drinks served, so it would not infringe on that particular area.

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

Mr. CLOUTIER: Mr. Speaker, Ladies and Gentlemen of the House: I take great pleasure in standing before you right now, as I told Mr. Vincent at the hearing on this bill, L. D. 550, the reason I wanted to get up and speak on this bill was because of my pent up emotions held back from Mr. Dexter's bill. As Mr. Dexter will attest to, I was against the first smoking bill, but I gave my word to Mr. Dexter and I kept it. It was very frustrating to go through a vote time and again when you didn't want to. So, when this bill came to the Health and Institutions Committee, as I sat beside Representative Vincent, I beamed and I said, George we are going to have some fun with this one.

What I would like to do is tell you the same story that I told the committee when the first smoking bill came on the floor of the House. I felt that the state, although it should exercise to a certain degree and encourage restaurants to post no-smoking signs, just as it does in the state building. I don't think that the state should go into the affairs of private industry and the private sector.

We had had many, many restaurant owners testify against this particular piece of legislation. They told us that if it were going to affect their pocket books, they would definitely put up signs and make adjustments so that their people would be taken care of.

Outside of that I don't think that there is too much more to say. We did come out with a divided report, 12 members voting "ought not to pass" and one member on the minority report, and I move we accept the "ought not to pass" report.

The SPEAKER pro tem: The Chair recognizes the gentleman from Dixfield, Mr. Rollins.

Mr. ROLLINS: Mr. Speaker, Ladies and Gentlemen of the House: We have a little restaurant in one of the shopping centers, Deering Ice Cream; they have a no smoking area. I like to go there because I can get away from the smoke. If they can do it, I can't understand why others can't do the same.

The SPEAKER pro tem: The Chair recognizes the gentleman from Skowhegan, Mr. Whittemore.

Mr. WHITEMORE: Mr. Speaker, Ladies and Gentlemen of the House: As far as I am concerned, this body is here to run the government and not to run private enterprise. If I run a restaurant and I allow smoking and you don't like it, don't come in there, go to the restaurants that don't allow it; that is up to you. I am paying the bills there and I am running that restaurant and I don't want the government to run it. I think we are interfering with private enterprise too much. I say, let's run the government and leave the business to the business people, let them run it. If they can't run it properly, they will close up.

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

Mr. BRENERMAN: Mr. Speaker and Members of the House: I just thought I would give a couple of reasons why I signed the "ought not to pass" report, then we can vote to kill this bill.

I think for the first time in my two and a half years here, I agree with Mr. Whittemore. I don't think that we should interfere with the restaurants that are attempting to do business in the state.

The Maine Lung Association appeared at the hearing against the bill for that same reason. They felt that the Restaurant Association, in good faith, should voluntarily attempt to set aside sections for not smoking. I think that is why a majority of the committee agreed that this bill "ought not to pass". In some cases, I also think that it is difficult for restaurants that seat over 50 people to set aside sections because of the way that the restaurant is set up, and I think that it certainly would cause difficulty for them. Therefore, I would ask the House to go along with the "ought not to pass" report.

The SPEAKER pro tem: The chair recognizes the gentleman from Portland, Mr. Vincent.

Mr. VINCENT: Mr. Speaker, Ladies and Gentlemen of the House: I think Mr. Cloutier has somewhat hit the nail on the head in directing or facing part of the problem and the reason for submitting this bill. Mr. Cloutier borders on being a chain smoker, if he isn't already there. I happen to sit next to him in the committee, and if it wasn't for the chairman of the committee, I would be subjected to his chain smoking through every bill that is being heard before the committee. This is one of the reasons that I put the bill in. It is impossible to

get into a restaurant and go through a situation whereby you can get away from some smoke, in the larger restaurants. I am not talking about the smaller restaurants. I am talking about your large restaurants. That is why this section was put into the bill about the seating capacity of 50.

If it wasn't for the chairman of the committee, like I said, I would be subjected to smoke everyday. If we didn't have a smoking ban in this House, I am sure I would be subjected to some of it in here. There isn't enough voluntary restraint, which is one of the reasons I put this bill in.

When the vote is taken I would request a division.

The SPEAKER pro tem: The Chair recognizes the gentlewoman from Hampden, Mrs. Prescott.

Mrs. PRESCOTT: Mr. Speaker, Ladies and Gentlemen of the House: I would just like to add something that hasn't been said already, and that is the fact that the Restaurant Association, working with the Maine Lung Association has begun a voluntary effort to establish no smoking in restaurants. They are going to be doing this in sections of restaurants throughout the state. They will begin on Saturday of this week. I thought that we ought to give their voluntary efforts an opportunity to work or not to work. They claim they can implement this by voluntary program by July 1, 1979. I think that will be enough time to find out whether or not they can't.

Also, I think you ought to know that there is no fiscal note on this bill. If it were to pass, it would cost \$15,000 in 1979-80 and another \$15,000 in the year 1980-81 to provide for a sanatorium worker II to travel throughout the state and enforce the bill we have before us. I ask that you support the "ought not to pass" report.

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

Mr. CLOUTIER: Mr. Speaker, Ladies and Gentlemen of the House: I will be very brief. I just wanted to clear up the record a little bit. I am not a chain smoker. As a matter of fact, I just started smoking again when I came up to the legislature. I did want to clear that point up on the record.

The SPEAKER pro tem: The pending question is on the motion of the gentlewoman from Hampden, Mrs. Prescott, that the House accept the Majority "Ought Not to Pass" Report. All those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

75 having voted in the affirmative and 16 in the negative the motion did prevail.

Sent up for concurrence.

#### Order Out of Order

An Expression of Legislative Sentiment (H. P. 1299) recognizing that:

Richard Partridge, Jr., of Detroit Troop #483, has become the first member of his troop ever to achieve the rank and distinction of Eagle Scout

Presented by Mr. Hall of Sangerville.

The order received out of order by unanimous consent, was read and passed and sent up for concurrence.

#### Consent Calendar

##### First Day

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

(H. P. 683) (L. D. 907) Bill "An Act to Establish a Demonstration Project to Create a grant and Loan Program to Assist Older Citizens in Purchasing Medically Prescribed Eyeglasses, Dentures and Hearing Aids" Committee on Health and Institutional Services reporting "Ought to Pass" as amended by Committee Amendment "A" (H-200)

(S. P. 189) (L. D. 456) Bill "An Act Appropri-

ating Funds to Allow Maine State Retirement Members a Cost-of-Living Increase in Benefits" Committee on Aging, Retirement and Veterans reporting "Ought to Pass" as amended by Committee Amendment "A" (S-94)

(S. P. 290) (L. D. 852) Bill "An Act to Allow Reduced Pricing of Discontinued Liquor Items" (Emergency) Committee on Legal Affairs reporting "Ought to Pass"

(S. P. 286) (L. D. 856) Bill "An Act to Provide for Metric Measurements" Committee on Legal Affairs reporting "Ought to Pass"

(S. P. 408) (L. D. 1254) Bill "An Act to Aid Recovery of Medicaid Funds" Committee on Health and Institutional Services reporting "Ought to Pass"

(S. P. 393) (L. D. 1197) Bill "An Act to Exempt Automobile Assigned Risk Policies from the Countersignature Requirements" Committee on Business Legislation reporting "Ought to Pass"

(S. P. 392) (L. D. 1196) Bill "An Act Concerning the Reason for Nonrenewal of Policies Under the Maine Property Insurance Cancellation Control Act" Committee on Business Legislation reporting "Ought to Pass"

(H. P. 663) (L. D. 838) Bill "An Act to Amend the Statutes Relating to Airmobiles" Committee on Energy and Natural Resources reporting "Ought to Pass" as amended by Committee Amendment "A" (H-204)

(H. P. 73) (L. D. 82) Bill "An Act Relating to Weights of Commercial Vehicles" Committee on Transportation reporting "Ought to Pass" as amended by Committee Amendment "A" (H-205)

No objections being noted, the above items were ordered to appear on the Consent Calendar of April 12, under listing of Second Day.

#### Consent Calendar

##### Second Day

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

(S. P. 257) (L. D. 763) Bill "An Act to Make Private Organizations which Receive a State Subsidy Subject to the Maine Freedom of Access Law" (C. "A" S-89)

(S. P. 234) (L. D. 686) Bill "An Act to Amend the Definition of Wholesale Life Insurance"

(H. P. 91) (L. D. 103) Bill "An Act to Establish Registration of Polygraph Examiners" (C. "A" H-194)

(H. P. 784) (L. D. 984) Bill "An Act to Permit Certain Maine Pharmacists to Fill the Prescription of Certain Nonresident Physicians" (C. "A" H-195)

(H. P. 654) (L. D. 813) Bill "An Act to Protect Insurance Claim Adjusters and Appraisers from Conflict of Interest" (C. "A" H-196)

(H. P. 334) (L. D. 433) Bill "An Act to Clarify Certain Provisions of the Banking Laws Relating to Savings Banks" (C. "A" H-197)

(H. P. 622) (L. D. 779) Bill "An Act to Establish Standards for the Sale and Installation of Foam Plastic Insulation" (C. "A" H-198)

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

#### Passed to Be Engrossed

Bill "An Act to Permit Juvenile Offenders who are Deaf or Mute, or Both, to be Committed to the Maine Youth Center" (Emergency) (S. P. 207) (L. D. 580)

Bill "An Act to Require Conspicuous Posting of Retail Gasoline and Diesel Fuel Prices" (H. P. 624) (L. D. 766)

Were reported by the Committee on Bills in the Second Reading, read the second time, the Senate Paper was passed to be engrossed in concurrence and the House Paper was passed to be engrossed and sent up for concurrence.

An Act Prohibiting Hunting of Bear with Dogs and to Prohibit Hunting Bear with Bait (H. P. 457) (L. D. 570)

Was reported by the Committee on Bills in the Second Reading and read the second time. Mrs. Martin of Brunswick offered House Amendment "A" and moved its adoption.

House Amendment "A" (H-199) was read by the Clerk and adopted.

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

#### Amended Bills

Bill "An Act Relating to the Rules Governing the Inspection and Licensing of Motor Vehicle Racing" (S. P. 232) (L. D. 684) (S. "A" S-95)

Bill "An Act Relating to Municipal use of Land Control Techniques Under the Zoning Laws" (H. P. 371) (L. D. 482) (C. "A" H-187)

Bill "An Act Concerning Appeals to the Superior Court" (H. P. 601) (L. D. 748) (H. "A" H-193 to C. "A" H-181)

Were reported by the Committee on Bills in the Second Reading, read the second time, the Senate Paper was passed to be engrossed as amended in concurrence and the House Papers were passed to be engrossed as amended and sent up for concurrence.

#### Passed to Be Enacted Emergency Measure

An Act to Make Corrections of Errors and Inconsistencies in the Laws of Maine (S. P. 401) (L. D. 1161) (H. "A" H-174; S. "A" S-43; S. "C" S-64; S. "D" S-66; S. "E" S-73; S. "F" S-77)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure and a two-thirds vote of all the members elected to the House being necessary, a total was taken. 111 voted in favor of same and 6 against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

#### Passed to Be Enacted

An Act Concerning the Period of Liability of a Financial Institution on a Written Instrument under the Abandoned Property Statute (S. P. 114) (L. D. 204) (S. "B" S-83 to C. "A" S-69)

An Act Relating to Negotiations Involving State Employees under the Labor Laws (H. P. 246) (L. D. 291) (C. "A" H-160)

An Act Concerning Issuance and Renewals of Liquor Licenses (H. P. 316) (L. D. 382)

An Act to Limit Additional Retirement Benefits under the Maine State Retirement System (H. P. 331) (L. D. 430) (C. "A" H-137)

An Act to Relate the Qualifying Wage Levels for Unemployment Compensation to the Average Weekly Wage (H. P. 437) (L. D. 554) (C. "A" H-157)

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

#### Orders of the Day

The following matter, in consideration of which the House was engaged at the time of adjournment yesterday, has preference in the Orders of the Day and continues with such preference until disposed of as provided by Rule 14.

The Chair laid before the House the first item of Unfinished Business:

Bill, "An Act to Increase the Compensation for Substitute Teachers" (H. P. 3) (L. D. 9)

Tabled—April 10, 1979 (Till Later Today) by Mr. Boudreau of Waterville.

Pending—Passage to be Engrossed.

Thereupon, the Bill was passed to be engrossed and sent to the Senate.

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

Bill, "An Act Relating to the City of Bangor the State's Interests in a Portion of the Bed of the Penobscot River" (H. P. 528) (L. D. 650)

Tabled—April 9, 1979 by Mr. Kelleher of

Bangor.

Pending—Passage to be Engrossed.

On motion of Mr. Kelleher of Bangor, retabled pending passage to be engrossed and specially assigned for Tuesday, April 17.

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

Bill, "An Act Establishing Penalties for Cutting Timber Without the Owner's Permission" (H. P. 434) (L. D. 551) (H. "A" H-192 to C. "A" H-172)

Tabled—April 10, 1979 by Mr. Hobbins of Saco.

Pending—Passage to be Engrossed.

The SPEAKER pro tem: The Chair recognizes the gentleman from Saco, Mr. Hobbins.

Mr. HOBBS: Mr. Speaker and Members of the House: I tabled this at the request of a certain individual. It appears that he is not in the hall this morning, and I would suggest that maybe someone would give me the courtesy of tabling this for one more day.

Whereupon, on motion of Mrs. Mitchell of Vassalboro, tabled pending passage to be engrossed and tomorrow assigned.

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

An Act Providing for Archaeological Investigation of the "Viking Coin" Historical Site (Emergency) (S. P. 139) (L. D. 321) (C. "A" S-71)

Tabled—April 10, 1979 by Mr. Pearson of Old Town.

Pending—Passage to be Enacted.

The SPEAKER pro tem: This being an emergency measure, it requires a two-thirds vote of all the members elected to the House. All those in favor of this Bill being passed to be enacted will vote yes; those opposed will vote no.

A vote of the House was taken.

Whereupon, Mr. Morton of Farmington requested a roll call vote.

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

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

The SPEAKER pro tem: The pending question is on passage to be enacted. This being an emergency measure, it requires a two-thirds vote of all the members elected to the House. All those in favor of this Bill being passed to be enacted as an emergency measure will vote yes; those opposed will vote no.

#### ROLL CALL

YEA — Aloupis, Bachrach, Beaulieu, Berry, Berube, Birt, Blodgett, Bordeaux, Boudreau, Bowden, Brannigan, Brennerman, Brodeur, Brown, D., Brown, K. L., Brown, K. C., Bunker, Call, Carter, D., Carter, F., Chonko, Churchill, Cloutier, Conary, Cox, Cunningham, Damren, Davies, Davis, Dellert, Dexter, Doukas, Drinkwater, Dutremble, D., Dutremble, L., Fenlason, Fillmore, Fowlie, Gavett, Gillis, Gould, Gowen, Gray, Gwadosky, Hall, Hanson, Hickey, Higgins, Hobbins, Huber, Hunter, Hutchings, Immonen, Jacques, P., Jalberty, Joyce, Kane, Kelleher, Kiesman, Lancaster, LaPlante, Leighton, Leonard, Lewis, Lizotte, Locke, Lowe, Lund, MacBride, MacEachern, Mahany, Masterman, Masterton, Matthews, Maxwell, McMahon, McPherson, McSweeney, Michael Mitchell, Morton, Nadeau, Nelson, A., Nelson, N., Norris, Paradis, Payne, Pearson, Peltier, Peterson, Post, Prescott, Reeves, J., Rolde, Rollins, Roope, Sewall, Sherburne, Silsby, Simon, Small, Smith, Soulas, Sprowl, Stover, Studley, Tarbell, Theriault, Tierney, Torrey, Tozier, Twitchell, Vincent, Violette, Vose, Wentworth, Whittemore, Wood, Wyman.

NAY — Austin, Baker, Barry, Brown, A.,

Connolly, Curtis, Howe, Laffin, Lougee, Martin, A., McHenry, McKean, Paul, Reeves, P., Strout.

ABSENT — Benoit, Carrier, Carroll, Diamond, Dow, Dudley, Elias, Garsoe, Hughes, Jackson, Jacques, E., Kany, Marshall, Nelson, M., Stetson, Tuttle, The Speaker.

Yes, 119; No, 15; Absent, 17.

The SPEAKER pro tem: One hundred nineteen having voted in the affirmative and fifteen in the negative, with seventeen being absent, the Bill is passed to be enacted.

Signed by the Speaker and sent to the Senate.

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

An Act to Require that Fairs meet Qualifications Standards before they are Entitled to Receive Money from the Stipend Fund (S. P. 58) (L. D. 91) (C. "A" S-74)

Tabled—April 10, 1979 by Mrs. Berube of Lewiston.

Pending—Passage to be Enacted.

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

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

Bill, "An Act Relating to Self-insurance under the Workers' Compensation Act" (H. P. 396) (L. D. 526)

Tabled—April 10, 1979 by Mr. Tierney of Lisbon.

Pending—Passage to be Engrossed.

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

Mr. HOWE: Mr. Speaker and Members of the House: Prior to the probable passage to be engrossed of this bill, I would like to make some comments on the record since it has been going through with very little comment, except some comments offered by the gentleman from Madawaska, Mr. McHenry, on first reading.

The present law, which has been on the books just a few years, provides an alternative to employers going to insurance companies to purchase workers' compensation insurance, and that alternative is called self-insurance. If you can muster the financial resources and prove to the workers' compensation commission that you as an employer or that you and another group of similar employers, allied occupations, then you can be permitted to what is called self-insure. There are two such similar groups in operation now, the Maine Municipal Association and a group of pulp and paper industry workers, I guess, in the western part of the state. I guess I don't have any problem with that concept of self-insuring, but his bill would extend the self insurance concept to something which I think is far beyond self. It would permit any group of like or unlike employers to group together to self-insure. And I think by definition, that is really not self-insurance. This organization will be able to, for certain fees, provide workers' compensation insurance, and the sponsor, my friend from Pittsfield, Mr. Wyman, seems to feel that this takes an act of the legislature to do that.

What we are talking about really, it seems to me, is something that has been on the books for quite a while in Title 24-A and that is an insurance company. Under Title 24-A no, any group of employers or any other people can, by going through certain acts and meeting certain requirements, form an insurance company. It seems to me that this bill, not totally wisely in my view, circumvents the requirements for forming an insurance company by permitting employers to form together to "Self-insure." and I submit that it is not insuring one's self when the organization is insuring a large group of unlike employers or companies.

The bill turns over the authority for regulating these self-insuring groups from the Work-

ers' Compensation Commission to the Bureau of Insurance. One problem with that, is that the bill gives virtually no guidance or specific standards for the Bureau of Insurance, the Superintendent of Insurance, to meet in authorizing self-insurance programs.

I have spoken to the acting director of the bureau and he is somewhat at a loss as to know precisely what standards to use. The only standards available to him at this time are those in Title 24-A, the Standards for an Insurance Company. He has asked, I believe, the Committee on Labor and this legislature to provide some standards in the legislation, but there are none there. In the course of going through this legislature, as one legislator I am not in a position to try to develop those standards. I think the Bureau of Insurance requested that this matter be sent out to study for some time. It is a pretty complex area.

Another concern I have is that such groups could do either one of two things. They would either make this insurance available to anybody who wants to get in and pay the rates, in which case I see literally no distinction between that group and an insurance company, and yet we are calling it something else. The other option is that they will be somewhat selective, maybe highly selective of the groups that they take in. My concern would be that they might very well take in only those employers with a high safety record largely because of the occupations in which they operate, leaving the high risk occupations outside of that group and forcing the rates for those groups up even higher than they are now. I don't know how this is going to work and I don't think anybody does at this point.

I simply wanted to share some of these reservations on the record before this bill went any further. I don't think my concerns are amendable to a quickie floor amendment, even though I had one prepared, but I am not totally satisfied with it and I am not going to offer it, but I share those thoughts with you. I would request a division.

The SPEAKER pro tem: The Chair recognizes the gentleman from Madawaska, Mr. McHenry.

Mr. McHENRY: Mr. Speaker, Ladies and Gentlemen of the House: I signed this bill "ought not to pass" and I also would ask for a division.

I hope you vote against this bill. This bill is a special interest bill. You will have a few lawyers getting rich quite quick with this at the expense of the employees, because these small companies, I assure you, will end up in bankruptcy and the people of the State of Maine will be paying for it.

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

Mr. DEXTER: Mr. Speaker, Men and Women of the House: This is one attempt to lighten the burden on a small businessman like myself. The rates are going up and up and up. Quite frankly, I am getting quite sick and tired of hearing about things like this. If you really want to help the small businessman, you will vote for this.

My rate right now is 15.1 cent on a dollar. How would you like to pay that? It is going to go up 20 percent more.

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

Mr. JALBERT: Mr. Speaker, may I ask what the report on this bill was?

Thereupon, the Report was read by the Clerk.

The SPEAKER pro tem: The Chair will order a vote. The pending question is on passage to be engrossed. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

Mr. McHenry of Madawaska requested a roll call.

The SPEAKER pro tem: For the Chair to order a roll call, it must have the expressed

desire of one-fifth of the members present and voting. Those in favor will vote yes; those opposed will vote no.

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

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

Mr. WYMAN: Mr. Speaker, Ladies and Gentlemen of the House: This L. D. 526 is to make it easier for a businessman, especially small businessmen, to handle their workers' compensation rates. I hope you will support it.

The SPEAKER pro tem: The Chair recognizes the gentleman from Madawaska, Mr. McHenry.

Mr. McHENRY: Mr. Speaker, I would like to pose a question to the sponsor. How is this bill going to lower the rate if the experienced rate just keeps going up throughout the State? How is it going to do it? Is it going to do it like Blue Cross-Blue Shield, which is supposed to have a lower rate for us people when we get into a group? We have seen it going up and up and up and I have asked this question time and time again. How is this going to lower it? I can't see it. It won't and it never will.

The SPEAKER pro tem: A roll call has been ordered. The pending question is on passage to be engrossed. Those in favor will vote yes; those opposed will vote no.

#### ROLL CALL

YEA — Austin, Bachrach, Barry, Beaulieu, Benoit, Berry, Blodgett, Boudreau, Bowden, Brannigan, Brennerman, Brown, D.; Brown K.L.; Brown, K.C.; Bunker, Call, Carrier, Carter, D.; Chonko, Cloutier, Conary, Cunningham, Curtis, Damren, Davis, Dexter, Doukas, Drinkwater, Dudley, Dutremble, D.; Fenlason, Fillmore, Fowlie, Gavett, Gould, Gowen, Gray, Hall, Hanson, Hickey, Higgins, Hughes, Hunter, Immonen, Jackson, Jacques, P.; Jalbert, Joyce, Kane, Kiesman, Lancaster, LaPlante, Leighton, Leonard, Lewis, Lizotte, Locke, Lougee, Lowe, Lund, MacBride, MacEachern, Martin, A.; Masterman, Matthews, Maxwell, McKean, McMahon, McPherson, McSweeney, Michael, Mitchell, Morton, Nadeau, Nelson, M.; Nelson, N.; Norris, Paradis, Paul, Payne, Pearson, Peterson, Post, Prescott, Reeves, J.; Reeves, P.; Rolde, Rollins, Roope, Sewall, Sherburne, Simon, Small, Smith, Soulas, Sprowl, Stover, Studley, Tarbell, Theriault, Torrey, Tozier, Tuttle, Twitchell, Violette, Vose, Wentworth, Whittemore, Wood, Wyman.

NAY — Aloupis, Baker, Berube, Birt, Bordeaux, Brodeur, Brown, A.; Carter, F.; Connolly, Cox, Davies, Dellert, Dow, Dutremble, L.; Gwadnosky, Hobbins, Howe, Huber, Laffin, Masterton, McHenry, Tierney, Vincent.

ABSENT — Carroll, Churchill, Diamond, Elias, Garsoe, Gillis, Jacques, E.; Kany, Kelleher, Mahany, Marshall, Peltier, Silsby, Stetson, Strout, The Speaker.

Yes, 112; No, 23; Absent, 16.

The SPEAKER pro tem: One hundred and twelve having voted in the affirmative and twenty-three in the negative, with sixteen being absent, the motion does prevail.

Sent up for concurrence.

The SPEAKER pro tem: The Chair recognizes the gentleman from Van Buren, Mr. Violette.

Mr. VIOLETTE: Is the House in possession of Bill, "An Act to Repeal the Portable Stove Exemption to the Statutes Governing Kindling of Out-of-door Fires" (H. P. 752) (L. D. 936)?

The SPEAKER pro tem: The Chair would answer in the affirmative, having been held at the request of the gentleman from Van Buren, Mr. Violette.

The Chair recognizes the gentleman from Van Buren, Mr. Violette.

Mr. VIOLETTE: Mr. Speaker, I would move that we reconsider our action whereby the Mi-

nority "Ought Not to Pass" Report was accepted.

The SPEAKER pro tem: The Chair recognizes the gentleman from Scarborough, Mr. Higgins.

Mr. HIGGINS: Mr. Speaker, a point of parliamentary inquiry?

Can the gentleman move to reconsider if he didn't vote on the prevailing side?

The SPEAKER pro tem: In reference to the parliamentary inquiry of the gentleman from Scarborough, Mr. Higgins, yesterday's vote on L. D. 936, the "Ought Not to Pass" Report went under the hammer so everyone was on the prevailing side. The motion to reconsider is in order.

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

Mr. SOULAS: Mr. Speaker, I was just going to make the motion, if it was not in order, to reconsider, and hope you vote against me.

The SPEAKER pro tem: The Chair recognizes the gentleman from Van Buren, Mr. Violette.

Mr. VIOLETTE: Mr. Speaker, Ladies and Gentlemen of the House: First of all, I apologize for all the trouble caused this morning. Further, I would just like to speak very briefly to the bill.

Very clearly, in my mind this bill is not an attempt to restrict public access to private land. Rather, the bill is designed to help facilitate forest fire control procedures presently in effect under Maine law by requiring members of the public using portable gas fuel stoves to comply with the permit requirements imposed upon people using other types of fires on lands not owned by them.

First, this bill is essential to maximize the fire control capabilities of the landowners and the state.

Secondly, on larger, more remote tracts of land, the permitting requirements of the present law are the only means that the state has in directing members of the public to areas that are safe and suitable for camping activities. Landowner cooperation with state officials in identifying such places has long been a matter of public record.

Third, requiring permits for the use of portable stoves would help alleviate the litter problem which has become serious in recent years. For those seeking permits under the present law, state officials presently have an opportunity to urge campers to clean up their litter, but this opportunity does not exist in the case of users of portable stoves under the present law.

I would hope that you would vote for the motion to reconsider.

The SPEAKER pro tem: The Chair recognizes the gentleman from Sanford, Mr. Paul.

Mr. PAUL: Mr. Speaker, Ladies and Gentlemen of the House: We debated this bill yesterday. At that time, it was pretty clear to me that it was a bill that was unnecessary. The law we have presently is working very well. Individuals indicated at the public hearing that nobody turned out. I would submit to you that the reason nobody showed up at that hearing was, in fact, people felt that this bill was unnecessary.

I think to require a camper, an individual who is utilizing the Maine woods to obtain a permit in order to utilize one of these stoves which are far safer than an open fire, these coleman stoves, some of the small sterno stoves, they are very safe. The reason they were given an exemption in this statute was because these are safe.

I would hope that you would stick by your guns where we voted "ought not to pass" yesterday and would not support the motion to reconsider.

The SPEAKER pro tem: The Chair recognizes the gentleman from Waterville, Mr. Jacques.

Mr. JACQUES: Mr. Speaker, a point of order? Aren't we supposed to discuss the re-



consideration motion, not the bill?

The SPEAKER pro tem: The question of discussion is reconsideration of the acceptance of the Minority "Ought Not to Pass" report.

The gentleman may continue.

Mr. JACQUES: Mr. Speaker, Ladies and Gentlemen of the House: With all due respect to my good friend, Mr. Violette, I am sure by the way he is talking this morning that he has never been faced with the problem of getting a permit in certain situations.

Like Mr. Dudley pointed out yesterday, if you decide Friday night or Saturday night to go out in the woods and you would like a fire permit to cook your food, under the present law, if you are going to have an open fire, you have to and you should. Mr. Paul pointed out, the small stoves, these stoves were given an exemption because they are a lot safer. In all my travels and I have traveled all over, hunted and fished all over. I have never had anybody come out and tell me that one of these stoves was the cause of the fire.

The fires in Maine were caused by campfires left burning and cigarette butts thrown out. You can ask the rangers that and they will tell you the same thing.

Now, I hate to think that a guy and his wife and his family could not go out on a Sunday morning or a Saturday morning, spend the day in the woods and have to eat cold beans and hot-dogs because they couldn't light a little stove to warm up their meal. I hope you will do the right thing. I think the law is sufficient now. I don't think passing this law is going to accomplish one bit of good. Fires are caused by campfires that are left either burning or still hot. That is covered under the provisions now of getting the permit so the wardens and the fire rangers know where you are and what you are doing.

I hope you will stick to what we did yesterday, kill this bill. It is another piece of unnecessary legislation that is going to put the binders on a family or a group of friends trying to enjoy themselves. I hope you will go and repeat what we did yesterday.

The SPEAKER pro tem: The Chair recognizes the gentleman from Ellsworth, Mr. Silsby.

Mr. SILSBY: Mr. Speaker, Ladies and Gentlemen of the House: I concur with the comments of Mr. Jacques who just spoke. I haven't seen any figures on how many forest fires have been started by portable stoves. I am concerned about the family that likes to go out for a Sunday drive, say in October and November, go out and look at the leaves and want to take a little portable stove along with them and they drive more or less the main road but they will pull off the road to have a picnic, they like to boil up a pot of tea, are they going to have to get a permit? I don't think that we should reconsider this legislation. I think it is good the way it is now.

The SPEAKER pro tem: The Chair recognizes the gentleman from Enfield, Mr. Dudley.

Mr. DUDLEY: Mr. Speaker and Members of the House: I think I talked too much yesterday.

I was here when the original bill was passed and we left this exemption for a very good reason. I don't know as I can tell you exactly the reason but the reason was something like this—we felt as though the public, if you try to tie them up too tight, they would kick to this extent, they would build a fire anyway. We thought by leaving this exempt, we was making it so they could still have their little outing and their little picnic without setting any fires. There is no record in my area where these stoves have set a fire. They may some day, a hundred years from now, some guy might upset one, but if he upsets it, he is going to be right there to put it out. It isn't like something he runs off and leaves burning. So, we left this exemption for a very good reason. I was on the committee, I helped to pass the original bill and the exemption was left for a very good reason, it was thought to be needed then, I

think it is needed now and I hope you don't vote to reconsider.

The SPEAKER pro tem: The pending question is the motion of the gentleman from Van Buren, Mr. Violette, that the House reconsider its action whereby the Minority "Ought Not to Pass" Report was accepted. All those in favor of that motion will vote yes; those opposed will vote no.

A vote of the House was taken.  
51 having voted in the affirmative, 67 in the negative, the motion did not prevail.

(Off Record Remarks)

On Motion of Mr. Tierney of Lisbon Falls,  
Recessed until the sound of the gong.

After Recess  
11:45 A. M.

The House was called to order by the Speaker pro tem.

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

#### Non-Concurrent Matter

Bill "An Act to Fund and Implement Agreements between the State and the Maine State Employees Association and to Fund and Implement Benefits for Managerial and Other Employees of the Executive Branch Excluded from Coverage under the State Employees Labor Relations Act" (Emergency) (H. P. 1263) (L. D. 1447) which was passed to be engrossed in the House on April 5, 1979.

Came from the Senate passed to be engrossed as amended by Senate Amendment "A" (S-88) in non-concurrence.

In the House:

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

Mr. PEARSON: Mr. Speaker, I move that the House adhere.

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

Mr. JALBERT: Mr. Speaker and Members of the House: I would concur with my friend from Old Town, Mr. Pearson, and ask for a roll call, and I would like to make a few remarks.

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

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

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

Mr. TIERNEY: Mr. Speaker, I, for one, would like very much to hear why Mr. Jalbert would like you to vote to adhere.

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

Mr. JALBERT: Mr. Speaker and Members of the House: You know, somewhere along the line we might just as well have a few facts, and before I get too far, I would like to tell the people in the gallery one thing that when they were applauding a few minutes ago, they were applauding against themselves because they were getting shot down and they did get shot down, too.

Last Wednesday, we heard this bill in that barn down there, the Civic Center. It is the third time I have been there this year and the third time I have wound up in the hospital. Everybody but a couple of persons spoke on the bill and spoke very, very—it was somewhat meaningless to me. One presented his testimony in the form of a written statement by someone else in the unmentionable branch on the other side of this body and another one spoke as a right-to-work representative, and it didn't take me long to find out where that person

stood. I was going to leave because I didn't feel good and I was frozen, and I wrote a note to the chairman of the full committee, Senator David Huber, telling him that I was leaving, but in my note I wanted to make a motion that we pass both bills, the one concerning the VTI's and the one concerning the State Employees' Association, with the amendment put on as far as the VTI's were concerned. But before I had a chance to even deliver the note, we adjourned the meeting. We stood around in a circle and I made the motion that I had written down that we pass the VTI bill as amended upwards because of an error, and pass the bill concerning the state employees as is.

My motion was seconded by the gentleman from Waterville, Mr. Boudreau. I went home, I called the good right hand that the committee has, Bent Schlosser, and he said both bills, the Pearson and the Morton bill, will be on the calendar tomorrow with a unanimous "ought to pass" report. Of course, we know what happened. It was given its readings here and sent on to the other body, and the other body tacked an amendment on it striking out the fair-share clause and it was tabled unassigned.

There has been a great deal of talk about the fact that an agency fee and a fair-share clause are one and the same, and nothing could be further from the truth. In unions they have closed shop, which means you go to work and you belong to the union. A union shop, you go to work and in 30 days you join the union. An agency shop, you don't join the union but you pay your dues. A fair-share clause, which is what this is here, you pay your share of the fee for the cost of collective bargaining. This means that in no way the state employees' fair-share money would go to pay for political contributions or management salaries or anything else, and the law is specific. The law has ruled on closed shop, union shop and agency fees, but refused to even intimate wherein it concerns itself with fair share, and everyone in this room knows that should this bill pass without the fair-share clause, we would wind up in a court case. Some employee would ask to be heard through an appeal.

I am not going to stand here with a carving knife, but I am going to stand here and tell you this—when someone in any body votes one way Wednesday afternoon, then those people should vote the same way on Thursday morning, and for my money, when they don't do that, they are not keeping their word.

A short time ago, some gentleman in a branch that I can't mention made the statement to the effect that we on the Appropriations Committee don't always know what we are doing. Well, I knew what I was doing last Wednesday; I voted for both bills, the VTI and state employees' bills, and I felt the same way on Thursday, Friday, Saturday, Monday, Tuesday, today, tomorrow and every other day. The state employees have had conversation for four years; now they want bread! The cost of living goes up for them as well as it goes up for us.

I am not going to dissertate a long time as to how I feel about anybody that would object to fair share. Just think, in your hearts right now, how you feel about you or you paying your dues to an association or a union, I pay nothing, but when the time comes, you get the benefits for me, I get the benefits and it doesn't cost me a thing. My opinion of that is sub-zero, but that is the fact, and that is why the fair share is in there. In my humble opinion, somebody, somewhere along the line is in a no-win position.

Those are the cold turkey facts. I can be wrong a lot of time but, by golly, I can't be wrong when I vote one way one day and vote another way the other day.

I refer you to three weeks ago when I gave my word to Mrs. Kany on a bill and then I saw the board light up there and I wound up with two thirds. It hurt a little bit for me to get up and kill my own bill, but I had given my word

and I kept my word.

I am not looking for headlines and I am not looking for help from the state employees and I am not looking for their friendship. I have their friendship and I am going to keep it, and I am going to keep my word. I am going to keep right on voting while I have a breath in my body for what is right.

You know, this contract isn't all that it is cracked up to be when you give them \$16 for the rest of this year, \$15 next year and \$15 the next year. They are not exactly going to cut out coupons and laugh themselves all the way to the bank with that kind of a pay raise, I can assure you of that right now, but at least they are entitled to something. If they go to a grocery store and they buy three pork chops, a loaf of bread and a can of tomatoes, it is going to cost them nearly 15 bananas anyway; so, you know, we are not doing that much for them.

And if they are here on their own time, they have a right to be here. I heard somebody criticize them, and I am not going to mention any name because I can't, and thank God it isn't anyone in this body. They were upset because they are here. They have a right to be here anytime they want to. They own this building just as much as any of us do as much as anybody on the outside. The only difference is, they are not getting paid to be here and we are. For my money, somewhere along the line, with 50 days left, we haven't done all that much.

Everybody in this House knows how I feel about them personally and everybody in this House knows how I feel about this body. I love the people in this House; they may not agree with me, I may not agree with them. My heart is in this House, this is part of my life. It would have to be after having been here for 34 years.

Let's forget partisan politics, let's forget fair share, it is going to go to court anyway. The law says it has got to go to court. For heaven's sake, I plead with you, I beseech you to help these people who work morning, afternoon and night. Just imagine any of us behind a snow plow at 12 below zero. Just imagine, go over to Kapalian Hall at Pineland, go over to Augusta State Hospital, go and visit some of these places and you might have a change of heart—I have, not once but twice, five times, ten times. Every time I have come out I have come out with a sick feeling.

I am not up here raising cane with the Republicans and praising the Democrats, that is not the point. I am up here asking you to support a bill that was passed out of the Appropriations Committee 13 to nothing "ought to pass." That is what the motion is now. The motion to adhere means that we go back and we insist on accepting the complete Unanimous "ought to pass" report of the Appropriations Committee so these people here can at least have a loaf of bread on their table besides just plain crumbs. (applause)

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

Mr. MORTON: Mr. Speaker, Ladies and Gentlemen of the House: I had no intention of being on the floor on this bill this morning. I had hoped that the bill would go under the gavel on the motion that was presented. Now I am going to have to vote and I certainly will vote when the time comes.

The gentleman from Lewiston, though, has said a few things here which I think need disabusing and I think they are disabusing rather forcefully. He spoke about facts—well, I would like to give you a few facts myself. First of all, the amendment that was put on in the Senate was an amendment which did not fund the bill if a clause remained in the contract which called for the firing of state workers if they did not pay 80 per cent of the union dues. It was a motion and an amendment which spoke to the funding of the bill.

Now, I know we are just splitting hairs here, and the gentleman from Lewiston is not in the

position where he sometimes doesn't split hairs too. The point remains, that is the way the motion read and it did not strike out, as he said, the fair share clause, because that wasn't what the motion was.

I am more concerned with his rhetoric this morning, and he treated us to about ten minutes of it, in connection with the vote of the committee and its unanimous approval of the bills. I want you to know that as the custom has dictated here and since we have had the collective bargaining law, it has been the custom for the House Chairman of the Appropriations Committee and the senior minority member of the Appropriations Committee to sign out the bills. I certainly was absolutely willing to do that.

Furthermore, as a member of the Appropriations Committee, I was absolutely willing to vote the bills out so that we could get them out here on the floor. It would have been petty and foolish to have attempted to hold these in committee and fool around with them there.

The gentleman from Lewiston knows full well that there is no obligation to vote one way or the other once a bill hits the floor of the House, hits the floor of the Senate. There are amendments to bills, they are changed, and what the original report of the committee was does not create any binding, signed in blood promise.

Now, from a personal standpoint at that particular time that day, there was a caveat immediately made note of that this was not binding and I have talked to members of both sides of the question, including the leaders of the union and they know exactly how I felt about it. I don't feel very pleased this morning to be characterized as being disloyal or in some other way if I vote one way or the other on a bill.

This will be the first opportunity the House has had to go on record on this bill either way. We haven't voted on it before, despite the impression that the gentleman may have given. So, I would say this morning that since we are here and we do have a request for a roll call on a motion to adhere, that the members of this House should vote the way they think they should vote. That is what we are all here for, that is what I came down to Augusta for.

The SPEAKER pro tem: With respect to traditional decorum, the Chair would advise and caution the members in the gallery that applause is not tolerated.

The Chair recognizes the gentleman from Harrison, Mr. Leighton.

Mr. LEIGHTON: Mr. Speaker, Ladies and Gentlemen of the House: First of all, I would like to move to recede and concur and I would like to speak to that motion.

We are being asked to buy apples with our oranges here today. The issue is a simple raise in pay. However, the makers of the bargain have chosen to include an issue other than pay. They tell us, in effect, that we can't vote for one without voting for the other.

That other issue coming before this body is coming before this body later in this session in the form of an agency shop bill that would make this kind of clause legal, and a right to work bill that would make this kind of clause illegal. The makers of this bargain knew that would make these bills pending. They knew that they were great public issues not yet heard, debated and resolved by this body. It is beyond me how knowing this they would jeopardize and delay the pay raise by including the onerous clause, makes a person's ability to work his own government contingent upon his or her paying tribute to a labor union.

The SPEAKER pro tem: The Chair recognizes the gentleman from Augusta, Mr. Hickey.

Mr. HICKEY: Mr. Speaker, Ladies and Gentlemen of the House: As a Representative with a large constituency of state employees, I want to add my support to the proposed pay plan. The pay plan proposed is the result of many

long and arduous hours of labor by the negotiating teams at a great cost of both the state and the MSEA. They are to be commended for developing an acceptable pay plan under undescribably difficult circumstances.

In the last four years, there appears to have been serious breakdown in communication between the administration and the employees. As a legislator meeting state employees daily, one becomes very aware of the complete breakdown in morale.

I am also cognizant that many employees have endured financial hardships due to the escalating economy. Their continuing service to the state under frustrating circumstances is commendable.

Under collective bargaining, the pay situation has been beyond our control. Today, with the unanimous "ought to pass" vote from the Appropriations Committee, we are in a position to act favorably on the pay raise. I hope the state employees have justified your vote on the long overdue pay plan.

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

Mr. JALBERT: Mr. Speaker and Members of the House: You know, I am delighted that the gentleman from Farmington, Mr. Morton, talks about facts. The fact of the matter is that when I first heard a couple of years ago that he was going on the Appropriations Committee, my screeching could have been heard from here to Fort Kent and back, and right now I don't think I respect anybody any more than I do him on that committee. He does his work hard, arduously, he is solid, he is sound and he is honest, but sometimes he gets a little confused, just like I do.

Now, as far as voting out a bill unanimously, maybe it is not binding but it sure as heck has got one first mortgage on it.

As far as the amendment is concerned, I have it right in front of me, and the issue is fair share. Sure, the money is in there, providing fair share is taken out of it. That is what the gentleman from Farmington forgot to tell you.

I commend the gentleman from Harrison, Mr. Leighton, at least he brought up the real issue while we were talking about this. He wants right to work, I don't. I will tell you why, Mr. Leighton, my grandparents came here on a hay rack from Canada. They worked six days a week from six to six, Monday through Saturday, for \$1.20 a day. I don't want other people to do the same thing, and that is what the state employees have been doing. I want a roll call, Mr. Speaker.

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

Mr. LAFFIN: Mr. Speaker, Ladies and Gentlemen of the House: I am sorry we got into the debate on this this morning. I am sure that the members of my party were going to let this go under the hammer, because it was not my part that started the debate. As far as the two gentlemen who are on the Appropriations Committee, I think that they should keep their personal remarks in that committee and not on the floor of this House. I respect the both of them, they are both fine gentlemen and I know that every now and then they like to tackle each other on the floor of this House, and probably there is nothing wrong with that.

Some time ago, I stood on the floor of this House and I had a few unkind words to say about the Governor. Three days later, he put in a new bargaining team and six days later we had what is before us today with the exception of the amendment. I felt that we had a chance then, the members of my party, to join the members of this House to present a pay plan that I can support 100 percent.

I don't care what bill comes before this House, we are not going to be satisfied with everything. You can't satisfy me on every bill that I have seen and I can't satisfy you and I don't even try. But, when we get the mechanism of a team working together to show that



we have compassion and good judgment for the people of this state, I think that overtakes all others in consideration. We are not always going to vote right, but today we have got to vote right, because the members of my party are being accused in this House of things that are not true. We have members in the Republican Party who support labor, and if anyone wants to challenge that, you can start with me today. There are members in this House who are willing to let this pass but, no, we had to get into debate on it. We had to tell how we felt about it. Well, we won't get it under the hammer. We are going to have to vote on the motion that is before us to recede and concur. That is not what we want today, but we do want to have a chance to not accuse others of what we on another bill, might be guilty of.

Now as far as those who say to me, well, you have always supported pay raises, truly I have, but the state employees, and I can name four of them in my city, do not support me—in fact, in the last election, they didn't even go to the polls and vote. They don't support me and I could care less whether they do or they don't, but today, my friends, we as a body must unite and we must do what is right. We can do it. We can leave our personal attacks aside, we can leave that for committees or we can do it sometime when we have nothing to do on the floor of this House. There will be bills coming up that we can work on that issue. But today, my friends, is a new ballgame. I am urging every Republican in this House to show the other members of this House that we, too, support the working people of this state, and vote against the motion to recede and concur and then we can vote to adhere.

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

Mr. TIERNEY: Mr. Speaker, Men and Women of the House: I find myself rising to agree wholeheartedly with my good friend from Westbrook, Mr. Laffin, not only how he is going to vote but I think on the very fine remarks that he mentioned that men and women of both parties disagree on this particular issue and that this is not an issue that we should stand here and beat our breasts about or cast aspersions about the motivations of our fellow colleagues, because it is not going to get us anywhere.

Mr. Laffin is absolutely correct, we should vote against the motion to recede and concur and we should vote to adhere. The reason, as far as I am concerned as an individual, has nothing to do with fair share, it has nothing to do with right to work, the only reason we should vote to do that is because our statutes very clearly give the authority to negotiate contracts to our Chief Executive, and he signed that contract and he has negotiated in good faith.

My position is very simple. There are a lot of things in that contract that I don't personally agree with but it was negotiated in good faith and our responsibility, under the statutes, is to decide whether it costs too much money. If it doesn't cost too much money, we ought to vote for it, and so we ought to vote to adhere.

I would also like to urge us to get on with this vote. I think the hour is late and time is at hand, and I seriously think we will have a lot of time to debate this issue at enactment. I think the proper thing to do now is to get this bill engrossed absolutely as soon as possible.

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

Mr. TARBELL: Mr. Speaker, Ladies and Gentlemen of the House: I do concur with the remarks recently made about getting on with this matter and hopefully we can send it forthwith. The opportunity we have is to resolve this matter once and for all before we do take the long weekend vacation that is pending.

Reasonable minds do differ in both parties of the legislature on what are the crucial issues in

this measure. I think we are in general consensus, I don't think there is any objection whatsoever to our unanimity that we do favor the funding of the pay raise, the contract that has taken approximately five years to come forth to this time.

The 106th Legislature began by adopting the collective bargaining statute under which this contract has finally come to fruition. Not only state employees but members of the legislature have impatiently waited for the opportunity to finally put into effect that collective bargaining statute and see it come to fruition with a pay raise funding bill.

However, one of the controversial issues for the last five years, and that is the snag in this measure, is the agency fee clause. It was taken out of the collective bargaining statute when the bill was in the legislature in the 106th. A bill has been before us every year to place into the collective bargaining statute a measure that would permit the negotiation on the bargaining table of agency fee, agency shop. The 108th Legislature, the legislative branch, passed that bill, but Governor Longley vetoed it, and to this very date, the collective bargaining statutes still lack a measure permitting the negotiation of agency fee, agency shops.

We have two bills pending before us. There are arguments on one side that this should be left to the Executive Branch—I contend that it is a province for the legislative branch, it has been since the collective bargaining statute was addressed in the 106th, it is to this very day in our Labor Committee, it will be later on in this session, and that is the snag and that is the keyhole.

I think the legislative branch and the executive branch are engaged in what is the traditional system of checks and balances. I contend that we should vote to recede and concur, remove this measure, let the entire measure go back to the table, let it be cleared up and let us have a funding bill and let's put it through. Let's address agency fee, agency shop, in our bills that we have pending before us in the legislative branch.

The SPEAKER pro tem: The Chair recognizes the gentleman from Wiscasset, Mr. Stetson.

Mr. STETSON: Mr. Speaker, Ladies and Gentlemen of the House: I would like to pose a question through the Chair to the gentleman from Augusta, Mr. Hickey.

I would like to know whether the negotiated pay level in this contract contemplates the forced deduction of 80 percent of union dues from the non-union employees' paychecks?

The SPEAKER pro tem: The gentleman from Wiscasset, Mr. Stetson, has posed a question through the Chair to the gentleman from Augusta, Mr. Hickey, who may answer if he so desires.

The Chair recognizes that gentleman.

Mr. HICKEY: Mr. Speaker, Ladies and Gentlemen of the House: It is my understanding that it is a fair share pact.

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

Mr. BIRT: Mr. Speaker, Ladies and Gentlemen of the House: I hope this morning we do not recede and concur and that we will adhere to our former action.

I think the explanations given by the gentleman from Lewiston on the four various steps that may be considered in the collective bargaining process as far as membership in unions and contributions towards cost of bargaining were well explained.

I think probably I have been involved in the collective bargaining process as long as anyone in this House and I do think the collective bargaining process works and I think if we were to recede and concur and try to send this back to the collective bargaining process again, I feel that we would be going into something that would take a long time and I am not sure the state could afford not the financial but the

physical and personal effects that might develop.

I would hope this morning that you do not recede and concur.

The SPEAKER pro tem: The Chair recognizes the gentleman from Calais, Mr. Gillis.

Mr. GILLIS: Mr. Speaker, Ladies and Gentlemen of the House: I rise this morning to request you vote out this recede and concur motion.

Like the good gentleman from Lewiston, Mr. Jalbert, for whom I have the highest respect, I, too, gave my word to the state employees in Washington County. I attended several of the meetings down there and I promised them that I would fight for their pay raise right up to the end, and this is what I intend to do. I am going to keep my word, like the good gentleman from Lewiston will. The Maine state employees need this raise and I intend to do all I can to see that they get it.

I request that my colleagues here in the House, both Democrats and Republicans, join me in voting down this recede and concur motion.

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

Mr. NORRIS: Mr. Speaker, Ladies and Gentlemen of the House: I, too, would hope that both my colleagues in the Republican party and the Democratic party would vote down the motion to recede and concur, because if you recede and concur, then you accept what the other body has presented to us.

I have some question in my mind as to whether it would go back to the bargaining table or not. I do feel that if we were to recede and concur this morning, we really would destroy the collective bargaining process in the State of Maine. I think that is what it comes down to when you see what the fact-finding was and all of the work that went into this. When you look at opposition, when you look at what this legislature did as far as the University of Maine is concerned, when it comes to this issue, then you leave gray on both sides of the issue. So, I would hope, as I voted when we accepted collective bargaining, that this legislature would stay out of the collective bargaining process other than to approve the amounts of money.

I would hope that you would vote against the motion to recede and concur. I would ask for a roll call if it hasn't been asked for.

The SPEAKER pro tem: A roll call has been requested. For the Chair to order a roll call, it must have 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 pro tem: The pending question is on the motion of the gentleman from Harrison, Mr. Leighton, that the House recede and concur.

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

Mr. MORTON: Mr. Speaker, I wish to pair my vote with the gentleman from Eagle Lake, Mr. Martin. If Mr. Martin were here, he would be voting no and I would be voting yes.

The SPEAKER pro tem: The pending question is on the motion of the gentleman from Harrison, Mr. Leighton, that the House recede and concur. Those in favor will vote yes; those opposed will vote no.

#### ROLL CALL

YEA — Aloupis, Austin, Bordeaux, Boudreau, Bowden, Brown, K. L.; Bunker, Carter, F.; Conary, Davis, Dellert, Dexter, Fillmore, Gavett, Huber, Hutchings, Immonen, Jackson, Kiesman, Leighton, Leonard, Lewis, Lougee, Lund, MacBride, Masterton, Maxwell, McMahon, McPherson, Nelson, A.; Peltier, Peter-

son, Rollins, Roope, Sewall, Sherburne, Silsby, Small, Smith, Sprowl, Stetson, Stover, Studley, Tarbell, Torrey, Twitchell, Whittemore.

NAY — Bachrach, Baker, Barry, Beaulieu, Benoit, Berry, Berube, Birt, Blodgett, Brannigan, Brennerman, Brodeur, Brown, A.; Brown, D.; Brown, K. C.; Call, Carrier, Carroll, Carter, D.; Chonko, Churchill, Cloutier, Connolly, Cox, Cunningham, Curtis, Damren, Davies, Diamond, Doukas, Dow, Drinkwater, Dutremble, D.; Dutremble, L.; Elias, Fenlason, Fowlie, Gillis, Gould, Gowen, Gray, Gwadosky, Hall, Hanson, Hickey, Hobbins, Howe, Hughes, Hunter, Jacques, E.; Jacques, P.; Jalbert, Joyce, Kane, Kelleher, Laffin, Lancaster, LaPlante, Lizotte, Locke, Lowe, MacEachern, Mahany, Martin, A.; Masterman, Matthews, McHenry, McKean, McSweeney, Michael, Mitchell, Nadeau, Nelson, M.; Nelson, N.; Norris, Paradis, Paul, Payne, Pearson, Post, Prescott, Reeves, J.; Reeves, P.; Rolde, Simon, Soulas, Strout, Theriault, Tierney, Tozier, Tuttle, Vincent, Violette, Vose, Wentworth, Wood, Wyman.

ABSENT — Dudley, Garsoe, Higgins, Kany, Marshall, Maxwell.

PAIRED — Martin, J. - Morton.

Yes, 46; No, 97; Absent, 6; Paired, 2.

The SPEAKER pro tem: Forty-six having voted in the affirmative and ninety-seven in the negative, with six being absent and two paired, the motion does not prevail.

A roll call has been ordered and the pending question now before the House is on the motion of the gentleman from Old Town, Mr. Pearson, that the House adhere. Those in favor will vote yes; those opposed will vote no.

#### ROLL CALL

YEA — Austin, Bachrach, Baker, Barry, Beaulieu, Benoit, Berry, Berube, Birt, Blodgett, Brannigan, Brennerman, Brodeur, Brown, A.; Brown, D.; Brown, K. C.; Call, Carrier, Carroll, Carter, D.; Chonko, Churchill, Cloutier, Connolly, Cox, Cunningham, Curtis, Damren, Davies, Diamond, Doukas, Dow, Drinkwater, Dutremble, D.; Dutremble, L.; Fenlason, Fowlie, Gillis, Gould, Gowen, Gray, Gwadosky, Hall, Hanson, Hickey, Hobbins, Howe, Hughes, Hunter, Jackson, Jacques, E.; Jacques, P.; Jalbert, Joyce, Kane, Kelleher, Kiesman, Laffin, Lancaster, LaPlante, Leonard, Lizotte, Locke, Lowe, MacEachern, Mahany, Martin, A.; Masterman, Matthews, McHenry, McKean, McSweeney, Michael, Mitchell, Nadeau, Nelson, M.; Nelson, N.; Norris, Paradis, Paul, Payne, Pearson, Post, Prescott, Reeves, J.; Reeves, P.; Rolde, Simon, Soulas, Strout, Studley, Theriault, Tierney, Tozier, Tuttle, Vincent, Violette, Vose, Wentworth, Wood, Wyman.

NAY — Aloupis, Bordeaux, Boudreau, Bowden, Brown, K. L.; Bunker, Carter, F.; Conary, Davis, Dellert, Dexter, Fillmore, Gavett, Huber, Hutchings, Immonen, Leighton, Lewis, Lougee, Lund, MacBride, Masterton, McMahon, McPherson, Morton, Nelson, A.; Peltier, Peterson, Rollins, Roope, Sewall, Sherburne, Silsby, Small, Smith, Sprowl, Stetson, Stover, Tarbell, Torrey, Twitchell, Whittemore.

ABSENT — Dudley, Elias, Garsoe, Higgins, Kany, Marshall, Maxwell, The Speaker.

Yes, 101; No, 42; Absent, 8.

The SPEAKER pro tem: One hundred and one having voted in the affirmative and forty-two in the negative, with eight being absent, the motion does prevail.

On motion of Mr. Jalbert of Lewiston, by unanimous consent, ordered sent forthwith to the Senate.

On motion of Mr. Tierney of Lisbon Falls, adjourned until one o'clock tomorrow afternoon.