

# 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

Friday, April 20, 1979

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

Prayer by Representative Michael D. Pearson of Old Town.

Rep. PEARSON: Let us Pray! Eternal Father, grant today to my friends and comrades in this House a sacred moment of contemplation before we take up the problems and challenges that will face us today. Father, bless the members of this House and grant that they may have wisdom in their decisions, understanding in their thinking, love in their attitude and mercy in their judgment. Father, may from these moments in prayer come a peace in knowing that Thou art in this House the unseen delegate present and voting.

Finally, Father, let us so conduct ourselves that at the end of this day and at the end of all of our days we might hear the whispered benediction—well done, thou good and faithful servant. In our Father's name. Amen.

The journal of yesterday was read and approved.

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

**Passed to Be Engrossed**

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. 1321) (L. D. 1573) (Presented by Mr. Pearson of Old Town) (Cosponsor: Mr. Morton of Farmington)

Committee on Appropriations and Financial Affairs was suggested.

Under suspension of the rules, the Bill was read twice, passed to be engrossed without reference to any committee and sent up for concurrence.

By unanimous consent, ordered sent forthwith to the Senate.

**Papers from the Senate**

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

Rose Kalberg of Penobscot has celebrated her 99th birthday (S. P. 506)

Came from the Senate read and passed.

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

Bill, "An Act to Extend the Deadline for Legislative Determination of Municipal Cost Components" (Emergency) (S. P. 508) (L. D. 1565) Came from the Senate, with the rules suspended and the Bill read twice and passed to be engrossed without reference to Committee.

In the House, under suspension of the rules, the Bill was read once.

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

Mr. GARSOE: Mr. Speaker, I am sure I am questioning a perfectly innocuous little piece of business that I should have known about anyway. Could we just have a brief explanation of what this does?

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 gentlewoman from Owl's Head, Mrs. Post.

Mrs. POST: Mr. Speaker, Men and Women of the House: What this bill does is to extend the date for the municipal cost components which sets the budget, if you will, actually for those expenditures which will go into making up the unorganized territory services tax fund.

The legislation which we had passed last year set the deadline for the legislature to set

that municipal cost component on April 15. Obviously, that deadline has gone by, the budget is about to come in, and this would simply extend the statutory deadline for the setting of the municipal cost component.

Thereupon, under suspension of the rules, the Bill was read the second time and passed to be engrossed in concurrence without reference to any committee.

By unanimous consent, ordered sent forthwith to Engrossing.

Bill "An Act to Amend the Rate Filing Disapproval Requirements Pertaining to Nonprofit Hospital and Medical Service Organizations and Health Insurance Carriers" (S. P. 505) (L. D. 1566)

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

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

**Tabled and Assigned**

Bill "An Act to Grant the Public Utilities Commission Jurisdiction to Review Adjustments under the Fuel Adjustment Clause" (Emergency) (S. P. 507) (L. D. 1567)

Came from the Senate referred to the Committee on Public Utilities and Ordered printed.

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

Mr. BLODGETT: Mr. Speaker, there may be some question as to the reference of this bill, and I would ask that it might be tabled so we can check it over.

Whereupon, on motion of Mr. Davies of Orono, tabled pending reference in concurrence and specially assigned for Tuesday, April 24.

Mr. Davies of Orono was granted unanimous consent to address the House.

Mr. DAVIES: Mr. Speaker, Ladies and Gentlemen of the House: The item that we have just tabled is an item dealing with the pass through of cost from the shutdown of Maine Yankee nuclear power plant. We find in the Bangor Daily News today a front-page headline article "Radio-active Emission Tiny at Maine Plant." On March 15, there was a leak of 4,000 gallons of radio-active liquid into the containment dome of the Maine Yankee Atomic Power Plant after it was shut down. It was shut down for fear of its safety, and when it was shut down, all of us felt we could rest easier. We don't have to worry about problems now. But even after it was closed down, they had a leak, and not only did they have a leak, but they failed to report this to the Nuclear Regulatory Commission, to the State of Maine, to the selectmen of the town of Wiscasset for as much as 11 days after it occurred because they felt it wasn't important enough.

Since Three-mile Island and the shutdown of Maine Yankee and the earthquake, the people of the State of Maine, the people of the United States, the people of the entire world question the value of nuclear power and question its safety. We have a small group of private enterprise, who have a vested interest in the continued use of nuclear power regardless of its safety considerations, who failed to notify authorities of this fact. Regardless of whether this was a small dose of nuclear radiation or a large dose is immaterial. The question is, the people should know, especially in these troubled times when we have great fears of nuclear power, it should be the legislature, the executive and the people of the State of Maine to determine whether or not this is a small or large quantity of nuclear waste, not a few people in management of Maine Yankee Atomic Power Company.

I am disgusted by the behavior of that group. I think their behavior may possibly violate state laws, Title 10, Section 103, Section 104, Sections 201, 202, and 203. Today, I am going to

ask the Attorney General of the State of Maine to investigate these sections and the evidence that is at hand from state officials from the Nuclear Regulatory Commission as to whether Maine Yankee has complied with all state and federal regulations on this matter. If, in fact, they have failed in the slightest to comply with any of our laws, I will ask for prosecution to the full measure of the law.

I think these people have taken a callous view of the people of the State of Maine. I think they are unworthy to be here in the State of Maine, and if the question of nuclear power was still in people's minds today, it should be even greater. And if there was a feeling in this House and in this Legislature that perhaps we should reconsider our use of nuclear power, I am today declaring my utmost, complete opposition to any future use of the Maine Yankee Atomic Power Plant, and I will call for its total shutdown and abandonment. I think by any measure short of that, we are doing an injustice to the people of the State of Maine.

We have tolerated a lot of foolhardiness on the part of the nuclear industry. We have accepted a lot of their claims because we need energy, but the time has come for us to draw the line. The time has come for us to say enough is enough, we will take no more of the guff of Maine Yankee and the handmaidens that own it.

I will do everything in my power, and I call on the people who oppose nuclear power in this legislature to join with me to see to it that everything is done to shut down Maine Yankee.

Mr. Birt of East Millinocket was granted unanimous consent to address the House.

Mr. BIRT: Mr. Speaker, Ladies and Gentlemen of the House: Just briefly and frankly I will say that I object to the irresponsible, inflammatory remarks made by a person who, in my own personal opinion, knows absolutely nothing about what he is talking about.

The SPEAKER: The Chair recognizes the gentleman from Orono, Mr. Davies, who may proceed on a point of personal privilege.

Mr. DAVIES: Mr. Speaker, I would remind the good gentleman from Millinocket, Mr. Birt, that I have served for four years on the Energy Committee, have studied the subject of nuclear power quite thoroughly, as well as all other sources of energy that are available or conceivable in the State of Maine.

As the Chairman of the Public Utilities Committee in this House, I have been studying it even further from the point of view of regulation. I think I know as much about nuclear power as any person in this body, and I think beyond that point, whether I knew anything about it or not, there is one thing I do know, that the people of the State of Maine want information, they want it promptly, they want it straight from the hip. They don't want any garbage from Maine Yankee, they don't want any lies from the Nuclear Regulatory Commission. They want to know what happens and they want to be able to make the decisions based on what their knowledge is. I think they should have that information and I think Maine Yankee has callously ignored the current situation. I feel that they have a moral obligation, given the conditions that we have in this country of the great fear of nuclear power, to provide us that information voluntarily or involuntarily, and I expect them to do it.

**Reports of Committees  
Leave to Withdraw**

Report of the Committee on Health and Institutional Services reporting "Leave to Withdraw" on Bill "An Act to Provide Assistance to Certain Elderly Persons Needing Dentures" (S. P. 325) (L. D. 955)

Came from the Senate with the Report read and accepted.

In the House, the Report was read and ac-

cepted in concurrence.

#### Divided Report

Majority Report of the Committee on Legal Affairs reporting "Ought Not to Pass" on Bill, "An Act to Repeal the State Lottery Commission" (S. P. 172) (L. D. 378)

Report was signed by the following members:

Messrs. FARLEY of York  
COTE of Androscoggin — of the Senate.  
Mr. McSWEENEY of Old Orchard Beach  
Miss GAVETT of Orono  
Messrs. CALL of Lewiston  
VIOLETTE of Van Buren  
MAXWELL of Jay  
SOULAS of Bangor  
DUDLEY of Enfield

— of the House.

Minority Report of the same Committee reporting "Ought to Pass" as amended by Committee Amendment "A" (S-105) on same Bill.

Report was signed by the following members:

Mr. SHUTE of Waldo — of the Senate.  
Messrs. DELLERT of Gardiner  
STOVER of West Bath  
Ms. BROWN of Gorham

— of the House.

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

In the House: Reports were read.

On motion of Mr. Violette of Van Buren, the Bill and all its accompanying papers were indefinitely postponed in concurrence.

#### Non-Concurrent Matter

##### Tabled and Assigned

Bill "An Act to Eliminate the Jurisdiction of the Maine Milk Commission over ½ Pint Containers of Milk." (H. P. 482) (L. D. 613) on which the Minority "Ought to Pass" Report of the Committee on Agriculture was read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (H-212) in the House on April 18, 1979.

Came from the Senate with the Majority "Ought Not to Pass" Report of the Committee on Agriculture read and accepted in non-concurrence.

In the House: On motion of Mr. Mahany of Easton, tabled pending further consideration and specially assigned for Monday, April 23.

#### Non-Concurrent Matter

Bill, "An Act Concerning Issuance and Renewals of Liquor Licenses" (H. P. 316) (L. D. 382) which was passed to be enacted in the House on April 11, 1979.

Came from the Senate passed to be engrossed as amended by Senate Amendment "A" (S-113) in non-concurrence.

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

#### House Reports of Committees

##### Ought Not to Pass

Mr. Strout from the Committee on Transportation on Bill "An Act to Provide Amateur Radio Operators with Initial Plates at Reduced Costs" (H. P. 765) (L. D. 962) reporting "Ought Not to Pass"

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

##### Leave to Withdraw

Mr. Laffin from the Committee on Judiciary on Bill "An Act Concerning the Habitability of a Rental Unit" (H. P. 467) (L. D. 599) reporting "Leave to Withdraw"

Mr. Silsby from the Committee on Judiciary on Bill "An Act to Prohibit Retaliatory Evictions" (H. P. 596) (L. D. 740) reporting "Leave to Withdraw"

Mr. Silsby from the Committee on Judiciary

on Bill "An Act Concerning Availability of Remedy under Laws Relating to Landlord-tenant Relations" (H. P. 1094) (L. D. 1355) reporting "Leave to Withdraw"

Mr. Hobbins from the Committee on Judiciary on Bill "An Act to Establish a Judicial Selection Advisory Committee" (H. P. 1026) (L. D. 1280) reporting "Leave to Withdraw"

Mr. Joyce from the Committee on Judiciary on Bill "An Act to Establish a Truth-in-Renting Law" (H. P. 814) (L. D. 1016) reporting "Leave to Withdraw"

Mr. Stetson from the Committee on Judiciary on Bill "An Act to Permit the Consolidation of Certain Court Costs" (H. P. 741) (L. D. 928) reporting "Leave to Withdraw"

Mr. Joyce from the Committee on Judiciary on Bill "An Act to Clarify Judicial Discretion Under Warrant of Habitability" (H. P. 740) (L. D. 927) reporting "Leave to Withdraw"

Mr. Stetson from the Committee on Judiciary on Bill "An Act to Require good Cause for Winter Evictions" (H. P. 789) (L. D. 926) reporting "Leave to Withdraw"

Mr. Joyce from the Committee on Judiciary on Bill "An Act Concerning Implied Warranty and Covenant of Habitability" (H. P. 244) (L. D. 289) reporting "Leave to Withdraw"

Mr. Michael from the Committee on Energy and Natural Resources on Bill "An Act to Amend the Subdivision Law" (H. P. 520) (L. D. 663) reporting "Leave to Withdraw"

Reports were read and accepted and sent up for concurrence.

#### Ought to Pass

##### Pursuant to Joint Order H. P. 135

Mr. LaPlante from the Committee on Local and County Government on RESOLVE, for Laying of the County Taxes and Authorizing Expenditures of Sagadahoc County for the Year 1979 (Emergency) (H. P. 1320) (L. D. 1568) reporting "Ought to Pass" — pursuant to Joint Order (H. P. 135)

Report was read and accepted, the Resolve read once and assigned for second reading, Monday, April 23.

#### Divided Report

##### Tabled and Assigned

Majority Report of the Committee on Education reporting "Ought Not to Pass" on Bill "An Act to Extend the National School Breakfast Program Availability to Maine School Children" (H. P. 660) (L. D. 820)

Report was signed by the following members:

Mr. MINKOWSKY of Androscoggin  
Mrs. GILL of Cumberland  
Mr. TROTZKY of Penobscot — of the Senate.

Mrs. LOCKE of Sebek  
Messrs. FENLASON of Danforth  
BIRT of East Millinocket  
DAVIS of Monmouth  
LEIGHTON of Harrison  
Mrs. LEWIS of Auburn

— of the House.

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

Report was signed by the following members:

Mrs. BEAULIEU of Portland  
Mrs. GOWEN of Standish  
Messrs. CONNOLLY of Portland  
ROLDE of York

— of the House.

Reports were read.

Mr. Connolly of Portland moved that the Minority "Ought to Pass" Report be accepted.

On motion of the same gentleman, tabled pending his motion to accept the Minority Report and assigned for Monday, April 23.

#### Divided Report

Majority Report of the Committee on Fisheries and Wildlife reporting "Ought to Pass" as amended by Committee Amendment "A" (H-

233) on Bill "An Act to Establish Physical Boundaries for Deer Hunting Zones" (H. P. 299) (L. D. 394)

Report was signed by the following members:

Mr. REDMOND of Somerset — of the Senate.  
Messrs. MacEACHERN of Lincolns  
TOZIER of Unity  
VOSE of Eastport  
MASTERMAN of Milo  
JACQUES of Waterville  
PAUL of Sanford

— of the House.

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

Report was signed by the following members:

Messrs. PIERCE of Kennebec  
USHER of Cumberland — of the Senate.  
Messrs. CHURCHILL of Orland  
DOW of West Gardiner  
GILLIS of Calais  
PETERSON of Caribou

— of the House.

Reports were read.

On motion of Mr. Masterman of Milo, the Majority "Ought to Pass" Report was accepted and the Bill read once. Committee Amendment "A" (H-233) was read by the Clerk and adopted and the Bill assigned for reading the next legislative day.

#### Divided Report

Majority Report of the Committee on Labor reporting "Ought to Pass" on Bill "An Act Concerning the Issuance of Work Permits and Charging of Fees" (H. P. 670) (L. D. 830)

Report was signed by the following members:

Mr. PRAY of Penobscot — of the Senate.  
Messrs. DEXTER of Kingfield  
WYMAN of Pittsfield  
McHENRY of Madawaska  
TUTTLE of Sanford  
Mrs. BEAULIEU of Portland  
Mr. FILLMORE of Freeport  
Mrs. MARTIN of Brunswick

— of the House.

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

Report was signed by the following members:

Messrs. SUTTON of Oxford  
LOVELL of York — of the Senate.  
Mr. CUNNINGHAM of New Gloucester  
Mrs. LEWIS of Auburn

— of the House.

Reports were read.

On motion of Mr. Tuttle of Sanford, the Majority "Ought to Pass" Report was accepted, the Bill read once and assigned for second reading tomorrow.

#### Divided Report

##### Tabled and Assigned

Majority Report of the Committee on Labor reporting "Ought to Pass" as amended by Committee Amendment "A" (H-235) on Bill "An Act to Provide for an Offset for Holiday Pay under the Employment Security Law" (H. P. 604) (L. D. 750)

Report was signed by the following members:

Messrs. SUTTON of Oxford  
LOVELL of York  
PRAY of Penobscot — of the Senate  
Mr. FILLMORE of Freeport  
Mrs. LEWIS of Auburn  
Messrs. CUNNINGHAM of New Gloucester  
DEXTER of Kingfield

— of the House.

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

Report was signed by the following members:

Messrs. WYMAN of Pittsfield  
TUTTLE of Sanford  
BAKER of Portland  
McHENRY of Madawaska  
Mrs. BEAULIEU of Portland  
Mrs. MARTIN of Brunswick

— of the House.

Reports were read.

On motion of Mr. Baker of Portland, tabled pending acceptance of either Report and assigned for Monday, April 23.

The SPEAKER: The pending question is on the motion of Mr. Tuttle of Sanford, that this matter be tabled pending acceptance of either Report and assigned for Monday, April 23. All those in favor will vote yes; those opposed will vote no.

#### ROLL CALL

YEA—Bachrach, Baker, Barry, Benoit, Berry, Berube, Birt, Blodgett, Brannigan, Brenerman, Brodeur, Brown, A.; Brown, K.C.; Carter, D.; Chonko, Cloutier, Connolly, Cox, Curtis, Davies, Diamond, Doukas, Dow, Du Tremble, L.; Elias, Fowlie, Gould, Gwadosky, Hall, Hickey, Hobbins, Jacques, E.; Jacques, P.; Joyce, Kane, Kany, Kelleher, Laffin, LaPlante, Locke, MacEachern, Mahany, Marshall, Martin, A.; Maxwell, McHenry, McKean, McSweeney, Mitchell, Nadeau, Nelson, M.; Nelson, N.; Paradis, Paul, Pearson, Post, Prescott, Reeves, P.; Rolde, Simon, Theriault, Tierney, Tuttle, Twitchell, Vincent, Violette, Vose, Wentworth, Wood, The Speaker.

NAY—Aloupis, Austin, Bordeaux, Bourdeau, Bowden, Brown, D.; Bunker, Call, Carter, F.; Churchill, Conary, Cunningham, Damren, Davis, Dellert, Dexter, Drinkwater, Dudley, Fenlason, Fillmore, Garsoe, Gavett, Gray, Hanson, Higgins, Huber, Hunter, Hutchings, Immonen, Kiesman, Lancaster, Leighton, Leonard, Lewis, Lougee, Lowe, Lund, MacBride, Masterman, Masterton, Matthews, McPherson, Morton, Nelson, A.; Norris, Payne, Peltier, Peterson, Reeves, J.; Rollins, Roope, Sherburne, Silsby, Small, Smith, Soulas, Sprowl, Stetson, Stover, Strout, Studley, Tarbell, Torrey, Tozier, Whittemore.

ABSENT—Beaulieu, Brown, K.L.; Carrier, Carroll, Du Tremble, D.; Gillis, Gowen, Howe, Hughes, Jackson, Jalbert, Lizotte, McMahon, Michael, Sewall, Wyman.

Yes, 70; No, 65; Absent, 16.

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

#### Divided Report Tabled and Assigned

Majority Report of the Committee on Labor reporting "Ought to Pass" as amended by Committee Amendment "A" (H-236) on Bill "An Act Relating to Penalty Provisions under the Maine Labor Law" (H. P. 247) (L. D. 292)

Report was signed by the following members:

Mr. PRAY of Penobscot

— of the Senate.

Messrs. WYMAN of Pittsfield  
McHENRY of Madawaska  
BAKER of Portland  
Mrs. BEAULIEU of Portland  
Mrs. MARTIN of Brunswick  
Mr. TUTTLE of Sanford

— of the House.

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

Report was signed by the following members:

Messrs. SUTTON of Oxford  
LOVELL of York

— of the Senate.

Messrs. DEXTER of Kingfield  
FILLMORE of Freeport  
Mrs. LEWIS of Auburn  
Mr. CUNNINGHAM of New Gloucester

— of the House.

Reports were read.

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

Mr. TUTTLE: Mr. Speaker, I move that this matter be tabled for one legislative day.

Whereupon, Mr. Tarbell of Bangor requested a vote.

The SPEAKER: All those in favor of this matter being tabled for one legislative day pending acceptance of either report will vote yes; those opposed will vote no.

A vote of the House was taken.

Whereupon, Mr. LaPlante of Sabattus requested a roll call vote.

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

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

#### Divided Report Tabled and Assigned

Majority Report of the Committee on Labor reporting "Ought to Pass" on Bill "An Act to Require that Certain Employers Provide Regular Physical Examinations for their Employees to Detect Carcinogenic and Pulmonary Disorders" (H. P. 220) (L. D. 268)

Report was signed by the following members:

Messrs. LOVELL of York  
SUTTON of Oxford  
PRAY of Penobscot

— of the Senate.

Messrs. FILLMORE of Freeport  
DEXTER of Kingfield  
CUNNINGHAM of New Gloucester  
Mrs. LEWIS of Auburn

— of the House.

Minority Report of the same Committee reporting "Ought to Pass" as amended by Committee Amendment "A" (H-237) on same Bill.

Report was signed by the following members:

Mrs. MARTIN of Brunswick  
Mr. BAKER of Portland  
Mr. TUTTLE of Sanford  
Mrs. BEAULIEU of Portland  
Mr. WYMAN of Pittsfield

— of the House.

Reports were read.

On motion of Mr. Tierney of Lisbon Falls, tabled pending acceptance of either Report and assigned for Monday, April 23.

#### Consent Calendar First Day

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

(H. P. 268) (L. D. 349) Bill "An Act Relating to Discharges and Emissions from Nuclear Generating Facilities" Committee on Energy and Natural Resources reporting "Ought to Pass"

(H. P. 240) (L. D. 285) Bill "An Act to Prohibit Regulation of Solar Heating and Cooling Equipment by the Oil Burner Men's Licensing Board" Committee on Energy and Natural Resources reporting "Ought to Pass"

(H. P. 908) (L. D. 1132) Bill "An Act to Authorize a Bond Issue in the Amount of \$2,500,000 for Energy Conservation Improvements for Local Government Buildings and Public Care Institutions" Committee on Energy and Natural Resources reporting "Ought to Pass"

(H. P. 698) (L. D. 909) Bill "An Act to Require that Certain Information be Provided by Insulation Installers" Committee on Energy and Natural Resources reporting "Ought to Pass"

(H. P. 1001) (L. D. 1247) Bill "An Act Relating to Mining on State Lands" Committee on Energy and Natural Resources reporting

"Ought to Pass"

(H. P. 493) (L. D. 619) Bill "An Act to Provide for a Junior Archery License" Committee on Fisheries and Wildlife reporting "Ought to Pass" as amended by Committee Amendment "A" (H-248)

(H. P. 920) (L. D. 1128) RESOLVE, Providing for a Study to Determine the Need for and Location of an Additional River Crossing Between the City of Bath and the Town of Woolwich (Emergency) Committee on Transportation reporting "Ought to Pass" as amended by Committee Amendment "A" (H-247)

(H. P. 1137) (L. D. 1403) Bill, "An Act to Remove the Limitation on Outside Earnings of Disability Retirement Allowance Recipients" Committee on Aging, Retirement and Veterans reporting "Ought to Pass"

(H. P. 198) (L. D. 247) Bill "An Act to Clarify Motor Vehicle Registration and Operator Licensing Requirements of Nonresidents" Committee on Transportation reporting "Ought to Pass" as amended by Committee Amendment "A" (H-246)

(H. P. 944) (L. D. 1174) Bill, "An Act to Assist in the Use of Foreign Trade Zones" (Emergency) Committee on Appropriations and Financial Affairs reporting "Ought to Pass"

No objections being noted, the above items were ordered to appear on the Consent Calendar of April 23, 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:

(H. P. 269) (L. D. 355) Bill "An Act to Permit the Advisory Council to the Commissioner of Inland Fisheries and Wildlife to Give Advice on the Approval of Rules" (C. "A" H-234)

(H. P. 817) (L. D. 1019) Bill "An Act to Define Employer under the Occupational Safety and Health Law"

(H. P. 216) (L. D. 264) Bill "An Act to Clarify Unit Clarification Procedures under the Municipal Labor Relations Act" (C. "A" H-239)

(S. P. 72) (L. D. 126) Bill "An Act to Provide Birth Certificates for Foreign-born Citizens Adopted by Maine Parents" (C. "A" S-106)

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

#### Tabled and Assigned

(H. P. 435) (L. D. 552) Bill "An Act to Require that all Public Employees be Paid at Least the Federal Minimum Wage" (C. "A" H-238)

On the objection of Mr. McHenry of Madawaska, was removed from the Consent Calendar.

On motion of Mr. Baker of Portland, tabled pending acceptance of the Committee Report and assigned for Monday, April 23.

#### Passed to be Engrossed

Bill "An Act Making Appropriations from the General Fund for Current Services and Changing Certain Provisions of the Law Necessary to the Proper Operations of State Government for the Fiscal Years Ending June 30, 1980 and June 30, 1981" (Emergency) (S. P. 238) (L. D. 687)

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

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

Mr. PEARSON: Mr. Speaker, Ladies and Gentlemen of the House: This is, of course, as everybody knows, the Part I Budget.

Yesterday, in the presentation that I made on the first reading, I asked if anybody had any questions that they please would get in contact with me. I would just like to very briefly go

over this with you for a minute or two.

The Part I Budget for the General Fund calls for an appropriation of \$997 million. That is \$484.9 million in the first year and \$512.1 million in the second year.

At the beginning of our deliberations, or close to the beginning of our deliberations, the representative of the Governor's Office and the Finance Office indicated to us on a question that was posed to him if this budget were untouched, the state could function very well with it. We have adopted those recommendations of the Governor's Office in the Part I Budget.

I think that it is a concern of some of the members, all the members of our committee, and I am sure of some of the people in the House, that there will have to be adjustments made in the Part I Budget. We suggest to you that we will attempt, as best we know how, with the priorities that we feel are the best, to adjust the discrepancies that might occur in and Part I Budget and in the Part II Budget. With that, Mr. Speaker, ladies and gentlemen of the House, I ask you to adopt this particular budget, the Part I Budget, continuing operations of the state.

The SPEAKER: The Chair recognizes the gentleman from Owl's Head, Mrs. Post.

Mrs. POST: Mr. Speaker, Men and Women of the House: For the record, I would like to pose a question through the Chair if I may.

I know we have been told that adjustments can be made in programs in the Part II Budget, and most of the time people have been talking about additions of funds for those particular programs. There is at least one area of the Part I Budget that I have some concerns about and question its continued funding.

In the Part I Budget, if those kinds of instances exist, is it possible to delete funding for programs through the Part II Budget and are we in any way automatically endorsing all programs that are in the Part I budget by our vote today?

Mr. PEARSON: Mr. Speaker, Ladies and Gentlemen of the House: In answer to the question of the gentleman from Owl's Head, Mrs. Post, the answer is in the affirmative, yes, it is possible to delete, it is possible to add, and we would very much appreciate her input in marine resources, as she has had a continuing interest in that area.

The SPEAKER: The Chair recognizes the gentleman from Hampden, Mrs. Prescott.

Mrs. PRESCOTT: Mr. Speaker, I would like to pose a question through the Chair to any who may care to answer.

I would like to ask if it is the intent of the legislature, by passing this budget, that we maintain at the present level of funding the five regional councils on alcoholism and drug abuse?

The SPEAKER: The gentleman from Hampden, Mrs. Prescott, has posed a question through the Chair to anyone who may care to answer.

The Chair recognizes the gentleman from Old Town, Mr. Pearson.

Mr. PEARSON: Mr. Speaker, Ladies and Gentlemen of the House: In answer to the question of the gentleman from Hampden, Mrs. Prescott, the answer is yes. If you will look on page 2-496 of Volume II of the budget document, that is the large one, of course, you will find that this is included in the Governor's Part I Budget.

Thereupon, the Bill was passed to be engrossed in concurrence.

#### Second Reader

##### Tabled and Assigned

Bill "An Act to Prohibit Taking Antlerless Deer in Certain Municipalities and Townships" (S. P. 310) (L. D. 901) (C. "A" S-107)

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

On motion of Mr. Paul of Sanford, tabled pending passage to be engrossed and specially

assigned for Tuesday, April 24.

#### Second Reader

##### Tabled and Assigned

Bill "An Act to Prohibit the Gathering of Signatures Within 250 Feet of the Entrance to a Polling Place and Within any Registrar's Office" (H. P. 174) (L. D. 208) (C. "A" H-203)

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

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

Mr. MORTON: Mr. Speaker, I move this item lie on the table for two legislative days.

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

Mr. LAFFIN: Mr. Speaker, I ask for a division.

The SPEAKER: The pending question is on the motion of the gentleman from Farmington, Mr. Morton, that this matter be tabled pending passage to be engrossed. All in favor of that motion will vote yes; those opposed will vote no.

A vote of the House was taken.

Thereupon, Mr. Laffin of Westbrook requested a roll call vote.

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

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

The SPEAKER: The pending question is on the motion of the gentleman from Farmington, Mr. Morton, that this matter be tabled for two legislative days pending passage to be engrossed. All in favor of that motion will vote yes; those opposed will vote no.

#### ROLL CALL

YEA — Aloupis, Baker, Berry, Berube, Birt, Bordeaux, Bowden, Brannigan, Brenerman, Brodeau, Brown, D.; Brown, K. C.; Bunker, Carroll, Carter, D.; Carter, F.; Chonko, Churchill, Cloutier, Conary, Cox, Cunningham, Curtis, Damren, Davies, Davis, Dellert, Dexter, Diamond, Doukas, Dow, Drinkwater, Dutremble, L.; Elias, Fenalson, Fillmore, Fowlie, Garsoe, Gavett, Gillis, Gould, Gwadosky, Hall, Hanson, Higgins, Hobbins, Hunter, Hutchings, Immonen, Jacques, E.; Jacques, P.; Kane, Kany, Kelleher, Kiesman, Lancaster, LaPlante, Leighton, Leonard, Locke, Lougee, Lowe, Lund, MacBride, Mahany, Marshall, Martin, A.; Masterman, Masterton, Matthews, Maxwell, McKean, McMahon, McPherson, Morton, Nadeau, Nelson, M.; Norris, Paradis, Paul, Payne, Pearson, Reeves, J.; Rolde, Rollins, Roope, Sherburne, Simon, Small, Smith, Soulas, Sprowl, Stover, Strout, Tarbell, Theriault, Tierney, Torrey, Tuttle, Vincent, Violette, Vose, Wentworth, Whittemore, Wood

NAY — Austin, Bachrach, Barry, Benoit, Blodgett, Brown, A.; Call, Connolly, Dudley, Gray, Hickey, Joyce, Laffin, Lewis, MacEachern, McHenry, McSweeney, Mitchell, Nelson, A.; Nelson, N.; Peltier, Peterson, Post, Prescott, Reeves, P.; Silsby, Stetson, Studley, Tozier, Twitchell,

ABSENT — Beaulieu, Boudreau, Brown, K.L.; Carrier, Dutremble, D.; Gowen, Howe, Huber, Hughes, Jackson, Jalbert, Lizotte, Michael, Sewall, Wyman

Yes, 105; No, 30; Absent, 15.

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

#### Passed to Be Enacted

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

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

An Act to Define the Post of Sheriff as Full Time and Increase the Salary of that Post (H. P. 472) (L. D. 590) (S. "A" S-100 to C. "A" H-185)

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

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

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

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.

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

#### Emergency Measure Failed of Enactment

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 (H. P. 1321) (L. D. 1573)

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

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

Mr. PEARSON: Mr. Speaker, Ladies and Gentlemen of the House: I am pleased today, actually yesterday, to have signed for the second, and I hope the final time, a bill which will fund the contracts for 9,300 of our state employees. The language of this second bill has been modified to allay the fears which arose over the fair share clause in the contracts. The new wording hopefully clears up some of the ambiguities which some of the members of this body saw in the original legislation.

The bill clearly spells out a mechanism for testing the fair share clause in a judicial setting; that is an appropriate arena for settling that issue, it seems to me. Furthermore, the bill provides this mechanism without threatening in any way the integrity of the bargaining process. This legislation not only guarantees protection for the individual rights of every state employee, but it does so without compromising the bargaining law.

I firmly believe that we now have a bill which satisfies everybody's concerns, hopefully. We have spent a difficult three weeks on these contracts and it has taken us that long to work out these differences. Think how difficult it was for those who began the negotiations some 19 months ago. These contracts are the product of countless compromises, modifications and revisions. We can only imagine how difficult it was to reach the point where we came into the picture. After all this time and effort, let's hope today that we can finally give life to these contracts.

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

Mr. GARSOE: Mr. Speaker, Ladies and Gentlemen of the House: I wish the only thing on which the integrity was being questioned or threatened here today was the collective bargaining law. It is my hope that today we will deny passage of this bill. I have this hope because I want to see our record kept intact.

My research indicates that the State of Maine has never, in 159 years, fired a state employee because that employee refused to pay tribute to a union. That is the record I want us to protect today. A no vote is a vote against even the possibility of losing that record.

Now, you are going to be urged to be reasonable, to vote yes; you will be told a yes vote



says we at least stop the Governor from immediately implementing this provision; no one will be hurt until the courts say it is all right. Well, I don't need the courts to decide this question.

The media in some areas have presented this as a dispute over whether or not the fair share provision is legal or illegal. That is not the question in my mind and it never has been. Briefly put, the Governor has given the unions a benefit which the unions could not obtain through the legislature and in so doing has committed a monstrous violence against the basic rights of Maine citizens. In this action, he has flouted a clear legislative injunction against the proposition, and the question is, are we going to stand for it? I submit that voting no on this matter is not union busting, it is not meddling, but a normal and proper exercise of the people's power through their Legislature.

I remind you that those two terms, "union busting" and "meddling" are the only defense raised in behalf of the Governor's action. The Governor puts on an air of injured innocence and insists, I have bargained in good faith and I won't go back on my word. While I do not question the personal integrity or the good faith of Governor Brennan, I do observe that the negotiations were wrapped up in a startlingly abrupt manner when Mr. Bustin took over the helm. As the details come to light the feat loses some of its luster. Now we are faced with a compromise that may tempt some of us. In my book the compromise is a cop-out designed by lawyers to save face and sweep the problem under judicial robes. I wish to hear no legal nitpicking about whether it is legal or illegal to deprive a Maine citizen of his livelihood. To me it is wrong.

This so called compromise is no compromise on another count. The Governor and the Union will be sued in any event when the first employee is fired. The Governor, in my opinion, has transgressed brutally on the freedom of Maine citizens, and I need no umpire to call him safe or out. In my book, he is out by a mile!

**THE SPEAKER:** The Chair recognizes the gentleman from Harrison, Mr. Leighton.

**MR. LEIGHTON:** Mr. Speaker, Ladies and Gentlemen of the House: We are getting more apples with our oranges again here today. The people who last week were willing to jeopardize and delay the pay raise for state employees by insisting on an agency shop clause are back today still willing to jeopardize or delay the pay raise by still including the agency shop clause, but this time with another clause in which the legislature would seem to disclaim responsibility for the agency shop clause.

After last week's pay raise delay, the obvious course of action was delete the offending clause. But the bargain makers said, they couldn't change the clause without a new vote from their membership. But, the contract we have before us today has been changed without benefit of a vote of the membership.

We suggested the agency shop bill be reported out of committee and voted on. That would have decided the issue once and for all. But it apparently was decided by the bargain makers that our minds could be changed by picketing legislators, businesses and by generally trying to pin blame for delay on the people who object to the clause rather than on the people who insisted on inclusion of the clause in the first place.

I will not disclaim responsibility as a legislator. The issue has not changed, the principles have not changed. My principles have not changed. I will not abandon the substantial minority, indeed, the thousands of state employees who oppose this clause. I will not vote for compelling Maine citizens to pay money to the MSEA as a condition of keeping jobs with own government.

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

**MR. TIERNEY:** Mr. Speaker, Ladies and

Gentlemen of the House: Ninety-three hundred very special individuals in our state await the vote we are about to make, 9300 individuals who have decided to give their lives as a profession to the service of their fellow citizens by becoming state employees. Yet, we have heard two speakers on the floor of this House say that we should once again, deny to them the benefits for which they have waited so long, deny benefits for which, if you remember the ultimate package, gives the greater amount of economic benefit to those on the lower end of the economic scale, to give to those individuals a grievance procedure, finally take our state employees and pay them at least minimum wage.

Now, those two individuals who have just spoken have said that we shouldn't do that, they said we should vote no. I would like to say that they are wrong on two particular grounds in their remarks. First, they are wrong as a matter of policy and, second, they are wrong as a matter of good labor relations but before I read those two points, I have to make it very clear that neither of them made a third point that I had personally expected them to make, that was the point that the Governor had acted illegally. We have heard that he is brutal and we have heard that he had committed a monstrous violence, but they didn't say that he had acted illegally in negotiating this clause. The reason for that, although they had held forth on that prior to today, is that they know that he did act legally. They know that because of the legislative debate in the 106th Legislature, which passed the collective bargaining law which clearly said that agency fees or fair share agreements are within the scope of collective bargaining. I find it somewhat ironic that one of the few individuals who voted against that original bill, Mr. Garsoe would be here again still opposing that fundamental concept. They know that it is not illegal because of the Attorney General's ruling. Attorney General Richard Cohen clearly came down and said that it is a legal matter of collective bargaining.

They know that it is a legal matter of collective bargaining because they know that there is a procedure that had been envisioned by the 106th Legislature for defining an item which is outside the scope of collective bargaining, and that it would go to the Maine Labor Relations Board and they know that wasn't followed by the party, because they know that both parties know full well that it was clearly within the scope of collective bargaining. They know the three fact finders; one, a professor from the University of Maine Law School; another individual who works for the University of Maine Bureau of Labor Education; and the third, one of the finest if not the finest management attorneys in the state, all unanimously concluded that it was perfectly appropriate legally to have it inside the scope of collective bargaining and, moreover, found that in the fact finding report, it was, indeed, and should have been included in any final settlement. So, I am not surprised that Mr. Garsoe did not raise the question that this was illegal because he knows full well that it is. He is as confident, I am sure, as I am confident, that the final judicial determination will come out in favor of the legality of the fair share clause. No, he said it was wrong as a matter of public policy. I say to you and I say to him, that he is wrong.

I refer you to Section 979, Subsection F, Subsection E of Title 26. I would like to read just a bit of it to you. The bargaining agent certified by the executive director of the board as the exclusive bargaining agent shall be required to represent all of the public employees within the unit without regard to membership in the organization certified as the bargaining agent. Now, what that means, my friends, is that the Maine State Employees Asso. must represent all 9300 members whether or not they pay dues or whether or not they pay their fair share. As a matter of public policy in this country, as far

as I am concerned, people shouldn't get something for nothing. I think that if they are going to get the benefit, they ought to pay at least their proportionate share of the cost to get those benefits. I think, as a matter of public policy, the Governor of this state was absolutely correct in including that provision in the collective bargaining agreement.

Now, what about the second area, where he is wrong? He is wrong as a matter of good labor relations law and he knows it. He knows that the legislature is not supposed to get involved in this process. The good gentleman from Cumberland, Mr. Garsoe, served for four years during the Longley Administration as a legislative liaison between the Legislative Council and the bargaining team. Time and again he told me, and time and again he told his caucus, and time and again he told his Legislative Council, and time and again he told the entire floor in the House of Representatives, that we shouldn't get involved in the bargaining process, that we should limit ourselves as Section 979, Section A, and 979, Section D relates to just those matters that require legislative action, just those cost items—he knows it.

So, my friends, and ladies and gentlemen of this House, it is a matter of bad labor relations for the legislature to get involved in this process, it is absolutely wrong.

I am going to let you know one secret, and that is that there are a lot of things in this contract that I don't like. There is one matter in particular that I don't like but, ladies and gentlemen of the House, last week I said publicly, and the Governor said publicly, and many members of the Senate said publicly, that we should not get involved in the internal workings of the collective bargaining process, it strikes and creates a very, very dangerous precedent. Even though I don't like some of the provisions of this contract, I am going to vote yes because it has been bargained in good faith between the union and the employer. The statute says clearly that we are not the employer. So, ladies and gentlemen, I hope you vote yes on the enactment of this very important bill.

**THE SPEAKER:** The Chair recognizes the gentleman from Brooklyn, Mr. Bowden.

**MR. BOWDEN:** Mr. Speaker, Ladies and Gentlemen of the House: I have read and heard much in recent days about this highly touted compromise this bill supposedly represents. While it may address the questions of legality raised by some concerning the negotiations in the contract of the service fee imposed on non-union employees, it in no way addresses the philosophic objections that some of us have to allowing such a provision to be included as a condition of employment.

I find this bill no more palatable than the last one. I am not willing to give up my right to exercise a philosophic objection to any court, even if the court were to find that both parties to the contracts acted legally in the course of their negotiations. I still firmly believe that no employee should be faced with the loss of his or her job because he or she will not pay tribute to a union. If we support this bill and the court subsequently determines that this offensive provision was legally negotiated, we are stuck with it whether we agree with it or not.

I have listened to union spokesmen argue that those of us who oppose this kind of coercion want to break the union. That is just not true, at least for me. I have no objections to voluntary union membership and collective bargaining, but if the union is viable, I believe it can survive without the membership or support of those who, for whatever reason choose not to be involved. If the union does not wish to represent non-members, and I don't think it should, let's change the law to provide for just that. Let's not use the force of law to make it necessary that those non-union members lose their jobs unless they pay tribute to the Maine State Employees Association or any other union. That is wrong. I want the state em-

ployees to have their pay raise, they deserve it, and I think we all agree on that. Much of this delay could have been eliminated had their representatives been willing to remove this service fee provision. As long as there is a chance that it will remain a part of these contracts, for me, the price is just too high.

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

Mr. BIRT: Mr. Speaker, Ladies and Gentlemen of the House: I guess I concur with many of the remarks that were just made by the Majority Floor Leader.

I was here when the collective bargaining bill was passed and there was a great deal of debate on it. I do feel that when the legislature authorized collective bargaining, it ought to have also provided the tools to make it work effectively. The agency shop clause was removed by an amendment in the Senate and came back and was left out. At that time, it was clearly said in the Legislative Record that this was a matter of negotiations. The fact finding report, of which I have a copy, was presented to the fact finding board in July. It was reported out in October, prior to the coming of the present administration. There are 93 items on this particular report. Many of them, I am sure, if every member of the House went over this report, they would find something that they would find objectionable. There are also 23 items that were agreed to in the negotiations with which there were no problems.

The number one item in the fact finding report, which actually came out in October, was non-members and bargaining units to pay to the MSEA 80 percent of MSEA dues as a service fee. This was a report that came out with three people, and I understand one of them is the outstanding labor management negotiator in the State of Maine.

I have talked with some of the people who have been involved in this, one of whom I think is probably the most knowledgeable person in labor relations in the State of Maine, and that person has indicated that if there is not some method of obtaining participation by the membership once the vote has been accepted, and we do live under majority rule, and once the majority of the membership of any particular agency votes to have a particular agency do the negotiating for them, the thing is toothless and of little value.

I support the bill that is presently before us.

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

Mr. STETSON: Mr. Speaker, Ladies and Gentlemen of the House: I have a question that I am compelled to ask through the Chair to the gentleman from Old Town.

The gentleman from Old Town stated initially in his debate that this pending bill was a great compromise and, yet, when the gentleman from Lisbon Falls, Mr. Tierney, spoke, he spoke with great assurance that there really is no legal question involved in the agency shop clause at all, which leads me to believe that the provision in the present bill, that this matter be subjected to the courts for review and decision, is no compromise at all.

I therefore ask Mr. Pearson, where is the compromise in this legislation?

The SPEAKER: The gentleman from Wiscasset, Mr. Stetson, has posed a question through the Chair to the gentleman from Old Town, Mr. Pearson, who may respond if he so desires.

The Chair recognizes that gentleman.

Mr. PEARSON: Mr. Speaker, Ladies and Gentlemen of the House: First of all, I would like to say that I don't think that we are addressing the question of agency shops. I hear that term used over and over and over again by those who want to detract from this particular bill or contract. It is not an agency shop at all, it is fair share. I think that this bill goes a long way to give the people who had originally objected to the bill, not giving any hint at all of

the legislative intent as to its legality or appropriateness of the fair share contribution if this should go to court. It is just as clear and simple as that.

There were some misgivings, apparently, on the other side. I wasn't one of those but there was apparently some misgivings that the way it had been worded before, if it went to court, it would indicate some prejudices as a compromise. I understand, from the wording of this bill now, that the feeling of prejudices on the part of a lot of people who are on the other side of this issue has been removed. I hope that is true.

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

Mrs. LEWIS: Mr. Speaker, Ladies and Gentlemen of the House: I haven't heard anybody say that the amount of money is too much or too little. I think everybody is in agreement that we do want to pay our state employees what they deserve to be paid. However, I think that we should consider that the Maine State Employees Association is a private corporation. It isn't a public organization, it is a private corporation with high paid corporate executives, and what we are saying is that the people of this state, in order to have a state job, and remember, the state is a monopoly, it isn't as though a person can work in a mill and if it is a closed shop and a person has to pay union dues, that person who might object can go to another mill and get a job, but if you work for the state, you are working for a monopoly. There isn't any other state in the State of Maine to work for. So, what we are saying is that our people in this state have to pay tribute to this private corporation in order to have a public job in the State of Maine. I think it is an outrageous thing.

I notice that one part of the contract does say "non-discrimination." The State and the Maine State Employees Association will not discriminate on the basis of race, creed, color or national origin, sex, marital status, age, physical disabilities or mental disabilities, but they apparently can discriminate if a person doesn't pay a fee to this private organization.

I can't imagine that it would ever stand up in court, but I certainly hope that it won't have to and we will vote this down today.

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

Mrs. HUBER: Mr. Speaker and Members of the House: Very briefly, I think it is time to show good faith in terms of what we all want to see, which is a pay increase for state employees. I think the objectionable language has been removed, I think it is very appropriate that we proceed on the motion that has been offered and I urge you to vote yes.

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

Mr. LAFFIN: Mr. Speaker, Ladies and Gentlemen of the House: Some time ago, I stood on this floor and I criticized the Governor of this state and no one else ever did, so I think now I have a right to say what I feel I should say.

Many times we don't agree with certain things and sometimes they get emotional and sometimes we feel that maybe if we had waited for another day, we wouldn't have said what we said the day that we were upset. I criticized the Governor of this state because he was wrong in not getting a package out, but later I stood on the floor of this House and congratulated him for putting the package out.

Today, he has done what took 18 months to do and you people are not going to agree with everything. I don't agree with everything that is in this bill, but the basic part of the bill is, I think, what we all agree with, giving a take home pay to more people who need to put food on their tables, who are working below what other people are working for, and that is the object of this bill.

Lots of times we vote on a bill and we say, well, let the courts decide on it and, you know,

not one word is said. We have to live by the rulings that the courts lay down. The Supreme Court has given rulings in the past that I don't agree with and I am sure you don't, but we live by it. I can assure you, ladies and gentlemen, this idea of firing people for not wanting to join something is not the issue today, that is a court issue. The court will decide on that and I, myself, or Mr. Garsoe, or Mr. Tierney, or anyone else does not want to see anyone lose their jobs. In fact, we, as a legislature, if we were told that we had to belong to the State Conference of Legislatures and had to pay dues, we wouldn't like that, neither would I.

But today is an important day. The take home pay is what we are talking about. We can leave the others to be debated for another day. If we don't debate today, if we say that this should not become law, where do we go from there? If we accept this today as not becoming law on our part, we have no control over what they do down in the other body, that is up to them, we have nothing to do with that, but if we say, no, where do we go from there? I haven't heard any answer to that. I would like to have someone on the floor of this House tell me that if this bill is defeated, what are we going to go on next? How long is this going to be pending before the people of this state, who have had one raise in the last five years, get their raise? Where do we go from there? Can anyone answer that today? Can we get something that 184 people are going to agree unanimously on? I say no, we can't do that. I don't care what bill it is.

I certainly hope today that the members of this House will let the court take care of the court's action and let us be responsible leaders of this state and vote for passage of 101 people to put this bill back to the other body.

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

Mr. MORTON: Mr. Speaker, Ladies and Gentlemen of the House: I wouldn't have gotten up but the gentleman who just spoke did make an error and I do think it needs to be corrected. He said that whether or not the issue of firing was a matter for this legislature or the courts, and he said it was the courts. He has it backwards, ladies and gentlemen. The only thing this bill will do, and it does it very excellently, in fact, is set this up for a court decision on the legality of including or not including in the contract the fair share clause, that is what it sets up. It says nothing and the court will say nothing to the rightness or wrongness of whether a fair share clause should be put in the contract. I hope everybody understands that.

The only point I want to make today—the policy question, which should be a legislative question, is being ducked if we turn this over to the courts. The courts will not make that decision for us. The courts will merely decide on the legality of including it in the bargain.

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

Miss ALOUPIS: Mr. Speaker, Ladies and Gentlemen of the House: I will be brief, as I usually am. I guess the question I would say that we should all ask ourselves is, is this not the United States of America where we are all allowed freedom of choice?

The SPEAKER: The Chair recognizes the gentleman from Woolwich, Mr. Leonard.

Mr. LEONARD: Mr. Speaker, Ladies and Gentlemen of the House: Very briefly as well, there are two things. One is, I think that possibly with our vote here today that we might create another picketing, if you will, of the legislators. I think, quite frankly, the way that was carried out prior to, with the other body having taken adverse action to the contract, was precedent setting into something that should be nipped in the bud, stopped. They picketed the place of business of the people who voted against the pay raise, and I think that is wrong because I suggest they remember, this



is a citizen legislature. We are all here as citizens, we are not here for financial gain. As a matter of fact, in many cases, we are here at a financial loss. As citizens, we are trying to do our best for the State of Maine. I would suggest that if they want to picket any place, they picket the home of the individual and make it on a unilateral effort.

Two, did anybody ever consider that in a business, for example, the president of the corporation or, if you will, whatever title he might hold, is appointed and he works his way up the ladder and he ultimately becomes that and gets into that position. The Governor is elected and every state employee has the right to participate and try to elect a Governor that will give them something they desire. They also have that right of the legislature. If they don't like what has happened now, again, go back to what I said before, they have the right to picket us. They have the right to work against us in the next election. However, there is a check and balance that does not exist in private industry and I suggest that we remember that when we vote for a fair share.

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

Mr. KELLEHER: Mr. Speaker, Ladies and Gentlemen of the House: I would like to suggest to my honorable friend from Cumberland, Mr. Garsoe, and the good gentlelady from Auburn, Mrs. Lewis, and we all know that they are renowned labor leaders in this House, who have always fought for the betterment of the working men and women of this state, that we passed in the 106th, and we are the general court of the State of Maine, that they initiate a bill, put it back into the legislative process and repeal the collective bargaining law. What you are trying to do right now is short-circuit the collective bargaining law that is on the books of the State of Maine, it is as simple as that.

It was 18 months in negotiating a contract, which each and every one of us had, I am sure, told constituents that were state employees and those who were not state employees, that we would hope that the Governor, who represents the management team and the employees themselves would come to a common agreement. They came to a common agreement, we are here Friday afternoon, we have an opportunity to ratify that agreement and we can ratify it on the basis of what the law says in the State of Maine and that is, we can object to it because of the dollar amount but we cannot object to it for what the law says in the State of Maine and that is, we can object to it for what was negotiated in the contract.

I would hope that the House would support the bill that is before us here this afternoon.

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

Mr. SOULAS: Mr. Speaker, Ladies and Gentlemen of the House: As I spoke earlier today in the Republican caucus, it is about time that we Republicans go on record as not being totally anti-union but pro worker, whether state employee or otherwise.

I am positively sure any compromise will never absolutely satisfy each and every one of us but, then, isn't our role as representatives of the people to accept the wishes of the Majority? So, let's put aside our personal feelings and vote yes today as representatives of our people; the time is now.

I don't like to say this but I think it is time Republicans act responsible and vote yes.

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

Mr. TARBELL: Mr. Speaker, Ladies and Gentlemen of the House: I think some of the facts that have been represented as facts today aren't really facts, they are open questions. I really personally resent, and I think the legislature should resent as a body, the mischaracterization of many of the facts that have so-called been put forth today.

For the record, at the very least, I think a

couple of things ought to be clarified to clear up what is being pushed off and given to you as facts today.

First of all, when the 106th Legislature, over five years ago, passed the collective bargaining statute, a very important paragraph was deleted from that bill. The paragraph would have permitted the negotiation of agency fee, agency shop measures, in a contract, and it was pulled out of the bill before the bill became law. Every year since that time, there has been a bill before this legislature to put that paragraph, in one form or another, into the statute so you could negotiate agency fee, agency shop, 100 percent on down to 1 percent and not, to this very day, has such a measure passed in this legislature. It passed the two bodies of two years ago, in the 108th, and Governor Longley vetoed it.

It is argued that Senator Katz, when he proposed the amendment which pulled that paragraph out of the original bill, said you can either take the legislative route or you can take the negotiation route to get agency fee, agency shop. If you need the context of the debate in which Senator Katz made those remarks, it is clear that he considered that that particular paragraph was mandating agency fee or agency shop in contracts and it was not, it was permissible. Senator Katz was clearly confused, if you read the full context of that debate in the 106th Legislature.

My good friend from Lisbon Falls, Mr. Tierney, two years ago, when I sat in Seat 101, was up on his feet urging this House to pass a bill which would permit the negotiation of agency fee, agency shop, to put it into the statutes because the collective bargaining statute, have an agency fee, agency shop clause that would permit them to negotiate it, but the state employees, in their collective bargaining statute, don't have that clause and it is discriminatory and it is wrong and we should give them that opportunity to debate and it is wrong and we should give them that opportunity to debate and to negotiate at the table such a clause.

The legislature passed that bill and it was vetoed, and to this very day, we have L. D. 597 sitting down in our Labor Committee, and that bill would permit, in the collective bargaining statute, the negotiation of agency fee, agency shop. It has yet to be clearly expressed by legislative policy, legislative statute, in the collective bargaining laws of the State of Maine. It is totally silent on the books and it is an open question.

The Attorney General has rendered an opinion and you are asked here today to accept an AG opinion that comes down very, very narrowly on the side of rendering it a legality. A few weeks ago, we had an Attorney General's opinion and what did I hear from members of the opposing party? An AG opinion isn't worth the scrap of paper it is written on.

Two years ago, when I sat here in this House, as a Freshman legislator, every time AG opinion came into the House, it was the sacredness and had the sanctity of the Lord and this year it has no sanctity and sacredness unless it goes in favor or against the opponents. So, that doesn't resolve the issue of the question either.

It has been argued against us, and I mean the members of my party, very unfairly I think, with inflammatory rhetoric over the last few weeks, that the legislative branch is meddling in the collective bargaining process. It is being argued again today here on the floor of this House and I think they are wrong. The reason I think they are wrong is because it is an unclear question as to whether or not you can negotiate this particular type of clause at the collective bargaining table. The legislature has repeatedly denied that in statute. To argue that for the legislature to question whether or not the executive of the State of Maine and the MSEA officials are right or wrong in putting that into the contract and to argue that we are meddling is absolutely unclear and very inappropriate and

unfair. The argument can be made just as strongly the other way, that the Executive of the State of Maine is meddling in the legislative process of the State Legislature. That argument has not been made very often and it has not been made in an inflammatory context or inflammatory manner. That argument can be made just as easily and just as forcefully as the argument the other way.

Unfortunately, we have before us and between us a stalemate between the legislative branch and the executive branch, and it is clear that that stalemate is going to prevail and go on and on and on until we finally bring this state and our state employees down to their knees. We are going to tear wide open this state over this issue, and the legislature and the executive branch. I think it is extremely unfortunate, but we do have before us a measure and probably the only civil measure remaining to us to handle this particular stalemate.

My good leader to my left, Mr. Garsoe, warned over five years ago when this legislature was debating the collective bargaining statute that it is too vague, it is too ambiguous, that there are going to be disputes, there are going to be real problems with this law because it does not state what is negotiable at the collective bargaining table and what is not, and here we have before us the first big major dispute and problem. In light of that and in light of the fact, on top of that, we have over 9,000 state employees with a \$50 million contract that is being held up. I think they are the ones that are being held hostage and I think it is the state employees that are being unfairly used. I think these are some arguments that have not been made loud and clear.

But nevertheless, in the light of all of that, I am going to go along with this particular measure that is proposed before us today in this bill in the hope of civilly removing this stalemate and getting that pay raise through to them.

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

Mr. TIERNEY: Mr. Speaker and Members of the House: While I am certainly pleased that the good legal scholar from the queen city of Bangor will be voting with me for enactment I think there are several issues that should be clarified for the record.

The first is that the good Senator from Kennebec, Senator Katz, was confused several years ago. Well, perhaps in recent weeks he has been confused once or twice, but I can assure you, having known him during that period, his mind was functioning quite properly.

The second position was that the Attorney General's ruling is occasionally rejected as one man's opinion when one disagrees with it. That is not true. In prior weeks, I stated the Attorney General occasionally exceeds his authority by giving an opinion not on the matter of law but on the matter of legislative or parliamentary procedure but I think the Attorney General's ruling was very well researched. In that Attorney General ruling, it became very clear that the legislative actions of the 107th and the 108th, and it is also a matter of fundamental statutory interpretation, cannot be deemed to interpret the legislative intent of the 106th legislature and that is a matter of course. Actions of subsequent legislatures cannot affect legally, in any legal sense, the legislative intent of prior legislation.

The good gentleman from Bangor, Mr. Tarbell, stated that an argument just as strong could be made on the other side, but it hasn't been made. There hasn't been any responsible individual, either within these halls or without these halls, who has been able to make that argument very convincingly, and the reason is that it isn't true. It can't be as strongly made and that, indeed, the issue is not unclear. The parties are clearly within the scope of their authority by negotiating this issue and if they had not been, they would have chosen a different

forum that 184 individuals would have to make the final legal resolution.

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

Mr. STETSON: Mr. Speaker, Ladies and Gentlemen of the House: The other day when this question was being debated, I asked the good gentleman from Augusta whether or not the level of pay negotiated by the Executive Branch and by the State Employees Union, whether or not that level of pay contemplated the withholding of agency fees from then non-members' pay. I don't really recall that I got a definitive answer to that question, but it seems to me that is what we are really addressing ourselves to in our vote today, is the level of pay that the taxpayers of this state are going to approve. I think it comes down to that very question, that we are called upon, as legislators, to either approve or disapprove, namely, the funding of this agreement. If that funding contemplates the withholding of 80 per cent of the dues from the non-union members' pay, then I think we, who are representing taxpayers who are opposed to such an agreement, have not only the duty but the obligation and the right to vote no on this measure.

On the other hand, if the level of pay did not contemplate the withholding fee, then I think a grave injustice and disservice has been done to those employees and that there was no good-faith bargaining on either side of that question.

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

Mr. TIERNEY: Mr. Speaker, Ladies and Gentlemen of the House: I assume, in his own inimitable fashion, the good gentleman from Wiscasset is referring to Section 979, Section E, Sub 3, dealing with the definition of what a cost item is and what it isn't. I would reply to the good gentleman that the cost item is clearly a cost item to the legislature and the fair share agreement is clearly a cost item to the individual members of the bargaining unit and that the issues are quite distinct and the good gentleman knows that.

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

Mr. BOUDREAU: Mr. Speaker, Ladies and Gentlemen of the House: I rise today to concur with the remarks made by the gentleman from Bangor, Mr. Tarbell.

My original vote on this contract was against. Today, I will be voting for. I still believe that it is the legislatures prerogative to have agency fee, fair share or anything else you want to call it. However, I am convinced today and I have been convinced in the last couple of days, that the question of the executive's authority on this matter is legitimate and open. I really sense that some members that don't want this question to go to court feel that way because they don't think they will like the outcome. As far as I am concerned, whatever the court decides, it is fine with me.

My original position was, take it out of the contract, send it to court. That has been done and the Governor is even putting up \$10,000 of his own money, I call it his own money, his contingency account, to take this issue to court. So, I would hope that you would vote today to pass this bill today.

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

Mr. MORTON: Mr. Speaker, Ladies and Gentlemen of the House: I regret that I have to continually get up here on the floor and point out errors of speaking here on the floor of the House, but my very highly esteemed young colleague just mentioned that the fair share clause has been taken out of the contract, and I want to assure him that it has not, it is still in the contract.

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

Mr. NORRIS: Mr. Speaker, Ladies and Gentlemen of the House: I know that the hour is late and I know that everyone is in a quandary.

I have heard my two young colleagues and I commend them. I understand that they have some reservations but I think they realize that a negative action can't solve a problem, you have to take a positive action. I commend them for the integrity, even though it may disagree with their philosophies, because of the fact that the state employees played the game according to the rules as they understood them, and they bargained in good faith for 18 months. Here, today, they are faced with the fact that some of us, and I am sure all of us who say it, say it in good faith, that we should change the rules of the game.

My good friend Mr. Morton, from Farmington, if I understand and he has corrected twice now, he says that it makes no difference what the rules were then and if the court rules that the rules then were to allow this agency fee, that is wrong. I disagree with him on that. I feel that any game or anything that is perpetrated should be done according to the rules as they were laid down at the time. If he and some of my other colleagues here want to change the rules, do so afterward, if the court ruling proves, in fact, that this is an illegal agreement.

I do commend the state employees. I think under the circumstances they have conducted themselves very well. I hope and pray that we can move this along today in good spirit and good faith and prevent this state from getting into the Alaska syndrome where you practically have to get union permission to move from one city to another.

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

Mr. LEIGHTON: Mr. Speaker, Ladies and Gentlemen of the House: I don't want to prolong the debate, but I would like to make a few comments about some of the comments that have been made.

My good friend Representative Soulas made a reference to our acting for the majority. I agree that we should act for the majority while protecting the rights of the minority.

I would suggest that Representative Pearson's distinction between fair share and agency shop is a little bit like the distinction between being pregnant and being a little bit pregnant.

In reference to Representative Tierney's comments about me and I could be mistaken, but if I remember correctly, his opinion, in part, suggested that the problem be attacked legislatively, which could be done easily by bringing the agency shop bill out Monday morning.

Representative Boudreau talked about a traditional outcome, but I would remind him that that outcome could be years away. In some instances it has been many, many years away.

Representative Norris makes reference to our taking a negative action. I agree with him, we should take the positive action of voting this down so that clause can be removed so that we can positively enact the employees' pay raise.

I think Representative Laffin's question as to where we go from here is an extremely legitimate question. I would suggest that we vote down the pay raise today, that over the weekend the clause be removed and that Monday morning we enact the pay raise.

The SPEAKER: The Chair recognizes the gentleman from Augusta, Ms. Lund.

Ms. LUND: Mr. Speaker, Ladies and Gentlemen of the House: This has been a very difficult first session for me. As many of you know, I come from the City of Augusta, I represent a large number of state employees. The question that they asked me right from the moment that I started to run was, will you vote for our pay raise? Being new and green, I said "sure," thinking that it would be simple.

When the proposed contract came out, I could not help but feel that the agency fee, the 80 per cent fair share, was wrong. I still feel it is wrong. However, in my thinking about it, I have had many calls from state employees and

from others who have asked me, can the legislature go in and take out a section of a contract which it does not agree with and refuse to pass a small section of the contract? I had to think about that.

I also have watched us argue back and forth and I don't know whether this legislature, at this moment, is capable of making a clear decision about whether this particular provision is fairly in the contract. I had come today thinking that I was going to support my Republican leadership. I find that the leadership stands one on one side and one on the other side. I have a great deal of respect for the judicial process, and in thinking over the contract and thinking over the taking out of this single item and sending it to a court for a declaratory judgment, in my view, this would be the fairest way and cleanest way to make the decision. If the legislature then feels that they have made a grave mistake in passing a labor law which allows this to be in the contract, we have the chance to change our law. Therefore, I am going to change my vote. Last week, I voted against the contract. I had good reason to. I think this time, today, I have reason to vote for the compromise and for sending this clause to the courts.

The SPEAKER: 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 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 would ask the Sergeant-at-Arms to please escort the gentleman from Lisbon Falls, Mr. Tierney, to the rostrum to act as Speaker pro tem.

Thereupon, Mr. Tierney assumed the Chair as Speaker pro tem and Speaker Martin occupied his seat on the floor of the House.

The SPEAKER pro tem: The Chair recognizes the gentleman from Eagle Lake, Mr. Martin.

Mr. MARTIN: Mr. Speaker, Ladies and Gentlemen of the House: It is obvious by the very close vote on receiving the 101 votes necessary to enact this piece of legislation, the day and the time of reckoning has arrived for all of us and, more importantly, for the 9,300 state employees that all of us are, by the Constitution, challenged to try to preserve and to help and to assist our own citizens.

I think it is critical from my point of view to begin in part with my role and my involvement with the Hay Report a number of years ago and for collective bargaining. In the course of that debate and the course of that discussion when state employees in part were left to drift by our former Chief Executive, I was one of those who decided to support the Hay Report. Of course, I was joined with open arms and open hands by the gentleman from Cumberland, Mr. Garsoe, and his former counterpart, the gentleman from Nobleboro, Mr. Palmer, in that endeavor. In the course of that entire discussion, the three of us made a commitment to this legislative body that, yes, this was the last time the legislature would interfere in dealing with state employees on a one-on-one basis. Yes, we made a commitment that the time had come to stop meddling in the affairs of the Chief Executive.

I was led to believe that if we were able to

enact the Hay Report, and finally we were with the help of a number of Democrats, the majority of my caucus supported that approach on that premise, that once we had disposed of the Hay Report, we would be out of that type of involvement again.

The gentleman from York, Mr. Rolde, was the Majority Floor Leader at the time, and I am sure he can recall the horror of some of the things that took place within my own caucus, because I can, but we made that commitment as a legislature, because we said, this is it, collective bargaining is going to begin very shortly because it has been adopted by the people that represent state employees. We made the commitment that once we had achieved that, then we would be out of the business.

So, for the past 13 or so months, collective bargaining has taken place, and in the past 14 weeks or so, with the change in the Chief Executive, we finally came to successful conclusion in achieving a contract. Then, at the other end of this legislature, came a roadblock for whatever reason, and I would simply ask the members of this House, of both parties, to go back to the law, to go back to the opinion of the Attorney General and to read it very carefully.

What basis do we have to vote on this issue, and I argue with you and with anyone else that looked at the Legislative Record, that we will find that we can either vote it up or we can vote it down on the question of money. No one has argued that the amount of money in this contract was unfair. We want to reject it on an entirely different basis, because of something that is in the contract.

We can argue that the law is vague, we can argue all kinds of things if we want to, but I think legislative history is clear, and as one of those who has been here through that process, I can vouch for that history meaning, in fact, that we were not to participate in the nitty gritty type of issues.

I am not satisfied with every issue in that contract. As a matter of fact, I am one of those who is a little bit disgusted with the \$10,000 coming from taxpayers that will have to go to fight those who want to fight the state, but I accept that, I accept it because it is the result of a negotiated settlement between the person designated by the Chief Executive and by the labor union. They have handed this body a final package which they have agreed to, and throughout this process, state employees have been what some people refer to as 'pawns' in that process. Well, some of us in this body and in the other body are putting them there, because the law is clear, and I plead with all of you today to find the necessary votes, even though it is a Friday afternoon, so we can enact this piece of legislation in this body and send it to the other, so it can reach the Governor's desk this evening to be signed into law and state employees can again have some faith in the people that represent them.

I feel strongly that we have got to have some of the fairest state employees of anywhere in the country, because for the past weeks they have sat literally on their hands and waited for us, and now are we saying that we are going to deny them again, one more time, because there is something we don't like. The way it is written, we don't like a "T" crossed the way it is that we are going to postpone it, we are going to say, hey, we don't care, we don't care what the law is as long as that phrase is gone? When that happens, ladies and gentlemen of this House, we have broken faith with our oath of office, we have broken faith with the people we represent, we have broken faith with state employees.

To all of them, I congratulate the way they have handled themselves on this issue, whether they picketed my place or they didn't. They have a legitimate gripe and they have a right to exercise that gripe. But the work of the state has continued and it is to their credit. So, I ask, even though our numbers are diminished a

little bit Friday afternoon, and it is obvious that the votes will be here on Monday morning, that those of you who are uneasy about it, knowing the consequences that this could have upon state employees this weekend, I plead with you to vote yes on enactment.

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

Mr. GARSOE: Mr. Speaker and Members of the House: I have heard quite a bit of the pious protesting today of all the things that you, Mr. Speaker pro tem, don't like and that gentleman from Eagle Lake doesn't like that are in this contract. You're making quite a concession to go along with it. But I am also glad that the record shows that their protest, their concern with what is in this contract isn't high enough for what they can condone forcing state employees. In fact, Mr. Tierney has just about convinced me that it doesn't need to go to court. He has made it so clear that this is exactly what can be negotiated, that perhaps it doesn't even need to go to court in the first place. I am glad to see that their dissatisfaction that they are stifling today and urging you to do the same is high enough to let that pass under the bridge.

The gentleman from Eagle Lake, in raking up the Hay Report, is constructing a straw man. That has absolutely nothing to do with what is going on here today. What he is really asking you to do is to just close your eyes to whatever is in a contract. He criticizes me for objecting to what is in the contract. Well, are we all blind? Do we sit here with our head up and locked when things come through? I suggest we shouldn't.

I don't think it was ever envisioned that a legislature would sit by, following the lead of the gentleman from Bangor, Mr. Kelleher, or even my friend, the gentleman from Bangor, Mr. Tarbell, and pass a piece of legislation that so clearly violates the concept of free Maine citizens that is outlined in this very law. Nowhere in this law will you see any language addressed to the rights of employees; yet, we find these petitioners for the passage of this bill here today pleading their case on behalf of the state employee. Well, there are over 2,000 state employees that are a risk in this series of contracts that we are working on now.

So, I don't think the argument from the gentleman from Eagle Lake is up to its usual excellence. As I said before, I usually wince when he comes on the podium because he does such a good job. In this one, I think he is urging us to abrogate the responsibility that we agreed to accept when we came here.

The SPEAKER pro tem: The Chair recognizes the gentleman from Caribou, Mr. Peterson.

Mr. PETERSON: Mr. Speaker, Ladies and Gentlemen of the House: I don't feel that we are interfering, I don't feel that we are meddling. This is our business. I feel that this fair share clause was sneaked in on us and I feel like we have been duped. I will not vote for a bill which will force a person to pay to keep his job. This isn't nitty-gritty; it is basic, people can lose their jobs. I am not breaking faith with anyone and I am not uneasy about this. Take out the clause and we will pass it in a minute.

The SPEAKER pro tem: The Chair recognizes the gentleman from Gardiner, Mr. Dellert.

Mr. DELLERT: Mr. Speaker, Ladies and Gentlemen of the House: I never expected to be on my feet during this 109th Legislature, because most of the time when I feel like getting up, I am so extremely angry that I know I will say the wrong thing. I am not angry now, I simply want everyone in the House to realize how I feel. Maybe I am misinterpreting.

I think that our Governor administers the laws of this state. I think that our courts interpret the laws, and I think that the legislative body makes the laws. All the folks that I have talked with, those people in the Maine State Employees Association, have shared their

thoughts with me, and most of them feel that the fellow next to them who is not a member of the association has a right to work without paying duty.

I am going to vote no on the measure.

At this point, Speaker Martin returned to the rostrum.

Speaker MARTIN: The Chair thanks the gentleman from Lisbon Falls, Mr. Tierney, for acting as Speaker pro tem.

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

The SPEAKER: A roll call has been ordered. 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 will vote yes; those opposed will vote no.

The Chair recognizes the gentleman from Woolwich, Mr. Leonard.

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

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

Mr. MARSHALL: Mr. Speaker, I would ask leave of the House to pair my vote with the gentlewoman from Bethel, Miss Brown. If she were here, she would be voting nay and I would be voting yea.

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

Mr. LAFFIN: Mr. Speaker, I request to pair my vote with Mrs. Sewall. If she were here, she would be voting no and I would be voting yes.

#### ROLL CALL

YEA—Austin, Bachrach, Baker, Barry, Benoit, Berube, Birt, Blodgett, Boudreau, Brodeur, Brown, A., Brown, D., Brown, K. C., Call, Carroll, Carter, D., Chonko, Churchill, Cloutier, Connolly, Cox, Cunningham, Curtis, Damren, Davies, Diamond, Doukas, Dow, Drinkwater, Dutremble, L., Elias, Fowlie, Gillis, Gray, Gwadosky, Hall, Hanson, Hickey, Hobbins, Huber, Hunter, Jacques, E., Jacques, P., Joyce, Kane, Kany, Kelleher, LaPlante, Locke, Lowe, Lund, MacEachern, Mahany, Martin, A., Masterman, Matthews, Maxwell, McHenry, McKean, McMahon, McSweeney, Mitchell, Nadeau, Nelson, M., Nelson, N., Norris, Paradis, Paul, Pearson, Post, Prescott, Reeves, P., Simon, Soulas, Strout, Tarbell, Theriault, Tierney, Tozier, Tuttle, Twitchell, Vincent, Violette, Vose, Wood, Mr. Speaker.

NAY—Aloupis, Berry, Bordeaux, Bowden, Bunker, Carter, F., Conary, Davis, Dellert, Dexter, Dudley, Fenlason, Fillmore, Garsoe, Gavett, Gould, Hutchings, Immonen, Kiesman, Lancaster, Leighton, Lewis, Lougee, MacBride, Masterton, McPherson, Morton, Nelson, A., Payne, Peltier, Peterson, Reeves, J., Rollins, Roope, Sherburne, Silsby, Small, Smith, Sprowl, Stetson, Stover, Studley, Torrey, Wentworth, Whittemore.

ABSENT—Beaulieu, Carrier, Dutremble, D., Gowen, Higgins, Howe, Hughes, Jackson, Jalbert, Lizotte, Wyman.

PAIRED—Brown, K. L.; Marshall, Laffin; Roope, Leonard; Michael.

Yes, 89; No, 45; Absent, 11; Paired, 6.

The SPEAKER: Eighty-nine having voted in the affirmative and forty-five in the negative, with eleven being absent and six paired, the Bill fails of enactment.

By unanimous consent, ordered sent forthwith to the Senate.

#### Orders of the Day

The following matters, in the consideration of which the House was engaged at the time of adjournment yesterday, have preference in the

Orders of the Day and continue with such preference until disposed of as provided by Rule 24.

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

RESOLVE. to Authorize Kennebec County to Develop a Pilot Program for Inmates Incarcerated at the County Jail (H. P. 301) (L. D. 398) (C. "A" H-207)

Tabled—April 18, 1979 by Mrs. Payne of Portland.

Pending—Motion of Mrs. MacBride of Presque Isle to Indefinitely Postpone Bill and All Accompanying Papers.

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

Mrs. PAYNE: Mr. Speaker, Ladies and Gentlemen of the House: Some of you may remember from your own childhood or reading to your children recently a book by Dr. Suess entitled "Horton Hatches of Who." Having sat on these remarks for four days and each day having them tabled for one reason or another has made me feel a bit like Horton, impatient to get off the nest, concern for the egg and wondering what its hatching will produce.

The shell is now cracking and let's look at it quite closely before we decide what to do with it, this L. D. 398. A great many caring and concerned people have worked hard on this bill, but I believe it should be discussed before acceptance.

Basically, it is a plan to almost immediately furlough certain offenders who have been arraigned or are being held at county jail for trial. These offenders would go through some classification process supposedly perfected by the Kennebec Sheriff's Department. If they are considered, "No threat to the community, they would go home until trial." Would they be in jail at all if they had not in some way been a threat to society or to property?

The new penal code has tightened up on parole. This plan creates parole right at the beginning.

You will hear arguments concerning the long wait for trial because of the court dockets being crowded. That is not the issue here but rather a separate and distinct problem that should be addressed for itself.

Now, is the issue of overcrowding, which you will also hear, the problem we are discussing? Overcrowding and economy should not be used as reason for excuses for this kind of experiment.

It will be argued that these inmates should at least have the rights now available to convicted inmates. We are being asked to grant even border rights. Until the old question of punishment versus rehabilitation is resolved, I claim that a taste of incarceration is the best deterrent there is. Is this an experiment you want in your county, in your neighborhood? Is this what your constituents, many of them perhaps victims of crime, would want you to vote for?

This plan has been tried in other areas and in only one, Des Moines, Iowa, have the results seemed really positive. There was a long article in the February issue that we all received of State Legislatures on this subject, but the furloughs discussed in that article came after trial as alternative sentencing, and the statistics and examples given in that article fuzzy with documentation are only isolated cases.

Let's not be penny-wise and pound foolish. Though this bill could possibly lead to expense, there is no fiscal note, because probably it is a county thing, but there is an enormous amount of record keeping, following up, sending people to go and ask neighbors if they mind having the person come out and so forth. Let's not open the door to this kind of thinking at a time when citizens are increasingly angry with the current softness of the courts and a tendency to give more rights to the criminal than to the victim.

I urge that we follow Mrs. MacBride's move, that we vote to indefinitely postpone this bill and all its accompanying papers.

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

Mrs. PRESCOTT: Mr. Speaker, Ladies and Gentlemen of the House: This is an important bill to us today, it is important because we have problems at the county jails and we have problems at our own state institutions and we have got to address those problems. There is no way out of that situation — short of raising millions of dollars to build new facilities.

The question is very serious. How are we going to address the problem? If we don't have the money, what are we going to do?

This is a demonstration project. It will apply only to Kennebec County for two years. Kennebec County now has everything in place to keep the projects and to make it go. It will cost the county nothing in dollars. It will bring back a big return.

I asked you why you would not want to allow Kennebec County, if that county itself wants this project, why you would not want to allow them to go ahead with it. Who are we to say in Penobscot County or Cumberland County or Aroostook County or any other county that Kennebec County should not perform this project? They have asked for it. The Citizens Advisory Committee has discussed it and have come up with this recommendation. The county commissioners support this legislation. The sheriff's department supports this bill, so does the Community Resource Services, who have done a study on detention in county jails. The department supports this. There were no opponents to this legislation. It is a citizens' bill at their request.

I would like to answer some of the questions that the gentlelady has raised. She is concerned that we are going to be immediately furloughing offenders. That is not the case. If those offenders are murderers or rapists or any threat to the society, they will not be released. I am talking about individuals who are pre-trial detainees; they have not yet been convicted of any crime. Yet, the law requires that they be held in maximum security at a great expense to the county.

Already, Kennebec County is performing this function for those convicted inmates. It has saved \$72,000 over the last six months. This county is in trouble and there are many other counties. They have trouble with what it is going to cost to renovate and to construct a new facility. There is a shortfall in their budget. This bill has the potential of saving thousands of dollars. It will not cost Kennebec County one penny to implement this program. Kennebec County is asking for it why shouldn't we give it to them?

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

Mr. HICKEY: Mr. Speaker, Ladies and Gentlemen of the House: I would like to support the Kennebec County pilot program for incarcerated prisoners. The committee studying this project is made up of volunteers who have worked on this program for several years. One of their outstanding programs has been the half-way house established a year ago.

To become eligible for this program prisoners are closely studied, tested and must pass rigid standards to qualify. They live in a rented house across the street from the jail. From the money they derive from their work, they are forced to pay all of their own expenses, including rent, food and transportation. By paying their own expenses, they developed a \$72,000 saving to the county in six months.

The number of prisoners in the program fluctuates from eight to thirteen members. To date, no problems have developed with the prisoners involved. With the soaring costs of county government this plan has proven beneficial to both the prisoners and the taxpayers who are supporting county government.

The SPEAKER: The Chair recognizes the gentlewoman from Presque Isle, Mrs. MacBride.

Mrs. MacBRIDE: Mr. Speaker, Ladies and Gentlemen of the House: Just because our jails are overcrowded or just because we need money, I don't think that is really the answer to this problem. I do feel that these people who have been arraigned, have been put in jail. I think that if they are returned to the community I think it is going to have an ill effect on our youth. As I said the other day, I think that if they see someone that has been committed to the jail and then they are released, that our youth will say, why not go ahead with whatever I want to do?

Furthermore, I think our law-abiding citizens are not going to be feeling comfortable or at ease, and I don't think it is good example for them.

I do believe, as I said just recently, in work release, but I believe in it after the sentence has been served. I think these people have broken the law, they have committed a crime against some individual or some business. I do feel that they have to pay. Then, after a portion of their sentence has been served, the last six months of them, then I believe in putting them out to work release, as Don Allen in the Bureau of Corrections has said, that they respond the best and function the best during the last six months of their sentence.

So, ladies and gentlemen, I do urge that you vote against this bill and I do request a roll call.

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

Mr. BROWN: Mr. Speaker, Ladies and Gentlemen of the House: I rise this afternoon to support the remarks of the gentlelady from Presque Isle, Mrs. MacBride. As I was reviewing this bill and some of the issues that it addresses, I came across a copy of some new police equipment to replace guns. This equipment includes such items as marshmallow bullets and fur-lined handcuffs, but the one that struck my attention is the one that I will describe to you. It is called a portable revolving door. I would like to read to you the description of that particular item.

Because the perpetrator of a crime is often released before the arresting officer has finished writing his report, it is not generally realized that ordinary revolving door justice actually wastes a great deal of the punk's working hours. The time he spends being transported to and from the police station or court house could more profitably be devoted to his burglarizing, bank robbing, mugging or other vocations.

Remember, the right to a speedy trial is a constitutional right. So, alert law enforcement bodies will avoid possible damage suits and awards by equipping themselves with these portable revolving doors. Instead of dispatching a Black Maria to bring in individuals apprehended in law-breaking activities, a portable revolving door wagon would be sent.

Portable revolving door wagons are equipped with judges, public defenders, bail bondsmen, and weeping mothers. The arrested individual can be processed through the revolving door system in less than 30 seconds, hardly interrupting his day's or night's work.

Ladies and gentlemen, that is obviously offered in the mood of levity because of a difficult afternoon. However, I think that the cause is there or that the hidden meaning is there.

I agree wholeheartedly with the gentlelady from Presque Isle, that we are now becoming a society which tends to favor those who have committed acts of violence against others and against certain segments of our society. I think it is time we move in another direction. I think it is time that we move in the direction of justice to those who have created these kinds of wrong doings. Therefore, I strongly urge that you support the move to indefinitely postpone this bill.

The SPEAKER: The Chair recognizes the gentlewoman from Vassalboro, Mrs. Mitchell.

Mrs. MITCHELL: Mr. Speaker, Men and



Women of the House: It seems ironic to me that the former speaker, so recently involved in debate with me on the issue of local control, is now trying to indefinitely postpone a bill which affects only Kennebec County. It really boggles the mind.

I am the co-chairman of a subcommittee of the Kennebec County Budget. May I tell you that we are faced in Kennebec County with a 75 percent tax increase and a jail that is in lots of trouble. If we, being involved in this pilot project, have a possibility before us to save the county taxpayers some money and to possibly develop a program which will be useful to other counties in this state, I really can't understand why other counties would like to indefinitely postpone our bill. I would ask you to vote against the indefinite postponement motion.

The SPEAKER: The Chair recognizes the gentlewoman from Augusta, Ms. Lund.

Ms. LUND: Mr. Speaker, Ladies and Gentlemen of the House: The good lady from Vassalboro has said better than I could what I feel about local control. I would add that on page two of the document, if any of you have been following this, this is not sort of a casual give-and-take on the part of the Jail. We don't just take people in and look them over and send them back out again. This would be a system developed with the Superior Court Justice, the District Attorney and reviewed at all levels by the County Commissioners and those who are in authority. It is not a revolving door; it is a careful, studious and intelligent attempt to deal not with the murderers and the rapists but with the people who are 17, 18 years old who are just beginning their life and still have a good possibility, if they get into treatment or into careful circumstances, of turning their life and still have a good possibility, if they get into treatment or into careful circumstances, of turning their life around and not becoming a hardened criminal.

I urge your support for this and I urge you to vote against indefinite postponement.

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

Mr. COX: Mr. Speaker, I would direct a question to anyone who might care to answer. As I understand the Constitution, anyone awaiting trial, except in very serious cases, is entitled to bail, and we seem to be dealing with people who are detained awaiting trial. I would inquire as to just what is the nature of the offenses these people are detained for and are they detained simply because they cannot afford bail or are they people detained because their offenses are so serious they have been unable to get bail?

The SPEAKER: The gentleman from Brewer, Mr. Cox, has posed a question through the Chair to anyone who cares to answer.

The Chair recognizes the gentlewoman from Hampden, Mrs. Prescott.

Mrs. PRESCOTT: Mr. Speaker, Ladies and Gentlemen of the House: I will try to answer the gentleman's question. It would pertain to those people possibly who could not afford bail, or a shoplifter or anyone who has a traffic violation. I could give you an example. We had one individual in Kennebec County who had an inspection sticker that had expired. They could not fix what it was to change the inspection sticker, so, as a result, they let it go and let it go and finally they were arrested. After the arrest, there was a \$150 bail put on the individual. They could not raise the money, they could not raise the money to fix the automobile. The jail had to house and feed and take care of that individual at \$110 per day. That is what we are trying to get at.

Forty-six percent of the people who reside in county jails are pretrial people. On the average, they are there for only three days. These are the people we are trying to deal with.

I think that if you look at the bill, you can see that we are going to carefully review these people on a 30-day, 60-day, and 90-day period.

The program is going to be carefully evaluated and monitored in the community with citizen participation. The report will come back to the legislature, also to the sheriff, also the agencies involved. But one thing I think you must remember is that any of these decisions regarding the release of any inmates and their participation in any of the programs will remain with the courts. The courts have indicated that they are interested in supporting this proposal, so it has their support and it would go through them.

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

Mr. McKEAN: Mr. Speaker, Ladies and Gentlemen of the House: It is not too often I disagree with my real fine looking Assistant Majority Floor Leader, and I may not now, I am not sure. I would like a few guarantees, however. This is a Kennebec County bill. I do have some friends in Kennebec County and I spend quite a bit of time down here.

I mentioned this bill to some friends of mine that live over on the Old Belgrade Road. They nearly had a heart attack. They said, do you mean to tell me that these people who commit crimes will be back on the streets within a day or two? I didn't know that was the idea behind the bill. I tried to assure them it wasn't. I just heard that they are only going to be in jail for two or three days prior to the trial, but that, I understand, is going to be a great period of studying these people. It is hard for me to understand how they are only going to be there for two or three days but we are going to have a big period of study. How do we study them?

I think what I would like to have is a guarantee of two things; first of all, that these people who are released without bail, and this is a good way to circumvent the bail system, that they won't be coming to my town to perform the act again, since they were released the first time and nothing happened to them, or that they won't jump state and then you have to go through the process of bringing them back from out of state, which is the expensive process. I think if I could have those kinds of guarantees, I believe I could be a hundred percent for this bill.

The SPEAKER: The gentleman from Limestone, Mr. McKean, poses a question through the Chair to anyone who cares to answer.

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

Mr. NORRIS: Mr. Speaker, Ladies and Gentlemen of the House: My famous last words — I didn't intend to speak on this, but with the situations that you have in Kennebec County, and I don't know whether it is open yet, but these people are being transferred to your locality if they stay in jail because there is no county jail in Kennebec County, it has been closed. So, these folks that have expired inspection stickers, I mean these terrible criminals and folks like that, I doubt very much they would be jumping over the state line. These are not, by the way, felons and people who have committed crimes against persons or crimes of a major nature, these are folks who have committed minor crimes, as the sheriff explained it when he testified for this bill. Of course, we are all like you are in Aroostook County in Penobscot County we have been handling some of these prisoners that have been sentenced from Kennebec County. They have been going through a trying time here, as you know, because I guess they haven't had any jail, and I don't know where they have been putting these people to begin with, these pre-trial people. I presume if it were of an aggravated nature, a very serious offense, they would send them to state prison or up to Aroostook or sent them to Penobscot County.

I see no great danger in this bill to citizens of this area or to citizens up in Aroostook County or to citizens down in Cumberland County or folks in Washington County. Of course, folks in Washington County don't have any jail either.

Well, they don't use it, it has been closed. We are taking care of those prisoners up in Penobscot County and I don't know, maybe they are sending a few to Aroostook.

Incidentally, we went up on the fee the other day. We may motivate some of these conservative folks to come up with a little more money. We have upped the fee several dollars a day to try and straighten out the cost basis — that is in Penobscot County. We don't mind taking the prisoners, but the taxpayers of Penobscot County feel that they can't take them at a loss.

I would hope that you would vote against the indefinite postponement of this bill. We did question the sheriff thoroughly, we did question the law enforcement officials, and we were guaranteed, as nearly as can be guaranteed, that there would be no great danger.

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

Mrs. KANY: Mr. Speaker and Members of the House: I plan to vote for this bill, probably primarily because I am from Kennebec County, but I did feel the need to stand up and correct a couple of things for the record.

For one thing, our jail is open now in Kennebec County for limited use. Secondly, felons could apply. I don't know what guarantees were given the committee that heard this bill, but there is nothing within the law that would guarantee the safety of people in other parts of the state or that it might not be felons. I just felt the need to make sure that you had the facts before you before you vote.

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

Mr. CLOUTIER: Mr. Speaker, Ladies and Gentlemen of the House: This bill has been reviewed by many legislators and officials during the past weeks. Several questions have been raised concerning the proposed act; also, several misconceptions have resulted.

The intent of this bill will allow Kennebec County to handle pretrial detainees in a manner consistent with constitutional guarantees and in a way which appropriately assures their appearance in court at the least expense to the county and with the least personal disruption of their lives and livelihoods. The intent is to handle inmates in a careful and deliberate manner, using a pre-trial screening and interim classification system and to offer options to decrease the pretrial population of the jail.

Detainees will continue to be interviewed during their first days of residency at the jail. Relevant agencies and officials will be informed of the results and the intake interim classification process and appropriation will be proposed by the sheriff, usually to the courts.

The courts have indicated their support of this proposed process. State and local officials have been involved with the development of this process.

As far as cost and savings is concerned, the implementation of this project will impose no additional cost to the county. The key aspects of this project are already in place. Interim classification, pre-trial screening systems and detainees are already included in all intake and interim classification activities. The project will carefully be evaluated and the results will be reported to all local and state officials and the legislature. Evaluation will be provided by an independent agency and will be paid for by federal funds. After, evaluation will include assessment of community attitudes and responses to the program and tracking of cases to identify any criminal activity on release.

The Sheriff's Department, the County Commissioners, the Citizens for the Jail, which is a group composed of citizens and professionals, support this bill. The Director of the Bureau of Corrections supports this bill, and I might also add that with the number of people who are in our prison systems right now, today, who are out on pre-release less than one half of one percent of those people have any type of problem.

Mrs. MacBride of Presque Isle requested a

roll call vote.

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

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

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

Mr. TARBELL: Mr. Speaker, Ladies and Gentlemen of the House: One brief question, particularly from those who have been as articulately debating this issue. The question I have is, is it not possible and why is it not possible under the current bail system, which utilizes the defense attorney, the prosecuting attorney and the judge of a particular court, to fashion a bail system to take care of this kind of a study without actually having to put through this legislation?

The SPEAKER: The gentleman from Bangor, Mr. Tarbell, has posed a question through the Chair to any member who cares to respond. The Chair recognizes the gentleman from Augusta, Ms. Lund.

Ms. LUND: Mr. Speaker, Ladies and Gentlemen of the House: Since I have joined the legislature, I have been getting an education in many things, shoes and chips and sealing wax and jails. I did go over to the Kennebec County Jail and talk to them and they showed me the components of intake classification system which they currently are trying to get into place. It is not the ordinary kinds of questions that you ask people, but a sophisticated combination of tests which show something of their character, something of their projected performance in life depending upon — well, let me say it is just much more than is ordinarily done. The reason that this county wants to do it is because there is technology available which could help us plan future parole and future jail or alternate type sentencing. We want to work on it, that is really what we want to do.

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

Mr. NORRIS: Mr. Speaker, Ladies and Gentlemen of the House: I will try to answer the gentleman's question from Bangor. Apparently, under the existing statutes on the books, this is not possible and that is the reason that the sheriff and the good citizens and the lawyers and the prosecuting attorneys from Kennebec came in with the change in the law, so they would be able to do this legally. That is the reason that we have the bill before us.

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

Mrs. PAYNE: Mr. Speaker, Ladies and Gentlemen of the House: I have a great deal of respect for testing, psychologists, sociologists, penologists, etc., in Cumberland County, which may not be under discussion right now. Last fall we had a gentleman who, after a high speed automobile chase, decided to drive his car all over the airport of Portland International Jetport. The police thought his action was kind of peculiar, so they took him down, he was arraigned and then he was taken to P-6 in the Maine Medical Center which is just oozing psychiatrists and people that test you. He was declared absolutely sane, let go home and within three days had shot and killed an old lady that was driving past his house.

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

Mr. BOUDREAU: Mr. Speaker, Ladies and Gentlemen of the House: I find it funny today that people from Aroostook County and Cumberland County are trying to kill our Kennebec County bill. We really believe in local control in Kennebec County. We really wish you wouldn't indefinitely postpone this bill.

The SPEAKER: The Chair recognizes the

gentlewoman from Presque Isle, Mrs. MacBride.

Mrs. MACBRIDE: Mr. Speaker, Ladies and Gentlemen of the House: As you know, I certainly am for local control. In this case, I do feel that it is really opening the door to other counties. I think it will be not time at all before you will have programs such as this in Aroostook County and other places. Once again, I do not think it is the right time.

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

Mr. CALL: Mr. Speaker and Members of the House: On rare occasions, witnesses for the state are incarcerated at county jails to protect them from possible bodily harm. Is it fair for them to be jailed when alleged criminals are permitted to leave jail because of some questionable program?

The SPEAKER: A roll call has been ordered. The pending question is on the motion of the gentlewoman from Presque Isle, Mrs. MacBride, that this Resolve be indefinitely postponed. All in favor of that motion will vote yes; those opposed will vote no.

#### ROLL CALL

YEA—Aloupis, Austin, Bowden, Brown, D., Bunker, Call, Cunningham, Garsoe, Gould, Gray, Hanson, Hutchings, Kiesman, Laffin, Leighton, Leonard, Lougee, Lowe, MacBride, Martin, A., Masterman, Matthews, Maxwell, McPherson, Nelson, A., Nelson, N., Payne, Peltier, Peterson, Reeves, J., Roope, Sherburne, Small, Smith, Stover, Studley, Torrey, Tozier.

NAY—Bachrach, Baker, Barry, Benoit, Berry, Berube, Birt, Blodgett, Bordeaux, Boudreau, Brannigan, Brennerman, Brodeur, Brown, A., Brown, K. C., Carter, D., Carter, F., Chonko, Churchill, Cloutier, Connolly, Cox, Curtis, Damren, Davies, Davis, Dellert, Diamond, Doukas, Dow, Drinkwater, Dudley, Du Tremble, L., Elias, Fenlason, Fowlie, Gavett, Gillis, Gwadosky, Hall, Hickey, Higgins, Hobbins, Huber, Hunter, Immonen, Jacques, E., Jacques, P., Joyce, Kane, Kany, LaPlante, Lewis, Locke, Lund, MacEachern, Mahany, Masterton, McHenry, McMahon, McSweeney, Mitchell, Morton, Nadeau, Nelson, M., Norris, Paradis, Paul, Pearson, Post, Prescott, Reeves, P., Rolde, Silsby, Simon, Soulas, Stetson, Strout, Tarbell, Theriault, Tierney, Vincent, Violette, Vose, Wentworth, Whittemore, Wood, The Speaker.

ABSENT—Beaulieu, Brown, K. L., Carrier, Carroll, Conary, Dexter, Dutremble, D., Fenlason, Gowen, Howe, Hughes, Jackson, Jalbert, Kelleher, Lancaster, Lizotte, Marshall, McKean, Michael, Rollins, Sewall, Sprowl, Tuttle, Twitchell, Wyman.

Yes, 38; No, 88; Absent, 25.

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

Thereupon, the Resolve was passed to be engrossed and sent up for concurrence.

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

An Act to Abolish County Subsidies to the Superior Court System (H. P. 597) (L. D. 741) (C. "A" H-171)

Tabled—April 18, 1979 by Mrs. Mitchell of Vassalboro.

Pending—Passage to be Enacted.

On motion of Mrs. Mitchell of Vassalboro, retabled pending passage to be enacted and assigned for Monday, April 23.

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

Bill, "An Act to Amend the Statutes Relating to Airmobiles" (H. P. 663) (L. D. 838) (C. "A" H-204)

Tabled—April 19, 1979 (Till Later Today) by Mr. Higgins of Scarborough.

Pending—Passage to be Engrossed.

On motion of Mr. Blodgett of Waldoboro, retabled pending passage to be engrossed and later today assigned.

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

Bill, "An Act Converting Lakeville Plantation into the Town of Lakeville and Removing Lakeville Plantation from the Maine Forestry District" (H. P. 1309) (L. D. 1563)

Tabled—April 19, 1979 (Till Later Today) by Mrs. Mitchell of Vassalboro.

Pending—Passage to be Engrossed.

The SPEAKER: The Chair recognizes the gentlewoman from Owl's Head, Mrs. Post.

Mrs. POST: Mr. Speaker, Men and Women of the House: We have several bills in the Committee on Taxation which deal with different communities getting out of the forestry district. Because of some actions we may be taking, this bill might need a much lower price tag than is presently anticipated and, so, for the time being, I would ask that it be tabled unassigned, until we are able to deal with that issue.

On motion of Mrs. Mitchell of Vassalboro, tabled unassigned pending passage to be engrossed.

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

Bill, "An Act to Authorize Service of Process by Notaries Public and Justices of the Peace" (S. P. 246) (L. D. 695)

Tabled—April 19, 1979 by Mr. Hobbins of Saco.

Pending—Passage to be Engrossed.

On motion of Mr. Hobbins of Saco, retabled pending passage to be engrossed in concurrence and specially assigned for Tuesday, April 24.

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

An Act to Appropriate Funds for a Conference on Families (EMERGENCY) (H. P. 877) (L. D. 1083)

Tabled—April 19, 1979 by Mrs. Prescott of Hampden.

Pending—Passage to be Enacted.

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

Mr. BRODEUR: Mr. Speaker, I move that the rules be suspended for the purpose of reconsideration.

Mr. Strout of Corinth objected to the rules being suspended.

On motion of Mrs. Mitchell of Vassalboro, tabled pending passage to be enacted and assigned for Monday, April 23.

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

Bill, "An Act to Prohibit Hunting of Bear with Dogs and to Prohibit Hunting Bear with Bait" (H. P. 457) (L. D. 570) (H. "A" H-199)

Tabled—April 19, 1979 by Mr. Blodgett of Waldoboro.

Pending—Adoption of House Amendment "C" (H-218)

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

Mr. LAPLANTE: Mr. Speaker, Ladies and Gentlemen of the House: I would like to pose a question to the Chair.

The House Amendment, I believe, pertaining to Joint Rule 20, pertains to fiscal notes on legislation, is this correct?

The SPEAKER: The Chair would answer in the affirmative.

Mr. LAPLANTE: Apparently, the House Rule deals that the fiscal note 'shall accompany the bill out of committee.' Would this amendment be in order at this time?

The SPEAKER: The Chair would answer in the affirmative, since the bill came out of committee in a position not to be accepted by this body and this body reversed that position.

The SPEAKER: The Chair recognizes the



gentleman from Waldoboro, Mr. Blodgett.

Mr. BLODGETT: Mr. Speaker, Ladies and Gentlemen of the House: By accepting several assumptions as to the sources of the licensees, as this amendment deals with, the figures presented should be accurate, as they were checked, and I would urge the membership of the House to accept House Amendment "C" and pass the bill along for passage.

Thereupon, House Amendment "C" was adopted.

The SPEAKER: The Chair recognizes the gentleman from Caribou, Mr. Peterson.

Mr. PETERSON: Mr. Speaker, I move that this bill and all its accompanying papers be indefinitely postponed.

The SPEAKER: The Chair recognizes the gentleman from Brunswick, Mrs. Martin.

Mrs. MARTIN: Mr. Speaker, Ladies and Gentlemen of the House: I hope that you will vote against this motion. This bill should be kept alive because there is much more to be said about this bill if you realize what is going on up there. It is unbelievable the calls that I get at seven o'clock in the morning when I get here. If I told you what these gentlemen tell me, you wouldn't believe it. I will tell you one thing, old guides like Mark Gartley's father and a few other old timers up there, are for my bill and they hope that I keep going with it.

I was told by a gentleman this morning, he stopped me, he never speaks to me but he talked to me this morning and I was amazed because he is a very kind man and he minds his own business and he is a lobbyist here and he said to me, Mrs. Martin, keep going. Keep at them, because I can tell you, we don't mind so much the meat because the animals that are half starved up there will come and eat it, what we mind is the littering. They leave empty cups, empty cellophane containers and those things don't deteriorate and scatter all over the place. He said, if you did this on the main street, you would be fined. He said, these people should be fined for just littering, not the meat so much, but the litter they leave there, they should be fined for doing that.

I would like you to please keep this bill going, if it is the will of this House. I would request a roll call.

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

Mr. STETSON: Mr. Speaker, Ladies and Gentlemen of the House: I want it to be made perfectly clear that I rise today not as an attorney but as a resident Maine guide.

Last Saturday, I had occasion to attend a meeting in Farmington of the newly formed professional Maine Guides Association. There were about 100 of us present at that meeting. Various bills were discussed, including the bill that is now before us. There was another legislator present at that meeting, so I asked for a show of hands among the Maine guides who were present. Unanimously, they asked that this measure be indefinitely postponed because they feel that it would be very detrimental to the professional Maine guides in our state and to the business that they bring into this state.

I didn't stop there. I asked for some further information, which I received today. There are two guides that own camps in the Jackman area. Of the four agents in the Jackman area who sell hunting licenses, these two guides sell about \$25,000 in licenses alone. Those hunters who purchase big game licenses and hunt bear, only about 20 percent return in the fall to hunt deer. There are about 75 to 100 guides and campowners that do this as a business. I also hasten to add that even though I have held a guide license for a number of years now, I have never hunted bear. I don't intend to.

To estimate the dollar value of this industry to the state, we could take the 75 camps, multiply that by the number of hunters, multiply that by the amount of the license fee, and you will come up with a conservative figure of about \$4,500,000. That is just an estimate, I

agree, but there is an awful lot of hidden revenue that comes into this state and I might say that most of the bear hunters are out-of-staters. There is a lot of revenue coming into this state and is dedicated revenue when it comes in the form of licenses but it is good commercial revenue when it comes in the form of room and board and other products purchased within this state.

I think the whole business of bear hunting, to me personally, is not attractive, but I do think that it should be left to the Maine guides to police it and to police it well and to make sure that this particular form of activity is done in a sportsmanlike manner. I am willing to abide by the decision of my fellow Maine guides and I ask you to indefinitely postpone this bill.

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

Mr. BIRT: Mr. Speaker, Ladies and Gentlemen of the House: I happen to represent an area where this is probably one of their major industries. I guess we have two major industries and this may be one of them, the other one is paper making. I have kind of a peculiar district.

Northern Penobscot and southern Aroostook is one of the large areas in the State of Maine where there is a good deal of bear hunting going on. I would guess that probably the investment by people in camps up in that area is in the neighborhood of half a million dollars.

I had a telephone conversation with one person who is quite interested in this who just bought a sporting camp. He was successful in another one and he sold it to his son who has gone into a separate business on his own. He spent \$39,000 for that particular camp. A good deal of his business depends on this particular industry. I might also add that the bear population over the last 15 years has stayed relatively stable in that area. There does not seem to be any dropoff, and I have talked with some of these people.

I have a letter here, it was signed by about 30 businesses and these are all business people in the town of Patten, which said, we, the undersigned, merchants and businessmen of the Patten area, are violently opposed to the passage of L. D. 570, "An Act to Prohibit the Hunting of Bear with Dogs and Bait" or any other bill which would seriously jeopardize bear hunting actively in our area. The business which is brought into Patten as a direct result of the effects of, efforts of hunting camps in many cases represents over 50 percent of our annual income. A loss of this magnitude would be disastrous to an already economically depressed area.

To answer some of the questions or at least one particular question that has come up on this a good deal about the litter that has been created, I think there may be two answers that could come up here. One of them is that there is at least one person that operates, not particularly in the Patten area but another area not too far from it, who probably is a little bit of a sloppy operator. He has been taken into court at least once for littering and leaving kind of a nuisance around some of the area that he has been bringing people into. I think that has been addressed. Game wardens recognize this problem and are monitoring them somewhat.

It is my understanding in talking with some of the people who are involved in it, they realize that there are some problems in the particular industry that they are working in and they have considered the problem and also recognize that they have got to clean up their act.

One of the things that they proposed is to do the same as was done when bear trapping was allowed back some years ago, that because of the type of trappers involved, you have to put signs around there as to who the person was that owned the traps. They are giving serious consideration to this type of operation, to police their particular industry.

I think to pass this bill today would be a real

mistake and a real serious economic problem to the people in northern Penobscot and southern Aroostook, as well as some of the other areas of the state. I speak particularly of them because I know some of them and I know what is involved. These people have some excellent camps, they bring a good deal of money into the state, as has been pointed out just a few minutes ago.

I saw some people in a drugstore one day, the father walked in and he said that he and his 6-year-old son wanted to go and spend a few days in the woods hunting bear. He laid down \$60 for two licenses. He didn't have any intentions of coming back in the fall, this was just a summer outing for he and his son.

So, these things do contribute to the economy of the State of Maine and the operation of the Fish and Game Department, and I hope you will indefinitely postpone this bill.

The SPEAKER: The Chair recognizes the gentleman from Brunswick, Mrs. Martin.

Mrs. MARTIN: Mr. Speaker, Ladies and Gentlemen of the House: I respect both Mr. Stetson and Mr. Birt, but Mr. Birt hit the nail right on the head when he said that this gentleman, this sportsman was bringing his son, his 6-year-old son, to hunt bear and he put \$60 on the counter for a license. The license is \$60.50 for one person, did the child go free?

Another thing I am going to tell you right now, I have a lot of respect for you people, believe it or not, but when you sit here and you approve of this kind of goings on, all you think about is dollars and cents. You are not only thinking of the dollars and cents that the state is going to lose, you are thinking of the dollars and cents that these people are. I feel sorry for those people, but it is our fault if we let them get away with it, and now they are in real business and they run the Fisheries and Wildlife Department with their association. They tell them what to do and, by gosh, that is just what they do, they cater to those people. It is wrong and you know it is wrong!

The SPEAKER: The Chair recognizes the gentleman from Kittery, Mr. Lancaster.

Mr. LANCASTER: Mr. Speaker, Ladies and Gentlemen of the House: I stand before you this afternoon in support of the gentlelady from Brunswick, Mrs. Martin.

I have a questionnaire here in front of me that was circulated by the Sportsman's Alliance of Maine. This came out in the April 1 issue. In regard to prohibiting the hunting with dogs, there were 117 that voted no and 66 yes. In other words, they wanted to prohibit the bear hunting with dogs. The other survey was 105 to 78 in regard to prohibiting hunting with bait; they did not want to bait the bear.

There have been a few comments that were made the other day in regard to this bill that I don't think were quite accurate. One of them was from my good friend Mr. Dexter, who claimed that he was out in the woods two or three months ago and he couldn't see any bear tracks. Well, I don't think that he would see any in the winter, usually they hibernate. What bothered me is that probably he might have been facing the bare facts that the Governor had vetoed his no smoking bill. Or another factor might have been that he was thinking about his new theme song — Smoke Gets in Your Eyes.

I would advise the people in here to not let the smoke get in their eyes this afternoon and let's not vote to indefinitely postpone this amendment.

The SPEAKER: The Chair recognizes the gentleman from Brooklin, Mr. Bowden.

Mr. BOWDEN: Mr. Speaker, could I ask that the Clerk read the Committee Report on this bill. I think maybe some of us might have forgotten how this came out.

Thereupon, the Report was read by the Clerk.

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

Mr. JACQUES: Mr. Speaker and Members of the House: I hope you will 'bear' with me. I know it is late. I am not rising to oppose Mrs. Martin. I learned a long time ago that I would just as soon be opposing a bear as Mrs. Martin, but there are a few points that I would like to make.

We did consider this problem. I considered it when I was on the committee. I think 95 percent of the complaints come from landowners and some of them are justified. We approached the department with the problem, and we made some suggestions and they plan on following them up.

They have the authority to make a regulation which would require, as Mr. Birt started to suggest, that a bear stand, and not all of them are pigs. I have seen some, they are very neat, they are very clean, they take good care of them. You do have pigs, we have pigs in everything. This would be a regulation that would require that the bear stand would be posted with a name, address of the person owning that stand. He would be held responsible for that stand. If it was dirty, in the opinion of the landowner or a warden, the person would be contacted and it would be taken care of.

A lot of this bear hunting is done on Scott Paper land, and Scott gives permission readily to these guys because they take care of their bear stands and they do it.

Now, I am not saying that baiting bear is the most sportsmanlike way, I am not going to argue that, but I think it very unfair to punish everybody for a pig.

Another point that I would like to make is that a lot of the communications I have received, people were concerned about problem bears, nuisance bears. I don't know if any of you have ever seen an apple tree that a bear got hold of, it wouldn't be bad if he would just pick the apples and eat them, but he doesn't do that. He breaks all the branches off and when he is done, the apple tree is no more. A bear can also flatten out a corn patch larger than this room in no time at all, and I mean flat, there is nothing left — blueberries, and I have also seen what they can do to beehives. All these people expressed a concern on what would be done with these nuisance bear. A lot of these bear hunters take care of these nuisance bears; at the same time, they are providing a service, they do bring money into this, and money is a fact.

Mrs. Martin brought up the point that we think of dollars and cents, and we have to. The fish and game is dedicated revenue and it manages the resource. This bill here would seriously affect some of these small towns like Patten, Millinocket, there would be an economic impact. But I think that hopefully the Fish and Game Committee, when we gave this bill 'leave to withdraw,' did so with the intention that the department would come up with a regulation to do exactly what this bill is intended to do. I respect Mrs. Martin for bringing this bill out because it did bring out a problem that should be brought to attention, but I sure hate to see the problem intensify. I just want you to think about that when you make your decision.

Like I said, I am not going to say one way or the other because I don't want Mrs. Martin to get hold of me.

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

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

The SPEAKER: The pending question is on the motion of the gentleman from Caribou, Mr. Peterson, that this Bill and all its accompanying papers be indefinitely postponed. All those in favor will vote yes; those opposed will vote

no.

#### ROLL CALL

YEA—Austin, Barry, Birt, Blodgett, Bordeaux, Boudreau, Bowden, Bunker, Churchill, Cunningham, Curtis, Damren, Davis, Dow, Drinkwater, Dudley, Fenlason, Garsoe, Gavett, Gray, Hunter, Hutchings, Jacques, P.; Laffin, Leighton, Leonard, Locke, Lougee, Lowe, Lund, MacBride, MacEachern, Mahany, Maxwell, McHenry, McKean, Nelson, A.; Paradis, Paul, Payne, Peltier, Peterson, Prescott, Reeves, J.; Roope, Sherburne, Silsby, Smith, Soulas, Stetson, Strout, Theriault, Torrey, Tozier, Twitchell, Violette, Vose, Whittemore

NAY—Aloupis, Bachrach, Baker, Benoit, Berry, Berube, Brannigan, Brennerman, Brodeur, Brown, A.; Brown, D.; Brown, K. C.; Call, Carter, D.; Carter, F.; Chonko, Cloutier, Connolly, Cox, Davies, Dellert, Dexter, Diamond, Doukas, Dutremble, L.; Elias, Fillmore, Fowlie, Gillis, Gould, Gwadosky, Hanson, Hickey, Higgins, Hobbins, Huber, Jacques, E.; Joyce, Kane, Kany, Kiesman, Lancaster, LaPlante, Lewis, Martin, A.; Masterman, Masterton, Matthews, McMahon, McSweeney, Mitchell, Morton, Nadeau, Nelson, M.; Norris, Pearson, Post, Reeves, P.; Rollins, Simon, Small, Stover, Studley, Tarnell, Tierney, Vincent, Wentworth, Wood.

ABSENT—Beaulieu, Brown, K. L.; Carrier, Carroll, Conary, Dutremble, D.; Gowen, Hall, Howe, Hughes, Immonen, Jackson, Jalbert, Kelleher, Lizotte, Marshall, McPherson, Michael, Nelson, N.; Rolde, Sewall, Sprowl, Tuttle, Wyman.

Yes, 58; No, 68; Absent, 24.

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

Thereupon, the Bill was passed to be engrossed and sent up for concurrence.

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

An Act to Prohibit an Intentional Attempt to Elude a Police Officer through High-speed Driving (H. P. 543) (L. D. 674) (C. "A" H-182)

Tabled — April 19, 1979 by Mr. Carroll of Limerick.

Pending — Motion of the same gentleman to Reconsider Passage to be Enacted.

On motion of Mr. Hobbins of Saco, retabled pending passage to be enacted and assigned for Monday, April 23.

The Chair laid before the House the following matter:

Bill "An Act to Amend the Statutes Relating to Airmobiles" (H. P. 663) (L. D. 838) (C. "A" H-204) which was tabled earlier in the day pending passage to be engrossed.

On motion of Mr. Blodgett of Waldoboro, tabled pending passage to be engrossed and assigned for Monday, April 23.

On motion of Mr. Garsoe of Cumberland, adjourned until Monday, April 23, at nine-thirty in the morning.