

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

***One Hundred and Ninth
Legislature***

OF THE

STATE OF MAINE

Volume I

FIRST REGULAR SESSION

January 3, 1979 to May 4, 1979

HOUSE

Wednesday, May 2, 1979

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

Prayer by Dr. Richard Cleaves, Chaplain, Augusta Mental Health Institute.

Dr. CLEAVES: Eternal God, in difficult times, we always need to seek your guidance as we try, each one, in our own way to fulfill the obligations of those who send us on great tasks. So, speak to our needs this day and help us ever to be true to your will. Amen.

The journal of yesterday was read and approved.

Papers from the Senate

The following Communication:

THE SENATE OF MAINE

Augusta

May 1, 1979

The Honorable Edwin H. Pert
Clerk of the House
109th Legislature
Augusta, Maine 04333
Dear Clerk Pert:

The Senate today voted to Adhere to its former action whereby it accepted the 'Ought Not to Pass' report of the Committee on Bill, 'An Act to Require that Certain Employers Provide Regular Physical Examinations for their Employees to Detect Carcinogenic and Pulmonary Disorder,' (H. P. 220) (L. D. 268)

Respectfully,

S/MAY M. ROSS

Secretary of the Senate

The Communication was read and ordered placed on file.

Bill, 'An Act to Set Aside Two Days in January of Each Legislative Session to Review the Several County Budgets' (S. P. 525) (L. D. 1594)

Came from the Senate referred to the Committee on Local and County Government and ordered printed.

In the House, was referred to the Committee on Local and County Government in concurrence.

Reports of Committees

Ought Not to Pass

Report of the Committee on Appropriations and Financial Affairs reporting 'Ought Not to Pass' on Bill 'An Act Concerning Reimbursements to Mount St. Joseph's Nursing Home for Costs of its Retirement Plan' (S. P. 453) (L. D. 1371)

Was placed in the Legislative Files without further action pursuant to Joint Rule 22 in concurrence.

Ought to Pass in New Draft

Committee on Appropriations and Financial Affairs on Bill 'An Act to Expand the Availability of Certain Social Services by Increasing Income Eligibility' (S. P. 281) (L. D. 849) reporting 'Ought to Pass' in New Draft (S. P. 530) (L. D. 1589)

Came from the Senate with the Report Read and Accepted and the New Draft passed to be engrossed.

In the House, the Report was read and accepted, in concurrence, the New Draft read once and assigned for second reading tomorrow.

Ought to Pass as Amended

Committee on Judiciary reporting 'Ought to Pass' as amended by Committee Amendment 'A' (S-127) on Bill, 'An Act Relating to Appointment of Bail Commissioners and to Lessen the Burden upon Sheriffs and the Court for 'Prompt Bail Review'' (S. P. 470) (L. D. 1418)

Came from the Senate with the Report read and accepted and the Bill passed to be engrossed as amended by Committee Amend-

ment 'A' (S-127) and Senate Amendment 'A' (S-131)

In the House, the Report was read and accepted in concurrence the Bill read once. Committee Amendment 'A' (S-127) read and adopted, in concurrence Senate Amendment 'A' (S-131) read and adopted in concurrence and the Bill assigned for second reading tomorrow.

Divided Report

Majority Report of the Committee on Legal Affairs reporting 'Ought to Pass' as amended by Committee Amendment 'A' (S-126) on Bill 'An Act to Increase Merchandising in State Liquor Stores' (S. P. 433) (L. D. 1335)

Report was signed by the following members:

Messrs. FARLEY of York
SHUTE of Waldo
COTE of Androscoggin

— of the Senate.

Messrs. DUDLEY of Enfield
McSWEENEY of Old Orchard Beach
DELLERT of Gardiner
SOULAS of Bangor
Miss GAVETT of Orono
Messrs. CALL of Lewiston
VIOLETTE of Van Buren
MAXWELL of Jay

— of the House.

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

Report was signed by the Following Members:

Mr. STOVER of West Bath
Ms. BROWN of Gorham

— of the House.

Came from the Senate with the Majority 'Ought to Pass' as amended by Committee Amendment 'A' (S-126) Report read and accepted and the Bill passed to be engrossed as amended by Committee Amendment 'A' (S-126)

In the House: Reports were read.

On motion of Mr. Violette of Van Buren, the Majority 'Ought to Pass' Report was accepted in concurrence and the Bill read once. Committee Amendment 'A' (S-126) was read by the Clerk and adopted in concurrence and the Bill assigned for second reading tomorrow.

Messages and Documents

The following Communication:

State of Maine
SUPREME JUDICIAL COURT
Portland, Maine
April 30, 1979

Hon. John L. Martin
Speaker of the House
House of Representatives
State House
Augusta, Me 04333

Dear Speaker Martin:

I have the honor to transmit herewith the answers of the Justices of the Supreme Judicial Court given pursuant to the request of the House of Representatives for an advisory opinion of the Justices, which was received April 26, 1979.

Sincerely yours,

S/VINCENT L. MCKUSICK

ANSWERS OF THE JUSTICES

To the Honorable House of Representatives of the State of Maine:

In compliance with the provisions of section 3 of Article VI of the Constitution of Maine, we, the undersigned Justices of the Supreme Judicial Court, have the honor to submit the following answers to the questions propounded on April 26, 1979.

The questions of law submitted to us are important. The occasion is solemn. The House of Representatives has before it an appropriations bill upon which it is required to act. The House asks our opinion whether the agreement, to which its approval of the bill would give effect, contains an unconstitutional, or other-

wise illegal, provision, thereby making such approval unconstitutional, or otherwise illegal, action.

QUESTION I: Does Article III of a certain agreement between the State of Maine and the Maine State Employees Association, incorporated by reference into H. P. 1321, L. D. 1573, which Article contains the so-called 'fair share' provision requiring payment by non-Maine State Employees Association members of 80% of the normal member's dues, violate any provision of the Constitution of the United States or the Constitution of Maine, and in particular, any of those provisions guaranteeing freedom of speech.

ANSWER: We answer in the negative.

The only provision of the Federal Constitution we need consider is the First Amendment. The precise question here presented was addressed by the Supreme Court of the United States in *Aboud v. Detroit Board of Education*, 431, U.S. 209 (1977). That case settles the facial constitutionality of a 'so-called 'fair share' provision' that purports to limit the service charges to the proportionate costs to the collective bargaining agent of collective bargaining, contract administration and the adjustment of grievances. See also *International Ass'n of Machinists v. Street*, 367 U.S. 740 (1961); *Railway Employees' Dept. v. Hanson*, 351 U.S. 225 (1956); *Association of Capitol Powerhouse Engineers v. Division of Bldg. and Grounds*, 80 Wash.2d 1977, 570 P.2d 1042 (1977).

We find nothing in the Constitution of Maine that requires a different conclusion.

QUESTION II: Does the aforementioned 'fair share' provision on its face violate the provisions of the State Employees Labor Relations Act, 26 MRSA § 979, et seq., and in particular, section 979-B and 979-C of that Act such that this provision should not have been negotiated absent express statutory authorization by the Legislature?

ANSWER: We answer in the negative.

The comprehensive reach of section 979-D (1) E (1) of the State Employees Labor Relations Act, 26 M.R.S.A. § 979 et seq., authorizes the 'so-called 'fair share' provision' addressed by this question as a subject matter appropriate for collective bargaining and, therefore, as lawful for inclusion in a collective bargaining agreement, unless the provision is otherwise prohibited by 'public law.' We are asked whether it is so prohibited by other sections of the State Employees Labor Relations Act, namely, sections 979-B and 979-C, which are 'public law.'

Otherwise stated, the question is whether the 'so-called 'fair share' provision' under consideration 'directly or indirectly interfere[s] with, intimidate[s], restrain[s], coerce[s] or discriminate[s] against . . . State employees . . . in the free exercise of their rights . . . voluntarily to join, form and participate in the activities of organizations of their own choosing for the purposes of representation and collective bargaining.'

When the Act is read in its entirety it is apparent that, once a labor organization is certified under this Act as the bargaining agent for the employees of the bargaining unit, each employee in that unit is under the obligation, statutorily imposed, to accept the services of that bargaining agent for representational and collective bargaining purposes. 26 M.R.S.A. § 979-F (2) (E). Correlatively, the bargaining agent is under the obligation, statutorily imposed, to represent all the employees within the bargaining unit 'without regard to membership in the organization certified as bargaining agent.' *Id.* It is fairly within the compass of this mutuality of obligation established by statute that each employee within the bargaining unit share in defraying the costs of the representational and collective bargaining services that the bargaining agent is required to provide without discrimination.

Accordingly, the implementation of this obli-

gation by a provision inserted in an agreement arrived at through the collective bargaining process cannot be taken to violate the freedoms guaranteed employees by the Act, and in particular, by sections 979-B and 979-C thereof.

QUESTION III: If the answer to the foregoing questions is in the negative, is an evidentiary hearing required to determine the validity of the 80% as proposed by the Maine State Employees Association, recommended by the fact finders and agreed to by the State and Maine State Employees Association or will that figure be regarded as conclusive unless patently unreasonable?

ANSWER: We answer in the negative.

We interpret Question III to ask whether, in order for the service fee provision to be valid, the amount of the fee must be established, before the agreement becomes effective, by some proceeding in which evidence is presented. That evidence would presumably bear on whether the amount of that fee represents a proportionate share of the cost to the Association of collective bargaining, contract administration, and adjustment of grievances.

A prior "evidentiary hearing" as to the amount of the fee required to be paid by the nonmembers is not essential to the validity of a clause in a collective bargaining agreement requiring such payment as a contribution to the expenses of the collective bargaining agent. See *Aboud v. Detroit Board of Education*, supra; *Railway Clerks v. Allen*, 373 U. S. 113 (1963). However, the fact the amount of the service fee is fixed by the collective bargaining agreement does not make that amount conclusive upon a nonmember who puts the amount in issue in an appropriate judicial proceeding. *Aboud v. Detroit Board of Education*, supra.

Dated: April 30, 1979.

VINCENT L. MCKUSICK,
Chief Justice
CHARLES A. POMEROY
SIDNEY W. WERNICK
JAMES P. ARCHIBALD
THOMAS E. DELAHANTY
EDWARD S. GODFREY
DAVID A. NICHOLS
Associate Justices

The Communication was read and ordered placed on file.

Petitions, Bills and Resolves Requiring Reference

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

Fisheries and Wildlife

Bill, "An Act to Make Allocations from the Department of Inland Fisheries and Wildlife for the Fiscal Year Ending June 30, 1980, and June 30, 1981" (Emergency) (H. P. 1359) (Presented by Mr. Dow of West Gardiner)

(Ordered Printed)

Sent up for concurrence.

By unanimous consent, ordered sent forthwith to the Senate.

Orders

An Expression of Legislative Sentiment (H. P. 1358) recognizing that: Robert Steele is retiring as Town Manager of Scarborough having served from 1965 through 1978

Presented by Mr. Higgins of Scarborough (Cosponsors: Ms. Benoit of South Portland and Senator Danton of York)

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

House Reports of Committees

Ought Not to Pass

Mrs. Beaulieu from the Committee on Labor on Bill, "An Act to Amend the Employment Security Law to Provide Benefits to Certain Educational Employees" (H. P. 703) (L. D. 878) reporting "Ought Not to Pass"

Mr. Fenlason from the Committee on Education on Bill, "An Act Concerning Transportation of Children Living in Locations

Inaccessible to Public Highways" (H. P. 973) (L. D. 1221) reporting "Ought Not to Pass"

Mrs. Beaulieu from the Committee on Education on Bill, "An Act to Reduce State Review Requirements of School Projects" (H. P. 1161) (L. D. 1426) reporting "Ought Not to Pass"

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

Leave to Withdraw

Mr. Carter from the Committee on Taxation on Bill "An Act Concerning Fuel Tax Collection Procedures" (H. P. 1262) (L. D. 1516) reporting "Leave to Withdraw"

Mr. Dexter from the Committee on Energy and Natural Resources on Bill "An Act to Make Allocations from the Maine Coastal Protection Fund for the Fiscal Years Ending June 30, 1980 and June 30, 1981" (Emergency) (H. P. 1282) (L. D. 1530) reporting "Leave to Withdraw"

Mrs. Beaulieu from the Committee on Labor on Bill "An Act to Provide for Industrial Notification on Plant Closing and Mass Layoff's" (H. P. 1060) (L. D. 1333) reporting "Leave to Withdraw"

Mr. Davis from the Committee on Education on Bill "An Act to Require that all Teachers have at Least 9 Credit Hours in Special Education" (H. P. 1082) (L. D. 1342) reporting "Leave to Withdraw"

Mrs. Locke from the Committee on Education on Bill, "An Act to Authorize a School Nursing Health Consultant in the Department of Educational and Cultural Services" (H. P. 886) (L. D. 1084) reporting "Leave to Withdraw"

Mrs. Beaulieu from the Committee on Labor on Bill "An Act to Disqualify Recipients of Workers' Compensation Benefits from Unemployment Compensation" (H. P. 436) (L. D. 553) reporting "Leave to Withdraw"

Mrs. Beaulieu from the Committee on Labor on Bill "An Act to Increase the Wage Base on Which Employers Shall Pay Unemployment Compensation Benefits" (H. P. 603) (L. D. 749) reporting "Leave to Withdraw"

Mrs. Martin from the Committee on Labor on Bill, "An Act Concerning Dispute Resolution under the Municipal Public Employees Labor Relations Statutes" (H. P. 1131) (L. D. 1394) reporting "Leave to Withdraw"

Mr. Mahany from the Committee on Agriculture on Bill "An Act to Require a Licensed Arborist to be on the Job Site of Any Job Undertaken by an Arborist" (H. P. 513) (L. D. 659) reporting "Leave to Withdraw"

Mr. Brenerman from the Committee on Health and Institutional Services on Bill "An Act to Require the Department of Human Services to Provide Services Equally to Intact Families" (H. P. 1255) (L. D. 1509) 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 Oxford County for the Year 1979 (Emergency) (H. P. 1354) (L. D. 1593) reporting "Ought to Pass" - pursuant to Joint Order (H. P. 135)

Report was read and accepted, the Bill read once and assigned for second reading.

Ought to Pass

Mr. Carter from the Committee on Appropriations and Financial Affairs on Bill "An Act to Provide Compensation and benefits Agreed to by the State and the Maine Teachers' Association for Employees in the Bargaining Unit of Administrators at the Vocational-Technical Institutions and the School of Practical Nursing" (H. P. 1302) (L. D. 1561) "Ought to Pass"

Report was read and accepted, the Bill read

once and assigned for second reading tomorrow.

Divided Report

Majority Report of the Committee on Health and Institutional Services on Bill "An Act Relating to General Assistance" (H. P. 859) (L. D. 1070) reporting "Ought to Pass" in New Draft under New Title Bill "An Act Relating to State Participation in General Assistance Programs" (H. P. 1356) (L. D. 1592)

Report was signed by the following members:

Mrs. GILL of Cumberland
Messrs. HICHENS of York
CARPENTER of Aroostook

— of the Senate.

Mr. BRENERMAN of Portland

Mrs. PRESCOTT of Hampden

Messrs. BRODEUR of Auburn

NORRIS of Brewer

Mrs. PAYNE of Portland

Messrs. MATTHEWS of Caribou

CLOUTIER of South Portland

Mrs. MACBRIDE of Presque Isle

Mr. VINCENT of Portland

— of the House.

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

Report was signed by the following member:

Mrs. CURTIS of Milbridge

— of the House.

Reports were read.

On motion of Mrs. Prescott of Hampden, the Majority "Ought to Pass" Report was accepted, the New Draft read once and assigned for second reading tomorrow.

Consent Calendar

First Day

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

(S. P. 351) (L. D. 1099) Bill "An Act to define Educational Institutions as they relate to the Unemployment Compensation System" Committee on Labor reporting "Ought to Pass"

(S. P. 124) (L. D. 250) Bill "An Act to Allow the Various Counties to Pay on a Biweekly Basis" Committee on Local and County Government reporting "Ought to Pass"

(S. P. 344) (L. D. 1032) Bill "An Act to Provide Additional Assistance to the County Law Libraries" Committee on Local and County Government reporting "Ought to Pass"

(S. P. 441) (L. D. 1334) Bill "An Act Relating to the Location of the Office of Superintendent of Insurance" Committee on State Government reporting "Ought to Pass"

(S. P. 173) (L. D. 379) Bill "An Act to Permit Nonreceiving Units to Approve School Appropriations in a Single Warrant Article" Committee on Education reporting "Ought to Pass" as amended by Committee Amendment "A" (S-123)

(S. P. 233) (L. D. 685) Bill "An Act to Provide for a Single Number Plate and to Revise Motor Vehicle Registration Fees" Committee on Transportation reporting "Ought to Pass" as amended by Committee Amendment "A" (S-124)

(H. P. 487) (L. D. 636) Bill "An Act to Require Insurance Policy Language Simplification" Committee on Business Legislation reporting "Ought to Pass" as amended by Committee Amendment "A" (H-313)

(H. P. 1135) (L. D. 1389) Bill "An Act Relating to the Maine Criminal Justice Academy" Committee on State Government reporting "Ought to Pass" as amended by Committee Amendment "A" (H-314)

No objections being noted, the above items were ordered to appear on the Consent Calendar of May 3, under listing of Second Day.

Consent Calendar

Second Day

In accordance with House Rule 49, the fol-

lowing items appeared on the Consent Calendar for the Second Day:

(S. P. 376) (L. D. 1156) Bill "An Act Relating to the Plumbing and Subsurface Disposal Laws" (C. "A" S-122)

(H. P. 863) (L. D. 1062) Bill "An Act to Provide for Voter Approval of School Construction Projects" (C. "A" H-303)

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

Second Reader Tabled and Assigned

Bill "An Act Pertaining to Motor Vehicles Passing Stopped School Buses" (H. P. 1041) (L. D. 1278)

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

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

Mr. COX: Mr. Speaker, I am working in conjunction with the Secretary of State's Office on an amendment on this bill and we still don't have it ready, and I would like to have someone table it for one day, please.

Whereupon, on motion of Mr. Carroll of Limerick, tabled pending passage to be engrossed and tomorrow assigned.

Passed to Be Engrossed

Bill "An Act to Provide Information Assistance Under the Public Utilities Law" (H. P. 1064) (L. D. 1318)

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

Second Reader Tabled and Assigned

Bill "An Act to Merge the Septage and Hazardous Waste Law into the Solid Waste Law and to Conform them with the Requirements of the Federal Resource Recovery and Conservation Act" (H. P. 1139) (L. D. 1518)

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

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

Second Reader Later Today Assigned

Bill "An Act Authorizing the State to Contract with Tufts University School of Veterinary Medicine" (H. P. 411) (L. D. 528)

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

On motion of Mr. Rolde of York, tabled pending passage to be engrossed and later today assigned.

Second Reader Tabled and Assigned

Bill "An Act to Require the Purse Seine Season in Washington County to Close on September 15th" (H. P. 321) (L. D. 425) (C. "A" H-295)

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

On motion of Mr. Nelson of Roque Bluffs, tabled pending passage to be engrossed and tomorrow assigned.

Amended Bills

Bill "An Act to Improve Survivor Benefits under the Maine State Retirement System" (H. P. 260) (L. D. 341) (C. "A" H-299)

Bill "An Act to Amend the Alternative Method of Support Enforcement" (H. P. 701) (L. D. 861) (C. "A" H-292)

Bill "An Act Relating to the Term of Membership on the Inland Fisheries and Wildlife Advisory Council" (H. P. 803) (L. D. 1006) (H. "A" H-305 to C. "A" H-287)

Were reported by the Committee on Bills in

the Second Reading, read the second time, passed to be engrossed as amended and sent up for concurrence.

Passed to Be Enacted

An Act Relating to Discharges and Emissions From Nuclear Generating Facilities (H. P. 268) (L. D. 349)

An Act to Require that all Public Employees be Paid at Least the Federal Minimum Wage (H. P. 435) (L. D. 552) (C. "A" H-238; H. "A" H-258)

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

An Act to Permit Sorority Houses at the University of Maine Campuses (H. P. 946) (L. D. 1179)

An Act Concerning the Leasing and Management of Public Lands (H. P. 981) (L. D. 1217) (C. "A" H-259)

An Act Relating to the Management of the Department of Attorney General (H. P. 1100) (L. D. 1352)

An Act Concerning Public Agencies Contracting for Architectural Services (H. P. 1331) (L. D. 1578)

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.

RESOLVE, Authorizing Barry A. Brann of Wilton to Bring Civil Action Against the State of Maine (H. P. 547) (L. D. 678) (C. "A" H-251)

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

Orders of the Day

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

An Act Concerning the Powers of the Board of Trustees and the Treasurer of the University of Maine and Concerning Real Property Belonging to the University (H. P. 793) (L. D. 1001)

Tabled—April 30, 1979 by Mr. Hughes of Auburn.

Pending—Passage to be Enacted.

On Motion of Mrs. Mitchell of Vassalboro, tabled pending passage to be enacted and specially assigned for Friday, May 4.

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

HOUSE DIVIDED REPORT — Majority (11) "Ought Not to Pass" — Minority (2) "Ought to Pass" — Committee on Transportation on Bill "An Act to Provide that a Person's Picture shall Appear on His Driver's License and to Provide for a Photographic Identification for Nondrivers" (H. P. 940) (L. D. 1164)

Tabled—May 1, 1979 by Mr. McKean of Limestone

Pending Motion of the same gentleman to Accept the Minority "Ought to Pass" Report.

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

Mrs. KANY: Mr. Speaker, I would ask that someone table this until later in today's session. The sponsor is not here but he will be back in about an hour.

Whereupon, on motion of Mr. Simon of Lewiston, tabled pending passage to be enacted and later today assigned.

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

HOUSE DIVIDED REPORT — Majority (7) "Ought Not to Pass" — Minority (6) "Ought to Pass" as Amended by Committee Amendment "A" (H-301) — Committee on Appropriations appropriate Funds for the Nursing Home Ombudsman Program" (H. P. 1074) (L. D. 1328)

Tabled—May 1, 1979 by Mr. Diamond of

Windham.

Pending—Motion of Mr. Pearson of Old Town to Accept the Minority "Ought to Pass" Report.

Thereupon, the Minority "Ought to Pass" Report was accepted and the Bill read once. Committee Amendment "A" (H-301) was read by the Clerk and adopted and the Bill assigned for second reading tomorrow.

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

An Act to Simplify the Requirements for Licensing Certain Clergymen to Perform Marriages (S. P. 287) (L. D. 847) (C. "A" S-116)

Tabled—May 1, 1979 by Mr. Marshall of Milinocket.

Pending—Passage to be Enacted.

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

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

Bill, "An Act to Clarify and Correct Laws Related to Real Estate Brokers and Salesmen" (S. P. 391) (L. D. 1202) — In House, Passed to be Engrossed as Amended by House Amendment "A" (H-261) on April 25, 1979. — In Senate, Senate Adhered to Passage to be Engrossed on April 27.

Tabled—May 1, 1979 by Mr. Vincent of Portland.

Pending—Further Consideration.

On motion of Mr. Howe of South Portland, the House voted to recede and concur.

On motion of Mrs. Brown of Gorham, Receded until 9:30 A.M.

After Recess 9:30 A.M.

The House was called to order by the Speaker.

On motion of Mr. Tierney of Lisbon Falls, by unanimous consent, the following matter was taken from the Unassigned Table:

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)

Tabled—April 26, 1979 by Mr. Tierney of Lisbon.

Pending—Motion of same gentleman to recede and concur.

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

Mrs. MITCHELL: Mr. Speaker, Men and Women of the House: Although I represent perhaps as many state employees as any other member of this body, I have refrained from speaking on this issue on the numerous occasions that it has been before us. I refrained, perhaps, from naivete, because I believe in the fairness of the contract, the fairness of the dollars involved and the integrity of the collective bargaining system would be enough to win the necessary 101 votes from this body—obviously, I have been wrong up until this point.

I listened to the many excuses or reasons, as they were called by my colleagues, as day after day we attempted to get the votes to pass this long-awaited pay raise for my constituents and your constituents.

Some people voted against the bill, said they, because the gentleman from Lewiston angered them when he threatened to kill this bill from the Appropriations Table. Others said they were angered by the Speaker, who came down from the rostrum and attempted to intimidate them into voting for a contract they did not like. Others did not like my colleague, Mr. Tierney, speaking, because he was too familiar with labor items and they could not trust him.

Some voted against the contract in protest to the unfortunate incident of violence of the windshield breaking of Mr. Garsoe's automobile. Others raised a legitimate concern that perhaps the Governor and the bargaining unit did not have the statutory authority to negotiate in a fair-share provision. Well, ladies and gentlemen, we have come to the hour of decision, because one by one, those excuses or reasons, as the case may be, have been peeled away.

I would like to quote to you from my colleague, my counterpart in the left-hand corner when he was dealing with the legitimate concern about whether or not we could negotiate a fair-share provision. Mr. Tarbell said, "The real issue is whether the Governor and the Maine State Employees Association exceeded their statutory authority under the collective bargaining laws." You have before you on today's calendar the clear answer to that query. The Governor certainly had the authority: the Court went even further and said that since the unit is required to represent all state employees in the unit, then, conversely, the employees of that unit should be required to pay the cost of conducting collective bargaining and to pay for grievance procedures.

How well I remember a cold night in January 1978 when the area representatives, yes, representatives from all over the state, were asked to come to the Civic Center to talk with a very distressed, disturbed bunch of state employees, because at this point, the negotiations had broken down, an impasse had been reached between the Governor and the bargaining unit of the state.

I really didn't understand all the labor terms and I was somewhat frightened by the questions, the very hard questions that were asked of us, because I didn't feel very much at home with agency fee, fair share, some of those terms, but, believe me, I have learned them now.

I was very appreciative, frankly, to have the gentleman from Cumberland, Mr. Garsoe, there, because he very eloquently and articulately told those state employees, "We really understand the problem but we cannot interfere. Our hands are tied; we have passed a collective bargaining law; you are at the table now. We must deal with the cost item when it comes back." Frankly, that was a very comfortable position and I appreciated his explanation of that to the angry employees.

Well, they did what he told them to do. They went back to the bargaining table, they bargained in good faith, they fought hard and they won the items that they wanted. But now we are changing the rules in the middle of the game, according to Mr. Garsoe. He would have us do that.

Those people who still feel they must vote against this contract for moral reasons, I say it is even more morally offensive to tell the people of the State of Maine that if we don't get our way by the rules that we set up, then we change them. Not only do we change them, we do not change them through the normal legislative process, we attempt to end run on the process by dealing with a part of the contract which is really not before us.

There are many parts of the contract that I might like to change, there are sections on maternity leave, sick leave, bereavement leave, perhaps we could get into all of those, too, if we wish to negotiate from the floor of this House.

This past week, I presented a bill to the State Government Committee, which most likely will not go anywhere, but I felt it was very important to establish the policy of flexible time, non-standard work weeks, and various other things which the union said were part of the negotiating process, and, of course, the union opposed this bill because they said they were subject to negotiation. Nevertheless, I was up front about my intentions to deal with negotiated items. That is not true of people who are

voting against this bill on matters other than cost, because they are attempting to pass legislation without introducing a bill, without going through public hearing and without having legislation passed in both bodies.

I would like to close with one comment. Those individuals who still feel they must vote against the contract are setting a very dangerous precedent, blocking ratification for a non-cost item. They are usurping a statutory responsibility which clearly belongs to the Executive Branch and inviting future legislatures to do the same. I suggest that anyone today who has to vote against should vote only because the cost is too high. Otherwise, you are inviting the legislature to the bargaining table, and I think it would be chaos to have 184 members trying to negotiate at a table.

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

Mr. GARSOE: Mr. Speaker, Ladies and Gentlemen of the House: I hope that my esteemed colleague and good friend from Vassalboro, Mrs. Mitchell, is wrong again today.

If the integrity of Bill Garsoe is what you are voting on, maybe she has got a case, but I want her to know and I want you to know that I feel very comfortable with my stance here today and the stance I took that cold January night. We were being approached by a group of upset state employees who were asking us to intercede with the Governor in the negotiating process. I think that was wrong and I in no way characterize what is happening here today in the same light.

If you think that statements by Mr. Tarbell seem to impugn his position, or statements against Mr. Garsoe that seem to impugn his position, until you vote, then so be it. It has been suggested by people in high places that many of you are only voting the way you are voting on the "No" side because of your friendship with me, and I feel sorry for those who could be categorized in that manner. I have been assured that it fits none.

I would like to pose a couple of questions. Was there ever any doubt that the Court would rule that '80 per cent or be fired' was unconstitutional? No. That question was answered by the courts long ago, and I am told that every lawyer in the state and every law student could answer that question. Was there ever any doubt that state statutes on collective bargaining would say it was illegal to negotiate an '80 per cent or be fired clause? Obviously, the law does not specifically deny that they may be negotiated. So, the answer to that was foreseeably "No".

We conceded right here on this floor, before the question even went to the courts, that the Governor had "the power to agree to anything to which he could agree." And this he has done. He has agreed that state employees shall be subjected to 80 per cent or be fired. The answers were preordained by the nature of the questions.

We have viewed what the Governor has done. His action in this matter has offended the conscience of so many of us that the bill has repeatedly failed passage, and I would just like to note that nowhere in my recollection of the gentlelady's remarks did I hear the word 'fired'. This able to dance around very neatly and very easily, but the facts of the case are, is that what we are talking about? And to urge you today not to think, not to look over the fence at what the Governor has negotiated is to say there is nothing, there is no monstrosity so heinous, no clause so offensive, that this body should ever take note of what goes into those contracts. Well, I refute that. I say that is what we are here for.

The statutes are, as it seems, silent on this issue. I think our responsibility grows with each contract. And I would remind you, we have had three contracts negotiated with no such word as '80 per cent or be fired'.

This is the fourth time we will be voting on

this matter. I don't believe it is going to secure the necessary votes today, but in the event it does again fail, I call on the gentleman from Eagle Lake and I call on the Majority Floor Leader, I call on you to accept that verdict, to accept that verdict as proper and final in the normal course of events as the way we dispose of a piece of legislation. It happens here every day, and I call on you to stop branding as obstructionists those who fail to agree with you, and I call on you to cease and desist the practice of shoving this bill repeatedly back at this body. I call on you to put an end to the false charge that there are those of us who are against the cost. I call on you to act in a responsible manner, as you would in any other similar situation, and to allow this bill a humane ending, and what then?

I quote the Governor in last Sunday's Telegram. "It is still deadlocked, there will have to be a reassessment by the employees' representatives." This deadlock is not the product of obstructionists, it is not the product of those with less than honorable motives, it is the product of the normal course of business in this body. This measure requires 101 votes, and for anyone to impugn or imply that the failure to get those 101 votes is anything but an exercise of the sovereign power of the members of this body is to do a disservice to us all. So, a reassessment by the employees' representatives will, indeed, be necessary, and at that point, we need a question answered where is the union's priority? Is it with the \$50 million pay package for their employees or is it with \$150,000 for their treasury?

A no vote here today will send the message back to the union loud and clear that until that pay package comes back with a clear understanding that '80 per cent or be fired' is out, we will exercise our right to refuse passage.

The SPEAKER: The Chair recognizes the gentleman from Orland, Mr. Churchill.

Mr. CHURCHILL: Mr. Speaker, Ladies and Gentlemen of the House: As a Republican, I plead with my fellow Republicans not to ignore the Supreme Court ruling that has been handed down on this issue. We, as legislators, should uphold the laws more than any one else in this state, and I believe this is true on this issue. We have nothing to vote no against this issue for. Also, there are many people—I have heard the wet blanket that because of religious convictions they would be fired, and this is not so. All those who submit written proof of religious conviction are exempt from joining unions.

The state employees have long awaited a pay raise, several years. Their cost of a loaf of bread, their rent and everything has gone up just the same as yours and mine has, and there is no reason why these people should not receive this pay raise. I certainly plead with my fellow Republicans to give enough support to pass this once and for all. We have wasted more arguing this one issue that I believe it is worth.

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

Mrs. BERUBE: Mr. Speaker and Members of the House: This issue has been characterized as one which is either a Republican or a Democratic issue, and I don't view it as such nor do I want to. In fact, I respect members of both parties. From where I sit, I am surrounded by Republicans and I love them all dearly, but I am not speaking as a Democrat today nor as a legislator who may have many constituents in her district, for I don't believe I have that many, but I am speaking as a legislator who has among many duties the one to give service to her constituents, and my service, whatever it is, can only be as good as the career state civil servant who gives me the information to take back to my constituent or through his or her help will help me resolve the problem of my constituent, and I believe this issue overrides all the others as far as duties.

I am going to be voting once again to give this

pay raise, and I don't think that a raise every four years is so very much to ask. I think that further delay is unfair at this point, because the raise is inevitable and we are merely delaying the implementation of this raise.

I do have an observation. I have found that everyone who has spoken thus far, who has not supported the pay raise or voted in the affirmative has used many excuses. They seem to qualify their negative vote by saying, "But there is a clause in there I don't like." It reminds me of an old French saying, *Qui s'excuse s'accuse*. And as the weeks have gone by, some have fumbled and hunted for various excuses with which to explain their opposition vote.

Now, perhaps the fair clause, the agency clause, the agency shop should not have been tacked onto this bill. I, personally, have strong reservations about this. Maybe those clauses should have been a piece of legislation to be debated on their own merit, but this is not the issue.

I feel that our people are entitled to this raise and I think we have let them dangle long enough.

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

Ms. BENOIT: Mr. Speaker, Men and Women of the House: I have sat and listened to many of you for the past week or so and I have been silent, at least on the floor of the House. I think I am going to read my speech today because I don't want to become too emotional on the issue, because I do feel very, very strongly about it.

I have heard what you said. Some of you were concerned about the legality of the fair share clause. That concern has been answered by the Maine Supreme Court. In the words of the Supreme Court Justices, it is not unconstitutional nor does it violate anyone's freedom of speech. The fair share clause was declared lawful for inclusion in a collective bargaining agreement.

The Justices said, "It is fairly within the compass of this mutuality of obligation established by statute that each employee within the bargaining unit share in defraying the costs of the representational and collective bargaining services that the bargaining agent is required to provide without discrimination." That is part of our law.

The remainder of those who oppose this contract apparently do so out of some high principle. They say it is immoral, that the Supreme Court decision will not influence their vote. It is to this group that I would like to address my remarks. I feel so very strongly about this issue that I must speak, even though you've probably heard it all. I will try to be brief.

In 1974, this legislature passed a collective bargaining law. This law permits only the MSEA and the Executive Branch of government to negotiate. Through negotiations, a settlement is reached, a compromise for both sides. The MSEA and the Executive Branch negotiated for almost 18 months. For those of you who have never belonged to a union and never struggled through long months of negotiations, let me assure you that it is not always a very pleasant experience for either side. I have experienced the difficulties incurred during negotiations and, without being too dramatic, there were many traumatic moments and even days. Eventually, when negotiations have been finalized, there is a sense of relief, a feeling of "I'm glad it's over", it's done with.

When my union's contract was finally negotiated, it went to the city council as a part of the total school funding budget for approval, approval for the level of funding only. I can't even begin to imagine how discouraged and angry I would have been if the city council had picked apart my contract or had opposed it for any reason other than the appropriation. The City Council had only one mandate—to approve or disapprove of the total funding package. It cannot touch the negotiated agreement.

The MSEA negotiated in good faith. They

probably experienced the same sense of relief that the process had reached an end, a compromise had been reached—now we could get on with it. That feeling must have been short-lived.

For those of you who still believe that the fair share clause is immoral, I say to you, as calmly as possible and without animosity, that I believe what you are doing is not only morally wrong but legally wrong.

You have made a sham of the collective bargaining process and you are in effect attempting to negotiate a part of the contract from the floor of this House.

I understand that you do not believe in a 'fair share clause' and I accept that, but you are not the bargaining agent. You do not have the right to force your opinions on the MSEA or the Executive Branch. I plead with you to put aside your own personal dissatisfaction and support this contract. Don't make the state employees wait any longer—take it from one who has been in their shoes. This waiting is not a very pleasant experience and it does nothing for the morale of the workers.

The state employees negotiated in good faith, they reached a compromise and now they are at the mercy of a minority which objects to a part of their contract. Object if you must, but please follow the mandate of the law and approve or disapprove the level of funding.

I sincerely hope that at least 101 of us will say "yes" today, yes, we do approve the funding of your contract. We may not like everything that is in the contract, but we do give it our approval, and then maybe we and the state employees can do our jobs efficiently and with a sense of good feeling.

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

Mr. LEIGHTON: Mr. Speaker, Ladies and Gentlemen of the House: It was April 5 when the other body first attempted to remove the '80 percent or be fired' clause, so that we could in good conscience fund the state employees' pay raise. Today is May 2. For 27 days the proponents of '80 percent or be fired' have held the pay raise captive, seeming to care more for that damnable clause than the plight of the state employees. Now the state employees have had to wait the better part of another week while carefully phrased questions were posed by the Governor to the Supreme Court, admittedly, according to the papers, in hopes of shaking free a few more votes.

So, now the Court has answered and in effect has said that fair share is not unconstitutional and that the Governor did not act illegally. Well, that is hardly surprising to us. That, in effect, is what the Attorney General told us a long time ago, except that the Attorney General also suggested that we get cracking and write some legislation on the matter.

We never said the Governor violated the Constitution, we never said he broke the law. We said that there was no law to break, that there was an absence of law in the matter that should be addressed legislatively by this already sitting legislature and not through the collective bargaining process. The point is, we don't negotiate our laws, the legislature enacts them.

Certainly Representative Chonko, Representative Churchill and Representative Baker must have believed that or they wouldn't have dropped L. D. 597 in the hopper, which is "An Act to Permit the Negotiation of Union Security Clauses in Contracts Between the State and Bargaining Agents of State Employees." Let me read the Statement of Fact, at least in part. The Statement of Fact says in the first paragraph, "The purpose of this bill is to permit the negotiation of union security clauses, such as agency shop clauses, in contracts between the state and bargaining agents of state employees." If they thought this was an exercise that should have been done through collective bargaining, how come this bill?

Seriously, friends, do you really want agency

shop enacted through collective bargaining rather than through statute?

So, here I stand again today, as I will stand every day until the clause is removed, and ask again that a bill that is only a pay bill and not an agency shop bill in disguise be put before us so we can give these people their long overdue raises. This is not and should not be a partisan issue. I call on fair minded people of both parties to deal with the agency shop issue when it is properly before us, through one of the bills now in committee. The issue now should only be pay.

Additionally, I would pose a question to the Majority Leader and to the Minority Leader, which I hope that they will answer in the course of this debate. Will they agree, if the 101 votes are not here today, to cosponsor, in a new spirit of bipartisanship, a new bill to come before us tomorrow that deals only with pay and without the '80 percent or be fired' clause. In the meantime I will be voting no with Bill Garsoe.

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

Mrs. POST: Mr. Speaker, Men and Women of the House: These are, indeed, difficult times and it is probably the only time that I have ever spoken on an issue that might be construed as a labor issue.

I well understand that the issue of fair share is not a clear one to many of us. I can understand the conflicts that we deal with as we try to resolve which is most important, the issue of people paying their fair share of negotiations when they do in fact receive the benefits of those negotiations and the conflict that sometimes brings up with individual freedom.

It is a difficult issue for many of us. For many of us it is a difficult moral issue, for many of us it is a difficult personal issue, and for many of us it is a difficult political issue. However, it is not and should not be the issue before us today. That issue of agency fees has been debated in this legislature. Bills have been put in on both sides and those have not passed. What the court said is, "in the absence of any prohibition on agency fee for state negotiated contracts," those types of agency fees, just like all the other issues which are dealt with in that contract, "are perfectly legal."

I would remind the gentleman, my seatmate that spoke before me, that the bill that was put in by Representative Churchill and Chonko was put in before that court decision and before any court decision had been made on whether or not agency fee was included in all the other kinds of negotiated items.

At the present time, with the court opinion there is no need for that bill, but that bill was put in before the courts had spoken on that particular issue.

The issue that we should be debating today is also a moral issue. For many of us, it is also a political issue, and for some of us it is a personal issue. But the issue should be, what kind of role do we, actually not even as a legislature, but what kind of role do we as individuals want to play in the contract process? What role do we as individuals want to play in collective bargaining? I say that that role legally, presently, whether you like it or not, is very clearly spelled out by the statute and by the court opinion or those statutes. Their opinion is that we, individually as legislators, have the right to either approve or disapprove the money contract which is presently before us. If we as individuals want to deal with other issues, we do it either by putting a bill in the legislature, we become a member of the Executive Branch or we join the Maine State Employees and sit on the table at their side. As individuals, as legislators, we have one right and only one responsibility legally, that is to deal with the money issues and I ask you all to simply do that today.

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

Mrs. MacBRIDE: Mr. Speaker, Ladies and

Gentlemen of the House: Like everyone else, I have received many phone calls from state employees in my area. Many of these employees have not understood that if the employee does not pay the 80 percent, he can be fired.

Last night, a state employee from Presque Isle came to my room to talk with me and there was a group of other people there. He insisted that we were absolutely wrong on that 80 percent issue. We showed him a copy of the contract that was being negotiated and he still insisted that we were wrong, that none of his non-union friends would ever be fired if they didn't pay the 80 percent dues. We tried to point out our side of the argument but we could not. This morning, he called me from the State Employment Office to tell me that as soon as he got up this morning, he went right to the State Employment Office to ask them and he said, I do want to tell you that I was wrong, that anyone would be fired if he did not pay the 80 percent clause.

Many of my callers who have called have told me, I desperately want my pay raise. I have waited a long time and I really want it but I don't want it badly enough to have my friends fired.

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

Mr. BOWDEN: Mr. Speaker, Ladies and Gentlemen of the House: I am one, among many legislators, who received a letter last night from the Governor. He made a number of points and I would like to address a couple of them this morning.

The Governor expressed his concern, as have others, supporting integrity of the bargaining process. But the Governor isn't an unwise man. He had to know when he used the bargaining process as a way to achieve what has not been achieved through the legislative process that strenuous objection would be raised.

The court has addressed the constitution and the legal questions some have raised over this issue. But it has not and cannot address the concerns many of us share that the 'pay or be fired' provision is wrong, not illegal or unconstitutional, but wrong. That is the issue and, despite what the gentleman from Lisbon Falls said the other day about confused Freshmen legislators, I would emphasize that I have not been the least bit confused over this matter. The Governor has suggested that we stand back from the heat and that we deal fairly with all state employees. Well, I suggest that the only way to deal fairly with all state employees is to remove from this contract any indication that anyone employed by all the people of Maine can be fired because he won't support private union. I believe that removal is the most responsible action that could be taken.

Finally, the Governor suggests that while removal of the emergency preamble would probably assure passage of this bill, it would not address the immediate problem with the direct action it requires I quite agree. But he knows, just as you and I know, that the power for direct action rests in his hands and those of the MSEA. I have asked MSEA on members, several occasions to explain to me how the union can justify first coming to the legislature and asking for the right to represent all state employees, including non-members of the union, then coming back to us and saying, now the legislature must make those non-members pay a service fee or be fired. Not one of them has answered the question satisfactorily and I think that says a lot.

In the final analysis, this is an issue of philosophy and principle. I, for one, will not compromise my beliefs and those of the majority of my constituents. As I said once before, I believe that the cost is too high with this "pay or be fired" provision in the contract.

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

Mr. BOUDREAU: Mr. Speaker, Ladies and Gentlemen of the House: Mr. Churchill or

someone talked about being forced to join a union. I don't believe that this bill could force anyone to join a union. As a matter of fact, when the bill comes up in this legislature to force public employees to join a union, I will be voting against it. I am not going to vote against fair share.

The issue for me is, in fact, a moral one. Should those people in the bargaining unit be asked to join in defraying the cost of collective bargaining? I say they should. If we apply the concept that some people should be exempt from paying their fair share across the board, why don't we apply it to property tax or income tax? If you are going to get a service, you have got to pay the cost.

There are people in my town that think their property tax bill is too high. They say they don't get the services. They shouldn't have to pay the bill. So, if you apply the philosophy that you are going to start exempting people from paying their fair share and if they are going to be consistent, do it across the board.

There is nothing wrong with asking people to help defray the cost of collective bargaining. Force them to join a union—yes, there is something wrong with that and I will vote against that bill, but that is not the issue in this matter we have been discussing the past two months. So, I hope today we can pass the bill. I hope we can get 101 votes.

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

Mr. BRANNIGAN: Mr. Speaker, and Members of the House: There is one group of people that I have been amazed have not been heard from in all of the debate as far as I can see. The debate here in the House, the debate in the papers and that group of people are those who are state workers who do not belong to the union.

I was visiting a friend of mine who just had a baby, a young couple living in an apartment. It just happened that they were asking what is going to happen on this issue and then they said her husband was not a member of the union. That, all of a sudden, brought it home to me, I was faced with one of those people that this is kind of all about. It began to intrigue me. This happened a week or so ago and I almost stood up, but I wanted to go back and check with him to see if it was okay if I quoted him. He said he felt that what he said, he was speaking for people in his unit, 15 to 30 people who are not members of the union. This also got me to thinking about this and so I have asked others questions in the last week or two. What he wants is this contract ratified and ratified now. He doesn't like the fair share agreement but he feels that they have a good contract overall. He is very frustrated and he feels he is representing numbers of people that are non-union members and that they will try to deal with this issue in other ways. They need their raise now. When frustrations reached the high point last week, it would seem, in talking with a number of people, that it was not just union workers that walked out, it was, in fact, not just union workers who picketed in that great frustrating day or two, but non-union workers as well.

So, my friend, and him speaking for others, would like to send a message to us — thanks for looking out for them, but no thanks for voting against their pay raise. We cannot eat principles and we ask you to vote in favor of the contract now.

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

Mr. HICKEY: Mr. Speaker, Ladies and Gentlemen of the House: The 106th Legislature set up the collective bargaining process for future legislatures to follow. They told the state employees that this was their future medium for acquiring a pay raise.

The State employees are to be admired for attempting to work through this process estab-

lished. They must be terribly frustrated in their attempt to work through the system. After their futile attempts to properly pursue their pay raise, it is understandable how they could be disenchanted with the legislature.

We created the procedure that they would follow and their efforts have been in that direction. No, in the middle of the ball game, we choose to change the rules I ask you to abide by the mandate of the 106th and show the state employees we, too, believe in the system.

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

Mr. LAFFIN: Mr. Speaker, Ladies and Gentlemen of the House: I am very pleased this morning that someone got up and said that the legislature enacted bargaining rights for state employees in 1974. I am proud of that fact because the people that did it was the Republican Legislature. I like that.

Someone got up here this morning and said, well, it is a political issue. I don't consider it a political issue. I am sure that the next time I run, my opponent will receive help from the same people that I am going to help this morning. That is their business. I am sure that they are going to donate money to defeat me, and that is their prerogative. There is nothing wrong with that. The people that are in the opposite party in my area that belong to this organization wouldn't vote for me if I was the last or the first coming of the good Lord. But today we have all been talking about what the fair share clause is and we have hashed it over and we have talked about it and we have really drained it to death.

I had to do a little research to offset that to see if I could truly, in my heart, continue to think as I have been thinking on this issue. Here are some of the proposals that I would like to have people who are opposed to this pay raise to consider, and that is all, consider, because I respect everybody's rights. I respect my seat-mate, who I have the greatest respect for, he and I don't agree but I respect his right as he does mine. This will include \$15 per week retroactive to July 1, 1978, the lump sum bonus, and that does not go on the base wages and the total of that is \$585. Now, I am weighing this side of the aisle now, \$15 per week as of April 1, 1979, across the board, and this applies to the salary schedule—\$15 or 6 percent or whichever is greater on July 1 of 1979. When an employee is called out, he must receive a four hour minimum pay; overtime pay; holiday pay counts as time worked for the purpose of overtime; mileage allowance, 18 cents a mile. I might add, my friends, that the members of this House will also be included in that.

Health insurance—the state will pick up costs for rate increases for two persons and also the family plan. Coverage changed from Blue Cross D plan to an E plan, and this raises the surgical schedule. Now, I think these are very good, logical reasons why this House should support this bill this morning. This is not something that has been drawn out of the air or something that I am imagining. Most of you are a lot more intelligent than I am and you can find these facts out for yourself. You can see that they are in there, but all we hear about is the "fair share" clause. Well, what is so wrong with that?

Apparently, the Republican party in 1974, couldn't see anything wrong with it. They said, well, let the bargaining units take place and let them bargain and let the legislature stay out of the issue, only vote for the package. They are my party and I am proud of those people. I probably don't even know one of them. So, I don't see this as a party issue. I am only hoping that members of my party can weigh out the facts that will benefit working people today.

Many people have said to me, do they need this? The question is, do we have the right to deprive them of it? Someone said yes, they will only buy a television or they will buy something that was on TV and they will spend it on this.

not for food on the table. I would hate to judge three or four people who were interviewed by 9,300 employees when we have people working below the minimum wage. They won't be buying any TV; they will be lucky to pay their bills. They will be lucky to pay their phone bills, they will be lucky to put food on the table. Somebody is ripping off the people somewhere. Somebody has to pick up the tab.

There have been people say, well, if you will give this to them, it will only be those in the higher bracket, and that is not true. It is \$15 a week across the board. These are the things that are important. These are the things that we should have compassion for. Manytimes, I vote for a bill that is going to benefit some high muckamuck, but it is also going to benefit a lot of small working people. I think that issue is important, and if it helps those on the higher end, so be it, but to turn down an entire package because of a few small, insignificant things that we may not agree with is a very unjustifiable reason.

Politics should not play a part this morning. I may never be back in the legislature again, but at least I can say that I did the very best that I knew how. Many of you who will be back here, will you be able to say to yourselves—well, I am back here but I don't think I did the very best I knew how. I am not playing politics, because I could give a darn whether I am back here or not. If some of you live for the almighty vote to get back here, then you vote to get back up here. I am voting this morning for my conscience and I am voting for what is right and I am even voting for the people who are going to oppose me in two years.

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

Mr. MORTON: Mr. Speaker, Ladies and Gentlemen of the House: I am cognizant of the tension of the moment as we stand here debating this, although it is quite obvious that a great many are not here and I hope they are listening over the loudspeakers.

If I have discussed this matter previously, I think I have always maintained that the Executive did not break the law and, therefore, I was not surprised and pleased, of course, that the court has confirmed that position. But there have been statements made here on the floor this morning that I do feel could be challenged and that the record should so state, because by the same token that the court was asked a certain question, it was not asked other questions.

The allegation was made here this morning that somehow or other a legislator voting against this bill is doing something illegal. The gentlelady from South Portland, I think, mentioned this, the gentlelady from Owl's Head mentioned this and the gentleman from Augusta brought it into the conversation and, in my opinion, a legislator cannot disobey the law in voting on any question. As has been said, we are here to make laws and not break them.

I did study the advisory opinion quite carefully and I do find that the factual situation has been changed to some extent. A contemplated court suit in the bill has now been measurably reduced in scope.

I would call your attention to Page 5 of the sheet that was passed out yesterday, the very last paragraph, and perhaps some of you didn't get to that paragraph, it is on the last page, but it is the only exception to the generally euphoric description that has poured forth about this decision. I will read it to you, it is one sentence: "However, the amount of the service fee is fixed by the collective bargaining agreement does not make that amount conclusive upon a non-member who puts the amount in issue in an appropriate judicial proceeding." The court is pretty much saying that everything else is cut off. There is no likelihood that a state worker will have the opportunity to attack the inclusion of the clause until, in my opinion, that court advisory opinion has

brought the consequences home here to the legislature this morning.

We now, here in this House, must decide on the sanction that this law will lay on state employees. That sanction is the stark reality of pay up or be fired. There will be no recourse to the courts for a redress of that sanction.

The Governor has characterized the clause in print, I think, as the least coercive type of union security and I guess that may be true, but there is no diminution of the sanction on the other side. The firing process is well defined. I have gone over this with the union people. An employee is given the opportunity to agree in writing to a checkoff or even agree to be billed for the services by the union. If neither of these take place, the employee does not agree and does not pay, then the union advises the state and the third step of the process is that the state exercises its legal requirement. To terminate the employee together with all that that implies regarding benefits, pensions and so forth.

I don't think that statement can be challenged here on the floor. A prominent and respected member of this body indicated to me last week that no one would really be fired. I challenge him to repeat that statement here today.

This legislature still has the responsibility to set policy. At this point in time, this is the place where we can make a policy decision. Legally, in conformity with the oath that we took, we have every right to vote on this question "yes or no." I want the record to show that. There is no legal sanction to your voting either way on this contract.

In answer to a note that I did receive, I will just state that I will be voting no.

The SPEAKER: The Chair recognizes the gentleman from York, Mr. Rolde.

Mr. ROLDE: Mr. Speaker, Ladies and Gentlemen of the House: I spoke extensively on this bill the other day and I just have a few points that I would like to make and a couple of questions that I would like to pose to the gentleman from Cumberland.

First, it is my understanding that when the state workers voted whether to have bargaining agents, they had four choices before them. They could vote for the MSEA, the ASCME, AFL-CIO union and they could vote for Teamsters or they could vote for no bargaining agent. It is my understanding that only about 100 voted to have no bargaining agent. Also, this contract was ratified by the state employees, and my understanding is that there were 86 votes against it and the remainder of the 9,000 state employees voted for it.

My questions to the gentleman from Cumberland, Mr. Garsoe, would be, if the clause that he has characterized as 80 per cent or be fired, the heinous clause that offends him so much, is removed, would and should this contract go back to the workers again for ratification? If it does go back to the workers and if they turn it down without the clause, as many of them, both union members and non-union members have told me they would, what then?

The SPEAKER: The gentleman from York, Mr. Rolde, has posed a question through the Chair to the gentleman from Cumberland, Mr. Garsoe, who may respond if he so desires.

The Chair recognizes that gentleman.

Mr. GARSOE: Mr. Speaker, Ladies and Gentlemen of the House: In response to that question, I would say that I am voting my conscience here today. I hope that everyone else is, and I would not concede that a vote of the union membership would change that in any way.

I would observe that those in the bargaining units, Representative Rolde, who are not union members, you are speaking of how few voted no union at all — some 2,000 people in these units were never given the opportunity to ballot on this bargaining agreement in the first place.

Since you bring up the ratification process, I

would point out that those the union sends to the table have to, clothed with the authority to negotiate, agree and to compromise and to offer proposals and counter-proposals. Those who are making of this an extended delay in the event that a move was afoot to remove this clause from the contract are overlooking that fact that that agreement could be reached between the Governor and the people he has been working with. I would expect subsequent to that time, if that agreement were reached, if the clause were agreed to be removed by the Governor and the union negotiators, they would then be required to put it out for ratification to their membership subsequent to having reached tentative agreement at the table. I think that would give a good barometer as to whether or not the rank and file members place the importance in the clause that the union people do.

I think you brought up the subject of non-union vote, and I guess I will certainly accept your figures, I am not aware of them, but I had understood that there was a very low non union vote. It only serves to illustrate the fact that this is somewhat of an intramural union dispute, because the people who are going to be faced with the choice of joining MSEA or paying 80 per cent are principally ASCME members. These are people who have voluntarily chosen to join ASCME in certain units that are now under the control of the MSEA bargaining team. MSEA won the election, but in that grab bag of people, they collected a lot of ASCME union members and these are the ones who are now being told, you will disassociate yourselves from ASCME, join MSEA or pay 80 per cent of MSEA dues, plus your ASCME dues.

If I could just cite one illustration, we have an individual in ASCME who has taken on their wage insurance clause. He has buttressed his own income by a plan that ASCME put together. He has had a heart attack, he is quite sure that he won't pass the physical that would be required were he to drop his ASCME membership and that benefit and try for MSEA. This puts him in rather a precarious position, according to what he told me, of really having to maintain two union memberships for 100 per cent of one and 80 per cent of the other. So, the simplest answer that I can give to your question is that I am voting my conscience on the fact that the 80 per cent clause or be fired is very offensive to me.

Since I am on my feet, I would like to have the gentleman from York tell me why it is not offensive to him that state employees will live up to this extortion or be fired. He must feel very comfortable with it. I would like to have him tell us why this is so good for state employees.

The SPEAKER: The Chair recognizes the gentleman from York, Mr. Rolde.

Mr. ROLDE: Mr. Speaker, Ladies and Gentlemen of the House: In response to the gentleman from Cumberland, I would direct him to my remarks the other day where I did mention my discomfort with this clause and I did mention that if I felt that it was legal and legitimate would like to change the contract, but I don't feel that I can.

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

Mrs. BACHRACH: Mr. Speaker, Men and Women of the House: I think I would like to answer the question if I might. I think the reason is because the union is required to represent all of the state employees whether they are members or not. They have no choice, and I am sure that Mr. Garsoe knows this. They must represent all of the employees whether they are members of the union or not, they must represent them both on the matters of bargaining and also if there are grievances or appeals of any sort. They are required to do this and therefore I feel they are earning a fair share of the dues that the members pay.

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

Mr. WYMAN: Mr. Speaker and Members of the House: I have not spoken on this issue in the weeks that it has been before us, and I doubt very much that anything I am going to say this morning is going to shed any great light on the issue or alter any particular point of view. That is what I have been told, and I think probably people on both sides are presuming that, although I would like to believe that the people on the other side of the issue are still objective enough and open minded enough, enough of them anyway, so that we could see change in the vote this morning. This is something that has weighed very heavily on all of us and I am sure that we have all seen a ripple effect in our individual legislative committees, and that has been anymore evident than it has on the Labor Committee. I am sure that people who are members of the labor committee will agree that the fallout from this particular issue, if that is the correct word, has certainly had an impact on the committee. It has made it very difficult for us to deal with some of the very controversial issues that we have had to deal with this year.

It seems to me, ladies and gentlemen, that we are faced with two issues. They parallel each other, they are issues that have been debated here this morning and preceding debate interchangeably, but I think they ought to be separated this morning. It seems to me that the one issue is concerning the fair share provision, the provision that had been described as odious, offensive, immoral and perhaps assorted other adjectives.

I want to say for the record it is my very strong feeling that those of you who have been opposing this contract on principle, I want to say to you that I respect your viewpoint. I think it does not serve the legislative process nor the profession of politics generally, and of government, to impugn the motives or the integrity of people who feel so strongly, obviously, as you do on this issue. So, I want to commend you this morning. As the House Chairman of the Labor Committee, I want to commend you for your courage and for your perseverance. I will take whatever heat I have to take from those on the other side or my side of the issue, for saying that, but I think it deserves to be stated. I would hope that you also would share that kind of respect for those of us who have been supporting the contract.

It seems to me that the real issue before us is not the issue of the fair share clause, although those of you who have been voting against the contract obviously feel that it is a legitimate issue. Let me share with you my reasons why I feel it is not properly before us. I think it has already been stated but I think it needs to be reiterated.

In 1974, when we passed a collective bargaining law in the state, the legislature had a feeling at that time, I believe, that it would be much more efficient, that it would be much more proper for the Executive Department of State Government to negotiate directly with state employees so that the legislature would be removed from the collective bargaining process.

Now, the gentleman from Farmington, Mr. Morton, whom I greatly respect, has said that he believes that in opposing this particular contract for reasons that relate to a non-monied item, that we are not violating any letter of the law because the legislature is, and I believe that I am inferring correctly from his statement, above the law in the sense that we are lawmakers and not lawbreakers, so whatever question we vote on, we cannot possibly be violating the law. Well, I am not sure that I agree with that. I will certainly say to the good gentleman from Farmington and to the others here, that I certainly believe that while perhaps it is not clear that we have been violating the letter of the law, ladies and gentlemen of

this House, we have certainly been violating the spirit and the intent of the law. I believe the intent is very clear that we as a legislative body have the authority to give final ratification to any contract that is negotiated between the executive branch and the state employees and representatives of state employees and that we have the authority to pass a final judgment on the amount of money that has been suggested or recommended in the settlement that is before us, but that it is not within our proper purview to be questioning other items in the contract. Now, that is my firm conviction, and certainly agreeable and thoughtful people will disagree with that and I respect your disagreement. I am simply sharing with you my perspective on this issue.

We have had several bills before the committee on Labor which deal with the issue that so many of you have taken very strong and vehement objection to, and I happen to believe that issue needs to be addressed, it ought to be addressed and must be addressed by the legislature. I am not opposed to that.

We have at least two bills that are now in committee which deal with this issue and previous speakers have alluded to the fact that we have had this issue before us in numerous forms before and neither side has been successful. It seems to me, ladies and gentlemen, that we ought to separate our vote on a pay raise for state employees from our very legitimate and very sincere, very deeply felt conviction on that particular aspect of the contract. We ought to deal with that separately. I think we would be functioning as a legislative body much more within the spirit and the intent of the law if we handled it that way. So, I would hope that you would vote in support of the contract. I would appeal to some of you, who have been holding out, to change your mind.

I would like to read to you from an editorial which I think stated it best, an editorial which appeared in the Lewiston Evening Journal on Tuesday, May 1. The editorial states in part: "While there will be some who stubbornly refuse to accept the verdict, we urge House members who have been holding up the contracts to give way. While they may disapprove, and obviously do, of the pay-in clause, the logical answer will not be found in continuing to hold up implementation of the document. All this will do is create a disruptive situation within state government. Employees of the state have waited too long already for their pay raises and their morale has dropped to a low point as a result of lengthy legislative stalling in approving the contract."

Now, those of you who disagree with our position — I want you to take careful note of this section of the editorial. It says, "We have expressed our disapproval of the mandatory service fee clause, but the court has given a decisive appraisal of the matter, and common sense dictates acceptance of this." Then the editorial goes on and says that the proper role for the legislature is to deal with this very important and controversial issue as a separate matter.

The state employees, haven't wandered in the wilderness for 40 years, as the people of Israel did, but they certainly have wandered in the wilderness over the past four years. They have been disappointed so many times, I don't think they deserve to be disappointed any longer, so I hope that you will reconsider your position. I will only say, in urging you to do so, that we all ought to set aside emotion just for a moment and heed the call of Isaiah 'to come now and let us reason together.'

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

Mr. LEONARD: Mr. Speaker, Ladies and Gentlemen of the House: If somebody could have written a speech that would be the prelude to mine, then I thank Mr. Wyman.

I would like to go back in history and let's go back to when we allowed collective bargaining,

the state employees their right to collective bargain in 1974. If you go back to then, you find in the record, in talking with people, that one thing that the legislature was very clear in, they would not allow any agency provisions or any negotiation of forced contributions to unions very clear.

To further say that that was clear, emphasize the point, two years ago, L. D. 391 was before us and I would just like to quote you a few of the statements made by the Labor Chairman, Mr. Bustin, now the chief negotiator for the state. He said that this bill, and he was referring to Mr. Peltier he said that this bill would require people to pay union dues, that is not true. That is not what the bill did. Not even the strongest labor advocates on our committee would sign that. He said what the committee amendment says is that the agency fee would be a negotiable subject between the unions and the management. In other words, there could be no agency fees unless both parties agreed to it in a collective bargaining contract; he said that is a very important distinction. Then he said, all this bill says is that they may negotiate whether non-members should be required to pay an agency fee or a fee for service rendered by the employee organization.

In the other body, similar statements. Mr. Tierney said, "Agency fee shall be equivalent to the cost of negotiating" further support. What I am saying, ladies and gentlemen, is that these gentlemen had no idea that it was an allowable item in negotiations. They were honoring at that point their commitment to the people who would have strong objections to any clause such as the one we are debating today, strong objections, but they said the time is right.

I might just come back and say that I served as a Democrat in the 107th legislature and I saw the light and I changed my party because I didn't like the type of actions that were going on and that is similar to what is happening today.

They said the state employees need a raise, and if we put this in the contract, we can get it through, because the heat is going to be so strong on that minority that they won't be able to stand up and I say we are standing up. That is a ploy, a political ploy, to try to either make us look good, I say it is making the other party look bad. Excuse me, to make us look bad, we look good.

The state employees are not going to be fooled by this and I hope it opens their eyes. It was clear that the legislature never intended, and we speak for the State of Maine, never intended "fair share" or anything you want to call it, and I have heard it called several things and I could give it a name, never intended that to be a negotiable item, and now it is a breach of faith because that faith was struck at the bargaining table back along when we passed collective bargaining. You talk about us and a breach of faith entering into the law and obstructing, we are not obstructing. The people that obstructed were the people that put this in the contract in the first place and knew perfectly well when it got here that it wouldn't pass. That is obstructionism and I am sick and tired of it.

I suggest that they take this thing back, get rid of the clause, do whatever they have to do to get rid of it, bring it back and I will vote for it.

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

Mr. BIRT: Mr. Speaker, Ladies and Gentlemen of the House: Just a few words this morning. I think I would probably commend the comments that the gentleman from Pittsfield, Mr. Wyman, made on explaining exactly the way I understand the problem.

I was here when the collective bargaining bill was passed. I was in the floor leadership at that time and know some of the discussions that

went on. Mainly, I would discuss some of the discussions that I have had with the person who was the sponsor of that bill and also he was Chairman of the Labor Committee at that time in the Senate. He has told me that the agency shop bill was a part of the collective bargaining process and it was taken out by an amendment in the Senate. It was clearly explained at that time that this was a negotiable item that could be conducted as a part of the collective bargaining process. I believe that is the issue I see more than anything else this morning, that, in my mind, it is a negotiable item. It was on the bargaining table as was the first item that came up 18 months ago and has been before the people who were involved in negotiations during that entire period of time.

When the report came out, and the report came out of the fact-finding committee, which had people from both sides of the issue, came out, it was on Page 1 of the fact-finding report and is the number one item on the summary of the fact-finding recommendations—I think it is a perfectly legitimate item to be negotiated.

Many people have told me and some of them have been very kind to me and they are saying that they recognize the fact that I come from a highly industrialized area and it is a highly organized area, that this probably affects my thinking. Maybe it gives me a better insight as to what the whole problem is because I was, for 45 years, a member of collective bargaining. I was a member of collective bargaining long before the Wagner Labor Law, sometime not long before I would have to be awfully old, but quite some time before the Wagner Labor Law was passed, it was passed as part of our wage contract during all of that time. The first item, I believe, in our wage contract that went into effect in 1910 it was a condition of employment that you belong to one of the signatory unions and we had the same provision, that within 30 days if we did not do this, we were notified and time billed.

I was a little surprised this morning at one statement that was made — the information to it mainly. That was the fact that the major objectors or the 20 percent who really do not belong to MSEA, belong to another union and they decided they preferred to stay in that union. I guess I can't understand that process. When the Wagner Labor Law was passed and we went through, in the public sector, the process of bargaining or deciding who we wanted to represent us, we went through the entire process of voting and we voted which particular organization or union we wanted to represent us. I can't understand how 20 percent of the membership can say, we are not satisfied with the MSEA so we are going to withhold our dues, we are glad to get our benefits but we want to belong to another union. That is highly alien to my ability to even comprehend. Apparently, from the information that comes out, there is probably less than one tenth of one percent of the state employees who do not belong to any form of bargaining unit, so it is indicative there that these people are in favor of some form of collective bargaining.

I really believe that the issue this morning is exactly as was explained by the gentleman from Pittsfield, Mr. Wyman, and was also very well explained by the gentlelady from Vassalboro, Mrs. Mitchell, that the only issue we have before us that we legitimately can discuss is the amount of money. There has been at times indications that we can take parts of the collective bargaining process onto the floor and bargain here. That is not my understanding of the law, not my understanding of what we can do. I think we only have the right to discuss the money. If the money is too much and somebody puts in an amendment to knock \$5 million from that, then that would be a legitimate item before this body, but I cannot agree that we have any right to make a decision on the fair share.

The SPEAKER: The Chair recognizes the

gentleman from Bangor, Mr. Kelleher.

Mr. KELLEHER: Mr. Speaker, Ladies and Gentlemen of the House: I think Representative Birt has put it as well as anybody this morning in stating that we in this House have absolutely no right to interfere with the process that was passed four years ago which created collective bargaining in the state for state employees.

I must admit this morning that I am enlightened to listen to the reasons of the good gentleman from Woolwich, Mr. Leonard, when he stated that he left our party to join the opposition and, quite frankly, I don't know how to measure the loss nor am I able to measure the gain for the opposition.

The state employees of this State, as has been stated before on the floor of this House, deserve and need a raise. For over four years, the state has negotiated to some degree, I think in poor faith, in trying to reach that common agreement. Each and every one of us were candidates for public office, more than once, I am sure, in corresponding with our constituents and those who were soliciting for support said, yes, we are going to try to come to a common agreement for state employees in this state.

The Governor, whether you like him or not, the bargaining team, whether you like them or not, negotiated in good faith, they did exactly what the law told them to do, exactly what this previous legislature instructed them to do. But we have people in this House, this morning who are refusing to understand what the law is and what collective bargaining means, and I am referring to my two noble friends over in the other corner, the minority party leaders. They are the obstructionists, they are the ones who are refusing to agree and understand what the law means. That is why we have been here for an hour and a half — probably we will be here again tomorrow — because they refuse to respect the intent of what the law is. It was negotiated in good faith, it is here for our ratification and I do hope the House will support it this morning.

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

Mr. COX: Mr. Speaker, Ladies and Gentlemen of the House: I can't criticize the minority for their position today. They stand in a position where I, myself, stood several years ago on the Hay Plan. I was one of the minority that delayed the acceptance of the odious Hay Plan for some time, but I do feel there was a difference in that day from now. We were withholding our consent of the basis of items that were clearly contained in the L.D. which were in question. Today, the objections are based not on what is clearly stated in the L.D. in question, but on the ramification of something else that is in the agreement.

I think I would like to make it plain and I hope the media makes it plain and the state employees and those outside of this House clearly understand that if this bill fails today, it will not be the will of the legislature of Maine. It will be the result of a legislative process which allows a minority of its members to thwart the will of its majority.

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

Mr. BROWN: Mr. Speaker, Ladies and Gentlemen of the House: I stand before you today as one who does not represent a lot of state employees but I do represent a papermill community with a large number of hard working, dedicated union members. In addition, I own a business that constantly deals with several state agencies. Consequently, throughout the past week, I have been under a good deal of pressure to change my vote. However, it is important to note that I have also heard from a large number of the not so silent majority, the taxpayers, my constituents, whose taxes support the government of the State of Maine. These people feel very strongly that our dedicated government employees should not have

to pay a fee to a private corporation in order to retain his or her job.

The gentlelady from Lewiston, Mrs. Berube, who I respect very much, and I want to emphasize that, I don't think there is an individual in this body that I respect any more than Mrs. Berube, stated very eloquently earlier—she stated that this is not a partisan issue and I concur.

I have the highest regard and the highest respect for my party leader, Mr. Garsoe, but, ladies and gentlemen, as much as I respect Mr. Garsoe, neither he nor the Governor of the State of Maine could pressure me into voting any way other than my conscience or the consciences my constituents will permit.

Some have suggested that removal of this clause will be seen as a victory for the advocates of right-to-work legislation. I have stated before and I wish to reiterate that the two issues are very separate. Our state government is not in business to make a profit, nor does it provide the environment of a sweatshop. I expect more of our government and I am sure that you do. Removal of this clause does not represent union busting, as some would lead you to believe. The state employees have never had a contract clause that contained the words, three simple words, "or be fired". That is extremism at its worst and I oppose it.

If this contract is ratified, it will have an impact that is far more reaching than any of us realize at this time. The effect of this clause, if passed, will affect every unit of the government, from the state level to the teachers, county employees and municipal employees.

The only excuse, as the gentlelady from Vassalboro alluded to, that causes me to vote against this contract is that it is wrong. It is wrong to require our dedicated government employees to pay a fee to hold a public job. That kind of thinking is neanderthal and smacks of the days of Tammany Hall. When this contract is defeated today, I join with the Representative from Harrison who has called on the leadership on both sides of the aisle to cosponsor a new bill to be presented tomorrow without the inflammatory clause so that the state employees of Maine can see their raise in this Friday's paycheck, and I concur with the gentleman from Pittsfield who said, "Let us gather together and let us work together and work for the state employees of this great state." I think we can do that if we can get rid of this damnable clause.

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

Mrs. SEWALL: Mr. Speaker and Members of the House: This is my first time speaking on this issue, and it is because of one thing that Mr. Kelleher said. He said that we had no right to vote against this proposal.

The advisory opinion which came from the courts, and it is exactly that, an advisory opinion and has no force of law, even that mentions nothing about it being illegal to vote against this proposal. It mentions in no way that it should affect public policy.

I just want to assure people who might be uneasy about it — it is my right to vote against a bill which funds something which is philosophically intolerable to me. It is their right to vote against any appropriation bill which has something in it that is intolerable to them. This proposal today, I cannot vote for because it does contain something that is intolerable to me and to the majority of the people who sent me here. I am responsible to myself and also to the people I represent. I am doing my duty here today and no amount of phone calls in the middle of the night or threats or any other coercion is going to change my responsibility.

Mr. Speaker, I request a roll call.

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

Mr. CLOUTIER: Mr. Speaker and Members of the House: I do not wish today, or any day in

my life, to make any harsh accusations towards any member of this body. What I would like to do is tell the people here today that on January 3, I stood here and I raised my right hand and said — "I do swear that I will faithfully discharge, to the best of my ability, the duties incumbent upon me, according to the Constitution and the laws of the State, so help me God." Ladies and gentlemen, I plan to do that and I hope you do too, because where we are today is at a point that is going to affect many, many people's lives.

I want to tell you a little story that I remember as a young child. My father, who brought up 11 children, after working three jobs, a job in a fish factory, a job driving a truck and a job washing trucks, I remember this when I was very, very young—he came home and he passed out in the middle of the floor because he was so exhausted. Today, my father, just as many of you people here, holds a good job, and it is only because of the collective bargaining process.

My father put me here, and I ask you people today to turn your heads and look up here in the gallery and look those people straight in the eye and ask yourselves—am I going to deny these people the right to a good life?

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

Mr. MCKEAN: Mr. Speaker, Ladies and Gentlemen of the House: This is the first time I have spoken on a subject such as this, but I would like to say a few words as to why I vote the way I do.

Number one, I don't have too many state employees in my district; I do have a few. Consequently, I have talked to them and listened to them. I have a few that are not in a closed shop and not a member of the MSEA. They go to the same employment security commission office that my good friend, Representative MacBride goes to, and in discussions with them from a phone call that I got and returned, they have no knowledge of ever being told they were going to be fired. So, it seems strange that we have two different bits of information coming from the same office. Of course, this isn't history, this happens quite a bit.

I also have in front of me a copy of a Private and Special Law, enacted in 1975, during the 107th Legislature, and in Section 12 of this law, it states: "Obligation to negotiate: Notwithstanding any other provisions of law, the provisions of this act shall not in any way be deemed to affect or impair the obligations of the state to negotiate with state employees or their representatives with respect to wages, hours and working conditions." I believe what I say to myself—this says 'state'. I can't even begin to bring in there the word 'legislature'.

There is another thing I think of. The vote on that issue was 135 for this public law—135, 7 people against it and there were 9 people absent on that day. I think what I have to say is, these people in the legislature at that particular time, of which there are many here right now, they spoke for me. I was not in the legislature at that time, and when they spoke and brought this into public law, they caused a faith with me, and now, for whatever reason, I don't know, they want to break that faith, because when they put their vote on this bill, they were making a faith, and if our word wasn't any good during the 106th, then what good is our word during the 107th, 108th or 109th, or whatever? I have got to go by what the word was at that time, and the word was that the State will negotiate, not the legislature—it is a matter of record.

I don't want to go home to my people, whether they are state employees or not, and say, well, we voted. I voted for you. Of course, my word isn't any good, no matter what I said—I just can't see that. That is why I am voting the way I am, and I am voting for the contract. It was a matter of word and a matter of faith, and it is a written faith, and I am not going to back

down from that faith and I don't want anybody else to back down from faith such as this, because that is where we place our faith, in this body right here.

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

Mr. NORRIS: Mr. Speaker, Ladies and Gentlemen of the House: Very briefly, because I don't believe that the increments, single increments of this contract are legally before us this morning nor can they be legally before us until we change the state employees' act, I would reiterate one thing, that the Appropriations Committee apparently passed this pay plan with a unanimous "ought to pass" report.

Now, for the people here who are concerned about our function, as I interpret it, and this is certainly my opinion, is whether or not the funds are available. I would ask a question through the Chair to the Chairman of the Appropriations Committee. I would ask the good gentleman from Old Town if the funds are, in fact, available and ready to fund this plan should we pass it here this morning?

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

The Chair recognizes that gentleman.

Mr. PEARSON: Mr. Speaker, Ladies and Gentlemen of the House: In response to the gentleman from Brewer, Mr. Norris, the answer is in the affirmative. We do have the money and that to me, and apparently to the gentleman from Brewer, is the question—shall we fund it or shall we not? We have the money; I think we should fund it.

The SPEAKER: The Chair recognizes the gentleman from New Gloucester, Mr. Cunningham.

Mr. CUNNINGHAM: Mr. Speaker, Ladies and Gentlemen of the House: This issue is one that has given me an awful lot of difficulty. The reason I have had a lot of difficulty is not because I have tried to close my mind to the issues but rather because I tried to open my mind and listen to all sides of the issues, and when you do that, you get torn many, many times.

I finally did come to the conclusion that I must oppose this bill because included in the bill is a compulsion that we compel people who are currently working, who have been working in many instances for several years as good and faithful state employees, we will compel people who are currently working, who have been working in many instances for several years as good and faithful state employees, we will compel them to pay a fair share or they must suffer the consequences of being fired.

I stand here as a representative from a district which has many state employees, and I want them to get their raise, I want them to get their raise as quickly as possible, and I am partially responsible for the delay, I am 50 percent responsible for the delay, and the Executive Branch, in concert with the union, is also 50 percent responsible for the delay in their receiving their raises. The Executive and the union are responsible because of their insistence on having the fair share, and I am 50 percent responsible because of my insistence that we should not include this compulsion.

I stand here as a union member in the private sector. This might surprise a few people to know that I work and I am a member of a union, and I have discussed this kind of an issue with fellow workers in the weeks that we have been debating this issue. I have asked them—I happen to be in a closed shop where I had the choice when I went to apply for the job of accepting the union or not accepting the union. I had a choice; I was not compelled to accept it, as we are compelling current state employees. I had the choice and I accepted the joining of the union, and these people that I talked to, fellow union members and fellow workers in

the private sector, I have asked them over and over again—should we compel people to pay after they have been hired under one set of working conditions? They keep coming down and saying no. To force this compulsion upon them after they were hired under one set of conditions is wrong.

I have talked to many state employees in my district and I asked them—would you vote to fire some of your fellow workers who are working beside you, some of them probably for three or four years, some of them for five or eight or thirteen years, and they keep saying to me, I want my raise but I would not vote to fire my fellow workers. Therefore, I as their representative, will vote no on the issue of firing their fellow workers.

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

Mrs. HUBER: Mr. Speaker and Members of the House: Mr. Wyman, in his earlier remarks, asked that those voting against the recede and concur motion reconsider their vote. Well, Mr. Wyman, I have been voting for the contract, as have you, but now I find that I must reconsider. I want to make it very clear that I have never been in favor of the agency shop or fee, just as I have never been in favor of any kind of economic sanction being used to prohibit the forming of a union or the joining of a union by an individual.

I voted against the first version of the contract back on April 5, I guess it was because of the language, which, in effect, stated that the agency fee in the contract took precedence over any other provision of law or, for that matter, anything deliberately left out of the law during the passage of the collective bargaining act. I believe then, and still do, making a policy belongs to the legislature and that the interpreting of this policy belongs to the courts.

There is, however, nothing in the statute, that I am aware of that says the legislature cannot make a policy on a given issue anytime it sees the need for such action.

I felt it was reasonable, however, to accept the proposal but the question of agency fee should be settled by the courts by the bringing of suit during which time the agency provision would not be in effect after ratification of the contract by the legislature. This seemed fair and a proper route to try to break the stalemate.

As we all know, the opinion of the Justices has rendered that question essentially moot. Today, I shall vote to maintain the freedom of choice of a non-union state employee. I feel that we no longer have the option of asking the court to decide this question once the contract is ratified, and the basic issue does still remain—should an employee have to pay a portion of the union dues or be fired? That is coercion and I can not vote today for L.D. 1573, which now only provides for meaningless compromise, not a resolution of what is a basic issue of state policy.

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

Mrs. KANY: Mr. Speaker and Members of the House: This is the first time that I have been up on this issue, but I did want to point out that many major policy changes have been submitted to the State Government Committee in the last several years. We have rejected time after time after time many suggestions just because we believed as a committee that those measures or those policy proposals were justifiably within the realm of collective bargaining.

We have amended bills time after time, whether it was a suggestion on sick leave, education leave, whatever. I just wanted to add that after some of the comments that have been stated.

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 Owl's Head, Mrs. Post.

Mrs. POST: Mr. Speaker, Men and Women of the House: I apologize for standing to speak after the bell has rung, but I wanted to respond to a couple of points that have been made and wanted at least as many members in their seats to hear the response as those that heard the original points.

I would like to respond to Representative Leonard's concerns or his statements that in looking at the collective bargaining legislation, it was very clear that it was not intended that the fair share issue be one that could be addressed through the collective bargaining procedure. The opinion of the Attorney General that was handed down a few weeks ago made just the opposite point and it did so partially on the basis of a statement that was made by, I believe it was Senator Katz, at the time that the collective bargaining issue was discussed. Mr. Katz presented an amendment that took out a section concerning the issue of fair share.

I quote, "Mr. President, this amendment takes out the provision for collection of dues on a mandatory basis from those not members of the bargaining unit. I suggest there are two roles that the proponents can follow to get a dues check off, one through legislative document on this procedure. On the other hand, I am talking about the collective bargaining agreement — for those who are involved in the collective bargaining to attempt to gain by collective bargaining that which they seek from the legislature," and he was specifically talking about the issue of union dues. The Attorney General went on — while the sponsor did not address specifically the question of service fee, which is even less than total union dues, it appears from his remarks that his concern was to ensure there was no statutory requirement of a dues check off for non-members — that is no requirement. It also appears, however, that he believed that if his amendment was adopted, non-member dues check-offs would be subject of bargaining to be negotiated between the parties.

The Attorney General also addressed the question of later legislation, which has also already been discussed earlier today. That bill read, "negotiation of union security except in closed shop." That was a subsequent legislature to the collective bargaining. In fact, it was one when I was here, and the Attorney General, in taking a look at that particular bill and saying because that bill was defeated whether that was legislative intent that agency fee could not be included in a collective bargaining procedure, found that was not legislative intent. He said, "In light of these principles, the apparent view of the 108th Legislature that authorization of the negotiation of service fee provisions was necessary is an insufficient basis for conclusion that the 106th Legislature, in enacting the FLERA, intended that negotiation of such provisions be prohibited, particularly in the view of the indication that the 106th Legislature, which enacted the collective bargaining procedure in the first place, thought that such provisions were negotiable under the FLERA as enacted."

So, the opinion of the Attorney General's Office has been very clear that the intent, when the collective bargaining agreement was enacted, the intent was, by looking at the legislative debate and the bill itself, the intent was the agency fees not be prohibited and they be subject to the collective bargaining procedure.

Representative Huber has stated that she is voting against this bill because now individuals cannot bring suit to the court on this particular issue of agency fees. I think that is incorrect,

because a Supreme Court opinion is an opinion based on the very narrow specific questions that they were asked and the issues that were raised to them. They always look at issues very narrowly. There is nothing to prohibit any individual from presently bringing suit either on those very same issues that were raised in the opinion or at the same time raising other issues. We have not prohibited any state employees from going to court if that is their wish.

While the debate was going on, I have asked some people to take a look at the contract that is presently before us to see what kinds of items are in that contract which had been discussed by this legislature and turned down by this legislature. The agency fee issue is not the only one that was...

The SPEAKER: Would the gentleman from Owl's Head please defer for a moment.

Would those people that are in the back of the glass please cease to talk or leave the room. They have those two choices available to them.

The gentleman from Owl's Head may continue.

Mrs. POST: Mr. Speaker: There were at least, in looking over them quickly, four issues that we found that had been discussed by previous legislatures and that the legislatures had, in fact, rejected. However, because there was no prohibition on including those issues in the collective bargaining procedures, they're up for negotiation and have been included in these very contracts. One of them was an increase in the mileage allowance, which is in the present contract now, another was nonstandard work week premiums, another one was guarantees for call-out pay, and a last one was acting allowance provision, which is a pay for temporary transfers. Those issues had been discussed by the legislature in previous years, they had been turned down by the legislature in the previous years, they are in exactly the same kind of situation as is the fair share.

Now, if we are going to talk about fair share do we want to start talking about all these issues also? I may have more concerns about any one of these issues, but they are not before us now, that is not the collective bargaining procedure. These issues are no different than the fair share and we should not be dealing with those issues. We should be dealing with whether or not we are willing to give the state employees their fairly negotiated contract which was negotiated in good faith.

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

ROLL CALL

YEA—Bachrach, Baker, Barry, Beaulieu, Benoit, Berube, Birt, Blodgett, Boudreau, Brannigan, Brennerman, Brodeur, Brown, A.; Brown, K. C.; Call, Carrier, Carroll, Carter, D.; Chonko, Churchill, Cloutier, Connolly, Cox, Davies, Diamond, Doukas, Dow, Dutremble, D.; Dutremble, L.; Elias, Fowlie, Gillis, Gowen, Gray, Gwadosky, Hall, Hickey, Hobins, Howe, Hughes, Jacques, E.; Jacques, P.; Jalbert, Joyce, Kane, Kany, Kelleher, Laffin, LaPlante, Lizotte, Locke, Lowe, Lund, MacEachern, Mahany, Marshall, Martin, A.; Masterman, Matthews, Maxwell, McHenry, McKean, McSweeney, Michael, Mitchell, Nadeau, Nelson, M.; Nelson, N., Norris, Paradis, Paul, Pearson, Post, Prescott, Reeves, P., Rolde, Simon, Soulas, Strout, Theriault, Tozier, Tuttle, Vincent, Violette, Vose, Wood, Wyman.

NAY—Aloupis, Austin, Berry, Bordeaux, Bowden, Brown, D.; Brown, K. L.; Bunker, Carter, F.; Conary, Cunningham, Curtis, Damren, Davis, Dellert, Dexter, Drinkwater, Dudley, Fenlason, Fillmore, Garsoe, Gavett, Gould, Hanson, Higgins, Huber, Hunter, Hutchings, Immonen, Jackson, Kiesman, Lancaster, Leighton, Leonard, Lewis, Lougee, MacBride, Masterton, McMahon, McPherson, Morton, Nelson, A.; Payne, Peltier, Peterson, Reeves,

J.; Rollins, Roope, Sewall, Sherburne, Silsby, Small, Smith, Sprowl, Stetson, Stover, Studley, Tarbell, Tierney, Torrey, Twitchell, Wentworth, Whittemore.

ABSENT—None.

Yes, 88; No, 63; Absent, 0.

The SPEAKER: Eighty-eight having voted in the affirmative and sixty-three in the negative, with none being absent, and eighty-eight being less than two-thirds, the motion does not prevail.

Mr. Tierney of Lisbon Falls moved that the House reconsider its action whereby it failed to recede and concur.

On motion of the same gentleman, tabled unassigned pending his motion to reconsider.

(Off Record Remarks)

Mr. Doukas of Portland was granted unanimous consent to address the House.

Mr. DOUKAS: Mr. Speaker, I want to clarify something. Yesterday, I was paired as a no vote on L. D. 820, An Act to Extend the National School Breakfast Program Availability to Maine School Children. I wanted to be paired the opposite way. I would have voted for the indefinite postponement and I would like the record to have that included.

Mrs. Mitchell of Vassalboro was granted unanimous consent to address the House.

Mrs. MITCHELL: Mr. Speaker, I would like to extend my apologies to Mr. Doukas. The error was mine, not his.

On motion of Mr. Tierney of Lisbon Falls, Recessed until four-thirty in the afternoon.

After Recess

4:30 P.M.

The House was called to order by the Speaker.

(Off Record Remarks)

On motion of Mr. Laffin of Westbrook, Recessed until the sound of the gong.

After Recess

5:30 P.M.

The House was called to order by the Speaker.

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

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" (H. P. 1361) (Presented by Mr. Pearson of Old Town) (Cosponsor: Mr. Morton of Farmington)

Committee on Appropriations and Financial Affairs was suggested.

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

Mr. GARSOE: Mr. Speaker, Ladies and Gentlemen of the House: I move the indefinite postponement of this bill and all its accompanying papers.

The SPEAKER: The gentleman from Cumberland, Mr. Garsoe, moves that this bill and all its accompanying papers be indefinitely postponed.

The gentleman may proceed.

Mr. GARSOE: Mr. Speaker, Ladies and Gentlemen of the House: I think it is appropriate that our Minister isn't here today at this point in the proceedings to be looking in on what is transpiring, because I don't think it would stand his gaze or his consideration very long.

I have been accused of calling the Governor a madman—that is not accurate. Yesterday, in a caucus, I said that when we heard this might be

contemplated, this would be the act of a madman, secure in the knowledge that no responsible state official in his capacity would ever consider such a step; yet, here it is before us.

But now I have been filled in on the complete strategy, which is, in my opinion, verging on political chicanery. I understand this to be a tag-along bill following this piece of legislation to completely circumvent the will of this body, to bastardize the process that we engage in here everyday. I use these terms to give you an indication of the depth of my wound, the offense that I take as I see this procedure unfolding, so I would like to have this occasion go down as priority day. I think we should give solemn recognition to it once every year, as to where the priorities of those who have engineered this—I am not going to call it a compromise because to me compromise is an honorable term—but this device—priority day should be how we recognize the act that we are being required to participate in here today. I am going to participate, and I hope a majority of us here will participate by voting no, and when the vote is taken, Mr. Speaker, I request the yeas and nays.

The SPEAKER: The Chair would like to thank the gentleman from Cumberland, Mr. Garsoe, for suggesting that everyone vote no on this pending motion.

The pending motion is the motion to indefinitely postpone.

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

Mr. TARBELL: Mr. Speaker, Ladies and Gentlemen of the House: I think before we have a vote, I was expecting my colleague in the other corner to rise and address the House and briefly explain what is in the bill. I don't know about you, but I don't really have the bill before me. There have been a couple of copies distributed. At this point in time, it is called House Paper 1361.

Basically what the measure is, it is the first bill that ever came before this House many, many, many weeks ago. That was the bill that was defeated and the bill is dead. This is a third bill now. The second bill is still sitting on our house table unassigned after we have had four votes and it has yet to pass. It is sitting on the table unassigned and this is bill No. 3.

Bill No. 3 is basically identical to Bill No. 1, except it has some of the language about protecting the rights of state employees that was in Bill No. 2. It does not have in it, however, any reference to a declaratory judgment in a court case pending in the Superior Court of Kennebec County for \$10,000 for a state employee or a group of employees for a defense fund to protect themselves in court from the '80 percent or be fired' clause. That is out of the bill. So, basically we are back to day one, Bill No. 1, with some minor alterations in a brand new bill. I do thank the gentleman from Lewiston, Mr. Jalbert, for having a page bring a copy of it to us.

That is the bill that is before us. I think those of us who would support this would really be showing our true colors, and the true colors would be this—that we place that '80 percent or be fired' clause far above the interest and priority of getting that \$50 million pay raise appropriation through this legislature immediately for the state employees. The \$150,000, roughly, that would accrue and go to the MSEA from the '80 percent or be fired' clause apparently is far more important to many than taking that out, setting that issue, as hot as it has been for the last five years, setting it aside for the time being and putting the more important issue, which is the \$50 million pay raise, ahead of that and letting us fund it. If we were to go ahead and go forward with this measure, it only takes, as I understand it, a majority vote, we would be saying in essence that we place that \$150,000 to the union for union security far, far above the \$50 million to the state em-

ployees. I just don't think that is an appropriate measure and I urge you to vote yes on the motion to indefinitely postpone.

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

Mr. TIERNEY: Mr. Speaker, Men and Women of the House: I thank my good friend from Bangor, Mr. Tarbell, once again for having described what is in the bill, and it is, indeed, very, very similar to the Bill No. 1 that he referred to, which was defeated in the other body, but which received 101 votes in this body.

What this bill lacks that that bill had is an emergency preamble so that this bill can become law with a majority vote. Now, let's not lose sight of it. A majority vote is not a charade or distortion, an act of a madman, political chicanery, a tag-along, circumvention, a bastardization of the political process, a majority vote is what we all live by everyday, and there is nothing wrong with it. It is not a political gain, it is the rules under which we operate, it is a majority rule and place that has been negotiated into law because, ladies and gentlemen, the real issue, as we have said time and time again, is not the issue of fair share but the integrity of the very collective bargaining process itself.

The gentleman from Cumberland, Mr. Garsoe, may not like our current Chief Executive, he may rather have had someone else in that office, he may rather have had someone else fall under the definition of public employer, which is found in Title 26, but he lost that one last November, and now what he is trying to do is, despite that loss and despite the fact that he lost the whole issue when the collective bargaining issue was enacted five years ago, he is still fighting that fight because he just believes in it so deeply, he is just so against union security, private sector, public sector, it doesn't make any difference, he is willing to hold up the whole legislative process and bring collective bargaining right down the tube because he feels so strongly about it.

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

Mr. STETSON: Mr. Speaker, Ladies and Gentlemen of the House: The only integrity at stake here is the integrity of the legislative process and personal integrity.

I urge you to vote yes on the motion to indefinitely postpone.

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

Mr. LAFFIN: Mr. Speaker, Ladies and Gentlemen of the House: I, too, am not really, completely satisfied with what we have before us today. I, too, am not in favor of the present Governor we have, if I had my choice, but we have to live with him and we will live with him. I can think of someone else that I would rather see governor of this state, but I don't think that is the issue, Mr. Tierney and Mr. Garsoe. I think the issue is, are we going to pass a pay raise or are we not going to pass a pay raise? I think sometimes we get wrapped up, and I, truthfully, do not like the way things have been going. It seems the more we get up here and talk about the pay raise, the further away we get.

I am going to support this plan today, I am going to support this plan because I think that is the only plan we have got. If we had another choice, I might go that route, but we don't have the choice, we have the plan that is before us, and I think we all know what that plan is. I am sure that each and every one of us wants the employees of this state to receive the pay that they are entitled to. Sometimes we may not like the way we do things up here, and I, for one, will certainly agree with that, but today is what we are talking about. I can't go home knowing that we did not support—and as I say, it may not be perfect, it may not be just what each and every one of us wants, but I can't go home tonight thinking that I disappointed the people of this state by not giving them a pay

raise.

I won't agree with a lot that is in it. Personally, I have a lot of reservations about it, but I would have a lot more reservations if I went home tonight and didn't say that I did the best I could for the people of this state. This emotional issue is getting out of hand, and pretty soon we are going to be clawing at each other. Pretty soon we are going to lose the respect and the dignity that lies within these walls, and I will probably be the first one to admit that I am getting near the end.

I am very disappointed today that we can't support this, and I have the greatest respect for Mr. Garsoe; in fact, I have the greatest admiration for him for sticking to what he believes in. I know there are members of the Republican party that literally hate the ground I walk on—you want the same respect, but you don't want me to have my respect. It is all right if I agree with you. You remind me of the creepy crawlers of this state—it is all right for them to have their respect, but don't let me get up and speak against them. Well, that is what you are doing here today. You don't want anyone else to have their viewpoints, you want them to agree with you, and I have had many of you that I hold in the greatest respect in this House ask me to change my mind at the final hour. Well, I can't do that today, my friends. I can't do that because this is the best we have got. It may not be perfect.

You know, it reminds me of a little something. A guy went out with a girl one night and another guy said to him, what are you going out with her for? He said, she is all I've got.

I urge the members of this House to support this. I can find a lot of fault with it, as each and every one of you can, but I know in my heart, and you know, that we have to get a pay raise out to the people of this state and we have got to stop fooling around up here and get down to business and pass this thing. I am very concerned, truthfully, that a lot of people aren't going to vote for this today who voted for it this morning. But we have got to set that aside and we have got to be true to ourselves and we have got to be honest with ourselves. We have got to hold respect for each and every one of us on this emotional issue. We have got to have respect for those who disagree with us. I don't expect you to agree with me all the time. Sometimes I only get 9 votes up there, but I have at least never been questioned on my integrity, because I have been sincere.

I hope that today we are sincere. I hope we hold to the fact that we have got to get out of here and support this bill. I urge every member of this House to support this bill, and anytime you want to crucify the Governor on some other issue, I will be glad to do it, but not today.

The SPEAKER: The Chair recognizes the gentleman from Wells, Mrs. Wentworth.

Mrs. WENTWORTH: Mr. Speaker, Ladies and Gentlemen of the House: I agree with Tuffy, Representative Laffin, we have to vote what we believe in. I object to one thing in this bill. If this bill is passed, no one gets a pay raise until the middle of September or the first of October.

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

Ms. LUND: Mr. Speaker, Ladies and Gentlemen of the House: It is difficult to disagree with Tuffy, particularly because I like to be respected by him.

I have been as much disturbed as anybody in this House by the discussions and by the pulling and hauling of this contract process. At this point, I am really, really discouraged, and I am discouraged because the Democrats are putting forth a compromise which I think is absolutely wrong.

You have been saying, if you want the state workers to get their raise, and I say to you at this point, if you were to ask the Republicans whether the raise should go through, there would be 100 percent of the Republicans who

would vote for the raise with the emergency clause on it. Your compromise has been to take the emergency off, and that I cannot vote for. I will support the raise for the public employees, I will vote to indefinitely postpone this bill and ask for it to be brought back with the 80 percent clause taken out.

The SPEAKER: The Chair would ask the Sergeant-at-Arms to escort the gentlewoman from Lewiston, Mrs. Berube, to the rostrum for the purpose of acting as Speaker pro tem.

Thereupon, Mrs. Berube assumed the Chair as Speaker pro tem and Speaker Martin occupied his seat on the floor.

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

Mr. MARTIN: Madam Speaker, Ladies and Gentlemen of the House: I chose this particular location for a number of reasons — I wanted to be as close as I could to the gentleman from Cumberland, Mr. Garsoe, since it was obvious that I would not get too close to him on this issue.

I would like to begin my remarks in part by commenting on the labor record of the gentleman from Cumberland, Mr. Garsoe. He and I have been here a number of years now. I began before him, but he came in after that. His labor record is perfect it is against labor. It is simple, and I understand it, we are on different sides of the issue. I appreciate his position and I understand it. I have no problems with that whatsoever.

He voted against collective bargaining for state employees when I voted for it, because he believed that he wanted to negotiate with state employees directly: I chose not to do that.

The gentleman from Cumberland has indicated that he intends to vote for right-to-work; I understand that. I do not support that position but I understand it.

We are caught in a situation here in part because of tremendous loyalty that the gentleman from Cumberland possesses, and I appreciate that. But I think that we must first remember collective bargaining, which is now the law of this state, and I see freshmen shaking their heads as I make these comments. One of the problems we have, and we are accused by the people of this state so often, is not remembering what we said yesterday or the day before, and in this body that is entirely possible, because one-third of us change every two years, and for the most part, when collective bargaining was enacted by this legislature, 90 per cent of the people in this body were not here. So, what we went through, what we agreed to, what we said we would do, we do not remember because most people were not here.

Most people in this body, the majority of us, were not here when we enacted the Hay Plan. Well, I remember the wounds of the Hay Plan more, perhaps, than any other person in this body. We made a commitment to the people of this state and to state employees this is the last time we deal with you directly. Collective bargaining will now take effect. The process is going to work: we will not interfere.

I couldn't agree more with the gentleman from Wiscasset, Mr. Stetson, when he says that the integrity of the legislature is being questioned, and how right he is. How right he is when we are questioning a law which we passed six years ago, that is the integrity we are questioning, of those people who served in that legislature and of those commitments we made to state employees. We are questioning their sincerity, their honesty, their integrity, only to satisfy political whims let's admit it. We understand that, I think, all of us were elected in the political process. How easy it becomes to try to choose something to hang our hats on. We all do that, it is called rationalization in psychology, finding a reason for which we vote.

Pulling and hauling, a real danger here, and it has arrived, unfortunate but it has arrived. It now appears that a portion of this legislature would now like to line item collective bargaining — line item. Oh, for some people this time, it is what they call fair share. Next time it will be maternity leave; item by item we will attempt to pull and haul and say "Go back to the table, just remove that one item and then I will feel comfortable in voting for it."

I made a commitment to members of my caucus and to members of this legislature that I would not interfere in the collective bargaining process, and I will abide by that commitment.

The gentlewoman from Augusta would suggest that if we leave one thing out, this would be a compromise, but if we leave it in, it is not a compromise between the two parties. I can only tell you that the Democratic party and the Republican party have no business whatsoever in attempting to work out a compromise. The law is clear, the Attorney General has made his position clear and it has been emphasized by the Supreme Judicial Court of this state.

The Governor has indicated that this is what was negotiated, and I cannot seem to be able to get anyone to read — not everyone — some people to read the law.

Someone said to me, would you feel the same way if the Chief Executive might change in the future, we had the gentleman from Cumberland, Mr. Garsoe, and he negotiated right-to-work in the contract? Would you then support the contract? My answer was yes, yes on the basis that if it is an agreement with the employees and the employer and the person responsible for the negotiation, I will so honor it until the law is changed that denies it either way.

Ladies and gentlemen, we have missed the point, probably because so many of us were not here when collective bargaining was passed. Your vote today should be a very simple one, and easy one, do you wish to expend the money to adopt this collective bargaining agreement or do you choose not to? That is it, that is our role as legislators, to do otherwise is to destroy the integrity of the legislative process.

I don't know whether this bill will finally be enacted and signed into law, but I know this much, that if that process terminates now and we indicate that we don't want this contract, that is all we have to choose from, we either vote for it or against it. It goes back to the table.

The gentlewoman from Wells, Mrs. Wentworth, says, I am opposed to this because they won't get their money. May I remind all of us in this body how long it took, since the collective bargaining law was enacted, to even begin negotiations, how long it took, 14 months, if I remember correctly, to get a contract, and it seems to me that we are asking for real trouble if we start to meddle in what is not proper.

I would hope that when the issue gets out there to be debated by the people of this state and they start looking at the roll calls as to how people voted, that they will do so knowing full well what those votes mean, fair share is not before us, ladies and gentlemen, and I certainly hope that you would follow the law.

I know that some people will say, as perhaps the gentlewoman from Bangor, Miss Aloupis, that "this is not the basis under which I must express my frustrations on the Chief Executive." But I repeat, remember collective bargaining, those of you who were here, remember the Hay Plan, read the opinion of the Attorney General of this state and read the Supreme Judicial Court decision, and if you still choose to vote the other way, I will try to understand and not hold it against you.

At this point, Speaker Martin returned to the rostrum.

Speaker MARTIN: The Chair would thank the gentlewoman from Lewiston, Mrs. Berube,

for presiding.

Thereupon, the Sergeant-At-Arms escorted Mrs. Berube to her seat on the floor, amid the applause of the House, and Speaker Martin resumed the Chair.

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

Miss ALOUPIS: Mr. Speaker, Ladies and Gentlemen of the House: First, I would like to state and clarify that the 62 people who were voting negatively were not doing it because of any friendship or alliance to Mr. Garsoe. If you don't feel as I do, that this is perhaps the most important issue that I have had to deal with in the two and a half years that I have been here, then I feel sorry for you. We are not doing this out of friendship or alliance to anyone. We have all, within ourselves, been torn apart by this whole issue, so that is the first point.

The second point is, yes, Mr. Speaker, I do feel that way, I do feel that it should be a matter of choice, and that is where I am at.

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

Mr. JALBERT: Mr. Speaker, Ladies and Gentlemen of the House: My good friend from Cumberland, Mr. Garsoe, and he is my good friend—while the debate was going on somewhat heatedly last week, I was out back and someone came up to me to tell me that I was right and made some sort of caustic remark headed in the direction of the gentleman from Cumberland, Mr. Garsoe. At the time, Mr. Garsoe was rounding the corner, so I told him, he is coming now, if you want to tell him anything, you tell him right now." The gentleman from Cumberland, Mr. Garsoe, came over within four feet of me, his hand went out and my hand went out and that was it right there. I have that much feeling for him.

I would make this comment, however. I don't know about the pastor of his church but I would have to seriously question whether the pastor of my church would exactly say another prayer for me if I would indicate that the actions of the Governor would be the actions of a madman. If I made a remark like that about a Republican leader, I would get gaveled by my friend in front here so fast that it would make my head whirl, but it appears that everybody can get away with anything.

I think one of the finest speeches I have ever heard was made this morning, without any notes in front of her, by the gentlewoman from Vassalboro, Mrs. Mitchell. When she first made her remarks, exclusive of the remarks concerning me, she commented upon the fact that I had somewhat kind of threatened appropriation measures if certain things didn't come to pass. If my memory serves me correctly, and I have a fairly good memory, my memory does serve me correctly, because I didn't make any such threat, I just made a promise. So, to check whether or not some of my promises were kept by me or I was just blowing out a lot of hot steam, I took a little time and went over the record of the legislature. This is a copy of the House Advance Journal and Calendar, dated Saturday, July 8, 1967. It is eleven pages. These are the first eleven pages on the calendar right after the Senate Papers.

After that, it says, "The House" on Saturday, July 8th, the House met according to adjournment and was called to order by the Speaker. The prayer was by Reverend Ruel Brown of Gardiner - the journal of yesterday was read and approved.

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

Mr. JALBERT: Mr. Speaker and Members of the House: The motion I am about to make is only in the essence of time saving. It is also, in my opinion, a heartbreaking motion. We have come to a fact now that we must really fish or cut bait because we have no money. Some of these items here concern me and one of them is mine, one that is very, very dear to my heart. I

have consulted with no one on this thing, I didn't intend to, they are going down the drain anyway" and I proceeded to make a motion that item one, which starts here and ends here on Page 11, be indefinitely postponed. Every-one of these measures are a money bills.

This was the Appropriation Table. I kept that promise because I like to keep my promises. The motion passed unanimously and I would like to have the Sergeant-At-Arms or the Assistant please approach me, because I would like to give this copy to the Speaker for his memoirs. He can make a few copies, send some to my good two gentlemen on the left and you can send some to the ones on the right if you want to, or anybody that wants to see them.

I think the time has come here when we have to do what I said we should do in 1967. We have to fish or cut bait. I don't mean that we should go tonight, that I should go to a Democratic caucus in Lewiston, as the Assistant Minority Leader, Mr. Tarbell, went to my home city to a Republican caucus in Lewiston yesterday and made a comment that this was a "bipartisan issue." That is what he said. This is a quote right in the newspaper. I don't mind if he says that, it just seems strange to me that bipartisan issues are opposed by the leaders of one party and supported by the leaders of another party. The issue is a bipartisan one, Mr. Tarbell said, although most of the opponents are Republicans and most of proponents are Democrats. "The real difficulty is in trying to find a ground for compromise," he said.

When I heard the good gentleman from Cumberland, Mr. Garsoe, this afternoon, talk about compromise — you know, the funny thing, I have been reading the record of the legislature and I haven't seen one single item, period, comma, semi-colon or colon in which he proposed any kind of a compromise.

The question has been raised as to whether or not the Governor has exceeded his authority on this matter. The court said he did not. The question has been raised as to whether or not "fair share" is constitutional; the court said it is. The question has been raised as to whether or not the 80 percent figure is fair; the court said it is. So, how can we vote against this bill?

The contract was negotiated, the legislature has to vote on funding, the court says there is nothing wrong with it.

The gentleman from Bangor, Mr. Tarbell, today, talks about \$150,000. Mr. Tarbell, I would like to tell you something right now you are a young man, a fine looking young man, you have a long ways to go in Bangor or up above, way up, but, you know, you learn something every day, and I am going to give you a very humble suggestion. Anytime you can show me where I can swap \$150,000 for \$50 million, you let me know about it, will you? Believe me, I will cut you in. This morning I happened to be sitting here, I put my mike up and, as usual, I told my dear friend there on my left, Mrs. Beaulieu of Portland via Eagle Lake, I said, "one will get you fifty that somebody is coming up to talk to me." I hadn't any more said that and the Sergeant-at-Arms was on the way up here the Speaker would like to have you call him. I just dialed 35 and I came back and my mike came down and that was it. Not that he would do that, but that is par for the course and that is the order of the day.

This afternoon, I thought I might beat him on his way down but Mrs. Berube didn't stay there too long, so here I am on my feet.

So, while I had nothing to do, I thought I might get up a little bit. I looked around a little bit and who do you think I saw sitting up there in the corner in the gallery? Right there — my dear friend, the National Representative for the Right to Work committee. I went upstairs like a country gentleman, went over to him and said, "How are you?" "Fine." "Would you say this bill here, this pay raise, correlates itself with the Right-to-Work Bill?" He looked at me and smiled and he said, "No comment." I got

up to leave, somebody said, "Who is that?" "Jalbert of Lewiston, he would like to talk to us." I will get my answer.

I am going to tell you something right now and before I say it, I would like to make one mention that a good young lady from Augusta, Ms. Lund, who knows exactly how I feel about her because I remember her Daddy-O tottering her on his knee, a fine, fine mother, a fine, fine young lady. I might comment that in order to pass this bill, there is no way we can touch one word of that contract. We must vote only on the money end of it; that is the law. That is what the Republican legislature did in 1974. They went along with collective bargaining. As a matter of fact, I didn't like it too much because it was taking away a little power from the Appropriation Committee and that is like stepping on my head, I didn't like it too much, but it passed and that was it and that is the law now. Like Mr. Stetson, I want to retain some integrity, so I want to go along with the law.

If you don't pass something like this and you don't leave the motion open, you can always come back here and go back to where you were before. Knock out collective bargaining, go through the usual process. There is nothing that can stop us from doing that. The world is not going to stop in the next few months. You can always go back.

When I went upstairs this morning, the answer was very clear to me, if you don't pass something like this, you are going to see a political blood bath in this state, the likes of which you have never seen before, and that is a referendum wherein it concerns the Right-to-Work Bill. That is what is coming and that is what we are heading for.

I was absent for a few times from the Appropriations Committee and when I walked in, they all rose and shook hands with me and welcomed me aboard. I took that in good stride and kept afloat for the rest of the afternoon. They invited me there and they welcomed me there, so I took over.

You know, I agree more often with my friend from Westbrook, Mr. Laffin, than not. We are now at one another's throat and I hate to mention it, I said so the first day we were here. When you get a little older and a little gray matter gets grayer, you don't like that, I don't like it.

Last week, the good gentleman from Farmington, Mr. Morton, didn't see eye to eye with me on a measure in the Appropriations Committee. I immediately tabled it because I did not want to take issue with him, whether he would beat me or not was of no consequence. I think he thought things out, I thought things out, I am going to talk to him a little later on because maybe one of us is, we are not going to wind up in a hassle between the two of us on a bill like that.

We are heading for trouble, serious, serious trouble. I am not talking as a Democrat and I am not talking as a Republican — think I have integrity, think I haven't got integrity, that doesn't bother me or concern me at all. Think I have a heart, think I have a conscience, think I don't or I do, that doesn't bother me at all. I am going to do what I think is right as far as the legislature is concerned. We are heading for serious trouble. We must arrive somewhere along the line at some conclusion. Who knows, if we pass this bill today, we engross it, it goes into the next body, who knows, possibly some amendments might be made up, some compromises might be made, we don't know that. Why one side one way; the other side the other way. It is a money bill and when you do that, it winds up no good.

I am sorry, Mr. Speaker, I took so long. I wanted to put my point over as best as I know how and it was not my intention to step on anyone's toes at all. It was my intention to speak just as honestly and with as much integrity as I think I might have in my carcass.

The SPEAKER: The Chair recognizes the

gentleman from Harrison, Mr. Leighton.

Mr. LEIGHTON: Mr. Speaker, Ladies and Gentlemen of the House: I realize that the hour is late. I will try to be brief. I would say to Representative Jalbert how can one compromise with 80 per cent or be quiet?

I said earlier today and I said I would stand on every debate and ask that the 80 per cent or be fired clause be removed. Little did I realize that I would have to stand twice in one day to beat back the onslaught. This proposed action to strip the emergency clause and make the state employees wait months to get their pay raises certainly strips all pretense from the position of the 80 per cent or be fired proponents. They are clearly willing to sacrifice or delay the employee raises to get the 80 per cent or be fired clause.

I call on fair-minded persons of both parties to support the motion for indefinite postponement. I ask both leaders of both parties to put a pay bill before us that is not an agency shop bill in disguise. If you want agency shop, put an agency shop bill in front of us but, please, don't hold the pay raise hostage any longer.

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

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

The SPEAKER: The pending question before the House is on the motion of the gentleman from Cumberland, Mr. Garsoe, that this bill and all its accompanying papers be indefinitely postponed.

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

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

The SPEAKER: The Chair recognizes the gentleman from Poland, Mr. Torrey.

Mr. TORREY: Mr. Speaker, I would like to pair my vote with the gentleman from Sabattus, Mr. LaPlante. If he were here, he would be voting yes; I would be voting no.

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

ROLL CALL

YEA — Alopis, Austin, Berry, Blodgett, Bordeaux, Bowden, Brown, D.: Brown, K.L.: Bunker, Call, Carter, F.: Conary, Cunningham, Curtis, Dammern, Davis, Dellert, Dexter, Diamond, Drinkwater, Fenlason, Fillmore, Garsoe, Gavett, Gillis, Gould, Gray, Hanson, Higgins, Huber, Hunter, Hutchings, Immonen, Kiesman, Lancaster, Leighton, Leonard, Lewis, Lougee, Lowe, Lund, MacBride, Marshall, Masterton, McMahon, McPherson, Morton, Nelson, A.: Payne, Peltier, Peterson, Reeves, J.: Rollins, Roope, Sewall, Sherburne, Silsby, Small, Smith, Sprowl, Stetson, Stover, Strout, Studley, Tarbell, Twitchell, Wentworth, Whittemore.

NAY — Bachrach, Baker, Barry, Beaulieu, Benoit, Berube, Birt, Boudreau, Brenerman, Brodeur, Brown, A.: Brown, K.C.: Carroll, Carter, D.: Chonko, Churchill, Cloutier, Connolly, Cox, Davies, Doukas, Dow, Dutremble, D.: Dutremble, L.: Elias, Gowen, Gwadosky, Hall, Hickey, Hobbs, Hughes, Jacques, E.: Jacques, P.: Jalbert, Joyce, Kane, Kany, Kelleher, Laffin, Lizotte, Locke, MacEachern, Mahany, Martin, A.: Masterman, Matthews, Maxwell, McHenry, McKean, McSweeney, Michael, Mitchell, Nadeau, Nelson, M.: Nelson, N.: Norris, Paradis, Paul, Pearson, Post, Prescott, Reeves, P.: Rolde, Simon, Soulas, Theriault, Tierney, Tozier, Tuttle, Vio-

lette, Vose, Wood, Wyman, The Speaker.

ABSENT — Carrier, Dudley, Fowle, Vincent

PAIRED — Howe-Jackson; LaPlante-Torrey
Yes, 68; No, 75; Absent 4; Paired, 4.

The SPEAKER: Sixty-eight having voted in the affirmative and seventy-five in the negative, with four being absent and four paired, the motion does not prevail.

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, sent forthwith to the Senate.

The Chair laid before the House the following matter: Bill "An Act to Authorize the State to Contract with Tufts University of Veterinary Medicine." (H. P. 411) (L. D. 528) which was tabled earlier in the day and later today assigned, pending passage to be engrossed.

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

House Amendment "A" (H-307) was read by the Clerk and adopted.

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

On motion of Mr. Wyman of Pittsfield, the House reconsidered its action of earlier in the day whereby Bill "An Act to Simplify the Requirements for Licensing Certain Clergymen to Perform Marriages" (S. P. 287) (L. D. 847) (C. "A" S-116) was passed to be enacted.

On motion of the same gentleman, tabled pending passage to be enacted and tomorrow assigned.

On motion of Mr. Joyce of Portland, adjourned until eight-thirty tomorrow morning.