

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD
OF THE
One Hundred and Ninth
Legislature

OF THE
STATE OF MAINE

Volume II

First Regular Session

May 7, 1979 to June 15, 1979

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HOUSE

Thursday, May 10, 1979

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

Prayer by Father Armand Neault, Saint Andrew's Catholic Church, Augusta.

Father NEAULT: Heavenly Father, we elevate our hearts and minds to praise and glorify you and thank you for all of your benefits. We recognize you as a great lawmaker of the universe and we humbly acknowledge our dependence upon you for guidance.

In your mercy and love for your people, grant us understanding of our fellow men; give us always, we pray, the light of wisdom and a portion of your higher knowledge that we may be able to discriminate between that which is evil and that which is good. Give us the courage to do that which is right and to champion that right and to fight always against wrong, even if our stand meets with ridicule and contempt. Make us true champions of truth and justice that the world may be brought closer to your truth and to your peace. Amen.

The journal of the previous session was read and approved.

Committee of Conference Report

Report of the Committee of Conference on the disagreeing action of the two branches of the Legislature on Bill "An Act Relating to Occupational Loss of Hearing" (S. P. 199) (L. D. 495) ask leave to report: that the House recede from enactment, recede from passage to be engrossed, indefinitely postpone Committee Amendment "B" (S-59) read and adopt Committee of Conference Amendment "A" (H-369), and pass the Bill to be engrossed as amended by Committee of Conference Amendment "A" (H-369) in non-concurrence. That the Senate recede from indefinite postponement, recede from engrossment as amended by Committee Amendment "B" (S-59) indefinitely postpone Committee Amendment "B", read and adopt Committee of Conference Amendment "A" (H-369) and pass the Bill to be engrossed as amended by Committee of Conference Amendment "A" in concurrence.

(Signed) Mrs. BEAULIEU of Portland

Messrs. BAKER of Portland

SOULAS of Bangor

— of the House.

Messrs. SUTTON of Oxford

LOVELL of York

— of the Senate.

Thereupon, the House receded from enactment and passage to be engrossed.

Committee Amendment "B" was indefinitely postponed.

Committee of Conference Amendment "A" (H-369) was read by the Clerk and adopted.

The Bill was passed to be engrossed as amended by Committee of Conference Amendment "A" and sent up for concurrence.

Papers from the Senate

The following Communication:

THE SENATE OF MAINE

Augusta

May 9, 1979

The Honorable Edwin H. Pert

Clerk of the House

109th Legislature

Augusta, Maine 04333

Dear Clerk Pert:

The President today appointed the following members of the Senate to the Committee of Conference on Bill, "An Act to Eliminate the Jurisdiction of the Maine Milk Commission over 1/2 Pint Containers of Milk" (H. P. 482) (L. D. 613):

Senators:

HICHENS of York

EMERSON of Penobscot

USHER of Cumberland

Respectfully,

S/MAY M. ROSS

Secretary of the Senate

The Communication was read and ordered placed on file.

The following Communication:

THE SENATE OF MAINE

Augusta

May 9, 1979

The Honorable Edwin H. Pert

Clerk of the House

109th Legislature

Augusta, Maine 04333

Dear Clerk Pert:

The President today appointed the following members of the Senate to the Committee of Conference on Bill, "An Act to Require that Persons Convicted of Habitually Sexually Molesting a Child under the Age of 14 may be Asexualized" (H. P. 816) (L. D. 1018):

Senators:

COLLINS of Knox

DEVOE of Penobscot

CLARK of Cumberland

Respectfully,

S/MAY M. ROSS

Secretary of the Senate

The Communication was read and ordered placed on file.

The following Communication:

THE SENATE OF MAINE

Augusta

May 9, 1979

The Honorable Edwin H. Pert

Clerk of the House

109th Legislature

Augusta, Maine 04333

Dear Clerk Pert:

The President today appointed the following members of the Senate to the Committee of Conference on Bill, "An Act Regulating Hunting with Muzzle-loading Rifles" (H. P. 498) (L. D. 622):

Senators:

HUBER of Cumberland

HICHENS of York

O'LEARY of Oxford

Respectfully,

S/MAY M. ROSS

Secretary of the Senate

The Communication was read and ordered placed on file.

The following Communication:

THE SENATE OF MAINE

Augusta

May, 9, 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 Encourage Disabled Employees to Return to Work," (H. P. 751) (L. D. 935).

Respectfully,

S/MAY M. ROSS

Secretary of the Senate

The Communication was read and ordered placed on file.

The following Communication:

THE SENATE OF MAINE

Augusta

May, 9, 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 Provide for Lifeline Electrical Services," (H. P. 840) (L. D. 1043)

Respectfully,

S/MAY M. ROSS

Secretary of the Senate

The Communication was read and ordered placed on file.

Joint Orders

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

The Cony High School Chess Team, coached by Duane Mercier, has become Number 1 in the Nation, having won 20 games and placed first in the novice divisions at the National High School Chess Tournament in Philadelphia (S. P. 543)

Came from the Senate Read and Passed.

In the House: Was read and passed in concurrence.

A Joint Resolution in memory of The Honorable Emery O. Beane of Augusta, a Member of the 98th, 99th and 100th Legislatures (S. P. 541)

Came from the Senate Read and Adopted.

In the House: Was read and adopted in concurrence.

Leave to Withdraw

Report of the Committee on Taxation reporting "Leave to Withdraw" on Bill, "An Act to Extend the Maine Jobs Tax Credit Law for 3 Years" (S. P. 323) (L. D. 953)

Came from the Senate with the Report Read and Accepted.

In the House: The Report was read and accepted in concurrence.

Later Today Assigned**Leave to Withdraw**

Report of the Committee on Labor reporting "Leave to Withdraw" on Bill "An Act to Allow Unions to Negotiate on Behalf of Former Employees of a Company with Which the Union is Negotiating" (S. P. 319) (L. D. 949)

Came from the Senate with the Bill substituted for the Report and the Bill passed to be engrossed as amended by Senate Amendment "A" (S-151)

In the House: The Report was read and accepted in concurrence.

On motion of Mr. Cunningham of New Gloucester, the House reconsidered its action whereby it accepted the "Leave to Withdraw" Report.

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

Mr. CUNNINGHAM: Mr. Speaker, Ladies and Gentlemen of the House: I move that the House substitute the Bill for the Report.

It is my understanding that the Labor Committee has decided on Items 1-9 and 1-10, that we would accept these Bills rather than to go through the "Leave to Withdraw" process. Therefore, that is the reason I wanted to accept the report. That is the only reason that I am asking for acceptance of the Bill for the Report.

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

Mr. TARBELL: Mr. Speaker, Ladies and Gentlemen of the House: I am not a party to this but it is my understanding that there was some agreement made on Items 1-9 and 1-10, which will come subsequently, that in both cases, the Bill will be substituted for the "Leave to Withdraw" Report and go with both Bills.

On motion of Mrs. Sewall of Newcastle, tabled pending the motion of the gentleman from New Gloucester, Mr. Cunningham, that the House substitute the Bill for the Report and later today assigned.

Leave to Withdraw

Report of the Committee on Labor reporting "Leave to Withdraw" on Bill "An Act to Require that Holiday Pay be Considered Wages

for the Purposes of Unemployment Compensation" (S. P. 309) (L. D. 902).

Came from the Senate with the Bill substituted for the Report and the Bill passed to be engrossed as amended by Senate Amendment "A" (S-161).

In the House: The Report was read.

On motion of Mr. Wyman of Pittsfield, tabled pending acceptance of the "Leave to Withdraw" Report and specially assigned for Monday, May 14th.

Ought to Pass

Report of the Committee on Business Legislation reporting "Ought to Pass" on Bill, "An Act Relating to the Maine Medical and Hospital Malpractice Joint Underwriting Association Act" (Emergency) (S. P. 143) (L. D. 319).

Came from the Senate with the Report read and accepted and the Bill passed to be engrossed as amended by Senate Amendment "A" (S-158).

In the House: The Report was read and accepted. The Bill read once. Senate Amendment "A" (S-158) read and adopted in concurrence and the Bill assigned for Second Reading, Friday, May 11.

Non-Concurrent Matter

Bill "An Act to Clarify the Application of Military Service Credits to Retirement Benefits for Policemen, Firemen, Local District Employees, Sheriffs and Full-time Deputy Sheriffs" (S. P. 147) (L. D. 324) on which the Bill and Accompanying Papers were Indefinitely Postponed in the House on May 4, 1979.

Came from the Senate with that Body having Insisted on its former action whereby the Majority "Ought to Pass" as amended by Committee Amendment "B" (S-136) Report of the Committee on Aging, Retirement and Veterans was read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "B" (S-136) and asked for a Committee of Conference in non-concurrence.

In the House: On motion of Mr. Theriault of Rumford, the House voted to adhere.

Non-Concurrent Matter

Bill "An Act to Strengthen the Requirement to Remove Lobstering Equipment when a Lobster License is Suspended" (H. P. 511) (L. D. 627) which was passed to be engrossed as amended by Committee Amendment "A" (H-330) in the House on May 4, 1979.

Came from the Senate passed to be engrossed as amended by Committee Amendment "A" (H-330) as amended by Senate Amendment "A" (S-150) thereto in non-concurrence.

In the House: On motion of Mr. Fowlie of Rockland, the House voted to recede and concur.

Non-Concurrent Matter

Bill "An Act Relating to the Administration of School Dental Health Programs" (H. P. 733) (L. D. 920) which was passed to be Enacted in the House on May 7, 1979.

Came from the Senate with the Bill and Accompanying Papers Indefinitely Postponed in non-concurrence.

In the House:

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

Mr. CONNOLLY: Mr. Speaker, I move that the House adhere and I further move that this bill be tabled for two legislative days, pending that motion.

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

Mr. LEIGHTON: Mr. Speaker, I move that the House recede and concur and would further move that it lay on the table for two legislative days.

The SPEAKER: The Chair would advise the gentleman that that motion is not in order. The motion to table takes precedent. However,

when the matter comes back up from the table, the motion to recede and concur will still be in order.

Whereupon, on motion of Mr. Connolly of Portland, the House voted to table pending the motion of the gentleman to adhere and specially assigned for Monday, May 14th.

Non-Concurrent Matter

Bill "An Act to Increase Fees Charged by Bail Commissioners" (H. P. 1129) (L. D. 1398) which was passed to be Enacted in the House on May 8, 1979.

Came from the Senate, Failing of Passage to be Enacted in non-concurrence.

In the House: On motion of Mr. Brannigan of Portland, the House voted to adhere.

Petitions, Bills and Resolves Requiring Reference

Health and Institutional Services

Bill "An Act Establishing the Children and Family Services and Child Protection Act of 1979" (H. P. 1384) (L. D. 1607) (Presented by Mrs. Nelson of Portland) (Cosponsors: Mr. Hobbins of Saco and Mrs. Kany of Waterville) (Ordered Printed)

Sent up for concurrence.

By unanimous consent, ordered sent forthwith to the Senate.

Orders

An Expression of Legislative Sentiment (H. P. 1382) recognizing that:

Tracey Kimball, a Poland seventh grade student has won the Maine solo grant championship in baton twirling

Presented by Mr. Torrey of Poland.

The Order was read.

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

Mr. TORREY: Mr. Speaker, Ladies and Gentlemen of the House: Tracey Kimball, a 12 year old from Poland, has won this Maine state championship and she also won four awards at this competition.

She started baton twirling at the age of 4 and has won 235 trophies and 125 medals. We are certainly proud of this young lady in our town.

Thereupon, the order was passed and sent up for concurrence.

An Expression of Legislative Sentiment (H. P. 1383) recognizing that:

The Lawrence High School Key Club has installed Kevin Huber as Lieutenant-Governor and Bruce Roderick as President for 1979

Presented by Mr. Gwadosky of Fairfield (Cosponsor: Senator Teague of Somerset)

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

On motion of Mr. Cox of Brewer, the following Order:

ORDERED, that Representative Hugh Bowden of Brooklin be excused May 9, 10, and 11, 1979 for personal reasons.

The Order was read and passed.

House Reports of Committees

Ought Not to Pass

Mrs. Post from the Committee on Taxation on Bill "An Act to Exempt Military Retirement Benefits from the State Income Tax" (H. P. 1170) (L. D. 1455) reporting "Ought Not to Pass"

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

Leave to Withdraw

Mrs. Payne from the Committee on Health and Institutional Services on Bill "An Act to Authorize the Provision of Services to Developmentally Disabled Children" (H. P. 807) (L. D. 1010) reporting "Leave to Withdraw"

Mrs. Post from the Committee on Taxation

on Bill "An Act Concerning Proof of Eligibility for Rebate Programs Under the Taxation Statutes" (H. P. 914) (L. D. 1124) reporting "Leave to Withdraw"

Mrs. Post from the Committee on Taxation on Bill "An Act to Provide a Tuition Tax Credit for Maine Citizens" (H. P. 1152) (L. D. 1422) reporting "Leave to Withdraw"

Mrs. Post from the Committee on Taxation on Bill "An Act to Expand Eligibility for Elderly Tax and Rent Relief" (H. P. 404) (L. D. 524) reporting "Leave to Withdraw"

Mrs. Post from the Committee on Taxation on Bill "An Act to Exempt Maine State Retirement Pensions from the State Income Tax" (H. P. 1105) (L. D. 1359) reporting "Leave to Withdraw"

Mr. Howe from the Committee on Business Legislation on Bill "An Act Exempting the Sale of Insurance from the Application of the Maine Consumer Credit Code, Part 1" (H. P. 691) (L. D. 869) reporting "Leave to Withdraw"

Mr. Lizotte from the Committee on Business Legislation on Bill "An Act to Require Annual Cost Containment Plans from Health Insurers" (H. P. 727) (L. D. 914) reporting "Leave to Withdraw"

Mr. Joyce from the Committee on Judiciary on Bill "An Act Concerning Maine Rules of Civil Procedure Before the Workers' Compensation" (H. P. 747) (L. D. 933) reporting "Leave to Withdraw"

Mrs. Sewall from the Committee on Judiciary on Bill "An Act to Provide a Waiver of Court Costs and Fees" (H. P. 600) (L. D. 744) reporting "Leave to Withdraw"

The reports were read and accepted and sent up for concurrence.

Ought to Pass

Mrs. Post from the Committee on Taxation on Bill "An Act to Amend Certain Property Tax Exemptions and to Require continuing Periodic Review of Tax Exemptions" (H. P. 768) (L. D. 855) reporting "Ought to Pass"

The report was read and accepted. The Bill was read once and assigned for second reading, tomorrow.

Divided Report

Majority Report of the Committee on Health and Institutional Services reporting "Ought to Pass" as amended by Committee Amendment "A" (H-366) on Bill "An Act to Eliminate the Boards of Visitors within the Department of Mental Health and Corrections" (H. P. 1143) (L. D. 1405)

Report was signed by the following members:

Mrs. PRESCOTT of Hampden
Mr. BRENERMAN of Portland
Mrs. PAYNE of Portland
Messrs: MATTHEWS of Caribou
NORRIS of Brewer
BRODEUR of Auburn
Mrs. MacBRIDE of Presque Isle
Mrs. CURTIS of Milbridge
Mr. CLOUTIER of South Portland

— of the House.

Minority Report of the same Committee reporting "Ought to Pass" as amended by Committee Amendment "B" (H-367) on same Bill.

Report was signed by the following members:

Mrs. GILL of Cumberland
Mr. HICHENS of York

— of the Senate.

Reports were read:

On motion of Mrs. Prescott of Hampden, the Majority "Ought to Pass" Report and the Bill read once.

Committee Amendment "A" (H-366) was read by the Clerk and adopted and the Bill was assigned for second reading tomorrow.

Divided Report

Majority Report of the Committee on Public Utilities reporting "Ought to Pass" as

amended by Committee Amendment "A" (H-359) on Bill "An Act Relating to Telephone Company Directories" (H. P. 1134) (L. D. 1402)

Report was signed by the following members:

Mrs. TRAFTON of Androscoggin
Mr. DEVOE of Penobscot — of the Senate.

Messrs. BERRY of Buxton
DAVIES of Orono
Mrs. NELSON of Portland
Mr. LOWE of Winterport
Miss GAVETT of Orono
Mr. BROWN of Livermore Falls — 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. COLLINS of Knox — of the Senate.

Messrs. REEVES of Newport
McKEAN of Limestone
CUNNINGHAM of New Gloucester
VOSE of Eastport — of the House.

Reports were read.

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

Mr. DAVIES: Mr. Speaker, I move that the House accept the Majority "Ought to Pass" Report.

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

Mr. McKEAN: Mr. Speaker, Ladies and Gentlemen of the House: I would like to tell you why I signed the "Ought Not to Pass" Report and I would like to convince you that, perhaps, I may, for once in a long time, be right.

This bill states that within a certain period of time, the telephone companies have got to come out with an errata sheet or a change to the directory and list those names which are inadvertently left out or which are new additions to the listing.

By admission of the telephone company, themselves, this is going to be a cost which they estimate over \$100,000. If you would like to have that cost divided up amongst yourselves, then you vote for this bill but, I just don't think the consumers and the customers in the State of Maine should pay the additional fee for only 2 percent and this is the figure, 2 percent or less, that are left out of the telephone directory statewide. All they seem to look for is a good excuse to go to the PUC and say, here is another cost, there is another operating expense, and for this reason, we have to have a raise. If you take a look back through history, they get this raise. This is just another reason for them to go for another raise, which you know they are going to get and I know it. I just can't see it for our customers.

For 2 percent of the people, you are going to say, okay, here put this on your bill because you are going to get the raise so I wouldn't vote for this bill, it just means a little more money for the telephone company in the long run. I would go for the "Ought Not to Pass" on this one.

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

Mr. DAVIES: Mr. Speaker, Members of the House: The good gentleman from Limestone, Mr. McKean, has convinced me to change my position on a couple of public utility issues so far in this last week or so, but this is not one that he has been successful in doing that.

A situation exists in this state where there are always a number of individuals who, for one reason or another, partly because of the fault of the telephone company and other cases are the fault of the people that they have, who print up their telephone directories, and individuals, both residential customers and business customers, are left out of the telephone book, after they have complied with all of the requirements of the telephone company to be

included. The result is that a number of individuals find that their personal lives and, in many cases, their business and professional lives are severely affected by their being left out of the telephone book.

An example might be the brother of the good gentlelady from Bangor, Miss Aloupis, who had an experience such as this occur with the Bangor area directory, which he was left out. He is a physician in the Bangor area and being left out of the telephone book meant that it severely affected his ability to obtain patients. So, it has an economic impact on some individuals, it has a personal impact on people not being able to be in contact with friends, relatives, other individuals who might have reason to communicate with them.

So, we have looked on this issue on a number of bills and we have killed a couple of those here in the legislature already and the majority of the committee was waiting for this bill to come along because they felt that this perhaps was the most reasonable way of approaching the problem.

It says that the Public Utilities Commission can authorize or require a telephone company, when it has a feeling that there is a sufficient number of people who have been left out of a given area directory, to publish an errata sheet, which will be included with the telephone bills that are mailed out every month, with the lists of names, addresses and telephone numbers of those individuals who have been left out of the most recent telephone directory for that area. It will only go to the people in that calling area that is covered by that directory so it is going to be a minimal number of mailings to any given area. The telephone company is already sending out bills and paying for that stamp anyway so the cost of mailing it is going to be covered already so the only additional cost is the cost of printing up that errata sheet which, in some cases, may be as long as five or six pages, but in most cases, may be as few as one or two pages. So, it is a very minimal cost, I think it is reasonable to spread this cost among all of the ratepayers of the company, because all of those individuals are going to be receiving this errata sheet. They are all going to be able to take advantage of the information that is contained in there, if they so choose. I think it is a reasonable cost to pass onto the ratepayers. It is extremely minimal.

The amendment that is on the bill that the "Ought to Pass" Report includes has been put together with the cooperation of the telephone company. They accept the inevitable that they are going to have to do something and they can accept this idea as one way that handles it in a manner that is going to cost the least amount of money to provide the information in the most expedient manner.

So, I urge you to accept the Majority "Ought to Pass" Report.

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

Miss ALOUPIS: Mr. Speaker, Ladies and Gentlemen of the House: The gentleman from Orono, Mr. Davies, has covered the amendment and how the telephone company would send out the names of those who have been left out.

I would just like to tell you what happened to our family. My brother was left out of the yellow pages and the white pages. They have made absolutely no attempt to do anything about it.

I have spoken with several members from the telephone company and it is such a monopoly that all they say to you is, "we are terribly sorry, we will just charge you half the rate." Well, charging you half the rate doesn't help you get your name to people out there. The sad fact is that there is no one else to turn to. You can't say, well, I don't think I really want to do business with you anymore, I am going to go to someone else. Your hands are totally bound,

they are the "one" and "only" company that are in our area.

I don't want to take up too much of your time but I hope you will consider supporting this bill.

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

Mr. TORREY: Mr. Speaker, Ladies and Gentlemen of the House: I disagree slightly with the gentleman from Limestone, Mr. McKean. I don't think this bill has any wording that has to correct new editions. I think whenever the deadline for the directory is set, we don't expect new editions to have to be included in that errata sheet.

I also question the fact of the 2 percent is an error. I think it is more likely, as I understand it, either 1/10th or 200th of 1 percent in a directory such as Lewiston-Auburn. There is approximately 100,000 listings and 200th a percent would be only 20 names, which wouldn't be too many. We have a card here that was prepared early in the session at a cost of 2 1/2 cents. It lists about 40 agencies and telephone numbers. I am sure at 2 1/2 cents, that \$25 a thousand, 100,000 is \$2500 for this one area. I realize that there are many areas in the state but they are not all served by just one company so I think the cost is reasonable to prepare a card and send it along with the telephone bill and certainly there is a preponderance of evidence to show that there is a need for some corrections in this matter.

There are many people that have had severe economic losses due to the fact that their name wasn't there and they get no sympathy at all from the company.

So, I think we really need to consider this well and vote to accept "Ought to Pass" report.

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

Mr. VINCENT: Mr. Speaker, Ladies and Gentlemen of the House: I have had an experience with the phone company on a business phone that I have had for five consecutive years, and during the fourth year of the five years that I had the phone, I was omitted through the phone company not through any fault of mine and it cost me several thousands worth of business and there wasn't any compensation. All I got was, I am sorry from the phone company, which didn't help me and I would hope you would go along and support this bill.

Thereupon, the Majority "Ought to Pass" Report was accepted and the Bill read once.

Committee Amendment "A" (H-359) was read by the Clerk and adopted. The Bill was 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:

(H. P. 170) (L. D. 221) Bill, "An Act to Prohibit Cancellation of Automobile or Property Insurance without Actual Notice to the Insured" Committee on Business Legislation reporting "Ought to Pass" as amended by Committee Amendment "A" (H-373)

(S. P. 253) (L. D. 762) Bill "An Act Concerning the Definition of Criminal Mischief under the Maine Criminal Code" Committee on Judiciary reporting "Ought to Pass" as amended by Committee Amendment "A" (S-148)

(H. P. 284) (L. D. 362) Bill "An Act to Increase the Membership of the Gardiner Water District to Six" (Emergency) Committee on Public Utilities reporting "Ought to Pass" as amended by Committee Amendment "A" (H-372)

(H. P. 1334) (L. D. 1581) Bill "An Act to Extend until July 1, 1980, the Date for the Newport Water District to Purchase the Property of the Maine Water Company" (Emergency) Committee on Public Utilities reporting "Ought to Pass"

(H. P. 669) (L. D. 829) Bill "An Act Concerning Writ of Possession" Committee on Judiciary reporting "Ought to Pass" as amended by Committee Amendment "A" (H-379)

(H. P. 815) (L. D. 1017) Bill "An Act to Ensure Firefighters may use a Reasonable Degree of Nondeadly Force to Carry out their Firefighting Duties" Committee on Judiciary reporting "Ought to Pass"

(H. P. 242) (L. D. 287) Bill "An Act Relating to Revisions of the Adoption Law" Committee on Judiciary reporting "Ought to Pass"

(H. P. 953) (L. D. 1186) Bill "An Act to Exempt Teacher Certification Records from the Freedom of Access Statutes" Committee on Education reporting "Ought to Pass" as amended by Committee Amendment "A" (H-378)

No objections being noted the above items were ordered to appear on the Consent Calendar of May 11, under listing of Second Day.

Consent Calendar

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

(H. P. 1104) (L. D. 1319) Bill "An Act to Require Payment of Taxes on Timberland Repossessed by the Maine Guarantee Authority" (C. "A" H-358)

(H. P. 1163) (L. D. 1468) Bill "An Act to Allow the Board of Environmental Protection to Regulate Activities Affecting Sand Dunes under the Alteration of Coastal Wetlands Program" (C. "A" H-360)

(H. P. 291) (L. D. 388) Bill "An Act to Amend the Maine Veterinary Practice Act of 1975" (C. "A" H-361)

(H. P. 1109) (L. D. 1372) Bill "An Act Concerning State Highways and Parking on State Controlled Property"

(S. P. 421) (L. D. 1315) Bill "An Act to Permit Municipalities to Issue Bonds Under the Municipal Securities Approval Act for Water Supply System Projects" (C. "A" S-146)

(S. P. 404) (L. D. 1255) Bill "An Act to Amend the Charter of the Portland Water District"

(S. P. 399) (L. D. 1204) Bill "An Act to Transfer the Board of Registration for Professional Foresters from the Department of Conservation to the Department of Business Regulation"

(S. P. 446) (L. D. 1366) Bill "An Act Concerning Licensing Manufactured Housing Dealers, Itinerant Vendors, Lightning Rod Salesmen and Apprentices and Helper Electricians"

(S. P. 398) (L. D. 1216) Bill "An Act to Transfer the State Board of Certification for Geologists and Soil Scientists to the Department of Business Regulation"

(S. P. 390) (L. D. 1201) Bill "An Act to Revise the Qualifications for Electricians"

(H. P. 292) (L. D. 389) Bill "An Act Authorizing the Issuing of Ex Parte Orders by the Courts and Complaint Justices to Allow Humane Agents and other Authorized Officers to take Possession of Neglected, Mistreated or Injured Animals" (C. "A" H-362)

(H. P. 560) (L. D. 707) Bill "An Act to Permit Juveniles in the Custody of the Department of Mental Health and Corrections to Receive Services from the Department of Human Services" (C. "A" H-365)

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

Passed to be Engrossed

Bill "An Act Protecting Security Deposits" (H. P. 1378) (L. D. 1603)

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

Bill "An Act to Provide for Full-time Workers' Compensation Commissioners and to Organize the Administration of the Commission" (H. P. 1379) (L. D. 1604)

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

On motion of Mrs. Kany of Waterville, tabled pending passage to be engrossed and tomorrow assigned.

Amended Bills

Bill "An Act to Amend the Law with Regard to the Diagnostic Laboratory of the Department of Human Services" (S. P. 406) (L. D. 1245) (C. "A" S-149)

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

On motion of Mrs. Prescott of Hampden, tabled pending passage to be engrossed and tomorrow assigned.

Bill "An Act to Assist Handicapped Workers in Returning to Employment by Transfer to Suitable Work" (S. P. 322) (L. D. 952) (C. "A" S-145)

Bill "An Act to Base Adjustments of Retirement Allowances on Cost of Living" (S. P. 130) (L. D. 307) (C. "A" S-147)

Bill "An Act Relating to Gifts in Contemplation of Death" (H. P. 1145) (L. D. 1407) (C. "A" H-363)

Bill "An Act to Include Teachers in the Hope Training School for Retarded Children in the Maine State Retirement System" (H. P. 1177) (L. D. 1442) (C. "A" H-354)

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

Passed to be Enacted

Emergency Measure

An Act to Provide Accessible Polling Places for the Physically Handicapped and the Elderly (S. P. 95) (L. D. 181) (C. "A" S-134)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 118 voted in favor of same and 0 against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

Emergency Measure

An Act to Provide Funds to Subsidize Adoption of Handicapped Children (H. P. 278) (L. D. 387) (C. "A" H-313)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 121 voted in favor of same and 0 against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

Emergency Measure

An Act to Clarify Home Rule Authority (H. P. 1097) (L. D. 1376) (C. "A" H-315)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 118 voted in favor of same and 0 against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

By unanimous consent, ordered sent forthwith.

Emergency Measure

An Act to Provide Compensation and Benefits Agreed to by the State and the Maine Teacher's Association for Employees in the

Bargaining Unit of Administrators at the Vocational-Technical Institutes and the School of Practical Nursing. (H. P. 1302) (L. D. 1561)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 120 voted in favor of same and 0 against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

Emergency Measure

RESOLVE, for Laying of the County Taxes and Authorizing Expenditures of Oxford County for the Year 1979 (H. P. 1354) (L. D. 1593)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 120 voted in favor of same and 1 against and accordingly the Resolve was finally passed, signed by the Speaker and sent to the Senate.

An Act to Provide for Consistent Hours of Operation by State Retail and Agency Liquor Stores (S. P. 293) (L. D. 854) (C. "A" S-117; S. "A" S-141)

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

Mr. Marshall of Millinocket requested a roll call on enactment.

The SPEAKER: For the Chair to order a roll call, it must have the expressed desire of more than 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, obviously, more than one-fifth of the members present and voting having expressed a desire for a roll call, a roll call was ordered.

The SPEAKER: The pending question before the House is passage to be enacted. Those in favor will vote yes; those opposed will vote no.

ROLL CALL

YEA — Bachrach, Baker, Barry, Beaulieu, Benoit, Berry, Boudreaux, Boudreau, Brannigan, Brown, D.; Brown, K. L.; Bunker, Call, Carroll, Carter, D.; Churchill, Conary, Connolly, Cunningham, Damren, Dellert, Doukas, Dow, Drinkwater, Dutremble, D.; Dutremble, L.; Elias, Garsoe, Gavett, Gould, Gwadosky, Hall, Hobbins, Hunter, Hutchings, Jackson, Jacques, P.; Jalbert, Kiesman, Lancaster, LaPlante, Leighton, Leonard, Lizotte, MacEachern, Matthews, Maxwell, McSweeney, Michael, Nadeau, Nelson, M.; Norris, Paradis, Payne, Peltier, Reeves, J.; Rolde, Sewall, Simon, Soulas, Stetson, Studley, Theriault, Tuttle, Vincent, Vose, Whittemore.

NAY — Aloupis, Austin, Berube, Birt, Blodgett, Brenerman, Brodeur, Brown, A.; Brown, K. C.; Carrier, Carter, F.; Chonko, Cloutier, Cox, Curtis, Davies, Davis, Dexter, Diamond, Fenlason, Fillmore, Fowlie, Gillis, Gowen, Gray, Hanson, Hickey, Higgins, Howe, Joyce, Kane, Kany, Kelleher, Laffin, Lewis, Locke, Lougee, Lowe, Lund, MacBride, Mahany, Marshall, Martin, A.; Masterman, Masterton, McHenry, McKean, McMahon, Mitchell, Morton, Nelson, A.; Nelson, N.; Paul, Pearson, Peterson, Post, Prescott, Reeves, P.; Rollins, Roope, Sherburne, Small, Smith, Sprowl, Stover, Strout, Tarbell, Tierney, Torrey, Tozier, Violette, Wentworth, Wood, Wyman.

ABSENT — Bowden, Dudley, Huber, Hughes, Jacques E.; McPherson, Silsby, Twitcheil, The Speaker.

Yes, 67; No, 74; Absent, 9.

The SPEAKER: Sixty-seven having voted in the affirmative and seventy-four in the negative with nine being absent, the motion did not prevail.

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

Mr. VIOLETTE: Mr. Speaker, having voted

on the prevailing side, I now move reconsideration and hope you all vote against me.

I ask that this bill be tabled for one legislative day.

Mr. Marshall of Millinocket requested a Division on the tabling motion.

The SPEAKER: The pending question before the House is the motion of the gentleman from Van Buren, Mr. Violette, that this matter be tabled for one legislative day. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

65 having voted in the affirmative and 73 in the negative, the motion to table for one legislative day did not prevail.

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

Mr. VIOLETTE: Mr. Speaker, could the Clerk please read the Committee Report?

Thereupon, the Committee Report was read by the Clerk.

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

Mr. VIOLETTE: Mr. Speaker, Ladies and Gentlemen of the House: I would hope that the members of this House would vote to reconsider this morning and support this bill as they have done in the past.

All this bill does basically is allow where there is an agency store located in an establishment that is in a store that is offering for sale other merchandise and is open prior to nine o'clock, at present malt liquor beverages can go on sale at six o'clock in the morning but the other related part of the store, which is the agency store part, that particular part of the store can only open at nine o'clock in the morning. In other words, if the store opens at seven or eight o'clock in the morning, the agency part of the store must remain closed.

All this bill does is it allows that agency part of the store to remain open while the store is open. In other words, it makes the hours for the sale of the liquor in the agency stores concurrent with the hours of the sale of malt beverages. At this particular time, there is a discrepancy in between these hours and all this bill does is to clarify and make those hours concurrent.

I hope that you all vote in favor of the reconsideration motion.

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

Mr. MARSHALL: Mr. Speaker, Ladies and Gentlemen of the House: What the gentleman said is true but I would just ask you to recall the concept of the agency store. At one time, they were asking us, oh, just give us the ability to sell liquor along with our malt beverages and we granted them that and now they want to change and sell the liquor at different hours from the state.

Their agency store is patented after the state liquor store including the hours and I just don't think we should turn around and allow an expansion of the sale hours, above and beyond, what they were instructed to do. They knew very well what they were getting into and when they got into it, they moan and groan and when they finally got the agency store, they not only want more money for their items but they want more hours. I am just not prepared to go along with it.

I know that the Committee Report was unanimous but I might point out, the Committee Report was unanimous before we killed it.

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

Mr. VIOLETTE: Mr. Speaker, Ladies and Gentlemen of the House: Mr. Morton, in answer to your question, at present a wholesaler of alcoholic beverages, wine products, if a new product is being put out on the market and the producer of that product comes to the State of Maine and he goes to the distributor or the wholesaler and suggests that they take on this new product, they cannot open that bottle on the premises of where the wholesaler or the

distributor does business. They must take that bottle and either go home or else go to some restaurant and decide whether or not the product merits that particular wholesaler or distributor taking it on.

All we are doing is allowing the wholesaler and distributor, having asked to put a new product on their line, that they ought to be able to, in the confines of the office or on the premises, be able to test the product and decide whether or not it merits being added on as a product, if that wholesaler or distributor wishes to put it out. This is all that this particular amendment does.

Mr. Morton requested a roll call on enactment.

The SPEAKER: For the Chair to order a roll call, it must have the expressed desire of more than 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, obviously, more than one-fifth of the members present and voting having expressed a desire for a roll call, a roll call was ordered.

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

Mr. NORRIS: Mr. Speaker, Ladies and Gentlemen of the House: I purposely don't get involved in these types of things but I just wanted to say that usually if a victualer wants to get a distributor to handle a new line, as a general rule they fly them to where they make the wine. It usually is a long, very fancy sale process and it would be in California or New York or wherever that would be. I don't want to get into the wet and dry part of the thing but to have to do this, in order to sell any kind of wine, I think it is completely facetious and I agree with my good friend from Farmington, Mr. Morton, there is no need for this bill.

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

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

Mr. Garsoe of Cumberland requested a Division on the tabling motion.

The SPEAKER: The pending question before the House is the motion of the gentleman from Old Town, Mr. Pearson, that this bill be tabled for one legislative day, pending enactment. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

62 having voted in the affirmative and 54 in the negative, the motion did prevail.

An Act to Require Certain Out-of-state Sellers to Register Under the Maine Sales and Use Tax Law (S. P. 448) (L. D. 1363)

An Act to Require Insurance Policy Language Simplification (H. P. 487) (L. D. 636) (C. "A" H-312)

An Act Relating to the Maine Criminal Justice Academy (H. P. 1135) (L. D. 1389) (C. "A" H-314)

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

Orders of the Day

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

Bill, "An Act Concerning Reserve Officer Standards for Professional Law Enforcement Personnel" (S. P. 405) (L. D. 1276)

Tabled—May 8, 1979 by Mr. Violette of Van Buren.

Pending—Passage to be Engrossed.

On motion of Mr. Violette of Van Buren, tabled pending passage to be engrossed and later today assigned.

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

An Act Relating to Action by the Public Utilities Commission on Petitions by Electrical

Companies for Certificates of Public Convenience and Necessity (H. P. 164) (L. D. 196) (C. "A" H-298)

Tabled—May 8, 1979 by Mrs. Mitchell of Vassalboro.

Pending—Passage to be Enacted.

Whereupon, the Bill was passed to be enacted, signed by the Speaker and sent up for concurrence.

The Chair laid before the House the third 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—May 8, 1979 by Mrs. Mitchell of Vassalboro.

Pending—Passage to be Enacted.

On motion of Mrs. Mitchell of Vassalboro, retabled pending passage to be enacted and specially assigned for Monday, May 14th.

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

Bill, "An Act Relating to State Participation in General Assistance Program" (H. P. 1356) (L. D. 1592)

Tabled—May 9, 1979 by Mrs. Prescott of Hampden.

Pending—Passage to be Engrossed.

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

Mrs. PRESCOTT: Mr. Speaker, Ladies and Gentlemen of the House: We are working with Maine Municipal Association and town officials on an amendment, which would address the problems that the other body has with this bill.

I would like to ask someone to table this for two legislative days so we can work out those difficulties.

On motion of Mr. Brenerman of Portland, tabled pending passage to be engrossed and specially assigned for Monday, May 14th.

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

HOUSE DIVIDED REPORT — Majority (9) "Ought to Pass" in New Draft under New Title Bill "An Act to Clarify the Provision Relating to Hearings on Juvenile Crimes and to Establish an Experimental Program for Education" (H. P. 1375) (L. D. 1601) — Minority (3) "Ought Not to Pass" — Committee on Judiciary on Bill, "An Act to Require that Most Hearings and Records Concerning Juvenile Crimes be Open to the Public" (H. P. 1091) (L. D. 1383)

Tabled—May 9, 1979 by Mrs. Mitchell of Vassalboro.

Pending—Motion of Mr. Hobbins of Saco to Accept the Minority "Ought Not to Pass" Report.

On motion of Mr. Hobbins of Saco, retabled pending the motion of the same gentleman to accept the Minority "Ought Not to Pass" Report and tomorrow assigned.

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

Bill, "An Act to Increase Job Security for Employment for Employees Elected to the Legislature, Excluding Employees Covered under Provisions Dealing with Teachers" (H. P. 760) (L. D. 940) (H. "A" H-364)

Tabled—May 9, 1979 by Mrs. Mitchell of Vassalboro.

Pending—Motion of Mr. Kelleher of Bangor to Reconsider Indefinite Postponement of Bill and All Accompanying Papers. (Roll Call Requested)

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

Mr. KELLEHER: Mr. Speaker, I ask leave of the House on my motion to reconsider.

The SPEAKER: The gentleman from Bangor, Mr. Kelleher, requests permission from the House to withdraw his motion to re-

consider. Is there objection?

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

Mr. TIERNEY: Mr. Speaker, I object.

The SPEAKER: The Chair will order a vote on the motion. The pending motion before the House is the request of the gentleman from Bangor, Mr. Kelleher, to withdraw his motion to reconsider. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

69 having voted in the affirmative and 41 in the negative, the motion did prevail.

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

Mr. WOOD: Mr. Speaker, having voted on the prevailing side, I would move that we reconsider, our action whereby this bill was indefinitely postponed.

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

Mr. KELLEHER: Mr. Speaker, Ladies and Gentlemen of the House: I am delighted to see the good gentleman from York County in his seat. Mr. Wood. This bill was debated with real zest in the House yesterday and those of you who were voting with some of us, who spoke on the bill to kill it, then I would suggest that you hold firm on your vote this morning and do not vote for reconsideration.

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

Mr. GARSOE: Mr. Speaker, Ladies and Gentlemen of the House: The gentleman from Bangor has given us some good advice. This is really a major piece of legislation, in my opinion, and I want it to be known that I have the highest regard for the Representative from Sanford, Mr. Tuttle. He and I met the night of the inauguration, we were two of the three occupants on the bus that went over to the Civic Center and I have come to have a better opinion of him every day. I am truly perturbed that his personal situation has worked out the way it has. I don't think that is a good basis for legislation. I hope I am not embarrassing the gentleman if I use his particular situation to explain why I think this is a bad piece of legislation and why despite the expert efforts of my good friend from Kennebunk, Representative McMahon, he has failed in his attempt to make a silk purse out of a sow's ear.

In the attempt to meet the very real problem posed to small businesses, this amendment, this bill, now says that it will not apply to anyone who employs fewer than ten people.

Well, in Representative Tuttle's situation, there are three EMT technicians in the Sanford Fire Department, there is one on duty at any one time. These are highly skilled people and you could really say that the health, safety, and well being of the citizens of Sanford depend on those skills being available. One on duty at a time. And you would say, well certainly that is exempt because there are only three. But the employer of these people is the Sanford Fire Department. The Sanford Fire Department employs 33 people. They are going to be hit.

I talked to the chief this morning. He said it is next to impossible to find an experienced skilled EMT, who will come in for six months, this year, impossible to find anyone who will come in for three months next year. I am offering this as an illustration of the damage that can be done if we thoughtlessly go ahead and pass such a far-reaching piece of legislation as we have before us this morning. So, I hope you will follow the advice of the gentleman from Bangor.

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

Mr. TUTTLE: Mr. Speaker, Ladies and Gentlemen of the House: In reference to the comments made by Mr. Garsoe, yes, there are three EMT's but there are also 45 other individuals, also 15 other people, who if I am not mistaken, who are certified as EMT's.

The SPEAKER: The Chair recognizes the

gentleman from Kennebunk, Mr. McMahon.

Mr. McMAHON: Mr. Speaker, Ladies and Gentlemen of the House: I have spoken at length on this issue and I really didn't intend to again today but I want to respond to Mr. Garsoe.

All Mr. Garsoe has proven by his comments is that Mr. Tuttle has been willing to accept an amendment, my amendment to his bill, that will not help him personally. For that, I must commend Mr. Tuttle.

The issue is much bigger than any individual here today. The issue is, whether we are going to encourage a broader cross-section of people, perhaps it might even be truer to say that mostly the people who end up paying the bills for the things we do up here to serve in this legislature. Now, the amendment that is now the bill, represents an effort on our part to accommodate the concerns that were made the first day this bill was debated in this House. I hope you can support it today.

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

Mr. MORTON: Mr. Speaker, Ladies and Gentlemen of the House: The gentleman from Kennebunk has brought up a couple of points, which I would like to perhaps give him some more illustrations on. He spoke of the remarks of the gentleman from Cumberland, only covering the situation in connection with the gentleman from Sanford. Well, I think we all here, in this ivory tower in Augusta, should start looking at the real world for a change.

I have every respect in the world for the gentleman from Kennebunk, and he did a masterful job in bringing this amendment before us and in drafting it so that it certainly was much better than the original bill.

But the fundamental principle that this bill addresses is still not being taken care of and there is only one way to take care of it and that is to kill the bill.

Here is what I am talking about. I have — up until very recently operated a small business — 25 to 28 employees. But my business is departmentalized, much as the fire department down in Sanford, and I did have a service department with about 12 or 13 people in it; I had a parts department with 2, sometimes 3 in it; I had a sales department with 4 to 5 people, an office with never more than 2. Each one of these was a profit center in the business or required to operate the business and each one of them, particularly the smaller ones would have been crippled, and I mean literally crippled. Had an employee — and here is where we get into the real world, ladies and gentlemen, let's look at this amendment and look at what is says, Amendment H-364, which is the bill, on the fourth line, it says any person, except persons covered under Title 20, these are the teachers, who is employed in a position other than a temporary position by an employer "shall" be granted, shall be granted. In other words, if any one of the employees in any of those relatively small departments in my business, had come to me and said, 90 days from now, I am going to put my papers in for the legislature. I would have had no choice but to say, great, I am all in favor of it, go to it, knowing, under this bill, that I would have had to accept that, allow this person to run, and then when he was finished with his term of office, two years down the road, would have had to reinstate him. Do you think that I could run that business with one person in my business department? What am I going to do with that person at the end of the two years, when this gentleman comes back or this lady comes back and says, I want my old job back? Has he got a right to sue me because I haven't got a spot for him? This is the real world we are talking about out there ladies and gentlemen.

I couldn't have any more admiration than I have for the gentleman from Kennebunk, Mr. McMahon, who comes here as a teacher from a teaching profession, the gentleman from Old

Town, Mr. Pearson, the same way. Their ideals are the best and their reasons for being here are the best. But, they haven't come from the world of business and they don't necessarily realize the problems that go with the business world.

As the gentleman from Cumberland pointed out, this is an extremely far reaching piece of legislation. The gentleman from Sanford yesterday in the debate mentioned the fact that it only affected 184 at the most. Well, ladies and gentlemen, in my opinion, if it affects just one, that is too many. If it places one business in the State of Maine in financial jeopardy, it is one too many. I just cannot see, here in Augusta, us sitting here in this position that we are, and demanding that business support the government in a way that is not covered by the other laws that we have. It is almost equivalent to taking property without any just compensation and without any due process. I think you better look at it extremely carefully.

The gentleman from Bangor yesterday made some excellent remarks in his debate in connection with the other aspects of this bill, the duties involved with coming down here and I won't go into those again.

I want you to remember if when you pull that switch that this is a mandatory item, you are laying it on the business community. To be sure, we have many people in this House who are here because the business voluntarily is willing to pay their way or voluntarily willing to release them and guarantee them their return to the job. I think you will find, in most cases, those instances are confined to large businesses where the dilution of that business is 1 in 100 or 1 in 1,000. That is an awful lot different than one in two, or one in five, or even one in ten.

I think it is a very significant bill. It is laying an obligation on businesses we really should not lay here in this legislature and I urge you not to vote to reconsider.

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

Mrs. POST: Mr. Speaker, Men and Women of the House: I think if you listened very carefully to Representative Morton's remarks, he gave you the reasons why we should vote to reconsider this bill and, in fact, should be supporting it. He talked about his business of 28 employees and he is the owner and/or the manager and, at least the owner of this business, and he is able to come and serve in the legislature. He makes that free choice. All this bill does it to extend that same type of free choice to his employees. I am certain if, in fact, a business such as Representative Morton's with 28 employees is able to succeed, and knowing Mr. Morton as a business man, I am sure he does, without its owner. I am sure it is able to do the same thing without a stock director or without a secretary.

Many of the people, who are in this legislature or who should be in this legislature and are supporting this bill, do not necessarily come from the world of business. Some of us come from the world of labor and some of us come from the world of now being in the position where our spouses are supporting us. All this bill does is help to insure that this legislature is not made up of people from any just one world, but that anybody in the State of Maine has the same rights to make the same kinds of choices on whether they want to take the responsibility of serving here.

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

Mr. LEONARD: Mr. Speaker, Ladies and Gentlemen of the House: I entered into the debate of yesterday and I am not about to shirk away from my duty today.

I guess what I said yesterday evidently fell on some deaf ears. The bill simply hasn't changed in its concept between yesterday and today.

The gentlelady from Owl's Head, Mrs. Post, has said that the sacrifice, if people want to

make a sacrifice and come up here, that is fine and they should be allowed to do so and it will ultimately give us a well rounded legislature. I say yes, fine, that is, in fact, the case.

Again, the sacrifice is two-fold. The only sacrifice is not necessarily in the pocket of the person being here. It is also in the pocket of that person that is the employer of that person here back home.

Contrary to your beliefs, I guess, I always hear in this House that the employee is a very necessary commodity in this world and he should be treated fairly. Now, all of a sudden in this bill, the thrust of it is, that the employee can actually be spared. His absence is not going to create any hardship on the employer. Therefore, the employer should not even be considered. I suggest that is a little bit in reverse to the argument that has been passed along here in the past on other pieces of legislation.

I would just suggest, in my business, for example, will not come under this particular piece of legislation. However, if in the event it grew, obviously, it would. When I decided to run for the Legislature, I took my top person in the business and I said, I hope to run for the Legislature, what do you think? He said, well it is going to be very difficult and I could see, at that point, he was a little reluctant to have me come up here because it represented to him, a lot more hours for him to put into the business to make it work properly and also a loss of income to him because he was on commission. I, therefore, had to renegotiate with that employee and I have paid him more, so that I could be here in the House of Representatives. So, maybe we should have a piece of legislation come forth, an amendment to this bill, where the employee would have to negotiate with the employer and, in the event the employee were to serve here, his absence and the cost of his absence should be borne by the employee for him to be here. I suggest that is at least fair in both directions.

It is a bad piece of legislation and I suggest we kill it.

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

Mr. WOOD: Mr. Speaker, Ladies and Gentlemen of the House: I have not spoken on this bill, up to this point, and I must admit that I have mixed feelings over it. But, I feel that in the debate yesterday, it was mentioned that this bill was in contradiction to the hopes that we were a citizen legislature. I would argue that this bill would guarantee that we will continue to be a citizen legislature. We have two options. We can continually raise our salaries, reduce the House, become more professional or we can find ways to insure that we will be a citizen's legislature by finding ways to make sure that the common person can serve up here without too many sacrifices.

I would argue, in contradiction to what Mr. Leonard said, that the employee is already making a sacrifice because he is not receiving those benefits. We are not saying the employer has to pay him while he is up here, he is already not going to receive those benefits. The bill does not require two years, it is only for the session. He will go back to work at the end of the session, so he is going to lose that pay and as far as I can see, we have a very high unemployment rate in this state, so I don't see any problem in them finding replacements. I think that if we are serious about insuring that we have a citizen's legislature, made up of many people from many walks of life, that we have to protect those people and offer them some security. All of us are here at a great sacrifice already. Many of us have to hold one or two or three jobs to be here. All this is saying is that it will ease that burden by once you have a job and you decide to run, that job will be there at the end of six months. You are not going to be paid by that employer but you will have the job. Some of us, who were in the teaching profes-

sion and are no longer in that profession, like Representative McMahon is no longer a teacher, we don't have that luxury the teachers have and we are just saying please if you are serious about making this truly a body of the people, be sure the people of all walks of life can be here and give them that security so they know when they get through that they will have a job to go back to.

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

Mr. STETSON: Mr. Speaker, Ladies and Gentlemen of the House: When I came up here in January, I was quite impressed with the fact that this is truly a citizen's legislature. I was quite impressed with the youth of the Representatives sitting here in this great body. I was also quite astonished to find there is a lack of professional people in the legislature. There is not one doctor, not one dentist, there are very few lawyers, whether this be good or bad, I don't know that there are any ordained ministers but we do have a very—except Mr. Wyman, excuse me—but we do have a truly citizen's legislature. I dare say we have more employees than employers. Certainly there has been no showing that there are people who are clammering to run for office, who are unable to run for office because they might lose their job, they might not get their job back. On the contrary, I dare say there are many legislators, who have left a position of employment and are assured of returning to that position of employment when they are through their term of service here. I suggest that this particular piece of legislation is not really needed and I further suggest that it sets a very bad precedent. Because as has been pointed out earlier, it puts a burden on other people in order for an individual to run for the legislature. There is no showing that the person that is running for the legislature needs that kind of protection.

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

Mr. MCHENRY: Mr. Speaker, Ladies and Gentlemen of the House: I would hope that we would reconsider this bill.

The people that are laborers of this House are from big industry, not from small industry. As you can see, business is making a heck of a good job throwing smoke screen in front of you, to make sure that the labor people, the common laborer, the common people, aren't going to be represented ever in this House. I assure you I am a laborer and I don't believe they are represented.

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

Mr. SPROWL: Mr. Speaker, Ladies and Gentlemen of the House: I didn't intend to speak on this bill but I look around me and it seems like everyone else is, so I thought I might as well add my two cents worth.

I guess I wouldn't be affected because of the amendment. I have nine employees, so I wouldn't be affected but, without the amendment, I feel I would be, because I am primarily in the oil business. I need my employees during the winter months. I would leave it up to any employee of mine as to whether he wants to run for the legislature or not, that is up to him. I need these employees, during the winter months to deliver oil. I keep them on all summer, my employment rate is as low as it can be, because I have never laid anyone off. I keep these employees on during the summer months even though I really don't need them. But for one of these employees to choose to come to the legislature, I reiterate, fine with me. I don't want him coming back in the spring, in April or May, when I don't need him and expect me to pick him up for the summer months.

I just think it is an individual right whether he wants to come here or not. I chose to come and I have sacrificed like the rest of you. I don't intend to do that another term, but I have done it three terms now. I think it is up to the

people to decide whether they want to come or not. If my employees want to come, fine, but don't come back in April, May or June and expect me to hire you when I don't need you. This would just tie the hands of the employer although I reiterate that I have nine employees and wouldn't come under this. But, if I had another employee, I would. Hopefully, some day I will have twice as many employees as I HAVE NOW.

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

Mr. SIMON: Mr. Speaker, Ladies and Gentlemen of the House: With all due respect to both the employers and employees, who have spoken against this bill, I hope that you will vote in favor of reconsideration, because in a free country an employee isn't just a commodity he is a citizen.

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

Mr. LEIGHTON: Mr. Speaker, Ladies and Gentlemen of the House: I rise to have what I hope is the last word on the subject. I applaud the attempt of those who wrote the bill and the amendment. I think what they are setting out to do, if it could be achieved mechanically, would be a very desirable thing for everyone involved.

I think, however, we should address ourselves as to whether the thing would work mechanically. Yesterday, I stood and recited a catalogue of mechanical problems that I thought I saw with the bill and I don't see how they can be resolved. Today, I would like to bring one more to your attention and this would be involved in when the replacement is hired. If you have got the tell the replacement employee, for the one who has run for the legislature that I don't know how long you are hired for and your job is granted maybe for six months, one year or two years, but when the fellow who represents this district comes back and we don't know when that is, you have got to go, then that is going to put the employer at a disadvantage in getting the broadest possible selection of a replacement employee. It is going to put that replacement employee in a ridiculous situation with no job security. So, I hope that you will keep this in mind as we vote.

Mr. Rolde of York requested a roll call vote.

The SPEAKER: A roll call has been requested. For the Chair to order a roll call vote, 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 Lisbon Falls, Mr. Tierney.

Mr. TIERNEY: Mr. Speaker, Ladies and Gentlemen of the House: We have heard in opposition to this bill from a series of employers, some of whom are not affected by this particular piece of legislation. Well, I am proud to announce, because the winds of fate have smiled kindly upon my law partners and myself, that this bill does affect my particular place of employment, and I am also happy to announce I am, indeed, one of the employers.

I think that much of what Mr. Morton said was correct. Now, one of our lawyers could come up here, they are always expendable. A secretary could probably be expendable, but if our bookkeeper left us, ladies and gentlemen of the House, my law firm would be in very, very serious trouble. So, it would be an inconvenience, it would be a difficulty. So, what would we have to do? Well, first of all, we would have nine months because we would have gotten the news in January that the person was thinking of running and, of course, the election isn't until November and they wouldn't take office until December, so actually, we would have an entire year to get ready for it. There is no ques-

tion that it would cost us something, we would have to go out and hire someone, train someone and bring that person in and then when that person got out of the legislature, we could conceivably have two bookkeepers, there is no question about that. Mr. Morton is correct.

But what are the arguments on the other side? The argument on the other side is that service in this body is so important that the citizens of all our communities should not be denied the right to choose the best person to come here because of economic reasons. If the people in my bookkeeper's community think she ought to be here, they shouldn't be denied the opportunity just because it might cost Jim Tierney a little money, because that is the essence of a democracy, that we are able to put our absolute best top people in elective office. Those people who argue to the contrary, Mr. Garsoe, Mr. Morton, and Mr. Leighton, and Mr. Leonard are all saying the same thing, that it is going to or could possibly cause me and my business a little inconvenience and a little difficulty and so it shouldn't be done, losing sight completely of the big picture and that is democracy itself. I think that is what Mr. Simon was alluding to.

There is another reason, ladies and gentlemen of the House, why this Bill should pass and it hasn't been dealt with, but it is a real fact of life and we ought to admit it, because not only does it mean that more people would be allowed to run for this office, it also means that, once they are here, they would be free from intimidation from their own employer. Let's not kid ourselves, ladies and gentlemen, that that goes on. For those of you who are first term, haven't seen it happen, I would be happy to meet you out back and I will give you some excellent concrete examples. Mr. Brown, nodded his head, I would be happy to.

Ladies and Gentlemen, by far a more important reason is that we must throw the doors of the legislature open to all people, all walks of life, low income, middle income, retired, young, people with families, they all should have the right to be able to come here and serve their people. Democracy only works when you have your best.

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

Mr. GARSOE: Mr. Speaker, Ladies and Gentlemen of the House: I am rising very briefly to remind you that is the third time Mr. Tierney has offered to instruct your freshmen. He has been wrong the other two and I suggest that he wouldn't be much better on this one.

Now, he gave quite an impassioned speech in favor of the constitutional right of citizens and so forth, but I submit that this bill will produce more work for lawyers than anything we have done this far in this session. This is just bait for suits. I have been told by the MTA that, if this goes through, the permissive language in here regarding paid or not to be paid, will be the subject of collective bargaining. Now we will be negotiating that the teachers will be paid for the time they spend down here.

I think the most important thing we should keep in mind is that there ought to be a law in this body that if something isn't broken, we don't try to fix it. I submit we have got one of the best cross sections that you could get by chance or by design in this legislature right now. It served us pretty well for over 100 years and I think that this is just a bad piece of legislation, that no one sitting here today will really measure the full impact of and I hope we will again stick with the gentleman from Bangor, Mr. Kelleher, and not reconsider it.

Mr. Berry of Buxton moved the previous question.

The SPEAKER: For the Chair to entertain a motion for the previous question, it must have the expressed desire of one-third of the members present and voting. All those in favor of the Chair entertaining the motion for the previous question will vote yes; those opposed will

vote no.

The Chair opens the vote.

A vote of the House was taken.

79 having voted in the affirmative and 35 in the negative, the previous question is entertained now.

The question now before the House is shall the main question be put now, which is debatable for any one member for five minutes.

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

Mr. PEARSON: Mr. Speaker, Ladies and Gentlemen of the House: I would hope that you wouldn't put the previous question now. In the years that I have been in this legislature, I have seen that done very rarely. I think that there are extenuating circumstances under this situation because the final remarks that were made before the vote on the previous question were made. I think deserves some comment because I think there was some very inaccurate statements made and I think that the people in the House ought to be able to have a chance to refute those statements. Because of that, I would ask you not to move the previous question and to shut off debate. I don't think it is fair to those of us who want to respond to somebody that made a remark at the very end, that was totally inaccurate.

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

Mr. TIERNEY: Mr. Speaker, Ladies and Gentlemen of the House: I spoke, maybe overlong a few moments ago, and said that democracy only works best when it has its best people. Well, it doesn't work at all unless you have the right to debate and we may not be the best but we are here. I would certainly like to hear a few more speakers on the subject matter. I will be voting with Mr. Pearson and Mr. Kelleher on the pending motion.

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

Mr. TARBELL: Mr. Speaker and Members of the House: I would like to remind the House there are many issues during the course of the session we have not had an opportunity to debate in this body.

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

Mr. MORTON: Mr. Speaker, Ladies and Gentlemen of the House: May I ask the indulgence of the House to vote against the motion to put the question at the present time. I, very definitely, would like to reply.

The SPEAKER: The Chair recognizes the gentleman from Buxton, Mr. Berry.

Mr. BERRY: Mr. Speaker, Ladies and Gentlemen of the House: This debate has gone on for probably a good half hour. I have always felt that most people could tell you all they knew in five minutes anyway. There is not a heck of a lot being said here that hasn't already been said eight times. I doubt very much that if you talk all day whether you are going to change one vote in this body. If you think you are, good luck to you. I would be amazed if you did.

The SPEAKER: The pending question before the House is shall the main question be put now? All in favor of the main question being put now will vote yes; those opposed will vote no.

A vote of the House was taken.

56 having voted in the affirmative and 71 having voted in the negative, the main question is not put now.

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

Mr. PEARSON: Mr. Speaker, Ladies and Gentlemen of the House: Immediately before the vote was taken or just a little bit before the vote was taken, the gentleman from Cumberland, Mr. Garsoe, made a statement that I think is extremely inaccurate. He said that he had information from the MTA that there was going to be suits dealing with this particular measure if it passed. The bill is entitled to in-

crease job security for employment for employees elected to the legislature, excluding employees covered under provisions dealing with teachers. I have no indication from the MTA or anybody else that they would ever contemplate a suit because they would be foolish to do it, it doesn't cover them. Teachers are covered under another law. Mr. Garsoe knows that. I don't understand why he said that.

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

Mr. McMAHON: Mr. Speaker, Ladies and Gentlemen of the House: I also rise to rebut the comments made by the gentleman from Cumberland, which seemed to be made in desperation in this late hour of debate. I would rebut them in two areas, first as the previous speaker, Mr. Pearson said, this does not cover teachers. Having been one, I would like to point out to you that section 2001 of the Education Laws says—I will read only the appropriate section: "Leave of absence shall be granted 'without' pay." Until that can become changed, we would have to change it here, which would be a different issue altogether. The bill has nothing to do with teachers, except for the purposes of this section, private school teachers would be considered in the same light as in Section 2001 treats public school teachers.

With regard to Mr. Garsoe's other comment, which perhaps causes me somewhat more consternation than the first one, that it would take a host of lawyers to figure out this amendment. Well, those of you that have been here and served with me for more than this term know that I am not overly fond of that profession. I want you to also know that when I wrote the amendment, I wrote it as clear as possible so as to avoid the need for anyone to hire a lawyer to understand his own state's law. So, Mr. Garsoe, let's talk facts, not red herrings.

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

Mr. GARSOE: Mr. Speaker, Ladies and Gentlemen of the House: Well, I either misspoke myself or someone misheard me. I don't think I said suits. It has been brought to my attention that the MTA regarded the language in the area of pay or not be paid as being a foot in the door for then contending that the subject of pay could be brought up under this type of legislation. If I said suit, I misspoke myself. Collective bargaining, of course, you can bring in any proposal that you wish. It could be somewhat of a paranoia on the part of those who face going to the table against the MTA each year to surmise that this might be actually brought to fruition.

On the subject of attorneys, I will take that back not at all. I think every word we put on the books here makes it possible for attorneys to become embroiled. I think a departure such as we are looking at right now, I insist, is a significant far-reaching piece of legislation and is going to have consequences that I don't believe any one of us can visualize here today. We see this happen year after year. There are bills that are passed here that seemed so simple, so easy to understand and accomplished such admirable results, do end up being very complicated and creating more problems than they were ever expected to correct.

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

Mr. KELLEHER: Mr. Speaker, Ladies and Gentlemen of the House: I honestly find it an honor and a privilege to stand here at Seat 121 and I also feel it an honor and a privilege to serve in this body since 1969. I think the spirit of the Maine Legislature is, in fact, a citizen's body. It was when I came here and I honestly think that it is at the present time, because of the broad section of individuals and representation that is seated in this House. This is the people's body.

Some of the remarks made in this House this morning that this bill would provide an opportunity for working men and women to serve in

this body. I might suggest that there is no one that has had more quarrels in this House, in the past six years, with the gentleman from Cumberland, than I have dealing with issues concerning the working men and women of this State, on a variety of bills that have come out of the Committee on Labor. I am in agreement with him on this particular issue this morning because I honestly believe that the attitude and the sincerity of what the meaning of a citizen legislature is would be tampered if, in fact, we passed this document this morning. I would urge the very numbers of you that supported the indefinite postponement yesterday to stand firm and do not move for reconsideration in this House today. More importantly, you will be protecting the integrity of this legislature which is, in fact, and cannot be disputed a citizen's legislature.

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

Mr. MORTON: Mr. Speaker, Ladies and Gentlemen of the House: I did want an opportunity to speak again because a couple of things I did want to clarify for the gentlelady from Owl's Head, my position, I am no longer an owner of a business, however, I was an owner when I came here but I want to assure that good lady that I would have liked to have come many years earlier, and I am not sure that would have been any help to the body, but I made the decision that I could not afford to and could not leave my business until the time came when I did come.

I think the gentleman from Madawaska is a living proof that the working man can be here in the legislature, as are many others, who are presently here.

My remarks here are pretty much directed at that very eloquent gentleman down in the right hand corner who came up with some fiery remarks in connection with freedom and democracy and I don't think there is anybody here in this House, who supports those principles any more than the gentleman from Lisbon, nor any more than I do, nor any more that anyone else in this business. I do just want to say in closing, and these will be my last remarks on this bill, that the freedom to choose, the freedoms that we have under democracy are yes, paid for by the little man, they are also paid for by the businessman and by free enterprise. We are enabled to operate here as free people, because this country that we live in, is a free enterprise country. I don't think we ought to do anything to kill it, this bill kills it and it ought to be killed.

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

Mrs. KANY: Mr. Speaker and Members of the House: I can say all I know in a lot less than one minute. It sounds like either the right to choice bill or the right to life bill, but whatever it is, if it isn't perfect after we enact it and whoever is here next session, can change it. I hope you vote to reconsider.

The SPEAKER: A roll call has been ordered. The pending question is on the motion of the gentleman from Sanford, Mr. Wood, that the House reconsider its action whereby the bill and all accompanying papers were indefinitely postponed. All those in favor of that motion will vote yes; those opposed will vote no.

ROLL CALL

YEA — Bachrach, Baker, Barry, Beaulieu, Benoit, Berry, Berube, Blodgett, Brannigan, Brennerman, Brodeur, Brown, K.C.; Chonko, Cloutier, Conary, Connolly, Cox, Curtis, Davies, Diamond, Doukas, Dow, Dutremble, D.; Dutremble, L.; Elias, Fowlie, Gillis, Gowen, Gwadosky, Hall, Hanson, Hickey, Hobins, Howe, Jacques, P.; Kane, Kany, Laffin, LaPlante, Lizotte, Locke, MacEachern, Marshall, Martin, A.; McHenry, McMahon, McSweeney, Michael, Mitchell, Nadeau, Nelson, M.; Nelson, N.; Norris, Paradis, Paul, Pearson, Post, Prescott, Reeves, P.; Rolde, Simon, Theriault, Tierney, Tuttle, Vincent, Violette,

Vose, Wood, Wyman, The Speaker.

NAY — Aloupis, Austin, Bordeaux, Boudreau, Brown, A.; Brown, D.; Brown, K.L.; Bunker, Call, Carrier, Carter, D.; Carter, F.; Cunningham, Damren, Davis, Dellert, Dexter, Drinkwater, Fenlason, Fillmore, Garsoe, Gavett, Gould, Gray, Higgins, Huber, Hunter, Hutchings, Immonen, Jackson, Jalbert, Joyce, Kelleher, Kiesman, Lancaster, Leighton, Leonard, Lewis, Lougee, Lowe, Lund, MacBride, Mahany, Masterman, Masterton, Matthews, Maxwell, McPherson, Morton, Nelson, A.; Payne, Peltier, Peterson, Reeves, J.; Rollins, Roope, Sewall, Sherburne, Silsby, Small, Smith, Sprowl, Stetson, Stover, Strout, Studley, Tarbell, Torrey, Tozier, Twitchell, Wentworth, Whittemore.

ABSENT — Birt, Bowden, Carroll, Churchill, Dudley, Hughes, Jacques, E.; McKean, Soulas. Yes, 70; No, 72; Absent, 9.

The SPEAKER: Seventy having voted in the affirmative, seventy-two in the negative with nine being absent, the motion did not prevail.

On motion of Mrs. Prescott of Hampden,
Recessed until four thirty o'clock this afternoon.

After Recess 4:30 P.M.

The House was called to order by the Speaker.

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

Bill, "An Act to Fund and Implement Agreements between the State and the Maine State Employees Association and to Fund and Implement Benefits for Managerial and other Employees of the Executive Branch Excluded from Coverage under the State Employees Labor Relations Act" (H. P. 1361) (L. D. 1597) — In House, Passed to be Engrossed without reference to a Committee on May 2, 1979 — In Senate, Indefinitely Postponed.

Tabled—May 9, 1979 by Mrs. Mitchell of Vassalboro.

Pending—Further consideration.

On motion of Mrs. Mitchell of Vassalboro, tabled unassigned.

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

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

Tabled—May 9, 1979 by Mr. Carroll of Limerick.

Pending—Passage to be Engrossed.

Mr. Cox of Brewer offered House Amendment "A" and moved its adoption.

House Amendment "A" (H-368) was read by the Clerk.

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

Mr. COX: Mr. Speaker, Ladies and Gentlemen of the House: When this bill was presented several days ago, the original bill had some valid objections raised to it and we finally got an amendment printed, which was distributed late yesterday after the House adjourned so people might have a little difficulty finding it.

I will explain briefly what the problem is. I know there were not too many people here this morning when it first came in, it came in early in the day. There is a problem that exists with vehicles passing stopped school buses in that the existing law has a fine of \$150 for passing a stopped school bus. Because of rules of evidence in the Constitution and various other things, I guess, it is necessary that a witness to identify the operator of the vehicle in order to get a conviction and knowing that it is almost impossible for a school bus driver to actually recognize the driver so he can identify him, in most cases, these violations are not even brought to court because the police know that

unless the bus driver has told them that he can positively identify the driver of the vehicle, there is just no chance of getting a conviction.

The amendment is the bill now. What this bill would have us do is that in those cases where the driver cannot be identified, we would use a civil violation and the necessary evidence for getting the registered owner into a court, would be the identification of the vehicle, either by the registration number or a combination of other distinguishing marks, etc. on the car. The penalty, upon finding that the violation had been committed by this vehicle, would be suspension of the registration of the vehicle for a period of not less than three months nor more than one year.

The original bill called for this being done by the Secretary of State and problems were raised about due process under the procedure. So, the amendment, which I now remind you is the bill, would have a summons sent to the registered owner of this vehicle, who would be summoned into district court to show just cause, why his registration should not be suspended. I will read you the section that deals with the finding. If the court finds that the vehicle was used in violation of Section 2019, Subsection 2, and that vehicle was identified by the preponderance of the evidence, that it will be ordered that the registration be suspended according to Subsection 1 until notified, the Secretary of State who shall implement the order. In section 4 of the bill, it gives a little extra protection to the owner of the vehicle—unlawful possession, this section shall not apply to any motor vehicle, which at the time of violation, was in the unlawful possession of a person other than the registered owner of the vehicle, when the unlawful possession was not the result of the negligence of that owner.

So, I think we have given the owner of the vehicle plenty of due process here because he will have his day in court. Both sides will have their chance to present their evidence, before the court makes a finding that this violation has been committed by this vehicle. I might add that, any time during this process that the driver is identified, immediately the existing law would take over and it would be on the basis of the identification of the driver, and then you would go back into what is already in the law and this would not apply once someone had identified the driver, in the case the owner of the vehicle said, well, I was driving the vehicle or I found out someone else was driving it and could identify them.

Thereupon, House Amendment "A" was adopted.

The SPEAKER: The Chair recognizes the gentleman from Limerick, Mr. Carroll.

Mr. CARROLL: Mr. Speaker, Ladies and Gentlemen of the House: I would like to have this bill tabled one day. I have a member on my committee who wishes to speak on it. He is sick and had to leave.

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

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

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 9, 1979 by Mr. Birt of East Milinocket.

Pending—Motion of Mr. Wood of Sanford to Reconsider Indefinite Postponement of Bill and All Accompanying Papers.

On motion of Mrs. Kany of Waterville, tabled pending the motion of Mr. Wood of Sanford to reconsider indefinite postponement of the Bill and all its accompanying papers and later today assigned.

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

An Act to Establish the Beer and Wine Franchising Act (H. P. 608) (L. D. 776) (C. "A" H-285)

Tabled—May 9, 1979 by Mr. Violette of Van Buren.

Pending—Passage to be Enacted.

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

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

HOUSE DIVIDED REPORT — Majority (9) "Ought to Pass" as Amended by Committee Amendment "A" (H-344) — Minority (4) "Ought Not to Pass" — Committee on Labor on Bill "An Act to Define Suitable Work After the First Twelve Consecutive Weeks of Unemployment" (H. P. 823) (L. D. 1023)

Tabled—May 9, 1979 by Mr. McHenry of Madawaska.

Pending—Motion of Mr. Wyman of Pittsfield to Accept the Majority "Ought to Pass" Report.

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

Mr. WYMAN: Mr. Speaker, Ladies and Gentlemen of the House: We are, on the Labor Committee, having some difficulty in finding some answers to some of the issues concerning this particular bill and, in order for us to find these answers, it will take some time to address the Bureau of Labor Office in Boston. For that reason, I would appreciate it if someone would table this unassigned until we have these situations cleared up.

On motion of Mr. Tierney of Lisbon Falls, tabled unassigned.

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

Bill, "An Act to Regulate State Liquor Stores and Agencies" (H. P. 1243) (L. D. 1487)

Tabled—May 9, 1979 by Mr. Violette of Van Buren.

Pending—Adoption of Committee Amendment "A" (H-338).

On motion of Mr. Violette of Van Buren, retabled pending adoption of Committee Amendment "A" and tomorrow assigned.

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

HOUSE REPORT — "Ought to Pass" as Amended by Committee Amendment "A" (H-339) — Committee on Judiciary on Bill, "An Act to Clarify Certain Provisions Relating to the Statistical Reporting of Abortions" (H. P. 545) (L. D. 676)

Tabled—May 9, 1979 by Mr. Hobbins of Saco.

Pending—Acceptance of the Committee Report.

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

Committee Amendment "A" (H-339) was read by the Clerk and adopted and the Bill assigned for second reading tomorrow.

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

Bill, "An Act to Improve Election Laws and to Make Equal Application of Legal Requirements for Independents, Democrats and Republicans in all Respects" (H. P. 898) (L. D. 1136)

Tabled—May 9, 1979 by Mrs. Mitchell of Vassalboro.

Pending—Passage to be Engrossed.

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

Mr. GARSOE: Mr. Speaker, Ladies and Gentlemen of the House: Since the hour is late and since I intend to move indefinite postponement of this piece of legislation and since that undoubtedly will lead to some debate between my seatmate and I, I would hope someone would have the grace to table this for one day.

On motion of Mr. Tierney of Lisbon Falls,

tabled pending passage to be engrossed and tomorrow assigned.

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

Bill, "An Act to Reimburse Municipalities for Expenses Incurred in Enforcing Statutes, Ordinances and Regulations Relating to the Operation or Use of Motor Vehicles, Streets and Highways" (S. P. 183) (L. D. 413) (C. "A" S-137)

Tabled—May 9, 1979 by Mr. Connolly of Portland.

Pending—Motion of the same gentleman to Indefinitely Postpone Bill and All Accompanying Papers.

On motion of Mrs. Mitchell of Vassalboro, tabled pending the motion of the gentleman from Portland, Mr. Connolly, that the bill and all its accompanying papers be indefinitely postponed and tomorrow assigned.

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

Bill, "An Act to Amend the Method of Appointment to the Advisory Committee on Medical Education" (H. P. 937) (L. D. 1147)

Tabled—May 9, 1979 by Mr. Connolly of Portland.

Pending—Adoption of Committee Amendment "A" (H-353)

On motion of Mr. Rolde of York, tabled pending adoption of Committee Amendment "A" and tomorrow assigned.

The Chair laid before the House the following matter:

Bill "An Act to Allow Unions to Negotiate on Behalf of Former Employees of a Company with which the Union is Negotiating" (S. P. 319) (L. D. 949) which was tabled earlier in the day and later today assigned pending the motion of the gentleman from New Gloucester, Mr. Cunningham, that the House substitute the Bill for the Report in concurrence.

Whereupon, the Bill was substituted for the Report in concurrence and the Bill read once.

Senate Amendment "A" (S-151) was read by the Clerk and adopted and the Bill assigned for second reading tomorrow.

The Chair laid before the House the following matter:

Bill "An Act Concerning Reserve Officer Standards for Professional Law Enforcement Personnel" (S. P. 405) (L. D. 1276) which was tabled earlier in the day and later today assigned pending passage to be engrossed.

Mr. Violette of Van Buren offered House Amendment "A" and moved its adoption.

House Amendment "A" (H-380) was read by the Clerk and adopted.

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

The Chair laid before the House the following matter:

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) which was tabled pending earlier in the day and later today assigned pending the motion of Mr. Wood of Sanford to reconsider indefinite postponement of bill and all accompanying papers.

Thereupon, the House voted to reconsider its action whereby this Bill and all its accompanying papers were indefinitely postponed.

The SPEAKER: The Chair recognizes the gentleman from Limerick, Mr. Carroll.

Mr. CARROLL: Mr. Speaker, Ladies and Gentlemen of the House: I have a request that my colleague, who is sick and had to leave, that this be tabled until he comes back.

On motion of Mr. McKean of Limestone, tabled pending the motion to indefinitely postpone and tomorrow assigned.

(Off Record Remarks)

The Speaker appointed Mr. Elias of Madison to act as Speaker pro tem tomorrow.

On motion of Mrs. Bachrach, adjourned until twelve o'clock tomorrow.