

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

Monday, May 21, 1979

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

Prayer by the Reverend Harlan DeBrun of the First Baptist Church of Waldoboro.

Rev. DeBRUN: Let us pray! Almighty Father, we humbly bow before you this morning acknowledging that you are the creator and sustainer of life. We do thank you for this privilege this morning for a spirit of wisdom and discernment, a sense of direction and unity. We do ask your blessing in the name of Jesus Christ. Amen.

The members stood during the playing of the National Anthem by the Penquis Valley High School Band of Milo.

The Journal of the previous session was read and approved.

Papers from the Senate Later Today Assigned

The following Joint Order: (S. P. 563)

ORDERED, the House concurring, notwithstanding the provisions of Joint Rule 21, all bills and resolves referred to committee shall be reported from committee by 5 p.m. on Friday, June 1, 1979.

Came from the Senate read and passed.

In the House, the Order was read.

On motion of Mr. Tierney of Lisbon Falls, tabled pending passage in concurrence and later today assigned.

Reports of Committees Ought to Pass in New Draft

Committee on State Government on Bill "An Act to Conform State Statutes to the Federal Food Stamp Program" (S. P. 403) (L.D. 1264) reporting "Ought to Pass" in New Draft (S. P. 561) (L. D. 1619)

Came from the Senate with the Report read and accepted and the New Draft passed to be engrossed.

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

Ought to Pass Later Today Assigned

Report of the Committee on Business Legislation reporting "Ought to Pass" on Bill "An Act to Redistribute Responsibility for Enforcement of Laws Prohibiting Certain Unfair Trade Practices" (S. P. 413) (L. D. 1277)

Came from the Senate with the Report read and accepted and the Bill passed to be engrossed as amended by Senate Amendment "A" (S-203)

In the House, the Report was read and accepted and the Bill read once. Senate Amendment "A" (S-203) read by the Clerk.

On motion of Mr. Howe of South Portland, tabled pending adoption of Senate Amendment "A" in concurrence and later today assigned.

Divided Report

Majority Report of the Committee on Transportation reporting "Ought to Pass" as amended by Committee Amendment "A" (S-192) on Bill "An Act to Provide Reimbursement for Snow Removal on Accepted Ways" (S. P. 311) (L. D. 906)

Report was signed by the following members:

Messrs. USHER of Cumberland
O'LEARY of Oxford
EMERSON of Penobscot

— of the Senate.

Messrs. JACQUES of Lewiston
LOUGEE of Island Falls
McPHERSON of Eliot
HUTCHINGS of Lincolnville
HUNTER of Benton
BROWN of Mexico

CARROLL of Limerick
McKEAN of Limestone

— of the House.

Minority Report of the same Committee reporting "Ought to Pass" as amended by Committee Amendment "B" (S-193) on same Bill.

Report was signed by the following members:

Messrs. STROUT of Corinth
ELIAS of Madison

— of the House.

Came from the Senate with the Majority "Ought to Pass" as amended by Committee Amendment "A" (S-192) Report read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (S-192)

In the House: Reports were read.

On motion of Mr. Carroll of Limerick, the Majority "Ought to Pass" Report was accepted in concurrence and the Bill read once. Committee Amendment "A" (S-192) was read by the Clerk and adopted in concurrence and the Bill assigned for second reading tomorrow.

Non-Concurrent Matter

Bill "An Act to Clarify Certain Provisions Relating to the Statistical Reporting of Abortions" (H. P. 545) (L. D. 676) which was passed to be engrossed as amended by Committee Amendment "A" (H-339) in the House on May 11, 1979.

Came from the Senate passed to be engrossed as amended by Committee Amendment "A" (H-339) as amended by Senate Amendment "A" (S-160) thereto in non-concurrence.

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

Non-Concurrent Matter

Bill, "An Act Concerning Reimbursement for Health Care Services in Certified Rural Health Clinics" (H. P. 700) (L. D. 890) which was passed to be engrossed in the House on May 15, 1979.

Came from the Senate passed to be engrossed as amended by Senate Amendment "A" (S-208) in non-concurrence.

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

Non-Concurrent 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) on which the Minority "Ought to Pass" Report of the Committee on Transportation was read and accepted and the Bill passed to be engrossed as amended by House Amendment "A" (H-370) in the House May 14, 1979.

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

In the House: On motion of Mr. Nadeau of Lewiston, the House voted to Insist and ask for a Committee of Conference.

Non-Concurrent Matter

Bill, "An Act to Reduce the Minimum Public Utility Monthly Electrical Charge to \$2 and to Prohibit the use by Electrical Utilities of an Estimated Meter Reading as a Basis for a Customer Bill" (H. P. 1193) (L. D. 1444) on which Report "A" "Ought to Pass" as amended by Committee Amendment "A" (H-383) of the Committee on Public Utilities was read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (H-383) in the House on May 15, 1979.

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

In the House: On motion of Mr. Davies of Orono, the House voted to Insist.

Petitions, Bills and Resolves Requiring Reference

The following Bills were received and referred to the following Committees:

Business Legislation

Bill "An Act to Increase the License Fees of the Master, Journeyman and Apprentice Oil Burner Man" (H. P. 1420) (L. D. 1623) (Presented by Mr. Howe of South Portland) (Ordered Printed)

Sent up for concurrence.

By unanimous consent, ordered sent forthwith to the Senate.

State Government

Bill "An Act to Amend the Salary Range for the Insurance Superintendent" (Emergency) (H. P. 1421) (L. D. 1624) (Presented by Mr. Howe of South Portland) (Ordered Printed)

Sent up for concurrence.

By unanimous consent, ordered sent forthwith to the Senate.

House Reports of Committees Ought Not to Pass

Mr. Pearson from the Committee on Appropriations and Financial Affairs on Bill "An Act to Increase Legislative Salary in the First Year of the Biennium" (H. P. 445) (L. D. 562) reporting "Ought Not to Pass"

Mr. Morton from the Committee on Appropriations and Financial Affairs on Bill "An Act to Increase the Salaries and Certain Expense Reimbursements of State Legislators" (H. P. 565) (L. D. 711) reporting "Ought Not to Pass"

Mrs. Post from the Committee on Taxation on RESOLUTION, Proposing an Amendment to the Constitution of Maine to Limit the Amount of Revenues which may be Raised by Taxes in any Fiscal Year. (H. P. 330) (L. D. 429) reporting "Ought Not to Pass"

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

Leave to Withdraw

Mrs. Curtis from the Committee on Health and Institutional Services on Bill "An Act to Require that Children Receive Social Development Counseling During Divorce Proceedings" (H. P. 1141) (L. D. 1338) reporting "Leave to Withdraw". Report was read and accepted and sent up for concurrence.

Mrs. Prescott from the Committee on Health and Institutional Services on Bill "An Act Concerning Interdepartmental Coordination of Services to Children and Families" (H. P. 1086) (L. D. 1353) reporting "Leave to Withdraw". Report was read.

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

Mrs. NELSON: Mr. Speaker, Men and Women of the House: The Committee on Health and Institutions decided it would withdraw this bill, or asked me to withdraw the bill, which I have done, but I would like to read the intent into the Legislative Record. I have a letter from Michael Petit, Commissioner of Human Services, and George Zitney, Commissioner of Mental Health and Corrections, and H. Sawin Millett, Commissioner of Education. It reads:

"As you know, the Interdepartmental Committee is comprised of the Commissioners of the Departments of Mental Health and Corrections, Educational and Cultural Services and Human Services and key policy makers from those departments selected by their respective Commissioners.

"In response to your concern regarding the continuation of the Interdepartmental Committee effort, please know that Commissioners Michael Petit, George Zitnay, and H. Sawin Millett are committed to the continuation of this worthwhile effort. We plan to continue our cooperative, coordinative efforts whether or not L. D. 1353, An Act Concerning Interdepart-

mental Coordination of Services to Children and Families is favorably considered by the Legislature and signed into law by the Governor.

"Presently, the Interdepartmental Committee is developing a joint work plan of action for the coming year based upon priority issues determined by each department. We look forward to building upon the essential foundation set by the past cooperative efforts of the three departments in the area of children and family service.

"Thank you for your efforts in this regard"
Thereupon, the Report was accepted and sent up for concurrence.

Mr. Laffin from the Committee on Judiciary on Bill "An Act to Clarify the Freedom of Access Law" (H. P. 628) (L. D. 770) reporting "Leave to Withdraw".

Mr. Mahany from the Committee on Agriculture on Bill "An Act to Abolish the Maine Milk Commission" (H. P. 554) (L. D. 701) reporting "Leave to Withdraw".

Mr. Brannigan from the Committee on Business Legislation on Bill "An Act Concerning Licensing of Psychologists" (H. P. 887) (L. D. 1087) reporting "Leave to Withdraw".

Mr. Pearson from the Committee on Appropriations and Financial Affairs on Bill "An Act Appropriating \$500,000 for the Improvement and Construction of District Court Facilities" (H. P. 1189) (L. D. 1467) reporting "Leave to Withdraw".

Mr. Immonen from the Committee on Taxation on Bill "An Act to Amend the Laws on Taxation to Provide for the Automatic Return of any State Surplus to the Taxpayers" (H. P. 532) (L. D. 653) reporting "Leave to Withdraw".

Mr. Cox from the Committee on Taxation on Bill "An Act to Require that Forest Land be Taxed According to Current Use" (H. P. 446) (L. D. 563) reporting "Leave to Withdraw".

Mr. Twitchell from the Committee on Taxation on RESOLUTION, Proposing an Amendment to the Constitution of Maine to Establish Property Tax Exemptions for Maine Homesteads (H. P. 983) (L. D. 1218) reporting "Leave to Withdraw".

Mr. Cox from the Committee on Taxation on Bill "An Act to Amend the Tree Growth Tax Law" (H. P. 649) (L. D. 802) reporting "Leave to Withdraw".

Mr. Brennerman from the Committee on Taxation on Bill "An Act to Provide that the State Tax Assessor Shall Use Information from Federal Income Tax Forms to Determine Appropriate Valuation of Land under the Tree Growth Tax Law for Those Taxpayers who Declare Capital Gains from Timber Sales" (H. P. 848) (L. D. 1033) reporting "Leave to Withdraw".

Mr. Twitchell from the Committee on Taxation on Bill "An Act to Provide for Full Disclosure of Tax Information on Tax Bills" (H. P. 610) (L. D. 791) reporting "Leave to Withdraw".

Mr. Marshall from the Committee on Taxation on Bill "An Act to Create the Property Tax Homestead Relief Act of 1979" (H. P. 854) (L. D. 1054) reporting "Leave to Withdraw".

Mr. Marshall from the Committee on Taxation on Bill "An Act to Establish the Maine Homeowners and Tenants Tax Relief Program" (H. P. 479) (L. D. 596) reporting "Leave to Withdraw".

Mr. Brennerman from the Committee on Taxation on Bill "An Act to Provide for Public Notice of Any Municipal Tax Increase" (H. P. 611) (L. D. 792) reporting "Leave to Withdraw".

Reports were read and accepted and sent up for concurrence.

Ought to Pass in New Draft

Mrs. Bachrach from the Committee on State Government on Bill "An Act Establishing Mechanisms to Pinpoint Responsibility and Facilitate

Coordination Between the Various Manpower Training and Economic Development Programs" (H. P. 714) (L. D. 887) reporting "Ought to Pass" in New Draft (H. P. 1418) (L. D. 1622)

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

Ought to Pass

Pursuant to Joint Order H. P. 135

Mr. LaPlante from the Committee on Local and County Government on RESOLVE, for Laying of the County Taxes and Authorizing Expenditures of Lincoln County for the Year 1979 (Emergency) (H. P. 1416) (L. D. 1620) reporting "Ought to Pass" pursuant to Joint Order (H. P. 135)

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

Ought to Pass

Pursuant to Joint Order H. P. 135

Mr. LaPlante from the Committee on Local and County Government on RESOLVE, for Laying of the County Taxes and Authorizing Expenditures of Washington County for the Year 1979 (Emergency) (H. P. 1417) (L. D. 1621) reporting "Ought to Pass" pursuant to Joint Order (H. P. 135)

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

Divided Report

Majority Report of the Committee on Judiciary reporting "Ought to Pass" on Bill "An Act Concerning Preservation Interests under the Property Laws Pertaining to Preserving or Restoring Historic Property" (H. P. 1212) (L. D. 1500)

Report was signed by the following members:

Mr. COLLINS of Knox
Mrs. TRAFTON of Androscoggin — of the Senate.

Messrs. GRAY of Rockland
JOYCE of Portland
STETSON of Wiscasset
LAFFIN of Westbrook
SILSBY of Ellsworth
Mrs. SEWALL of Newcastle
Messrs. HUGHES of Auburn
SIMON of Lewiston — 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. DEVOE of Penobscot — of the Senate.
Mr. CARRIER of Westbrook — of the House.

Reports were read.

On motion of Mr. Carrier of Westbrook, the Minority "Ought Not to Pass" Report was accepted and sent up for concurrence. (Later Reconsidered)

Divided Report

Tabled Unassigned

Majority Report of the Committee on Education reporting "Ought Not to Pass" on Bill "An Act Relating to the Computation of the Local Allocation" (H. P. 98) (L. D. 112)

Report was signed by the following members:

Messrs. MINKOWSKY of Androscoggin
TROTSKY of Penobscot
Mrs. GILL of Cumberland — of the Senate.

Messrs. CONNOLLY of Portland
FENLASON of Danforth
Mrs. GOWEN of Standish
Mr. BIRT of East Millinocket
Mrs. LEWIS of Auburn
Mr. LEIGHTON of Harrison

Mrs. BEAULIEU of Portland
Mr. DAVIS of Monmouth

— of the House.

Minority Report of the same Committee reporting "Ought to Pass" as amended by Committee Amendment "A" (H-456) on same Bill.

Report was signed by the following members:

Mr. ROLDE of York
Mrs. LOCKE of Sebec

— of the House.

Reports were read.

On motion of Mr. Tierney of Lisbon Falls, tabled unassigned pending acceptance of either Report.

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

Passed to be Enacted Emergency Measure

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) (H. "A" H-472 to H. "A" H-443)

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

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

Mr. GARSOE: Mr. Speaker, Ladies and Gentlemen of the House: This surely is a significant piece of legislation and I think it only fitting that its enactment be an occasion for notice and comment.

The events connected with the journey of this bill through the legislative process has been both memorable and precedent setting — memorable, I believe, because of the tension and emotions aroused during the six weeks it was before us; and precedent setting in that matters concluded in the cloistered area of negotiations, I believe, must now pass the scrutiny of a ratifying legislature, not a nitpicking, second guessing, Monday morning quarterbacking type of scrutiny but a close look to be sure that agreements reached, when they come here for ratification, are compatible with the values of Maine citizens and that they do not flout legislative decisions of this legislature.

The events of these past weeks have been in part due to a lack of meaningful communications between the Chief Executive and this Legislature, a lesson, I fear, that seems not to have been even noticed, to say nothing of not being learned.

As we review the discussions connected with this bill, it becomes clear that the arguments in support of ratifying the original agreement did not directly support the fair-share clause, rather the theme was that we, the legislature, had no right to even mention its presence in the tentative agreement. Fortunately, this body did not follow the suggestion of one editorial writer to hold our noses and vote for it. I say 'fortunately' not only in behalf of Maine citizens but fortunately in behalf of Maine's public employees.

These public employees, whose union representative delayed us daily, are the ones who would have paid the ultimate cost, not an ultimate cost in money measured alone but a cost measured in personal freedom and dignity. These people now have a choice open to them, choices they can make voluntarily, which is what has been contemplated all along. I believe we are all more comfortable with this version and that the time, tension and trouble have been worthwhile.

I move, Mr. Speaker, that this bill be enacted.

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

Mrs. LEWIS: Mr. Speaker, Ladies and Gen-

tllemen of the House: There is just one question that I would like to have clarified to make sure that this is the way the contract reads.

If a person does not choose to either belong to the union or to pay the 80 percent and therefore will have to negotiate any grievance separately, does that person have to use the union as his representative or can he represent himself or can he hire a lawyer of his own? I wonder if somebody could just clarify that for me, please.

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

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

Mr. GARSOE: Mr. Speaker, I believe if the gentlewoman from Auburn will read the state law on collective bargaining, and I wish I had been aware of this question earlier, I would have had my copy here, she will find that the law specifically stipulates that an employee may resolve a grievance without interference from the union, the only stipulation being that he not employ another union to make this resolution. If I am not correct in my understanding of this, I am sure there are those here who can correct me. So, I would say yes, that as I understand the resolution that was finally arrived at, the employee has three options. If he chooses the third option, he can resolve his grievance without interference from the union. However, if he chooses to have union assistance, he will be billed at a specified hourly rate.

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

Mr. TIERNEY: Mr. Speaker, Ladies and Gentlemen of the House: I feel compelled to agree with my good friend from Cumberland, Mr. Garsoe, when he says that this is both a memorable and precedent setting vote which we are about to take this morning, but I am afraid that I can agree no further. What we have basically seen here in the process that we have all gone through in the last few weeks has been, I think, a reassertion of legislative power into the legislative and negotiating process for our state employees.

I am sure there are those of you who feel as legislators that this is a good thing, that we are elected to represent all the people and that as such we should not give any Chief Executive a blank check in negotiating anything they want with their and with our state employees.

However, in doing so, ladies and gentlemen, the precedent that has been set, I think, has been not a positive one at all, because I think the question of reassertion of legislative power is merely illusory. I think what we have actually done has undermined perhaps forever the ability of this Chief Executive and future Chief Executives to fully negotiate with a public employee union and have that union have the confidence that the Governor is seeking and has the authority to deliver on what he negotiates. What will happen is what has happened here, and that will be a fundamental end run of the process, a situation where state employees will have to return once again to the halls of the legislature and return time and time again in the future in order to make sure that their collective bargaining agreements are carried out, and further, that as they sit at the table, there is always the possibility that they will not lay all their cards on the table, because they don't know whether their final package that the Governor agrees to will ever become law.

It has obviously been a memorable few weeks. We have seen the increasing militancy of our public employee unions, and I don't think that is a good thing.

We have seen divisiveness among state employees, and I don't think that is a good thing. We have seen them back into the legislative process and prowling the halls sometimes by the hundreds and make phone calls by the thou-

sands, and I don't think that is a good thing. I think it has been a terrible mistake, and all I can hope is that as the weeks and months go by, the bitterness of the last few weeks will be forgotten and that our state employees can return and get their minds back on their jobs and not become completely paralyzed by the collective processes as we have done. I do join only with my good friend, Mr. Garsoe, in voting for the enactment of this bill.

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

Mr. JALBERT: Mr. Speaker, I move the previous question.

The SPEAKER: For the Chair to order the previous question, it must have the expressed desire of one-third of the members present and voting. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken and more than one-third of the members present and voting having expressed a desire, the previous question was ordered.

The SPEAKER: The pending question now before the House is, shall the main question be put now, which is debatable for five minutes by any one member. The Chair will order a vote. Those in favor of the main question being put now, you will vote yes; those opposed will vote no.

A vote of the House was taken. 98 having voted in the affirmative and 13 in the negative, the main question was ordered.

The SPEAKER: The Chair recognizes the gentlewoman from Bethel, Miss Brown.

Miss BROWN: Mr. Speaker, I would request a roll on enactment.

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

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

The SPEAKER: The pending question before the House is on passage to be enacted.

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

Mrs. PRESCOTT: Mr. Speaker, I would like to pair my vote with the gentleman from Westbrook, Mr. Laffin. If he were here, he would be voting yes; I would be voting no.

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

ROLL CALL

YEA—Aloupis, Austin, Bachrach, Baker, Barry, Beaulieu, Benoit, Berry, Berube, Birt, Blodgett, Bordeaux, Boudeau, Bowden, Brannigan, Brenerman, Brodeur, Brown, A.; Brown, D.; Brown, K.L.; Brown, K.C.; Bunker, Call, Carrier, Carroll, Carter, D.; Carter, F.; Chonko, Churchill, Cloutier, Conary, Connolly, Cox, Cunningham, Curtis, Damren, Davies, Davis, Dellert, Dexter, Diamond, Doukas, Dow, Drinkwater, Dutremble, D.; Dutremble, L.; Elias, Fenlason, Fillmore, Fowlie, Garsoe, Gavett, Gillis, Gould, Gowen, Gray, Gwadosky, Hall, Hanson, Hickey, Higgins, Howe, Huber, Hunter, Hutchings, Immonen, Jackson, Jacques, E.; Jacques, P.; Jalbert, Joyce, Kane, Kany, Kelleher, Kisman, Lancaster, LaPlante, Leighton, Leonard, Lewis, Lizotte, Locke, Lougee, Lowe, Lund, MacBride, MacEachern, Mahany, Marshall, Martin, A.; Masterman, Masterton, Matthews, Maxwell, McHenry, McKean, McMahon, McPherson, McSweeney, Michael, Mitchell, Morton, Nadeau, Nelson, A.; Nelson, M.; Nelson, N.; Norris, Paradis, Paul, Payne, Pearson, Peltier, Peterson, Reeves, J.; Reeves, P.; Rolde, Rollins, Roope, Sewall, Sherburne, Silsby, Simon, Small, Smith, Soulas, Stetson, Stover, Strout, Studley, Tarbell, Theriault, Tierney, Torrey, Tozier, Tuttle,

Twitchell, Violette, Vose, Wentworth, Whittemore, Wood, Wyman, The Speaker.

NAY—None.

ABSENT—Dudley, Hobbins, Hughes, Post, Sprowl, Vincent.

PAIRED—Laffin - Prescott;

Yes, 143; No, 0; Absent, 6; Paired, 2.

The SPEAKER: One hundred forty-three having voted in the affirmative and none in the negative, with six being absent and two paired, the Bill is passed to be enacted.

Signed by the Speaker and sent to the Senate.

By unanimous consent, ordered sent forthwith to the Senate.

Divided Report

Majority Report of the Committee on Health and Institutional Services reporting "Ought to Pass" as amended by Committee Amendment "A" (H-459) on Bill "An Act Relating to Furloughs for Inmates of County Jails" (H. P. 414) (L. D. 514)

Report was signed by the following members:

Mr. CARPENTER of Aroostook
— of the Senate

Mrs. PAYNE of Portland
Messrs. MATTHEWS of Caribou
CLOUTIER of South Portland

Mrs. CURTIS of Milbridge

Messrs. NORRIS of Brewer

BRODEUR of Auburn

Mrs. MacBRIDE of Presque Isle

PRESCOTT of Hampden

Messrs. BRENERMAN of Portland

VINCENT of Portland

— of the House

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

Report was signed by the following members:

Mr. HICHENS of York

Mrs. GILL of Cumberland

— of the Senate.

The Reports were read.

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

Committee Amendment "A" (H-459) was read by the Clerk and adopted and the Bill assigned for second reading tomorrow.

Divided Report

Majority Report of the Committee on Judiciary reporting "Ought Not to Pass" on Bill "An Act Relating to Forcible Entry and Detainer Hearings" (H. P. 463) (L. D. 577)

Report was signed by the following members:

Messrs. COLLINS of Knox

DEVOE of Penobscot

Mrs. TRAFON of Androscoggin

— of the Senate.

Mrs. SEWALL of Newcastle

Messrs. SILSBY of Ellsworth

JOYCE of Portland

SIMON of Lewiston

LAFFIN of Westbrook

GRAY of Rockland

STETSON of Wiscasset

— of the House.

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

Report was signed by the following members:

Messrs. HOBBS of Saco

CARRIER of Westbrook

— of the House.

The Reports were read.

On motion of Mr. Joyce of Portland, the Majority "Ought Not to Pass" Report was accepted and sent up for concurrence.

Divided Report

Majority Report of the Committee on Judiciary reporting "Ought Not to Pass" on Bill "An Act Preventing the Release of Names of Victims of Crime" (H. P. 1293) (L. D. 1553)

Report was signed by the following members:

Messrs. COLLINS of Knox
DEVOE of Penobscot
Mrs. TRAFTON of Androscoggin
— of the Senate.
Messrs. STETSON of Wiscasset
JOYCE of Portland
SILSBY of Ellsworth
Mrs. SEWALL of Newcastle
Messrs. CARRIER of Westbrook
GRAY of Rockland
HUGHES of Auburn

— of the House.

Minority Report of the same Committee on Judiciary reporting "Ought to Pass" as amended by Committee Amendment "A" (H-462) on same Bill.

Report was signed by the following member:
Mr. LAFFIN of Westbrook

— of the House.

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

Mr. CARRIER: Mr. Speaker, I move that the House accept the Minority "Ought Not to Pass" Report.

Reports were read.

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

Mr. SIMON: Mr. Speaker and Members of the House: I would request a division.

I support L. D. 1553 as amended for one reason—the rights of victims of crimes. This bill would prevent the release of names of victims of crime under stringently defying situations, thereby decreasing the vulnerability of victims, encouraging reluctant victims to come forward and increasing the overall effectiveness of law enforcement.

But apart from the law and order benefit of the bill, the increased efficiency of law enforcement that would flow from it, the bill would secure rights for the least protected in the criminal justice machinery, the victim. If a person is arrested for some vicious crime, he is given his rights, he is read his rights completely, they tell him exactly what they are going to do for him, and they ought to, they ought to do those things for him. All the minority is saying on this bill is — look after the victim a little as well. Why not miranda warnings for victims as well as for criminals.

I am sure that you are all aware of how women used to be and at times still are treated as guilty until proven innocent in their own rape trials. The same travesty is being perpetuated on all victims when their names are released for public inspection. Some may argue for a hazy public "right to know," but that is no reason, or at least is an insufficient reason, to vote against this bill.

This bill does not impede public knowledge of any facts except the victim's name, and only in the very early stages of the pendency of the criminal case. I would suggest in this instance, the victim's right to privacy, simply keeping his or her name out of the papers until the case becomes a matter of public record, should outweigh the curiosity of his or her neighbors.

Equally important is the need to protect the victim from further harm by keeping his or her name and address out of the papers. I ask you to help protect the victim against double jeopardy and vote against the pending motion to accept the "Ought Not to Pass" Report.

The SPEAKER: The pending question is on the motion of the gentleman from Westbrook, Mr. Carrier, that the House accept the Majority "Ought Not to Pass" Report. Those in favor will vote yes; those opposed will vote no. The Chair will order a vote.

A vote of the House was taken.

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

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

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

Mrs. NELSON: Mr. Speaker, Ladies and Gentlemen of the House: If there has ever been a bill with the rights for victims, this is it. We all know and have read in the newspapers from time to time how an elderly person reports an accident and, as a matter of fact, I have seen this in the Portland Press Herald. It was a 73-year old woman who was hit over the head and her purse was stolen. In the paper, it was accounted that the purse was worth \$15 and that \$6 was stolen from that purse, her name and address were given. Why is it anyone else's business that this woman had that embarrassing and hurtful and frightening experience.

I am sure you all saw that several months ago juveniles broke into a camp in Raymond and they did terrible vandalism to that home. Now, their names were not in the newspapers but the name of the family, the victims, were and pictures were taken of their home.

This bill simply states that at the time of reporting the crime, the names would be kept confidential of the victim of the crime. This is to protect those people who are victims, who are victimized again by the press. Why? To what purpose is it to list the name of an elderly person who is hit over the head and robbed? Why is it important for the newspaper or the media to put the name of a person whose home has been robbed and all the things inside the home that were taken?

I know of a story of a quite well-to-do family in a small town in Maine, and this woman graciously helped her neighbors who were less off than she and she had some food stamps in her home because she purchased food for these elderly people who live around her. Her home was broken into and they listed all the things stolen, and one of the things stolen was those food stamps. People came to her and said, my goodness, I didn't realize things were so difficult for you. She was embarrassed again. She had those food stamps in her home for friends, not for herself.

The fact that those things were stolen, that is fine, it is important that crimes be put in a newspaper, that people know about it, but why the person, the victim's name? This is sort of a right of a victim. We have miranda rights for the criminal, the criminal is protected. People who are informers, their names are protected. Why not some form of protection for the victim?

I ask you, please, to vote against the motion of "Ought Not to Pass". Give the victim a chance.

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

Mr. CARRIER: Mr. Speaker, Ladies and Gentlemen of the House: Give the victims a chance is what this bill is about. This is what the bill is all about and the proper form for it is without the amendment. It would keep it confidential, and I submit to you that the vote we should accept is the "Ought Not to Pass" Report and we should stay with the bill without the amendment.

The SPEAKER: A roll call has been ordered. The pending question before the House is on the motion of the gentleman from Westbrook, Mr. Carrier, that the House accept the Majority "Ought Not to Pass" Report. Those in favor will vote yes; those opposed will vote no.

ROLL CALL

YEA—Austin, Barry, Berry, Berube, Blodgett, Bordeaux, Boudreau, Bowden, Brown, A.; Bunker, Call, Carrier, Carroll, Carter, D.; Carter, F.; Conary, Damren, Davis, Diamond, Dutremble, L.; Elias, Gray, Gwadosky, Hickey, Higgins, Hobbins, Huber, Hughes, Hunter, Hutchings, Immonen, Jacques, E.; Jacques, P.; Jalbert, Joyce, Kiesman, Lancaster, LaPlante, Leighton, Leonard, Lewis, Lund,

Mahany, Marshall, Martin, A.; Masterman, Maxwell, McSweeney, Nelson, A.; Payne, Pearson, Peltier, Reeves, J.; Roope, Sherburne, Silsby, Smith, Stover, Strout, Studley, Torrey, Tozier, Vose, Wentworth, Whittemore
NAY — Aloupis, Bachrach, Baker, Beaulieu, Benoit, Brannigan, Brennerman, Brodeur, Brown, D.; Brown, K. L.; Brown, K. C.; Chonko, Churchill, Cloutier, Connolly, Cox, Cunningham, Curtis, Davies, Dellert, Dexter, Doukas, Dow, Drinkwater, Dutremble, D.; Fenlason, Fillmore, Fowlie, Garsoe, Gavett, Gillis, Gould, Gowen, Hall, Hanson, Howe, Jackson, Kane, Kany, Lizotte, Locke, Lougee, Lowe, MacBride, MacEachern, Masterton, Matthews, McHenry, McKean, McMahon, McPherson, Michael, Mitchell, Morton, Nadeau, Nelson, M.; Nelson, N.; Norris, Paradis, Paul, Peterson, Post, Prescott, Reeves, P.; Rolde, Simon, Small, Stetson, Tarbell, Theriault, Tierney, Tuttle, Twitchell, Vincent, Violette, Wood, Wyman.

ABSENT — Birt, Dudley, Kelleher, Laffin, Rollins, Sewall, Soulas, Sprowl, The Speaker.
Yes, 65; No, 77; Absent, 8.

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

Thereupon, the Minority "Ought to Pass" Report was accepted and the Bill read once. Committee Amendment "A" (H-462) was read by the Clerk and adopted and the Bill assigned for second reading tomorrow.

Divided Report

Majority Report of the Committee on Judiciary reporting "Ought to Pass" as amended by Committee Amendment "A" (H-461) on Bill "An Act to Monitor the Juvenile Code" (Emergency) (H. P. 892) (L. D. 1080)

Report was signed by the following members:

Mr. COLLINS of Knox
Mrs. TRAFTON of Androscoggin
Mr. DEVOE of Penobscot
— of the Senate.
Messrs. HOBBS of Saco
SIMON of Lewiston
Mrs. SEWALL of Newcastle
Messrs. HUGHES of Auburn
JOYCE of Portland
SILSBY of Ellsworth
GRAY of Rockland

— of the House.

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

Report was signed by the following members:

Messrs. CARRIER of Westbrook
STETSON of Wiscasset
LAFFIN of Westbrook

— of the House.

The Reports were read.

On motion of Mr. Hobbins of Saco, the Majority "Ought to Pass" Report was accepted and the Bill read once.

Committee Amendment "A" (H-461) was read by the Clerk and adopted and the Bill 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. 1083) (L. D. 1350) Bill "An Act to Create a Special Commission on State Mandates Imposed on Local Units" Committee on Local and County Government reporting "Ought to Pass" as amended by Committee Amendment "A" (H-468)

(H. P. 1151) (L. D. 1533) Bill "An Act to Revise the Medical Examiner System" Committee on State Government reporting "Ought to Pass"

(H. P. 929) (L. D. 1142) Bill "An Act to Permit Optional Credit Life Insurance for the

Comaker of a Debt" Committee on Business Legislation reporting "Ought to Pass" as amended by Committee Amendment "A" (H-471)

(H. P. 1048) (L. D. 1306) Bill "An Act to Increase the Short-term Investment Capabilities of the State" Committee on State Government reporting "Ought to Pass"

(H. P. 199) (L. D. 248) Bill "An Act Providing Additional Funds to Acquire Land for a Passenger Terminal, Transfer Bridge and a Parking Area for the Casco Bay Ferry Service in Portland and to Provide Funds for their Construction" Committee on Transportation reporting "Ought to Pass" as amended by Committee Amendment "A" (H-474)

(H. P. 618) (L. D. 759) Bill "An Act to Revise the Laws Relating to Motor Vehicle Operator's Licenses" Committee on Transportation reporting "Ought to Pass" as amended by Committee Amendment "A" (H-473)

(H. P. 912) (L. D. 1120) Bill "An Act Concerning the Adoption of Management Plans by the Commissioner of Marine Resources" Committee on Marine Resources reporting "Ought to Pass" as amended by Committee Amendment "A" (H-475)

(S. P. 459) (L. D. 1373) Bill "An Act to Allow Direct Purchase by Citizens of Certain Bonds" Committee on State Government reporting "Ought to Pass" as amended by Committee Amendment "A" (S-194)

(S. P. 425) (L. D. 1316) Bill "An Act to Comply with the Federal Air Quality Standards in the Area where the Air Quality Does not Presently Meet the Federal Standards" Committee on Energy and Natural Resources reporting "Ought to Pass"

No objections being noted, the above items were ordered to appear on the Consent Calendar of May 22, under listing of Second Day.

(S. P. 307) (L. D. 903) Bill "An Act to Correct Certain Obsolete References in Title 30 of the Maine Revised Statutes and to Make County Policies Concerning Pay Schedules Vacation and Sick Leave Consistent with State Policies" Committee on Local and County Government reporting "Ought to Pass" as amended by Committee Amendment "A" (S-176)

On the request of Mr. Tarbell of Bangor, was removed from the Consent Calendar.

Thereupon, the Report was accepted in concurrence and the Bill read once. Committee Amendment "A" (S-176) was read by the Clerk, and adopted in concurrence and the Bill assigned for second reading tomorrow.

Consent Calendar Second Day

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

(H. P. 267) (L. D. 385) Bill "An Act to Amend the Stream Alteration Act" (C. "A" H-457)

On the objection of Miss Brown of Bethel, was removed from the Consent Calendar.

Thereupon the Report was accepted and the Bill read once. Committee Amendment "A" (H-457) was read by the Clerk and adopted and the Bill assigned for second reading tomorrow.

(H. P. 1054) (L. D. 1305) Bill "An Act to Permit a Resident of a Intermediate Care Facility who Receives Aid for the Medically Needy to Give at Least \$150 a Month from His Income to a Dependent Spouse" (C. "A" H-458)

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

(H. P. 666) (L. D. 826) Bill "An Act Relating to Personnel Records of Employees of Political Subdivisions of the State" (C. "A" H-460)

On the objection of Mr. McMahon of Kennebunk, was removed from the Consent Calendar.

Thereupon, the Report was accepted and the

Bill read once. Committee Amendment "A" (H-460) was read by the Clerk and adopted and the Bill assigned for second reading tomorrow.

(H. P. 858) (L. D. 1058) Bill "An Act to Provide for the Issuance of a Warning for Operating an Unregistered Motor Vehicle within One Month of the Expiration of Registration" (C. "A" H-465)

(S. P. 283) (L. D. 857) Bill "An Act to Amend the Maine Certificate of Need Act of 1978" (C. "A" S-187)

(S. P. 473) (L. D. 1414) Bill "An Act Concerning Health Services in Rural and Underserved Areas" (C. "A" S-186)

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 Paper was passed to be engrossed and sent up for concurrence.

Passed to be Engrossed Amended Bills

Bill "An Act to Increase Interest Rates on Judgment Debts to 18%" (H. P. 501) (L. D. 608) (C. "A" H-449)

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

Second Reader

Tabled and Assigned

Bill "An Act Concerning Eligibility Under the Second Injury Fund Under the Workers' Compensation Statutes" (H. P. 825) (L. D. 1026) (C. "A" H-451)

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

On motion of Mr. Wyman of Pittsfield, tabled pending passage to be engrossed as amended and specially assigned for Wednesday, May 23.

Bill "An Act to Protect Management Personnel Where Unjustly Discharged or Involuntarily Retired" (H. P. 748) (L. D. 957) (C. "A" H-448)

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

Bill "An Act to Exempt Farmland from Sewer Assessments When the Land Receives no Benefit from this Construction" (H. P. 960) (L. D. 1185) (C. "A" H-452)

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

On motion of Mr. Davies of Orono, the House reconsidered its action whereby Committee Amendment "A" was adopted.

The same gentleman offered House Amendment "A" to Committee Amendment "A" and moved its adoption.

House Amendment "A" to Committee Amendment "A" (H-470) was read by the Clerk.

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

Mr. DAVIES: Mr. Speaker and Members of the House: This is not a major amendment, but Mr. Carter from Winslow pointed out a possible way of interpreting it that would have caused some problems, so by changing the date of operation, we won't have to worry about people who have been assessed for sewers in the past coming back in and claiming that their farmland should have been exempted under this law and they want a rebate. So to avoid any hardship on sewer districts or communities, this amendment is necessary.

Thereupon, House Amendment "A" to Committee Amendment "A" was adopted.

Committee Amendment "A" as amended by House Amendment "A" thereto was adopted.

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

Bill "An Act to Authorize the Provisions of Services to Developmentally Disabled Children" (S. P. 377) (L. D. 1157) (H. "A" H-454 to C. "A" S-163)

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

Passed to be Enacted Emergency Measure

An Act Making Additional Appropriations from the General Fund for the Current Fiscal Year Ending June 30, 1979, Changing Certain Provisions of the Law Necessary to the Proper Operations of State Government and Amending the Effective Date of Abolishing the Mental Health and Mental Retardation Fund (S. P. 500) (L. D. 1562)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure and a two-thirds vote of all the members elected to the House being necessary, a total was taken. 119 voted in favor of same and none 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 for the Codification and Indexing of State Agency Rules by the Secretary of State (S. P. 510) (L. D. 1576) (C. "A" S-170)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure and a two-thirds vote of all the members elected to the House being necessary, a total was taken. 122 voted in favor of same and none against, and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

Emergency Measure

An Act to Amend the Maine Sunset Law (S. P. 512) (L. D. 1577)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure and a two-thirds vote of all the members elected to the House being necessary, a total was taken. 127 voted in favor of same and none against, and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

Emergency Measure

An Act Relating to the Vocational-technical Institutes (H. P. 1393) (L. D. 1613) (H. "A" H-426)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure and a two-thirds vote of all the members elected to the House being necessary, a total was taken. 124 voted in favor of same and none against, and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

(Off Record Remarks)

By unanimous consent, all matters acted upon in concurrence and all matters requiring Senate concurrence were ordered sent forthwith to the Senate.

On motion of Mr. Volette of Van Buren, Recessed until the sound of the gong.

After Recess 11:50 A.M.

The House was called to order by the Speaker.

Passed to be Engrossed

An Act to Establish a Special License for Retired or Inactive Pharmacists (S. P. 331) (L. D. 965) (C. "A" S-168)

Was 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.

An Act to Amend the Laws Relating to Games of Chance. (H. P. 672) (L.D. 833) (C."A" H-377)

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

Mr. Violette of Van Buren requested a vote.

The SPEAKER: The pending question is on passage to be enacted. All those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

Whereupon, Mr. Violette of Van Buren requested a roll call vote.

The SPEAKER: 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 pending question is on passage to be enacted. All those in favor will vote yes; those opposed will vote no.

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

Mr. PEARSON: Mr. Speaker, I ask leave of the House to pair my vote with Mr. Hickey of Augusta. If he were here, he would be voting no and I would be voting yes.

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

Mr. GARSOE: Mr. Speaker, I request permission to pair my vote with the gentleman from Westbrook. If Mr. Laffin were here he would be voting yes, and if I were voting, I would be voting no.

Mr. Hobbins of Saco requested permission to be excused from voting, which was granted.

Mr. Michael of Auburn requested permission to be excused from voting, which was granted.

ROLL CALL

YEA—Bachrach, Baker, Berube, Birt, Blodgett, Bordeaux, Bowden, Brown, A.; Brown, K. C.; Bunker, Call, Carroll, Carter, D.; Carter F.; Cloutier, Conary, Cox, Curtis, Davies, Davis, Dellert, Dexter, Doukas, Drinkwater, Dudley, Fenlason, Fillmore, Fowlie, Gavett, Gowen, Hall, Hanson, Huber, Hughes, Hunter, Hutchings Immonen, Jackson, Joyce, Kane, Kany, Lancaster, Leighton, Leonard, Lewis, Locke, Lougee, Lowe, Lund, MacBride, Mahany, Martin, A.; Masterman, Masterton, Matthews, McMahon, McPherson, McSweeney, Mitchell, Morton, Nelson, A.; Nelson, N.; Payne, Peterson, Post, Prescott, Reeves, P.; Rolde, Rollins, Roope, Sewall, Sherburne, Silsby, Simon, Small, Smith, Stetson, Stover, Strout, Torrey, Tozier, Tuttle, Wentworth, Whittemore, Wood, Wyman, The Speaker.

NAY—Aloupis, Austin, Barry, Beaulieu, Benoit, Berry, Boudreau, Brown, D.; Brannigan, Brennerman, Brodeur, Brown, K. L.; Carrier, Chonko, Churchill, Cunningham, Damren, Diamond, Dow, Dutremble, D.; Dutremble, L.; Elias, Gillis, Gould, Gwadosky, Higgins, Howe, Jacques, E.; Jacques, P.; Jalbert, Kelleher, Kiesman, LaPlante, Lizotte, MacEachern, Marshall, Maxwell, McHenry, McKean, Nadeau, Nelson, M.; Norris, Paradis, Paul, Peltier, Reeves, J.; Soulas, Studley, Tarbell, Theriault, Tierney, Twitchell, Vincent, Violette, Vose.

ABSENT—Connolly, Sprowl.

PAIRED—Garsoe - Hickey; Laffin - Pearson.

EXCUSED—Hobbins, Michael.

Yes, 88; No, 55; Absent, 2; Paired, 4; Excused, 2.

The SPEAKER: Eighty-eight having voted in the affirmative and fifty-five in the negative, with two being absent, four paired and two excused, the motion does prevail.

Signed by the Speaker and sent to the Senate.

The SPEAKER: The Chair recognizes the gentleman from Corinth, Mr. Strout.

Mr. STROUT: Mr. Speaker, having voted on

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

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

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

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

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

Mr. PEARSON: Mr. Speaker, I ask leave of the House to pair my vote with the gentleman from Augusta, Mr. Hickey. If he were here, he would be voting yes and I would be voting no.

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

Mr. GARSOE: Mr. Speaker, I request permission to pair my vote with that of the gentleman from Westbrook, Mr. Laffin. If he were here, he would be voting no and I would be voting yes.

The SPEAKER: The pending question is on the motion of the gentleman from Corinth, Mr. Strout, that the House reconsider its action whereby the Bill was passed to be enacted. All those in favor will vote yes; those opposed will vote no.

ROLL CALL

YEA—Aloupis, Austin, Barry, Benoit, Berry, Berube, Bordeaux, Boudreau, Brannigan, Brodeur, Call, Carrier, Carroll, Chonko, Churchill, Damren, Dow, Dutremble, D.; Dutremble, L.; Elias, Gillis, Gould, Gwadosky, Hall, Higgins, Jacques, P.; Jalbert, Kelleher, Kiesman, LaPlante, Lizotte, MacEachern, Marshall, Maxwell, McHenry, McKean, Nadeau, Nelson, M.; Norris, Paradis, Paul, Peltier, Reeves, J.; Soulas, Studley, Theriault, Twitchell, Vincent, Violette, Vose, Whittemore.

NAY—Baker, Beaulieu, Birt, Blodgett, Bowden, Brennerman, Brown, A.; Brown, D.; Brown, K. L.; Brown, K. C.; Bunker, Carter, D.; Carter, F.; Cloutier, Conary, Cox, Cunningham, Curtis, Davies, Davis, Dellert, Dexter, Diamond, Doukas, Drinkwater, Dudley, Fenlason, Fillmore, Fowlie, Gavett, Gowen, Gray, Hanson, Howe, Huber, Hughes, Hunter, Hutchings, Immonen, Jackson, Joyce, Kane, Kany, Lancaster, Leighton, Leonard, Lewis, Locke, Lougee, Lowe, Lund, MacBride, Mahany, Masterman, Masterton, Matthews, McMahon, McPherson, McSweeney, Mitchell, Morton, Nelson, A.; Nelson, N.; Payne, Peterson, Post, Prescott, Rolde, Rollins, Roope, Sewall, Sherburne, Silsby, Simon, Small, Smith, Stetson, Stover, Strout, Tarbell, Tierney, Torrey, Tozier, Tuttle, Wentworth, Wood, Wyman.

ABSENT—Bachrach, Connolly, Hobbins, Jacques, E.; Martin, A.; Michael, Reeves, P.; Sprowl.

PAIRED—Garsoe - Laffin; Hickey - Pearson.

Yes, 51; No, 87; Absent, 8; Paired, 4.

The SPEAKER: Fifty-one having voted in the affirmative and eighty-seven in the negative, with eight being absent and four paired, the motion does not prevail.

Orders of the Day

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

HOUSE DIVIDED REPORT—Majority (8) "Ought Not to Pass"—Minority (5) "Ought to Pass" as Amended by Committee Amendment "A" (H-435)—Committee on Judiciary on Bill, "An Act to Prohibit Housing Discrimination Against Families with Children" (H. P. 630) (L. D. 781)

Tabled—May 17, 1979 by Mr. Simon of Lewiston.

Pending—Motion of Mr. Laffin of Westbrook to Accept Minority "Ought to Pass" Report.

Mr. Silsby of Ellsworth requested a roll call vote.

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

Mr. SIMON: Mr. Speaker and Members of the House: In my line of work, I have to be critical about many of the generalizations that we use to discuss political matters.

One of these is the distinction between "human rights" and "property rights." As a rule, I encourage my fellow students of politics to think of property rights as a sub-set of human rights, or at least to think of the borderline between the two concepts as being fuzzy. But in certain limiting cases, of which this is one, we see the wisdom of Mr. Justice Holmes's comment that the existence of twilight does not disprove the difference between night and day.

Here, other human rights outweigh property rights so heavily that the distinction is qualitative, not just quantitative. The distinction is, perhaps, one of night and day.

At our hearing, the sponsor and other witnesses explained that two economic trends have created a housing crisis for the family. First, the mortgage market for buying houses has gone up so far that thousands of people who could have afforded their own homes a few years ago are now constrained to live in apartments. But, second, the rental value of apartments—particularly for single persons or for people who require less space than do families with children—has gone up so far and so fast that landlords are subdividing their buildings into smaller and smaller apartments, and refusing to bid for the renter with a family. As I listened to the witnesses who opposed this bill, I wondered how many of these hard-faced men and women had been before the same committee not so many years ago presenting the very same arguments in opposition to laws against racial discrimination in the housing market. They said that the State had no business telling them who they could rent to. They said that the other tenants wouldn't like living next door to these people, and that they would therefore lose business. They said that older people wouldn't like it. They said that they personally like these people, but that they just didn't want them living in their building.

As a person who gained his political manhood during the civil rights movement, this hearing had a certain amount of nostalgia for me, and then I realized that this time they were talking about people like me, and like my parents before me, people who bring up children, feed them, clothe them, educate them, and never ask for a cent of welfare. At that point, my nostalgia began to turn into nausea.

My analogy with the civil rights movement is right on target. The State may make it illegal for private landlords to do what would violate the Equal Protection Clause if it were done by a public housing authority.

An absolute refusal to rent to people with children would burden a fundamental right, just as an absolute refusal to rent to people who are black would involve a suspect classification.

In *Skinner v. Oklahoma*, the Supreme Court held that the right to procreate—the right to have children, in the physical sense of the term was a "fundamental human right."

In *Pierce v. Society of Sisters*, *Meyer v. Nebraska*, *Prince v. Massachusetts*, and *Wisconsin v. Yoder*, and many other cases, the Court has held that the right to raise a family is also a fundamental right protected by the fourteenth Amendment.

The State may ban housing discrimination that burdens the exercise of these rights, because apartment buildings are a clear case of "business affected with public interest." It has been a doctrine of English and American law, going back further than the memory of man, that when property is "used in a manner to make it of public consequence, and affect the

public at large," it ceases to be a matter of private right only, and becomes subject to reasonable regulation under the State's power to protect the health, safety, and general welfare of the people.

In matters so necessary to physical survival as housing, and so vital to social survival as the family, the State's legal and moral right to act in the manner proposed by this bill is strong and legitimate, if not compelling. As a social institution, the family is logically prior not only to the state, but to private property as well. The right to raise a family comes before us, in the words of Mr. Justice Frankfurter, "with a momentum for respect lacking when appeal is made to liberties which derive merely from shifting economic arrangements."

So the question arises, "Is this a reasonable regulation?" Please keep in mind that we are talking about the small landlord or landlady. Ten units is the cut-off. The landlord or landlady could, of course, refuse to rent if he or she had reason to believe that this particular family would be bad tenants.

I would have been perfectly willing to support an amendment to allow a landlord to limit families with children to one part of his property — lower floors, for example — as long as he didn't exclude them entirely. But, Mr. Speaker and Members of the House, the opponents of this bill wanted to go away with all of the marbles, so no such compromise was worked out.

If the opponents give up trying to argue on the basis of the landlord's rights, they shift ground to the rights of other tenants.

Mr. Speaker, I know what it is like to have noisy fellow tenants. I spent four years in college and four years in graduate school, most of that time living in one apartment or another. I worked till 12, or 1, or 2 in the morning, and then got up at 6 or 7. Virtually all of the time I had to concentrate on my work, or eat, or sleep. I know what I am talking about on this particular subject.

And, Mr. Speaker, I had no problem whatsoever concerning families with children. In the real world, at least as I have experienced it, the real threat of noise pollution comes not from the pitter-patter of little feet — which the opponents of this bill are so eager to silence — but from the old adolescents or young adults who they are splitting up their family dwellings to rent to. These are the people with the monster stereos, the amateur rock bands, and the all-night parties, which pose a radically greater threat to the peace and quiet of apartment living.

Has our society become so decadent, have our values become so perverted, has the rot sunk so deep, that if a woman becomes pregnant and wants to destroy the potential life within her, we say, "Go right to your friendly neighborhood abortion clinic and place your order." But that if she wants to carry that fetus to term and bring it up — with or without its father living with her — we will let her be thrown out onto the street?

Maybe that is the way they want to live in New York City or Las Vegas, but we don't have to put up with it in the State of Maine.

Vote for the American family. Vote for the bill before us.

Mr. Speaker, I request that when the vote is taken, it be taken by the yeas and nays.

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

Mr. SILSBY: Mr. Speaker, Ladies and Gentlemen of the House: I will be very brief about this. I think the issue is quite simple and clearly defined. It is an issue of "how far do you have to go with the landlord?" The landlord feels that he should have the freedom of choice, he should have the freedom to decide whether he wants to have children in his apartments or whether he wants to have adults only.

Before our committee, we had one witness who testified that in his particular apartment

situation, all his tenants wanted no children. So what do you do in a case like that? The apartment tenants are conditioned to not having children, they don't want the children, and yet if this bill passes, they will be forced into it.

I also see another way to get around it. Where 10 or more units are subject to the law, the first thing you will see, if it passes, you will see the landlord reduce the number of tenancies to nine, so we will be back here reducing it down to nine.

I think it is coming down too hard on the landlord side. I don't think anybody is a child hater who votes against this bill, and I hope you will support the Majority "Ought Not to Pass."

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

Mr. LEIGHTON: Mr. Speaker, Ladies and Gentlemen of the House: I think that Representative Simon's views could be purported to represent the view from the academy tower. I think my views represent the views from the field.

As a former owner of seven apartment buildings in Portland, who sold them rather than go on with the nowadays hassle of being an apartment owner, I find this bill to be untenable.

As a former member of the NAACP in Portland, I strongly resent Representative Simon's implications that this goes hand in hand with civil rights.

I want to be as kind about this terrible bill as possible, because its author, Representative Brannigan, is my seatmate, my friend and a fine, compassionate human being. I am sure he means well.

In this bill, he tries to address the problem of insufficient housing for large families. That is a problem that is common to all socialist society and their inability to house themselves. In that respect, I guess you could say that we have arrived.

Representative Brannigan's efforts are a little late and a little misdirected. If only the energy that went into this bill could have been directed at the federal urban renewal bulldozer that in the approximate last two decades tore down twice as much housing as was built. And most of what we have torn down was in the three, four and five bedroom category that seems to be in such short supply. If only the energy in this bill had been directed at eliminating the wasteful programs that result in the federal deficits that have debauched our currency and raised our interest rates to the point where all meaningful building is halted, and we are left only by the construction being done by front-loading, fast buck artists on federally subsidized projects.

This bill would solve the problem by telling landlords they no longer have the right to decide who and how many people they can have live in their apartments.

When most landlords say in their ads "No Children", that is because there aren't enough bedrooms or no playground, or there are elderly and infirmed people as neighbors, or the guy next door or the guy on the other side has loaded up his building with too many children, so that a balancing requirement is in order, or in the case of rural apartment houses, no washing machine where in the case of septic tanks or leech fields it would cause a potential overloading.

I, frankly, don't know what many landlords, who legitimately have three or four bedroom apartments, who do say no children, but I know a heck of a lot of landlords who have to constantly be on guard against some mother trying to load up five kids and her boyfriend in one bedroom.

If you don't, in your ad, put "No Children" or any other restrictions that might apply, the people who call on the ad are very resentful towards you and feel that you have misled them, especially if they have called long distance.

Landlords today are battling inflation, astronomical heat costs, taxes and government

harassment and don't need this bill. They need our understanding and our encouragement in their efforts to provide housing for Maine citizens.

In a kindly, Mr. Speaker, at this time I would like to move indefinite postponement of this miserable bill and all its miserable accompanying papers.

The SPEAKER: The gentleman from Harrison, Mr. Leighton, moves that this Bill and all its accompanying papers be indefinitely postponed.

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

Mr. CALL: Mr. Speaker and Members of the House: I learned years ago that in the minds of too many people, the landlord is automatically a scoundrel.

In this House, I have, during the 105th and 107th Legislatures, heard bills debated which, if they did become law, would call for an open season the year round on landlords.

I will tell you one experience that I had as a landlord. Several years ago, my family owned a four-tenement house in Auburn. There was a vacancy at this particular time and a family friend, who was a broker, said to my mother and me, "Just like myself, you love children, but landlords have all kinds of difficulties with children." We knew, we had had experiences, we had had plaster knocked off walls and gouges with knives and painting in places where there shouldn't be painting and everything, but I love children and I did then, so I took the advice and had an ad in the paper, and when people would call and say, "Do you take children", I would say no. Boy, I had some harassing moments.

Finally, this man was very much upset, or seemed to be, and he told me what he thought what I must be if I hated children. Before I could let him know that quite to the contrary, that I loved children, he hung up on me. Well, the place stayed vacant for awhile. Then, the people who lived downstairs in the rent, the woman said to me, I have got some tenants for you, a lovely man and wife and nice children. So, and here is a tip for landlords or future landlords — you are taking an awful chance when you buy a pig in a poke. This woman said, "We will be at the house at 2 o'clock tomorrow." I said, "Fine". I went over and the father of the family was the man who had blasted me on the telephone, but he kind of held his head down a little, he was a little meek. I looked at him and I didn't say anything, he was very, very humble. So, I let the rent to that family. Let me say this before I forget it. I didn't know at the time, but I was really inadvertently playing cupid, because the boy on the other side of the house fell in love with one of the daughters and married her.

I would go over Saturdays to collect the rent. I went over on this particular Saturday and the mother was all upset, she was sobbing and her eyes were all wet and she managed in her whimpering to say, I don't have any money for you today. I won't use her exact words, but let me just say that she indicated to me that her husband had run away, well, let's say with a woman of questionable occupation and left her and the children to get along as best they could.

In a subsequent Saturday visit, I hit the backdoor step just as the man was coming down the stairs. He had been up to leave the money. I said to him, I don't like to be unpleasant, but you remember what you said to me, you blasted me because I didn't want to take children and then you leave your family and run away with a woman. Oh, he was most meek. He held his head down and he said, I know, I know. And we all know this, that inconsistency is a very strong ingredient in life.

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

Mr. BRANNIGAN: Mr. Speaker and Members of the House: As has been announced to you, I am the miserable author of this miser-

able bill. I am very surprised that my seatmate would oppose this bill. I want to make a very strong point and I would sum it up in a slogan and phrase that may sound somewhat familiar. "Be sterile or be evicted." That is a similar slogan to what we have heard and the one that my seatmate has supported.

It took me a long time to make up my mind to put this bill in, but the issue that persuaded me was an issue that is very close to the people in my district, I feel. They are a middle class group of people mostly, they are people whose sons and daughters, had we followed the traditions of the past, would have gotten married, bought a home, started their family, but they are very concerned right now, and I am concerned and I think we have to be concerned that that pattern cannot be continued by many people. Many people today, many young people growing up are not going to be able to get married, buy a home and have a family. Many of them, and it is happening already, want to and need to begin their family now and cannot purchase a home, and they may not be able to purchase a home, they may never be able to purchase a home, and they will have to live in rental housing.

People are throwing things at this bill, large families, welfare families, that is not what this bill is about. My good friend from Lewiston, Representative Call, should have checked references. His apartment would have been exempt if they only own four units. This is for large apartments.

Those who support this are trying to address a very, very serious problem. I didn't want to put something in that would restrict the rights of landlords; I would rather not do that. But landlord rights are restricted now, race, color and so forth, and it seems as though we have reached the point where another clash of rights is upon us, the rights of children, the rights of parents with children, and that is what this bill is about and that is what it addresses. I want to make that point if I make none other, if this bill makes no other point that we have a very serious problem about people who want to begin their family and can't without moving out, and that is true, it happens. There are landlords here who will testify that they have rented to children, who have had people come where they are being asked to leave because she is pregnant, and that is going to be a growing phenomena.

Recently, I thought it interesting that the Carnegie Foundation in New York published their annual report and the president of the Carnegie Foundation was discussing the future as relates to population spread, as far as age is concerned. He said, "in the future, the large group of people are going to be elderly and they are going to be depending on a smaller and smaller group of people, young people, to care for their needs and to watch out for them." He said, "It would seem that in light of this, that there is going to be this large group of elderly and a smaller group of young people, that we now would be preparing for that by doing everything we can for children." But he says, "Ironically, it just seems to be the other way." He began to list things that show that we are not oriented towards making the children that will have to watch out and care for us as young adults making life better for them, making them better capable of that great chore. And the first thing on his list was the increasing number of exclusions in rental housing, this great and difficult problem that I am trying to address.

Be sterile, have no children, or be evicted. All of those who are supporting the area of pro life, these are children that are born, these are parents that want to have children and want to have a place to live, I ask you very strongly, we have amended this bill so it covers only those who are really in the business, large landlords, so we have taken out any problems about lead paint, taken out any problems about federal

housing. They have all of their own restrictions and so forth. I encourage you, I ask you to support this piece of legislation and I would ask you to vote now against the motion to indefinitely postpone.

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

Mr. HOWE: Mr. Speaker and Members of the House: I rise today with Mr. Simon on the side of truth and justice, and I am pleased to be agreeing with him today. I guess I seldom have this session, at least on those bills which he has debated.

I was struck by an irony in the remarks of my friend from Ellsworth, Mr. Silsby. He stated, and I think accurately, the issue is clear, and it is clear to me, although we are on different sides of it, and he mentioned that the issue is a freedom of choice whether landlords should have children in their apartments. The irony I found in that remark of his was that the other day we were debating a bill regarding the freedom of choice of anyone to have children, period. I remember early in the 108th, my first session here, we passed a resolution in both houses saying that we would do what we could as legislators to bolster the families of Maine, to support families against all of those efforts, all of those energies, all of those different things in society which threaten them, and I try to keep my eye out for legislation coming by that would kind of follow up on the intent of that resolution. There haven't been many, unfortunately, but I think we have one here today.

For what it is worth, I am a landlord, although I don't own enough apartments to be covered by this legislation. I am small potatoes in the business, but I am proud of the fact that there are children in one of my three apartments but there will be children very shortly in two of the three, because one of my tenants is pregnant, and if I had 300 apartments instead of three apartments, perhaps I would be in a position, regardless of what the laws were, to help the situation.

I never have to advertise when my apartments are vacant, because there are so many people looking for apartments, particularly so many people with children, that word gets around very quickly, and I am being called fairly often when there are no vacancies to see if there is one. So I think I have some feeling for the extent of the problem for those who either have children or who would like to have children.

Thank God for the days of the good old VA mortgage — 7 percent, \$200 down, and if it weren't for that about 10 years ago, I probably wouldn't own my own home. My wife is in the banking business and I know, as a result of that, that now in order to buy one's own home, one has to come up with something like a quarter of the total cost down and the percentage is three or four points above what it was then. In theory, there are VA mortgages and FHA mortgages available, but so often the money is so tight that the banks aren't going to bother with them anyway.

A majority of this body was willing to place the government in the position of intervention between a doctor and his or her patient the other day. I felt that that intervention was questionable; many of you did not. But I hardly think that if you were willing to support that degree of governmental intervention, that you can oppose that which is presented in the bill today.

I hope you will oppose the motion and support the bill.

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

Mr. TARBELL: Mr. Speaker and Members of the House: I would like to just pose a couple of questions and inject them into the debate as we proceed on this important issue.

One of the questions is, under the committee amendment in Subsection 4, which lists the exemptions, there is made mention of public

housing projects that are subject to federal regulation. They would be exempted out of this, and I am just wondering what the federal regulations are and how they do apply and what the reason for exempting them out of it is and whether or not we might be setting a double standard here? I know nothing about those. That is just one of my questions.

The second question is, it was in consideration given on this bill for setting it up in such a way that each community on a local basis might adopt enabling legislation or might address this problem on the local level. Do our localities and municipalities throughout the state have the lawful authority to go ahead and pass this kind of legislation in local ordinances or does it really belong here and do we really have to adopt it on the state legislative level as well? I would appreciate some discussion on those two factors in consideration as we proceed.

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

The Chair recognizes the gentleman from Saco, Mr. Hobbins.

Mr. HOBBS: Mr. Speaker and Members of the House: Just to address one point that the good gentleman from Bangor brought up — we wanted to make sure in the committee amendment that we showed some legislative intent to exempt from this particular document public housing projects subject to federal regulation. We did so just to clarify it for the record, because as the good gentleman from Bangor knows, he is an attorney, we do have under our Constitution a supremacy clause, which means that federal law takes precedence over state law when there is a conflict. That is true and suppose litigation did exist on this particular issue, we would find that the supremacy clause and those regulations under the Public Housing Laws would take precedence.

There are certain situations where we have low-cost housing for the elderly, and it is exclusively that low-cost housing for the elderly and funneled through housing urban development, went through local housing authorities who maintain the program.

I would like to also address a few other points. Maybe someone else can address the other points that the good gentleman from Bangor raised.

As you know, this bill is a very emotional bill. We have the annual go-round every year between the landlords and the tenants, and this time we tried to come across with some type of compromise to help out situations where a person owns four or five units, or three or four or seven or eight units by putting a limitation on ten units in the amendment.

It is interesting the support that this bill has. I was somewhat surprised to read some letters that I received from different tenants, and I think there is one letter I suppose we could say is consistent in the theory towards children and the family, and that letter is from the Diocesan Human Relations Services, Inc. The Most Reverend C. O'Leary, as you know, is the Bishop of Portland and is the president of this particular organization.

The letter states in passing that they are writing "to express our concern over a serious problem, housing discrimination against families with children."

"Nearly every day one can read in Maine newspapers rental advertisements that exclude families with children. This practice often makes it very difficult for some families to find a decent home in which to raise their children. Excluding a family simply because some of its members are children is, in our opinion, no less reprehensible than excluding a family on the basis of its race, religion, or national origin."

"L. D. 781, An Act to Prohibit Housing Discrimination Against Families With Children, is a positive response to this problem. Not only

would this act end a shameful practice, but it would do so in a responsible manner. It recognizes the needs and rights of landlords by exempting from its provisions any owner-occupied building with not more than five dwelling units" which has been amended, "and by providing through local ordinances that a landlord would not be forced to rent small units to large families, thereby possibly placing his investment in jeopardy through overuse.

"Every Maine citizen should have the opportunity to obtain decent housing. We believe that L. D. 781 brings us closer to that goal and respectfully urge its passage."

I concur with these sentiments and I hope that when the vote is taken, Mr. Speaker, it is taken by the yeas and nays on the motion to indefinitely postpone.

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

Mr. LEIGHTON: Mr. Speaker, Ladies and Gentlemen of the House: Representative Hobbins just gave, I think, a legal answer to Representative Tarbell's question.

My lay answer would be that the bill establishes a double standard. Initially, it said, or it seemed to say, or the minority report seemed to say, that we wouldn't stand for this if we owned a two family or a three family or anything close to it, so what we will do, in a kind of an Indian Land Claims mentality, is lay it on the big guy.

When the committee got through with it, they went from exempting five to ten. If it makes good sense to do this for ten units, it makes sense to do it for one unit, and it is not fair to lay it on the big guy just because there aren't as many of them as there are of us little guys.

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

Mr. ROLDE: Mr. Speaker, Ladies and Gentlemen of the House: Earlier, the gentleman from Lewiston, Mr. Simon, was admonished for speaking academically.

I would like to speak from the standpoint of someone who has been in the rental housing business on a scale that would fall under this law and whose family is still in that business. Speaking frankly, I would say that we landlords don't want children. We don't want them, basically, for one reason, they cost us money. The wear and tear on the apartments is simply greater, and if we can get away with not having children, we will. But I also have four children and a great deal of empathy with the anguish of parents who are seeking refuge and are constantly being told there is no room at the inn.

To deal with this problem, in my mind there is only one solution, to make it part of the law and with the cutoff of 10 units, I feel that this is a reasonable approach.

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

Mr. STETSON: Mr. Speaker, Ladies and Gentlemen of the House: I feel that it is entirely appropriate for me to answer the gentleman from York, since I, too, have four children. When I started out my married life, started living in a one-room, so-called efficiency apartment, as the family began to expand, so did we expand into a one bedroom apartment, then a two bedroom apartment, and finally into a house.

This particular bill has been urged upon you as a bill of rights, the rights of children, the rights of parents, the rights of pregnant mothers, human rights. I suggest to you that there are also the rights of the childless, the rights of the widows, the widowers and those who have chosen a celibate lifestyle, because they have a right to live in an environment where they are not beset by children with roller skates left on the front steps or bicycles cluttering up the entryway. They are entitled to live their lifestyle. So, I say that what is decent housing for those with families might constitute very indecent housing for those without children and those who wish to live without children.

I would suggest one other point. Those who are expanding their families are what we might call the transient tenants, because they are the ones most likely to be on the move, not just because they have children but because it is that stage of life where they are on the move. Those of us who have gone beyond that stage are more apt to settle down into what we would like to think of as our permanent home. I feel that the rights of those who choose a particular building to live in, a particular community to live in, with the idea that this would be their permanent home, should not be forced out because of an undesirable environment that is forced upon them by a legislature in Augusta.

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

Mrs. KANY: Mr. Speaker, Members of the House: In reply to Representative Stetson's comments, I would like to point out that those who wish to live in apartments in which there are no children near could, under this bill with its amendment, live in apartment buildings with fewer than ten units. It is for that reason, as one reason, why this is a good compromise.

Secondly, I am sure that the committee had in mind to exempt owner occupied apartments, so I would like to commend you on this particular bill and your excellent compromise.

I happen to represent a district in which there are very few apartments. I do have quite a few landlords in my district and, by the way, we are landlords. We are landlords each summer, we are also a renter each summer. It is only by renting out our own home with all of our fine antiques, our family heirlooms, that we are able to afford to rent a cottage, a camp, at a lake and I just thank goodness that someone is willing to rent to us in the summer and we have had, for the past ten years, nine of those summers, we have had children as tenants in our own home and we have had no problems. Of course, this would not affect us and we can continue to do as we wish, but I would like to commend the committee on their fine job in working out a reasonable compromise on this bill.

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

Mr. CARRIER: Mr. Speaker, Members of the House: This bill came to our committee and I will give you some of the true facts that have happened since then. What did happen was that at the committee hearing, aside from the sponsor, there were very few people that talked about this bill. I say there were very few, there were three or four of them that talked on this bill and you know who they were? They were the people from some outfit that we have on different committees or groups that come into this House and come to our meetings and get us all mixed up. They don't get me mixed up because I know who they are, but when they come and talk to me that psychologically this is good for the state. It is not good and they don't know what they are talking about in the first place.

I submit to you that the ultimate test of being a landlord and what we should do with this is the one who has the investment, who has the interest in this particular property.

I submit to you that I have an interest in property and I have had for 30 years, and it wasn't handed down to me, as my colleagues from Lewiston know me and my family, we were one of the poor people from Lewiston — poor in monetary but never poor at heart. We had the heart to go out and work for what we have.

I submit to you that if somebody wants a home today, they can have one and in a better respect than I could, because you have mortgages and we have had mortgages all along the line with the rate of interest at one percent. Who pays the additional 8 or 9 percent when these people finance homes? People who have been married a year or two or three have better homes than I have, than I have ever had,

and who pays for the interest on the mortgage? Who pays the difference between one and eight or nine or ten percent? I submit to you that when I bought my first house, it cost me \$5,200 and, at that time this was not a very popular price for a house, it was a low price house, and this is where I started. I only owe a certain obligation to certain people. If you find tenants as good as Mrs. Kany has had, we don't have any trouble, they can bring their children if they want to, that is not where the trouble lies, but I don't want the pitter-patter of little feet, of people in their own apartments don't know where the toilet is or where something else is and I have had these people too. I don't intend to promote such people, and we have them.

This is why you have these groups, Pine Tree Legal, Civil Liberties Union, all representing these people. If these people would behave and behave right, they wouldn't be thrown out of rents.

The landlord wants to protect his investment and he is entitled to. All we ask is a fair return on our investment. There is no two ways that you can do what you want. You can have a \$50,000 investment today, and if I decide to convert that particular property into property for the aged, which is needed, then I cannot do it. I cannot do it if the local community doesn't want to; yet, people in government and the state pay to have subsidized housing. If you don't know what subsidized housing is, you go down in Portland, down to Kennedy Park, down to Forest City, wherever it is, go to those places and see what it is, see if you have actually done anything. The only thing you have done is make the housing authority subsidize these programs with people that no matter where you put them, it is a sad state of affairs for them, but no matter where you put them, you are not going to improve their life.

I suggest to you that this is not a good bill, that the landlord is entitled, and should be, to take who he wants for a tenant without any people coming after him and even have the state tell him who he is going to take.

I submit to you that this is almost like marriage. You have to go through it in order to know the good things about it and the bad things about it. I am telling you, it is not comparable to marriage, because this is a bad deal all around for the last ten years.

I also say to you that there is a danger when you cut off the landlords from having control of their own property and what will happen is very simple. You make smaller apartments, you make apartments for single people, you make contracts for single people and everything else. I know what it is all about and I have been there and I have suffered losses and I don't feel very kindly towards this. Give me good tenants and they will have a rent, any rent.

For those who feel so strongly about providing for these people, take some of your money and invest it for these people and I will give you more tenants than you would ever want to receive.

As far as the letter from the Diocese, I am not very pleased about that either. I belong to this church and, you know, this is not nice, this is not right at all and I don't believe it and I can tell you that before the day is over, somebody is going to be steaming somewhere, because we don't need this type of letter. These people talk as if they are professionals and they know nothing about this. I know these people, they know nothing — just let them put their money where their mouth is. They are not willing to do that. If it is so good, let them practice their own spiritual goodness.

I submit to you, this is not a good bill. You provide good tenants with children, we will provide the rents for them, but there are exceptions and this is what I am talking about, and they are numerous and it is just a sad situation that we have. I am not ready for this and, very truthfully, after getting all steamed up, I won't

even be affected by this bill.

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

Mr. BAKER: Mr. Speaker, Ladies and Gentlemen of the House: I believe the remarks made by the good gentleman from Westbrook are good enough reasons to vote for the bill.

The SPEAKER: The Chair recognizes the gentleman from Biddeford, Mr. D. Dutremble.

Mr. D. DUTREMBLE: Mr. Speaker, Ladies and Gentlemen of the House: For what it is worth, I was just checking this morning's Portland Press Herald and there are 50 items in here that says, "no children" or "adults preferred" or "adults only."

I hope that you will vote against the indefinite postponement.

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

Mr. CARROLL: Mr. Speaker, Ladies and Gentlemen of the House: I rise this morning and I am sad. I am saddened because I heard that people don't want any children anymore, they just want adults.

I am also sad because my memory goes back to many years ago when I was reporting to a hospital in Virginia, wearing a body cast with a newly born daughter in my car with my wife, and the neighbor had told me that this man had a room to rent. When I knocked on his door, he said, "do you have any children?" I said, "I sure have, I have a daughter and I am awfully proud of her." He said, "I don't have any room tonight." I said, "Do you have any relatives or brothers in the service?" "Yes, I have a brother overseas and boy am I proud of him." I said, "He would be proud of you tonight because you just turned a disabled war veteran away from your door who is hospitalized and down here for an operation and I have to have a place for my daughter and wife to sleep tonight." I walked away and he followed me and begged me and he said, "It won't cost you a cent to sleep in my house," and I said, "To hell with you, I don't want to sleep in your house, you couldn't put me in a pup tent with you, mister. You don't deserve people going to war, you deserve to go."

I am telling you, ladies and gentlemen, you are going to face a silent spring and it isn't going to be the robins and the birds and the bees, it is going to be a silent spring when there will be no grandchildren and no great-grandchildren, because your daughters and sons may some day or your grandchildren may go out to rent and they will be told — no room tonight, no room tomorrow night, we don't want children.

I am growing old and I know what it is like to live in a house without any children. My children have grown up and gone away, but on weekends they return, and what a pleasure to meet my grandchildren at the door. It is great for the heart, it keeps you young, it makes the heart tick a little faster and it makes your heart go out and say to yourself, think of the child who has no grandparents to go home to this weekend.

I hear of those who made the unholy buck, and it is great to be able to count your money and count the interest, but I would rather count the children in the eyes of God and the children that go forth into this world, because they are our tomorrow and if you have no tomorrow, you have a heart filled with sorrow.

Remember, those 50 ads in that Portland Press Herald, multiply them throughout this state, and remember, there are many sad hearts tonight, there will be many sad hearts tomorrow if we don't make available an opportunity for our young people to go out and rent an apartment and have children and raise a family.

You heard people say, they can do what I did years ago. Oh no you can't. You have zoning, you can't live in a one room shack today or a one room house, we used to call them shacks years ago. I built a house and I finished one room and I lived in it. They have got zoning in my town. If I want a house, I have got to pay

\$40,000. Where are those big hearts today? Where are all those tenants that have run away. Come back and listen in on it, get in on the fight. I am ready to do battle. I believe that our young people have got to be able to have homes and I believe in zoning, but I believe that zoning should not be for the purpose of driving young people into the woods. They shouldn't have to go back in the puckerbrush to live where there is no zoning. They ought to be able to live in your city. You want them when your country goes to war. Sure, go ahead, take the young, go fight, but you don't want them when they want a room to live in and raise a child.

You talk about a silent spring, you keep going in that direction. If it were not for the churches, you would already have silent spring. They are fighting the battles you and I ought to be fighting, and I have great respect for all religions and all faiths.

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

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

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

Mr. LEIGHTON: Mr. Speaker, before the vote is taken, just in case anybody thinks I have a vested interest in apartment houses, I don't own a single one, and there is no way in God's world that anybody could ever convince me to buy one.

The SPEAKER: A roll call has been ordered. The pending question is on the motion of the gentleman from Harrison, Mr. Leighton, that this Bill and all its accompanying papers be indefinitely postponed. All those in favor will vote yes; those opposed will vote no.

ROLL CALL

YEA — Austin, Berry, Berube, Birt, Blodgett, Bordeaux, Boudreau, Bowden, Brown, D.; Brown, K. L.; Brown, K. C.; Bunker, Call, Carrier, Carter, D.; Carter, F.; Conary, Damren, Davis, Dellert, Dexter, Drinkwater, Dudley, Dutremble, L.; Fenlason, Fillmore, Garsoe, Gavett, Gould, Gray, Hanson, Higgins, Huber, Hunter, Hutchings, Immonen, Jackson, Jacques, E.; Kiesman, Lancaster, LaPlante, Leighton, Leonard, Lewis, Lougee, Lowe, Lund, MacBride, Marshall, Masterman, Masterton, Matthews, Maxwell, McPherson, Morton, Nelson, A.; Payne, Peltier, Peterson, Reeves, J.; Rollins, Roope, Sewall, Sherburne, Silsby, Small, Smith, Stetson, Stover, Strout, Studley, Theriault, Torrey, Tozier, Twitchell, Wentworth, Whittemore, Wyman.

NAY — Aloupis, Bachrach, Baker, Barry, Beaulieu, Benoit, Brannigan, Brennerman, Brodeur, Brown, A.; Carroll, Chonko, Cloutier, Connolly, Cox, Cunningham, Curtis, Davies, Diamond, Doukas, Dow, Dutremble, D.; Elias, Fowlie, Gillis, Gowen, Gwadosky, Hall, Hobbs, Howe, Hughes, Jacques, P.; Jalbert, Joyce, Kane, Kany, Kelleher, Laffin, Lizotte, Locke, MacEachern, Mahany, Martin, A.; McHenry, McKean, McMahon, McSweeney, Michael, Mitchell, Nadeau, Nelson, M.; Nelson, N.; Norris, Paul, Pearson, Post, Prescott, Reeves, P.; Rolde, Simon, Tarbell, Tierney, Tuttle, Vincent, Violette, Vose, Wood, The Speaker.

ABSENT — Churchill, Hickey, Paradis, Soulas, Sprowl.

Yes, 78; No, 68; Absent, 5.

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

The Chair recognizes the gentleman from Westbrook, Mr. Carrier.

Mr. CARRIER: Mr. Speaker, having voted on the prevailing side, I ask for reconsideration and I hope you will vote against me.

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

Mr. BAKER: Mr. Speaker, I move we table this one legislative day.

Whereupon, Mr. Carrier of Westbrook requested a vote.

The SPEAKER: The pending question is on the motion of the gentleman from Portland, Mr. Baker, that this matter be tabled for one legislative day pending the motion of Mr. Carrier of Westbrook to reconsider. All those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

52 having voted in the affirmative and 82 having voted in the negative, the motion did not prevail.

The SPEAKER: The question now before the House is on the motion of the gentleman from Westbrook, Mr. Carrier, that the House reconsider its action whereby this Bill was indefinitely postponed. All those in favor will say yes; those opposed will say no.

A Viva Voce Vote being taken, the motion did not prevail.

Sent up for concurrence.

(Off Record Remarks)

The Chair laid before the House the following matter:

SENATE JOINT ORDER (S. P. 563) relative to reporting bills from committee by 5 p.m. on Friday, June 1, 1979.

Mr. Tierney of Lisbon Falls offered House Amendment "A" and moved its adoption.

House Amendment "A" (H-479) was read by the Clerk and adopted.

The order received passage as amended in non-concurrence and was sent up for concurrence.

By unanimous consent, ordered sent forthwith to the Senate.

Order Out of Order

On motion of Mr. Tuttle of Sanford, the following Joint Resolution: (H. P. 1419) (Cosponsors: Mr. McMahon of Kennebunk, Mr. Martin of Eagle Lake, and Senator Pierce of Kennebec)

Joint Resolution Requesting Employers to Grant a Leave of Absence From Employment to any Employee Elected to the Legislature WHEREAS, the public interest will be served by encouraging citizens from all walks of life and from all economic circumstances to serve in the State Legislature; and

WHEREAS, employers within the State can help in that effort by adopting employment practices which will permit employees to serve in the State Legislature without loss of employment or other severe economic loss; therefore, be it

RESOLVED: That we, the Members of the 109th Legislature, respectfully request employers in the State to grant a leave of absence from employment to any employee elected to the Legislature, with the assurance that, upon completion of the term in office, the employee will be reinstated to the previous position or one of similar pay, seniority and benefits, if such position is reasonably available; and be it further

RESOLVED: That duly attested copies of this resolution be transmitted forthwith to the Chambers of Commerce throughout the State of Maine.

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

(Off Record Remarks)

On motion of Mr. Davies of Orono, Recessed until four-thirty in the afternoon.

After Recess
4:30 p.m.

The House was called to order by the Speak-

er.

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

HOUSE DIVIDED REPORT — Report "A" (5) "Ought to Pass" as Amended by Committee Amendment "A" (H-436) Report "B" (5) "Ought to Pass" as Amended by Committee Amendment "B" (H-437) Report "C" (2) "Ought Not to Pass" Committee on Judiciary on Bill, "An Act to Increase the Good Time Deduction" (H. P. 1058) (L. D. 1308)

Tabled—May 17, 1979 by Mr. Tierney of Lisbon.

Pending—Acceptance of any Report.

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

Mr. HOBBS: Mr. Speaker, I move acceptance of Report "B" "Ought to Pass".

The SPEAKER: The Chair recognizes the gentleman from Rockland, Mr. Gray.

Mr. GRAY: Mr. Speaker, Ladies and Gentlemen of the House: I would request a Division of Report "B". The Majority Report is Report "A" and perhaps if it is in order, I ought to take time to explain the difference between the two reports. It deals with the so-called good time and meritorious time given the inmates at the Maine State Prison. Presently the prison inmates are given ten days so-called good time. This is time that doesn't have to be earned, it is just time that is taken off their sentence for abiding by the rules at the Maine State Prison. Now, if they do additional work, above and beyond that which is normally required, they are given an additional two days. Report "B" would increase the good time from 10 to 12 and the meritorious time from 2 to 3, or a total of 15 days.

Report "A", which is the Majority Report, would leave the good time at 10 and give them one more meritorious time. The reasoning behind this is that the majority of the committee thought that if they received any additional time off their sentence, it should be earned, not merely given.

So, I am not going to try to convince you which report to accept, merely to tell you that the majority of the Judiciary Committee supports the theory that the time should be earned and that Report "A" is the report that the majority of the committee was in the best interests. So, if you want to go with the Majority Report, you would vote against acceptance of the motion that is before you now and then we could move on to the Majority Report, which is Report "A", and pass that.

The SPEAKER: The Chair recognizes the gentleman from Rockland, Mr. Fowlie.

Mr. FOWLIE: Mr. Speaker, Men and Women of the House: I would like to explain the report also. I would also like to mention on the comments of Representative Gray that this also affects the Men's Correctional Center.

What Report "B" does is increase the good time deduction to 12 days and gain a day to three days. This is a compromise from the position the original proposal was for 15 days good time and two days gain time. But the Department of Mental Health and Corrections would agree to only 12 and 3.

I would like to read the letter from Don Allen, Director of the Bureau of Corrections, in support of Report "B". "Bureau of Corrections, Dear Members: The purpose of this letter is to again reinstate our position that the Department of Mental Health and Corrections and the Bureau of Corrections regarding L. D. 1308, An Act to Increase the Good Time Deduction in order to provide additional positive incentives for people sentenced to the Maine Correctional Center and the Maine State Prison. We still recommend that positive consideration be given to changing the present good time law to 10 regular days and 2 meritorious days to that of 12 regular days and 3 meritorious days.

"The intent of this letter is to again reinstate

our position and perhaps clarify any misunderstandings pertaining to the department's position on this particular L. D. Thank you for your consideration. Sincerely, Don Allen, Director of Bureau of Corrections."

Also Report "B" would help alleviate the overcrowding problem at the correctional facilities by allowing the Bureau of Corrections to implement alternative programs at substantial additional savings.

I would just like to make an important note, that increased good time behavior is a reward and is not automatic, because the head of each institution has the authority to withdraw good time for inmate misconduct.

I hope the House today would accept Report "B."

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

Mr. SILSBY: Mr. Speaker, Ladies and Gentlemen of the House: I was going to point this out, we didn't have a majority vote in this particular instance, we had a tie vote on both the "A" and "B" Reports so there is no majority.

Report "A" merely increases the gain time so-called, by one day. Gain time is generally time off for meritorious service, which is outside the normal prison routine, for some of the work that they perform down there in Thomaston.

The regular good time, of course, is time off at so much a month. I would like to point out to the House that the current trend in criminology is to increase the good time as well as gain time to turn the prisoners over within the system and with a rehabilitative approach to run them through and get them out. The person or the inmate, it is up to him. If he wants the time off, he has to behave himself and if he wants to gain time, he has to perform meritorious service. So, these are the incentives which are being offered.

The trends are to increase the number of days. It is getting up in some states to one day off for every day served. Out of a 30 day month, now it is possible to get 15 days off in some states. So, Maine hasn't hit the tops yet or the average but I feel, as a member of the committee and on the "B" Report, that we should bring this up to 12 days per month from the current 10 days on good time and increase the gain time by one day, up to three days a month. This is consistent with the recommendations of the Department of Mental Health and Corrections and the letter from Mr. Don Allen that has previously been read.

I, personally, am a believer in following recommendations or giving great weight to recommendations of a department. I feel those people are paid to give us such recommendations and I hope you will accept Report "B".

The SPEAKER: The Chair recognizes the gentleman from Rockland, Mr. Gray.

Mr. GRAY: Mr. Speaker, Ladies and Gentlemen of the House: It appears that I do stand corrected. Evidently, somebody on the committee did not sign any of the reports. I was under the assumption that we did have a Majority Report on Report "A".

In addition to Report "A" increasing the meritorious time, we added in provisions in the statute that would allow greater flexibility for earning this good time. I would like to read you that addition. It says: "including public restitution activities for the state, county or local government agencies or non-profit organizations."

Now, having lived in the area all my life, I can recall not too many years ago when inmates from the Maine State Prison used to go out and work on civic projects. They used to work on recreational parks, on ballfields, and they used to do a great deal of work. This would provide the opportunity for them to receive this so-called gain time. I think this is the direction in which we should go. We should require that if they are going to get additional time off their sentence, that they should be willing to earn it, not come over here and expect something for

nothing continuously.

You know, it is ironic that two of the inmates who come over and testified before our committee were on their second term. So, essentially what we are doing is sort of speeding up the recycling of these prisoners by letting them out early.

It was also brought to my attention by a judge that this so-called good time, which comes automatically if you abide by the rules of the prison, is taken into consideration by the judges when they determine the sentence. In other words, when they know that an inmate stands a good chance of getting a third off his sentence, this is taken into consideration.

I am all for increasing the meritorious time because I think this is the approach that we should use. But they claim now, they will tell you that there is not this opportunity now in the prison to work on this gain time, that the jobs are limited, but to those of you who went through the Maine State Prison, I am sure that you have observed probably work and jobs enough to keep a lot of them busy, if only replacing the broken doorknobs, the glass and the custodial work that needs to be done in the prison.

Another very important part of the prison used to be the agricultural farm there in Warren. This was done away with. It is very difficult now because we have given so much away, it is difficult to get the prisoners at the Maine State Prison to do constructive work unless there is some personal, monetary gain. They don't have to work anymore because all they have to do is sit still and this additional time will be given them.

That is all I am going to say on this subject at this time. I, personally, have observed the institution over a number of years and seen the decline there. I hope that you will help us to pass Report "A", because I think this is the proper direction to go in.

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

Mr. LAFFIN: Mr. Speaker, Ladies and Gentlemen of the House: There seems to be some doubt in everyone's mind which report to accept here today so I am going to take that doubt right out of your mind and I am going to move to have this bill and all accompanying papers indefinitely postponed, so you won't have to worry about which report is right and which report is wrong.

The second thing that I would like to bring attention to this House is that right now, if I was going to support any of the two reports, "A" or "B", which I have no intention of voting for, naturally I would support the part of the bill to give them a good time because I believe that if they behave themselves they should be given a little more, but the point is today, how much more time are we going to give these murderers and rapists we have down in that prison?

You see, this is not just for a certain few people, this is for the entire system. Unfortunately, in our system we have some very undesirable people in that prison. We have murderers and rapists and they do not deserve the consideration of this legislature to give them any more good time off. They are getting ten days a month now and this is plenty.

The other thing is, my very good lawyer friend, which I have a lot of respect for on the Judiciary Committee, very intelligent lawyer and I certainly do have a lot of respect for him, but I certainly disagree with him wholeheartedly when he said that the department recommended Report "B", therefore, we should go along with the recommendation of the department. Well, I don't have too much faith in a department that will let a murderer walk off free, walk right off, described as very dangerous, he still hasn't been caught and this murderer is free today. So, I don't have too much faith in the administrators of a prison that will let a person do that.

I am asking you, my friends, in this House tonight, let's kill this thing once and for all. As the good chairman of the committee said, we spent too much time on that bill, there was too much work put on that bill and I don't believe that murderers and rapists deserve the consideration and the tolerance of this House because they have no consideration when they commit vicious crimes against you, the people of Maine that you represent.

Therefore, Mr. Speaker, I move that this bill and all its accompanying papers be indefinitely postponed and you won't have to worry about which report is right or wrong. And I ask for a roll call.

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

Mr. CLOUTIER: Mr. Speaker, Ladies and Gentlemen of the House: Being both on Health and Institutions and the Select Committee on Corrections, I have pretty much taken a good look at the correctional problems and I would like to explain probably the reason why I support the House Chairman's acceptance of Report "B".

I believe that Committee Amendment "A" had a question of constitutionality and who would get the gain time. If you will read in Section 4, it says "those who are assigned duties outside the institution." Well, not everybody in the correctional institution is assigned to those duties, and this is where the problem of constitutionality came in. This is why the department ruled in favor of Report "B". That eliminates the question of constitutionality and it gives the gain time based primarily on the good time, the good time of the inmate if he abides by the rules of the institution.

Also, I would like to comment on some of the facts that Representative Laffin made. I think it is quite evident today that restitution is the way the whole nation is going as far as correcting our problems out in the public sector, and I think it is quite prevalent from the program that was on last night and last week.

So, I would urge all of you to go along with the Committee Chairman's Report and the other four members on that report and support Committee Amendment "B".

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

Mr. SILSBY: Mr. Speaker, Ladies and Gentlemen of the House: I would just like to respond to my good friend Mr. Laffin. I have been a supporter of his, I supported him on the death penalty for certain offenses and I don't believe that I am soft on crime.

I do feel that we have to do something to alleviate the overcrowding in our prison, and for the benefit of those who are concerned about lifers and rapists and so forth, according to Mr. Allen, lifers serving time under the criminal code, which would be since about 1976, get good time only after serving 15 to 20 years. That is the opinion of the department; right now it is being checked out by the Attorney General's Office for pre-code offenses or, in other words, before the criminal code, lifers serving time under that are not receiving or are not eligible for good time until after having served 11 years.

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

Mr. CARRIER: Mr. Speaker, Members of the House: You have heard the mild version of the gentleman from Westbrook on this particular issue and I am also against this particular bill. He and I have signed the "Ought Not to Pass" Report.

I only have one or two things to say. I don't believe these people should be rewarded, I have never felt that they should be rewarded for behaving the way they should in the first place.

The second reason is, I am not for this bill because these people would end up with 12 or 13 days off a month and I only get 7 days a month off and I think for my good behavior, if this is

the kind of punishment we are going to give, give the punishment to them and not to me for being such a great guy.

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

Mr. HOBBS: Mr. Speaker, Members of the House: I suppose a few people out there in our constituency might feel that we get more than 7 days a month off sometimes.

I think we should look at this issue not as a cops and robbers but look at this issue as a law and order issue. I think we should look at this issue from many standpoints, one from an administrative standpoint of an institution and what will make that institution run the most efficiently.

As you know, we have an overcrowding situation in the Maine State Prison and other institutions in this state and we have a morale problem among guards because of the low pay. We have morale problems among the prisoners because of the lack of programs and the lack of money and resources that have been spent in these particular areas.

This bill addresses good time and bad time — good time if you are good and bad time if you are bad. Let me explain something about good time.

Good time is a situation where the prisoners and inmates of those institutions faithfully observe the rules and regulations of that particular prison, don't cause the situations that we have had in other prisons around the country because they have something to look forward to, and that is freedom. That is a very important thing, I think, in our society.

If you talk to any of the prisoners at the State Prison, they will tell you they would probably like to have an emphasis on gain time, but the problem is in the Maine State Prison and other institutions in the state, we don't have the programs to provide meaningful jobs for the individuals, to retrain these individuals so when they go back on the street, they will be trained to do something productive and not just go back to their old ways. So, if you talk to some of the prisoners, they will tell you, they wish they could get more gain time but there aren't enough jobs, not enough programs involved.

One of the problems they raised because of the lack of jobs is the fact that we have a caste system in the state prison. If you are an apple shiner or a brown noser, you might be able to get that extra job, that job where you can get some gain time, but that individual who kind of keeps to himself and just obeys the rules and regulations and doesn't brown nose or apple shine to that particular guard or that particular supervisor, he doesn't get anything.

Report "B" is supported by the Department of Mental Health and Corrections, because it is their feeling that this particular bill will provide a stabilizing force, will give the inmates a little incentive to maintain order. They realize the lack of financial resources within their institution and within their budget and they realize that this is one mechanism that might alleviate that problem.

I think it is too bad that we had to break this issue up into a law and order issue. I know the good gentleman from Ellsworth, Mr. Silsby, is not soft on crime and I know that he is a very rational person, and when he supported this bill and he listened to the testimony of prisoners that are there in the institution now and officials from the Department of Mental Health and Corrections, he was impressed and I was impressed too, but this is one mechanism whereby we can probably stabilize a disastrous condition which could exist at that institution.

Report "B" is not a flaming liberal bill. It is a bill and report that all of us can feel comfortable about in knowing that maybe we are doing a little good to alleviate some of the problems and possibly help the situation and the bitterness that might exist when that individual is released from the Maine State Prison.

I urge you today to support the "B" Report

and oppose the pending motion of indefinite postponement.

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

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

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

ROLL CALL

YEA — Austin, Birt, Blodgett, Bordeaux, Brown, A.; Carrier, Dexter, Dutremble, L.; Fillmore, Gavett, Gould, Hanson, Hunter, Joyce, Laffin, Leighton, MacEachern, Mahany, Martin, A.; Masterman, McHenry, McKean, McPherson, McSweeney, Morton, Nelson, A.; Nelson, N.; Paul, Rollins, Sherburne, Smith, Soulas, Strout, Studley, Torrey, Vose, Wentworth.

NAY — Aloupis, Bachrach, Baker, Barry, Beaulieu, Benoit, Boudreau, Bowden, Brannigan, Brennerman, Brodeur, Brown, D.; Brown, K. L.; Brown, K. C.; Call, Carroll, Carter, D.; Carter, F.; Chonko, Churchill, Cloutier, Conary, Connolly, Cox, Cunningham, Curtis, Damren, Davies, Davis, Dellert, Diamond, Doukas, Dow, Dutremble, D.; Elias, Fenlason, Fowlie, Garsoe, Gillis, Gowen, Gray, Gwadosky, Hall, Higgins, Hobbins, Howe, Huber, Hughes, Hutchings, Jackson, Jalbert, Kane, Kany, Kiesman, Lancaster, LaPlante, Leonard, Lewis, Lizotte, Locke, Lougee, Lowe, Lund, MacBride, Marshall, Masterton, Michael, Mitchell, Nadeau, Nelson, M.; Norris, Paradis, Payne, Pearson, Peltier, Peterson, Post, Reeves, J.; Reeves, P.; Rolde, Roope, Sewall, Silsby, Simon, Stetson, Tarbell, Tierney, Tozier, Tuttle, Violette, Whittemore, Wood, Wyman, The Speaker.

ABSENT — Berry, Berube, Bunker, Drinkwater, Dudley, Hickey, Immonen, Jacques, E.; Jacques, P.; Kelleher, Matthews, Maxwell, McMahon, Prescott, Small, Sprowl, Stover, Theriault, Twitchell, Vincent.

Yes, 37; No, 94; Absent, 20.

The SPEAKER: Thirty-seven having voted in the affirmative and ninety-four in the negative, with twenty being absent, the motion does not prevail.

The pending question now before the House is on the motion of the gentleman from Saco, Mr. Hobbins, that the House accept Report "B". The Chair will order a vote. Those in favor will vote yes; those opposed will vote no.

84 having voted in the affirmative and 36 in the negative, the motion did prevail.

Thereupon, the Bill was read once.

Committee Amendment "B" (H-437) was read by the Clerk and adopted and the Bill assigned for second reading tomorrow.

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

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

Tabled—May 17, 1979 by Mrs. Mitchell of Vassalboro.

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 fourth tabled and today assigned matter:

Bill, "An Act to Provide a Grant to Community Health Services, Inc. for a Long-term Care Demonstration Project" (H. P. 1087) (L. D. 1343) (H. "B" H-455 to C. "A" H-390)

Tabled — May 17, 1979 by Mr. Tierney of Lisbon.

Pending — Motion of Mr. Kelleher of Bangor to Indefinitely Postpone Bill and all accompanying papers.

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

A vote of the House was taken.

Whereupon, Mrs. Nelson of Portland requested a roll call vote.

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

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

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

Mrs. NELSON: Mr. Speaker, Members of the House: I will be brief. If you will remember correctly, there were some objections to this bill, starting with the very title. There were further objections that it was only dealing with one area of the state, that there wasn't eligibility standards in the bill and that there would be no report. This amendment before you answers all of those questions and problems.

First of all, the very title itself now says, "An Act to Provide a Grant to Community Health Services, Inc., for a Long-term Care Demonstration Project." We all know the cost savings of somebody being at home rather than in a nursing home and I quoted some statistics the last time we spoke on this bill.

The concern was not in the project itself but the concept that people can do better at home, cheaper at home than in a nursing home. But the concern was, as I understood it, that it looked as if it might be "a Portland Bill" — the kiss of death. So it is amended to read: "Funds appropriated by this act shall be used to establish at least four pilot programs in both urban and rural areas to provide grants, to certify community home health agencies in Maine with accepted proposals as submitted to be matched by federal funds under the United States Social Security, Title 19 . . ." So, it is not just one project. There are four throughout the state, rural and urban.

It also states in the amendment that there would be eligibility standards, that the Commissioner of Human Services would establish those eligibility standards.

In the amendment, it states that there will be a report. The Commissioner of Human Services shall, upon completion of these programs, submit to the Joint Standing Committee on Health and Institutional Services a report to evaluate the effectiveness of the program. All of the objections have been met in the amendment.

May I read a letter? This is from the Maine Human Services Council. Remember, this is a watchdog of the Human Services Department. It says, "the council voted to support the concept of 1343 and the appropriation of \$100,000. The council recommends that the bill be amended so that funds be appropriated for community health service demonstrations rather than for the designated agencies." I did that. "The amendment should authorize that funds be available to fund a limited number of qualified agencies to carry out demonstrations in urban and rural parts of the state." I did that. "The Maine Human Services Council has long supported community and home health services, especially those that are preventative, cost effective and an alternative to institutional care. L. D. 1343 is an important piece of legislation, which we believe should be approved in amended form and funded for

\$100,000."

This is the only piece of legislation before the 109th Legislature that would deal with an alternative way of helping people, elderly people, in a long-term home health care facility. If you do not have this vehicle, there will be no alternatives.

Let me quote from a letter from a doctor that said: "Many of us in private practice are frequently faced with difficulty finding hospital beds for patients who need admission to the hospital because patients are backed up in the hospital waiting for after-care in either extended care facilities or nursing homes. The provision for a full range of medical services for patients at home could go a long way toward relieving a periodic shortage of acute hospital and long-term nursing home beds."

I ask that when you vote, you vote for this bill and against the indefinite postponement.

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

Mr. WOOD: Mr. Speaker, Ladies and Gentlemen of the House: I would also urge you not to kill this bill. One of the saddest experiences I had during the campaign was going to nursing homes and seeing people there that didn't need to be there but they couldn't stay home because they couldn't find care. Looking at those people and realizing that they were going to spend the rest of their lives in that nursing home when they didn't need to be there, and going and visiting the elderly in my district and having them tell me that they just wanted to be able to stay home, they feared the nursing home, they had productive life left, and by telling them that the only alternative that they have is to go to a nursing home seems to me to be the worst decision that a society can make.

I would urge you to keep this bill alive so that those people in my area, as well as in the urban areas, will have a choice at the last moments of their lives to stay home instead of being cooped up in an unproductive, vegetating nursing home.

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

Mr. BOUDREAU: Mr. Speaker, Ladies and Gentlemen of the House: I don't think there is any question that all of us would agree that having people in their home is probably less costly and these people would probably get better care if they were in their homes than in the nursing homes. I think the Commissioner of Human Services knows that, I think this House knows that. I don't think, though, that we have the problems to do that in one swift strike, and I don't think if you pass this bill to establish demonstration programs, that you are going to know any more about this issue than you do today. There is no question that leaving people in their homes is better, but going about to change that from the present situation we have, where we have people in nursing homes to that situation where we will have them at home, isn't going to be accomplished by appropriating \$100,000 to set up four demonstration programs which are going to report to the Commissioner something that he already knows. If you want to vote for this bill, you know, that is what you are going to be doing.

The Commissioner is very sensitive to this problem. Bob Frates has testified before the Appropriations Committee about this problem many times, and it is simply not going to change the whole system around by setting up four demonstration programs around the state.

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

Mrs. PRESCOTT: Mr. Speaker, Ladies and Gentlemen of the House: If you will recall, last week I stood up in objection to this bill and I opposed it because of the reasons that the gentlelady has corrected in her amendment. I stand here today not in opposition any longer because she has made a good faith effort to correct all of the problems that I had with the original bill and I think she even went beyond what

I had asked of her at that time.

I would point out that it would be addressing four pilot programs within the entire state and it would be urban as well as rural, and I think we can support that.

I would like to suggest, though, that the good gentlelady from Portland did make reference that this was the only vehicle that we had. It is the only vehicle that we have as far as it goes, but there is a study order that is pending in the other body which would study the existing home health care services. We don't know what the fate of that will be, so I would like to suggest that if you find merits in this bill, that you send it on to the Appropriations Table and let them decide whether or not we want to go with another study or with the demonstration projects.

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

Mr. JALBERT: Mr. Speaker, Members of the House: I hope we don't start the parade of sending these bills onto the Appropriations Table, because I am just one little chicken on that committee and I will voice my problem on this bill right now.

I had a very fine father who spent 14 years in a nursing home and died there. We took care of him. We paid for the care that he needed and we paid for it out of his own money, of course.

I had a sister who recently died in a nursing home, and she could take care of herself, and if she couldn't have, I would have taken care of her. She was no burden on anyone but I can assure you of one thing right now, that demonstration programs or no demonstration programs, there is no amount of money that could have paid for the care that she got in the nursing home that she was in. Some nursing homes may not be the best in the world, but by the same token, I didn't want anyone in my family living alone without the care she could get by being somewhere where she could get taken care of.

The real basic reason I am up in this — let's not start saying, let this ride to the Appropriations Table, because I can tell you one thing right now, that I know just exactly the fate this is going to suffer when it gets to the Appropriations Table, whether it is a good program or not. We have 13 days after today, we start that parade and, believe me, some of us won't be here, I am not going to be here after the deadline. Maybe somebody will say that is a good thing, maybe it is and maybe it isn't. I can tell you one thing right now, I have seen it many times in the 31 years that I have been on that committee — let this thing go to the Appropriations Table. Let's stop and settle this thing right now. You have a \$100,000 price tag and wampum has gone out of existence, and that is all I have to say.

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

Mrs. PRESCOTT: Mr. Speaker, I would request that the Committee Report be read, please.

Thereupon, the Committee Report was read by the Clerk.

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

Mr. JALBERT: Mr. Speaker, Ladies and Gentlemen of the House: I broke my toe crawling out of my crib with that kind of a wrinkle and that doesn't impress me at all, because last week there was a bill that was merrily on its way with a 13-0 report of the committee, I don't blame the gentlelady for putting her head down, with a \$500,000 price tag, a 13-0 "Ought to Pass" Report that should have gone originally, like this bill, to the Appropriations Committee anyway, but it went to Education and it took 15 seconds to knock it down under the hammer.

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

Mr. NORRIS: Mr. Speaker, Ladies and Gentlemen of the House: I was absent a couple of

days last week, so I didn't have a chance to talk about this bill. There is home health care in the state right now. There are elderly people, those who are fortunate enough not to have to go to a boarding or nursing home, that are being treated in their own homes.

What this \$100,000 would do, it would be for some people that might be borderline, in order to remain in their homes, they would get 24 hour service. There would be help available to them on a 24-hour basis. I guess no one disagrees that probably the best place, when it is possible to treat people, is in their own homes.

Let me take you one step deeper under the surface of this thing. I am on the board of a counseling center in Bangor and the only program that isn't in the red, the only program that pays for itself, is the Home Health Care Program, that is the only baby that is carrying the load, that is the only one that we are not dumping our money into. I can appreciate that times are hard and money is tight, but when people can show me the light and show me the way that these programs can become self-sufficient, then I am willing to gamble \$100,000, as tight as money is.

So, not expecting this bill, if it should get to the table, to get any better treatment than any other, it is a way to provide better treatment for elderly people and not cost the state and the federal government as much money as it does now.

The SPEAKER: A roll call has been ordered. The pending question is on the motion of the gentleman from Bangor, Mr. Kelleher, that this Bill and all its accompanying papers be indefinitely postponed. Those in favor will vote yes; those opposed will vote no.

ROLL CALL

YEA — Aloupis, Austin, Berry, Birt, Blodgett, Bordeaux, Boudreau, Bowden, Brown, D.; Brown, K. L.; Brown, K. C.; Call, Carrier, Carroll, Carter, D.; Carter, F.; Conary, Cunningham, Damren, Davis, Dexter, Diamond, Fenlason, Fillmore, Garsoe, Gavett, Gillis, Gould, Gray, Higgins, Hunter, Hutchings, Jackson, Jacques, P.; Jalbert, Joyce, Kelleher, Kiesman, Lancaster, LaPlante, Leighton, Leonard, Lewis, Lizotte, Lund, MacEachern, Mahany, Martin, A.; Masterman, McKean, McPherson, McSweeney, Morton, Nadeau, Nelson, A.; Nelson, N.; Paradis, Paul, Pearson, Peltier, Peterson, Reeves, J.; Rollins, Roope, Sewall, Sherburne, Simon, Smith, Stetson, Strout, Torrey, Tozier, Twitchell, Wentworth, Whittemore.

NAY — Bachrach, Baker, Barry, Beaulieu, Benoit, Brannigan, Brenerman, Brodeur, Brown, A.; Chonko, Churchill, Cloutier, Connolly, Cox, Curtis, Davies, Dellert, Doukas, Dow, Dutremble, D.; Dutremble, L.; Elias, Gowen, Gwadosky, Hall, Hanson, Hobbins, Howe, Huber, Hughes, Kane, Kany, Laffin, Locke, Lougee, Lowe, MacBride, Marshall, Masterton, Matthews, McHenry, Michael, Mitchell, Nelson, M.; Norris, Payne, Post, Prescott, Reeves, P.; Rolde, Silsby, Small, Soulas, Studley, Tarbell, Tierney, Tuttle, Violette, Vose, Wood, Wyman, The Speaker.

ABSENT — Berube, Bunker, Drinkwater, Dudley, Fowlie, Hickey, Immonen, Jacques, E.; Maxwell, McMahon, Sprowl, Stover, Theriault, Vincent.

Yes, 75; No, 62; Absent, 14.

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

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

Mr. KELLEHER: Mr. Speaker, having voted on the prevailing side I now move reconsideration and hope you all vote against me.

Ms. Benoit of South Portland requested a division.

The SPEAKER: The pending question is on the motion of the gentleman from Bangor, Mr. Kelleher, that the House reconsider its action

whereby L. D. 1343 and all its accompanying papers were indefinitely postponed. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

Ms. Benoit of South Portland requested a roll call vote.

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

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

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

Ms. BENOIT: Mr. Speaker, Men and Women of the House: I really didn't intend to speak on this bill because I thought it would go through all right. I feel I really should because I just experienced this with my own grandmother who is 80 years old. I hate to give you a tear jerker but it really was one. She had a crack in her leg and was sent to the hospital. This was a woman who had no senility at all, very keen, very sharp, hear and see, all the good things. She was in the hospital for two days and we really thought she was completely gone, would probably even die, never be the same again. As time went on, through the week we were told by several doctors and nurses that this quite often happens with elderly people when they are taken out of their homes. If they are put into a hospital or a nursing home after having suffered some sort of trauma, they quite often retreat, go into a shell and just cannot relate. They have been taken out of their own home, away from their own belongings, their own personal things, everything around them is gone that they have related to for so many years of their lives.

Once we got her out of the hospital and into what happened to be an excellent nursing home, and I stress that because I have been in some that are not so excellent and I don't think she would have made the progress she did, but being in a nursing home with excellent care, she came out of it. It is really unbelievable, she is better now than she ever was, and I guess my point is that perhaps if she had been able to go right back to her home, she did not really need to stay in the hospital as long as she did, but because we were not able to find someone to come in and take care of her at a reasonable amount of money, the cost was astronomical — if you had a pilot program like this one for awhile, you could test it and you could see how it works and the cost would not be as astronomical and maybe there are a few people, elderly people, who should not be in nursing homes or not in a hospital who just go and it is not necessary and they should be able to continue to live their lives.

I hope that you will vote to reconsider this.

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

Mr. BRENERMAN: Mr. Speaker, Ladies and Gentlemen of the House: It is incredible to me that this legislature would spend millions of dollars to reimburse nursing homes under Medicaid but would put very little if any money into home health care. Here we have a bill that would maintain people in their homes independently with some type of home health care. We would be able to determine how many people statewide needed this type of care and then, in another few years, we could tell whether Medicaid should be funding home health care as opposed to funding nursing home care. We could tell how much money the state should be placing into home health care, and we are not going to know any of that unless we have a demonstration program in the various areas of this state so we can determine the need. So I wish this House would reconsider its action.

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

Mr. BRODEUR: Mr. Speaker, Ladies and Gentlemen of the House: I think maybe to put things in light in terms of dollars and cents, it now costs the state about \$1,000 a month for nursing home reimbursement for Medicaid patients, and I am not sure if it is two-thirds or three-fourths, but a large majority of the people who are in nursing homes are now paid for through Medicaid. If there is no more room in the nursing homes, we are talking about hospital care. You know, that can be more expensive than nursing home care.

I think if we have alternatives such as this, we might find that we are paying less taxpayer dollars for programs that are going to help people in their own homes, keep them with their families and in the environment they would like to be in. I think in terms if we are going to look at saving dollars, this is one of the ways that we ought to go.

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

Mrs. NELSON: Mr. Speaker and Members of the House: Let me read to you from a statement from the Governor.

"The State's Medicaid Program will approach \$130 million this year, and one study suggests that unless present trends are reversed, costs for Maine's program could well exceed \$200 million in 1981. The same study indicates that Medicaid costs have risen 127 percent in the last five years, with the greatest increase occurring in the nursing home program where costs rose an appalling 182 percent. While many things need to be done to accomplish these goals, there are two areas in particular that require immediate attention. First, we need to plan and develop effective alternatives where appropriate for those individuals who do not require the expensive level of care associated with hospitals and nursing homes. Certainly, these modes of treatment are essential to a balanced network of services, but there needs to be much greater emphasis on community-based and home-based health care services."

This \$100,000 to go to at least four areas in the State of Maine is seed money. There are federal programs out there available for these people to get this money. Do remember, too, that this is a fee scale. These people pay what they can for this program. There is no Medicaid reimbursement for these people. Don't deny these people in rural communities, as well as urban communities, that right for an alternative way to life.

No, of course don't let it rest on the Appropriations Table. Vote for it now because you believe that this is an important cost-saving, humanitarian way to approach the problem of aging.

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

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

Mr. LEIGHTON: Mr. Speaker, I would like to pair my vote with Representative Brannigan of Portland. If he were here, he would be voting yea and if I were voting, I would be voting nay.

ROLL CALL

YEA — Bachrach, Baker, Barry, Benoit, Birt, Brenerman, Boudreau, Brown, A.; Brown, D.; Brown, K. C.; Carroll, Chonko, Churchill, Cloutier, Connolly, Cox, Curtis, Davies, Dellert, Diamond, Doukas, Dow, Dutremble, D.; Dutremble, L.; Elias, Gowen, Gwadosky, Hall, Hanson, Hobbins, Howe, Huber, Hughes, Kane, Kany, Laffin, Leonard, Locke, Lougee, Lowe, MacBride, Mahany, Marshall, Masterton, Matthews, McHenry, McKean, Michael, Mitchell, Nadeau, Nelson, M.; Norris, Paradis, Payne, Post, Prescott,

Reeves, P.; Rolde, Silsby, Small, Soulas, Tarbell, Tierney, Tozier, Tuttle, Violette, Vose, Wood, Wyman, The Speaker.

NAY — Aloupis, Austin, Beaulieu, Berry, Blodgett, Bordeaux, Boudreau, Bowden, Brown K. L.; Call, Carrier, Carter, D.; Carter, F.; Conary, Cunningham, Damren, Davis, Dexter, Fenlason, Fillmore, Garsoe, Gavett, Gillis, Gould, Gray, Higgins, Hunter, Hutchings, Jackson, Jacques, P.; Jalbert, Joyce, Kelleher, Kiesman, Lancaster, LaPlante, Lewis, Lizotte, Lund, MacEachern, Martin, A.; Masterman, McPherson, McSweeney, Morton, Nelson, A.; Nelson, N.; Paul, Pearson, Peltier, Peterson, Reeves, J.; Rollins, Roope, Sewall, Sherburne, Simon, Smith, Stetson, Strout, Studley, Torrey, Twitchell, Wentworth, Whittemore.

ABSENT — Berube, Bunker, Drinkwater, Dudley, Fowle, Hickey, Immonen, Jacques, E.; Maxwell, McMahon, Sprowl, Stover, Theriault, Vincent.

PAIRED — Brannigan - Leighton.

Yes, 70; No, 65; Absent, 14; Paired, 2.

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

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

Mr. **BOUDREAU**: Mr. Speaker, Ladies and Gentlemen of the House: I applaud Mrs. Nelson's efforts on this bill and I agree with many of the things she has said. However, I think the question is, is the state going to make a policy change when we are talking about Medicaid versus home health care — maybe we should but that is not the issue today. The price of the Medicaid program is not the issue today. The issue is whether or not we start setting up demonstration programs to tell us what we already know.

Now, if you get a good feeling for voting for this bill because you are against the rising costs of Medicaid or because you are for having people in their homes, that is great, but you really are not doing anything on the bottom line. Until this legislature makes some real tough decisions about Medicaid versus home health care versus a few other things, you can set up a thousand demonstration programs and you are not going to change anything in the big picture.

If Mrs. Nelson wants to have home health care, she should work to change the Medicaid regulations, change some of the regulations the feds are putting down on us and set up a real alternative, not a bunch of demonstration programs to tell us something we already know.

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

Mr. **NORRIS**: Mr. Speaker, Ladies and Gentlemen of the House: Very briefly. The National Council on State Governments, at this very time, are petitioning the federal government to do exactly what my young friend from Waterville mentions, to do exactly that, and the states that are prepared for it and have prepared to take the initiative and the responsibility will be the states in line to do it immediately.

Believe me, this is a concern all across the country. We have been saying for years, the only way you can assist your elderly is either a boarding home or a nursing home or the hospital. People across this nation, and some people across this state, are coming to understand that you can, indeed, do it in a much more humane way, and I am not saying anything against nursing homes, I am not saying anything against boarding homes. If that is necessary, and God knows, all of us have relatives, I have relatives in nursing homes and the care is excellent, but there are people that could be treated at home and treated better if we would go ahead today with this simple thing to tie in with the home national program.

The **SPEAKER**: The Chair recognizes the

gentleman from Bangor, Mr. Kelleher.

Mr. **KELLEHER**: Mr. Speaker, Ladies and Gentlemen of the House: I agree with Representative Norris — this is a simple measure. And if there is one thing this House wants to do for the elderly, it is not to pass this particular bill.

You know what the elderly in this state want? They want to stay in their homes, and we are spending millions of dollars and we are not doing it. We certainly are not going to do it with a bauble that comes out of Portland, and nine out of ten, the money is going to be going there to begin with.

We have got a statewide problem. The money should not be going there, and I ask the members of this House who voted to kill this bill to sustain their vote, not to change their votes because of any notes that may be flying around here.

This instrument is not exactly what you want, Mr. Norris, and it is not what I want. It was a self-appointed bill to begin with, and because there was some reaction because of members in this House, all of a sudden there are two urban areas and two rural areas that will be involved. Don't be hoodwinked to where the money is going.

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

Mr. **NORRIS**: Mr. Speaker, Ladies and Gentlemen of the House: To inform my good friend from Bangor, Mr. Kelleher, this money is not going to Portland. The wheels are already in motion to get part of the money for this most important, in my opinion, grant for our home area.

I was on the phone no less than an hour and a half ago talking to the officials in the Home Health Agency. That is an agency that is in place now and is doing a beautiful job. All this does is to expand it to 24-hour service. It means that if a person has a problem in the middle of the night, they can call and there will be people on call to go help them. The other part of the project, as far as the eastern part of the state is concerned, will go down in Washington County, as I understand it right now, and we have already had letters from the people down there.

I don't mean to contradict my good friend from Bangor, Mr. Kelleher, this may have started in Portland, but it is no longer a Portland bill, and that I can guarantee you.

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

Mr. **MCHEHRY**: Mr. Speaker, Ladies and Gentlemen of the House: This is a demonstration program. If it proves to save money, I don't care where it is.

The **SPEAKER**: The Chair will order a vote. The pending question is on the motion of the gentleman from Bangor, Mr. Kelleher, that this Bill and all its accompanying papers be indefinitely postponed. All those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

Whereupon, Mrs. Kany of Waterville requested a roll call vote.

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

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

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

Mrs. **KANY**: Mr. Speaker, Ladies and Gentlemen of the House: I put two bills in this session which I had hoped could address the Medicaid problem. One of them would have forced people, Medicaid recipients, to pay part of the Medicaid bill. The second bill would have dealt with that very sticky question of transfer of assets.

Right now, we are finding that many people

are transferring their assets over to their children or someone else so that they can be eligible for Medicaid when they go into a nursing home. In fact, I just visited a nursing home I had never been in until this Saturday, I was invited to go for a silver tea, and I asked, "How many of you people are on Medicaid?" Seventy percent. The other 30 percent were private paying patients — no only 10 percent; 20 percent of them are at Togus. I said, "Do you have a lot of problems with transferring of assets? Do you think a lot of your people could actually afford to pay for the nursing home cost?" He said, "Oh heavens, yes. It happens all the time." This is what I have been hearing in my area.

We have a real problem with Medicaid. We are paying for a lot of Medicaid here in the State of Maine, good taxpayers' money that we shouldn't have to be paying.

I withdrew that transfer of assets bill even before announcing at the public hearing why, because the first of those two bills that I mentioned, the Health and Institutional Services Committee, with reason, justifiably, decided it was silly to spend a lot of time addressing this when the federal law would not allow us to do what we wanted to do in trying to cut down our Medicaid costs. So, there are many things we can't do, there are many things that we just cannot even attempt to do until both the federal law and the federal regulations on Medicaid are changed. This is something we can do. Not only will it help with Medicaid costs hopefully, but it is the humane thing to do, and I hope you support this bill before us.

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

Mrs. **NELSON**: Mr. Speaker and Members of the House: I read you a letter of total support from the Maine Human Services Council saying that it supported the measure in concept after the amendment which I did prepare and which was accepted. I simply want to read into the record that the Chairman of the Maine Human Services Council is Representative Edward Kelleher.

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

Mr. **KELLEHER**: Mr. Speaker, Ladies and Gentlemen of the House: I am sure it is no surprise to any member of this House, by the letter that she has read, that you didn't give them any new information that they didn't already know, that I happen to be the chairperson of that council. But you want to know something, Mrs. Nelson? Like the House, we don't always agree. Do you understand the difference? There are differences of opinion in here every single day and there are differences in the committees that you serve on and I serve on. And you want to know something? I think that is a little out of order to imply that I might be taking a position somewhat different than I did at the council.

The **SPEAKER**: A roll call has been ordered. The pending question is on the motion of the gentleman from Bangor, Mr. Kelleher, that this Bill and all its accompanying papers be indefinitely postponed. All those in favor will vote yes; those opposed will vote no.

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

Mr. **LEIGHTON**: Mr. Speaker, I would like to pair my vote with Representative Brannigan of Portland. If he were here, he would be voting nay, and if I were voting, I would be voting yea.

ROLL CALL

YEA — Aloupis, Austin, Berry, Blodgett, Bordeaux, Boudreau, Bowden, Brown, K. L.; Brown, C.; Call, Carrier, Carter, D.; Carter, F.; Conary, Cunningham, Damren, Davis, Dexter, Diamond, Fenlason, Fillmore, Garsoe, Gavett, Gillis, Gould, Higgins, Hunter, Hutchings, Jackson, Jalbert, Joyce, Kelleher, Kiesman, Lancaster, LaPlante, Lewis, Lizotte, Lund, MacEachern, Martin, A.; Masterman, McPherson, McSweeney, Morton, Nelson, A.;

Nelson, N.; Paul, Pearson, Peltier, Peterson, Reeves, J.; Rollins, Roope, Sewall, Sherburne, Simon, Smith, Stetson, Strout, Studley, Torrey, Twitchell, Wentworth, Whittemore.

NAY — Bachrach, Baker, Barry, Beaulieu, Benoit, Birt, Brenerman, Brodeur, Brown, A.; Brown, D.; Chonko, Churchill, Cloutier, Connolly, Cox, Curtis, Davies, Dellert, Doukas, Dow, Dutremble, D.; Elias, Gowen, Gwadosky, Hall, Hanson, Hobbins, Howe, Hughes, Kane, Kany, Laffin, Leonard, Locke, Lougee, Lowe, MacBride, Mahany, Marshall, Master-ton, Matthews, McHenry, McKean, Michael, Mitchell, Nadeau, Nelson, M.; Norris, Paradis, Payne, Post, Prescott, Reeves, P.; Rolde, Silsby, Small, Soulas, Tarbell, Tierney, Tozier, Tuttle, Violette, Vose, Wood, Wyman, The Speaker.

ABSENT — Berube, Bunker, Carroll, Drinkwater, Dudley, Dutremble, L.; Fowlie, Gray, Hickey, Huber, Immonen, Jacques, E.; Jacques, P.; Maxwell, McMahon, Sprowl, Stover, Theriault, Vincent.

PAIRED — Brannigan — Leighton.

Yes, 64; No, 66; Absent, 19; Paired, 2.

The **SPEAKER**: Sixty-four having voted in the affirmative and sixty-six in the negative, with nineteen being absent and two paired, the motion does not prevail.

Thereupon, the Bill was passed to be engrossed as amended Committee Amendment "A" as amended by House Amendment "B" thereto and sent up for concurrence.

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

Bill, "An Act to Merge the Septage and Hazardous Waste Law into the Solid Waste Law and to Conform them with the Requirements of the Federal Resource Recovery and Conservation Act" (H. P. 1139) (L. D. 1518) — In House, Passed to be Engrossed as Amended by House Amendment "A" (H-318) on May 4, 1979. — In Senate, Passed to be Engrossed as Amended by House Amendment "A" (H-318) as Amended by Senate Amendment "A" (S-180) thereto.

Tabled—May 18, 1979 by Mr. Tierney of Lisbon.

Pending—Further Consideration.

On motion of Mr. Blodgett of Waldoboro, the House voted to recede and concur.

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

HOUSE DIVIDED REPORT — Majority (7) "Ought to Pass" as Amended by Committee Amendment "A" (H-450) — Minority (6) "Ought Not to Pass" — Committee on Labor on Bill, "An Act Amending the Claim Period Provision of the Workers' Compensation Act" (H. P. 706) (L. D. 881).

Tabled—May 18, 1979 by Mr. Tierney of Lisbon.

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

On motion of Mr. Wyman of Pittsfield, tabled pending his motion to accept the Majority "Ought to Pass" Report and tomorrow assigned.

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

An Act Prohibiting a Bank Holding Company from Owning More Than One Type of Financial Institution (S. P. 91) (L. D. 177).

Tabled—May 18, 1979 by Mr. D. Dutremble of Biddeford.

Pending—Passage to be Enacted.

On motion of Mr. D. Dutremble of Biddeford, tabled pending passage to be enacted and tomorrow assigned.

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

"An Act to Prohibit the Practice of a Mandatory Retirement Age" (S. P. 260) (L. D. 790) (C. "A" S-162).

Tabled—May 18, 1979 by Mr. Stetson of Wiscasset.

Pending—Passage to be Enacted.

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

Mr. **STETSON**: Mr. Speaker, I move the indefinite postponement, and unless somebody moves to table, I promise to argue for 47 minutes.

Whereupon, on motion of Mr. Garsoe of Cumberland, tabled pending the motion of Mr. Stetson of Wiscasset to indefinitely postpone and tomorrow assigned.

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

An Act to Establish Assessments Upon Certain Public Utilities and to Authorize Use of the Funds Generated by Those Assessments to Pay Certain Expenses of the Public Utilities Commission (H. P. 380) (L. D. 487) (C. "A" H-321).

Tabled—May 18, 1979 by Mr. Davies of Orono.

Pending—Passage to be Enacted.

On motion of Mr. Davies of Orono, under suspension of the rules, the House reconsidered its action whereby the Bill was passed to be engrossed.

On further motion of the same gentleman, under suspension of the rules, the House reconsidered its action whereby Committee Amendment "A" was adopted.

The same gentleman offered House Amendment "A" to Committee Amendment "A" and moved its adoption.

House Amendment "A" to Committee Amendment "A" (H-470) was read by the Clerk.

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

Mr. **DAVIES**: Mr. Speaker, I see my good friend Mr. Garsoe over in the far corner making eyes like he wants to know what is going on. For all of this effort that I have had to go through backing up this bill, the purpose of this amendment is to make sure that the legislature has approval of the assessments that would be covered by this bill, just as they would approve the Public Utilities budget otherwise, so that the legislature can be fully assured that the money is going to be spent in a way that they consider appropriate.

Thereupon, House Amendment "A" to Committee Amendment "A" was adopted.

Committee Amendment "A" as amended by House Amendment "A" thereto was adopted.

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

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

Bill, "An Act to Clarify the Provisions Relating to Hearings on Juvenile Crimes and to Establish an Experimental Program for Education and Counseling of Juveniles" (H. P. 1375) (L. D. 1801).

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

Pending—Passage to be Engrossed.

Mrs. Payne of Portland offered House Amendment "A" and moved its adoption.

House Amendment "A" (H-477) was read by the Clerk.

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

Mrs. **PAYNE**: Mr. Speaker, Ladies and Gentlemen of the House: This amendment corrects errors in the bill, making sure that the juvenile is found guilty before the records are opened and that the program is offered after a second offense, not a first offense. It also prevents release of the juvenile's name if parents, for reasons approved by the courts, find undue hardship in completing the counseling program that they agreed to attend.

Thereupon, House Amendment "A" was adopted.

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

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

"An Act to Establish a Marijuana Therapeutic Research Program" (H. P. 523) (L. D. 665) (C. "A" H-332).

Tabled—May 18, 1979 by Mrs. MacBride of Presque Isle.

Pending—Passage to be Enacted.

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

Mr. **LEIGHTON**: Mr. Speaker, Ladies and Gentlemen of the House: Last Friday, Representative Wood and Representative McMahon raised questions about, I believe it is Section 2408 and 2308, I don't have the amendment in front of me, which is the confidentiality section of the bill, and I didn't have the answers. So Representative MacBride tabled it for one day.

After that, I went to the Legislative Assistant who drafted the bill, and he informed me that this was the confidentiality section of the bill, which is designed to preserve the doctor-patient relationship, and that he had taken it word for word from the New Mexico bill.

Nonetheless, we decided that we would take the opportunity to make doubly sure that we had done the job right, so we went down to the Attorney General's Office and asked him to look over that section, and all the rest of the bill, for that matter, and to let us know that we were on good, firm ground and satisfied the legitimate concerns of everyone.

So, in that regard, I would, at this time, ask someone to table this for two legislative days.

Thereupon, on motion of Mr. Davies of Orono, tabled pending passage to be enacted and specially assigned for Wednesday, May 23.

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

"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 18, 1979 by Mr. Carroll of Lime-rick.

Pending—Passage to be Enacted.

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

Bill Held

An Act Relating to Arbitration Under the State Employees Labor Relations Act (H. P. 142) (L. D. 162) — In House, Passed to be Enacted on May 18, 1979.

HELD at the request of Mr. Tarbell of Bangor.

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

Mr. **TARBELL**: Mr. Speaker, I move that we reconsider whereby this Bill was passed to be enacted.

On motion of the same gentleman, tabled pending his motion to reconsider and tomorrow assigned.

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

Mr. **SIMON**: Mr. Speaker, is the House in possession of L. D. 1500?

The **SPEAKER**: The Chair would answer in the affirmative. Bill "An Act Concerning Preservation Interests Under the Property Laws Pertaining to Preserving or Restoring Historic Property," House Paper 1212, L. D. 1500, is in the possession of the House.

Mr. **SIMON**: Mr. Speaker, I move that the House reconsider its action whereby the Minority "Ought Not to Pass" Report was accepted.

I don't desire to debate it, but I would like the

sponsor, who I see is present here, to have an opportunity to explain it before the House votes on my motion for reconsideration.

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

Mr. HUGHES: Mr. Speaker and Members of the House: This bill came through this morning and everyone was kind of asleep at the switch except the gentleman from Westbrook, Mr. Carrier, and he did move the "Ought Not to Pass" Report, but the Committee Report itself is a 10 to 2 "Ought to Pass" Report, and I am happy that it is being reconsidered. It is not a major bill. In fact, I think the fact that it is a 10 to 2 report and even the Judiciary Committee made no changes in it indicates that it does not do great, large things. However, what it does do, it simply changes the common law doctrine about preservation interests. Presently, in order to hold such an interest in property, one must be an adjoining property owner. This is a long time common law doctrine, not a statutory doctrine.

As a response to what is going on in a number of Maine cities, in fact all over the country, in other words, the great increased interest in historic preservation, there have been a number of property owners who have preserved their property, restored it, and want to see that it is maintained in that kind of condition. In order to do that, a number of organizations have grown up, one of which purposes is to encourage these kinds of preservation restrictions so that the character and integrity of restored buildings can be maintained through the years. And if you know anything about property values in such areas, you know that they have been skyrocketing because of the kinds of things that have been done under historic preservation concerns.

The Old Port area of Portland is, of course, a prime example, but in my own home town of Auburn, there are some exciting things being done. In downtown Lewiston there are also good things being done, and I am sure this is true in cities and towns all over the state.

So, all this bill does is simply say that no longer do you need to be an adjoining property owner to maintain these preservation restrictions, that you may be an organization to which that preservation restriction has been conveyed by the property owner. That is simply it.

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

Mr. CARRIER: Mr. Speaker and Members of the House: This is not all the bill says. You can read it for yourselves. If you have read this bill, it says that the main part of this bill, and you want to make sure that you don't forget it, it says the covenant that you give these people runs with the land. What I mean is, if you decide today to sell your property, which is of historic value, you sell it to these people, if I come along later on and want to buy it, the same covenant you gave these people also applies to me.

As you read the bill, you actually lose control of the property that you are supposed to own. Anything that you want to do to change any part of it and it is listed under Section 1553 of the bill, any change you want to make inside or outside, you have to get approval.

This might be all right for the one who sells it to these people and gets a tremendous price for it, but I think it is extremely unfair and unjustified to carry a covenant for a number of years unless you mutually agree to take it off. And they are not about to take it off, because they want to keep these covenants.

What if the place burns down? If the place burns down, you still have to chase them and for a certain price they might take off the covenant and let you build something else there.

Let's assume that with the changing of communities today that this so-called historic building is in a place where you would like to make a grocery store or a drug store, probably the only drug store in town. You could not do it

unless these people agreed to it. And I don't think they are about to agree to it, ladies and gentlemen, because they have this built in here and it can create a lot of injustice to most people.

I submit to you that you should take the time to read the statement of fact, which is self-explanatory, and it says that the agreement can be embodied in a deed, will or a contract. Can you imagine, those of you who are familiar a little bit with the law, just what steps it takes and how costly it would be to take these out of a deed or to take it out of a will? Well, I submit to you that this might be nice to have all these old buildings restored and everything else, but the trouble is, actually the covenant you give these people, you give them the right, a right is created by the preservation agreement, they can also enforce by injunction any other proceedings that you might do that they don't like. There are five conditions here under which you have to actually get their permission.

I submit to you that this is a bad bill. The main reason why I voted against the bill is because the covenant runs with the land to the other parties that are going to own this particular property. This I don't like, I think it is unfair, and I think for those of you who are familiar with titles and everything else, it is a very bad, cumbersome covenant to put into any deed. That's why I moved this morning to have the "Ought Not to Pass" Report accepted. We did, and I hope that you vote against reconsideration.

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

Mrs. SEWALL: Mr. Speaker, I seem to have quite a time getting recognized on this bill. I did try this morning.

I would hope that before you vote on this you think about the situation, for instance, in Sturbridge Village or some place like that, a group of people want to set up a historic situation. They do put a covenant on the land, I agree with Mr. Carrier, they do, and the idea is to keep an area preserved in a certain way. If you are against that sort of thing, that is perfectly up to you, but that is all this does. It will allow an area to go into this sort of development. And the reasons the covenant goes with the land, of course, is if you spend a lot of money restoring your house as one of the houses in this sort of a community, you have spent quite a lot of money getting it restored and everything and then someone moves in next door and wipes it out and puts in something modern and ruins the whole area, you wouldn't like it very much.

It is a voluntary thing, totally voluntary if a group of people want to get together to build and maintain this kind of area not only for now but for posterity.

The SPEAKER: The pending question is on the motion of the gentleman from Lewiston, Mr. Simon, that the House reconsider its action of earlier in the day whereby the Minority "Ought Not to Pass" Report was accepted. All those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

49 having voted in the affirmative and 26 having voted in the negative, the motion did prevail.

The SPEAKER: The pending question is on the motion of the gentleman from Westbrook, Mr. Carrier, that the Minority "Ought Not to Pass" Report be accepted. All those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

29 having voted in the affirmative and 61 having voted in the negative, the motion did not prevail.

Thereupon, the Majority "Ought to Pass" Report was accepted, the Bill read once and assigned for second reading tomorrow.

On motion of Mr. Tierney of Lisbon Falls, the House voted to take from the table the fifth tabled and unassigned matter:

"An Act to Fund and Implement Agreements Between the State and the Maine State Employees Association and to Fund and Implement Benefits for Managerial and Other Employees of the Executive Branch Excluded from Coverage under the State Employees Labor Relations Act" (Emergency) (H. P. 1321) (L. D. 1573)

Tabled—May 2, 1979 by Mr. Tierney of Lisbon.

Pending—Motion of same gentleman to Reconsider Failing to Recede and Concur.

Mr. Tierney of Lisbon Falls requested permission to withdraw his motion to reconsider whereby the House failed to recede and concur, which was granted.

On motion of the same gentleman, the House voted to adhere.

By unanimous consent, ordered sent forthwith to the Senate.

(Off Record Remarks)

On motion of Ms. Benoit of South Portland, adjourned until eight-thirty tomorrow morning.