

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

INDEX

First Confirmation Session

August 3, 1979

INDEX

First Special Session

October 4-5, 1979

INDEX

Second Special Session

October 10-11, 1979

INDEX

Second Confirmation Session

December 7, 1979

INDEX

HOUSE

Tuesday, May 22, 1979

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

Prayer by the Reverend Doctor Yeager Hudson, Professor of Philosophy, Colby College, Waterville.

Reverend HUDSON: Let us pause before we begin the work of this new day to offer a prayer of thanksgiving and a prayer for divine guidance. Let us pray!

God, Our Father, we come before thee as thy children, thankful in our hearts for the blessings we have enjoyed at thy hands and mindful that the tasks at which we set our hands this day are a trust and a calling from thee.

We look to thee for guidance and strength, for we know that thou art the source of all wisdom and power. Inspire in us a sense of the great responsibility we bear as we sit and deliberate the affairs of state, as we bring to bear upon the issues we must treat, the interest and concern of those people who have sent us here to discuss, to plan and to legislate on their behalf.

In the daily routine of our work, when hours are long, when the load is heavy, when the pace is hurried, it is easy to lose sight of the purpose and the importance of our work. We ask thee, our Father, to keep alive in us a keen sense of the highest significance of what we do here so that our words and our actions may always express our highest efforts and the greatest sense of responsibility and integrity of which we are capable. Take away from us all narrowness of vision which might incline us to listen to special interest groups and neglect the common good. Help us to satisfy partisan spirit and to rise above sectional interest so that we may deliberate with objectivity and genuine concern and decide each question only on its own merit. Help us to see beyond the petty details the larger issues and needs which it is our real business to serve. Inspire us with a vision of a better society in which all men, women and children can enjoy justice and a good life, a society blessed with sound homes and families, prosperous businesses, vigorous schools, thriving cities and towns and communities, well ordered social and political institutions, active churches and happy individual citizens. Keep this vision before our eyes at all times and help us to see that the work we do, if we do it conscientiously and well, can contribute to making that vision a reality.

Accept our thanks for the abundant blessings we enjoy and for the sacred trust to which in this location thou hast called us. Be near us from moment to moment through this and every day, that we may be actively guided and inspired and sustained in all that we do. We ask all these blessings with thanksgiving in the name of Jesus, our example and Lord. Amen.

The journal of yesterday was read and approved.

Papers from the Senate

The following Communication:

THE SENATE OF MAINE
Augusta

May 21, 1979

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

The Senate today voted to Adhere to its action whereby it accepted the Minority Ought Not to Pass Report on Bill, An Act to Authorize Per Diem for Members of an Advisory Committee or Panel of the New England Regional Fisheries Management Council. (H. P. 1245) (L. D. 1490)

Respectfully,
S/MAY M. ROSS
Secretary of the Senate

The Communication was read and ordered placed on file.

Passed to be Engrossed

Bill "An Act to Make Certain Adjustments for Legislative Personnel as a Result of Collective Bargaining" (Emergency) (S. P. 564) (L. D. 1626)

Came from the Senate, under suspension of the rules and without reference to a Committee, the Bill read twice and passed to be engrossed.

In the House, under suspension of the rules and without reference to a Committee, the Bill was read twice and passed to be engrossed in concurrence.

Bill "An Act Authorizing the State Museum Bureau to Procure a Replica of 'The Maine Lobsterman'" (S. P. 565) (L. D. 1625)

Came from the Senate, under suspension of the rules and without reference to a Committee, the Bill read twice and passed to be engrossed.

In the House, under suspension of the rules and without reference to a Committee, the Bill read twice and passed to be engrossed in concurrence.

Reports of Committees

Ought Not to Pass

Report of the Committee on Appropriations and Financial Affairs reporting "Ought Not to Pass" on Bill "An Act to Provide an Elderly Home Heating and Cooking Fuels Program" (Emergency) (S. P. 431) (L. D. 1382)

Report of the Committee on Appropriations and Financial Affairs reporting "Ought Not to Pass" on Bill "An Act to Increase State Reimbursement for the Net Costs of Local General Assistance" (S. P. 216) (L. D. 601)

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

Leave to Withdraw

Report of the Committee on Taxation reporting "Leave to Withdraw" on Bill "An Act to Provide a Maine Homestead Property Tax Credit" (S. P. 474) (L. D. 1471)

Report of the Committee on Local and County Government reporting "Leave to Withdraw" on Bill "An Act to Provide County Commissioners with the Exclusive Jurisdiction Over the Removal of Ice Jams" (S. P. 187) (L. D. 454)

Came from the Senate with the Reports read and accepted.

In the House, the Reports were read and accepted in concurrence.

Ought to Pass
Amended Bills

Committee on Energy and Natural Resources reporting "Ought to Pass" as amended by Committee Amendment "A" (S-156) on Bill "An Act to Clarify the Powers and Duties of the Office of Energy and Resources" (S. P. 423) (L. D. 1294)

Came from the Senate with the Report read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (S-156) as amended by Senate Amendment "A" (S-211) thereto.

In the House, Report was read and accepted in concurrence and the Bill read once. Committee Amendment "A" (S-156) read. Senate Amendment "A" (S-211) to Committee Amendment "A" (S-156) and adopted in concurrence. Committee Amendment "A" (S-156) as amended by Senate Amendment "A" (S-211) thereto adopted in concurrence and the Bill assigned for second reading tomorrow.

Committee on Transportation reporting "Ought to Pass" as amended by Committee Amendment "A" (S-200) on Bill "An Act Concerning Gas Tax Refunds" (S. P. 150) (L. D.

327)

Came from the Senate with the Report read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (S-200)

In the House, the Report read and accepted in concurrence and the Bill read once. Committee Amendment "A" (S-200) read and adopted in concurrence 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" (S-181) on Bill "An Act to Insure Parental Participation in a Minor's Decision to have an Abortion" (S. P. 220) (L. D. 604)

Report was signed by the following members:

Mr. DEVOE of Penobscot

— of the Senate.

Messrs. CARRIER of Westbrook

GRAY of Rockland

SILSBY of Ellsworth

HOBBINS of Saco

LAFFIN of Westbrook

JOYCE of Portland

STETSON of Wiscasset

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. COLLINS of Knox

Mrs. TRAFTON of Androscoggin

— of the Senate.

Mrs. SEWALL of Newcastle

— of the House.

Came from the Senate with the Majority "Ought to Pass" as amended Report read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (S-181)

In the House: Reports were read.

On motion of Mr. Hobbins of Saco, the Majority "Ought to Pass" Report was accepted in concurrence and the Bill read once. Committee Amendment "A" (S-181) was read by the Clerk and adopted in concurrence and the Bill assigned for second reading tomorrow.

Divided Report

Majority Report of the Committee on Aging, Retirement and Veterans reporting "Ought to Pass" as amended by Committee Amendment "A" (S-201) on Bill "An Act to Establish Special Retirement Provisions for CETA Employees" (S. P. 268) (L. D. 809)

Report was signed by the following members:

Messrs. SILVERMAN of Washington

TEAGUE of Somerset

LOVELL of York

— of the Senate.

Messrs. REEVES of Newport

STUDLEY of Berwick

LOWE of Winterport

THERIAULT of Rumford

HICKEY of Augusta

DELLERT of Gardiner

Mrs. NELSON of Portland

CHURCHILL of Orland

HANSON of Kennebunkport

— of the House.

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

Report was signed by the following member:

Mr. PAUL of Sanford

— of the House.

Came from the Senate with the Majority "Ought to Pass" as amended Report read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (S-201)

In the House: Reports were read.

On motion of Mrs. Nelson of Portland, the

Majority "Ought to Pass" Report was accepted in concurrence and the Bill read once. Committee Amendment "A" (S-201) was read by the Clerk and adopted in concurrence and the Bill assigned for second reading tomorrow.

Divided Report Later Today Assigned

Six Members of the Committee on Labor on Bill "An Act to Continue Medical Benefits to Employees During Collective Bargaining Negotiations, Lockouts, Strikes, and Other Job Actions" (S. P. 317) (L. D. 947) report in Report "A" that the same "Ought to Pass"

Report was signed by the following members:

Mr. PRAY of Penobscot — of the Senate.

Messrs. BAKER of Portland
TUTTLE of Sanford
McHENRY of Madawaska
WYMAN of Pittsfield

Mrs. BEAULIEU of Portland — of the House.

Five members of the same Committee on the same Bill reporting in Report "B" that the same "Ought Not to Pass"

Report was signed by the following members:

Mr. SUTTON of Oxford
Mr. LOVELL of York — of the Senate.

Mr. DEXTER of Kingfield
Mr. CUNNINGHAM of New Gloucester
Mrs. LEWIS of Auburn — of the House.

Two Members of the same Committee on same Bill report in Report "C" that the same "Ought to Pass" as amended by Committee Amendment "A" (S-196)

Mr. FILLMORE of Freeport
Mrs. MARTIN of Brunswick — of the House.

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

In the House: Reports were read.

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

Mr. WYMAN: Mr. Speaker, I move the House accept Report A "Ought to Pass."

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

Mrs. LEWIS: Mr. Speaker, I would ask for a division on that.

The SPEAKER: The pending question is on the motion of the gentleman from Pittsfield, Mr. Wyman, that the House accept Report A in non-concurrence. All those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

Whereupon, Mrs. Lewis 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 Auburn, Mrs. Lewis.

Mrs. LEWIS: Mr. Speaker, Ladies and Gentlemen of the House: If you look carefully at this bill, you will see in Report A "Continued Benefits." This is insurance benefits. And it says, "During collective bargaining negotiations, lockout strikes and other job actions" but actually it goes, I think, far beyond what the bill appears to be presenting, because it says "Any other benefits available to its employees prior to negotiations, lockout strike or other job action", so it doesn't include just medical benefits, it looks as though it includes any kind of benefits, and this would be during the strike. I think that is asking an awful lot for an employer to have to pay for all of these benefits to

a person who is striking against them. It totally upsets the balance, and I would move that this bill be indefinitely postponed.

The SPEAKER: The gentleman from Auburn, Mrs. Lewis, moves that this Bill and all its accompanying papers be indefinitely postponed in concurrence.

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

Mr. WYMAN: Mr. Speaker, Ladies and Gentlemen of the House: This bill has an amendment attached to it, I believe, and the amendment does permit employees to continue their coverage during a strike or some sort of a lockout or work action. The original bill would have required the employer to pay during a strike the employee's share, and a lot of these employee insurance plans require a percentage breakdown as far as the employer's share and employee's share. The employer may pay 50 percent, or some certain percent, and the employee will pay a certain percent.

The bill, in its original form, would have required that this kind of arrangement be continued in the event of a strike. Members of the committee could sympathize with the sponsor of the bill and his desire for this arrangement to continue, but we also felt very strongly that the employer ought not to be obligated to pay any part of the employee's plan during a strike, so the amendment will just permit the employee to pick up the total share of the plan.

The reason for that is that if an employee is willing to pay for the employer's share and the employee's share during a strike or work action, then that employee ought not to be penalized. He ought to be able to keep his plan, his insurance plan, from lapsing. That was the intent of the committee amendment, and I hope that you will be able to support it. It is greatly modified from the original bill, and I think it is very fair. It is not going to be any sort of an obligation on the part of the employer.

I hope you will oppose the motion to indefinitely postpone this bill.

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

Mrs. LEWIS: Mr. Speaker, Ladies and Gentlemen of the House: If you look at the committee report on the calendar, there are three reports. Most of the committee are reporting Report A, which is not the amendment. There are only two members of the committee who are going with the amendment, and what the amendment really does is—well, I won't discuss that right now but I will discuss the reports that we have before us.

Report A is "ought to pass" and that is "ought to pass" as written. Report B is the report that I am on, and that is "ought not to pass." The amended report, as I say, has two other people on it, and I don't know how they feel about that. But Report A, if you look at it, it really goes much too far, because the employer would have to continue any medical, health, accident or life insurance coverage or benefits available to its employees prior to negotiations or a job action, and also any other benefits. So, it is an extremely broad bill.

I would say that if Mr. Wyman is talking about the amendment, he hasn't signed that, so perhaps he is talking about another amendment that he is going to put on the bill.

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

Mr. MORTON: Mr. Speaker, a question. The gentleman from Pittsfield has confused me a great deal this morning. Did he not move Report A?

The SPEAKER: The Chair would answer in the affirmative.

Mr. MORTON: Mr. Speaker, I am a little confused, because the gentleman has been speaking about an amendment. Report A carries no amendment, as the gentledady just pointed out. The gentleman was debating an amendment that he said was a great amend-

ment. I would like to know which report he really is for.

The SPEAKER: The gentleman from Farmington, Mr. Morton, has posed a question through the Chair to the gentleman from Pittsfield, Mr. Wyman who may answer if he so desires.

The Chair recognizes that gentleman.

Mr. WYMAN: Mr. Speaker, Ladies and Gentlemen of the House: This is an acute embarrassment to me. I believe, at least it was my understanding in committee that the majority of the committee would be signing out the bill as amended. I can see that that amendment, or at least the report, was not prepared with the amendment, the report that I signed. I can certainly tell the gentleman from Farmington, Mr. Morton, and other members of the House that it was not Report A that I intended to sign and support and move this morning, but the committee amendment. If someone would be kind enough to table this, we will try to get our act together so we cannot confuse you any further. I apologize to the members.

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

Mrs. MARTIN: Mr. Speaker, Ladies and Gentlemen of the House: There are only two people who have signed this amendment, and that makes the bill, as far as we are concerned, but if Mr. Wyman wants to put it away for another day, I certainly will allow him to.

Whereupon, on motion of Mr. Tierney of Lisbon Falls, tabled pending the motion of Mrs. Lewis of Auburn to indefinitely postpone and later today assigned.

Non-Concurrent Matter

Bill "An Act to Include Teachers in the Hope Training School for Retarded Children in Mexico in the Maine State Retirement System" (H. P. 1177) (L. D. 1442) which was passed to be engrossed as amended by Committee Amendment "A" (H-354) in the House on May 10, 1979.

Came from the Senate with the Bill and accompanying papers Indefinitely Postponed in non-concurrence.

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

Non-Concurrent Matter

Bill "An Act to Assist School Administrative Units in Addressing Problems Associated with Alcohol, Tobacco and Drug Use and Abuse" (S. P. 209) (L. D. 582) on which the Bill and accompanying papers were Indefinitely Postponed in the House on May 18, 1979.

Came from the Senate with that Body having Insisted on its former action whereby the Bill was passed to be engrossed as amended by Committee Amendment "A" (S-172) and asked for a Committee of Conference in non-concurrence.

In the House: On motion of Mr. Connolly of Portland, the House voted to insist and join in the Committee of Conference.

Non-Concurrent Matter

Bill "An Act Concerning Arbitration Involving Municipal Fire and Police Department's" (H. P. 1191) (L. D. 1463) on which the Majority "Ought to Pass" as amended by Committee Amendment "A" (H-415) Report of the Committee on Labor was read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (H-415) as amended by House Amendment "A" (H-444) thereto in the House on May 17, 1979.

Came from the Senate with the Minority "Ought Not to Pass" Report of the committee on Labor read and accepted in non-concurrence.

In the House:

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

Mr. WYMAN: Mr. Speaker, I move that we insist and ask for a Committee of Conference.

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

Mr. GARSOE: Mr. Speaker, since this bill was debated up, down and sideways a few days ago, I hope that we will recede and concur, and I so move.

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

Mr. WYMAN: Mr. Speaker, I would ask for a division on that motion.

The SPEAKER: The pending question is on the motion of the gentleman from Cumberland, Mr. Garsoe, that the House recede and concur. All those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

Whereupon, Mr. Wyman of Pittsfield 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 Sanford, Mr. Tuttle.

Mr. TUTTLE: Mr. Speaker, and Members of the House: As I said a few days ago, the reason why we need this bill, the reason why we need final best offer arbitration is because the present system isn't working.

Some might say that arbitration binds a community's hands in their own fiscal matters and procedures that can only be understood by that particular community. But what those communities in our state, of which there are many, that consistently take years to negotiate single contracts with tremendous costs going to those communities? To me, this is not right or fair and something needs to be done.

Arbitration by final best offer, as this bill suggests, makes each side move to make a decision, to strongly encourage each side to negotiate. As I said before, having been a fireman and having been involved in the collective bargaining process, all we are asking is to give it a chance to work, as exists in 18 other states in the nation. This will be an important step in the right direction, of the collective bargaining process in the state if this bill can go through.

Over the long run, this bill will save money and, as I said before, don't vote in fear; vote for something that is going to work. I would hope that you would vote against the motion to adhere.

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

Mr. GARSOE: Mr. Speaker, and Members of the House: My good friend from Sanford, Mr. Tuttle, has taken a new tact now that this is going to save municipalities money. Well, I submit that there is enough self-interest on the part of your municipal officers that if this were the case, they would be here supporting his stand.

I will ask any of you who have had any contact from your municipal officers to vote the way they suggest. I can only tell you that the Maine Municipal Association has put on quite a drive to oppose this piece of legislation, and it is obvious that they see the problems that will be connected with it.

To stand here and contend that an action of this kind is going to save taxpayer money is ridiculous. Statistically, you can develop a case in any instance where binding arbitration has been allowed to penetrate to the payment of salaries, pensions and insurance, that they have gone far away from those that aren't so controlled, so don't be taken in by the plea that this is going to be saving money. Don't blacken the reputation of every municipal officer in this state for failing to bargain in good faith. That is a two-way street, and the capricious and arbitrary insistence on unrealistic demands can be

made against the union just as firmly and just as validly as the stubborn resistance on the part of municipal officials to give into those demands. It is an adversary proceeding and it is not very pleasant when it goes a long time, I can assure you, but this is not the solution. You are going to find people with infallibility moving into areas and telling municipalities what you will pay for salaries, pensions and insurance. The last final and best offer is merely a device to take some of the sting out of what eventually might be the decision of the arbitrator.

I just want to remind you that still in the bill is this backdoor approach that would imply unions have the right to force employees to join and still in here is the fact that these arbitrators, regardless of where they come from, are going to be making determinations that I think most of us expect our locally elected officials to make; namely, the authority of those officials, the value of the services performed by members of the units and the financial ability of the unit of government to pay. That is what these people are elected for.

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

Mr. WYMAN: Mr. Speaker, Ladies and Gentlemen of the House: I think the gentleman from Cumberland, who I greatly respect, has characteristically engaged in some rhetoric here that is really not appropriate to the bill and I think is rather misleading.

There is no effort on the part of anyone who is supporting binding arbitration to blacken the reputation of any municipal official or to accuse them of bargaining in bad faith or to accuse them of engaging in any sort of unethical activity or anything that unfair. No one has ever said that, no one intends that, no one implies that, and I think the gentleman should understand that fact.

I see now where in the bill where it is written, nor was it discussed in our committee, nor is it any where in the bill that this is going to force anybody to join a union. This is not what this issue is dealing with and not with the legislation it is dealing with. What this is dealing with is a way to resolve disputes which those of us who support it happen to believe there is a preferable way to the present system, and we believe that binding arbitration is an improvement in the current collective bargaining process. I don't mind debating on the merits of the issue, but I think we ought to stick to that exclusively.

This body has supported this particular bill on more than one occasion, if I remember correctly, in roll call votes.

What Mr. Tuttle and what I would like is an opportunity to work with the members of the other body, and I understand it was a very close vote in the other body, to try to work out our differences between the position this body has consistently taken in support of this legislation and the opposition of the other body. That is why we have insisted and asked for a Committee of Conference, that is the purpose for which we do it. I think this is an important enough issue to merit our very serious consideration of this particular motion.

I would hope that you would defeat the motion to recede and concur, because I sincerely believe that there is an opportunity to work out an agreement over a bill which is acceptable. If I didn't believe that, then I wouldn't have made the motion, Mr. Tuttle wouldn't have wanted the motion.

I happen to believe that this issue is of sufficient significance to warrant another effort on our part to try to come to some agreement. Obviously, those who feel very strongly against the bill are pleased with what has taken place and do not want to talk about it any further, but I think the issue merits some further discussion and I hope that you would defeat the pending motion so we could insist and ask for a Committee of Conference and try to work out

what differences we have over this bill.

Mr. Garsoe was granted permission to speak a third time.

Mr. GARSOE: Mr. Speaker and Members of the House: If I didn't hear Mr. Tuttle say that this bill was designed to overcome the long, drawn out negotiations by which he was obviously referring to the failure of municipal officials to agree with union demands, then I will and corrected; but I think I heard him say that. I may have painted it a little blacker than it was. Yes, he did say it, Mr. Wyman, but Mr. Wyman, I am ready to debate the issues on the specifics of this bill and I want you to get up now and tell me what it means in Section 1652-1C, where in the event of a strike the union is going to give up the right to require employees to join an employee's organization on being hired. If that isn't a backdoor approach to awarding this right to the union, then I don't know what a backdoor approach is, so there are some specifics, Mr. Wyman, and I would like to have you explain what that language is doing in there if it isn't to create a right that I don't believe they have right now?

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

The Chair recognizes that gentleman.

Mr. WYMAN: Mr. Speaker, I would like to pose a question through the Chair to the gentleman from Cumberland, Mr. Garsoe, and that is, what section exactly is he referring to?

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

Mr. GARSOE: Mr. Speaker, in response to the question—Page 4 of Committee Amendment "A", filing number 415, Section 1653-1C. Employee organizations, violations and penalties—one, an employee organization, which is determined by the Maine Relations Board to have violated the provisions in Section 1651, strike, shall be unable to do the following: (a) automatically deduct membership dues; (b) collect an agency fee for employees not a member of the organization; (c) require employees to join an employee organization upon being hired.

I am of the opinion that this is improper, it is a backdoor approach to a situation which I thought we had pretty well discussed and spoken on, and since it is in the bill, I think it is a legitimate question to address to the gentleman as to why it is there.

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

Mr. WYMAN: Mr. Speaker, Members of the House: I thought perhaps my original impression was correct that it wasn't in the bill and it isn't. This penalty provision says, if the gentleman will read it correctly, says "shall be unable to do the following." If they are going to be unable to do this, then I don't understand why the gentleman is so upset. They are not going to be able to do it, it says that very clearly. So, I guess I am a little bit confused if this particular section under penalties says that they will be unable to do the following where it says they will be able to do the following—now, if Mr. Garsoe can extricate himself from that convoluted thinking, then I would be pleased if he would share his thinking with me so I can understand it. I guess I am a little bit confused at this point.

Mr. Garsoe was granted permission to speak a fifth time.

Mr. GARSOE: Mr. Speaker, I am not going to speak, Mr. Speaker, I just want to announce that I give up.

The SPEAKER: The Chair thanks the gentleman.

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

Mr. TARBELL: Mr. Speaker and Members of the House: One of the measures that concerns me about this bill, particularly when

Representative Tuttle says that this is a cost-saving bill to municipalities, and I think it is really strange that municipalities throughout our state are not viewing it in that way. Is the provision on Page 2, we discussed it earlier and I just want to remind you of it again, that it says that in the arbitration process, in arriving at their selection the arbitrator shall be eliminated exclusively to evidence submitted by the parties on the following standards.

The point was raised earlier by my good seat-mate, Mr. Garsoe, that if the only evidence that is going to be considered is that which is submitted by the parties, that is really going to require some pretty sophisticated representative bargaining agents on behalf of municipalities, probably more sophisticated than what they have now, and I would submit that that is probably going to cost a great deal more money from the municipality's standpoint. So, I think it is really checkered when you are talking about cost saving in this bill. I don't think it is altogether clear, in fact I think it cuts quite to the contrary.

The other point is, this is not enabling legislation. This is mandatory legislation, and I don't know what communities and municipalities you come from and I don't know how they feel back home in your area, but we have gotten a clear message from my area, that they do not want this kind of mandatory binding arbitration legislation in any area of municipality relations. That, it seems to me, is not for us to sit here at state level and attempt to force this down the throats of our municipalities back home. If the localities want to deal with this on a community by community basis with local control approach to it, that is one thing, but this bill is way out of the ball park in that respect and for that reason, I can't support it either.

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

Mr. LEIGHTON: Mr. Speaker, Ladies and Gentlemen of the House: It seems to me as I listen, we are making this issue needlessly complex. Representative Wyman sometimes says things so articulately and so beautifully that we kind of gloss over exactly what he says. What he seemed to say to me is that binding arbitration is preferable to our present system. Let's stop and consider what our present system is. Our present system is representative democracy. In other words, we elect our selectmen and our city council members to run our towns. Binding arbitration removes their authority in this respect and lets unelected people, from who knows where, make these decisions that our elected officials now presently make.

I urge you to support the motion to indefinitely postpone.

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

Mr. LAFFIN: Mr. Speaker, Ladies and Gentlemen of the House: I hadn't planned on getting up on this issue, but some remarks have been made so I feel I must. I know back in my city, they ran an ad in the papers and my name and the other representatives of our city, I think Ms. Brown was included, I think the Senator from the other body was included, and I am not sure of all the rest, but I do know that those three names were included.

The thing that bothers me about this is that we have heard here on the floor of the House this morning how they should handle all situations in bargaining with employees because of the pay raise, because of pensions, because of paid holidays, because of everything that goes into it and they say on the floor of this House, well, that is their purpose, they are elected to do so. It is true, they are, but you must also remember, these same officials set their own salaries. They give themselves a raise for the next administration that comes in. They can't do it while they are in office, but for the next administration that takes over, they set a salary,

well, we feel that we should be paid more. They don't have to bargain with anybody because these people know that if they choose to run, they can get re-elected. It is pretty tough to beat an incumbent, at least in our city, and I can't speak for where you come from but I can speak for Westbrook. So you see, binding arbitration, both sides offer the best possible thing that they can offer. What is wrong with that? You either take it or you don't. If you can't present a good offer and the other side can present a good offer, they are going to get it. If you can present a good offer and the other side can't, then the city is going to win.

Consequently, what you are doing is, you are turning this around to suit yourself and, believe me, I have the greatest respect for Mr. Garsoe. He and I are very good friends, we don't agree on a lot of issues here today but I think the issue before us is what is wrong with binding arbitration? It is the best final offer. When you are in a city, they cannot strike, firemen are not allowed to strike, policemen are not allowed to strike, so in our city, they can sit there and say, this is it, you take it or leave it and they can sit there and sit there and sit there and there is not one thing that the employees can do about it, because the employer has them in the palm of his or her hand. That is all it is and binding arbitration is very fair.

I urge the members of this House to support Mr. Wyman this morning because Mr. Wyman is right. All you are asking for is a Committee of Conference. We know the bill right now, on both sides of the aisle, is at a standstill, so when you reach the passive motion that resists in binding arbitration, you are dead. All we are asking for is a Committee of Conference and what is wrong with that? I think the members of this House should support him this morning. Let it go from there.

Don't you think for one minute that my city officials in Westbrook are very upset with me, they have been upset with me ever since I have been up here, so that is nothing new. They are very upset with me on this bill but I intend to stick to it. I don't let a mayor and an administrative assistant and a city council tell me what I think is good for the people of Maine, because I know this is good for the people of Maine and it is good for the people of Westbrook.

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

ROLL CALL

YEA — Aloupis, Austin, Barry, Bordeaux, Bowden, Brown, D.; Brown, K.; L.; Bunker, Carrier, Carter, F.; Conary, Cunningham, Curtis, Damren, Davies, Dellert, Dexter, Drinkwater, Dudley, Fenlason, Fillmore, Garsoe, Gavett, Gillis, Gould, Gray, Hall, Hanson, Higgins, Huber, Hunter, Hutchings, Immonen, Jackson, Kiesman, Lancaster, Leighton, Leonard, Lewis, Lougee, Lowe, Lund, MacBride, Masterman, Masterton, Matthews, McMahon, McPherson, Morton, Nelson, A., Peltier, Peterson, Reeves, J.; Rollins, Roope, Sewall, Sherburne, Silsby, Smith, Sprowl, Stetson, Stover, Studley, Tarbell, Torrey, Tozier, Twitchell, Wentworth, Whittemore.

NAY — Bachrach, Baker, Beaulieu, Berube, Birt, Blodgett, Boudreau, Brannigan, Brenner, Brodeur, Brown, A.; Brown, K. C.; Call, Chonko, Churchill, Cloutier, Connolly, Cox, Davies, Diamond, Doukas, Dow, Dutremble, D.; Dutremble, L.; Fowlie, Gowen, Gwadosky, Hickey, Hobbins, Hughes, Jacques, P.; Joyce, Kane, Kany, Kelleher, Laffin, LaPlante, Lizotte, Locke, MacEachern, Mahany Marshall, Martin, A., Maxwell, McHenry, McKean, McSweeney, Michael, Mitchell, Nadeau, Nelson, M., Nelson, N.; Norris, Paradis, Paul, Payne, Pearson, Post, Prescott, Reeves, P.; Rolde, Simon, Soulas, Theriault, Tierney, Tuttle, Vin-

cent, Violette, Vose, Wood, Wyman, The Speaker.

Yes, 69; No, 72; Absent, 10.

The SPEAKER: Sixty-nine having voted in the affirmative and seventy-two in the negative, with ten being absent, the motion does not prevail.

Thereupon, on motion of Mr. Wyman of Pittsfield, the House voted to Insist and ask for Committee of Conference.

Non-Concurrent Matter

Bill, "An Act Relating to Resident State Police Troopers" (H. P. 841) (L. D. 1069) on which the House Insisted on its former action whereby the Majority "Ought to Pass" as amended by Committee Amendment "A" (H-320) Report of the Committee on State Government was read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (H-320) in the House on May 18, 1979.

Came from the Senate with that body having Insisted on its former action whereby the Minority "Ought Not to Pass" Report of the committee on State Government was read and accepted and asked for a Committee of Conference in non-concurrence.

In the House: On motion of Mrs. Kany of Waterville, the House voted to insist and join in a Committee of Conference.

Non-Concurrent Matter

Bill "An Act Relating to Gifts in Contemplation of Death" (H. P. 1145) (L. D. 1407) which was passed to be Enacted in the House on May 17, 1979.

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

In the House: On motion of Mrs. Post of Owl's Head, the House voted to insist and ask for a Committee of Conference.

Orders

On motion of Mr. Cox of Brewer, it was ORDERED, that Representative Kenneth Matthews of Caribou be excused May 17 and 18, 1979 due to illness.

House Reports of Committees

Ought Not to Pass

Mr. Davis from the Committee on Education on Bill "An Act to Increase Parental Responsibility for Habitual Truants" (H. P. 658) (L. D. 818) reporting "Ought Not to Pass"

Mr. Fenlason from the Committee on Education on Bill "An Act to Provide Minimum Attendance Requirements for Students Enrolled in Regular School Programs which shall be met before those Students will Qualify for Promotion" (H. P. 294) (L. D. 393) reporting "Ought Not to Pass"

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

Leave to Withdraw

Mr. Rolde from the Committee on Education on Bill "An Act to Permit Persons Under 17 Years of Age to Attend Adult Education Classes" (H. P. 693) (L. D. 871) reporting "Leave to Withdraw"

Mr. Silsby from the Committee on Judiciary on Bill "An Act Prohibiting Fraudulent Communication Devices and the Publishing of Information on how to Fraudulently Avoid Payment of Telecommunication Services" (H. P. 742) (L. D. 956) reporting "Leave to Withdraw"

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

Ought to Pass in New Draft

Mrs. Masterton from the Committee on State Government on Bill "An Act to Provide for an Environmental Doctor in the Department of Environmental Protection" (H. P. 880) (L. D.

1090) reporting "Ought to Pass" in New Draft under New Title RESOLVE, to Study the Need for an Environmental Health Program (Emergency) (H. P. 1422) (L. D. 1627)

Mr. Carroll from the Committee on Transportation on Bill "An Act to Revise the Motor Vehicle Inspection Laws" (H. P. 515) (L. D. 638) reporting "Ought to Pass" in New Draft under New Title Bill "An Act to Incorporate Standards in the Motor Vehicle Inspection Law and to Provide for Legislative Review of Rules Promulgated to Implement the Inspection Program" (H. P. 1423) (L. D. 1628)

The reports were read and accepted, the New Drafts read once and assigned for Second Reading, Tomorrow.

Divided Report

Majority Report of the Committee on Labor reporting "Ought Not to Pass" on Bill "An Act to Establish Strike Penalties" (H. P. 313) (L. D. 381)

Report was signed by the following members:

Mr. PRAY of Penobscot — of the Senate.

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

— of the House.

Minority Report of the same Committee reporting "Ought to Pass" as amended by Committee Amendment "A" (H-467) on same Bill.

Report was signed by the following members:

Mr. SUTTON of Oxford
Mr. LOVELL of York — of the Senate.

Messrs. FILLMORE of Freeport
CUNNINGHAM of New Gloucester
DEXTER of Kingfield

— of the House.

Reports were read.

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

Divided Report

Majority Report of the Committee on Taxation reporting "Ought to Pass" as amended by Committee Amendment "A" (H-466) on Bill "An Act to Allow Municipalities the Option of Charging Reasonable Service Charges on Certain Tax Exempt Property" (H. P. 982) (L. D. 1162)

Report was signed by the following members:

Mr. CHAPMAN of Sagadahoc
Ms. CLARK of Cumberland — of the Senate.

Messrs. MARSHALL of Millinocket
WOOD of Sanford
Mrs. POST of Owl's Head
Messrs. BRENERMAN of Portland
LEONARD of Woolwich
KANE of South Portland
COX of Brewer

— 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. TEAGUE of Somerset — of the Senate.

Messrs. CARTER of Bangor
IMMONEN of West Paris
TWITCHELL of Norway

— of the House.

The Reports were read.

On motion of Mrs. Post of Owl's Head, the Majority "Ought to Pass" Report was accepted and the Bill read once.

Committee Amendment "A" (H-466) was read by the Clerk and adopted and the Bill as-

signed for second reading tomorrow.

Divided Report

Majority Report of the Committee on Business Legislation reporting "Ought Not to Pass" on Bill "An Act to Require Attorneys to Have Sufficient Professional Malpractice Insurance as a Requirement for Admission to the Bar" (H. P. 743) (L. D. 929)

Report was signed by the following members:

Messrs. CHAPMAN of Sagadahoc
AULT of Kennebec — of the Senate.

Messrs. SPROWL of Hope
JACKSON of Yarmouth
LIZOTTE of Biddeford
Miss ALOUPIS of Bangor
Messrs. WHITEMORE of Skowhegan
BRANNIGAN of Portland
GWADOSKY of Fairfield
HOWE of South Portland

Miss BROWN of Bethel
D. DUTREMBLE of Biddeford — of the House.

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

Report was signed by the following member:
Ms. CLARK of Cumberland — of the Senate.

The Reports were read.

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

Mr. LAFFIN: Mr. Speaker, Ladies and Gentlemen of the House: I am going to take a little of your time this morning for a very good cause, and I certainly hope that I am not going to offend any lawyers in this House and I am not going to offend any wives who have lawyers practicing in this state today. All I know are very nice honest lawyers and the very lovely women that they have.

I move that the House accept the Minority "Ought to Pass" Report.

The SPEAKER: The Chair recognizes the gentleman from Yarmouth, Mr. Jackson.

Mr. JACKSON: Mr. Speaker, I would request a division on that motion.

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

Mr. LAFFIN: Mr. Speaker, Ladies and Gentlemen of the House: I hesitate to say too much this morning, but I feel that this bill is a very important bill. It is a very important bill for the people who rely on lawyers to do their legal work, because you must remember and, by the way, what I said previously still goes.

Being on the Judiciary Committee, we have nothing but the finest lawyers there and I was talking to one of them, who is a very good friend of mine, and he agreed that there was some abuse but naturally not all of them and, of course, I hope this morning you will take that into consideration as I have. All lawyers are not bandits and we know that, but I am telling you, my friends, there are plenty of them who are.

For some reason, and I don't know what that reason is, but when a person gets to be a lawyer, his love is for money and for nothing else. We have had people in this state who put their trust and their faith in a lawyer or several lawyers and they have been drastically ripped off, life savings taken right away from them. You know, that is a terrible thing.

I am not going to talk on their fees. I do know that the Supreme Court did rule that lawyers could advertise their prices and I am not going into that. I am not going into the fact of what lawyers get for divorces. I am not going into the fact of what trial lawyers get for defending their people because we do need lawyers, there is no question about that.

Probably the finest lawyer and judge that I ever knew was Judge Armand LeBlanc of Westbrook, one of the highest people of our community. But you see today, lawyers are not looked at in the light that they were 20 years

ago and I will tell you why, because 20 years ago, when people were 60, 70 and 80 years old, they didn't have the money and the property and the income.

This country, in 1943, 1944, and 1945, during the war years and after the war years, we then became a nation where people had better things, they had more, the standard of living was higher, they had more income, consequently, two people worked hard to have a home. Back in those days, not too many people owned homes, they were mostly renters. Today, the majority of the people when one leaves the other one, they have sizable property.

Well, you see, these lawyers are the type of people that when they come through that door, this is what they want. Have you ever noticed why a lawyer will not take a client that doesn't have any money? You know, that is why we have Pine Tree Legal today, because if you don't have any money, you can't go to a lawyer who will represent you and probably who has gone to the best law school that mommy and daddy could put him through. He won't go to that lawyer for the simple reason he can't, so that lawyer will send him to the Pine Tree Legal, who will work for nothing to help the people. So, you see, we need all kinds of lawyers. We need the rich and we need the people who will take care of the people who are not rich.

In our society today, the lawyers have become so bad in this country and in this state that they are compared to used car salesmen. All they will do is rip you off every chance they get. They don't tell the truth. When an elderly person goes to a lawyer for advice, he puts his trust or she puts her trust where one has departed, put their trust in the hands of that person and that lawyer, and to be sure, not many of them, but that lawyer will continuously rip off the people.

The SPEAKER: Will the gentleman from Westbrook defer for a moment?

The Chair recognizes the gentleman from Farmington, Mr. Morton, and inquires for what purpose the gentleman rises?

Mr. MORTON: Mr. Speaker, I rise for the purpose of asking the gentleman to speak on the bill.

The SPEAKER: The Chair would advise the gentleman from Farmington and members of the House that this bill is to require attorneys to have sufficient professional malpractice insurance as a requirement for admission to the Bar.

The gentleman from Westbrook can continue on the premise as to why malpractice insurance is needed. The Chair would ask him if he would temper his remarks.

Mr. LAFFIN: Mr. Speaker, Ladies and Gentlemen of the House: I don't want to offend anyone in this House. I felt that if I mentioned used car salesmen, I certainly would upset Mr. Morton and I do apologize for that too.

Now, what my bill does before us today is, why did we have to have the board of overseers? Why did that come about? Well, I will tell you why that came about. If you people do not know what the board of overseers is, it was just formed last year to require that lawyers be watched for the first time in our history.

The board of overseers consisted of nine people, six lawyers and three lay people but, you see, they are appointed by the court, so you see it is still all within their own system.

Now, in 1977, the last official records that were available to me, there were 104 complaints received against lawyers for not living up to the standards that they are supposed to live up to. So, out of that 104, 12 were reprimanded. Not one was disbarred; not one was censured by the court; not one was suspended by the court; not one was required to resign from the Bar. There were 74 forms or letters sent out stating "no grievances have been violated." Consequently, this is not the true pat-

tern.

If you go to a lawyer today, you have no recourse. If you go to a lawyer and you feel that you are being mistreated or ripped off, which he is going to do if he gets the chance, consequently, you can now go to the board of overseers and they can do many things, they can suspend him, they can censure him, they can even disbar him. But you see, we never had that before. This is just a new group that has started, and to be sure, the lawyers are financing it themselves by paying their dues into it. There is nothing wrong with that; it is perfectly all right.

Now, for them to have malpractice insurance and, by the way, I would like to inform the members of this House that there are many lawyers, very good people who are lawyers, who are trustworthy, who are true and they do carry malpractice insurance. In fact, there is one company that will offer a million dollars and with \$1000 deductible for a \$325 premium a year. There is another company that will offer a million dollar coverage with no premium deducted, with no deductible clause, and their premium is \$354 a year. What is wrong with that?

I know a woman in this state, in York County, that was ripped off \$60,000 and her trust lay in the state for eight years because this lawyer was so greedy with lust for money that he could care less, that she or her husband, who had died, had worked all their lives to achieve a little nest egg that they could live on.

I have cases that people have written me since my bill was made public, they tell me their problems and this is a serious problem. If we can vote for \$100,000, like we did yesterday on an experiment that we don't know is going to work, and we pay that out of taxes that the people pay, why can't we support something that is not going to cost the state one dime? Who is going to pay for it? The lawyers themselves, the lawyers who are respectable and those who are trying to rip the people off will have to have malpractice insurance, and what is wrong with that.

What we are doing today is, we are saying, listen, we want to protect the person that has worked all their lives. You know, we have many people who are elderly and not educated, no fault of their own, they probably had to get out and work for a living and mommy and daddy couldn't send them to a high priced college so that they could come out of there with a high mucky-muck degree. It is no fault of their own. They have worked hard all of their lives, and this bill will give the protection they are entitled to. When we let people in this state go unprotected, we have committed a moral sin, because it is our obligation to see that the people of this state are protected. You know, if we don't do something soon, to be sure, the Bar Association themselves, in some instances now, they are trying to clean up their own act.

I talked to one member who sits close to me in the committee, they are concerned about the rip off artists in their profession and don't think they are not. They know it is there, they know it is a problem, they don't think it is as big a problem as I think it is, but they know it is there. If we don't do something pretty soon, we are going to be in a situation where the people of this state are going to be, in many instances, afraid to go to lawyers. In fact we even have that now.

Someday you are going to see when a lawyer puts a shingle outside of his office, it is going to say "John Doe, Attorney-at-Law, enter at your own risk." That is just what we are headed for. The trust that lawyers used to have is gone. They are not the pillars of the community anymore. You go downtown in my city and you say so and so—Oh, that lawyer, boo—well, this is not the way it should be and it doesn't have to be that way, but if they won't clean up their own act, if they won't try to do what is right for the people, and I am not asking them to adver-

tise like they do in some states and say well, for \$20 you can visit us and you can talk about what the problem is. I am not asking that and I do know they do that in some states. I am not asking a lawyer to live on the poverty level, I am asking those things. All I am not asking is that we as individuals of this legislature have consideration for people who do not know the law, who do not understand the law. Let them have some practice so if he is ripped off or she is ripped off, she has some recourse to go back and say well, all right, I have been ripped off and sue them. They are covered; they will be paid.

I will tell you something, if we require lawyers in this state to have malpractice insurance, you are going to see a whole new breed. You are going to see these people who have had compassion, who never cared whether someone worked all their lives, they are not going to have their greedy paws in there to take everything they can. This is what I am talking about, working people who have worked all their lives together and when one goes and the other remains, their estate has to be settled, that is the law. It is something that they don't understand. They don't understand why they should have to pay thousands of dollars to lawyers settling estates. It is for the elderly people.

We are talking about divorce cases, we are not talking about trial lawyers. By the way, half of them in this state aren't even qualified to be a trial lawyer, but we are not talking about that today. I ask for compassion of this House. I further ask this House that if there is any member here who makes a direct living through the lawyer's profession, they excuse themselves from voting. I can understand why. I could understand why, because you would be perfectly within your right and that certainly is a conflict of interest, but the lawyers of this state have no fear whatsoever, who are honest, no fear whatsoever. It is that minority group of lawyers that are trying to rip off the elderly people.

I can say to you, my friends, there is no better thing that you can do for the elderly people than to give them the protection under the law that they are entitled to.

The SPEAKER: The Chair recognizes the gentleman from Yarmouth, Mr. Jackson.

Mr. JACKSON: Mr. Speaker, Ladies and Gentlemen of the House: I guess a reply is in order to our high mucka-muck coach of the House softball team. I know it is fun to take a whack at lawyers. We all enjoy doing that and we enjoy taking a whack at NET and CMP and various groups, but I think you should consider a couple of things here and that is (1) this is a Majority Report of the committee one-dissenting vote.

Now, the bill talks about malpractice insurance, that all lawyers would have to have malpractice insurance. Unfortunately, that is insurance that lawyers take out which, if they are sued, then it pays them back for their loss.

I would suggest that if you really want to make things tough for the lawyers, say they cannot have malpractice insurance and then if they make a mistake and someone sues them, they can come and take their house and shoes and everything else away.

Unfortunately, this bill does not address the problem and it is fun to take a whack at the lawyers. I know there are abuses, I think there probably should be a good deal more control and there should be better public input on some of these things, but this bill does not address the problem.

I hope you will accept the Majority Report of the Business Legislation Committee of "Ought Not to Pass."

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

Mr. HOWE: Mr. Speaker and Members of the House: Briefly. I apologize for not being in my seat when this bill came up on the calendar because I had fully intended to move the Ma-

jority Report before you were subjected to the shyster-bandit-rip-off soap opera of the gentleman from Westbrook, Mr. Laffin, but I was answering a higher calling just beyond the rotunda at the time.

I agree fully with the remarks from the gentleman from Yarmouth, Mr. Jackson, that if we really wanted to penalize the lawyers, what we should do is say they can't have any insurance.

One thing that you ought to realize is, and I think was useful in the Committee's deliberations, is that it is now illegal for a lawyer or anybody else for that matter to transfer one's assets in anticipation of a judgment. If you see a law suit coming even before it is filed in court, and you put all your money under your cousin's name in order from to keep that money from being attached, you have violated the law.

I found it interesting that Mr. Laffin made note of the fact that lawyers won't take any clients who don't have any money. That is not always true, but neither will the fellow that I buy my gasoline from if I don't have any money in my pocket, nor most of the other people with whom I do business. So, lawyers are hardly unique in the fact that they need to be paid for their services.

The board of overseers, which Mr. Laffin referred to, is all fine and dandy, but it really doesn't deal with the problem of somebody seeking a redress of an economic loss, because the board of overseers doesn't have that power. The board of overseers can't extract money from lawyers to replace money they have caused you to lose.

The chief and only witness in support of the bill at the hearing, Mr. Powers talked about requiring lawyers to have \$100,000 worth of coverage. I submit he is a little naive on the subject, because I think most lawyers are buying a million dollars worth of coverage now, and he would be way behind the game anyway if his proposal went through without that level. I think if we really want to do something to shake up the legal profession and at the same time accomplish something for the people of Maine, we ought to put in a bill next session, and I would be glad to co-sponsor it with the gentleman from Westbrook, to require lawyer specialization. The field of law is as wide as the universe because every human transaction, relationship, whatever, is covered pretty much now by some aspect of the law and lawyers now can hold themselves out as capable to being quick to handle any kind of case.

Chief Justice Burger has talked about specialization for lawyers and I think it is high time that that came about. The Bar Association hasn't seen fit to implement it on their own, and if Mr. Laffin wants to work on such a bill, which I think would be far more threatening to some members of the profession and at the same time accomplish much more, I think, for the consuming public, if you will, I would be glad to work on it with you.

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

Mr. LAFFIN: Mr. Speaker, Ladies and Gentlemen of the House: I never said that the Overseers of the Bar Association was going to solve the problem. I brought into prospect as to why it was needed because lawyers are getting out of hand. This is nothing to do, to be sure, with them getting back the money. This has nothing to do with people being ripped off. That is what I am concerned with. Both of the two previous speakers who spoke, they spoke in defense of the lawyers. They didn't say one thing about the elderly people that are being taken. That is the road that we live in right now. We are only concerned with those and who opposed my bill? I am sure you all know the lawyers opposed it. Of course they opposed it. I never pretended and I never said that this bill would make them all perfect. All I am saying is that we require them to have insurance and ehen

they do some harm to people who have worked all their lives for their little money, they have a chance to get that back. That is all this bill does.

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

Mr. STETSON: Mr. Speaker, I would pose a question through the Chair to the gentleman from Westbrook, Mr. Laffin.

I want to know, if we were to pass this bill, how would the poor person, the elderly, go about recovering from the insurance company? They would have to go out and hire a lawyer.

Then, is the insurance company going to pay off? No, they are going to be represented by a battery of lawyers. So, I wonder if this really accomplishes anything in the long run.

The SPEAKER: The gentleman from Wiscasset, Mr. Stetson, has posed a couple of questions through the Chair to the gentleman from Westbrook, Mr. Laffin, who may respond if he so desires.

The Chair recognizes that gentleman.

Mr. LAFFIN: Mr. Speaker, Ladies and Gentlemen of the House: I am not going to consider this a speech because I may want to get up again. This is only an answer to my very good friend's question.

I said halfway down my speech that we all need lawyers. We know we need lawyers and we know that these big companies do have lawyers and they pay them a very good price. I am not questioning that, but you ask, how would we get away from the lawyers? We can't get away from them, and you are right. This person is going to have to hire a lawyer, absolutely right, against the insurance company, the insurance company is going to take their lawyers to fight them, but at least she has a chance and that is more than she has now.

The SPEAKER: The Chair will order a vote. The pending question is on the motion of the gentleman from Westbrook, Mr. Laffin, that the House accept the Minority "Ought to Pass" Report. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

18 having voted in the affirmative and 57 in the negative, the motion did not prevail.

Thereupon, the Majority "Ought Not to Pass" was accepted. Sent up for concurrence.

Divided Report Tabled and Assigned

Majority Report of the Committee on Transportation reporting "Ought Not to Pass" on Bill "An Act to Adjust Motor Vehicle Registration Fees" (Emergency) (H. P. 1318) (L. D. 1572)

Report was signed by the following members:

Messrs. EMERSON of Penobscot
USHER of Cumberland
— of the Senate.

Messrs. BROWN of Mexico
LOUGEE of Island Falls
STROUT of Corinth
HUNTER of Benton
ELIAS of Madison
McPHERSON of Eliot
Mrs. HUTCHINGS of Lincolnville
— of the House.

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

Report was signed by the following members:

Mr. O'LEARY of Oxford
— of the Senate.

Messrs. CARROLL of Limerick
McKEAN of Limestone
JACQUES of Lewiston
— of the House.

The Reports were read.

On motion of Mr. Tierney of Lisbon Falls, tabled pending acceptance of either Report and tomorrow assigned.

Divided Report

Majority Report of the Committee on Taxation reporting "Ought Not to Pass" on Bill "An Act Relating to Withdrawal Penalties under the Tree Growth Tax Law" (H. P. 1003) (L. D. 1237)

Report was signed by the following members:

Mr. TEAGUE of Somerset
Ms. CLARK of Cumberland
Mr. CHAPMAN of Arostook
— of the Senate.

Mrs. POST of Owl's Head
Messrs. KANE of South Portland
COX of Brewer
LEONARD of Woolwich
BRENERMAN of Portland
— of the House.

Minority Report of the same Committee reporting "Ought to Pass" as amended by Committee Amendment "A" (H-476) on same bill.

Report was signed by the following members:

Messrs. MARSHALL of Millinocket
TWITCHELL of Norway
IMMONEN of West Paris
WOOD of Sanford
CARTER of Bangor
— of the House.

The Reports were read.

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

Mrs. POST: Mr. Speaker, I move that the House accept the Minority "Ought to Pass" Report.

A compromise has been reached on this bill and an amendment will be presented before adoption of Committee Amendment "A" to remove the objectionable section, and I will be asking for it to be tabled at that time, when you get to it, since the amendment is not yet ready, although it will be ready later on in the day's session.

Thereupon, on motion of Mrs. Post of Owl's Head, the Minority "Ought to Pass" Report was accepted and the Bill read once.

Committee Amendment "A" (H-476) was read by the Clerk.

Mr. Marshall of Millinocket offered House Amendment "A" to Committee Amendment "A" and moved its adoption.

House Amendment "A" to Committee Amendment "A" (H-485) was read by the Clerk and adopted.

Committee Amendment "A" as amended by House Amendment "A" thereto was 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. 737) (L. D. 924) Bill "An Act Concerning the Coordination of Health Services Funded Through the State and Federal Funds" Committee on Health and Institutional Services reporting "Ought to Pass" as amended by Committee Amendment "A" (H-483)

(S. P. 354) (L. D. 1102) Bill "An Act to Expand the State's Program to Promote Apprenticeships" Committee on Appropriations and Financial Affairs reporting "Ought to Pass" as amended by Committee Amendment "A" (S-199)

(S. P. 402) (L. D. 1266) Bill "An Act to Amend the Statutes Governing Vocational Regions" Committee on Education reporting "Ought to Pass" as amended by Committee Amendment "A" (S-202)

(H. P. 1340) (L. D. 1584) Bill, "An Act to Increase the Self-imposed Tax on Blueberries to Support Research and Extension Work as to the Effects of Inflation, the Shortage of Fuel Oil and Promotional and Marketing Aspects to Keep Maine Blueberries Competitive in North America" Committee on Agriculture reporting "Ought to Pass"

(H. P. 934) (L. D. 1166) Bill "An Act to Strengthen the Penalties for Operating Under the Influence" Committee on Judiciary reporting "Ought to Pass" as amended by Committee Amendment "A" (H-484)

No objections being noted, the above items were ordered to appear on the Consent Calendar of May 23, under listing of Second Day.

Consent Calendar Second Day

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

(H. P. 912) (L. D. 1120) Bill "An Act Concerning the Adoption of Management Plans by the Commissioner of Marine Resources" (C."A" H-475)

(H. P. 618) (L. D. 759) Bill "An Act to Revise the Laws Relating to Motor Vehicle Operators Licenses" (C."A" H-473)

(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" (C."A" H-474)

(H. P. 929) (L. D. 1142) Bill "An Act to Permit Optional Credit Life Insurance for the Co-maker of a Debt" (C."A" H-471)

(H. P. 1083) (L. D. 1350) Bill "An Act to Create a Special Commission on State Mandates Imposed on Local Units" (C."A" H-468)

(S. P. 459) (L.D.1373) Bill "An Act to Allow Direct Purchase by Citizens of Certain Bonds" (C. "A" S-194)

(H. P. 1048) (L. D. 1306) Bill "An Act to Increase the Short-term Investment Capabilities of the State"

(S. P. 425) (L. D. 1316) Bill "An Act to Comply with the Federal Air Quality Standards in the Areas where the Air Quality Does not Presently Meet the Federal Standards"

(H. P. 1151) (L. D. 1533) Bill "An Act to Revise the Medical Examiner System"

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

Passed to Be Engrossed

Bill "An Act to Conform State Statutes to the Federal Food Stamp Program" (S. P. 561) (L. D. 1619)

Bill "An Act Establishing Mechanisms to Pinpoint Responsibility and Facilitate Coordination Between the Various Manpower Training and Economic Development Programs." (H. P. 1418) (L. D. 1622)

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

Second Reader

Tabled and Later Assigned

RESOLVE, for Laying of the County Taxes and Authorizing Expenditures of Lincoln County for the Year 1979 (Emergency) (H. P. 1416) (L. D. 1620)

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

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

RESOLVE, for Laying of the County Taxes and Authorizing Expenditures of Washington County for the Year 1979 (Emergency) (H. P. 1417) (L. D. 1621)

Bill "An Act Concerning Preservation Interests under the Property Laws Pertaining to Preserving or Restoring Historic Property" (H. P. 1212) (L. D. 1500)

Were reported by the Bills in the Second Reading, read the second time, the House

Papers were passed to be engrossed and sent up for concurrence.

Amended Bills

Bill "An Act to Provide Reimbursement for Snow Removal on Accepted Ways" (S. P. 311) (L. D. 906) (C. "A" S-192)

Was reported by the Committee on Bills in the Second Reading, read the second time, the Senate Paper was passed to be engrossed as amended in concurrence.

Second Reader Indefinitely Postponed

Bill "An Act Relating to Furloughs for Inmates of County Jails" (H. P. 414) (L. D. 514) (C. "A" H-459)

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

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

The same gentleman moved the indefinite postponement of Committee Amendment "A".

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

Mrs. PRESCOTT: Mr. Speaker, Ladies and Gentlemen of the House: Could the gentleman from Limestone, Mr. McKean, explain what he intends to do, please, before I agree or disagree with his motion?

The SPEAKER: The gentleman from Hampden, Mrs. Prescott has posed a question through the Chair to the gentleman from Limestone, Mr. McKean, who may respond if he so desires.

The Chair recognizes that gentleman.

Mr. MCKEAN: Mr. Speaker, Ladies and Gentlemen of the House: Yes, I intend to kill the amendment which allows a furlough program in the county jails. I have many, many reasons for it. I will list a few here:

The fact that the sheriff's department in most county jails, I know the sheriff's department in our particular county is also hamstrung for people; they are over-worked and I just cannot for the life of me, understand how the sheriff's department or the sheriff himself can actually figure the psychological motives for an individual wanting a furlough, because this is an open-ended deal. The individual can get a furlough for any reason whatsoever in this particular amendment. I just think the sheriff perhaps is not capable of figuring out the psychological reasons of why this individual wants a furlough.

I will refer you to an individual in Thomaston State Prison not too long ago, a fellow by the name of Robert Franco who, on his 29th or 30th furlough walked away and he was a convicted murderer. This is not the first incident of people walking away from furloughs, there have been many instances. I just don't think at the county level they are equipped to handle this type of whatever you want to call it, a psychological event or what.

There are people in the county jails awaiting transfer to Thomaston or awaiting transfer to other places; there are people who are awaiting convictions, in fact, in county jails, who, as a result of that furlough, may be thinking during the time of the furlough, if I go back I may be convicted because I may be guilty and I am guilty. It might just be a little easier for me to get away from it than it would be to go back to it. This would also have a psychological bearing on an individual out on furlough. I just don't think at the county level we are equipped to handle that.

If you would like to do it at the state level at Thomaston, and I have my reservations, however, I can understand it, but at the county level I can't. I think that is why this amendment is a bad amendment and I would like to see it killed.

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

Mrs. PRESCOTT: Mr. Speaker, Ladies and Gentlemen of the House: The gentleman didn't continue his conversation as to whether or not he would support an additional amendment to the bill or will he move to indefinitely postpone the bill as well? Do you favor the bill itself? I would like to pose that question to you before I continue with my presentation.

The SPEAKER: The gentleman from Hampden, Mrs. Prescott, has posed another question through the Chair to the gentleman from Limestone, Mr. McKean, who may respond if he so desires.

The Chair recognizes that gentleman.

Mr. MCKEAN: Mr. Speaker, Ladies and Gentlemen of the House: Being open-minded, I would favor an amendment to this particular amendment that would close this up somewhat and put a particular reason why an individual should have a furlough and how the particular investigation of whether he should have it or not should be conducted by the sheriff. I am open-minded enough to receive that. The bill itself I could go for it. This is a state prison, it has nothing to do with our county, but at the county level, I am a bit leery of it.

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

Mrs. PRESCOTT: Mr. Speaker, Ladies and Gentlemen of the House: I won't pose any additional questions.

The bill does refer only to the county jails; it does not refer to the state prison. At the present time, the state prison does have a furlough system whereby they do release individuals. The county system does not have the furlough system except in a medical release or release for a funeral for the members of the family.

The reason that I put the bill in was to make it easier for the sheriff to determine whether or not a furlough should be applied or allowed for an inmate in the county jail.

As you know, you are sentenced to the county jail for up to one year and you do not have the hardcore criminals in the county jails. You do have some, I have heard mumbles—all right, you do, but those people would not be eligible and I would ask that you do not support the motion to indefinitely postpone the amendment, because the amendment does tighten up the original bill. It allows for a furlough to be used only for treatment and rehabilitation, and the inmate must have served at least 60 days in order to be eligible for the furlough. He must have served at least one third of his sentence as well, as stated in the amendment, and he must have obeyed all of the rules and regulations and meet the guidelines the sheriff has established. The sheriff is the last person I think who wants to be blamed for a problem of releasing an individual from the county jail on furlough.

What we are trying to accomplish in our jails is certainly punishment but it is not that alone. It is the best way, I think, to deal with a problem of rehabilitation, and I think we want to make sure that the individual does not come back to the county jail or to the prison. It is then and only then that we accomplish corrections. If you don't allow for some rehabilitation, then you are going to make certain that the individual comes back.

I would ask that you do not support the motion to indefinitely postpone. If you do have a problem with the amendment, if you do not feel that it is tight enough, then I suggest we amend it further, but I do think that we do need an escape valve at the county jail level.

Mr. McKean requested permission to withdraw his motion to indefinitely postpone Committee Amendment "A" which was granted.

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

Mr. MCKEAN: Mr. Speaker, Ladies and Gentlemen of the House: I believe Mrs. Prescott named the key, the escape valve. I believe that was the key word. In that particular case, I now move the indefinite postponement of the bill and all its accompanying papers.

The SPEAKER: The Chair will order a vote. The pending question before the House is the motion of the gentleman from Limestone, Mr. McKean, 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.

Mrs. Prescott of Hampden 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 having expressed a desire for a roll call, a roll call was ordered.

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

Mrs. PRESCOTT: Mr. Speaker, Ladies and Gentlemen of the House: I would ask that you not indefinitely postpone this bill today. I would like you to take out the amendment, the Committee Amendment, which is under filing number H-459, and I would like you to look at it very carefully because I think it is tightening up the language of the original bill, which was the objection of the gentleman from Limestone.

It says very clearly that a furlough may also be granted for any other reasons consistent with the treatment and rehabilitation of an inmate or prisoner who has been sentenced to the county jail for more than 60 days, has served at least one-third of his sentence, has obeyed all the rules and meets guidelines which the sheriff shall establish for such purposes. No such furlough shall be granted more often than once a month, and I think that very clearly states that this is tight language, that there will be no escape now and that the sheriff will be ultimately responsible for these inmates that are put on the furlough, and I am sure that he answers to that constituency and if he does not do his job well, he will not be back as sheriff.

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

Mr. MCKEAN: Mr. Speaker, Ladies and Gentlemen of the House: I admire my friend. I think she is an outstanding lady for what she is trying to do. The only thing I worry about is that I have people in my town and you have people in your towns, and how well the sheriff does his job is a factor, but it is a factor after the fact, after the fellow has gotten out of jail on a furlough. If he does not return, if he commits another crime, this is after the fact, and whether or not that sheriff does his job well or not in determining this man should be out free after he has been sentenced, within 60 days or after 60 days, this is after the fact, I am worried about what this individual is going to do when he gets out on furlough. What is his motivation after he gets out and gets with another element of people? Is he motivated to return? Perhaps not. Is he motivated to commit another crime? Perhaps he is. These are the 'perhaps's' that scare me, and that is why I move the indefinite postponement.

I think it is a bad deal at the county level. I don't think we are equipped or organized to deal with this sort of a measure.

The SPEAKER: The Chair recognizes the gentleman from Lincoln, Mr. MacEachern.

Mr. MACEachern: Mr. Speaker, Ladies and Gentlemen of the House: This is nothing but a watered down version of a bill that we killed a few years ago. These people that are in the county jails have gone through the court system probably a half a dozen times before that end up behind bars. They are put there not to be rehabilitated but as punishment. In the State Prison, they make an attempt to rehabilitate the prisoners. On the county level, they are in there to be put out of society for a period of time, up to a year. They probably have been convicted of several crimes before they end up

behind the bars. I think it is just the wrong thing to do, to permit them to get out on a furlough. They are in there to serve x-number of days or months or whatever, and that was the decision by the court to send them there. There is a reason behind it. If you start coddling them and letting them out of the jail to go on a furlough, I think it is the wrong thing to do.

I urge you to go along with indefinite postponement.

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

Mr. TARBELL: Mr. Speaker, I would like to pose a couple of questions through the Chair to anyone who might care to answer. The first question is, in light of the fact that we do have a furlough system already in effect in our state prison system, how would this, on the county level, differ at all from the furlough system that we have at the state level?

The second question is one of clarification. Would this not only be in the discretion of the county sheriff and optional in the discretion of the county sheriff at the local level.

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

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

Mrs. PRESCOTT: Mr. Speaker, I would respond to the second question and the fact that it is optional. It says the furlough 'may' be granted, not the furlough 'will' be granted.

For the first question, we do have a furlough system within the Maine State Prison. We do not have one for the county jails. I felt we should be consistent with that and allow one for the county jails.

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

Mr. VINCENT: Mr. Speaker, Ladies and Gentlemen of the House: I think it should be pointed out that, first of all, your heavy duty or your hard time criminals are in the state prison, not in the county jails.

Second of all, I think where this is put on a county basis, and we have 16 county sheriffs, they should be given some jurisdiction, latitude, and that we should give them a vote of confidence. It is their option to exercise or not to exercise a furlough, and we should display some confidence in them. We did by electing them, and we should reiterate that confidence.

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

Mr. BRENERMAN: Mr. Speaker and Members of the House: There are a couple of reasons that several of the members of the committee supported this bill. One was that there are people in the county jails who need drug and alcohol rehabilitation programs, and the only way that they can get them is to have the sheriff allow them to leave the county jail and be sent to a treatment facility. They can only do this through this bill.

The other reason is, there has been a case where someone was sent to the county jail for an inspection sticker violation, and that person didn't seem to be a very dangerous type of person, and after that person had served a number of days, it seemed to us that the sheriff should have the right and responsibility, if he so desired, to allow that person to go on furlough for two or three days.

The SPEAKER: A roll call has been ordered. The pending question is on the motion of the gentleman from Limestone, Mr. McKean, 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 — Aloupis, Austin, Barry, Berry, Berube, Birt, Blodgett, Bordeaux, Boudreau, Bowden, Brown, A.; Brown, D.; Brown, K.L.; Bunker, Call, Carroll, Churchill, Conary, Cunningham, Damren, Davis, Dellert, Dexter, Diamond, Drinkwater, Dudley, Fenlason, Fillmore, Garsoe, Gavett, Gillis, Gould, Gray,

Hanson, Hickey, Higgins, Hunter, Hutchings, Immonen, Jackson, Jacques, P.; Kelleher, Laffin, Lancaster, LaPlante, Leighton, Leonard, Lewis, Lizotte, Lougee, Lowe, MacEachern, Mahany, Marshall, Martin, A.; Masterman, Maxwell, McHenry, McKean, McMahon, McPherson, Morton, Nelson, A.; Nelson, N.; Paul, Peltier, Peterson, Reeves, J.; Rollins, Roope, Sewall, Sherburne, Simon, Small, Soulas, Sprowl, Stover, Studley, Theriault, Torrey, Tozier, Tuttle, Twitchell, Wentworth, Whittemore, Wood, Wyman.

NAY — Bachrach, Baker, Beaulieu, Benoit, Brannigan, Brenerman, Brodeur, Brown, K.C.; Carrier, Carter, D.; Carter, F.; Cloutier, Connolly, Cox, Curtis, Davies, Doukas, Dow, Dutremble, D.; Fowlie, Gowen, Gwadosky, Hall, Hobbins, Howe, Huber, Hughes, Jalbert, Joyce, Kane, Kany, Kiesman, Locke, Lund, MacBride, Masterton, Matthews, McSweeney, Michael, Mitchell, Nadeau, Nelson, M.; Norris, Paradis, Payne, Pearson, Post, Prescott, Reeves, P.; Rolde, Silsby, Stetson, Tarbell, Tierney, Vincent, Violette.

ABSENT — Chonko, Dutremble, L.; Elias, Jacques, E.; Smith, Strout, Vose, The Speaker.

Yes, 87; No, 56; Absent, 7.

The SPEAKER: Eighty-seven having voted in the affirmative and fifty-six in the negative, with seven being absent, the motion does prevail.

Sent up for concurrence.

Bill, "An Act Preventing the Release of Names of Victims of Crimes" (H. P. 1293) (L. D. 1553) (C. "A" H-462)

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 Monitor the Juvenile Code" (Emergency) (H. P. 892) (L. D. 1080) (C. "A" H-461)

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

On motion of Mr. Hobbins of Saco, 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-488) was read by the Clerk and 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 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" (S. P. 307) (L. D. 903) (C. "A" S-176)

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

Second Reader

Later Today Assigned

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

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

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

Miss BROWN: Mr. Speaker, Ladies and Gentlemen of the House: L. D. 385 was amended by the committee and I think there was a slight oversight. What they meant to do was consolidate the law relating to the stream alteration, and what really happened was, instead of putting it under the Department of Environmental Protection, it made it so you now have to get two permits, one from Inland Fisheries and one from DEP, and I wonder if somebody would

table this for one day so I can offer an amendment to it to clarify this, please.

Thereupon, on motion of Mr. Tierney of Lisbon Falls, tabled pending passage to be engrossed and later today assigned.

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

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

On motion of Mr. McMahon of Kennebunk, 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-482) was read by the Clerk and 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.

Second Reader

Tabled and Assigned

Bill, "An Act to Increase the Good Time Deduction" (H. P. 1058) (L. D. 1308) (C. "B" H-437)

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

On motion of Mr. Hobbins of Saco, the House reconsidered its action whereby Committee Amendment "B" was adopted.

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

House Amendment "A" to Committee Amendment "B" (H-486) was read by the Clerk.

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

Mr. CARRIER: Mr. Speaker, I move this be tabled for one day.

Whereupon, Mr. Hobbins of Saco requested a vote.

The SPEAKER: The pending question is on the motion of the gentleman from Westbrook, Mr. Carrier, that this matter be tabled pending the adoption of House Amendment "A" to Committee Amendment "B" and tomorrow assigned. All those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

66 having voted in the affirmative and 52 having voted in the negative, the motion did prevail.

Passed to be Enacted

Emergency Measure

An Act to Increase the Membership of the Gardiner Water District to Six (H. P. 284) (L. D. 362) (H. "A" H-391 to C. "A" H-372)

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. 126 voted in favor of same and 3 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 Current Funding of Special Education Tuition (H. P. 410) (L. D. 527) (C. "A" H-388)

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. 120 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 Revise the Lobster Escape Vent

Law and Remove its Sunset Provision (H. P. 894) (L. D. 1091) (C. "A" H-403)

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. 123 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 Employment Security Law Relating to Termination of Coverage (H. P. 955) (L. D. 1173)

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. 121 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.

Finally Passed

Emergency Measure

RESOLVE, to Further Study Feasibility of Cargo Port Facilities (H. P. 1278) (L. D. 1526)

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. 121 voted in favor of same and 5 against, and accordingly the Resolve was finally passed, signed by the Speaker and sent to the Senate.

Passed to be Enacted

An Act to Insure the Accountability of Counties in the Expenditure of Federal Funds (S. P. 140) (L. D. 316) (C. "A" S-175)

An Act Concerning the Maine Development Districts Law (S. P. 179) (L. D. 409)

An Act Concerning Insurance Consultants (S. P. 381) (L. D. 1213) (C. "A" S-178)

An Act Concerning Assistance to Blind or Disabled Voters in Marking Ballots (S. P. 549) (L. D. 1611)

An Act to Prohibit Cancellation of Automobile or Property Insurance without Actual Notice to the Insured (H. P. 170) (L. D. 221) (H. "A" H-394 to C. "A" H-373)

An Act to Amend the Statute Relating to Alternative Procedures for Adoption of School Budgets (H. P. 238) (L. D. 284) (C. "A" H-387)

An Act Concerning Registration of Killed Deer (H. P. 372) (L. D. 478) (C. "A" H-400)

An Act to Amend the Prohibition of Issuing Fisheries and Wildlife Licenses to Persons Convicted of Certain Offenses (H. P. 641) (L. D. 795) (C. "A" H-399)

An Act to Amend the Charter of the Lucerne-in-Maine Village Corporation (H. P. 675) (L. D. 835) (C. "A" H-397)

An Act to Return a Portion of Land to the Town of Wales by the Town of Sabattus (H. P. 709) (L. D. 883) (C. "A" H-396)

An Act Concerning the Posting of Information on the Allowability of Witness and Attorney's Fees under the Workers' Compensation Act (H. P. 704) (L. D. 879)

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

An Act to Provide for an Official Seal for the Department of Human Services (H. P. 745) (L. D. 931) (C. "A" H-382)

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

The SPEAKER: The Chair recognizes the gentleman from Yarmouth, Mr. Jackson.

Mr. JACKSON: Mr. Speaker, I would like to have an explanation of this bill. I think there is something going on here and I would like to have an explanation of it.

The SPEAKER: The gentleman from Yar-

mouth, Mr. Jackson, has posed a question through the Chair to anyone who may care to answer.

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

Mr. SILSBY: Mr. Speaker, Ladies and Gentlemen of the House: I believe that the only thing we have before us is Committee Amendment "A", which merely provides for an official seal.

We had other items before us in the original bill, but everything was deleted except the provision for a seal, the purpose of the seal being so that the department can introduce sealed instruments in court proceedings both in the State of Maine and outside the state. That is all that remains in the bill.

The SPEAKER: The Chair recognizes the gentleman from Yarmouth, Mr. Jackson.

Mr. JACKSON: Mr. Speaker, how is the department presently handling this without the seal?

The SPEAKER: The gentleman from Yarmouth, Mr. Jackson, has posed a question through the Chair to anyone who may care to answer.

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

Mr. SILSBY: Mr. Speaker, I am not exactly aware of how they handle it today, but to the best of my knowledge, they just introduce them through the bureau. I am not sure how they get them into evidence at the present time.

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

An Act to Make Arson a Class A Crime under the Maine Criminal Code (H. P. 810) (L. D. 1013)

An Act to Establish a Lobster Advisory Council (H. P. 959) (L. D. 1184) (C. "A" H-385)

An Act to Clarify the Tax Law by Providing that a Retailer's Sale of Equipment Used in its Business is Taxable if it is Like Equipment Sold in the Ordinary Course of Business (H. P. 1066) (L. D. 1320) (C. "A" H-398)

An Act to Provide for Oversight of Marine Research by the Department of Marine Resources (H. P. 1272) (L. D. 1476) (C. "A" H-389)

An Act Relating to Certified Seed Potatoes (H. P. 1316) (L. D. 1570)

An Act Relating to Criminal Appeals and Search Warrants (H. P. 1092) (L. D. 1375) (C. "A" H-408)

An Act Relating to Telephone Company Directories (H. P. 1134) (L. D. 1402) (H. "A" H-417 to C. "A" H-359)

An Act to Define Residency for School Purposes (H. P. 1160) (L. D. 1425) (C. "A" H-386)

An Act to Provide Special Free License Plates for the 100% Disabled Veteran (H. P. 1174) (L. D. 1436) (C. "A" H-402)

An Act Amending Admission Procedures at Pineland Center and Elizabeth Levinson Center (H. P. 1209) (L. D. 1470)

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

Enactor

Tabled and Assigned

An Act to Regulate State Liquor Stores and Agencies (H. P. 1243) (L. D. 1487) (H. "A" H-381 to C. "A" H-338)

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

On motion of Mr. Marshall of Millinocket, tabled pending passage to be enacted and tomorrow assigned.

An Act to Amend the Statutes Concerning the Practice of Medicine (H. P. 1240) (L. D. 1502) (C. "A" H-401)

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.

Orders of the Day

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

Bill, "An Act to Redistribute Responsibility for Enforcement of Laws Prohibiting Certain Unfair Trade Practices" (S. P. 413) (L. D. 1277)

Tabled—May 21 (Till Later today) by Mr. Howe of South Portland.

Pending—Adoption of Senate Amendment "A" (S-203)

Thereupon, Senate Amendment "A" was adopted in concurrence and the Bill assigned for second reading tomorrow.

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

SENATE DIVIDED REPORT — Report "A" (6) "Ought Not to Pass" — Report "B" (6) "Ought to Pass" as Amended by Committee Amendment "B" (S-173)

Report "C" "Ought to Pass" as Amended by Committee Amendment "A" (S-174)

Committee on State Government on Bill, "An Act Pertaining to Employment Status of Unclassified Policy-Making Positions" (S. P. 371) (L. D. 1151) — In Senate, Report "A" read and accepted on May 17.

Tabled—May 18, 1979 by Mrs. Kany of Waterville.

Pending—Acceptance of Any Report.
On motion of Ms. Lund of Augusta, Report A was accepted in concurrence.

The Chair laid before the House the second 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 21, 1979 by Mr. Wyman of Pittsfield.

Pending—Motion of the same gentleman to accept the Majority "Ought to Pass" Report.

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

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

The gentleman may proceed.

Mrs. LEWIS: Mr. Speaker and Members of the House: If people will look at the amendment, actually this strikes out the first part of the bill, so the second part of the bill or the first part of the amendment are identical.

What the bill does, it changes the law considerably. Under the present law, if a person is injured, he must give notice to his employer within 30 days. Then he has two years in order to file a petition with the Workers' Compensation Commission. This bill wipes out that waiting period and it says that the employer has to show reason why the request would be denied, and the time period could be so extensive that the employer may not have witnesses around anymore who can remember. It changes the burden of proof and we already are among the most lenient in the country as far as this waiting period is concerned, and this opens it so wide that it can do nothing but increase the workmen's compensation insurance fee terribly. I think everybody knows that most of the employers in this state are pretty burdened with workmen's compensation fees, especially the smaller employers.

So, I move that this bill be indefinitely postponed.

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

Mr. WYMAN: Mr. Speaker, Ladies and Gentlemen of the House: First of all, I would ask that when the vote is taken, it be taken by the

yeas and nays.

I would just like to point out that this bill was sponsored as a result of what is perceived to be, in some cases, an injustice in the law.

Mrs. Lewis is certainly correct when she points out that we have a 30 day deadline for an employee to report an injury. What is happening in certain cases is that an employee will be injured on the job and not report it because the employee feels that the injury is not of a serious enough nature to report. The employee may not be aware that he has to report it within 30 days. The injury may not develop into complications, such as if a finger is cut or a hand is cut, maybe an infection will develop that will cause the employee to feel that he should report it as an injury. A lot of times an employee will say, well, that is all right, it will heal up, I won't bother to report it, and 30 days may lapse.

I want to point out to you that with the amendment, which has a filing number of H-450, if you will notice it, really the amendment is the bill, I think, in essence, the most important part of it, certainly.

It says that unless the employer show his ability to defend the employee's claim for compensation has been substantially prejudiced by want of notice, he may not deny the claim if otherwise valid.

Now, not being an attorney, I tread on this ground with a great deal of trepidation, but I believe that really the important language that we are talking about in this section, we are talking about two important sections of this particular bill. The first phrase, it seems to me, would be "substantially prejudiced". In those cases where the commissioner may determine that the employer's case is substantially prejudiced by a want of a notice, then certainly the 30 day notice would be in effect. This says that it will only be waived in the case that he cannot demonstrate that his, the employer's case, has been substantially prejudiced by a want of notice.

Then it goes on and says, he may not deny the claim if otherwise valid. In other words, what we are trying to say is that if the claim is otherwise valid and the case is not substantially prejudiced, then it ought not be denied simply because the employee may not have been cognizant of the fact that he had to report it within 30 days or the fact that he chose not to because he did not feel that there would be a medical complication that may have developed after the 30 day limitation has expired.

I am told by the sponsor of the bill that there are many situations where employers have been essentially and effectively hiding behind this particular provision, hiding behind their responsibility, because of the 30 day notice.

Mr. Speaker, ladies and gentlemen, I hope that you will not support the motion to indefinitely postpone so that we may support this bill. I think in its amended version it is a very acceptable bill.

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

Mr. HOBBS: Mr. Speaker, Men and Women of the House: I sponsored this bill because I want to address a problem that presently exists in the statutes which is supposed to protect the workers in this state in situations where they are injured on the job.

Since the workers' compensation statute was passed, we have increased the coverage of the workers' compensation statute, but in doing so, we have not procedurally taken care of problems where, for example, this 30-day waiting period can cause real undue hardship in that an employer could hide behind this arbitrary 30 day period.

Originally, when the law was passed, it was felt by the individual sponsoring the law, in fact it was management in those days, that a 30 day period was necessary in order for the employer to investigate the nature and cause of the injury. That was the reason behind it. Since

that time, we have expanded our workers' compensation laws and we have introduced such elements as occupational diseases and not just the person who falls off the ladder but the person who, in the course of his work, has contracted some type of disease, diseases such as asbestosis and carcinogen.

I think this 30 day period is an arbitrary period and the intent of this particular bill is not to change the balance at all. What it basically says is, if the employer can show that his or her case would be substantially prejudiced by a time of reporting of more than 30 days, then that particular claim would be denied. On the other hand, if that employer cannot show that particular prejudice, then the employee will be able to collect under the workers' compensation plan which we have enacted in this state.

There are several injuries which do not, I think, show up until after the 30 day period. I will give you an example of one of them. If you are working at a work place and an individual's eye is flash hit from some type of furnace or whatever, or a person gets hit or knocked into something and injures his or her eye, a detached retina usually cannot be found to be caused by that particular injury for, sometimes it is a 40 or 50 day period or two or three month period. But unless that individual, the minute that individual has a flash happen or whatever, reports that particular incident, then that individual will be denied coverage if, in fact, he doesn't report it within a 30 day period. I think that is inconsistent with the whole idea of the workers' compensation statute. It is an insurance policy. The employee waives his or her right to sue in tort for the injuries that occur at the work place or the right to collect, if that person is injured, under the workers' compensation statute.

I think this particular bill before you, which has the support of the majority of the Labor Committee, is consistent with the premise behind the existing law. I think that today we should pass this bill, because I think it will alleviate some of the problems that have occurred in the past and hopefully won't occur in the future if this bill passes.

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

Mrs. LEWIS: Mr. Speaker, I will have to differ with the previous speaker. If he would read the workers' compensation act as it presently exists, and this bill doesn't change that law in any way, it says that if at any time during which the employee is unable, by reason of physical or mental incapacity, to give such notice or fails to do so on account of mistake of fact, that period shall not be included in the 30 day period specified. So there is no danger that this person could have an injury and it wasn't reported within the 30 days and then he would not be allowed compensation.

As I said before, it is an open invitation to anyone who wants to abuse the system. It ignores the real purpose of requiring the notice within 30 days, which is really to protect the employee as well as the employer, because it is important for the employee to get prompt and adequate medical attention. It changes the whole purpose of the statute of limitation in that it would treat the worker's compensation statute entirely different from any other statute of limitation that we have by providing the two-year claim period has no meaning unless an employer can prove that he has been substantially prejudiced.

In many cases, as I said before, this would be impossible. For example, the employer's ability to defend a claim often would depend on the testimony of a witness who may not be around anymore or who may just have forgotten. You certainly can't get any testimony from somebody whose memory has failed after a couple of years.

I think it would liberalize the workers' compensation statute too much and make it almost

impossible for an employer to defend himself against any questionable or fraudulent claims. It puts a modest burden on the employee. The present law puts a modest burden on the employee to give notice to the employer and to file his claim within two years, and I don't think that is asking too much.

For these reasons, I would say that this bill should be indefinitely postponed.

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

Mr. CUNNINGHAM: Mr. Speaker, Ladies and Gentlemen of the House: Under the current law, if a person neglects to report an accident that happens to him in the work place within the specified time, he still can be covered. I think the illustration of the detached retina or any other kind of illustration—suppose I am working in a work place and I breathe some dust or I breathe something and a few days later I might cough a little bit but I just think I might be coming down with a cold. Well, I am coughing a little bit and I might take some cold tablets at home or something like that and the cough gets worse and perhaps a month or two later all of a sudden I have to go to the hospital because I have a severe respiratory problem. Well, the original problem was a mistake of fact. In other words, I personally had a mistake of fact, but I can prove that I did breathe this harmful substance in the work place, several of us probably breathed it and all of a sudden there might be a half a dozen of us in the hospital, I don't know.

The point is that the mistake of fact language in the current law will still allow me, being the worker injured, to file a claim for compensation under the workmen's compensation statute. So any individual can have a mistake of fact and still have a claim against an employer. Therefore, this legislation that is being proposed is not needed unless you want to open the door for somebody to make some wild claims way down the road, years from now, which we don't even know—he might be working in a different work place for all we know. He might have worked in two or three different work places and come back to his employment, and nobody knows where he got a particular disease.

To open up the legislation to that kind of possible abuse does not warrant passage of this bill. Therefore, I have to support the lady from Auburn in her motion to indefinitely postpone.

The SPEAKER: The Chair recognizes the gentleman from Monmouth, Mr. Davis.

Mr. DAVIS: Mr. Speaker, Ladies and Gentlemen of the House: Workers' Compensation was designed for reimbursement and not enrichment of one's pocketbook, as Mr. Cunningham has inferred could take place with this change.

It is time that we took a hard look at what we, the legislators, are doing to our existing business community, as well as prospective businesses.

Ladies and gentlemen, we are third from the top in the level of benefits under our workers' compensation laws among all of the United States—we are third from the top. However, I submit to you that since we are second from the bottom in per capita income, we must look hard at our liberalization of workers' comp laws. If we are to retain our good businesses and cultivate desirable industries, we must keep looking.

The prospective business executives have projected worker's compensation premiums high on their checklist when considering a new location. I understand that Maremont Corporation has self-funded workers' comp in all their locations except Maine because of our liberal laws.

In certain instances, this bill would do away with employees' obligations to notify his employer within the 30 day period. Most men and women, I am sure, know when they experience

an accident, no matter how minor the accident might be. Every time we introduce uncertainty in claim, the call for higher premiums results to cover the possible happenings. Let's not keep passing bills to drive away existing industry and cool off our prospective clients from coming to Maine.

I hope you will support the indefinite postponement.

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

Mr. HOBBS: Mr. Speaker, Men and Women of the House: Before I address the Maremont Corporation, which is in my district, which the good gentleman from Winthrop has mentioned, I will address a couple of comments which were raised regarding this particular issue.

What the two previous speakers who spoke about the mistake of fact failed to tell you was that there is another standard of proof which must be raised in order for an individual to get a claim. I will read the statute to you. It says: "If the employer fails to file said petition within said period because of a mistake of fact as to the case and nature of the injury, he may file said petition within a reasonable time." We are not just talking about a mistake of fact under the existing law, ladies and gentlemen, we are talking about two condition precedents, mistake of fact and the nature of injury. So I suppose when you quote a statute, you should quote the whole statute and not just one part. I know that I probably do the same thing to articulate a point once in awhile.

Addressing the issue of the Maremont Corporation or any of these corporations in our State and the well prepared speech of my good friend from Winthrop, Mr. Davis, I should mention that the worker's compensation statute was originally proposed by management, because they knew one or two claims of great access could take that company and put that company under. If you look to see what juries have come down with in a sympathetic labor town with judgments, you can see that could be far in excess of the possibility of paying a premium for that purpose. So there is trade-off involved there.

The good gentleman mentioned that we are third in the country as far as worker's compensation payments are concerned and benefits are concerned. Well, that is probably true, but he also mentioned one fact that we are 49th in per capita income. But the other fact that you should know is that we are about 46th in income, meaning that the wages for the people of Maine are pretty low. So, when you are talking about the benefits involved, the weekly benefits, you are talking apples and oranges because you are talking about a lower weekly benefit than other states who have a higher weekly wage.

As I mentioned before, this particular bill was consistent with the purpose of the worker's compensation act. I know if I was representing a labor union, under the existing notice provisions, I would tell them that if you even get a scratch on your finger, you leave your machine and you go report it and you disrupt production if you have to, because if you don't do that and something happens later on, you could be denied benefits. That is what could happen. The courts have come down and have strictly construed the 30 day provision. This bill could be inconsistent with the whole idea of the proponents of management in the fact that individuals who are somewhat hurt or have a scratch on their finger could cause some real problems and report every little thing, and then we would have some problems and then we would have lack of production.

I hope you will support this bill today.

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

Mr. McHENRY: Mr. Speaker, Ladies and Gentlemen of the House: The good gentleman, Mr. Davis, has mentioned that we are third

from the top for paying benefits, but you know, 100 percent of nothing is still nothing. We are next to last as far as wages, so that is not much.

As far as abusing the system, as Mrs. Lewis has said, I can assure you that management abuses the system, not the employees, because I have gone through it myself. I reported an injury and it was never reported to the state and I would never be able to collect compensation on my injury. Because of my injury, I don't feel half of my body, and don't tell me that we are abusing the system, because I can assure you that the majority of people in this House don't even know how to collect worker's comp. How do you expect the workers to know? I didn't know and I still am learning.

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

Mr. LEONARD: Mr. Speaker, I would like to pose a question through the Chair to the gentleman from Saco, Mr. Hobbins.

The gentleman from Saco has told us about Section 1 and referred to mistake of fact as to the cause and nature of the injury. I would like to have that gentleman enlighten us as to exactly what that means in laymen's terms, since we are not all legal eagles.

The SPEAKER: The gentleman from Woolwich, Mr. Leonard, has posed a question through the Chair to the gentleman from Saco, Mr. Hobbins, who may respond if he so desires.

The Chair recognizes that gentleman.

Mr. HOBBS: Mr. Speaker, Ladies and Gentlemen of the House: You don't have to go to law school to define what mistake of fact and nature of injury is. I don't think that warrants any type of legal explanation. I think if you can read English you can understand it.

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 Chair recognizes the gentleman from Woolwich, Mr. Leonard.

Mr. LEONARD: Mr. Speaker, Ladies and Gentlemen of the House: I am not going to prolong this, but I certainly have to rebut what the gentleman said.

I guess it has often been said in this House that when you can't answer a question, you simply try to lend no credibility to the question and I suggest that is exactly the case here.

Mr. Hobbins is dead wrong in his interpretation of exactly what that particular section meant and it does, in fact, do what the gentleman from New Gloucester has said and the gentlelady from Auburn said, it provides a relief valve mechanism so the people who have claim against their employer can file claim at a later date in the event the injury has not been detected. So I suggest that the answer was contrary to his position and that is why he didn't want to answer it.

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

Mr. HOBBS: Mr. Speaker and Members of the House: I think I would like to respond to the gentleman. I always thought "and" meant you add one and two together, and/or was "either/or". If you read the language, it is a two tier burden of proof. You have to show mistake of fact "and" nature of injury.

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

Mr. TARBELL: Mr. Speaker, Ladies and Gentlemen of the House: I think the question the good gentleman from Woolwich posed was, what is mistake of fact and nature of injury mean—not does one and one equal two. I think the mistake of fact is, if you are injured and you don't know it, that is a mistake of fact, that you did not know factually you were injured. If

you didn't know, then you would be excused under this statute to show that in fact you had been injured even though you didn't know it and you could bring your claim. The nature of the injury—what does nature of the injury say? If it is a back injury and you thought it was a foot injury, then you could show that you did not know the nature of the injury. I think all the gentleman was asking was a pure and simple explanation of what those two terms mean in the English language under the statute.

The point I would like to raise is something that has not been raised and needs to be raised. A few weeks ago, the good gentleman from Pittsfield said, "our laws are finely tuned honed, and balanced and let's not upset them. Let's not tip the scales. We have a nice balance here." Well, I wonder why we have 200 labor bills and why 90 of those are worker's comp bills if we have such finely honed and tuned legislation on our books in the State of Maine?

Do you realize that last Friday the insurance commissioner granted a 20 per cent increase in the workers' comp insurance premiums that employers must pay in the State of Maine? That may be okay and large employers may be able to shoulder that burden, but what about the fact that most of the employers in the State of Maine are small employers. How can they continue to shoulder it? You know what a 20 per cent increase amounts to for the year? \$12 million. You know what they are paying now? \$60 million in premiums a year. This coming year, with its 20 per cent increase, it will be \$72 million of insurance premiums, and I am just wondering whether or not this finely tuned balance that we have in our laws can really afford to continue such a finely tuned balance?

I would urge you to support the motion to indefinitely postpone when the vote is taken.

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

Mrs. MARTIN: Mr. Speaker, Ladies and Gentlemen of the House: I want to make a statement here and I want it on the record.

I have been listening here for two days on all sorts of bills, bills for furloughs for the criminals, bills for elderly people and so forth and so on, and I have been listening to bills on labor. I am amazed and I am ashamed to find that there are people in this House that have no conception of what a laborer is and what a working person is. It seems that everyone that is against these bills are people that don't have any idea when it comes to putting a days work in a mill, a factory or shoeshop; they are either supervisors or their husbands are supervisors or they are lawyers or they're Indian chiefs, and it is about time that you people understand that without the working people of this state, you cannot survive.

The SPEAKER: A roll call has been ordered. The pending question before the House is on the motion of the gentleman from Auburn, Mrs. Lewis, 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, Birt, Bordeaux, Boudreau, Bowden, Brown, D., Brown, K. L., Bunker, Carter, F., Conary, Cunningham, Curtis, Damren, Davis, Dellert, Dexter, Drinkwater, Dudley, Dutremble, L., Fenlason, Fillmore, Garsoe, Gavett, Gould, Gray, Gwadosky, Higgins, Hunter, Hutchings, Immonen, Jackson, Kiesman, Lancaster, Leighton, Leonard, Lewis, Lougee, Lowe, Lund, MacBride, Marshall, Masterman, Masterton, Matthews, McPherson, Morton, Nelson, A., Payne, Peterson, Reeves, J., Rollins, Roope, Sewall, Sherburne, Silsby, Small, Smith, Sprowl, Stetson, Stover, Studley, Tarbell, Torrey, Tozier, Twitshell, Wentworth, Whittemore.

NAY — Bachrach, Baker, Barry, Beaulieu, Benoit, Berry, Berube, Blodgett, Brannigan, Brenerman, Brodeur, Brown, A., Brown, K. C., Call, Carrier, Carroll, Chonko, Cloutier, Con-

nolly, Cox, Davies, Diamond, Doukas, Dow, Dutremble, D., Fowlie, Gillis, Gowen, Hall, Hanson, Hickey, Hobbins, Howe, Huber, Hughes, Jacques E., Jacques, P., Jalbert, Joyce, Kane, Kany, Kelleher, LaPlante, Lizotte Locke, MacEachern, Mahany, Martin, A., Maxwell, McHenry, McMahon, McSweeney, Michael, Mitchell, Nadeau, Nelson, M., Nelson, N., Paradis, Paul, Pearson, Post, Prescott, Reeves, P., Rolde, Simon, Soulas, Theriault, Tierney, Tuttle, Vincent, Violette, Vose, Wood, Wyman. The Speaker.

ABSENT — Carter, D., Churchill, Elias, Laffin, McKean, Norris, Peltier, Strout.

Yes, 68; No, 75; Absent 8.

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

Thereupon, the Majority "Ought to Pass" Report was accepted and the Bill read once. Committee Amendment "A" (H-450) 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 Prohibiting a Bank Holding Company from Owning more than One Type of Financial Institution (S. P. 91) (L. D. 177)

Tabled—May 21, 1979 by Mr. D. Dutremble of Biddeford.

Pending—Passage to be Enacted.

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

Mr. D. DUTREMBLE: Mr. Speaker, Ladies and Gentlemen of the House: If you read the title of this L. D., "An Act Prohibiting a Bank Holding Company from Owning more than One Type of Financial Institution," I would like to read to you a section of the banking statutes, Section 1013, which deals with this matter. "No company shall acquire control of a Maine financial institution and no Maine financial institution holding company shall acquire more than five percent of the voting shares of any other Maine financial institution or a financial institution authorized to do business outside the State of Maine without prior approval of the superintendent."

This matter is already addressed in the banking statutes. The only difference is that it is addressed as a regulation and not a prohibition. I question why they address it as a regulation and not a prohibition. I keep going back to the bank study that was performed in 1974 and 1975.

This bank study took weeks, days and months of hard work, and it included members of the savings banks, commercial banks, trust companies, members of the legislature, and I would like to read to you just a few parts of this bank study and probably shed some light on why this is a regulation and not a prohibition.

"The Governor's Banking Study Advisory Committee was formed and charged with helping the state study and improve its policies dealing with Maine's banking institutions to insure that they are efficiently and reliably meeting the needs of the Maine people in fair and reasonable terms. Persistent inflation and sharply fluctuating interest rates in recent years have also exposed basic deficiencies in the organization and structure of our financial market. Many Maine people are concerned that the state financial institutions, particularly thrift institutions, have insufficient flexibility to respond to changing developments to meet shifting financial needs. The rise of the bank holdings company is a dominant form of financial organization in this state and rapid changes occurring in the nature of banking system reinforce the need for rewriting Maine's banking statutes. The committee maintains that Maine should act in its own best interest and not merely react to a changed financial economic environment. The decade ahead requires that financial institutions have greater freedom to compete on a more equal

basis, to be responsive to change in credit needs of the public and be capably managed and supervised to assure that the state's financial system is safe and sound." I think that is pretty self-explanatory why this was put in as a regulation and not a prohibition.

I would like to address one more thing that was said yesterday, or last Friday, that this would take away money from Maine's mortgage, take away mortgage money from people who want to buy homes. If this bill is not passed, not one penny will be taken away from mortgage money. The only time it would be possible to lose mortgage money is if the banking superintendent should ever deem that a commercial bank should have a stock institution within their own banks.

I would move that this bill and all its accompanying papers be indefinitely postponed.

The SPEAKER: The Chair would ask the Sergeant-at-arms to escort the gentleman from Windham, Mr. Diamond, to the rostrum to act as Speaker pro tem.

Thereupon, Mr. Diamond assumed the Chair as Speaker pro tem, and Speaker Martin retired from the Hall.

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

Mr. HOWE: Mr. Speaker and Members of the House: I hope you will not support the motion to indefinitely postpone this bill, which was reported out by a majority of the Committee on Business Legislation.

There are only two things that you need to know about this bill, one is the big, bad holding companies and the other is the nice little savings banks. That is not entirely true, I am being somewhat facetious, but I think I can make the chief point in support of this bill by being a little bit facetious.

Holding companies are not simply a bank but they are companies which own lots of banks. Savings banks cannot do that because savings banks are not owned by stockholders, they are owned by their depositors. What you find in Maine is one or more large holding companies who are concentrating the banking resources into fewer and fewer hands. It is a concentration of the market, and without this piece of legislation, there is a danger that that concentration will continue.

The one time when a holding company has attempted to buy and operate or establish, I should say, and operate a stockheld savings bank, was when the Casco Northern Corporation petitioned the Bureau of Banking to open a stockheld savings bank in the town of Raymond in the same offices as its commercial bank.

A stockheld savings bank is kind of anomaly, if you will, because savings banks, traditionally, by definition, are institutions that are not held by stockholders but shared and held mutually by all of the depositors, and it is savings banks, these mutual institutions, that provide most of the money which most of us borrow to build our homes, and the federal law has given these institutions a quarter percent advantage over commercial banks on most of their types of deposit accounts. The reason for that is to encourage savings deposits to go into these kinds of institutions so that money will be available for residential mortgages.

If holding companies get big into the business of stockheld savings banks and pull more money away from the traditional mutual savings banks, I really believe that is going to mean less money for residential mortgages.

Furthermore, if the holding companies continue to concentrate banking resources into fewer and fewer corporate hands, there is going to be less competition and more concentration of resources. I don't think that serves the public good.

This bill will prohibit holding companies from doing that, from opening and operating

stock held savings banks. I think there is a good reason why savings banks should continue to be mutual institutions and the commercial banks should keep their distance and the two shouldn't meet.

A number of questions remain unanswered about how such an institution would operate in the same physical building with a commercial bank, because it is two banks, really, in one. They both have savings accounts, but one would pay a quarter percent interest more than the other. How are you going to tell people that? Are you going to have one window marked 5 percent and another one marked 5½ percent? Well, they are not just sure, they don't think they would do it that way. They would have some brochures laying around that people could read and make the decision. I just don't think it is in the public interest that we blame these two kinds of institutions and run the risk of further drying up the residential home mortgage market, and I hope that you will vote to keep this bill alive and enact it today.

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

Mr. GOULD: Mr. Speaker, Ladies and Gentlemen of the House: I am in complete accord with the good gentleman from South Portland. He talked so long, he said about all I wanted to say. But I sincerely hope you don't indefinitely postpone this bill today, I just have one thing to add to his dissertation. If money doesn't grow on trees, why do banks have so many branches.

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

Mr. MORTON: Mr. Speaker and Members of the House: I always appreciate the injection of humor into the debate. It is pretty obvious that that last one really has no relative meaning with respect to this bill.

The gentleman from South Portland said there were two things that were important—big bad holding companies and nice little savings banks, but I would point out to you, ladies and gentlemen, this bill was introduced at the instigation of the thrift institutions and they have got a real motive in mind. And if you are at all consumer oriented, then you had better take a good look at this bill.

First of all, the gentleman was incorrect to imply, as does the statement of fact on the bill, that there is now no remedy at all for, no statutory means whatsoever to avail a savings bank of the means of obtaining or controlling commercial banks. Savings banks could certainly get into the business of being a holding company, be a stockholder of over 25 percent and therefore would be eligible to own the stock of another bank.

A holding company is a different institution than a bank, it is not a bank, therefore, it does have completely different functions. But I would point out to you, ladies and gentlemen, that banks have been regulated ad infinitum, for years and years and years, because of the necessity to control the monetary system and the fact that power does lie in the control of money. We here in Maine have regulations and entry into the banking business is very, very much controlled, but that control is not designed to reduce or eliminate competition; rather, competition is to be encouraged within the regulations, and that is exactly what this bill would attempt to hold back, is competition.

Entry into the banking business must show a need to the public of a benefit before approval, and the Maine Banking Code, which we adopted in 1975, states in its purpose that it is to foster competition. But I want you to realize that that competition still is permissive and it has to be under the approval of the banking commissioner in the regulatory process.

This bill is a complete about face from that position. It is a complete about face from the permissiveness of open competition and assure you of better service to the public. The banking

consumer will be deprived of access to services, and these will be the small consumers, the mom and pop stores, the individual depositors in the local areas. Don't these people deserve the benefits of competition, quality of service, the safeguarding of their funds as much as people in the larger centers?

There are, as you all know, some 490, almost 500 municipalities in the State of Maine and only 66 of these have commercial banks. Only 3 of them have thrift institutions, and there are 85 communities in the state of over 1,000 population that have no banking facilities at all.

Under present law, at least an enabling, concerned banker can apply for permission to serve the consumers, but this bill would deny permission to compete or to make a request of the banking commissioner to get into the banking business in that smaller community. Yet, frankly, ladies and gentlemen, competition for the depositor's dollar is wide open from outside the state for the many, many large institutions and, remember, Maine is a small state and even our largest holding companies are very small financial institutions when compared with their very close neighbors.

I believe this is a bad bill, it is an anti-competitive bill, it is a selfish bill and it is a bill that should be indefinitely postponed. I feel it would have a profound affect on the possible growth of Maine banking, either thrift or commercial, in the furthering of the banking business in Maine. I trust you will vote to indefinitely postpone this.

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

Miss ALOUPIS: Mr. Speaker, Ladies and Gentlemen of the House: This is, in essence, somewhat of a consumer bill, and I hope you will not indefinitely postpone this bill and will vote for passage, because in essence, if we don't pass this bill, the commercial banks will start providing savings banks and we won't have competition.

What we should remember in a commercial bank is the fact that their money is loaned out in short-term notes. The savings bank puts theirs out in long-terms, say a 30-year mortgage for your home. What is going to happen is, if the commercial banks—and can I just give you a few figures here. There are 330 commercial banks owned by 6 holding companies. There are 30 savings banks with 114 branches. What will happen—we will use Casco as an example. They have 60 branches. If they go into savings banks, they would end up with 120 savings bank branches, which, in essence, would be larger than the number of 114 savings banks' branches that exist now. I do feel that we should keep the savings and the commercial banks somewhat separated to insure competition. If we don't, what we will find is that the home mortgage money will be dried up in most probability, because the banks could recapture the money in short-term at a higher interest rate and the home mortgage money would be depleted.

I hope that you will vote against the motion to indefinitely postpone.

The SPEAKER pro tem: The Chair recognizes the gentleman from Yarmouth, Mr. Jackson.

Mr. JACKSON: Mr. Speaker, Ladies and Gentlemen of the House: I like the term "sheep in wolf's clothing" and that seems to be the way we are looking at the commercial banks.

If you actually look at the figure of the number of assets, the savings banks and the savings and loans in this state are growing far faster than the commercial banks. So, it is very tempting to talk about the poor little savings banks and what it is doing for the people and the big, bad commercial holding companies. I don't think that is entirely true; in fact, I don't think that is true at all.

We also have heard a good deal about branch-

ing, and if you want to look at it from a very partisan view or if you are a banker and you are worrying about another banker, I suppose if you are not getting your branches into a particular area, you are worried about it because someone is getting in there and may be getting the business.

From a consumer's point of view, you want to see branches. You don't want to have to drive a great distance to be able to do your banking. You want it close and convenient and you also want the bank and the bank manager to be a little sympathetic to your interests and your causes, and if he happens to be in your community, he is more liable to be than if he is 30 miles away. So I think the more branching we see, the better it is.

We have also talked about real estate, and we have talked about financing real estate. Well, right now, with the rates on real estate, maybe that isn't much of a consideration, but you are seeing commercial banks getting into real estate, and they are having to, they are having to, generally, just to survive.

The quarter point, which is controlled by the federal government, is basically what sets the two apart.

If you think back to what Mr. Dutremble said, in the bank study, in 1974 I believe it was, the intention is to keep competition going between the commercial banks and the savings banks, and as I pointed out before, they are about equal in their clout and in their growth. Right now, I think the savings banks are doing a little better.

We are trying to keep this competition equal. Well, that was what the bank study tried to do, and I think it is what it accomplished, but now we are trying to change the rules because the savings banks are getting a little scared and they would like to kind of have things changed around to give them a little more protection. That is what this bill would do.

This is something that should rely on the banking commissioner. They have to apply to him before they do anything anyway, and it should stay right where it is now and this bill should be indefinitely postponed.

The SPEAKER pro tem: The Chair recognizes the gentleman from Sangerville, Mr. Hall.

Mr. HALL: Mr. Speaker, Ladies and Gentlemen of the House: I think one thing you are hitting on now is a concern that I had when I co-sponsored a bill that we spoke on here a few days ago. I have had an opportunity to speak with many people who are in the banking industry and I am inclined to go along with doing nothing to stop the competition, because it is the only way that we are going to get help to perpetuate the philosophy that I believe in, because getting more expertise in the banks to help the small farmer and the small woodland owner is through competition. If this bill does what I think it does, it should be given the deep six.

The SPEAKER pro tem: The Chair recognizes the gentleman from Fairfield, Mr. Gwadosky.

Mr. GWADOSKY: Mr. Speaker and Members of the House: I think we are losing track of what this bill actually does. If I could just try to simplify things, because I know that is how I appreciate things, all this bill does, it says that the commercial banks can acquire more than 5 per cent or gain control of another financial institution. A savings bank cannot do this. I think this is absolutely fair and this will give us the best competition; they will both be on even grounds.

If we don't pass this bill, we are going to take a chance of destroying housing in Maine, so I hope you will oppose the motion to indefinitely postpone.

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

Mr. MORTON: Mr. Speaker, I do want to make sure that the assembly understands that

what the previous speaker said could be misconstrued. We are talking about holding companies, not banks. You can have holding companies of savings banks just as much as you can have holding companies of commercial banks. We are not talking about a commercial bank having more than five per cent control over a savings bank or vice versa; neither one can do that. We understand that. We are talking about holding companies and we are also talking about a bill which was put in to inhibit competition, and that is directly against the consumer. I hope you will give it the deep six.

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

Mrs. SEWALL: Mr. Speaker and Members of the House: I just wanted to clarify a few things about the banking laws. First, someone mentioned in debate that mortgages were only given by savings banks, home mortgages. That is not the case. Home mortgages are also given by commercial banks. I come from an area where there is a small bank, the First National Bank of Damariscotta, where at the time of the banking code, and I was on the committee that studied the banking laws, at that time they had, I believe it was almost two-thirds of their money that went into residential home mortgages. So, I just wanted to make sure that that was absolutely clear and we are not just talking about people who finance home mortgages on one side and banks that do other things on the other. They are both capable of doing the same thing.

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

Mr. HOWE: Mr. Speaker and Members of the House: I think you can see why the Committee on Business Legislation tried very hard to reach unanimity before it reports issues out onto the floor. This is no more complex than an awful lot of our bills, but we weren't able to do it on this one.

The issue I would come back to, as Mr. Morton, has, is the issue of competition. In the short run, I think there might be some new element of competition added here, but in the long run, I guess my concern is that those few big holding companies, by getting their hands on both savings banks and commercial banks, are going to concentrate the resources into fewer places and competition will, in the long run, be reduced.

The SPEAKER pro tem: The pending question is on the motion of the gentleman from Biddeford Mr. D. Dutremble, 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, Mr. Morton of Farmington requested a roll call vote.

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

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

The SPEAKER pro tem: The pending question is on the motion of the gentleman from Biddeford, Mr. D. Dutremble, 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, Blodgett, Brown, D.; Churchill, Darnen, Dexter, Dow, Dutremble, D.; Dutremble, L.; Fenlason, Fowle, Gillis, Hall, Hickey, Hutchings, Jackson, Kiesman, Lougee, Martin, A.; Masterman, Matthews, Maxwell, McKean, McSweeney, Morton, Nelson, A.; Payne, Peterson, Reeves, J.; Rollins, Roope, Sewall, Sherburne, Simon, Smith, Stetson,

Studley, Torrey, Tozier, Tuttle.

NAY — Aloupis, Bachrach, Baker, Barry, Beaulieu, Benoit, Berry, Berube, Birt, Bordeaux, Boudreau, Bowden, Brannigan, Brenerman, Brodeur, Brown, A.; Brown, K.L.; Brown, K.C.; Bunker, Call, Carrier, Carroll, Carter, D.; Carter, F.; Chonko, Cloutier, Conary, Connolly, Cox, Cunningham, Curtis, Davies, Davis, Dellert, Doukas, Drinkwater, Dudley, Elias, Fillmore, Garsoe, Gavett, Gould, Gowen, Gray, Gwadosky, Hanson, Higgins, Hobbins, Howe, Huber, Hughes, Hunter, Immonen, Jacques, E.; Jacques, P.; Jalbert, Joyce, Kane, Kany, Kelleher, Laffin, Lancaster, LaPlante, Leonard, Lewis, Lizotte, Locke, Lowe, Lund, MacBride, MacEachern, Mahany, Marshall, Masterton, McHenry, McMahon, McPherson, Michael, Mitchell, Nadeau, Nelson, M.; Nelson, N.; Paradis, Paul, Pearson, Post, Prescott, Reeves, P.; Rolde, Silsby, Small, Soulas, Sprowl, Stover, Tarbell, Theriault, Tierney, Twichell, Vincent, Violette, Vose, Wentworth, Whittemore, Wood, Wyman.

ABSENT — Diamond, Leighton, Norris, Peltier, Strout.

Yes, 40; No, 105; Absent, 5.

The SPEAKER pro tem: Forty having voted in the affirmative and one hundred five in the negative, with five being absent, the motion does not prevail.

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:

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

Tabled—May 21, 1979 by Mr. Garsoe of Cumberland.

Pending—Motion of Mr. Stetson of Wiscasset to Indefinitely Postpone Bill and All Accompanying Papers.

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

Mr. STETSON: Mr. Speaker, Ladies and Gentlemen of the House: I sort of wondered how this bill got as far as it did without somebody questioning it, because I noticed on the calendar for today on Page 14, there is a Joint Order relative to a study of mandatory retirement that has been tabled pending passage.

I think sometimes our best intentioned laws work the greatest injustice and the greatest hardship. In our efforts to help that grave minority, we sometimes impose a burden on a vast majority. Likewise, in an earnest effort to show compassion, we sometimes implement cruelty. I am very much afraid that is what this bill would result in, because it would not really benefit our senior citizens on the job, but it would make the job just that much tougher in the sense that having reached the age of 70, somebody would have to come along and tell them, we are sorry, you can no longer work here because you are no longer measuring up, you are no longer fit to work for us. I think it is much kinder, much more realistic to say to any man who takes a job, we want you, we want you to work through your productive years, we want you to work until you are age 70 if you can.

At age 70, yes, that is an arbitrary age, but we will say at age 70 you agree to retire so that you will make room for the younger, more vigorous worker coming up through the ranks and that you will not be holding down a job from the younger worker coming along. It is unfair to force upon the employer or the employee to make a difficult decision as to when it is time to quit.

I checked with my own church and I found that in the Episcopal Diocese of Maine, I believe it is true throughout the church of North America, that there is a mandatory retirement age for bishops and ministers at age 72. I begin to wonder about that one, because some of the

best ministers I know don't really get good until they are 72. But, on the other hand, I think that it was with the good purpose that mandatory retirement age be imposed on men of the cloth at age 72.

I also learned that if this bill were to pass, it might well destroy the tenure system within our private institutions of higher learning, mainly Bates, Bowdoin and Colby, and President Enterman of Bowdoin College addressed these concerns to Senator Katz, one of the co-sponsors of this bill, in a memorandum of April 17 of this year. He pointed out that if this bill were to pass, that it would be very likely that the governing boards at Bowdoin would quickly remove the tenure provisions concerning the faculty because tenure works this way—when a professor starts working in a college, he must qualify through a probationary period of six years, and if after that period he is deemed worthy of continued employment, then he is given what is called tenure, but the trade off for that tenure is that he will retire at age 70.

Now, if you do away with that mandatory retirement age, it will subject those faculty members to the possibilities of arbitrary dismissal, dismissal at the whim of a wealthy alumnus who says I want so and so removed from the faculty. This is the very fear that our institutions like Bates, Bowdoin and Colby have expressed. I might say that President Strider of Colby and the President of Bates College have both joined in President Enterman's objections to this bill.

I think that one of the dangers in this bill, there would be more perfunctory dismissals in the middle age levels of employment. I think there would be higher standards adopted to determine job capability. Employers would be quick to adopt standards that they know could not be met by the aging employee.

One more important clause would be removed from the bargaining table, what chance will the rank and file employee have to climb the economic ladder? I say he will die with his boots on while the old timers continue to sit in the saddle.

It has been urged upon me that no one should be told that he cannot hold a job at a particular age. I don't think there are many employers who are doing that today. I don't think there is a real need for such legislation here in Maine because I see a lot of employees, shopkeepers and workers in shops, who are well above age 70. I think there are plenty of job opportunities in Maine for the elderly. The unfortunate thing is that there are few job opportunities in Maine for the young. So when you impose no limit, no limit on the age of the employees, you are just closing the door to that many more job opportunities for the younger people in our state.

I urge that you consider carefully your vote on this measure. I might say that Senator Chapman, the sponsor of this bill, is my own Senator. I suppose he was a little shocked to find me opposing it. As I pointed out to him, John, I vote for you but you don't vote for me.

The fact of the matter is, that yes, we do want to protect the individual dignity of people who have reached mature age. I, for one, a retiree, respect that wish. I have no resentment over the fact that I was retired involuntarily before I reached age 70 but, nevertheless, I feel that this is the right every employer should have.

We don't need another law from Augusta to supplement the federal law which is already on the books which says that we shall not discriminate unjustly on account of age. The federal law sets the age at 70.

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

Mr. DAVIES: Mr. Speaker and Members of the House: The good gentleman from Wiscasset has made a number of statements, almost all of them are incorrect. I will concentrate my efforts on only one of those, because I happen to have some particular experience with this

matter. In the way that the law is written currently, it applies to the State of Maine as well as the law that applies to the federal government.

First, before I begin, Mr. Stetson's point that we should not have laws that supplement that of the federal government. The federal government's law is one that does not cover a number of provisions that were originally covered in this state under our public employee legislation dealing with mandatory retirement.

The intention of the law that is before us today is to also fill those gaps that apply to the private sector. My own concerns with his remarks deal with the subject of tenure. His understanding of the tenure system is partial, to say the best. The tenure system does operate on a six or seven year cycle. The individual has to be approved, what might be considered an apprenticeship of full-time college teaching of six or seven years before he would be considered to be eligible for tenure, but this is certainly not the only criteria that is used. The important criteria is whether or not that individual has demonstrated to his colleagues, to the students that he teaches and to the administration of the college that he teaches for that he has demonstrated the abilities as a faculty member that they think are most appropriate, whether he fills that criteria of being able to handle the job in a qualified manner.

What this law will do, even if it were to affect the tenure system, would be to allow the substitution of reasonable standards and criteria to evaluate that individual's job performance. I think each and every one of us, if we were asked the question, would prefer to see that an individual's performance be evaluated rather than have some arbitrary action taken on that individual because one day he is 69 years old and the next day he is 70.

All of us know a number of examples of people over the age of 70 years old who are perfectly capable of handling the responsibilities of the job that they hold. These individuals will not be forced out of work, just as incompetent individuals will not be forced out of work before the age of 70 unless and until they have been tested under the reasonable standards and criteria, which are age neutral, which do not discriminate against elderly workers unless those standards and criteria, when fairly applied, demonstrate that that individual is unable to handle the jobs and the responsibilities that have been afforded to him or her.

So, his understanding of the tenure system is only partially correct. There is already an evaluation of the person's performance. This law will not eliminate that. Perhaps what it will do and what I think will be helpful for the college teaching profession is, it will allow for these kinds of evaluations to take place periodically throughout that individual's career as a faculty member, just as all of the faculty members should be evaluated periodically, so that those of us who pay our money to get a college education know that the individuals we are receiving that education from, meet some sort of standard of excellence that we would want from anyone who practices in our college system.

I would urge you to reject the suggestions that Mr. Stetson has made, not only on the subject of tenure but on the whole subject of this bill. This bill follows through on a very major historic step that the State of Maine took two years ago in being the first state to enact legislation that ended mandatory retirement in the public sector.

The federal government and a number of other states have followed suit, though none of their legislation has been as all encompassing as the State of Maine legislation.

A study that was done by the State Planning Office, pursuant to the legislation that was passed two years ago, was forwarded to each and every one of us earlier in the session and the results of that study demonstrate clearly

and conclusively that the impact of passing the bill that is before us today will be negligible.

In the area of college teachers that Mr. Stetson has raised, there are approximately 38 faculty members in the State of Maine who will reach the age of 70 in the next ten years. That is less than four individuals a year. The impact on our system will be so minimal as to be virtually unnoticeable, as has been demonstrated by the effects of law that we passed for the public sector with the exception of one individual who was mandatorily retired before that law went into effect, we have had no complications, we have had no individuals who felt they have been unjustly treated.

The system is working smoothly, as we would want any piece of legislation that we have passed to do. The legislation that is before you today will do likewise, and I urge you to reject the suggestions of Mr. Stetson to pass this bill into law.

At this point, Speaker Martin returned to the rostrum.

Speaker MARTIN: The Chair would thank the gentleman from Windham, Mr. Diamond, for presiding as Speaker pro tem.

Thereupon, the Sergeant-at-Arms escorted Mr. Diamond to his seat on the floor, amid the applause of the House, and Speaker Martin resumed the Chair.

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

Mr. STETSON: Mr. Speaker, Ladies and Gentlemen of the House: I don't profess to be an expert on tenure within the academic realm. I am relying on the word of President Willard Enterman of Bowdoin College, I am relying on the word of President Strider of Colby College and upon the word of the President of Bates College. Now, those are my sources of concern, and I expressed it that way when I tried to explain it to you.

Mr. Davies, if this law passes, I hope that you will enjoy passing judgement on your elders as to their competence to hold down a job. I hope you will be ultimately fair.

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

Mrs. WENTWORTH: Mr. Speaker and Members of the House: I don't like to disagree with Mr. Stetson often but the people that will be under tenure is a very small proportion and all I would like to say is that I am real glad that mandatory retirement was taken out of the public sector.

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

Mr. MCHENRY: Mr. Speaker, Ladies and Gentlemen of the House: This will be a first, because I see eye to eye with the gentleman from Wiscasset, Mr. Stetson. Because due to performance you take a laborer who has worked for a living—and I say worked, underlined, I assure you that I have not seen any of my constituents that do work for a living that do not want to retire at 65. As a matter of fact, they want to retire at 60, they want to get the heck off the job. They are tired of working for a living, they are tired of paying taxes. What is going on? Our federal government has brainwashed our people, that is what it is. They have brainwashed our elderly in believing that it is dignified to work until you die. In order that they can collect that income tax because your house is paid for and your kids are raised. That is the reason behind it, they don't want a young man that is starting off in life that is getting married and has a home and a mortgage who does not pay income tax, they don't want him. Then they turn around and say that lazy bum does not want to work for a living. That is the idea behind this whole thing.

As far as the study with the old people that are retired, they have ways of making them believe that they are doing right in backing this, I assure you, I know.

As far as the impact, I assure you it will be a

big impact, because you take my people that are working for a living, this is something that the employer will say well at 65, we will let you go at 45 because you are not performing. If we let you continue to work, you are feather bedding and your union is going to say look, you let that guy do it, now let this guy do it, and you know what is going to happen?

You are going to have people being laid off their job at 55 or 60, before retirement age. Are you going to pay their retirement? Are you? Where are they going to get the money, where are they going to work? This is the problem that will arise, I assure you.

Unions should not be for it, if they are, and I doubt they are, because I am not for sure, and management is not for it because they would rather keep a man at 60 and say well, he is going to retire in a couple of years, we will keep him on. But if this goes through, they are not going to keep him on, they are going to say, look, you are not performing, out you go.

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

Mr. DAVIES: Mr. Speaker, Ladies and Gentlemen of the House: I would like to reassure my good friend from Madawaska, Mr. McHenry, that the people that he is referring to, the folks that work in the mill in Madawaska have already been covered by this federal law. This bill will have no effect on them whatsoever. It also does not require a person to continue working to the age of 70. It does not require them to retire at any particular age. All it does is, it allows an individual who wishes to work, who is able to do that job, to continue working as long as he or she can continue to do the job.

As for the polls that have been taken around the country both before and after the federal government acted on legislation of this sort, the evidence that came in as results of those polls was that four out of five workers would prefer to retire early, and there is certainly nothing in this legislation, directly or indirectly, that would keep them from doing that. Perhaps the only impact that would be brought about by legislation of this sort would be to provide those individuals with incentives to negotiate in their contracts for better retirement programs, so that those individuals who would desire to retire at an early age, would receive much improved benefits. But, the law itself that we had before us, would have absolutely no effect upon the situation that Mr. McHenry talks about.

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

Mrs. HUBER: Mr. Speaker and Members of the House: I would like to address a question to Mr. Davies.

Before doing so, I would only say that I appreciate the debate this morning, it has marked contrast to the lack of debate which preceded our passage of this legislation a few years ago.

I would like to ask if, as I understand it, the federal laws now sets 70 as a mandatory retirement age with certain exceptions, as are noted in the bill, if Mr. Davies could give us his understanding for the setting of that age rather than the earlier one?

The SPEAKER: The gentleman from Falmouth, Mrs. Huber, has posed a question through the Chair to anyone who may respond if they so desire.

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

Mr. DAVIES: Mr. Speaker, Ladies and Gentlemen of the House: I am not completely certain of the reason why the federal government used the age of 70. I think, as I recall back to the debate that took place in Washington at the time this bill was enacted, it was a result of a last minute compromise that had been brought about by a number of college professors, who were very suddenly faced with this law. The Congress moved much faster on this matter than they do on most legislation, and some indi-

viduals felt that they were going to be unjustly hurt. They brought a great deal of lobbying pressure to bear on the Congress and the Congress agreed to utilize the age of 70, rather than to abolish the mandatory retirement altogether.

The State of Maine, when we acted in dealing with our public sector employees, decided that using the age of 70 as opposed to 65 or 62 or whatever age might have been used in other places or at other times, felt that that was a copout; that if could argue that a person should be able to work as long as they were able to do the job, the inclusion of the age of 70 would totally reverse the principle that we espoused in the bill.

If an individual is capable of doing a job, the age of 70 makes no more difference than the age of 65 does. With the ability of employers to evaluate their employees, we think if they find someone who is unable to do the job, whether they are 30 or 75, they have the ability to remove that employee because they are unable to perform their job. They shouldn't be removing that individual because of their age.

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

Mrs. HUBER: Mr. Speaker, I would like to pass one last question through the Chair.

Today, is it not correct that under federal law tenured teachers are exempt?

The SPEAKER: The gentleman from Falmouth, Mrs. Huber, has posed another question through the Chair to anyone who may respond if they so desire.

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

Mr. DAVIES: Mr. Speaker, Ladies and Gentlemen of the House: The gentleman from Falmouth is correct on that matter, though in the state law that we passed two years ago, professors in the university systems and other public schools are included in the provisions of the legislation. It was the feeling of the committee that we should continue that precedence, be uniform in dealing with faculty members in the public and private sector, so that is the reason why we are covering faculty members where they were ignored in the federal law.

The SPEAKER: The Chair recognizes the gentleman from Windham, Mr. Diamond.

Mr. DIAMOND: Mr. Speaker and Members of the House: I don't want this to stoop to a young versus old debate, because that is what some in here would like to have you believe and that is not true at all. What we are talking about is the right of an individual not whether you are black or white, young or old, or you come from a poor or rich family, or you come from the city or the country, we are talking about the overall rights. We are not talking about making positions for people, and that is what I have been hearing for the last three days.

I would like to remind all of us that what we are talking about here is the rights of individuals, the right of all Americans. We are hoping that everyone will look at this and let these Americans, whether they are 65, whether they are 41, 34, or whatever, to be evaluated on the job they are doing and that is all we are saying. If the person is not performing well, then he or she goes, but if they are, then they can stay, and that is the bottom line, how they are doing on the job.

I think at the universities, as Mr. Stetson from Wiscasset mentioned, if they don't like this, some of the colleges are against this and maybe for some very good reasons, well, I am sorry, but they don't make laws to make everybody happy, and this one in particular is to preserve the rights of everyone. I hope that we can remember that and I hope you will vote in favor of this bill.

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

Mr. STETSON: Mr. Speaker, Ladies and

Gentlemen of the House: I don't want to prolong this argument but I would like to add a footnote concerning the public sector, particularly in the federal system, where I worked for a good many years. There, the mandatory retirement age of 70 was in force and I saw, in my experience, at least three examples within a very small branch of the government of gentlemen who were kept beyond the mandatory age of 70 by a special extension of their employment because they were deemed key employees who had not outlived their usefulness. I warrant you that is the way it works today in the state of Maine, a man who is age 70 or above, who is really that important to the work of his employer, will not be forced out. He will be kept on the job through a waiver of the mandatory retirement age, as it was done in the federal system.

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

Mr. HIGGINS: Mr. Speaker, Ladies and Gentlemen of the House: I really didn't intend to get involved in this debate today, but one of the comments that the good gentleman from Wiscasset, Mr. Stetson, made earlier was something about passing judgment, hoped that the good gentleman from Orono, Mr. Davies, could feel comfortable in passing judgment on his elders or our elders. I guess I would have to respond that I don't feel that we are passing judgment by passing this bill on any of our elders.

I would submit to the good gentleman from Wiscasset that by trying to kill this bill, we are, in fact, passing judgment on our elders. We are saying to our elders, at age 70 or whatever the age might be, you no longer can be an important force in the working place out there and, therefore, you ought to retire. So I think in opposing this bill, we are, in fact, or the people who are opposing it, are making an arbitrary judgment, a very arbitrary judgment, and I wouldn't feel comfortable in doing that and I am very comfortable in supporting this legislation today. I would hope that the rest of us would as well.

At some point in time during the debate, some people have said, perhaps when people reach the age of 58 or 60 that the employer keeps them on just for another year or two until they reach retirement, just out of the kindness of their heart and, therefore, we really ought to have a mandatory age because if we don't then these people are going to be fired or laid off perhaps earlier than they would have.

I don't think that is a problem. If there is a businessman out there today who says, well, I will keep somebody on for a couple of years and then decides, gee, if this passes, I don't know if I can afford to do that, then he is not a very good businessman. He has to sit down and determine each employee that he has working for him, whether they are doing the job or not. If they are doing a good job, he keeps them on; if they are not, he lays them off. It shouldn't be any different for somebody that is 58 and somebody who is 38 or 28.

The initial remarks that the gentleman from Wiscasset made about—he sort of implied, wouldn't it be kinder to give these people the opportunity to get out at a specific age. I don't think the elderly of this state or any state want to be treated 'kindly'. That kind of gives you the impression that they are being pampered or something. I don't think they want that. They want to be treated with respect and they want to be treated with fairness, and that is all this bill really is allowing—respect and fairness.

If they are doing the job, they are going to be kept on the job. If they are not, they are going to have to retire or they are going to have to find another job. Maybe there is someone else out there that wants them. Maybe they are not happy either at age 62 working somewhere. Maybe they would like to go somewhere else.

I hope you will oppose the motion to indefinitely postpone.

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

Mr. McHENRY: Mr. Speaker, I would like to ask the good gentleman from Orono, Mr. Davies, a question. You say you don't want to make any differences between the ages; yet, I assure you, a person who is 48 or 55 or 52, or whatever, who is relieved from his job because he can't perform, the federal government will not give him his social security, the retirement benefits from his company will not be paid until he reaches that age—it may be 70 now, as far as I know. If they are going to receive these benefits, would you tell me if they are? I doubt it.

The SPEAKER: The gentleman from Madawaska, Mr. McHenry, has posed a question through the Chair to the gentleman from Orono, Mr. Davies, who may answer if he so desires.

The Chair recognizes that gentleman.

Mr. DAVIES: Mr. Speaker and Members of the House: I recognize the situation that Mr. McHenry would suggest might possibly occur, an individual being laid off, let go, fired, relieved of his job at an age earlier than the retirement date that would be allowed or utilized for computing his retirement benefits under a retirement plan.

However, we have on the books in the State of Maine, under the Human Rights Act, a protection against discrimination based on age for those individuals who are under what formerly was a mandatory retirement age. People who are at the age of 35 or 50 or 45 or 50 or 55 or 60, anywhere on up, there are provisions that have been on the books for a number of years now that if those individuals are let go based on their age, which is age discrimination, those individuals have a claim against the company that discharged them, and if they are successful, they will be returning to work. If they are capable of doing the job, if they need retirement that has occurred since they were laid off, they will be allowed to collect full retirement benefits. So those individuals are protected. They are protected under the federal statutes as well that are already on the books.

The only people that are going to be affected by the law that we are debating today are individuals over the age of 70, corporate executives and policy-makers who are entitled to pensions of over \$27,000 a year, tenured faculty members and employees in companies employing 20 or fewer employees. Everyone else is already covered by the law. Those are the only sections that are being dealt with in our entire population by the legislation before us today.

The SPEAKER: The pending question is on the motion of the gentleman from Wiscasset, Mr. Stetson, 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, Mr. McHenry of Madawaska 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 pending question is on the motion of the gentleman from Wiscasset, Mr. Stetson, 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 Brewer, Mr. Cox.

Mr. COX: Mr. Speaker, I request permission to pair my vote with the gentleman from Houl-

ton, Mr. Peltier. If he were here, he would be voting yes and I would be voting no.

ROLL CALL

YEA — Austin, Blodgett, Boudreau, Brown, K. L., Call, Carter, F., Conary, Damren, Davis, Fenlason, Garsoe, Gillis, Hall, Huber, Hutchings, Immonen, Leighton, Leonard, Lewis, Lund, Masterman, McHenry, Morton, Peterson, Reeves, J., Rollins, Roope, Sewall, Simon, Small, Smith, Stetson, Stover, Torrey.

NAY — Aloupis, Bachrach, Baker, Barry, Beaulieu, Benoit, Berry, Berube, Birt, Bordeaux, Bowden, Brannigan, Brennerman, Brodeur, Brown, K. C., Bunker, Carrier, Carroll, Carter, D., Chonko, Cloutier, Connolly, Cunningham, Curtis, Davies, Dellert, Dexter, Diamond, Doukas, Drinkwater, Dudley, Dutremble, D., Dutremble, L., Elias, Fillmore, Gavett, Gould, Gowen, Gwadodsky, Hanson, Hickey, Higgins, Hobbins, Howe, Hughes, Jackson, Jacques, E., Jacques, P., Jalbert, Joyce, Kane, Kany, Kelleher, Kiesman, Laffin, Lancaster, LaPlante, Lizotte, Lowe, MacBride, MacEachern, Mahany, Marshall, Martin, A., Matthews, Maxwell, McKean, McMahon, McPherson, McSweeney, Michael, Mitchell, Nadeau, Nelson, A., Nelson, M., Nelson N., Norris, Paradis, Paul, Payne, Pearson, Prescott, Reeves, P., Rolde, Sherburne, Silsby, Studley, Tarbell, Theriault, Tierney, Tuttle, Vincent, Violette, Vose, Wentworth, Whittemore, Wood, Wyman, The Speaker.

ABSENT — Brown, A., Brown, D., Churchill, Dow, Fowlie, Gray, Hunter, Locke, Lougee, Masterton, Post, Soulas, Sprowl, Strout, Tozier, Twitchell.

Paired—Cox-Peltier.

Yes, 34; No, 99; Absent 16; Paired, 2.

The SPEAKER: Thirty-four having voted in the affirmative and ninety-nine in the negative, with seventeen being absent and two paired, this does not prevail.

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

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

An Act Relating to Arbitration under the State Employees Labor Relations Act. (H. P. 142) (L. D. 162)

Tabled—May 21, 1979 by Mr. Tarbell of Bangor.

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

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

Mr. GARSOE: Mr. Speaker, Ladies and Gentlemen of the House: This won't take long. You recall the discussion we had on this bill the other day, I would like to just identify it for you. It is the one that purports to tie the hands of the governor in response to a problem that hasn't occurred yet.

I hope you will vote to reconsider and then we can perhaps indefinitely postpone it.

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

Mr. BIRT: Mr. Speaker and Members of the House: We have had quite a debate on this and I think we have established pretty much what the identity of the bill is. This allows a problem that develops in negotiations to be taken to the legislature in the event it can't be worked out by the governor. I think we have fairly decided what the issue is, and I would ask for 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. All those desiring a roll call vote will vote yes; those opposed will vote no.

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

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

Mr. TARBELL: Mr. Speaker and Members of the House: I will be very brief with my remarks today. When we were addressing this at length the other day, it was pointed out that there were some defects in the call collective bargaining process. It was argued that because of a stalemate that could arise at the negotiation table, we need to cure those defects. And I tried to point out to the members of the House that the collective bargaining process is, unfortunately, the case of an adversarial process and you are going to have those adversarial relationships.

When the collective bargaining law was passed, they knew there would be defects in it. There are many many defects in it and it is not only the problem with the law, it is inherent in the nature of the process itself. We could tinker with it over and over and over again, and we are still going to have these substantial problems.

This measure that would take the governor to the collective bargaining table and submit the governor, the chief executive, as well as the union representative for the state employees, to a third party binding arbitrator is offered as a suggestion in good faith, I would agree, as a suggestion to improve the problems and the flaws of the collective bargaining system, but does it really improve the process? And let me pose this hypothetical to you—the third party arbitrator decides the actual results of the negotiations at a table because an impasse or stalemate is reached like we saw reached over does it really improve the process? And let me pose this hypothetical question to you—the third party arbitrator decides the actual results of the negotiations at a table because an impasse or stalemate is reached like we saw reached over the last few months of the Longley Administration. The binding arbitrator submits binding arbitration awards, it comes into the legislative branch. We either pass it up or we pass it down. If we pass it up, then the governor can veto it and we are right back where we started from. If we pass it down, then are we not really injecting ourselves in the collective bargaining process? Because, who are we going to deal with then? We are not dealing with the governor and the union, we are dealing with an arbitrator who has sent award to the legislative process. This could go on and on and on.

It is my understanding that our own governor, be he Republican or be he Democrat, he is my governor, he is your governor, he is your governor in the gallery, he is everyone's governor in the State of Maine, and we are also changing the law for whatever chief executive happens to occupy and inhabit the second floor of our State House. It is a question of good state policy and good state government, and I submit to you that this really does not cure the defects that are inherent in the process, it is simply going to make it worse.

I would hope you would go along with the motion to reconsider when the vote is taken.

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

Mr. BIRT: Mr. Speaker, Ladies and Gentlemen of the House: I would make just two points. One is that the collective bargaining process, which I have been a part of for a long while, allows the right to strike, and because we haven't granted these rights to people in the public sector, I think we have got to consider other situations.

I think the other one is rather unique, the fact of the complete change of the position of the two gentlemen in the far left-hand corner. Last week and for about three or four weeks they kept the contract tied up because they were opposed to the governor being involved in making a decision on it.

The SPEAKER: A roll call has been ordered. The pending question is on the motion of the gentleman from Bangor, Mr. Tarbell, that the House reconsider its action whereby this Bill was passed to be enacted. All those in favor will vote yes; those opposed will vote no.

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

Mr. GRAY: Mr. Speaker, I would like to pair my vote with the gentleman from Gardiner, Mr. Dow. If he were here, he would vote nay and if I were voting, I would vote yea.

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

Mr. COX: Mr. Speaker, I would like to pair my vote with the gentleman from Houlton, Mr. Peltier. If he were here, he would be voting yes and if I were voting, I would be voting no.

ROLL CALL

YE — Aloupis, Austin, Berry, Bordeaux, Boudreau, Bowden, Brown, D.; Brown, K.L.; Bunker, Carter, F.; Conary, Cunningham, Curtis, Damren, Davis, Dellert, Dexter, Drinkwater, Dudley, Dutremble, L.; Fenlason, Fillmore, Garsoe, Gavett, Gillis, Gould, Gowen, Higgins, Huber, Hutchings, Immonen, Jackson, Kany, Kiesman, Lancaster, LaPlante, Leighton, Leonard, Lewis, Lougee, Lowe, Lund, MacBride, Masterman, Master-ton, Matthews, McMahon, McPherson, Morton, Nelson, A.; Payne, Peterson, Reeves, J.; Rollins, Roope, Sewall, Sherburne, Silsby, Small, Smith, Stetson, Stover, Studley, Tarbell, Torrey, Wentworth, Whittemore

NA — Bachrach, Baker, Barry, Beaulieu, Benoit, Berube, Birt, Blodgett, Brannigan, Brennerman, Brodeur, Brown, K.C.; Call, Carrier, Carroll, Carter, D.; Chonko, Churchill, Cloutier, Connolly, Davies, Diamond, Doukas, Dutremble, D.; Elias, Gwadodsky, Hall, Hickey, Hobbins, Howe, Hughes, Jacques, E.; Jacques, P.; Jalbert, Joyce, Kane, Kelleher, Lizotte, Locke, MacEachern, Mahany, Marshall, Martin, A.; Maxwell, McHenry, McKean, McSweeney, Michael, Mitchell, Nadeau, Nelson, M.; Nelson, N.; Norris, Paradis, Paul, Pearson, Post, Prescott, Reeves, P.; Rolde, Simon, Theriault, Tierney, Tuttle, Vincent, Violette, Vose, Wood, Wyman, The Speaker.

ABSENT — Brown, A.; Fowlie, Hanson, Hunter, Laffin, Soulas, Sprowl, Strout, Tozier, Twitchell.

PAIRED — Cox-Peltier; Dow-Gray.

Yes, 67; No, 70; Absent, 10; Paired, 4.

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

Sent to the Senate.

The following papers from the Senate appearing on Supplement No. 1 were taken up out of order by unanimous consent:

Bill "An Act to Permit the Town of Canton to Withdraw from School Administrative District No. 21 and to Establish an Independent School Supervisory Unit" (Emergency) (S. P. 567) (L. D. 1630)

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

In the House:

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

Mr. ROLLINS: Mr. Speaker, I would like to move the indefinite postponement of this Bill and would speak to my motion.

The SPEAKER: The gentleman from Dixfield, Mr. Rollins, moves that this Bill be indefinitely postponed.

The gentleman may proceed.

Mr. ROLLINS: Mr. Speaker, Ladies and Gentlemen of the House: I want to apologize for this being on the calendar this morning. There is absolutely no reason it should be. The reason is, I guess, that I didn't do my homework. I neglected to contact the members of my party. I did contact some of the members of the opposite party and I thought I had assurance that this wouldn't be in, but it is here, so I would like to speak against it.

This has to do with SAD 21, of which Dixfield, Carthage and Canton are members. The subject, I guess, is a middle school that we planned

to build in a central location in the district. Evidently there was one person in the town of Canton who doesn't agree with this location, and he has been able to get this far with the bill.

The board of directors in the SAD were not apprised of this, nor the superintendent. It is going to cost a lot in construction if this goes to the Committee on Education. Due to the lateness of the session, I would hope that you would vote to indefinitely postpone it.

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

Mrs. MITCHELL: Mr. Speaker and Members of the House: Obviously, this is my first year on leadership but it is my understanding that when leadership has made a commitment to let a bill into the session, the least we can do is give it a public hearing.

I don't know the merits of the situation, I don't really know how I would vote once it comes to the floor. I think it is extremely important that the people of the Town of Canton and of your town have a chance to voice their opinion.

As I understand it, if Canton does not withdraw from the school district at this point, it will never be able to because they are beginning to build a building, and once you get bonded indebtedness, you are locked in. So, I think we should at least give them a public hearing and I hope you vote against the motion to indefinitely postpone.

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

Mr. TARBELL: Mr. Speaker and Members of the House: I am a member of legislative leadership that did vote to let this bill come in, and I thought it was a fairly innocuous bill, I thought it had substantial support back home in the district. I now have reservations about that vote that I actually took, and I am not afraid to explain that to both members of both parties here on the floor of the House.

I wonder if I can pose a question to the people from that respective district who know what kind of real support this thing really has engendered from back home in that area?

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

Mr. TIERNEY: Mr. Speaker, I don't think that question deserves an answer. The question we have before us right now is whether or not this bill is going to go to hearing, and to ask what the people back home think about a particular issue, that is why we have public hearings in this body.

I was the only member of legislative leadership who was against letting this bill in, because I don't think it should be brought in. The gentleman from Cumberland, Mr. Garsoe, excused himself from voting because of a conflict, but I voted against letting it in, but I lost. Under the rules, when you lose, that is okay, the bill is coming in and that means we sent it to public hearing. Now we find the rules are shifted. We are going to try to kill the bill on reference to committee. I don't think that is the way this legislature ought to operate, and that is the real issue.

The issue was fully discussed in a leadership meeting. Mr. Tarbell was there, he knew it, he voted to let it in, and now he wants to flip-flop around today. I don't think that is the way we ought to operate. I think we ought to send this bill to committee. I think we ought to give it a public hearing and then maybe I will be the first one to move indefinite postponement later on, but I don't think it is the way we ought to operate.

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

Mr. ROLLINS: Mr. Speaker, Ladies and Gentlemen of the House: I realize that what the majority leader has said is true, but I think an ounce of prevention is worth a pound of cure, and I really believe that this bill will be beaten in the end. It is going to take a lot of

time, possibly, and I don't think we have that time.

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

Mr. McMAHON: Mr. Speaker, I really wouldn't have spoken on this, except that this very question of extricating one town from an SAD before the SAD has acquired debt has important police ramifications for us here. If you do vote to send this bill to hearing, I intend to go to that hearing, and I suggest that each of you who represents SAD's also go to it and listen to the issues, because if certain bills that are pending in the Education Committee are not passed and funded this session, many of us will be back here with bills to extricate towns from SAD's that do have debts and to apportion those debts next session.

You have a situation in the education laws where it is impossible for towns to extricate themselves when they have debts, and I think the policy questions are sufficiently important that I intend to vote to certainly send this to hearing and then go to the hearing and listen to the issues.

The SPEAKER: The pending question is on the motion of the gentleman from Dixfield, Mr. Rollins, that this Bill be indefinitely postponed. All those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

32 having voted in the affirmative and 88 having voted in the negative, the motion did not prevail.

Thereupon, the Bill was referred to the Committee on Education in concurrence.

Bill "An Act Relating to Requirements for Discharge into Class A Waters" (S. P. 566) (L. D. 1629)

Came from the Senate referred to the Committee on Energy and Natural Resources and ordered printed.

In the House, was referred to the Committee on Energy and Natural Resources in concurrence.

The two preceding matters were ordered sent forthwith to the Committees.

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) - In House, Passed to be Engrossed as Amended by Committee Amendment "A" (H-390) as Amended by House Amendment "B" (H-455) thereto on May 21, 1979.

Held at the request of Mr. Kelleher of Bangor.

Mr. Kelleher of Bangor moved that the House reconsider its action whereby the Bill was passed to be engrossed as amended.

Whereupon, Mr. Wyman of Pittsfield requested a vote.

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

A vote of the House was taken.

Whereupon, Mrs. Prescott of Hampden 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 pending question is on the motion of the gentleman from Bangor, Mr. Kelleher, that the House reconsider its action whereby this Bill was passed to be engrossed. All those in favor will vote yes; those opposed

will vote no.

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

Mr. LAFFIN: Mr. Speaker, I would like to pair my vote with Representative Twitchell of Norway. If he were here, he would be voting yes and I would be voting no.

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

Mr. COX: Mr. Speaker, I request permission to pair my vote with the gentleman from Houlton, Mr. Peltier. If he were here, he would be voting yes and I would be voting

ROLL CALL

YEA — Aloupis, Austin, Berry, Bordeaux, Boudreau, Bowden, Brown, K.L.; Brown, K.C.; Bunker, Call, Carrier, Carroll, Carter, D.; Carter, F.; Conary, Cunningham, Damren, Davis, Dexter, Diamond, Drinkwater, Dudley, Dutremble, L.; Fenlason, Fillmore, Gavett, Gillis, Gould, Gray, Hanson, Higgins, Huber, Hunter, Immonen, Jackson, Jacques, E.; Jacques, P.; Jalbert, Joyce, Kelleher, Kiesman, Lancaster, LaPlante, Leighton, Lewis, Lizotte, Lougee, Lowe, MacEachern, Marshall, Martin, A.; Masterman, Maxwell, McMahon, McPherson, McSweeney, Morton, Nelson, A.; Nelson, N.; Paul, Pearson, Peterson, Reeves, J.; Roope, Sewall, Sherburne, Silsby, Simon, Smith, Stetson, Stover, Studley, Theriault, Torrey, Vose, Wentworth

NAY — Bachrach, Baker, Barry, Beaulieu, Benoit, Berube, Blodgett, Brannigan, Brenerman, Brodeur, Brown, D.; Chonko, Churchill, Cloutier, Connolly, Curtis, Davies, Dellert, Doukas, Dutremble, D.; Elias, Gowen, Gwadlosky, Hall, Hickey, Hobbins, Howe, Hughes, Hutchings, Kane, Kany, Leonard, Locke, Lund, MacBride, Mahany, Masterton, Matthews, McHenry, Michael, Mitchell, Nadeau, Nelson, M.; Norris, Paradis, Payne, Post, Prescott, Reeves, P.; Rolde, Small, Tarbell, Tierney, Tuttle, Vincent, Violette, Wood, Wyman, The Speaker

ABSENT — Birt, Brown, A.; Dow, Fowlie, Garsoe, McKean, Rollins, Soulas, Sprowl, Strout, Tozier, Whitemore

PAIRED — Cox-Peltier; Laffin-Twitchell
Yes, 76; No, 59; Absent, 12; Paired, 4.

The SPEAKER: Seventy-six having voted in the affirmative and fifty-nine in the negative, with twelve being absent and four paired, the motion does prevail.

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

Mr. KELLEHER: Mr. Speaker, I move this bill and all its accompanying papers be indefinitely postponed, and when the vote is taken, I request the yeas and nays.

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

Mrs. PRESCOTT: Mr. Speaker, Ladies and Gentlemen of the House: I hope that you won't vote to indefinitely postpone this bill. We have discussed this for three days now, and I think that the good gentledady from Portland has introduced an amendment which clearly clarifies all of the objections that were raised on the bill. I see no reason to indefinitely postpone this legislation.

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

Ms. BENOIT: Mr. Speaker, Men and Women of the House: I also hope you will not vote to indefinitely postpone this bill. Yesterday, we talked about setting our priorities, and I agree that there are times when we do have to set our priorities here, and that is exactly why I am voting for this piece of legislation. This is a high priority to me. The least we can do is send it to the Appropriations Table. If the money is not there, so be it, then it won't be passed.

I know we debated this bill a lot yesterday, but I just want to remind you that someday all of us might be in the position where we need home health care and we in our society and our state and our country are all very busy these days. Oftentimes in a household everyone

works, there is no one there to take care of the elderly, the mother or the father who all of a sudden becomes disabled and needs help. How would you like to be in that position? Would you like to be in the position of being forced to leave your home because there is no help for you in your home, when you could stay there if you had that help? I think that is something that we should consider.

Also, one of the arguments for not sending this down to the Appropriations Table was let's take care of these bills before they get there. Well, there are at least seven pilot and demonstration projects on the table right now waiting to be funded or not funded. There is a whole list of other bills on the Appropriations Table. Where are we going to set our priorities? I think this is a priority item and I think we ought to send it through and then we can let those who take care of the appropriations do it then.

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

Mrs. MacBRIDE: Mr. Speaker, Ladies and Gentlemen of the House: I originally did not support this bill, for I felt that it affected only one section of the state. I also felt that there were many differences in the various areas of the state to be considered. However, I worked on the amendment with Bob Frates. With this amendment, there will be four programs in the various parts of the state, both rural and urban. I now believe it is a good bill and will supply the answers to many questions that need to be answered in connection with our long-term health care program.

Ladies and gentlemen, I strongly urge you to support this bill.

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

Mrs. BERUBE: Mr. Speaker and Members of the House: Originally, when I saw this bill, I saw \$100,000 and I immediately said to myself—here goes another new bureaucracy that we are setting up, and I dismissed it. As I was lobbied both pro and con this morning, I reread it and I see that indeed it does not set up a bureaucracy. It merely channels funds to an existing organization which has the ability, the mechanism, to implement this.

I think aside of the fiscal note showing a cost, there should be a fiscal note showing savings, because if the person is allowed to go home instead of being put into a nursing home, whether it is for a temporary period of time or a longer period of time, that certainly is a cost savings in many cases to the state under the Medicaid program.

I guess my main reason for supporting this is that if you have someone close to you who has been a patient in a hospital, you can read in their eyes that they are scared, when the doctor says they can leave, that they will not be able to go home because there is no one to take care of them, that they will have to go to a nursing home. I think if you, again, look in their eyes and say "don't worry because there is someone that will be staying with you at home," this person knows that they will not be in strange surroundings. I think if we can have the people who are in hospitals, who will be discharged, who can come home, some of us are fortunate that we can provide people to stay with our loved ones at home, but many cannot, and if you can give them at least a few weeks in the surroundings of their own home, I think that is well worth the expense.

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

Mr. BROWN: Mr. Speaker, Ladies and Gentlemen of the House: I am sure that my conservative friends consider me a totally wasted cause. In fact, the Representative from Harrison has already stopped inviting me to McDonald's with him for lunch.

As much as I respect and admire the gentleman from Bangor, Mr. Kelleher, I am afraid

that I must disagree with him on this issue.

Let's get back to the basics, ladies and gentlemen. We look around and we see new nursing homes being built around our state, we applaud them, they are needed, they are necessary, but let's face it, they are expensive and they are costing you and I many, many dollars.

Again, let's get back to the basics, let's get back to providing the kind of care that the people need in their own homes. I agree completely with the previous speakers, that I think the end result of this program will be a tremendous cost savings to the people of the State of Maine.

Quite often we hear that debate serves no purpose. We hear that people stand up and talk for hours, as I am doing now, and nobody is convinced one way or the other, but I was convinced yesterday. In fact, originally I voted against this bill, but one of the speakers who voted in favor of the bill brought something to my attention which I couldn't help but grasp, and that was that when you take an elderly person out of his or her home and place them in a hospital or a nursing home, they become confused. I watched this happen with my own father at the age of 83. He was very ill, but in his own home he knew what was going on, he had his faculties about him, but when that man went to the hospital, in a period of hours, it was just like a complete transformation, and that changed my mind.

As I think about this bill more and more, I see its merits and certainly encourage you to vote against the motion to indefinitely postpone.

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

Mr. LEONARD: Mr. Speaker, Ladies and Gentlemen of the House: You might be surprised, but if you would look up in the L's on the board, you will find that I was often with what you might call the flaming liberals of the House, and I am a conservative and I haven't yet been invited to McDonald's and probably I won't.

I think one thing we have to look at in this House is that there is a problem out there, folks, there is a real problem, and while we are fiscally conservative here in the House of Representatives and say that we are not going to spend the taxpayer's money, we have to at least be enlightened to the point that if we don't spend money, here, ultimately we may spend more in another way. I suggest this is one of those cases. We can't simply bury our head in the sand simply because something has a price tag on it.

This has a price tag, but I suggest to you it is a worthy effort, and if I may ask through the Chair if the gentleman from Bangor has a better way, I certainly would be glad to hear it.

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

Mrs. PAYNE: Mr. Speaker, Ladies and Gentlemen of the House: Because Medicaid costs to the state are astronomical and because we are all looking for a way to get equal or better care for less money, I urge that you support this bill.

There is a grave misconception that has come up here in the debate yesterday. We don't know at this time whether nursing home care or home care is less expensive. This is the whole point of this bill. It is a pilot project. We would learn how many patients who are in nursing homes who could be cared for in their homes. We would learn what it costs and we would learn what differences there might be in rural or urban situations.

I think an investment of \$100,000 in order to possibly save millions of dollars is very good Yankee common sense.

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

Mr. KELLEHER: Mr. Speaker, Ladies and Gentlemen of the House: I think each and every one of us in this body want to make it

easier for the elderly citizens of this state to stay in their homes. I can remember in 1973 when the Meals for Me program was cut off by the federal government, and through the efforts that I put into restoring it, along with members of the Appropriations Committee at that time, we were able to continue the program here in the state at the level it had been existing prior to the federal stoppage of money.

I want to keep senior citizens in their homes just as much as each and every one of you do. We have got a new commissioner over in the Department of Human Services, who has been heard on occasions to complain about the terrible cost of Medicare to the State of Maine and the terrible cost of health care to the people of the State of Maine, and I say, give that individual an opportunity to look into the matter.

The bill that is before us, I can appreciate the noble efforts of the members of the Committee and the sponsor in trying to put a pilot project out. But a pilot project, in my opinion is not necessary. It is not necessary because it is a known fact that there are problems in the State of Maine with Maine's elderly dealing with home health costs and with Medicare cost. This \$100,000 pilot project, in my honest, humble opinion, is a study, ~~a study~~ that we each and every one of us know in our heart exists, ~~a study~~ that the Department of Human Services, I am sure under the direction of Mr. Petit and under the direction of the Governor of this state, is going to look into the cost of health care in the state. I suggest that they have been on the job only four or five months and we should give them an opportunity to do just that.

But if there is one thing that we do not need it is this bill right here today. The noble efforts, the fine remarks that have been made on the floor, I don't dispute them, but I do dispute them in the long range view when we are spending \$100,000 of the taxpayer's money.

I would hope the House would support my motion to indefinitely postpone, only on the single issue that there is in the Department of Maine Human Services an interest in the cost of medical health care.

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

Mr. BRENERMAN: Mr. Speaker, Ladies and Gentlemen of the House: I would like to pose a question to the gentleman from Bangor, and that is, if the department plans to study this program, will they be helping any people with that study? This bill helps people; will the department's study help anyone?

The SPEAKER: The gentleman from Portland, Mr. Brenerman, has posed a question through the Chair to the gentleman from Bangor, Mr. Kelleher, who may answer if he so desires.

The Chair recognizes that gentleman.

Mr. KELLEHER: Mr. Speaker, Ladies and Gentlemen of the House: You know the answer to it as well as I do Mr. Brenerman, yes.

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

Mrs. KANY: Mr. Speaker, Ladies and Gentlemen of the House: Probably what any of us say here by now won't make any difference. You may have already have committed your vote. But just in case you haven't, I would like to put forth to you that perhaps the commissioner of the Department of Human Services won't have to look too far to find out how much it is costing us. We know what our Medicaid costs are—they are skyrocketing. We do know this is something that we can do, something within the federal law, within the federal regulations. We don't have to worry about that like we do on transfer of assets. So I would submit to you that this is something we can do and I do hope that we do go along and vote against the motion to indefinitely postpone.

The SPEAKER: The Chair recognizes the gentleman from Milbridge, Mrs. Curtis.

Mrs. CURTIS: Mr. Speaker, Men and Women of the House: This bill is a bill that will benefit

Washington County, Hancock County, and other rural areas as well as urban areas.

I first became concerned about the needs of the elderly in my district as I was campaigning and found many elderly needing home care. There is a great need for this kind of legislation.

I have two questions to ask this body. Is there any group more important than our elderly? Shouldn't we do all we can for them?

This bill addresses a very serious problem and answers will be forthcoming that will benefit thousands of people. It is a good bill, an equitable bill and a statewide bill. I urge you to vote against indefinite postponement.

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

Mr. HIGGINS: Mr. Speaker, Ladies and Gentlemen of the House: I don't think there is any question here today that this bill is going to help somebody. It ought to. If we are going to spend \$100,000, it ought to help somebody. I don't think that is the question. I don't think there is any question here of any of the members that any of us here are opposed to home health care and we all know that it is beneficial not only cost-effective wise to the state but it is beneficial to the elderly as well. I don't think that is the issue at all.

I guess the reason that I got up and it has been a while, but several speakers ago and even last night when we debated this bill, the implication was, let's pass this bill and put it on the table and if the money is not there then we won't find it. Let's set our priorities. Well, I think that is an admirable position to take, but as I look over the roll call of last night, of the ten members in the House that are on the Committee on Appropriations and Financial Affairs, nine of them voted against this bill. So, I think that ought to give you some indication of the fact of how the Committee on Appropriations and Financial Affairs feels on whether or not the money is going to be there and where our priorities are. I don't think anybody on that committee, as I said before, as well as on the floor of this House, is opposed to home health care. I think that our vote, and certainly wasn't done ahead of time and decided which way we were going to vote as a group, certainly I wasn't consulted anyway, but I was just interested because that was mentioned last night and again today in the debate, so I picked out one of the roll calls and, lo and behold, nine out of ten voted against this bill. So, I think really we ought to consider the reality of it all, whether or not this is going to be funded and whether or not the money is there. I don't think the money is there and I think that the indication of the members of the committee on how they voted would somehow lead you to believe that perhaps the money is not there as well.

So, really, I think we ought to dispose of this bill today rather than send it on to the table and then even give some more hope to people that really we don't need to try to pamper them. If the money is not there, let's not lead them to believe that maybe it will be, that something is going to happen in the next two or three weeks and all of sudden we are going to have all kinds of money.

We have enough programs around today that aren't adequately funded without starting another one, so I hope you would go along with the motion to indefinitely postpone.

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

Mr. CLOUTIER: Mr. Speaker, Ladies and Gentlemen of the House: I would just like to comment on some of Mr. Higgins' remarks. I think we should go on the merits of the bill. All the questions have been answered in the bill, and I don't like the gross implication of intimidation when people stand up and say—well, nine members on Appropriations Committee voted against this bill and I think that is exemplary of how it is going to happen when it gets down there.

But there were a few points brought up. This isn't a pilot project, it is a demonstration project. It is going on right now. The only community health center has already got this project in the works. What they want to do is expand the program, they want to expand it throughout the state.

The bill will be reviewed by Health and Institutions Committee in a year. If they haven't done their job, ladies and gentlemen, believe you me, we will know about it. But the people on the committee talked with the director of this organization, a very reputable woman who has been in health services for many years. I do not believe that should, would lead us astray by not saying that this program works—it works. And I think as responsible legislators, we have got to take a look at this program. We don't take a look at roll calls, we don't take a look at nine people who voted the way they did—I respect their decisions just as everyone here in the House does, but is that what we are voting on here today? No. We are voting on the merits of this bill, and I would hope, ladies and gentlemen, that you all vote the same.

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

Ms. BENOIT: Mr. Speaker, Men and Women of the House: Representative Higgins, I assume, was referring to me as one who wanted to send this to the Appropriations Table. It is unfortunate that in the beginning of a session we often don't look at bills as carefully as we do at the end. It is also unfortunate that some good bills come along at the end of a session. Perhaps we should have looked at some of these more carefully in the beginning of the session, but they have gone by and they are on the table. Now we have a bill that some of us feel is important, is a good piece of legislation. I can name you the ones that are on the table now, but I won't. But just looking at them, I can see several here that I don't think are all that important compared to this.

I consider our elderly very important people, and if I can do anything to help them, those that need it, then I want to. I am sorry that this came so late, but it did, and that is the way it is. I still think that we should send it on.

There is one more point that I wanted to make, that there are 13 home health agencies throughout the State of Maine. Four of these 13 will be selected. Each of them will be able to submit their proposal to the department, and the department will choose on the basis of their bid and/or their proposal. Two will be rural; two will be urban. I hope that will answer some of the questions there were about this being a bill for just one city.

Please do not vote to indefinitely postpone it.

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

Ms. LUND: Mr. Speaker, Men and Women of the House: I had been going back and forth on this bill until Mr. Higgins spoke, and it makes me terribly upset to think that there are nine people in this House who have already made up their minds on an issue and will not listen to the will of the House when they debate this and pass it again.

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

Mr. DUDLEY: Mr. Speaker and Members of the House: I am not so naive to think it will get any farther than the Appropriations Table. I think it is an admirable piece of legislation, but I don't think it is necessary I think within the administration of our funds for the aged now, there is no law that prohibits the department now. If this is a better means of taking care of our aged, then they can do it under our existing law. Now they send them to the nursing homes, and if that nursing home becomes too expensive, it is up to this department to see that our money is spent wisely and in that case, I am sure they would do it in this other method, which may be the better method and they are

already trying it, and if it turns out to be a better method, I am sure this will supercede nursing homes in many cases.

I, for one, think we have spent a lot of time talking on something that ends up on the Appropriations Table, and I am not so naive to think it will get any farther than that, and I am not so naive to think that there is a majority of this House that would vote for a new tax to cover a measure like this. But I do think that the bill is a good bill and it could well be taken care of within the same framework of the department as now exists, and probably will be if it turns out to be the best method to take care of these people. I personally feel it is a better method than a nursing home, because I am aged too, and I am kind of afraid to go into a nursing home myself, and I would like to have some person come take care of me when I get aged in my house. I think it would be better. If you can do it just as cheap, I think that is the proper way to do it.

The SPEAKER: The Chair recognizes the gentleman from Sangerville, Mr. Hall.

Mr. HALL: Mr. Speaker and Members of the House: First, I would like to make an apology. Perhaps one of the things that changed my vote yesterday was because of my good friend Ed Kelleher in his charge to a dear young lady friend in front of the House. In my neck of the woods, we never go viciously after a young lady in that way. However, I thought afterwards, is that the only reason why you changed your vote.

I have a lovely daughter who is a LPN and she has been working for eight years in a nursing home in Dover. I called her earlier this morning. As you people are aware, I make many telephone calls all over my district each day. I said, Diana, I am a little mite troubled because of a bill that came before us yesterday. Do you remember how well your fathers and brothers and uncles took care of my father when he was home, especially after the one night he spent in the nursing home and we saw how he deteriorated in a very short time and we immediately brought him and each one of us took care of him in his home? She said, "Daddy, I remember it very well. What have I been telling you? Many of us at the nursing home have been saying for a long time that something in this nature should be started, at least there should be some effort made toward this, to somehow bring back to the people with the need care by somebody else. I thought that was a wonderful idea, and that is why I am going to continue to support this as long as I can.

There is one thing I would like to bring to your attention too. We have many bills come before us in the Natural Resources Committee—some of them I feel very strongly about. Never once have I decided on the merits because of the Appropriations Committee. That is another factor and that is a thing of another day. The things we must concern ourselves with are the merits of the bills themselves. I ask you people to think about that today.

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

Mr. HIGGINS: Mr. Speaker, Ladies and Gentlemen of the House: First of all, to the gentleman from South Portland, Mr. Cloutier, and other members of the House, I assure this House that I was not in any way, shape or manner trying to intimidate anyone here. I apologize if I have or if anyone feels offended by that. It certainly wasn't my intent, and people who know me should know better than that. I was only trying to point out and I was trying to address myself to one of the arguments of the proponents. And I agree with the gentleman from Sangerville, Mr. Hall, and everyone else here today. The bill ought to be voted on on its merits; however, yesterday, as well as today, several members of this body suggested that we simply vote for this bill and put it on the table. I have no problems with

that, but I only wanted to point out to you that along with that, if the money wasn't there, then it wouldn't be funded.

My reference to the nine members of the committee was only made, I guess, because I feel that we are now faced with a terrible financial problem and many bills over there will die. I think it is unfortunate to send a bill over there just for the sake of sending it over there and then having it killed later on at the end of the session. I was only trying to address myself to that one argument, rather than just think about it pro or con, let's just put it over there with a bunch of other stuff and let it go. That was my only indication.

The good gentlelady from South Portland is right, we always do seem, at the end of the session, to concentrate much more heavily on money bills than we do at the beginning of the session. I think that is unfortunate but perhaps that is part of the political process.

I am sorry to have to rise again and, as I said, I do apologize. If any member does feel that I intimidated them, that wasn't my intent at all, whatsoever.

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

Mr. NORRIS: Mr. Speaker, Ladies and Gentlemen of the House: Just to try and straighten out one misconception that apparently has kind of umbrellaed over this House this morning. It is not the Appropriations Committee that clears the Appropriations Table; it is the leadership.

The Appropriations Committee makes recommendations, but they are not all powerful. The leadership makes the final determination of those bills that will live or die. So, I would hope that you would vote on the merits of this bill.

A while earlier this session, we had a bill in the same committee for the good gentleman from Scarborough, Mr. Higgins, and we didn't take the attitude that it would die if it went to the table. We took the attitude that it was probably necessary legislation and that it would go to the table and suffer its fate along with everything else.

I would answer my good friend from Bangor, Mr. Kelleher, in saying that 'let's put our money where our mouth is' to the good Governor and to the department over there and give them this pittance of \$100,000 to work with.

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

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

The SPEAKER: The pending question is on the motion of the gentleman from 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 Cumberland, Mr. Garsoe.

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

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

Mr. LAFFIN: Mr. Speaker, I request permission to pair my vote with the gentleman from Norway, Mr. Twitchell. If he were here, he would be voting yes and I would be voting no.

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

Mrs. LEWIS: Mr. Speaker, I request that I be allowed to pair my vote with the gentleman from Lincolnville, Mrs. Hutchings. If she were here she would be voting no and I would

be voting yes.

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

Mr. COX: Mr. Speaker, I would like to pair my vote with the gentleman from Houlton, Mr. Peltier. If he were here and voting, he would be voting yes and I would be voting no.

ROLL CALL

YEA — Aloupis, Austin, Berry, Boudreau, Bowden, Brown, K. L., Bunker, Call, Carrier, Carter, D., Carter, F., Conary, Cunningham, Damren, Davis, Dexter, Diamond, Dudley, Fenlason, Fillmore, Gavett, Gillis, Gould, Gray, Higgins, Huber, Hunter, Immonen, Jackson, Jacques, E., Jacques, P., Jalbert, Joyce, Kelleher, Kiesman, Lancaster, Leighton, Lizotte, Lougee, MacEachern, Marshall, Martin, A., Masterman, McPherson, McSweeney, Morton, Nelson, A., Pearson, Peterson, Reeves, J., Rollins, Roope, Sherburne, Simon, Smith, Stover, Studley, Torrey, Wentworth.

NAY — Bachrach, Baker, Barry, Beaulieu, Benoit, Berube, Blodgett, Bordeaux, Brannigan, Brenerman, Brodeur, Brown, D., Carroll, Chonko, Churchill, Cloutier, Connolly, Curtis, Davies, Dellert, Doukas, Dutremble, D., Dutremble, L., Gowen, Gwadosky, Hall, Hickey, Hobbins, Howe, Hughes, Kane, Kany, LaPlante, Leonard, Locke, Lowe, Lund, MacBride, Mahany, Masterton, Matthews, Maxwell, McHenry, McKean, McMahon, Michael, Mitchell, Nadeau, Nelson, M., Nelson, N., Norris, Paradis, Paul, Payne, Post, Prescott, Reeves, P., Rolde, Silsby, Small, Theriault, Tierney, Tuttle, Vincent, Violette, Vose, Wood, Wyman, The Speaker.

ABSENT — Birt, Brown, A., Brown, K. C., Dow, Drinkwater, Elias, Fowle, Hanson, Sewall, Soulas, Sprowl, Stetson, Strout, Tozier, Whittemore

PAIRED — Cox-Peltier, Garsoe-Tarbell, Hutchings-Lewis Laffin-Twitchell.

Yes, 50; No 69; Absent 15; Paired 8.

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

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

The Chair laid before the House the following matter:

Resolve for Laying of the County Taxes and Authorizing Expenditures of Lincoln County for the Year 1979 (Emergency) (H. P. 1416) (L. D. 1620) which was tabled earlier in the day and later today assigned pending passage to be engrossed.

Mr. Blodgett of Waldoboro offered House Amendment "A" and moved its adoption.

House Amendment "A" (H-487) was read by the Clerk and adopted.

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

The Chair laid before the House the the following matter:

Bill "An Act to Amend the Stream Alteration Act" (H. P. 267) (L. D. 385) (C."A" H-457) which was tabled earlier in the day and later today assigned pending passage to be engrossed.

On motion of Mr. Tierney of Lisbon Falls, tabled pending passage to be engrossed and tomorrow assigned.

The Chair laid before the House the following matter:

Bill "An Act to Continue Medical Benefits to Employees during Collective Bargaining Negotiations, Lockouts, Strikes and Other Job Actions" (S. P. 317) (L. D. 947) which was tabled earlier in the day and later today assigned pending the motion of the gentlewoman from Auburn Mrs. Lewis, to indefinitely postpone in concurrence.

On motion of Mr. Wyman of Pittsfield, tabled pending the motion of Mrs. Lewis of Auburn to indefinitely postpone and tomorrow assigned.

Mrs. Masterton of Cape Elizabeth was granted unanimous consent to address the House.

Mrs. MASTERTON: Mr. Speaker, I regret to announce that I have joined the ranks of those who have been sitting in their seats and either forgotten to vote on a roll call or else the button snapped back into neutral position. But I would like to be on the record with regard to An Act to Prohibit the Practice of a Mandatory Retirement Age, Senate Paper 260, L. D. 790. I did intend to vote and I would like to have it on the record that I would have voted in the affirmative on the indefinite postponement motion.

(Off Record Remarks)

On motion of Mr. Garsoe of Cumberland, adjourned until eight-thirty tomorrow morning.