

# MAINE STATE LEGISLATURE

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**LEGISLATIVE RECORD**

**OF THE**

***One Hundred and Ninth***

***Legislature***

**OF THE**

**STATE OF MAINE**

**SECOND REGULAR SESSION**

**January 2 to April 3, 1980**

**THIRD SPECIAL SESSION**

**May 22, 1980**

**THIRD CONFIRMATION SESSION**

**July 17, 1980**

**FOURTH CONFIRMATION SESSION**

**July 24, 1980**

**FIFTH CONFIRMATION SESSION**

**September 12, 1980**

**REPORT, HEARING TRANSCRIPT AND  
RELATED MEMORANDA OF THE JOINT  
SELECT COMMITTEE ON INDIAN LAND  
CLAIMS**

## HOUSE

Friday, March 21, 1980

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

Prayer by the Reverend W. E. Jackson of St. Andrew's Episcopal Church, Readfield.

Rev. JACKSON: Let us pray! Almighty God, who has given us this good land for our heritage, we humbly beseech you that we may always prove ourselves as people mindful of your favor and glad to do your will.

Bless our state with honorable industry, sound learning and pure manners. Save us from violence, discord and confusion, from pride and arrogance and from every evil way. Defend our liberties and protect our heritage, endeavor with the spirit of wisdom those to whom in your name we entrust the authority of government, that there may be justice and peace within our boundaries and throughout our land.

O God, whose will is good and whose wisdom is boundless, whose law is truth, guide, we pray, this House of Representatives here assembled so that they may enact such laws as may be pleasing to you and to the welfare and support of your people. Acting always to the glory of your name, through Jesus Christ, Our Lord. Amen.

The Journal of yesterday was read and approved.

## Papers from the Senate

The following Joint Order: (S. P. 811)

WHEREAS, an agreement has been proposed for settlement of the Indian land claim case; and

WHEREAS, this proposed settlement requires careful examination before it is adopted since it will have far-reaching effects on the State and its citizens; and

WHEREAS, it is necessary that a committee be appointed to examine the proposed settlement, hold a public hearing on it and report its recommendation to the Legislature; now, therefore, be it

ORDERED, the House concurring, that a joint select committee be appointed to study the proposed Indian land claim settlement agreement; and be it further

ORDERED, that the committee be composed of no more than 2 members of the Senate, to be appointed by the President of the Senate; and no more than 10 members of the House of Representatives to be appointed by the Speaker of the House of Representatives; and be it further

ORDERED, that notwithstanding Joint Rule 18, the joint select committee shall hold a public hearing on the proposed settlement agreement and shall report its recommendations to the 109th Legislature.

Came from the Senate read and passed and the following members appointed on part of the Senate: Senator Collins of Knox, Senator Redmond of Somerset and Senator Conley of Cumberland.

In the House, was read and passed in concurrence.

## Messages and Documents

The following Communication:

March 20, 1980

The Honorable John L. Martin  
Speaker of the House of Representatives  
State House

Augusta, Maine 04333

Dear Speaker Martin:

The Committee on Energy and Natural Resources is pleased to report that it has completed all business placed before it by the Second Regular Session of the 109th Legislature.

Bills Received in Committee 17

Unanimous Reports 11

Ought to Pass 2

Leave to Withdraw 2

Ought to pass as amended 7

Divided Reports 6

Recommitted 0

Respectfully

S/Representatives

House Chairman

S/WILLIAM B. BLODGETT

The Communication was read and ordered placed on file.

The following Communication:

March 20, 1980

The Honorable John Martin

Speaker of the House

State House

Augusta, Maine 04333

Dear Speaker Martin:

The Committee on Judiciary is pleased to report that it has completed all business placed before it by the Second Regular Session of the 109th Legislature.

Bills Received in Committee 29

Unanimous Reports 21

Ought to pass 2

Ought to pass, amended 11

Ought to pass in new draft 1

Ought to pass in new draft & title 2

Leave to Withdraw 5

Divided Report 8

Respectfully yours,

S/BARRY J. HOBBS

House Chairman

The Communication was read and ordered placed on file.

The Honorable John Martin

Speaker of the House

State House

Augusta, Maine 04333

Dear Speaker Martin:

The Committee on Public Utilities is pleased to report that it has completed all business placed before it by the Second Regular Session of the 109th Legislature.

Total Number of Bills 30

Unanimous Reports 28

Ought to pass 5

Ought to pass, as amended 12

Ought not to pass 6

Leave to Withdraw 5

Divided Reports 2

Respectfully yours,

S/RICHARD S. DAVIES

House Chairman

The Communication was read and ordered placed on file.

## Orders

On motion of Mr. Cox of Brewer, it was ORDERED, that Representative Sylvia Lund of Augusta be excused March 20 and 21 for Personal Reasons.

## Special Sentiment Calendar

In accordance with House Rule 56, the following items (Expressions of Legislative Sentiment) Recognizing:

The Patriots of Gray-New Gloucester High School, coached by Roger Lowell, winners of the Western Maine Class "C" ski championship for 1979-80; (H. P. 1994) by Mr. Cunningham of New Gloucester) (Cosponsor: Mr. Fillmore of Freeport)

The Patriots of Gray-New Gloucester High School coached by Alf Ehnstrom, winners of the Class "B" soccer championship for 1979-80; (H. P. 1995) by Mr. Cunningham of New Gloucester. (Cosponsor: Mr. Fillmore of Freeport)

Karen Gilman, of Presque Isle, who has been chosen Miss Presque Isle for 1980, and will compete in the Maine Potato Blossom Pageant; (H. P. 1996) by Mrs. MacBride of Presque Isle. (Cosponsors: Mr. Roope of Presque Isle, Mr. Smith of Mars Hill and Senator McBreairey of Aroostook)

Electra Brown, of Gorham, a Camp Fire volunteer for 52 years, who received the Luther

Halsey Gulick Award for exceptional long-term dedication by outstanding volunteers; (H. P. 1997) by Ms. Brown of Gorham. (Cosponsor: Senator Usher of Cumberland)

Diana L. Perkins, of Milford, who scored 1-137 points in 4 years for the Old Town High School girls' basketball team; (H. P. 1998) by Mr. Paradis of Old Town. (Cosponsors: Mr. Pearson of Old Town and Senator Devoe of Penobscot.)

The Winslow High School Hockey Team, which won the 1979-80 State Class B hockey championship, its 3rd straight state championship; (H. P. 1999) by Mr. Carter of Winslow. (Cosponsor: Senator Teague of Somerset)

The Patriots of Gray-New Gloucester High School, coached by Jim Tobin, winners of the State Rifle Championship for 1979-80 (H. P. 2001) by Mr. Cunningham of New Gloucester) (Cosponsor: Mr. Fillmore of Freeport)

Margaret A. Emerson, of Farmingdale, who plans to retire on April 4, 1980 after 45 years of dedicated service to the State (H. P. 1993) by Mr. Dow of West Gardiner. (Cosponsor: Senator Ault of Kennebec)

In Memory of:

George Hutchison, of New Gloucester, a prominent citizen, businessman and community leader; (H. P. 2000) by Mr. Cunningham of New Gloucester.

There being no objections, these Expressions of Legislative Sentiment were considered passed or adopted.

## House Reports of Committees

## Ought to Pass in New Draft

Mr. Connolly from the Committee on Education on Bill "An Act Concerning Cost-sharing Agreements in School Administrative Districts and Community School Districts" (H. P. 1906) (L. D. 1975) reporting "Ought to Pass" in New Draft under New Title Bill "An Act to Eliminate the 'Pay-in' Inequity within School Administrative Districts and Community School Districts" (H. P. 1992) (L. D. 2022)

Report was read and accepted and the New Draft read once. Under suspension of the rules, the bill was read the second time, passed to be engrossed and sent up for concurrence.

## Orders of the Day

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

An Act Amending Criminal Laws and Procedures (S. P. 750) (L. D. 1925) (C. "A" S-456) Tabled—March 20, 1980 by Mrs. Mitchell of Vassalboro.

Pending—Passage to be Enacted.

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

Mr. McKEAN: Mr. Speaker, Ladies and Gentlemen of the House: I asked yesterday for this bill to be tabled because I wanted to find out about the constitutionality of a portion of this particular bill. As a result, yesterday afternoon I had a discussion with the Attorney General's Office, and that portion which was in question, which we debated on the floor of the House a couple of days ago on the revocation of implied consent, was found in the State of New York, in their courts, to be constitutional. The wording in the New York statute is pretty much the same as the wording in our statute.

There were two areas here, however, one is the constitutionality and the other is the acceptance by the public of that particular public policy. I am not going to challenge the bill today, I am going to let it go on for enactment, because 98 percent of that bill is a good bill and I am with it a hundred percent. That particular portion of it, however, I think is wrong, I still think it is wrong. It judges you guilty until you are proven innocent, and this is against the basic foundation on which this nation was brought about.

Even though you and I are probably on the same side of the fence when it comes to people operating on our highways under intoxication,

we say get them off the highways and get them off as quick as we can, and I agree, and then we will turn right around and say, but cut the state police all we can. To me, I don't understand the rationale that we use in these cases.

I still think we have problems in that area. The fact that it had to be challenged in the courts tells you that there is a public policy that may not be right—it is a public policy. And I hope that somewhere down the line, when we get into bills like this, that we will think of the ramifications of what we are passing. In this particular area, we are passing a piece of legislation which may prove an innocent man guilty. The direction that they came from with this particular bill was, we have made the offense of OUI with a high penalty, and as far as I am concerned, you could make it higher, but it also can at times cause an individual not to want to take the test because he knows that he has alcohol in his bloodstream, and that is the direction they came from in that area, and I agree with that particular idea, but I don't think this is the way to approach it.

The alcohol problem on our highways we are not going to solve with this legislation, we are not going to solve it by making a \$10,000 fine on the first offense; it has got to be solved prior to the fact of the individual even getting on the highway. That is where the problem lies.

Because of the problem that I have with this particular piece of legislation and the fact that an innocent person could be adjudged guilty, Mr. Speaker, I ask for the yeas and nays.

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

Mr. SIMON: Mr. Speaker and Members of the House: I would like to thank the gentleman from Limestone, Mr. McKean, for appreciating the importance of the rest of this bill and also for demonstrating, I think, statesman flexibility with respect to this portion.

I rise only to establish for the legislative record that it is not the intention of the legislature that under this statute a person be presumed guilty until proven innocent.

The gentleman from Limestone, Mr. McKean, referred to a New York State case, *People v. Thompson*, in which a similar statute was upheld. That New York decision was, in turn, affirmed by the United States Supreme Court in 1979.

I would like to remind the members of the House, and I would like to point out for any court that would be construing this statute later on, that refusal to take the blood or breath test is only one item. It may be considered if it is of probative value, and if the probative value of the refusal does not outweigh its prejudicial impact. I would direct the attention of the House to the Maine Rules of Evidence, rules 401 through 403, that establish this latter principle of law. If this is not probative evidence, if it isn't good evidence, if it doesn't bear on the issue of guilt or innocence, or if the context of the refusal or the context of its presentation into evidence would prejudice the case against the defendant, then the judge may not allow the jury to hear it.

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

Mr. TARBELL: Mr. Speaker, Ladies and Gentlemen of the House: I refrained from addressing the House and the members of the House on this issue. It is an omnibus bill before you and there is one ticklish item in it that we have debated several days pertaining to the use of evidence in a court of law the fact that a person, once stopped by an officer, refuses to take a blood or breath test.

What this measure would do, it would raise a presumption that the person was operating under the influence illegally if the person refuses to take a blood or breath test. I think it goes a little too far and I think it is a little unfair.

Currently, under the laws, and the good gentleman from Windham the other day indicated

to you that he and I and Representative Locke worked on tightening up the OUI bills over the last four years. But currently under the law, if you were stopped, and a police officer needs practically no evidence whatsoever to stop you under the current laws, if you are stopped and the officer says I suspect you for operating under the influence, I would like you to submit to a blood or alcohol test, I am going to place you under arrest, and you refuse, then, under the current law, you lose your license for at least three months automatically by the Secretary of State.

Then the officer can proceed to give you a summons on a separate charge to take you to court for operating under the influence. He can take you into court and he can present his evidence to the judge or to a jury and say, this individual was weaving down the road, was going from the right-hand lane to the left-hand lane and then back, followed the individual for a half a mile, when I stopped the individual, the individual could not pull out the registration from the glove compartment of the vehicle, could not pull the driver's license out of their wallet very carefully, had slurred speech, glassy eyes, and I could smell the odor of intoxicating liquors on the breath of this individual. And although this individual refused to take a blood test, I submit to you that the judge or jury, in light of all this other intrinsic evidence that I observed, I submit to you that they were in fact operating under the influence. About nine times out of ten, if you have got that type of evidence, there will be a conviction, and that is conviction under the OUI statutes, with our severe penalties, both jail sentences and as well as increased fines that we, over the last few years, have placed on the OUI statutes. But that is a separate penalty from the penalty you receive automatically, without even a hearing, if you refuse to take a blood or breath test.

So, the penalties are twofold. If you refuse to take the blood or breath test, automatic suspension of your license for at least three months by the Secretary of State. Then the officer can proceed, if the officer does have enough evidence, to take you into court, and even though he may not have the blood or breath test evidence beforehand, if he has got all the other evidence, weaving, slurred speech, fumbling with your driver's license, odor on your breath, that kind of evidence, he can present a good, strong case to a jury or to a judge to convict you for OUI, and then you are subject to the criminal penalties. That is the current law.

This bill before us goes one step further, and I think it pushes, in my mind, the issue and the law a little too far. It says that if an officer stops you and that officer tells you you must take a blood or breath test and you refuse, not only will you lose your license from the Secretary of State automatically for the three-month period of time, but you will go to court and a presumption will exist automatically against you, before you have even said a word in court, that you are guilty, that you were in fact operating under the influence just by the mere fact that you refused to take a blood or breath test.

I can envision a lot of circumstances through this state where an officer might stop an individual, the individual feels in their own mind they were driving perfectly, they haven't had a drink, they may be a little tired or their driving may look erratic to the officer—or let me give you a better example, your taillight is out on your car, or the light that lights up your license plate is out and the officer stops you and the officer says, well, I think I am going to ask you to take a blood or breath test, I think you perhaps may be operating under the influence and you get your dander up and you say no, I am perfectly all right, I haven't had a drink, I refuse. The officer says, well, that is too bad. Your refusal to take that, first of all, is going to give you a suspension automatically by the Secre-

tary of State for three months of your license and, secondly, in addition to that, I am taking you into court and there is a presumption now against you, just by virtue of the fact that you refused to take this test, that you were, or are, in fact, operating under the influence. Then the burden shifts to you to refute that presumption and rebut that presumption.

I don't think that the presumption, or the lack of the presumption, under the current law is hampering law enforcement officials throughout the state with the convictions of OUI throughout the state. I think the mere fact that you lose your license automatically if you refuse to take a blood or breath test is a good deterrent and good incentive, a pretty strong one, for people to submit to that blood or breath test.

I would urge you to consider this measure very carefully, because I think it pushes a little too far to the other side in our attempts, as responsible as we have been, to try to improve the situation of operation under the influence on our highways in Maine.

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

Mr. STETSON: Mr. Speaker, Ladies and Gentlemen of the House: The learned gentleman from Bangor kept talking about presumptions. I think he is using the wrong word. What this bill does, it does not create any presumption at all. This bill simply permits the state to comment on the fact that the accused refused to take a breath test or a blood test at the time he was arrested.

A short time ago, this body saw fit to impose a Class E crime on anybody involved in a motor accident who refused to show his driver's license or refused to give his correct name and address to the police at the scene of the accident. That is a civil involvement there, not a criminal involvement, and this body saw fit to make that a Class E crime for refusing to give name and address.

Here Mr. Tarbell argues that we have a person who hasn't had a drink and then he gets his dander up, he gets his dander up, and that is the reason he refuses to take a breath test. Well, I submit to you, if a person gets his dander up and is willing to forfeit his license for 90 days because of that dander, well he might as well have his day in court on the question of whether he was driving under the influence. I say that the price of a conviction of driving under the influence has risen to the point now where young attorneys throughout this great state of ours are advising their clients—don't take the test, don't take the test. If you do take the test, they will find you guilty and the penalty is going to be much worse than that 90 day suspension. I advise you, don't take the test because the state might use it against you and your chances are much better getting off that way than if you take the test.

I can tell you, I have represented people in the courts of this state and that test is really what convicts them. I have had time and again the prosecuting attorney tell me, well, before we drop this down to a case of reckless driving or something like that, let's wait and see what the test result is. When that test result comes in with a good, strong 3, I tell you, the case is down the drain.

If we do not pass this legislation, I feel we are inviting people to take the easy way out, take their chances with a three-months' suspension rather than the chances of a heavy fine and perhaps a jail sentence, a conviction for OUI, and I don't think there are many people in this state who are refusing to take the test if they haven't had a drink.

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

Mr. NORRIS: Mr. Speaker, Ladies and Gentlemen of the House: I am very happy, as I said the other day, being on the same side of an issue with my good friend from Wiscasset, Representative Stetson, and I think he has told

you exactly the way that it is.

I have been one of the people that has worked to tighten up the laws. Unfortunately, if you read the paper most any Monday morning, you will find, as valiantly as we have tried, we haven't yet achieved a level that prohibits the carnage on our highways, and the carnage on our highways by great part is created by people who are operating under the influence of some substance, either alcohol or drugs.

I would hope that we would pass this bill this morning and give one more thing to reverse this problem and allow people to be able to drive down the highway safely.

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

Mr. MCKEAN: Mr. Speaker, Ladies and Gentlemen of the House: In case there is any doubt in anyone's mind, I asked for the roll call, I want you to pass this bill. Ninety-eight percent of this bill is good.

I may be the only "no" light up there, but the reason I am a "no" light is because I feel this way—I feel that anything within our laws that does not allow a complete, free and unprejudiced hearing by a jury or by a judge can affect the innocence or the guilt proceedings of an individual who may be innocent. We have had one case already within the district I represent where an individual got off work in the morning, went up to the hospital, he had worked all night, went up to the hospital for some medication for a blood disease, was on his way home, he was stopped by the state police. He was nearly convicted, can you believe that—nearly convicted of drunken driving, and the thing that is so fantastic about it, the guy hardly ever takes a drink. I am just afraid that with this particular statute, it could have happened. I want nothing to bias the opinion of a court or a judge, nothing, and this could possibly do it. That is the reason you will see my "no" light. I do want the bill to pass, however.

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

Mr. TARBELL: Mr. Speaker, Ladies and Gentlemen of the House: I will abide by the urging of Representative McKean to go along with passage of the bill because it is an omnibus criminal revision of our criminal laws in this state and it is quite an important piece of legislation.

I simply wanted to put some of these observations that we have put on the record for future legislatures, because I have a feeling that this point that we are putting into the statute today, if we do enact this, is going to cause some problems.

First of all, I would like to clarify what I think is the case throughout the state. Clients come to me with an OUI case after they have been arrested and after they have either decided or rejected to take a breath test, not beforehand, to ask me what they should do. It is after the fact that I have an opportunity to speak to anyone. I am not running around the state telling people, giving them free advice on what they ought to do in hypothetical cases.

Secondly, the point of submitting in evidence, in an instruction, or by the prosecutor, the district attorney, to a jury that we just want you to know that when this person was stopped, this person refused to take a breath or blood test and therefore you, sitting as the factfinders, members of the jury, will not have any information before you of a blood or a breath test, of a blood count of alcohol level, because the defendant here today did not agree to take a test when he or she was stopped. I simply submit to you, that is really prejudicial. There may be courts in other states that don't believe it is, but I just think it runs contrary to fair play.

In any event, use your own judgment on this measure, and I just wanted to put this on the record for future purposes, because I do think it is going to pose problems for us in the future.

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

Mr. STETSON: Mr. Speaker, just one more observation. You can be sure that any judge hearing an OUI case will know very well why there is no test result in any case he tries.

So, really, what we are talking about are the jury trials. As for the jury trials, I direct Mr. Tarbell's attention to Maine Rules of Evidence, Rule 403, which puts the burden on the judge to determine whether the probative value of this type of evidence outweighs the prejudicial effect of this same evidence, and unless the court finds that the probative value is more weighty than the prejudicial effect, this evidence will never get to the jury.

So, I think that the fears that have been expressed here, I know they are sincere, but I don't think they are real.

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

Mr. MCHENRY: Mr. Speaker, Ladies and Gentlemen of the House: I know this bill is going to go through, but I only hope that the Governor and the town fathers see fit to set up blockades and get everybody, check them all out, not only spot check one or two—get my brother, my father, my mother, my sister, my cousin, my town fathers, get everybody, check them all out if you really want to get the drunks off the road.

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 passage to be enacted. All those in favor will vote yes; those opposed will vote no.

#### ROLL CALL

YEA — Aloupis, Austin, Bachrach, Beaulieu, Benoit, Berube, Birt, Bordeaux, Bowden, Brannigan, Brennerman, Brodeur, Brown, A.; Brown, D.; Brown, K.L.; Brown, K.C.; Bunker, Call, Carroll, Carter, F.; Chonko, Churchill, Cloutier, Cox, Cunningham, Curtis, Darnen, Davies, Davis, Dellert, Dexter, Diamond, Dow, Drinkwater, Dudley, Dutremble, D.; Fenlason, Fillmore, Fowle, Garsoe, Gavett, Gillis, Gowen, Gray, Gwadosky, Hall, Hickey, Huber, Hughes, Hunter, Hutchings, Immonen, Jackson, Jacques, E.; Jalbert, Joyce, Kane, Kany, Kiesman, Lancaster, LaPlante, Leighton, Leonard, Lewis, Locke, Lougee, Lowe, MacBride, Mahany, Marshall, Masterton, Matthews, McSweeney, Mitchell, Morton, Nadeau, Nelson, A.; Nelson, M.; Nelson, N.; Norris, Paradis, E.; Paul, Payne, Pearson, Peltier, Peterson, Post, Reeves, P.; Rolde, Rollins, Roope, Simon, Small, Smith, Soulas, Sprowl, Stetson, Stover, Strout, Tarbell, Theriault, Tierney, Torrey, Tuttle, Viollette, Vose, Whittemore, Wood, Wyman.

NAY — Baker, Barry, Berry, Blodgett, Carrier, Carter, D.; Connolly, Doukas, Hanson, Hobbins, Howe, Jacques, P.; Kelleher, Lizotte, MacEachern, Martin, A.; Masterman, Maxwell, McHenry, McKean, McMahon, McPherson, Paradis, P.; Reeves, J.; Sherburne, Studley, Tozier, Twitchell, Wentworth.

ABSENT — Boudreau, Conary, Dutremble, L.; Elias, Higgins, Laffin, Lund, Michael, Prescott, Sewall, Silsby, Vincent.

Yes, 109; No, 29; Absent 12.

The SPEAKER: One hundred nine having voted in the affirmative and twenty-nine in the negative, with twelve being absent, the Bill is passed to be enacted.

Signed by the Speaker and sent to the Senate.

#### Held Bill

Bill, "An Act to Create the Maine Spruce Budworm Management Act" (Emergency) (H. P. 1980) (L. D. 2015)

—In House, Failed of Passage to be En-

grossed as amended by House Amendments "A" (H-950) and "D" (H-960) on March 20.

Held at the request of Mr. Morton of Farmington.

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

Mr. LANCASTER: Mr. Speaker, having voted on the prevailing side, I now move that the House reconsider its action whereby this Bill failed of passage to be engrossed.

Whereupon, Mr. Diamond of Windham requested a roll call vote.

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

Mr. MORTON: Mr. Speaker, Ladies and Gentlemen of the House: I want to hank the gentleman for moving reconsideration of this important bill. I want to emphasize that this is the budworm bill, L. D. 2015, and it is the only new budworm bill available to this House today.

Now, how a little, old ex used car dealer like myself got involved with this matter, I will never know, but here it is and I have got to talk about it.

Yesterday afternoon, I was truly disturbed at the turnaround from the original House position, but then I got to thinking about it and the person I was mad at was myself, and should have been. It is obvious that confusion reigned. I had several notes that thought they were voting on the amendment rather than the bill itself, so, ladies and gentlemen of this House, my beloved colleagues, I apologize to all of you for failing to advise you of what the situation was. Therefore, this morning I hope you will give me a few minutes to really lay the thing out for you.

Sometimes, you know, when you are very close to a matter, you assume that everyone else is as familiar with it as you are. Also, in presuming that you knew all about the bill, I didn't wish to burden you at that late hour yesterday afternoon, but I obviously was wrong, and again I apologize.

First of all, I was busy on this bill all day yesterday with the gentleman from Hampden, Mrs. Prescott. I worked with her on an amendment which specifically provides for health monitoring, human health monitoring. It was finally presented, and I think you saw at least three drafts. The amendment that we did adopt, Amendment "D", was entirely satisfactory to all concerned, and when I say all, I mean all. Monitoring by an agency other than the forest service was a must by the policy review committee that I served on, it is absolutely supported by the commissioner of the department, and it is agreed to by the landowners. No one is opposed to independent, monitoring—independent, meaning someone else than the people doing the spraying, doing the budworm work!

Unfortunately, this amendment was the source of much confusion yesterday. This amendment, this additional provision, should allay the fears that some of you seem to entertain and were so well expressed by the gentleman from Brewer, Mr. Norris, the other day—a fox will no longer be guarding the chicken house as it is under the present law. This was also part and parcel of the original bill, 2015 and 2016, for that matter, although it wasn't spelled out as clearly as Mrs. Prescott has now done it.

I want to go over just quickly how this was done and point out the section that is specifically covering this matter. I direct your attention to Page 5 of the bill, 2015, Section 6. This is a section specifically designed to protect the public health. It deals with settlement corridors. The first definition is that all land within 2 miles of publicly-maintained roads in the Spruce Fir Protection District shall be designed by the Director as settlement corridors.

Going on—land within settlement corridors may not receive insecticide spray treatment unless a landowner makes a written request for

that treatment and the request does not relate to land within that corridor, located in a municipality that has taken action to prohibit spray projects.

Skipping down to item 4 in Section 6, Prohibition by municipalities: Any municipality within the Spruce Fir Protection District may prohibit the execution of spray projects within settlement corridors which lie within that municipality. I don't think you could have anything more clear than that. The municipality has veto power.

As you turn to Page 6, the tax levy, no tax for which the execution of spray projects has been prohibited by a municipality as provided in subsection 4—they will not be taxed for that land.

Now, to get down a little further to where we have the provisions that were in the original bill and now we have been enhanced by the amendment from Mrs. Prescott for having other agencies than the forest service do the monitoring. In the original bill, in both bills, by the way, under 9 in this section, it says—out of funds available for any spray project, the director, subject to the approval of the Governor, may reimburse other state agencies for costs incurred by them in connection with that spray project. That is where the first of Mrs. Prescott's amendments comes in.

It goes on to say, and this has been added for language—such costs may include but shall not be limited to those incurred for environmental and health monitoring and regulations. Any department or agency of state government is authorized to accept funds which may be available for carrying out the purposes of this subchapter.

This means that the Forestry Department is required to get the environmental monitoring done by another agency, be it Human Services, be it the Agriculture Department and, as Mrs. Prescott read into the record yesterday, this in no way precludes these departments from contracting for this work. It is not necessary to add state employees do this, it is just necessary to get competent people to do it, wherever they may come from.

Continuing down at the bottom of Page 6 of the Bill, we are talking about the analysis of future supply in Section 10 near the bottom of the bill, and there are two paragraphs there, we add a third one.

Again, Environmental Health Monitoring: The Bureau of Forestry should cause to be conducted by an agency other than the Department of Conservation and environmental health monitoring program each year in which a spray project is conducted. It mandates that health monitoring be done by another agency. These two provisions are also included in the new act, which is the last section of this bill.

I emphasize all this new law because I think it is important that you understand it and I want to quote from the remarks made by Commissioner Barringer at the hearing, and he says: "The establishment of a settlement region is intended to reduce the use of chemical pesticides near inhabited areas and to place priority on alternative budworm management techniques in the area where human health concerns are the greatest. The Maine Forest Service and private companies with landowner assistance programs will concentrate their small woodlot management service programs in these areas, these settlement region areas. The whole idea is to give a great deal more protection to those health concerns that everyone is thinking about a great deal. There is every intention on the part of everyone involved to give these maximum consideration. I cannot emphasize that enough.

I would also point out right now, and I am going to mention it more than once this morning, that this is all new law. None of it appears in the 1976 law which presently is on the books which will be used this year if we fail to pass any law at all. It will remain if this bill fails of passage.

Having covered the health area and emphasizing the deep concern that we all have for it, let me now turn to the actual program, which is a new subchapter which will replace the present 1976 law—Page 7, Section 12, right after the repeal of the 1976 law is the new subchapter 4a, Maine Spruce Budworm Management Act. I want to dwell just a little on the legislative policy that that calls for.

The legislative policy declares that it is the policy of the state to undertake a spruce budworm management program, and I emphasize the word 'management program,' to minimize the short term and long term impact of spruce budworm insect infestations upon the state's spruce and fir forests by protecting an adequate present and future supply of wood to support the long-term economic needs of the state and of its forest products industries; to develop and utilize in both public and private sectors protection and management programs which are cost effective and biologically sound and, repeated again, responsive to the environmental and health concerns of the public.

It is policy to have reduction in reliance upon the use of chemicals and insecticides in spruce budworm suppression programs. Reduction—that is the long-term goal: to encourage private efforts in a variety of integrated pest management techniques, which will result in long-term reductions in susceptibility of the forest to spruce budworm infestation and loss; to implement it by equitable methods, determining private and public participation, financing including voluntary participation in future insecticide spray projects and I want to emphasize that that participation starts this year, right now. No one this year has to be sprayed unless he chooses to.

The provisions are adequate—regulatory review of insecticide spray projects by an independent state agency. That was in the original bill. We flushed it out with Mrs. Prescott's amendment. The management and utilization of assistance programs for small forest landowners—that is new, that takes the place of spraying, and for these small forest landowners, particularly over in the eastern part of the state where there are a great many roads which will be in the settlement areas, a great deal of land has been taken out of spraying by this new policy and it is vital that these small landowners have the availability of state assistance to crack this better silvicultural and marketing practices, and that is what is also provided for in this bill.

Just quickly, to skip down to that—the management program in the middle of Page 8, means that all activities undertaken by the Bureau of Forestry in connection with the short-term and long-term suppression, control and prevention of spruce budworm infestation, including, without limitation, any activities undertaken in connection with a spray project, a spruce budworm survey, detection activities, silvicultural and marketing and integrated pest management programs, research and related activities. There is a great deal in this new chapter which is not just spraying, and I want everyone to realize that.

That is the new program, and I want to remind you all again, as I have said before, the only bill you have available to do this for you is 2015 this morning here in this House, and if you don't pass some bill at this session of the Legislature, the old law will apply.

Quickly, I don't want to take too much time but it is important, I have passed out a comparison of the present law and the proposed law. I would ask, if you have it on your desk, it was only distributed a short time ago, that you maybe take a look at it just to make these comparisons. The left hand column gives you six major elements in connection with the spray program. The middle column is the 1976 law and the right-hand column is what this new bill will do.

The spruce fir forest protection district,

under the 1976 law, it existed for spray tax purposes; under 2015, it would continue with 112 towns removed, a smaller district, taking a lot of land out of required spraying in both in 1980 and 1981 for tax and spray purposes. The Legislature will determine whether that continues after 1981. Participation is mandatory under the present law at 100 percent of the cost of the project for every acre whether it is sprayed or not.

In the 2015, in 1980 and 1981 are mandatory at 10 percent of the cost only, a jump from 100 down to 10. In 1982, it will be voluntary unless the Legislature determines otherwise, so voluntary does come in in 1982 on a sunset provision unless the Legislature takes over its action.

Voluntary withdrawal—a big, big, big question here, and probably the key one, from spraying in any given year. It was not allowed under the 1976 law. If the state determined that your acres would get sprayed, they would get sprayed. Under the 2015 recommended, voluntary withdrawal is allowed both 1980 and 1981, this year and next year and 1982 and on the same way.

Payment for the project cost—this year a figure of \$7 million, keep it in your mind, if it is done at the level that is anticipated.

Under the program that we presently have on the books, the excise tax is based on taxable lands in the district; 100 percent is shared equally by all of them in the district, and 90 percent is shared equally by all landowners whether they are sprayed or not, except for those under 500 acres. In the new bill, 1980 and 1981, only 10 percent is shared equally by all of them in the district, and 90 percent is shared equally only by the acres actually sprayed. You pay as you get sprayed. Again, 500 acres are not taxed.

General Fund contributions in the 1976 law were about 4 percent of total cost of spraying, and there is nothing in the old law that prevented General Fund money being used for spraying. This new law, no money for spraying is included. The only monies in the bill are for technical assistance, administration of the program, if you will, research and monitoring and that sort of thing.

Finally, the spray application in the populated areas, which we have covered so greatly—1976 law provides for the department to use its discretion. The practice has been to have what they call standard buffers, usually those who are half a mile or more.

In this bill, we have established four mile settlement corridors along publicly maintained roads with local veto option in those towns, and municipalities that pull out their taxable acres will not be taxed at all. If they veto it, they won't be taxed. Again, of course, standard buffers could be observed.

That is the substance of what you have on the books now compared to what 2015 calls for. That is it, that is all of it, what it does, how it works, who pays how much. This is the only bill we have before us and it is this bill, as amended, or the existing 1976 law.

I would ask that you look at the comparison and decide which one you would like to have on the books.

I apologize for taking this much time and I thank you all very much.

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

Mr. DIAMOND: Mr. Speaker, Men and Women of the House: First off, I am awfully glad to hear that Mr. Morton was mad at himself yesterday because I could have sworn that he was angry at me the way he was carrying on.

It is kind of interesting, you know, when you win a bill like he did before, 7576, everyone understood it, when you lose it, confusion reigns. I don't believe that. I guess I have quite a bit of faith in people of this House. I think they understand what is going on. They understand the procedures, the policies, and they understand the bills they are voting on.



I also understand, and I realize that the subtle and shy and tactful gentleman from Sangerville, Mr. Hall, and myself certainly are no match for the kind of lobbying that has been going on in the last 48 hours. We concede that but we have one thing on our side, and that one thing on our side is that what we are saying is right. We are talking about the basic right of having your land, if you own land in this district, of saying, yes, I want it sprayed or not.

Mr. Morton holds up this little sheet he passed out, and he is right, everything he said is true, except he implied, and it is true, that you can withdraw under his bill, 2015, from spraying. He didn't speak, really, as much as I would have liked him, to the issue of can you withdraw if you don't like the program, you can't afford it, you don't believe in it? No, you can't. Can you withdraw from lending money to these people interest free six months or longer to support a program that you don't believe in? No, you can't. You see, there is a difference here; it is more than a minor issue, it is a major difference that you and I, I think, believe in.

I am very proud of those people yesterday. They voted the way they knew they were voting and I hope you will stick with it today and we invite more.

There is a difference. One of the last things Mr. Morton said was that there is no difference, you either take this law or we have the old one. Wrong. We have 2016 waiting in the wings and there is no bill in this House that is technically dead, really dead. That bill is there, it has the amendments on it. The same amendments are ready to go on that as he has on his, so there is a difference. It is fair in equity, that is the difference. A lot of people are counting on it.

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

Mr. DUDLEY: Mr. Speaker and Members of the House: Very briefly, I come from a pretty forested area. I favor this bill and I am sure the majority of my people do.

I think what got the support of the people of my area is when we exempted all acreage up to 500 acres, and this made it a very good bill in my opinion, and if that is still in there, and I think it is, it is such an enormous bill I haven't studied it in the hour or two, but if that is still in there, I would be unanimously in favor of it. If it isn't there, I would still be in favor of it but on a milder basis. I think it is an improvement over what we have now and it is an improvement over anything we have to offer.

I do hope that we will pass it the same as we did the other day by a fairly good margin, reconsider it and whatever you have to do to pass 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 Farmington, Mr. Morton.

Mr. MORTON: Mr. Speaker, Ladies and Gentlemen of the House: I am not going to take the chance that I did yesterday and not speak on any questions that have been raised. The gentleman from Windham doubts that confusion reigns; well, we will see about that. I am not sure, but I have had several people tell me that it did, so I have to take their word for it.

As far as withdrawing from the program, I want to make it absolutely clear, if there is any question in anyone's mind, anyone can withdraw from spraying this year, anyone can withdraw from 90 percent of the cost of the project this year. That is a big change from 100 percent required to be under the present law. It doesn't go quite far enough to suit the gentleman from

Windham, but I would point out, and I know that he is agreeing with me and I hope he will even nod his head yes, that under either bill, everyone would pay this year and everybody has to lend that money that he talks about this year. The difference is that under my bill next year you would only get back 90 percent of the money that is put in to pay on the next program, whereas under his bill you would get 100 percent back. That is the difference.

What it means that a bill is in the wings, I don't know. I had it on awfully good authority "2016 is dead." So, I don't know what that means if it doesn't mean that 2016 is dead. Be that as it may, what is the rationale for maintaining 10 percent? I would just like to cover it quickly.

The original bill that we have on the books now has fully mandatory funding. The bill that the Commissioner recommended came down from 100 percent to 70 percent the first year and 50 percent the second year. The bill before you comes down to 10 percent. If that is not moving in the right direction and if that is not compromising for those who wanted 100 percent mandatory forever, then I don't know what is and I don't know what this game is all about.

The 10 percent does provide for recognition of the state's role and its importance in integrated pest management and in the preservation of the forest bush resource, and if I heard anything at all while I was a member of that advisory commission that helped put this legislation together, on which sat Mr. Robert Reich of the U.S. Forest Service, if I heard anything at all from him it was that the only way the federals will ever participate in this now or in the future is if the state is involved and runs the program. I know that we aren't getting any federal money this year, I hear it, although I am not sure about that, but I guess we are not or at least we are not in a general sort of way, but that point was made very clear.

I would point out that this bill, retaining the program, makes it possible for everyone to have a chance to sell his wood better, and, in my opinion, although I know that I am disagreed with by some people here, that market retention for the small landowner won't be any different. I think the economics of it should be clear to everyone if they think about it a little.

Finally, I am going to talk to you about an issue here that on the favor of two years that I think will appeal to everyone in this House, whether or not they know a single thing about budworm, and that is the following: Today, if I look at my handsome calendar watch that my wife gave me for an anniversary present, it is the 21st day of March. In order to conduct this years program, which everyone agrees must be conducted, we have got to borrow money from the General Fund to prefund it.

The new bill is designed to provide free funding from the people who are going to be sprayed and the landowners. Does anyone here, in these closing hours of the 109th, think that it is logical that in the first two or three or up to six weeks, which is the deadline in the bill that the legislature must act on February 15th, is there anyone here who thinks that the new 110th, with its new people, however many there may be, is going to be able to grapple with this program any better than we are this year and have been this year with a task force behind us that has been recommending to the Commissioner and the rather tremendous changes that have already been incorporated?

Everyone knows we have to go one year. January 15, owners must decide the size of the program, whether they are going to be in or out. February 15, the Legislature must determine the amount of tax per acre, just as we are now doing in this bill. On April 1, the preproject tax is due. You have got to give the people who are going to pay a little notice as to how much it is going to be. As I pointed out, this year we will be borrowing money in order to conduct the program.

Can you honestly say that it wouldn't be better to be making decisions on whether it is going to be 10 percent mandatory or 100 percent voluntary for a 1982 project where you have six leisurely 1981 months to do it in rather than the first pressure cooker weeks of a brand new session? I think that is an argument for two years that should and would appeal to members of this assembly.

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

Mr. DIAMOND: Mr. Speaker, Men and Women of the House: First off, if 2016, New Draft "B", is not able to come before this body, then I stand corrected and I will accept that from the Speaker, but that is not the case. I don't want to leave you with the impression that we have either this one or nothing—not true.

There is a difference between the two bills. You can withdraw from the spraying under both bills. What you can't do is withdraw from lending your money and withdraw from being a part of that whole project and presenting that image that we talked about yesterday. It is that simple. There is a major difference. I know you have been lobbied hard and I appreciate all that, and probably the best thing is to get on with the vote, and let's do it.

The SPEAKER: The Chair recognizes the gentleman from Winslow, Mr. Carter.

Mr. CARTER: Mr. Speaker, Ladies and Gentlemen of the House: I didn't intend to get involved in this debate but I am a cosponsor of this bill, and I fully concur with the remarks of the gentleman from Farmington, Representative Morton.

L. D. 2015 is, indeed, a great step forward. If we do nothing, the existing law stays in place for the next two years, or this year and next year.

What concerns me with 2016, the bill favored by Representative Diamond, is that under this amendment, the program becomes voluntary at the end of one year, and what this will do economically scares me. The small woodlot owner is going to lose his market.

Now, it will be argued, or counter argued, that presently the wood yards are overflowing with wood. True, we have had a mild winter and there is plenty of wood available. It probably also will be pointed out that when Madison comes on the line, it will pick up the slack. Madison is not scheduled to come on the line for a couple of years, and in between time, you would have chaos on your hands with the loss of the market by small woodlot owners and the farmers.

In my community, Scott Paper has stopped cutting wood on its own land and it is only purchasing at the moment. It used to be purchasing 60 percent from the small woodlot owner and the farmer and 40 percent from its own woodlots. They have stopped cutting, and I suspect that many other companies will be doing the same thing.

Under the voluntary program, what they are going to do is start cutting their own wood and not buy from the small woodlot owner or the farmer.

I would hope that you would support the motion to reconsider.

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

Mr. PEARSON: Mr. Speaker, Ladies and Gentlemen of the House: The bill we have currently before us is 2015. There is another bill, I am sure you are aware of that now. I want to make sure that the impression is not left in any way at all that there isn't another alternative that can come up, because that is simply not true. There is another alternative that can come up, and that other alternative says that if a person feels that it is economically to his advantage to have his land sprayed, he may do so, and if he feels it is not economically to his advantage, he does not have to do so and does not have to participate in the program. It is free

enterprise, it is the freedom of choice that is being aroused here. One is completely voluntary and the other one is not. I think you can make up your mind between the two of them.

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

Mr. HALL: Mr. Speaker, Ladies and Gentlemen of the House: I would like to speak in regard to the 90-10 and I promise you I won't be long.

The problem we have, the small woodland owners, in regard to what Mr. Morton spoke about, is the 90-10. We have come a long ways, and that is just like having a knife driven into you about that far and pulling it out about that much. Why do we need that 90-10 to begin with?

When I raised potatoes and corn, I had no law mandating that I needed to spray my potatoes; I did it because I had to. If I had the money, I sprayed, and if I didn't, I wouldn't. What right do we have to mandate to other people that they need to spray. I have some woodland owners in my area that have 3,500 acres, I have others with a thousand and some will never be sprayed because they are too small. That is one of the major problems I have with the bill.

One other thing I would like to remind you folks of, we mentioned the intimidation, if you don't go along with this bill you won't have a market for your wood. I submit to you that the economy has a great deal to do with whether you are going to sell your wood or not. Right now, the yards are full, true; there will not be much of a market for six or eight months, but the management program that has been devised from the department, George Bourassa himself has told me that they have with the implementation of this is because they are always working with the dead or dying wood. They are never going to have a home for that.

You have got six months of wood on hand now and the mills are going to constantly want green wood, I don't blame them, they don't want to be working with dry wood all the time, so what have we got? You haven't helped the small woodland owners as much as you think you have.

I hope you will think very strongly on this before you vote in favor of this bill.

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

The Chair will excuse the gentlewoman from Falmouth, Mrs. Huber, from voting.

#### ROLL CALL

YEA — Aloupis, Austin, Berube, Birt, Borda, Bowden, Brown, D.; Brown, K.L.; Brown, K.C.; Bunker, Carrier, Carter, D.; Carter, F.; Chonko, Churchill, Cunningham, Damren, Davis, Dellert, Dexter, Drinkwater, Dudley, Fenlason, Garsoe, Gillis, Higgins, Hunter, Immonen, Jackson, Jacques, E.; Jalbert, Kany, Kelleher, Kiesman, Lancaster, Leighton, Leonard, Lewis, Locke, Lougee, Lowe, MacBride, MacEachern, Marshall, Masterton, Masterton, Matthews, Maxwell, McMahon, McPherson, Morton, Nelson, A.; Nelson, N.; Norris, Paradis, E.; Paradis, P.; Payne, Peltier, Peterson, Rollins, Roope, Sewall, Sherburne, Simon, Small, Smith, Soulas, Stetson, Stover, Strout, Tarbell, Theriault, Torrey, Violette, Vose, Wentworth, Whittemore, The Speaker.

NAY — Bachrach, Baker, Barry, Beaulieu, Benoit, Berry, Blodgett, Brannigan, Brennerman, Brodeur, Brown, A.; Carroll, Connolly, Cox, Curtis, Davies, Diamond, Doukas, Dow, Dutremble, D.; Fillmore, Fowlie, Gavett, Gowen, Gray, Gwadosky, Hall, Hanson, Hickey, Hobbins, Howe, Hughes, Jacques, P.; Joyce, Kane, LaPlante, Lizotte, Mahany, Martin, A.; McHenry, McKean, McSweeney, Mitchell, Nadeau, Nelson, M.; Paul, Pearson, Post, Reeves, J.; Reeves, P.; Rolde, Sprowl,

Studley, Tierney, Tozier, Tuttle, Twitchell, Wood, Wyman.

ABSENT — Boudreau, Call, Cloutier, Conary, Dutremble, L.; Elias, Hutchings, Laffin, Lund, Michael, Prescott, Silsby, Vincent.

EXCUSED — Huber.

Yes, 78; No, 59; Absent, 13; Excused, 1.

The SPEAKER: Seventy-eight having voted in the affirmative and fifty-nine in the negative, with thirteen being absent and one excused, the motion does prevail.

Thereupon, the Bill was passed to be engrossed as amended by House Amendments "A" (H-950) and "D" (H-960) and sent up for concurrence.

Mrs. Lewis of Auburn was granted unanimous consent to address the House.

Mrs. LEWIS: Mr. Speaker and Members of the House: I was delighted when I heard the gentleman from Windham, Mr. Diamond, speak about basic rights and about no bill was really dead and about fairness and equity. Of course, he was talking about the spruce budworm program, and I think what I am talking about is really a lot more important than that, and that is the rights of the members of this body.

To tell you the truth, I am really a little bit nervous and a little bit uneasy because, in my view, the majority of the people in this House violated the Constitution of the State of Maine yesterday—this is in my view. And today, I attempted to present an order in an orderly fashion under orders of the day, and I was denied the right or the privilege to present that order. So, I am wondering just what the situation is here. Ours is a society that operates under the rule of the law and a minority group can be denied rights. It is a very uneasy situation. If we can violate our Constitution and seat a member of this House, what is to prevent the same majority who voted for that to unseat members of this House?

Really, as a minority member, just think about it a little bit. Our seats are in jeopardy. The Republican Party is a minority here, the Democratic Party is a minority in the other body; that can reverse so that just because a person is all powerful one day is not necessarily going to remain in that powerful position, and I think that we should very carefully weigh what we are doing today.

I hope that anyone who wants to present an order to this body will be allowed to present it, no matter what the order is. We can vote on the merits of the order, and of course we can do that, but in no way should a person's right be denied to present an order.

I am very nervous about it and very uneasy, and I hope that you will share that uneasiness with me and make sure that it doesn't happen to any other member of this body.

Mr. Berry of Buxton was granted unanimous consent to address the House.

Mr. BERRY: Mr. Speaker, Ladies and Gentlemen of the House: I detected earlier that Mrs. Lewis was a little nervous; in fact, she was so nervous she was making me nervous and I still am. But I am going to try to perhaps tell her a story or two that maybe will relieve some of her tensions and therefore relieve some of mine.

I really don't think that the issue that she is bringing up is worthy of a response, but I have got most of my morning duties taken care of, the Speaker hasn't got my scouts down front yet, but I am sure he will, and as soon as he does, I think my work is nearly over for a few minutes, so I have got a little time on my hands right now.

As a matter of fact, I was about half way into a nap when Mrs. Lewis got up, and it was the high pitch sounds of distress that really got me to stand, and I felt that I had to do something to relieve those or I was just going to have to suffer without my nap.

I would just like to try to tell Mrs. Lewis that I was a member of the committee that voted to seat J. P. Marcel Lizotte. That didn't bother me too much because there is a little old lady up in my end of the country that when these distressful situations come along, I like to go to talk to her. She is very wise in the ways of the world. This is the same little old lady that we had quite a battle over that wanted to circulate her petitions at the polls. The dogs are bothering her and she couldn't hop over the snowbanks, but she is getting better now.

I spent quite a lot of time with her the other night and we discussed J.P. Marcel Lizotte, and she asked me, "What kind of a gentleman is he?" I said, "Oh, he is a fine person, you would like him, I know, because if you like me, I know you would like him." She assured me that I shouldn't have any problems seating J.P. She said, "I don't know why you came here to ask me anyway." She said, "You have run from this district for 10 years and two times out of the 10 years you had the nomination from both parties. So if you think you are doing things that wrong down there, you will find out because people will tell you, they won't send you back. You don't have to come and tell me about these little things or ask my advice." So, I didn't have any question about the Constitution anyway; you can read that any way you want to read it. Mrs. Lewis obviously reads it a different way than I do.

The House is the ultimate judge, the House said what they wanted to say, and I honestly don't see any reason or need to even bring it up, and much less on the record. I can't see that that serves any purpose whatsoever.

Mr. Garsoe of Cumberland was granted unanimous consent to address the House.

Mr. GARSOE: Mr. Speaker and Members of the House: I always enjoy the good gentleman from Buxton. Whether we agree or disagree, he has a touch that I appreciate and I know it has served us well in many instances, but he is way off base today.

We are faced with a situation that ties back to yesterday's action. If it wasn't made clear that I was very disappointed with the action the House took yesterday, I don't mind saying it again, but an event occurred yesterday afternoon that strikes at the very function of this body.

I have a high respect for the Speaker of the House, I have said it here on the floor, I nominated him, but I think he has made a mistake, and it is because of the respect I have for him that I have no hesitation at all in pointing out this mistake.

We had a fairly good discussion this morning, the Speaker and I. It had potential for getting heated but it didn't. I attempted to work a compromise that would have met what I perceive to be the important ingredients of this situation, but we couldn't put that together either.

But in the process of our discussion, the Speaker suggested, and not really unkindly, that I read the rules. That is his strong point, he is a master at the rules, so I took his advice and now respectfully call to the Speaker's attention that Rule 41 of the House makes it absolutely crystal clear that when any one of us puts a paper in the possession of the clerk, that paper is to appear on the next day's calendar. This is what I regard as the issue that we are talking about here today, and I want it resolved, and I am respectfully asking the Speaker to instruct us as to why I am not correct. Rule 41, if you will just take your books out and read it, it says that when any one of us presents a paper to the Clerk by one o'clock in the afternoon, that paper appears on the next day's calendar. When this rule starts to be ignored, we are all in jeopardy.

I want to make the most serious presentation to the Chair, I am not going to challenge the Chair, I am not going to raise anything, I am going to throw myself on what I consider to be



his mature and good judgment that there has been a mistake made, and all I want is an assurance that it will not be repeated. I respectfully pose that question to the Chair.

The SPEAKER: The Chair would be more than happy to respond to the gentleman from Cumberland, Mr. Garsoe, and at the same time respond to the gentlewoman from Auburn, Mrs. Lewis.

The Chair would first remind the gentleman from Cumberland, Mr. Garsoe, that House Rule 41 deals with petitions, memorials and other papers addressed to the House, and all bills and resolves that are to be referred to a committee.

Secondly, it also indicates that anything which is to be referred to the body the next day also shall be referred to the Clerk by 1:00 P.M. in the afternoon. Since the debate on this issue did not end until two o'clock yesterday afternoon, it was not necessary for the Chair to entertain that item before us today.

Third, pursuant to House Rule 1, the Speaker is responsible to observe order and decorum among the members of this body. If and when the order ever gets to this body, the Chair would have to rule that it is in violation of those rules since the order is frivolous, an obvious embarrassment, an attempt to embarrass a member of this body, and obviously does not deserve to be entertained by the members of this House.

I will read it: "ORDERED, that the members of the House of Representatives shall reaffirm their oath to uphold the Constitution of the State of Maine, pursuant to the Constitution of Maine, Article IX, Section 1." This is the order that the gentlewoman from Auburn, Mrs. Lewis wishes to have introduced.

Finally, I would inform the gentlewoman from Auburn, Mrs. Lewis, if she is worried about being evicted from this body, the Chair does not entertain that thought through this process but rather will use the polls at election time, and further would advise the gentlewoman from Auburn, Mrs. Lewis, and the gentleman from Cumberland, Mr. Garsoe, that Article IV, Part Third, Section 4, of the Constitution of Maine specifically deals with the question of expulsion of a member after they have been seated, and that specifically deals with a two-thirds vote by either House, each House having its own power over its own members.

Mr. Tarbell of Bangor was granted unanimous consent to address the House.

Mr. TARBELL: Mr. Speaker, Ladies and Gentlemen of the House: I think the Speaker protests too much. We know that the local custom of members in this House when they present papers, whether it be an order or a resolve, an amendment, a bill, to the Clerk's Office by the close of the day, if it is in on time, that it appears on the Calendar the following day.

I will defend the right of any member of this body, whether I am in the majority or minority, for them to place an Order on the calendar. If the Speaker wishes to rule it out of order and he feels that it is frivolous, that is his personal opinion, let him do so, but we, as members of the body, have the right to appeal that ruling. And the Speaker of this House, if you will read the rules, not only in our House rules and our Joint rules but other parliamentary rules such as Mason's, derives his power from us only. When he abuses those powers and stops out of bounds, then we reserve the right to object.

Last Friday, I placed an Order with the Clerk's Office in due time to appear on the printed calendar; We fought over it for a week.

I call this a grave and serious abuse of power by the Speaker of the House and it must stop. Either we are going to stand up and defend our rights as members of the Legislature, as Representatives representing our people back home in our constituencies, or we are just

going to simply sit by idly and watch democracy go down the drain on the floor of this House.

House Rule 41 mentions "other papers"—this Order that Representative Lewis would like to place on the calendar is, in fact, another paper.

One other point, although the Speaker has tried with the powers to maintain order and decorum, when the Speaker attempts to intimidate members and harass them and tell them, I won't do it, I do anything I want to do, which is what I was told today in a conference with the Speaker, in my mind that is utter disregard and disrespect to the members of this House and for the powers that we derive from the people who elect us back home. That is an insult to us all. When the Speaker causes the disorder and the lack of decorum, then I don't think he has the authority to maintain what he says, order and decorum, when he, in fact, is the cause that provokes it. That is precisely what has occurred here today. It has occurred here on previous occasions, and I object and I protest, so if the gentlewoman wants to put her paper on the calendar, I think it should come on a calendar today as other supplemental orders and other supplemental calendars are being presented to us.

We are in the last few days of the session, matters are appearing on the calendar to introduce new bills without the one o'clock requirement or without the requirement at the end of the day, and I will defend the right of anyone to place matters on the calendar. If they are out of order, if you don't like them, fine. We can discuss that, we can debate that, we can decide that under the proper rules.

Mr. McHenry of Madawaska was granted unanimous consent to address the House.

Mr. McHENRY: Mr. Speaker, Ladies and Gentlemen of the House: I believe we did our duty yesterday. We are the judge, we sit in judgment and we have ruled and now I think that Mrs. Lewis's Order is an insult to us.

Mrs. Lewis of Auburn was granted unanimous consent to address the House.

Mrs. LEWIS: Mr. Speaker, Ladies and Gentlemen of the House: I certainly don't intend to insult anybody, and especially I don't intend to insult the person that this is really all about because he is one of my very best friends in this whole body. But at this point, I would like to present an Order and move its passage. I believe the Chair is in possession of the Order.

The SPEAKER: The Chair would answer that the gentlewoman had the floor for unanimous consent and not to do anything else.

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

#### Divided Report

Majority Report of the Committee on State Government reporting "Ought to Pass" on Bill "An Act to Amend the Maine Guarantee Authority Act" (Emergency) (S. P. 780) (L. D. 1972)

Report was signed by the following members:

Messrs. AULT of Kennebec  
MARTIN of Arostook  
SUTTON of Oxford

— of the Senate.

Mr. LANCASTER of Kittery  
Mrs. BACHRACH of Brunswick  
Mr. CONARY of Oakland  
Mrs. DAMREN of Belgrade  
Mrs. REEVES of Pittston  
Messrs. PARADIS of Augusta  
BARRY of Fort Kent

— of the House.

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

Report was signed by the following members:

Mrs. KANY of Waterville

Mrs. MASTERTON of Cape Elizabeth  
Ms. LUND of Augusta

— of the House.

Came from the Senate with the Majority "Ought to Pass" Report read and accepted and the Bill passed to be engrossed as amended by Senate Amendment "B" (S-495)

In the House: The Reports were read.

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

Mrs. KANY: Mr. Speaker, I move acceptance of the Minority "Ought Not to Pass" Report and I would request 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 Kittery, Mr. Lancaster.

Mr. LANCASTER: Mr. Speaker, Ladies and Gentlemen of the House: I am a member of the State Government Committee and I am one of the majority who voted that this bill "ought to pass."

This bill has a simple purpose. It would allow the Maine Guarantee Authority to continue to do its job. Without it, the staggering impact of inflation would greatly undercut the fulfillment of its role in promoting new industry and creating new jobs.

Recent events make clear more than ever the overwhelming need of this state to broaden its tax base and to provide clean, productive jobs to citizens. The budgetary crisis we currently face in terms of human service funds, retirement funds, highway funds, and almost any other area, will only get worse unless we can do what we can to promote greater economic development.

In less than 10 years, the per capita income of the State of Maine has declined from 46 to 36. The current unemployment rate is 8.9 percent. If we are ever going to halt and reverse this decline, we must, as suggested by the Governor in his speech that he delivered in Bangor recently, be more aggressive in our attempts to attract new industry.

The bill before you today represents a modest and necessary vehicle to help us in achieving this goal. It would adjust the project limit on the guarantee portion of a mortgage from \$2.5 million to \$7 million. Further, it would raise the overall limitation of government guarantee authority activities from \$40 million to \$50 million. Presently, it is my understanding that outstanding guarantees total approximately \$33 million, leaving only \$7 million outstanding.

Other speakers will detail the potential impact of this legislation on individual industries and proposals. I would like to concentrate my remarks on the necessity for these changes in light of inflation over the intervening years.

In 1963, this Legislature allowed the guaranteeing of individual projects up to a limit of \$8 million. In 1971, this was lowered to \$4 million and then, in 1973, to \$2.5 million.

These changes were made in light of one notorious experience involving sugar beets. While making these changes, the Legislature made a number of other necessary adjustments to insure such an experience would not occur again.

In the meantime, the consumer price index has increased 129 percent since 1967, of which 100 percent growth has occurred since 1973. It is clear to me that current rates of interest exceeding 19 percent, along with prime rates of interest exceeding 19 percent, require us to move quickly and forcefully to make meaningful costs of living adjustments to the present limits.

In suggesting these changes, I wish to stress

that the existing law provides the state with ample protection and full security for any guarantee of issues.

This is not a give away program, or you could be sure that my good friend, Senator Hichens, who is a cosponsor of this bill, would not be associated with the bill; rather, it merely facilitates fulfillment of the original legislative goal in the creation of the Maine Industrial Building Authority and its successor, Maine Guarantee Authority.

I urge you to vote against the motion.

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

Mrs. WENTWORTH: Mr. Speaker and Members of the House: I rise in complete support of this bill. Other speakers will discuss in greater lengths the need for this legislation and its impact on the Maine Guarantee Authority. I believe they will make it clear that careful safeguards built into that law prevent any defaults which occurred in the past.

My interest in this matter is prompted by my knowledge of the great benefit it would have upon the town of Wells and surrounding communities. It would greatly facilitate the financing of Spencer Press, which proposes to build an \$8 million plant employing 250 or 300 workers. This printing company offers us a clean, productive industry, employing skilled workers at a desirable wage level. Our town and the surrounding communities are most enthusiastic about the potential of this proposal.

I would like to share with you briefly the history and level of that commitment. The firm purchased a 188 acre tract in an area which already suffered from a severe water shortage. This inadequate water pressure problem was of great concern to the towns people in Wells and throughout the Kennebunkport and Wells Water District. It presented a fire protection problem for Wells High School and surrounding areas. It is also located very near to propane gas tanks.

At a special meeting of the town of Wells in June of 1979, it was agreed overwhelmingly by the people of the town of Wells that the water district and the Spencer Press would jointly run a million gallon water tower and a 16 inch water main from Route 1 over one mile to the plant. This expense totals \$650,000 and is now 60 percent completed.

On the basis of this and other contacts with the representatives of this plan, the town is most favorably impressed with its commitment to the community and its desire to participate in solving problems of the area whether they relate to water supply, employment or economic growth.

I cite this example, not only to point out the obvious benefit from this law to our area but also to indicate its potential in helping other parts of the state. It is my understanding that without the guarantee, the financing is not feasible and would require a prohibitive rate of interest. If this one firm could benefit from this change in law, it is obvious that there are several others who could benefit as well.

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

Mr. JALBERT: Mr. Speaker and Members of the House: I first got involved with this proposition over a year and a half ago when I met the individuals that are involved in this problem. I speak of the officers of Spencer Press, Inc., of Hingham, Massachusetts.

As an officer and a substantial stockholder of the Maine Central Railroad, and a good part of our work being to carry paper, I immediately invited myself in and suggested to them a plot of land near my area in the town of Greene, where we had a railroad spur and to me it was an ideal situation.

Their attitude about this was not in the affirmative. Our meeting lasted all afternoon. The wife of the founder of Spencer Press was present, as well as the three sons, who are the remaining officers. I got to be quite friendly with

them, mainly due to the fact that their sales manager is a neighbor of mine and a friend of mine who owns property in Greene as well as Lewiston.

I speak about this because I have grown fond of these people. I know their character, I know their integrity on every level. I want them as my friends. I have them as my friends and I want to keep them as my friends. They ask for no tax rebate, they are a sound, solid concern. They spent a fortune of their own money laying the ground work in the town of Wells, and I want to congratulate the people in the town of Wells for being the beneficiary of what I think will eventually be one of our finest industries in Maine if and when they land here. I wish my people at home would be this fortunate.

I also became quite acquainted with the bonding problem through a refinancing program that the Maine Central Railroad went through a few years ago. Incidentally, as far as I am concerned, these people do such high-class work, that they sometimes even refuse work because their machinery, their equipment necessitates a higher type of paper and, fortunately, that paper is in Maine. So, really and truly, if I was a good railroader and I am supposed to be, I wish they would go to Cincinnati because we would have a long haul. As it is now, I am certainly not in conflict because it heads in the direction of Boston and Maine, and they are also fortunate.

If we are to get a better credit rating, it is going to be with people like this coming into the state, and if we refuse that, we are saying to the rest of the country, we do not want new industry in Maine, we are saying to the rest of the people in the state who have industries here, we don't want you to expand in the State of Maine. To me, this is the most important piece of legislation that I have seen come across my desk at this session.

I think the members of this House will agree with me that I can be flexible. I could have stood yesterday for a long period of time wherein it concerned itself with the Vocational Education Bill, and I think the sponsor and those who are for this program that we passed were somewhat surprised when I stood and honestly supported their proposition, even though I think mine is the better one of the two.

This is not a tax rebate situation. This will not cost the State of Maine one cent. This is a sound, solid piece of legislation that, honestly and truly, deserves the support of the members of this House.

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

Mrs. BACHRACH: Mr. Speaker, Men and Women of the House: I hope that you will defeat the "Ought Not to Pass" Report and go to support the "Ought to Pass" Report of the majority of this committee.

We were all most impressed with the proposal put before us and I want you to know that I see this bill as a proposition for jobs in Maine. If there is anything we need in our state it is good, solid, high paying jobs, and these are not subsistence jobs, these are not layoff type of jobs where people will barely make a living. They proposed to have skilled workers and pay them \$18,000 to \$20,000 a year, many of them. So, I feel that this is exactly the kind of business that we need in Maine. Not only will they provide jobs but they also proposed to purchase the paper they use in Maine, so it will aid another industry that we have.

I do hope that you will vote in favor of this legislation.

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

Mr. LEONARD: Mr. Speaker, Ladies and Gentlemen of the House: I want to thank the Speaker for calling me back because I did want to debate this bill.

I might point out that the Speaker, in his haste to close the gate, only had nine votes ordering a roll call and that is obviously less than

one-fifth, but I guess that is too late to question that vote.

I am interested in this bill. I probably am not in the perfect frame of mind to debate it, but I would like to call your attention to the fact that anytime the government gets into a situation where it gives something to one industry or one company that it doesn't extend or give to another, then you have a competitive imbalance there. That, to me, can spell disaster. It very definitely is happening in the City of Bath at the present time where we have a shopping center and there is a proposed expansion to that shopping center and the person, in hopes of doing that, is after low-interest money, that being taxpayer subsidized money and this, quite frankly, is taxpayer subsidized money.

If he is successful, the other merchants in the city are a little bit concerned, because he is, in fact, building that shopping center with a benefit that they are not being able to take advantage of themselves, and he will have a competitive advantage because the shopping center will cost him less to build than his competitor and therefore he can make leases for less amounts of money, however, miniscule you might think those leases would be, and then when the leases are compared to the leases others are paying, and obviously the costs of the leases go into the cost of product, doing business, and other products are priced less accordingly. I am not sure that that is going to be doing the consumer a bit of good but it certainly isn't doing the competitor any good at all. That is basically why I do not like this type of legislation.

As far as cost is concerned, it does cost tax money, because the theory here is that we can go out and sell tax-free bonds to cover this indebtedness. Well, if that, in fact, happens, there is no tax revenue and government feeds off tax revenues. It has to be made up from other sources, so I don't think you can ever believe that it is a no-cost situation to the State of Maine.

With that, I simply hope you will accept the Minority "Ought Not to Pass" Report.

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

Mr. JALBERT: Mr. Speaker and Members of the House: I am flabbergasted at the remarks of the last speaker, because I remember here, voting along with 150 other members, and last year he liked to slip me a fast curve about my former employment and he knows that I didn't like it one single bit. It would be very easy for me to take care of it in my usual way. But we voted to hike \$50 million without one word of debate for the Bath Iron Works, where his father works, a few years ago—not one word of debate based on the fact—

The SPEAKER: The Chair recognizes the gentleman from Cumberland, Mr. Garsoe, who may state his point of order.

Mr. GARSOE: Mr. Speaker, I respectfully suggest that the gentleman goes too far impugning the personal motives of a member of this body.

The SPEAKER: The Chair would advise the gentleman from Lewiston that he has not yet impugned the motives or the intent or the desire of the gentleman from Woolwich, Mr. Leonard, but the Chair would suggest that he watch the tone with which might be implied something was intended.

The gentleman may proceed.

Mr. JALBERT: Mr. Speaker, Ladies and Gentlemen of the House: I could go down and get the record of the remarks that were made by the gentleman from Woolwich of his remarks and the language just what the implication was.

As far as my dear friend in the left hand corner, who I like to argue with in his office once in awhile, I stood here today and I sat very quietly and listened to a beef stew that should be taken care of between the leadership and not with us. When something is over, it is over.

I supported that thing and that bill meant that we would get in Bath Iron Works a big contract and I wholeheartedly supported it. I was delighted to know it. I am very friendly with the people at the Bath Iron Works including the young gentleman from Woolwich, Mr. Leonard's father and I am proud to have his friendship. The only thing we have to hang our hats on is if we got the contract. As it was, Senator Stanus of Tennessee, Chairman of the Committee, saw to it that the contract went to the wrong place, Litton, and they did not do the job. The contract should have gone to Bath, because Bath Iron Works can do the job and Bath Iron Works, in my opinion, is the best ship-building operation in the world. I think if they were stacked up and a survey and review were made, it would bear out my position.

As it happened, Litton did get the work, Litton did not do the job, and some of the work is being done now at Bath and I understand from sources and friends of mine in Washington, that they are in for more work and I am delighted, as I am delighted for this thing here to go.

I am certain that probably the young man from Woolwich does not know me as well as my good friend from Cumberland, Mr. Garsoe. I don't talk any different, Mr. Garsoe, to you on the floor of the House than I do when I wake you up early Sunday morning? You know, I praise and I blast, I blast and I praise, that is my nature, but you know one thing, two seconds after it is done, while I sit with you in your office, we are not going to have any rhubarb, you know that.

As far as I am concerned, I would take a little bit of issue with my friend with the mallet here. You know, he is going to get arrested for manslaughter if he keeps on to kill Ed, but he keeps beef stewing and if you raise your voice, he knocks you down. It is my nature to speak the way I do, I am a little impetuous, and on this particular situation here, I have my heart and soul in this bill. The Speaker knows it and every member of this House knows it.

I will just give you an example of how badly these people want to come to Maine. The Treasurer of the company has already purchased land in Maine and is going to build a home in Maine. They want to come to Maine. They could have gone to other states, they would have been welcomed in other states. They want to come to Maine, I want them to come to Maine; they are real people.

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

Mr. HOWE: Mr. Speaker and Members of the House: I have a couple of questions I would like to pose through the Chair and I confess that I don't know a great deal about the Maine Guarantee Authority nor this particular business.

My first question is whether this Spencer Press is a union shop and, if so, whether it intends on being one when it comes to Maine?

My second question is whether this, and I truly don't know the answer to this, use of MGA authority is anything of a precedent, and I ask that because it has been my impression that the MGA has been used to start up and encouraged to start up new businesses rather than encourage existing business to move and maybe that is not a precedent but I would like to have those two questions answered.

The SPEAKER: The gentleman from South Portland, Mr. Howe, has posed a series of questions through the Chair to anyone who may respond if they so desire.

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

Mr. JALBERT: Mr. Speaker and Members of the House: As far as the idea of encouraging new business, I think that is just a common situation that can exist anytime. Pratt and Whitney is proof of that, that is an existing industry that decided to come to Maine in a program and they no doubt will expand.

As far as the first question about the union

shop is concerned, that depends on the people that will be hired to be working at the plant. If they decided to have a meeting and they decide to file petitions with the Labor Relations Board of their intent to formulate a union, that is their prerogative. Certainly, whether they are a union shop or not or whether they are going to be a union shop or not is not involving itself in this thing here. That is not going to be any of their concern anyway. That is going to be the concern of the employees.

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

Mr. HOWE: Mr. Speaker and Members of the House: I am still curious, however if anyone knows whether Spencer Press, wherever it is located now, is a union shop?

Furthermore, it seems to me that the MGA was not an issue with the Pratt & Whitney move but tax breaks were.

Quite frankly, I asked both the questions because I have some reservations in retrospect for having supported that Pratt & Whitney move and reservations that were expressed by some of my constituents who are in private sector business.

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

Mr. LEONARD: Mr. Speaker, Ladies and Gentlemen of the House: I just wanted to stand up and say, I have no idea what the gentleman from Lewiston is talking about, other than I at least got one zinger in on him last year, and that really wasn't meant to be facetious. I know that he is not in his seat, I hope he is in the sound of my voice. I apologize to him. I also didn't realize he was doing great things for BIW based on the fact that when Litton got the contract away from us because of other things, other reasons, other than what this Legislature did. For his information, I worked on that particular contract or that bid. Also for his information, we are not doing any part of that at the present time, but I just simply wanted to say that I am totally confused. I have no idea why this bill correlates with anything I did in the past. I am sorry if that is the case.

My arguments on this particular legislation still stand, without any excuse.

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 but I did agree to speak in favor of this bill and I do speak in favor of it. I think it creates more jobs in the State of Maine at a time when we are going to need them.

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

Mrs. KANY: Mr. Speaker, Ladies and Gentlemen of the House: I guess I have been putting off getting up on this issue as long as I can. I have a feeling that I am going to lose. I have a feeling that many people in this body have already committed themselves and, naturally, I would not want them to go back on their word, and perhaps I shouldn't even bother to get up. But at least a couple of questions were asked: (1) No, Spencer Press isn't a union shop; (2) regarding Pratt & Whitney, of course Pratt & Whitney and the Maine Guarantee Authority have had no relationship whatsoever.

I would like to talk about the Maine Guarantee Authority. We have had quite a few discussions about some of the programs on the floor of this House this year so far. There are four programs; three of those programs, from my point of view, are excellent programs. I have fought to enlarge two of them on the floor of the House this year, the Municipal Securities Approval Act, revenue bonds for energy generating facilities, distribution facilities, multi-family housing and so on. I have fought for that—revenue bonds, remember, not a direct obligation of the State of Maine.

Secondly, the Maine Guarantee Authority's second program has to do with revenue obligation in the name of the State of Maine,

but, once again, no direct obligation of the State of Maine. I have fought in our committee for enlarging that to allow other programs to come under those revenue bonds. You have heard our discussions, Representative Leighton and I, on the topic of revenue bonds, excellent programs, worthy of being enlarged.

There is a third program that I hope we can enlarge next time having to do with the community industrial building that I would like to see changed, improved, and a very good history in its short life.

Then, we have our embarrassing disaster, the guarantee program. This is it. This is what this bill is about. We are being asked in this bill to increase the potential obligation of the State of Maine. Remember, this would be a continuing increase of \$10 million, a continuing increase of \$10 million in potential liability for the State of Maine under the Maine Guarantee Authority's guarantee program. Here we have a few other liabilities, don't we? What is it, \$47 million, Representative Nelson, that they are talking about in retirement system, unemployment funds, you name it? We have other obligations. I certainly hate to see this particular guarantee program expanded.

The law now allows us to guarantee an individual loan of \$2.5 million. This bill calls for increasing each individual loan limit as a potential to \$7 million. This is not the time to get into this type of risky venture.

We recently heard from Moody's again in which they reestablished our Double A rating with them, talking about how our trend in the last several years has been to try and provide better financial management in the State of Maine, a record of which we should be proud. Part of that trend has been in lowering that individual limit on the guarantee programs and lowering statutorily and constitutionally the potential liability of such guaranteed loans. This would definitely be a departure from that trend, and I must say, in all of Moody's report they refer to that adverse experience that we have had with our guarantee loan programs before and that definitely was a factor in our going from a Triple A to a Double A rating.

I would like to quote from Moody's, talking of summary under our Double A — by the way, this is dated March 5, 1980 — Debt has been well controlled in the past few years following a sharp rise, debt structure is sound and debt service is a moderate burden. The state has, however, extended its credit to a number of agencies and experience in guaranteeing industrial mortgage has been unfavorable. Steps have now been taken to limit further exposure, etc.

Reference (2) — Experience with the guarantee programs has not been successful. The state has funded \$21.1 million defaulted loans, including some college student loans and loans made by Maine Sugar Industries Inc., Kennebec Pulp and Paper Company, Sebago Lake Company's project, the Evergreen Valley Development Corporation and others, that is Moody's everybody. I hope you heard that.

I would like to point out those industrial guarantees now outstanding. These are marginal companies that generally come to the Maine Guarantee Authority under this program asking for such guarantees.

Remember, I am the one that has stood up here fighting for expansion of those revenue bond programs. I have tried to vote for every single economic development program before this House, but I urge you to consider, before you get into this disaster in reversing our trend of financial management stability, the industrial guarantee program is not something about which we can brag.

Right now, I would like to name some of the companies that are now in default under our existing program — Maine Guarantee Authority, industrial guarantees, for those of you who are interested; AKF Foods, Inc., Caribou, in default; Andrews Enterprises, Inc., Kenne-

bunk, in default; Bonner Vauter, Inc., Rockland, in default; Cyr's Meat Packing, Inc., Caribou under Chapter 11, Bankruptcy; First Hartford Realty Corporation, behind in their payments, that is Waterville, Wyandotte Industries; Noreast Wood Products, Inc., so badly in default the Maine Guarantee Authority just shut them down. That is not what you call a great record, is it, everybody?

I am not even getting into the recreational ones; precentagewise they have a worse record.

Of the four programs under the Maine Guarantee Authority, this is the one that I urge you not to support. I know I am talking to myself, most of you have already committed your votes, but I would like to talk about, just to get your attention, why this legislation is before us. It is before us because of one company, Spencer Press. It is very fascinating and I hope it stays here in Maine. It does have about a million investments, primarily in land in Wells, and I think that is why Senator Hichens probably put his name on the legislation. It does very good work; we have seen the high quality work that they do, and I would hope that they would be here, but it is a family-owned corporation, and from my point of view, there is no reason why a highly leverage company such as that should not be going out for equity financing. They could get other partners and then go out for their loans and not be in the 'fair' condition that Dunn and Bradstreet now says that they are. They could sell on the open market to shareholders, they could open up their company to the public and get much better equity financing so it would not be the marginal company that it is.

I don't like the idea of one company coming and opening up from \$2.5 million to \$7 million that individual loan limit, because that will stay there on the books. I have personally voted for individual companies, appropriations for Pratt and Whitney, and you name it, but I don't think that this is the way to go and I certainly hope that you vote with me, with the minority, in favor of the "ought not to pass" report.

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

Mr. LEIGHTON: Mr. Speaker, Ladies and Gentlemen of the House: I just had to stand and commend Representative Kany. I let her wear my Reagan pin yesterday, and her thinking is really coming around and I have real high hopes for her.

There have been all kinds of points made about this thing, but it is a very simple bill, it is just going to raise the bonding limit of the Maine Guarantee Authority, and there are only about three simple points to remember.

Representatives Leonard and Kany enumerated a couple of them very nicely. The first point is, why should you treat one business better than another. This is what Representative Leonard seemed to be talking about. Representative Kany talked about the sorry record of the firms that we have lent money to through the Maine Guarantee Authority. The final point that I would like to emphasize is probably the most important one, and that is our sorry credit rating as a state, and it stems almost directly from this kind of thing. And we are certainly not going to improve that credit rating by continuing what we have done in the past.

I would strongly urge the defeat of this bill. I have no idea why Representative Kany thinks she is alone.

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

Mr. LANCASTER: Mr. Speaker and Members of the House: I will be very brief. There is an amendment to this particular bill that would eliminate recreational projects. That is some of those that were bad investments in the past.

Also very briefly, just to summarize what has taken place, this company, Spencer Press, they not only will put up their equity they have in their building and factories and so forth in

Massachusetts as collateral but also the new building, a hundred percent.

The Maine Guarantee Authority, they will not be making a bum investment on this, as has been indicated; in fact, it is a good investment. The payroll alone, within three years, will be \$5 million. That is a lot of money to come into the state. We need that money. Think what is going to happen on your income tax, your sales tax, the impact in the particular area. There is a need for more industry in Wells. I know that town very well; I used to be town manager there years ago. I know the people, the area and what it will accomplish.

I can't agree with the gentlelady from Waterville in regards to her thoughts on this bill, even though I have a lot of respect for her and we have been supporting the other bills in regards to the Maine Guarantee Authority. This is a good bill. We should not vote for the minority "ought not to pass" report. We need this bill very badly for the State of Maine.

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

Mr. ROLDE: Mr. Speaker, Ladies and Gentlemen of the House: I apologize for continuing this debate. I will make four very quick points.

I didn't know until the debate that this bill was sponsored by the good Senator from my area; that has not changed my mind, I am still going to support the bill.

Second of all, I would like to tell you that from figures that we have from January 1 to March 17 of this year, the state has lost approximately 2,000 jobs through plant closing.

Third, it may be thought that I am standing up here supporting this because I live in the town next to Wells. The people in my area are of two minds about industrial development and jobs. Our town has grown from something like 5,600 people to 10,000 people in the last few years. There are a lot of people who don't want any jobs in that area, but I feel that this is an essential project.

Finally, I am a publisher myself. I know that we don't have printing facilities like this in the state. My company has to go out of state; I hope you will support this bill.

Mrs. Kany of Waterville was granted permission to speak a third time.

Mrs. KANY: Mr. Speaker and Members of the House: I would just like to point out that Spencer Press is eligible for revenue bonds now up to \$10 million under either our Municipal Securities Approval Act or our Maine Guarantee Authority Revenue Obligation Act — \$10 million in revenue bonds.

I would like to point out that the Maine Guarantee Authority, a portion of that, the revenue obligation act, allows up to \$2.5 million dollar guarantees, so right now this company, this family-owned company, this highly leveraged little company that can go out for equity financing is available for your revenue bonds and it can now have a guarantee of \$2.5 million.

Vote as you please; I hate to lose and I am not looking forward to it.

The SPEAKER: A roll call has been ordered. The pending question is on the motion of the gentlewoman from Waterville, Mrs. Kany, that the Minority "ought not to pass" Report be accepted. All those in favor will vote yes; those opposed will vote no.

#### ROLL CALL

YEA—Aloupis, Benoit, Berry, Bordeaux, Brown, D.; Carter, D.; Carter, F.; Churchill, Connolly, Curtis, Dellert, Fillmore, Gavett, Gray, Higgins, Howe, Huber, Hughes, Hunter, Hutchings, Immonen, Jackson, Kany, Leighton, Leonard, Lewis, Locke, Lougee, Masterman, Masterton, McHenry, Mitchell, Nelson, M.; Post, Reeves, J.; Roope, Sewall, Smith, Sprowl, Stover, Tarbell, Torrey, Whittemore.

NAY—Austin, Bachrach, Barry, Beaulieu, Berube, Birt, Blodgett, Bowden, Brannigan, Brennerman, Brodeur, Brown, A.; Brown, K.L.; Brown, K.C.; Bunker, Call, Carrier, Carroll, Chonko, Cloutier, Conary, Cunningham,

Damren, Davies, Davis, Dexter, Diamond, Doukas, Dow, Drinkwater, Dutremble, D.; Elias, Fenlason, Fowle, Garsoe, Gillis, Gowen, Gwadosky, Hall, Hanson, Hickey, Hobbs, Jacques, E.; Jacques, P.; Jalbert, Joyce, Kane, Kelleher, Kiesman, Lancaster, LaPlante, Lizotte, Lowe, MacBride, MacEachern, Mahany, Marshall, Martin, A.; Matthews, Maxwell, McKean, McMahon, McPherson, McSweeney, Morton, Nadeau, Nelson, A.; Nelson, N.; Paradis, E.; Paradis, P.; Paul, Payne, Pearson, Peltier, Peterson, Prescott, Reeves, P.; Rolde, Rollins, Sherburne, Simon, Small, Soulas, Stetson, Strout, Studley, Theriault, Tierney, Tozier, Twitchell, Vincent, Violette, Vose, Wentworth, Wood, Wyman, The Speaker.

ABSENT—Baker, Boudreau, Cox, Dudley, Dutremble, L.; Laffin, Lund, Michael, Norris, Silsby, Tuttle.

Yes, 43; No, 97; Absent, 11.

The SPEAKER: Forty-three having voted in the affirmative and ninety-seven in the negative, with eleven being absent, the motion does not prevail.

Thereupon, the Majority "Ought to Pass" Report was accepted and the Bill read once. Senate Amendment "B" (S-495) was read by the Clerk and adopted in concurrence and the Bill assigned for second reading later in the day.

#### (Off Record Remarks)

Recessed until the sound of the gong.

#### After Recess

1:30 P.M.

The House was called to order by the Speaker.

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

#### Divided Report

Six Members of the Committee on State Government on Bill "An Act to Create a Board for Barrier Free Design" (S. P. 692) (L. D. 1812) report in Report "A" that the same "Ought to Pass" in New Draft under New Title Bill "An Act to Assure Compliance with Existing Laws Affecting Disabled Persons' Access to Certain Buildings Open to the Public" (S. P. 798) (L. D. 2002)

Report was signed by the following members:

Mr. MARTIN of Aroostook — of the Senate.

Mrs. KANY of Waterville  
BACHRACH of Brunswick

Mr. BARRY of Fort Kent

Mrs. MASTERTON of Cape Elizabeth  
REEVES of Pittston

— of the House.

Four Members of the same Committee on same Bill report in Report "B" that the same "Ought to Pass" in New Draft under New Title Bill "An Act to Assure Compliance with Existing Laws Affecting Disabled Persons' Access to Certain Buildings Open to the Public" (S. P. 799) (L. D. 2003)

Report was signed by the following members:

Messrs. SUTTON of Oxford

AULT of Kennebec

— of the Senate.

Messrs. PARADIS of Augusta

CONARY of Oakland

— of the House.

Three Members of the same Committee on same Bill report in Report "C" that the same "Ought Not to Pass"

Report was signed by the following members:

Ms. LUND of Augusta

Mrs. DAMREN of Belgrade

Mr. LANCASTER of Kittery

— of the House.



Came from the Senate with Report "B" "Ought to Pass" in New Draft under New Title (S. P. 799) (L. D. 2003) Report read and accepted and the New Draft passed to be engrossed as amended by Senate Amendments "B" (S-496) and "C" (S-497)

In the House: Reports were read.

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

Mrs. KANY: Mr. Speaker, I move acceptance of Report B "Ought to Pass" in concurrence.

You will notice that a number of us are on the Majority Report "A" but we have discussed this and have chosen to go with Report "B" with the amendments attached thereto. I just wanted to explain that to you.

Thereupon, Report "B" was accepted in concurrence and the Bill read once.

Senate Amendment "B" (S-496) was read by the Clerk and adopted.

Senate Amendment "C" (S-497) was read by the Clerk and adopted.

Under suspension of the rules, the Bill was read a second time, and passed to be engrossed in concurrence.

By unanimous consent, ordered sent forthwith to Engrossing.

#### Non-Concurrent Matter

Bill "An Act Increasing the Minimum Handling Fee for Returnable Beverage Containers from 1¢ to 2¢" (H. P. 1973) (L. D. 2012) on which the Minority "Ought to Pass" Report was read and accepted and the Bill passed to be engrossed in the House on March 19, 1980.

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

In the House:

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

Mr. HOWE: Mr. Speaker, Members of the House: I move that the House recede and concur.

I would like to briefly review some of the arguments against increasing the handling fee that I and others presented the other day. I would like to explain to you how the handling fee fits into the system of deposit containers.

The distributor sells beer and soda to the retailer at cost plus the amount of the deposit. From there, it goes from the retailer to the customer for cost plus deposit, plus the mark up. The customer, presumably, consumes the beverage and then redeems or returns the container to the retailer or in some cases, a redemption center, where the amount of deposit is given from the retailer to the customer. At that point, the retailer is down the amount of the deposit, so when the retailer or redemption center returns the empty container to the distributor, the deposit, plus a one cent handling fee, is then handed back to the retailer.

If distributors must return the deposit plus two cents to retailers, they will obviously raise their wholesale price. Retailers will then mark up that increase, resulting in an increased cost to consumers of more, actually, than one cent per container. Because there are approximately one half a billion redeemed containers in Maine in the course of a year, the total cost to Maine consumers will be \$5 million plus whatever mark up the collective retailers use.

You should support this bill only if you truly believe that retailers are not capable of doing the two following things: The first is that you believe retailers are incapable of raising purchase prices of their products without a law being passed, and I ask you, do you really believe it takes a law to require retailers to mark up their prices? I submit not. In fact, legislation frequently comes before us and is opposed by persons who warn us that its passage will increase the overhead for various types of businesses and they will then have to raise their cost to consumers. Now some of those same people are supporting a bill that will

force consumer costs to be increased.

The second thing I believe, you must believe retailers are incapable of doing in order to support this bill, is that they are incapable of helping redemption centers cover their costs without passage of a law. I submit, as I did the other day to you, that redemption centers were created and exist to serve retailers. That was why that concept was put into the law in the first place, that is why it is there now. It turns out, however, that the majority of retailers in the state appear not to believe that redemption centers are in their overall, all things considered, economic interests, because they fail to support them and rather accept those deposit containers themselves.

There has been debate about — some people have said they don't give a hoot about the big chain stores but it is the Ma and Pa stores that they are concerned about, and certainly I am sure that all our hearts go out to Ma and Pa and to Ma and Pa stores, as they do for small people in the small businesses everywhere, but Ma and Pa stores put price tags on their products just like the big chain stores do and they don't need a passage of a law to tell them to do this.

This is but a very small aspect of the total overhead and total operating expenses of running a business. Virtually, all of those expenses and overhead items are increasing all the time. No law is necessary in order to inform retailers that they must mark up their price in order to cover their costs and the situation is no different today.

I know that grocers have been diligent on the telephones with legislators in the last several days. I suspect, for very good reasons, that most people who buy soda and beer have not been diligent on the telephones and it is probably not necessary to remind legislators that they have far more constituents who buy beer and soda than they do those who sell them. I submit that passage of this law is not necessary and, indeed, what it will do will be to guarantee that the prices to consumers of Maine will go up.

I urge you to vote to recede and concur.

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

Mr. D. DUTREMBLE: Mr. Speaker, Ladies and Gentlemen of the House: I would request a roll call. I, too, as well as all of you, I am sure, are very concerned about the consumer and the prices they have to pay. I made this decision and I am sure that probably a lot of you made that decision, that regardless of which way we go here, the consumer is going to have to pay more for their product.

When I looked at this, I looked to see which way it would be best for the consumer. If you go with Mr. Howe's approach and leave it at the discretion of the retailer to raise the price whenever he feels necessary to cover his costs, that means you could have a penny increase now, a penny increase in three months, maybe nine months from now they will think they need some more money, so they can raise it again by a penny and they can keep on doing this for as long as they want because the legislature, or what was said in the legislature, said that the retailers should raise their prices whenever they feel they cannot cover the costs of handling their bottles. It seems to me that this could go on and on and on and they could raise their prices and say, well, the legislature told us we could do it.

On the other hand, if we raise a penny here, the charge to the distributor, not to the consumer, which probably would eventually be passed on to the consumer, maybe it will be only a one-shot deal and at no time could a retailer say, well, I can raise my prices because the legislature told us we could; we didn't tell them that. We are telling them that for this one time we are going to give you a penny increase to handle the cost of handling those bottles. At the same time, there is also another good thing

about this bill, it would also help the redemption centers, who also need extra money to handle the bottles. Without this, I would say that a lot of the redemption centers that are there now won't be there next year.

Again, the bottle bill was passed, I voted for it and a lot of people in Maine voted for it. They want it to work, redemption centers is part of the bill, and I think it is our duty here to help them make the bill work as much as possible. I think that two cents, the extra increase by a penny to two cents, passed to the distributor, not to the consumer, is the right way to go. I think you will find if you check prices of beverages today on the market, they are already at the highest point that they can be. I think you will find that they have probably raised them already in anticipation of this bill. Maybe we should check on that.

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 Yarmouth, Mr. Jackson.

Mr. JACKSON: Mr. Speaker, Ladies and Gentlemen of the House: The other day I had a grocer call me and he insisted that there was a state law that said a 6 percent profit was mandated and that everybody had to make 6 percent. I disagreed with him but he felt very strongly that was the way the law was.

I think Mr. Dutremble has really hit this pretty close in the head and I see it a little bit differently. Shall we mandate, shall the Legislature involve itself in the free market system and mandate this penny, this \$5 million penny, or will we let the free market place handle this problem? It is going to be very interesting, it certainly was interesting to me the other day to see the legislature's point of view, which, basically, in my view, said we will mandate that the legislature will step in and involve itself in this problem and will mandate this penny.

The only other point I want to make is, if we mandate this penny, this \$5 million, we are going to be back to mandate another one and another one and another one, because inflation is not going to stop and prices are going to keep going up. This is a problem that should be handled in the market place, free market place, not mandated by government.

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

Mr. HUGHES: Mr. Speaker, Members of the House: This is labeled the bottle bill, but actually it has nothing to do with the bottle bill. There are people on both sides of this issue who were on both sides of the bottle bill issue when it was originally debated.

Many of you will remember that I was a passionate spokesman for the bottle bill during its debate, but I did so in a very uncomfortable situation because at that time I worked for a soft drink company and my father worked for a soft drink company and my uncle worked for a soft drink company and my cousin and my other cousin and my brother, and all of them were on the other side of that issue and it caused a great deal of personal disagreement back home, but this is not that kind of issue.

This is an issue between two lobbying groups that are here before us today, the soft drink and beer distributors on one side of the issue and the storeowners and redemption centers on the other side of the issue. If you had to choose between those two lobbies, I suspect it would be pretty easy because there are many more storeowners than there are soft drink distributors and bottlers.

Unfortunately, the area of concern that has no lobby up here on this issue are Maine's consumers, they are not well represented here in

the lobby and I want to call your attention to them because they are the ones for whom a burden will be imposed to meet the needs of either of these two industries. The only lobby for the consumers, the people back home who are going to have to pay the bill, are all 151 of us. I think we all know that and certainly don't need to be reminded of it.

It is important to realize that we are talking about a bill with a price tag of about \$6.25 million, and that is a conservative estimate, to accomplish several things. Part of it is to accomplish a subsidy to redemption centers so that the 27 which exist in the State of Maine may stay in business for another year.

You have to think about what you have to think about redemption centers and how much you want to inconvenience and cost the consumer of the State of Maine to keep those 27 redemption centers in business.

There is an alternative way to keep them in business, and if they are meeting a need and if they are meeting a need to the stores they serve, not the customers they serve but the stores they serve, then those stores ought to be able to make their own decisions about whether they want to contribute a monthly fee to keep those redemption centers in operation. That is the way some of them work now. It is the only way, in the long run and, in my opinion, redemption centers are going to stay viable. They are going to have to meet the needs of the stores they serve. To the extent they do that, they will be supported; to the extent they don't do that, they will fail as do hundreds of Maine businesses every single year who don't meet legitimate needs.

The other area of our concern are the stores who will benefit by this mandated price increase to the Maine consumer. About \$6.25 million was split down roughly this way — about half of that \$6.25 million will go to supermarket chains, and I have seen no evidence and I have attended every work session and every hearing on this bill before the Business Legislation Committee, I see no evidence that they aren't making a go of it even at one cent, but certainly no evidence that they need a 100 percent increase to make a go of it for the handling charge.

If you think that is reasonable, think about that for awhile, do they need \$3 million more than they are getting now to handle their bottles? My experience tells me no, they do not.

I wish, for the first time in my life, that I was on the same side as my father's company, but he retired. I left the company, my uncle has passed away, another cousin has left the company, so we are all out of it now and I have finally come around and I am agreeing with my former employer on an issue.

There are other remedies, as I have stated. I want to give you some idea of the history of the bottle bill in other states, because Maine was unique in putting in this one cent handling charge in the first place. It was done by the sponsor at the time, who was the Republican minority leader in this body. It seemed to be a way to ameliorate some of the concerns of people who were opposed to the bottle bill, and it was put in. But this handling charge idea has never been a major feature in Oregon, it has never been a major feature in Vermont; Maine is unique in that respect, and it seemed to be the majority of the Committee on Business Legislation, voting about 8 to 4 or 9 to 4, if my memory serves me correctly, and we ought to get out of the business of legislating that idea too. If we are not going to take away the one cent that is already there, we at least ought not to add to it, and to continue that process of price setting here in Augusta, telling people what they have got to charge for a service, for a cost of doing business.

If we are going to pass this kind of bill, meddling in the affairs of hundreds of small businesses all across the state and not subjecting them to the competitive factors, then we ought

to do some changing, at least in our Joint Rules, we are going to need a Joint Committee on Price Fixing which will have the time and the mandate to look into ledgers to decide how much, indeed, it costs to handle bottles, how much space is needed, how many people you have to hire, how many hours they have to work, so that when industries come to us, we can make a fair judgment on that matter. But to make the kind of gross generalization that has been made in this bill to give a hundred percent increase in one year for a service about which we have so little information, it seems to be unwise policy. I don't think that kind of change is necessary, because I think we all understand that we are the lobbyists for the common man. The common man is going to have to pay, for a family of four, about \$25 a year more if this bill passes, and that is across the board.

I think some of us, especially those who represent working area districts, understand that it is in working class communities where they buy more beer, more soft drinks; that may be unpleasant but it is true. They don't drink liquor as a rule, they drink beer. They drink a lot of soft drinks. So in a town like my own town, it is going to hit even more hard on the working person.

You are talking \$25 a year per family, and you ought to ask yourself, are we buying a service, are we buying a service for those consumers that they want and need for that \$25. If you have seen enough evidence to justify that, fine, vote for the bill; if not, I ask you to vote to recede and concur, to join the other body in indefinitely postponing this bill.

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

#### ROLL CALL

YEA — Aloupis, Bachrach, Baker, Benoit, Birt, Brannigan, Brodeur, Brown, A.; Brown, K. L.; Brown, K. C.; Call, Carter, D.; Carter, F.; Conary, Connolly, Davies, Davis, Dellert, Diamond, Doukas, Drinkwater, Fillmore, Gavett, Gowen, Gray, Gwadosky, Hanson, Hickey, Howe, Huber, Hughes, Jackson, Kane, Kelleher, Lancaster, Leighton, Lewis, Marshall, Masterton, McHenry, McKean, McPherson, Michael, Nadeau, Nelson, M.; Paradis, E.; Payne, Prescott, Reeves, J.; Reeves, P.; Sewall, Simon, Small, Smith, Soulas, Stover, Studley, Tarbell, Theriault, Torrey, Vincent, Whittmore.

NAY — Austin, Barry, Beaulieu, Berube, Blodgett, Bordeaux, Bowden, Brenerman, Brown, D.; Bunker, Carrier, Carroll, Chonko, Churchill, Cloutier, Cox, Cunningham, Curtis, Damren, Dexter, Dow, Dutremble, D.; Dutremble, L.; Elias, Fenlason, Fowlie, Garsoe, Gillis, Hall, Higgins, Hobbins, Hunter, Hutchings, Immonen, Jacques, E.; Jacques, P.; Kany, Kiesman, LaPlante, Locke, Lougee, Lowe, MacBride, MacEachern, Mahany, Martin, A.; Masterman, Matthews, Maxwell, McSweeney, Mitchell, Morton, Nelson, A.; Nelson, N.; Norris, Paradis, P.; Paul, Pearson, Peltier, Peterson, Post, Rolde, Rollins, Roope, Sherburne, Sprowl, Strout, Tozier, Tuttle, Twitchell, Violette, Vose, Wentworth, Wood, Wyman, The Speaker.

ABSENT — Berry, Boudreau, Dudley, Jalburt, Joyce, Laffin, Leonard, Lizotte, Lund, McMahon, Silsby, Stetson, Tierney.

Yes, 62; No, 76; Absent, 13.

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

Thereupon, the House voted to adhere.

Bill "An Act to Amend the Charter of the Limestone Water and Sewer District" (H. P. 1960) (L. D. 2008) which was passed to be engrossed without reference to a Committee in

the House on March 14, 1980.

Came from the Senate passed to be engrossed as amended by Senate Amendment "A" (S-494) without reference to a Committee in non-concurrence.

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

The following paper from the Senate appearing on Supplement No. 6 was taken up out of order by unanimous consent:

#### Ought to Pass

Report of the Committee on Education reporting "Ought to Pass" on Bill "An Act to Clarify the Status of a Certain School Renovation Project in the City of Waterville under the Education Laws and to Validate Proceedings Authorizing the Issuance of Bonds or Notes by that City" (Emergency) (S. P. 790) (L. D. 1989)

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

In the House, the Report was read and accepted in concurrence and the Bill read once. Under suspension of the rules, the bill was read the second time, and passed to be engrossed in concurrence.

By unanimous consent, ordered sent forthwith to Engrossing.

The following Communication appearing on Supplement No 2 was taken up out of order by unanimous consent:

The following Communication:

March 20, 1980

The Honorable Edwin H. Pert

Clerk of the House

109th Legislature

Augusta, Maine 04333

Dear Clerk Pert:

The Senate today voted to Adhere to its former action whereby it accepted the Minority Ought Not to Pass report on Bill, "An Act to Revise the Administration of the Election Laws" (Emergency) (H. P. 1641) (L. D. 1750)

Respectfully,

S/MAY M. ROSS

Secretary of the Senate

The Communication was read and ordered placed on file.

The following papers appearing on Supplement No. 5 were taken up out of order by unanimous consent:

#### Ought Not to Pass

Report of the Committee on Business Legislation reporting "Ought Not to Pass" on Bill "An Act to Establish a Program of Funded Self-insurance for Public Schools" (S. P. 787) (L. D. 1987)

Pursuant to Joint Rule 22, was placed in the legislative files without further legislative action in concurrence.

#### Non-Concurrent Matter

Bill "An Act to Amend the Laws Relating to Ambulance Service" (Emergency) (H. P. 1869) (L. D. 1959) which was passed to be engrossed as amended by Committee Amendment "A" (H-906) in the House on March 17, 1980.

Came from the Senate passed to be engrossed as amended by Committee Amendment "A" (H-906) as amended by Senate Amendment "B" (S-478) thereto in non-concurrence.

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

By unanimous consent, ordered sent forthwith to Engrossing.

The following paper appearing on Supplement No. 4 was taken up out of order by unanimous consent:

#### Consent Calendar

##### First Day

(S. P. 722) (L. D. 1874) Bill "An Act Creating



the Rangeley Water District" (Emergency) — Committee on Public Utilities reporting "Ought to Pass" as amended by Committee Amendment "A" (S-501)

No objections having been noted, under suspension of the rules, the above item was given Consent Calendar Second Day notification and passed to be engrossed as amended in concurrence.

By unanimous consent, ordered sent forthwith to Engrossing.

The following papers appearing on Supplement No. 3 were taken up out of order by unanimous consent:

#### Passed to Be Enacted Bond Issue

An Act to Authorize Bond Issue in the Amount of \$8,000,000 for Improvements to the Vocational-technical Institutes and the Maine Maritime Academy (H. P. 1757) (L. D. 1887) (C. "B" H-944)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. Mr. Smith of Mars Hill 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 Mars Hill, Mr. Smith.

Mr. SMITH: Mr. Speaker, I will be brief. I just feel in my own mind that this isn't the time for the state to go into anymore indebtedness.

This morning, we increased the indebtedness of the state \$10 million, and I just feel that in good conscience, for my people back home, that I would vote against this bill.

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

Mrs. MacBRIDE: Mr. Speaker, Ladies and Gentlemen of the House: I certainly hate to disagree with my seatmate, but today I do. I hope you will go along with the bond issue.

I think it is very important to all sections of our country and our state, and I think it is important for all of our very many young people. I do hope that you will vote for this bond issue.

The SPEAKER: The Chair recognizes the gentleman from Presque Isle, Mr. Roope.

Mr. ROOPE: Mr. Speaker and Members of the House: This issue is very important to my town, but also important to my town is the indebtedness of the state, and I hope you do not support this issue at this time, knowing that at a later date we would be able to get the buildings and get the bond issues we need when the state is in a better financial position.

The SPEAKER: The Chair recognizes the gentleman from Mars Hill, Mr. Smith.

Mr. SMITH: Mr. Speaker, I stand to be corrected, the bonds, according to my understanding, aren't self-liquidating. That also makes a difference to me too.

The SPEAKER: The pending question is on passage to be enacted. This being a bond issue, in accordance with the provisions of Section 14 of Article IX of the Constitution, it requires a two-thirds vote of all the members present and voting. All those in favor will vote yes; those opposed will vote no.

#### ROLL CALL

YEA — Bachrach, Baker, Barry, Beaulieu, Benoit, Berube, Birt, Blodgett, Bordeaux, Bowden, Brannigan, Brennerman, Brodeur, Brown, K.C.; Bunker, Carrier, Carroll, Carter, D.; Carter, F.; Chonko, Churchill, Cloutier, Conary, Connolly, Cox, Davies, Dellert, Diamond, Doukas, Dow, Dutremble, D.; Elias, Fenlason, Fowlie, Garsoe, Gillis, Gowen, Gwadosky, Hall, Hanson, Hickey, Higgins, Hobbins,

Howe, Hughes, Jackson, Jacques, E.; Jacques, P.; Kane, Kany, Kelleher, Kiesman, Lancaster, LaPlante, Lewis, Locke, Lowe, MacBride, MacEachern, Mahany, Martin, A.; Masterman, Masterton, Matthews, Maxwell, McHenry, McKean, McSweeney, Michael, Mitchell, Morton, Nadeau, Nelson, M.; Nelson, N.; Norris, Paradis, E.; Paradis, P.; Paul, Payne, Pearson, Peltier, Prescott, Reeves, P.; Rolde, Rollins, Simon, Small, Soulas, Stover, Strout, Tarbell, Theriault, Tozier, Tuttle, Twitchell, Vincent, Violette, Vose, Wentworth, Wood, Wyman, The Speaker.

NAY—Aloupis, Austin, Berry, Brown, A.; Brown, D.; Call, Cunningham, Curtis, Damren, Davis, Dexter, Drinkwater, Dutremble, L.; Fillmore, Gavett, Gray, Huber, Hunter, Hutchings, Immonen, Leighton, Lougee, Marshall, McPherson, Nelson, A.; Peterson, Post, Reeves, J.; Roope, Sewall, Sherburne, Smith, Sprowl, Studley, Torrey, Whittemore.

ABSENT—Boudreau, Brown, K.L.; Dudley, Jalbert, Joyce, Laffin, Leonard, Lizotte, Lund, McMahon, Silsby, Stetson, Tierney.

Yes, 102; No, 36; Absent, 13.

The SPEAKER: One hundred two having voted in the affirmative and thirty-six in the negative, with thirteen being absent, bond issue is passed to be enacted.

Signed by the Speaker and sent to the Senate.

#### Bond Issue

An Act to Authorize a Bond Issue in the Amount of \$4,000,000 for Court Facilities Improvements (H. P. 1916) (L. D. 1985) (C. "A" H-942)

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

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

Mrs. MITCHELL: Mr. Speaker, I would like to pose a question through the Chair to a member of the committee. Does the bond issue as now authorized with the committee amendment still abide by the original study which would require not renovation of court facilities in Kennebec and Cumberland but rather new construction?

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

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

Mr. PEARSON: Mr. Speaker, Ladies and Gentlemen of the House: I know of the concerns of Representative Mitchell of Vassalboro, and I would like to read part of a letter from John Duffy, who is the administrative officer of the courts, to the Appropriations Committee.

He said, "I write at the request of the Chief Justice to respond to the question put to us in a separate telephone conversation yesterday afternoon by the committee. How would the Judicial Branch propose to allocate the proceeds of a single bond issue in the amount of \$4 million as distinguished from three serial issues in the total of \$12 million, which was rejected?"

"Briefly, our sense of the controlling priorities would cause us to allocate \$2 million for new construction to house the Portland District Court and the remaining \$2 million for renovation of the Superior Court facilities in Androscoggin and Kennebec Counties and District Court facilities in Millinocket and Skowhegan. Projects previously proposed for the benefit of Bridgton District Court and Cumberland County Superior Court would be postponed. Mr. Kelleher of Bangor requested a roll call vote.

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

A vote of the House was taken, and more than one-fifth of the members present having

expressed a desire for a roll call, a roll call was ordered.

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

Mr. TARBELL: Mr. Speaker, Ladies and Gentlemen of the House: We just put through a measure for the VTI's and Maine Maritime. This matter deals with court facilities throughout the state, principally in the counties of Cumberland, Androscoggin, Kennebec and Penobscot.

There are some areas in this state that either don't have court facilities, they are inadequate or they are just not able to cover the dockets and cover the crowds, and I would submit to you that justice in the State of Maine is not being served by this problem.

The bill initially came in in the amount of \$12 million to be spread over a three-year period of time and it has been whittled down to one third of that amount. I think the good gentleman from Old Town, Mr. Pearson explained that.

We have repeatedly, in this House, not been very receptive to bills involving the judicial branch of government, whether it is for judges, active retired judges, court facilities, you name it. And I would just like to point out to everyone on the floor that each year the fines, just the fine revenues that come from court fines assessed on people who violated our laws each year, brings in on the average a million dollar increase over the year before. The amount of money that comes in from the fines is almost self-sufficient to run the entire third branch of our government, the judicial branch. We pay very little out of our General Fund here in the legislative branch to take care of the judicial branch of government. Those fines are increasing in the amount around a million dollars each year and will continue to do so at the current rate.

I think we owe some consideration to the third branch of government on this matter. I hope you will vote in favor of the bill.

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

Mr. PEARSON: Mr. Speaker, Ladies and Gentlemen of the House: I rise to support the arguments of Mr. Tarbell from Bangor. You know, for a long time I think that we here in the legislature have said to the courts, well, you are just a secondary problem and we have got a lot of other problems, and we do, but I would be willing to bet that most of us in the House don't go into the courts very often, at least I would hope not unless we were subpoenaed, so we don't see the facilities that they have to deal with.

I have seen a number of photos and been in a couple of court facilities, one in particular in Skowhegan that is in really pretty bad shape, and Millinocket is not much better, and the Portland court, so they tell me, is just clogged and part of it is because of the facilities there.

Use your own judgment, but I would hope that you wouldn't get just short-shift of the whole problem of the courts because we are not all that familiar with going into courts ourselves, because it is a third co-equal branch of government, and we tend to think that it isn't sometimes, I think.

The SPEAKER: A roll call has been ordered. The pending question is on passage to be enacted. This being a bond issue, according to the provisions of Section 14 of Article IX of the Constitution, it requires a two-thirds vote of all the members present and voting. All those in favor will vote yes; those opposed will vote no.

#### ROLL CALL

YEA — Aloupis, Austin, Bachrach, Baker, Barry, Beaulieu, Benoit, Birt, Bordeaux, Bowden, Brannigan, Brennerman, Brodeur, Brown, K.L.; Brown, K.C.; Carroll, Carter, D.; Carter, F.; Chonko, Churchill, Cloutier, Conary, Cox, Davies, Davis, Dellert, Dexter, Diamond, Doukas, Dow, Drinkwater, Dutremble, D.; Dutremble, L.; Elias, Fenlason, Fillmore, Gillis, Gowen, Gwadosky, Hall,

Hickey, Higgins, Hobbins, Howe, Hughes, Hutchings, Jackson, Jacques, E.; Kane, Kany, Lancaster, LaPlante, Leighton, Locke, MacBride, MacEachern, Mahany, Marshall, Masterton, Masterton, Matthews, Maxwell, McKean, McSweeney, Michael, Mitchell, Morton, Nadeau, Nelson, M.; Norris, Paradis, E.; Paradis, P.; Payne, Pearson, Peltier, Prescott, Rolde, Simon, Small, Soulas, Strout, Tarbell, Theriault, Vincent, Violette, Vose, Wyman, The Speaker.

NAY — Berry, Berube, Blodgett, Brown, A.; Brown, D.; Bunker, Call, Carrier, Connolly, Cunningham, Curtis, Damren, Fowle, Garsoe, Gavett, Gray, Hanson, Huber, Hunter, Immonen, Jacques, P.; Kelleher, Kiesman, Lewis, Lougee, Lowe, Martin, A.; McHenry, McPherson, Nelson, A.; Nelson, N.; Paul, Peterson, Post, Reeves, J.; Reeves, P.; Rollins, Roope, Sewall, Sherburne, Smith, Sprowl, Stover, Studley, Torrey, Tozier, Tuttle, Twitchell, Wentworth, Whittemore, Wood.

ABSENT — Boudreau, Dudley, Jalbert, Joyce, Laffin, Leonard, Lizotte, Lund, McMahon, Silsby, Stetson, Tierney.

Yes, 88; No, 51; Absent, 12.

The SPEAKER: Eighty-eight having voted in the affirmative and fifty-one in the negative, with twelve being absent, the bond issue fails of passage to be enacted.

Sent up for concurrence.

#### Enactor Reconsidered

An Act to Provide for Renegotiation of the Cost-sharing Formulas for School Districts (H. P. 1817) (L. D. 1945) (C. "A" H-940)

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

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

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

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

House Amendment "A" to Committee Amendment "A" (H-964) was read by the Clerk and adopted.

Committee Amendment "A" as amended by House Amendment "A" thereto was adopted in non-concurrence.

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

By unanimous consent, ordered sent forthwith to the Senate.

#### Enactor Reconsidered

An Act to Authorize Deductions from the Term of Imprisonment of Certain Persons Serving a Split Sentence (H. P. 1917) (L. D. 1982) (C. "A" H-948)

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

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

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

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

House Amendment "A" to Committee Amendment "A" (H-963) was read by the Clerk and adopted.

Committee Amendment "A" as amended by House Amendment "A" thereto was adopted in non-concurrence.

The Bill was passed to be engrossed as

amended in non-concurrence and sent up for concurrence.

By unanimous consent, ordered sent forthwith to the Senate.

#### Enactor Tabled and Assigned

An Act to Establish the Municipal Cost Components for Services to be Rendered in Fiscal Year 1980-81 (H. P. 1985) (L. D. 2018)

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

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

Mrs. POST: Mr. Speaker, Men and Women of the House: We have already passed another bill and are waiting for the Governor's signature, which will affect this one, and we can't have this bill until the other one is signed into law, so I would ask that somebody table it for one legislative day.

Thereupon, on motion of Mrs. Mitchell of Vassalboro, tabled pending passage to be enacted and tomorrow assigned.

#### Finally Passed Emergency Measures

RESOLVE, Reimbursing Certain Municipalities on Account of Taxes Lost Due to Land being Classified under the Tree Growth Tax Law (H. P. 1983) (L. D. 2017)

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. 113 voted in favor of same and none against, and accordingly the Resolve was finally passed, signed by the Speaker and sent to the Senate.

RESOLVE, Authorizing and Directing the Department of Business Regulation to Study, and Report on Current Practices Relating to Siting of Manufactured Housing (H. P. 1988) (L. D. 2021)

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. 113 voted in favor of same and 3 against, and accordingly the Resolve was finally passed, signed by the Speaker and sent to the Senate.

#### Passed to Be Enacted

An Act to Increase Compensation to Municipal Clerks and other Issuing Agents for the Issuance of Certain Fish and Game Licenses (S. P. 682) (L. D. 1805) (S. "A" S-481 to C. "A" S-471)

An Act Relating to the Qualifications for the Licensing of Auctioneers (S. P. 708) (L. D. 1844) (S. "A" S-487 to C. "A" S-447)

#### Finally Passed

RESOLVE, Authorizing the Bureau of Public Lands to Convey the State's Interest in a Certain Parcel of Land in Augusta to the Maine Veterans Home, Subject to Certain Conditions (H. P. 1987) (L. D. 2020)

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

The following paper appearing on Supplement No. 8 was taken up out of order by unanimous consent:

The Following Communication:

March 21, 1980

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

The President today appointed the following members of the Senate to the Committee of Conference on Bill, "An Act to Provide for Li-

censing and Regulation of Adult Foster Homes," (H. P. 1816) (L. D. 1927):

Senators: PIERCE of Kennebec  
GILL of Cumberland  
CLARK of Cumberland

Respectfully,  
S/MAY M. ROSS

Secretary of the Senate

The Communication was read and ordered placed on file.

The following paper appearing on Supplement No. 7 was taken up out of order by unanimous consent:

#### Second Reader Tabled and Assigned

Bill "An Act to Amend the Maine Guarantee Authority Act" (Emergency) (S. P. 780) (L. D. 1972) (S. "B" S-495)

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

On motion of Mr. Higgins of Scarborough, tabled pending passage to be engrossed in concurrence and tomorrow assigned.

#### (Off Record Remarks)

On motion of Mr. Gillis of Calais, adjourned until Monday, March 24, at ten o'clock in the morning.