

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

***One Hundred and Ninth
Legislature***

OF THE

STATE OF MAINE

Volume I

FIRST REGULAR SESSION

January 3, 1979 to May 4, 1979

HOUSE

Wednesday, March 28, 1979

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

Prayer by Father Gilmond Boucher of Saint Mary's Catholic Church, Lincoln.

Father BOUCHER: Let us pray! Father of Our Lord Jesus, and our Father, we thank you for this beautiful day and this season which is bringing to us the promise of a summer of growth, of green leaves and grass, the promise of an increase to the flocks and to the herds of our wild and tame beasts. We ask you today, as this House resumes its business of giving fair and good laws for our beautiful state, that you inspire all of us with your wisdom. We ask you especially, remembering how your Son told us that we should be perfect, as our heavenly Father is perfect, for the gift of respect, of respecting persons deeply, not for their age or for what they can produce or contribute but as persons who are made in your image and on whom you have spent your great love. We make our prayer through Christ, your Son and our Lord, who lives and reigns with you forever. Amen.

The journal of yesterday was read and approved.

Bill "An Act Concerning Reimbursements to Mount St. Joseph's Nursing Home for Costs of its Retirement Plan" (S. P. 453) (L. D. 1371)

Came from the Senate referred to the Committee on Appropriations and Financial Affairs and ordered printed.

Was referred to the Committee on Appropriations and Financial Affairs in concurrence.

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

Bill "An Act to Clarify Certain Definitions under the Real Estate Law" (S. P. 447) (L. D. 1368)

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

Were referred to the Committee on Business Legislation in concurrence.

Bill "An Act to Facilitate Operation of Department of Conservation Campsites" (S. P. 454) (L. D. 1370)

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

Was referred to the Committee on Energy and Natural Resources in concurrence.

Bill "An Act to Require Mandatory Disclosure of Attorney Fees" (S. P. 444) (L. D. 1362)

From the Senate referred to the Committee on Judiciary and ordered printed.

Was referred to the Committee on Judiciary in concurrence.

Bill "An Act to Clarify Inconsistencies in the Liquor Laws" (S. P. 436) (L. D. 1367)

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

Was referred to the Committee on Legal Affairs in concurrence.

Bill "An Act Concerning Contracts of Town Managers" (S. P. 456) (L. D. 1369)

Bill "An Act to Improve Local Government Investment Opportunities" (S. P. 449) (L. D. 1364)

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

Were referred to the Committee on Local and County Government in concurrence.

Later Today Assigned

Bill "An Act to Exempt Certain Transporta-

tion Statutes from the Administrative Procedure Act" (Emergency) (S. P. 445) (L. D. 1365)

Came from the Senate referred to the Committee on State Government.

On motion of Mr. Carroll of Limerick, tabled pending reference in concurrence and later today assigned.

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

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

Were referred to the Committee on State Government in concurrence.

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

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

Was referred to the Committee on Taxation in concurrence.

Reports of Committees

Leave to Withdraw

Report of the Committee on Appropriations and Financial Affairs reporting "Leave to Withdraw" on RESOLVE, Reimbursing E. G. Foden of South Portland for Cigarette Stamps (S. P. 360) (L. D. 1107)

Report of the Committee on Local and County Government reporting "Leave to Withdraw" on Bill "An Act Relating to Facsimiles of County Register of Deeds and Deputy Register of Deeds" (S. P. 193) (L. D. 460)

Came from the Senate with the Reports read and accepted.

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

Order Out of Order

An Expression of Legislative Sentiment (H. P. 1231) recognizing that: Nurses in the State of Maine render an invaluable service to the State by assisting Maine people in the maintenance of health and the management of illness

Presented by Mrs. Post of Owl's Head (Cosponsors: Mrs. Locke of Sebec and Senator McBreairsty of Aroostook)

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

By unanimous consent, ordered sent forthwith.

Ought to Pass

Tabled and Assigned

Committee on Legal Affairs reporting "Ought to Pass" as amended by Committee Amendment "A" (S-45) on Bill "An Act to Limit the Number and Location of Agency Stores under the Statutes Relating to Alcoholic Beverages" (S. P. 217) (L. D. 602)

Came from the Senate with the Report read and accepted and the Bill passed to be engrossed as amended by Senate Amendment "A" (S-51)

In the House, the Report was read and accepted in concurrence and the Bill read once. Senate Amendment "A" (S-51) was read by the Clerk.

On motion of Mr. Marshall of Millinocket, tabled pending adoption of Senate Amendment "A" and tomorrow assigned.

Divided Report

Majority Report of the Committee on Labor reporting "Ought to Pass" as amended by Committee Amendment "A" (S-56) on Bill "An Act to Amend the Workers' Compensation Statute to Provide for Podiatric Services" (S. P. 151) (L. D. 328)

Report was signed by the following members:

Mr. PRAY of Penobscot

— of the Senate.

Mrs. MARTIN of Brunswick,
Messrs. BAKER of Portland,
CUNNINGHAM of New Gloucester,
FILLMORE of Freeport,
DEXTER of Kingfield,
WYMAN of Pittsfield,
Mrs. BEAULIEU of Portland,
Messrs. TUTTLE of Sanford,
McHENRY of Madawaska

— of the House.

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

Report was signed by the following members:

Messrs. SUTTON of Oxford
LOVELL of York

— of the Senate.

Mrs. LEWIS of Auburn

— of the House.

Came from the Senate with the Majority "Ought to Pass" as amended Report read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (S-56)

In the House: Reports were read.

The Majority "Ought to Pass" Report was accepted in concurrence and the Bill read once. Committee Amendment "A" (S-56) was read by the Clerk and adopted in concurrence and the Bill assigned for second reading tomorrow.

Non-Concurrent Matter

Tabled and Assigned

Bill "An Act to Amend the Representation of Towns on Community School Districts" (S. P. 93) (L. D. 179) which was passed to be engrossed as amended by House Amendment "A" (H-116) in the House on March 21, 1979.

Came from the Senate passed to be engrossed as amended by Committee Amendment "A" (S-33) as amended by Senate Amendment "B" (S-60) thereto in non-concurrence.

In the House: On motion of Mr. Connolly of Portland, tabled pending further consideration and tomorrow assigned.

Non-Concurrent Matter

Bill "An Act to Exempt Financial Institutions from the Motor Vehicle Dealers Law Licensing Requirements" (H. P. 1070) (L. D. 1325) which was referred to the Committee on Transportation in the House on March 19, 1979.

Came from the Senate indefinitely postponed in non-concurrence.

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

Non-Concurrent Matter

Bill "An Act Relating to Certificate of Deposit as it Applies to Survivors" (S. P. 192) (L. D. 459) which was recommitted to the Committee on Business Legislation in the House on March 26, 1979.

Came from the Senate with that body having adhered to its former action whereby the Bill was passed to be engrossed in non-concurrence.

In the House:

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

Mr. HOWE: Mr. Speaker and Members of the House: On occasion, a committee acts rather quickly on a bill and reports it out before having received all the information that perhaps it should have. There were people planning to provide the committee information on this bill who assumed that they could do so at a work session and therefore did not show up at the public hearing. Because we were not aware of that information, we felt the bill was much simpler than it now appears.

It was my intent that this bill go back to committee for some more study and possible revision. I would much rather see that happen than see it simply passed into law. Unfortunately, the other body is apparently not in agreement, but because I feel it would be a mistake to pass

this bill into law here today without further review, I must move that the House adhere to its former action.

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

Mr. KELLEHER: Mr. Speaker, Ladies and Gentlemen of the House: I can sympathize with the good gentleman from South Portland, having been a former Chairman of the committee, and I can also understand what he was saying, that on occasion something might get by the chairman, but it is hard for me to believe that it could get by the entire committee, which is made up of 13 individuals. If this bill does have some problems, I can't see why it can't be amended when it gets to second reading instead of recommitment.

I understand that the committee report at the time was unanimous, and if I am wrong, I am sure that some member of the committee would correct me on that.

I move that we recede and concur and if there are some problems with the bill, we can handle it in second reading.

The SPEAKER: The gentleman from Bangor, Mr. Kelleher, moves that the House recede and concur.

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

Mr. HOWE: Mr. Speaker and Members of the House: If the gentleman from Bangor can do better than we have been able to do in the last few days in trying to come up with a floor amendment — I have made one attempt at it but decided not to offer it because it simply doesn't solve what has turned out to be a more complicated problem.

Since we have gone this far, I will set forth to you the problem. The present law says that joint accounts of any type in a bank, the first \$5,000 in those accounts will pass to the survivor of the joint account if one of the people on that joint account shall die. The first \$5,000 will pass: the remainder of it must go through probate if the person has a will or not, in fact, except unless those two people holding the joint account are husband and wife, in which case the entire amount will pass to that person.

The bill proposes to remove the \$5,000 limitation for certificates of deposit. A certificate of deposit is sort of a fancy savings account whereby you agree to put the money into the account for a certain period of time, typically six months, and guarantee not to take it out. In return for promising to let the bank have your money for that period of time, they will give you a higher interest rate. It is a little bit more sophisticated approach to savings than your normal passbook account, but not a great deal.

The theory behind the bill is when people put money into a certificate of deposit with another person on a joint account, it is their intent that the money in that account pass to the other person should they die while the money is still in the bank.

I am not nearly as certain as I was when I reported the bill out, and I will let other members of the committee speak for themselves if they wish, that people opening up a CD-type of account really make that decision. In effect, they are writing a will when they open a joint account, at least for the first \$5,000 of money in that account. Many people open up a joint account for convenience sake. Let's say it is an elderly person whose niece, for example, is willing to go to the bank and make their deposits and withdrawals because they are laid up and it is difficult for them to get to the bank. But that doesn't mean that it is their intent to leave their money to that niece, and even though some more thought goes into opening up a CD than opening up a checking account or regular savings account, there still is no indication and bank people have no way of knowing if it is the intent of that person to leave that money to the cosigner.

By removing the limitation on any of these types of accounts, it is in effect an end run

around the probate laws which say that before somebody's estate passes to someone else, they must have thought carefully about it, written a will and had it signed by three people who can testify that that person was of sound mind and knew what they were doing. But when you go in and open a joint account, the bank teller or the new account person doesn't check into any of that. In fact, the bank tellers are encouraged to in turn encourage their customers to open joint accounts without really knowing anything about the probate law, without understanding them. In effect, when somebody opens a joint account, they are writing a will.

Now, the Committee on Judiciary has before it a massive bill, the very first one in your book, the Probate Code, and it is going to study this problem and there is a proposal in there for a payable-on-death type of account where the person opening up the account would make a conscious decision that if they die, the cosigner of the account will receive the money in it, but now people don't really go through that mental process when they open up an account.

The whole issue is really much more complicated, I admit, than we realized, and I do feel it deserves further study. If it is not going to receive further study by the Committee on Business Legislation, if the Senate fails to agree with my previous motion, then I think we will have to leave that matter to the Judiciary Committee to study.

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

A vote of the House was taken. 44 having voted in the affirmative and 73 having voted in the negative, the motion did not prevail.

Thereupon, on motion of Mr. Howe of Portland, the House voted to adhere.

Messages and Documents

The following Communication: (H. P. 1251)

State of Maine

DEPARTMENT OF STATE

Augusta, Maine

March 27, 1979

To the Honorable 109th Legislature of the State of Maine

Attention: House of Representatives, Clerk Pert

I have the honor to transmit herewith an initiated bill "AN ACT to Repeal the Forced Deposit Law."

As indicated in our letter of March 19, 1979 the aforementioned bill was determined to have met the constitutional requirements under the provisions of Article IV, Part Third, Section 18, of the Constitution of Maine.

Respectfully submitted,
S/JAMES S. HENDERSON
Deputy Secretary of State

The Communication was read and ordered placed on file and sent up for concurrence.

On motion of Mr. Tierney of Lisbon Falls, the accompanying bill, I. B. 1, was referred to the Committee on Business Legislation, ordered printed in the amount of 2,500 copies and sent up for concurrence.

Petitions, Bills and Resolves Requiring Reference

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

Agriculture

Bill "An Act to Establish the Maine Potato Industry Promotion Board and to Set the Potato Tax at \$.0125 per Hundredweight" (H. P. 1233) (Presented by Mr. Mahany of Easton) (Ordered Printed)
Sent up for concurrence.

Local and County Government

Bill "An Act to Require the State to Partially Reimburse Municipalities for Functions which the State Requires of Municipalities" (H. P.

1234) (Presented by Mrs. Post of Owl's Head) (Cosponsors: Mr. Cloutier of South Portland, Mr. Nelson of Roque Bluffs, and Mr. Drinkwater of Belfast)

Committee on Appropriations and Financial Affairs was suggested.

On motion of Mr. LaPlante of Sabattus, was referred to the Committee on Local and County Government, ordered printed and sent up for concurrence.

Appropriations and Financial Affairs

Bill "An Act to Permit Priority Social Services Program Money to be Used as Matching Funds for Federal Money" (H. P. 1235) (Presented by Mrs. Reeves of Pittston) (Cosponsor: Mr. Barry of Fort Kent)

(Ordered Printed)

Sent up for concurrence.

Bill "An Act to Encourage an Increase in the Number of Primary Care Physicians Locating in Maine" (H. P. 1236) (Presented by Mr. Brodeur of Auburn)

Committee on Education was suggested.

On motion of Mr. Connolly of Portland, was referred to the Committee on Appropriations and Financial Affairs, ordered printed and sent up for concurrence.

Education

Bill "An Act to Encourage the University of Maine Law School to Offer Extension and Evening Programs for Part-time Students" (H. P. 1237) (Presented by Mr. Carrier of Westbrook) (Ordered Printed)

Sent up for concurrence.

Energy and Natural Resources

Bill "An Act to Permit the Consideration of Solar Access Issues when Approving any Subdivision" (H. P. 1238) (Presented by Mrs. Huber of Falmouth) (Cosponsors: Mrs. Masterton of Cape Elizabeth and Mr. Rolde of York)

Bill "An Act to Consolidate the Mining and Rehabilitation of Land into the Site Location of Development Statute" (H. P. 1239) (Presented by Mrs. Masterton of Cape Elizabeth) (Cosponsor: Mr. Michael of Auburn)

(Ordered Printed)

Sent up for concurrence.

Health and Institutional Services

Bill "An Act to Amend the Statutes Concerning the Practice of Medicine" (H. P. 1240) (Presented by Mr. Leonard of Woolwich) (Cosponsor: Miss Brown of Bethel)

(Ordered Printed)

Sent up for concurrence.

Judiciary

Bill "An Act to Create a Pre-petition Settlement Phase in the Juvenile Justice System by Utilizing a Panel of Juvenile Peers" (H. P. 1241) (Presented by Mr. Carter of Winslow)

(Ordered Printed)

Sent up for concurrence.

Labor

Bill "An Act Concerning Payments and Expenses for Facial Disfigurement and Burial Expenses" (H. P. 1242) (Presented by Mr. Hall of Sangerville)

(Ordered Printed)

Sent up for concurrence.

Legal Affairs

Bill "An Act to Regulate State Liquor Stores and Agencies" (H. P. 1243) (Presented by Mr. Carrier of Westbrook) (Cosponsor: Mr. Wyman of Pittsfield)

(Ordered Printed)

Sent up for concurrence.

Marine Resources

Bill "An Act to Suspend the Marketing Activities of the Department of Marine Resources for Fiscal Year 1979-80" (Emergency) (H. P. 1244) (Presented by Mrs. Post of Owl's Head)

Bill "An Act to Authorize Per Diem for Members of an Advisory Committee or Panel of the New England Regional Fisheries Management Council" (H. P. 1245) (Presented by Mrs. Post of Owl's Head) (Cosponsors: Mr. Bowden of Brooklin, Mr. Cloutier of South Portland, and Mr. Fowlie of Rockland)
(Ordered Printed)
Sent up for concurrence.

State Government

Bill "An Act to Facilitate Recruitment of Qualified Employees for State Government Positions that are Hard to Fill" (H. P. 1246) (Presented by Mr. Brodeur of Auburn)

Bill "An Act to Clarify the Administration of the Department of Manpower Affairs" (H. P. 1247) (Presented by Mr. Wyman of Pittsfield)

Bill "An Act to Revise and Correct Provisions of the Administrative Procedure Act" (H. P. 1248) (Presented by Mrs. Kany of Waterville) (Cosponsors: Mr. Cloutier of South Portland, Ms. Brown of Gorham, and Mr. Connolly of Portland)

Bill "An Act Authorizing Inclusion of the District Attorneys' Budgets in the Attorney General's Budgets and Reducing County Payments for District Attorneys' Expenses" (H. P. 1249) (Presented by Mr. Brodeur of Auburn) (Cosponsor: Mr. Hughes of Auburn)
(Ordered Printed)
Sent up for concurrence.

Orders

An Expression of Legislative Sentiment (H. P. 1221) recognizing that: Sergeant John E. Whitmore, Detective Richard W. Olson and Officer Chris A. Murphy, of the Portland Police Department were awarded a Departmental Citation on January 26, 1979, for outstanding police service in the apprehension of two suspects in a conspiracy to commit robbery,
Presented by Mr. Baker of Portland.
The Order was read and passed and sent up for concurrence.

An Expression of Legislative Sentiment (H. P. 1221) recognizing that: Officer Chris A. Murphy of the Patrol Division of the Portland Police Department was awarded a Departmental Citation on January 26, 1979, for outstanding police service relating to the arrest of three armed robbery suspects,
Presented by Mr. Baker of Portland.
The Order was read and passed and sent up for concurrence.

An Expression of Legislative Sentiment (H. P. 1222) recognizing that: Sergeant Francis E. Bachelder of the Patrol Division of the Portland Police Department was awarded a Departmental Citation on January 26, 1979, for outstanding police service relating to the apprehension of three suspects wanted for various major crimes,
Presented by Mr. Joyce of Portland.
The Order was read and passed and sent up for concurrence.

An Expression of Legislative Sentiment (H. P. 1223) recognizing that: Detective Michael J. Russo of the Criminal Investigation Division of the Portland Police Department was awarded a Departmental Citation on January 26, 1979, for outstanding service to the City of Portland,
Presented by Mr. Joyce of Portland.
The Order was read and passed and sent up for concurrence.

An Expression of Legislative Sentiment (H. P. 1224) recognizing that: Detective Richard E. Porter of the Criminal Investigation Division of the Portland Police Department was awarded a Departmental Citation on January 26, 1979, for outstanding service to the City of Portland,
Presented by Mr. Joyce of Portland.
The Order was read and passed and sent up

for concurrence.

An Expression of Legislative Sentiment (H. P. 1225) recognizing that: Lieutenant Daniel F. Quirk of the Patrol Division of the Portland Police Department was awarded a Departmental Citation on January 26, 1979, for outstanding police service to the City of Portland,
Presented by Mr. Joyce of Portland.
The Order was read and passed and sent up for concurrence.

An Expression of Legislative Sentiment (H. P. 1226) recognizing that: Officer Franklin L. Noiles, Jr. of the Patrol Division of the Portland Police Department was awarded a Departmental Citation on January 25, 1979, for outstanding police service to the City of Portland,
Presented by Mrs. Beaulieu of Portland.
The Order was read and passed and sent up for concurrence.

An Expression of Legislative Sentiment (H. P. 1227) recognizing that: Security Chief William J. Martin, Officer Ralph H. Amoroso and Officer William J. Randall of the Department of Public Safety were awarded a Departmental Citation on January 25, 1979, for outstanding service to the City of Portland,
Presented by Mrs. Beaulieu of Portland.
The Order was read and passed and sent up for concurrence.

An Expression of Legislative Sentiment (H. P. 1228) recognizing that: Captain Donald Brown and Firefighter Philip E. Tinkham of the Portland Fire Department were awarded a Departmental Citation on January 26, 1979 for outstanding police service to the City of Portland,
Presented by Mrs. Beaulieu of Portland.
The Order was read and passed and sent up for concurrence.

An Expression of Legislative Sentiment (H. P. 1229) recognizing that: Sergeant George D. Pride, Officer Terry P. Dow and Officer Robert H. Elder, Jr., of the Patrol Division of the Portland Police Department were awarded a Departmental Citation on January 25, 1979, for outstanding police service to the City of Portland,
Presented by Mr. Doukas of Portland.
The Order was read and passed and sent up for concurrence.

An Expression of Legislative Sentiment (H. P. 1232) recognizing that: Sunday, March 25, 1979, marks the 70th Wedding Anniversary of Mr. and Mrs. George L. Murray, prominent citizens of Newport
Presented by Mr. Reeves of Newport (Cosponsor: Senator Emerson of Penobscot)
The Order was read and passed and sent up for concurrence.

An Expression of Legislative Sentiment (H. P. 1250) recognizing that:
Sergeant Francis E. Bachelder and Officer Chris A. Murphy of the Patrol Division of the Portland Police Department were awarded a Departmental Citation on January 25, 1979, for outstanding police service in their attempt to avert a potential fire tragedy
Presented by Mrs. Payne of Portland.
The Order was read and passed and sent up for concurrence.

A Joint Resolution (H. P. 1230) in memory of Charles R. Tarr, husband of the Honorable Gail H. Tarr of Bridgton
Presented by Mr. Leighton of Harrison (Cosponsors: Senator Sutton of Oxford and Mr. Pearson of Old Town)
The Resolution was read.
The SPEAKER: The Chair recognizes the gentleman from Harrison, Mr. Leighton.

Mr. LEIGHTON: Mr. Speaker, Ladies and Gentlemen of the House: Charles Tarr, the husband of my predecessor, former Representative Gail Tarr died Monday morning after a long, courageous fight. We can measure life by its quality rather than by its quantity, and Charlie Tarr had a good full measure. He loved, he was loved and he will be missed, and that is a lot to say about anyone. I am sure I speak for the entire body as I express our condolences to Gail and her family.

Thereupon, the Resolution was adopted and sent up for concurrence.

On motion of Mr. Cox of Brewer, it was ORDERED, that Representative Robert Gillis of Calais be excused March 27, 1979 for duration of his illness;

AND BE IT FURTHER ORDERED, that Representative Walter Birt of East Millinocket be excused March 29 and March 30 for personal reasons;

AND BE IT FURTHER ORDERED, that Representative William Garsoe of Cumberland be excused March 29 and March 30 for legislative business.

House Reports of Committees Ought Not to Pass

Mr. Davies from the Committee on Public Utilities on Bill "An Act to Create the Bureau of Community Antenna Television within the Public Utilities Commission" (H. P. 350) (L. D. 466) reporting "Ought Not to Pass" (Mrs. Nelson of Portland abstained from voting)

Mr. Dow from the Committee on Fisheries and Wildlife on Bill "An Act to Provide That There Shall be an Open Season on Deer During the Entire Month of November" (H. P. 211) (L. D. 259) reporting "Ought Not to Pass"

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

Leave to Withdraw

Mr. Nadeau from the Committee on Election Laws on Bill "An Act to Clarify the procedure for Voting in a Voting Place Serving Voters from more than one Electoral District" (H. P. 295) (L. D. 391) reporting "Leave to Withdraw"

Mr. Connolly from the Committee on Education on Bill "An Act to Provide Cardiopulmonary Resuscitation and Basic Life Support as Voluntary Elective Courses in High Schools in Maine" (H. P. 659) (L. D. 819) reporting "Leave to Withdraw"

Mrs. Kany from the Committee on State Government on Bill "An Act to Provide Reserve Funds to Increase Employees' Salaries" (H. P. 614) (L. D. 755) reporting "Leave to Withdraw"

Mr. Davies from the Committee on Public Utilities on Bill "An Act Relative to the Jurisdiction of the Public Utilities Commission over Nonutility Attachments to Public Utility Plant" (H. P. 163) (L. D. 195) reporting "Leave to Withdraw"

Reports were read and accepted and sent up for concurrence.

Divided Report

Majority Report of the Committee on Education reporting "Ought to Pass" as amended by Committee Amendment "A" (H-132) on Bill "An Act Relating to the Advisory Board to the Firemen's Training Program of the Department of Educational and Cultural Services" (H. P. 173) (L. D. 223)

Report was signed by the following members:

Mrs. GILL of Cumberland,
Messrs. TROTZKY of Penobscot
MINKOWSKY of Androscoggin
— of the Senate.
Mrs. BEAULIEU of Portland
Mrs. LOCKE of Sebec
Mrs. GOWEN of Standish

Messrs. CONNOLLY of Portland
BIRT of East Millinocket
DAVIS of Monmouth
ROLDE of York
FENLASON of Danforth

— of the House.

Minority Report of the same Committee reporting "Ought to Pass" as amended by Committee Amendment "B" (H-133) on same Bill.

Report was signed by the following members:

Mr. LEIGHTON of Harrison

Mrs. LEWIS of Auburn

— of the House.

Reports were read.

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

Mr. CONNOLLY: Mr. Speaker, Ladies and Gentlemen of the House: I move the House accept the Majority "Ought to Pass" Report.

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

Mr. SILSBY: Mr. Speaker, Ladies and Gentlemen of the House: The fire chief in my area, which is a rural area with volunteer services, has some concerns about the Committee Amendment "A" report in that it appears to throw the balance of power to the large communities. If you will notice in Section 2552, the makeup of the advisory committee, it appears to be entirely equal until you get down to Subparagraph F, and that provides for the inclusion of two members recommended by the Maine Council of Firefighters, Inc. That appears to be big city representation and appears to place the balance with the larger communities.

The "B" Report, which is not yet before us, appears to have completely equal representation contained therein. So, I would like to bring that to the attention of the ladies and gentlemen of the House for your consideration. If you are from large cities, I am sure you will be favoring the "A" report. If you are from the more rural areas, I think you should consider the makeup of this committee which provides the educational services to the firemen.

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

Mr. ROLDE: Mr. Speaker, Ladies and Gentlemen of the House: I rise to support this bill. I am not from a big city, I am from a small town, and I represent three volunteer fire departments.

This is a very complicated bill and I hope you will bear with me while I try to explain the point of view of the majority of the members that signed the "ought to pass" report.

First of all, let me explain what the firemen's training board is. I first became acquainted with this department of state government when I worked on the staff of Governor Curtis. I remember noticing it and wondering just how important this firemen training board was. I spoke to my next door neighbor, who is the captain in our volunteer fire department in York. He thought it was an extremely good program, because what it does is it provides training, particularly to the volunteer groups throughout the state, on the latest techniques in firefighting. They are members who are paid by the state and they go out at the request of local groups and they put on these programs and it is particularly valuable for the volunteer groups.

Now, there was an advisory board that helps to run this program, and the previous composition of this advisory board, it had nine members. It had one full-time chief and one call, and a call fireman is a fireman who is on call, he is not totally a volunteer but when he is called to a fire, he will be paid for his services, so one call or one volunteer chief, and these would be named by the fire chief. The board also contained one full-time firefighter and one call or volunteer firefighter named by the Maine Federation of Firefighters, which is the umbrella organization which represents most

of the volunteer groups in the state. It also had a city or town manager, a selectman named by the Maine Municipal Association, a member of the industrial fire brigade named by the trade, a representative from the insurance industry, who was recommended, actually, by the Fire Chief's Association, and the consultant of the Fire Services Program, who came from the department, who, in this particular case, was the chairman of the advisory board.

This bill was presented to us to change the composition of the advisory board. The reason for it and the reason for including full-time union firefighters is because of a situation that has developed in Washington, D. C. Federal Funds were being made available to expand this program that we have on the state level, be made available on the national level. There is a board in Washington that will parcel out these funds. The basic composition of that board is the International Association of Firefighters, which represents full-time unionized firefighters, the National Chiefs' Association, the National Fire Protection Association, which represents the insurance industry. Why they wanted to change the composition of our board in the state was that they felt there should be some specific representation from the full-time unionized firefighters on this board.

We didn't have to do this, we could have left the board exactly as it was. The federal funds would still come into the state but they would go to full-time unionized firefighters. In other words, this board that we have in the state would not receive those federal funds and they could not be used to help our local volunteer groups.

Now, we have kicked this around, we have had a lot of trouble with this bill, we finally came out with a compromise and the compromise is in the Committee Amendment "A". It sets up what we feel is a balanced board. We added two additional non-fulltime firefighters to the board. We have an extra call chief and we have an extra call firefighter on there. We also took off the representative of the department, because there was some complaint, particularly from the group that represents the volunteers, that the department was dominating this group. We took that member off and made him a nonvoting member and we added a public member.

Now, Report "B", which I feel is well intentioned, it goes with the idea of forgetting about the federal funds and it takes away having any local groups make recommendations of who should be on this advisory board. In fact, in a sense you might call it a bureaucrat's dream, because it concentrates all power in the hands of the commissioner. He will make all these appointments; there will be no input from any of the local groups.

As I said, this was a compromise, it was agreed upon by the group that represents the volunteers, the group that represents the union full-time firefighters and by the department, and 11 members of the committee felt that this was the version that should be passed.

I will just make one more comment. We were also very sensitive to the issue of local control. We wrote into this bill that if the federal funds should come, the commissioner has no authority to require participation in these programs by any members of the municipal fire department or a volunteer fire department or a fire brigade. Also, at the same time, he will not be allowed, if they don't want to participate, to use that to say that they are not eligible. So, I think we have covered all of our bases with Report "A". It was agreed upon by all the major groups and I hope that you will go along with it.

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

Mr. LEIGHTON: Mr. Speaker, Ladies and Gentlemen of the House: I hate to be disagreeing with my good friend from York this morning; however, I would like to point out

that of that approximately 11,000 firefighters in Maine, there are 1045 full-time firefighters, 3396 call fire firefighters, 7006 volunteer firefighters, who are providing the bulk of fire protection service throughout this state at virtually no cost to the taxpayers. This is what appears to be, although I haven't been able to get precise details, a fight for control of federal funds that are supposed to appear somewhere down the road.

There is a private organization called the National Pro Board that consists of the membership talked about by Representative Rolde. The unions are represented, the chiefs are represented, the insurance companies are represented, or the insurance industry, but there are no volunteer firemen on the Pro Board.

With this bill, it is hard to tell the players without a score card, but if you will bear with me I will try to lead you through the labyrinth. There exists within the department of Educational and Cultural Services, the advisory board to the Firemen's Training Program that sets training standards for Maine firemen. The present law says they shall be appointed by the commissioner as follows: One full-time chief recommended by the Maine Fire Chiefs' Association; one full-time firefighter and one call or volunteer firefighter recommended by the Maine Federation of Firefighters; one city manager and one selectman recommended by the Maine Municipal Association; one member of an industrial or institutional fire brigade recommended by the trade; one representative from the field of insurance recommended by the Maine Fire Chiefs' Association; and the consultant of the fire service program who is an employee of the Department of Education.

The original bill, sponsored by Representative Beaulieu of Portland at the request of the Maine Council of Firefighters, which is the predominant firefighting union in Maine, would have enlarged the board to 11 by adding two representatives from the Maine Council of Firefighters.

It was the Naples' volunteer fire department in my district that pointed out to me the dangers in the original bill. They asked me to one of their meetings and pointed out the following: First of all, they pointed out that 7,000 of our 11,000 firefighters in Maine are volunteers. They pointed out to me that if training guidelines were ever set that made it difficult or impossible to have volunteer fire departments, it would have a tremendous financial impact on Maine communities.

Under the present law, volunteers can have a possible representation of two, counting the chief, on a nine-man board. Under the bill, they would have two representatives on a board of 14, counting the ex officio member. They saw the rural volunteer influence lessened by no longer specifying a selectman member. They questioned specifying one single union when there are at least two different unions representing firefighters in the state. Then they saw the bill finally as a power struggle for control of federal funds that are coming down the road.

Amendment "A" attempts to answer these objections by making local participation optional. It adds one firefighter to be named by the federation.

Amendment "B", the good one, which I hope you will vote for after defeating Amendment "A", puts 9 firefighters on a board of 13. It takes private organizations out of the statutes, recognizing that the Maine Municipal Association doesn't represent all towns, that the Maine Federation of Firefighters doesn't represent all departments, that the Maine Fire Chiefs' Association doesn't represent all chiefs, that the Council of Firefighters isn't the only collective bargaining agent, and simply states that committee shall consist of 13 members appointed by the commissioner as follows: one full-time chief, one call chief and one volunteer chief, two full-time firefighters, two call firefighters and two volunteer firefighters, one city or town

manager and one selectman, one member of an industrial or institutional fire brigade, one representative from the field of insurance, for a total of 13 members.

I hope that you will defeat the motion to accept Amendment "A" so we can accept Amendment "B".

The SPEAKER: The pending question is on the motion of Mr. Connolly of Portland that the House accept the Majority "Ought to Pass" Report. All those in favor of that motion will vote yes; those opposed will vote no.

A vote of the House was taken.

Whereupon, Mr. Rolde of York requested a roll call vote.

The SPEAKER: A roll call has been requested. For the Chair to order a roll call, 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 Portland, Mr. Connolly.

Mr. CONNOLLY: Mr. Speaker and Members of the House: I hope I don't take up a lot of time trying to dwell on this particular issue because it is somewhat confusing if you aren't familiar with the two amendments and the bill that came to committee and the long debate and discussion that the committee underwent before we came up with our final recommendations.

I would like to make a couple of points. The arguments that Representative Silsby made and were followed up on to some degree by Representative Leighton, that this is really an issue of small town fire departments as opposed to large city fire departments is really not the issue at all with this bill. If you look at the original law and the representation and of the nine people that exist on this committee right now you were to take a score card and see how many of those nine would represent small communities and how many would represent large communities, you would come up with the figures of five to four, with the large cities having the five representatives and the small towns having the four representatives.

Committee Amendment "A" provides for additional representatives from the rural areas, when we are calling for a representative from volunteer fire departments as well as a representative from call fire departments. If you were to take a score card on Committee Amendment "A", you would find that the representation would basically be seven to six in favor of the rural, small communities, if that is the way you want to deal with the issue.

This really is not an issue of small towns versus large cities. It is a question of who has representation on this Firemen's Advisory Council, and we feel that in Committee Amendment "A" particularly, we have seen to it that all the various groups and elements within the firefighting community have, to our way of thinking, adequate representation.

It seems to me that there should be no reason why Committee Amendment "A", which at one time was almost a unanimous opinion of the committee, should not pass. It is too bad this has been portrayed as a rural municipal, large city issue when it really isn't.

One other point that I would like to make. If you do not accept Committee Amendment "A" and you accept Committee Amendment "B", you will in effect be giving the Commissioner of Education full authority to rest in the hands of one individual and one individual only. I would submit that those of us who are concerned with the issue of local control would not like to let that happen, because you could end up with a board of 13 people that represent the cities only, or could end up with a board of 13 people that would represent rural commu-

nities. Committee Amendment "A" addresses that issue; Committee amendment "B" leaves it entirely in the hands of the Commissioner of Education to do the appointing. I would think that is something that this legislature would not want to do. So, I would hope that that you would support the pending motion.

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

Mr. BIRT: Mr. Speaker, Ladies and Gentlemen of the House: I completely support the remarks of the Chairman of the Education Committee. I think we have spent a great deal of time on this. It started out looking like a very simple bill but it became very complicated in the course of the discussion. I never did completely figure that this was a bill for a power struggle of any sort. I figured it was more of a bill to try to get where you could find all areas that might be able to contribute something towards setting up a board that would be an advisory board for the development of education or training of firemen.

I think that one of the reasons why they did put in a couple of people from the Maine Council of Firefighters was discussed at quite some length. That is not really a union as such. As I understand it, they are the major agency in the United States who does research in firefighting, handling of fires, saving lives and working in areas which are of the most concern to firemen. These people do have a lot of information funneled down to them, and I think that putting two people from that organization on is a proper approach. I think that Committee Amendment "A" was a reasonable compromise. It was put together after a great deal of deliberation and I hope that you will accept that report.

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

Mrs. LEWIS: Mr. Speaker, Ladies and Gentlemen of the House: I hope that you will not accept the Report "A" and will accept Report "B". I would like to clarify a few things.

The Maine Federation of Firefighters is not a union. However, the Maine Council of Firefighters, which would have two members, is the AFL-CIO. We all know that there are fire departments in our state that are represented by the Teamsters' Union. This automatically says that those people cannot be members of this board. I call that discrimination. I also call it discrimination to say that only people who are recommended by the Maine Municipal Association can serve, when we know perfectly well that every town in the State doesn't belong to the Maine Municipal Association. I don't see why we would give legal entity to these various private organizations, which we would be doing in Report "A".

The commissioner does have the power to appoint all of these people regardless of which amendment you take. If you look at the amendment, you will see that it is the commissioner who is doing the appointing with recommendations from these various organizations, but he is actually the one who is doing the appointing.

I think Report "B" represents a much fairer way of doing things without giving legal entities to these groups, as I have said, and giving more fair representation all over the state. There are more firefighters on Report "A" than there are on "B" and, after all, if this was a training program for firefighters, I would think that they would be the people who would have the most representation.

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

Mr. STROUT: Mr. Speaker, Ladies and Gentlemen of the House: I hadn't prepared myself to speak on this today, but I will say a few comments and then maybe someone from the committee might answer me. I am a little confused as to exactly what report to go.

Mr. Speaker, could I compare the two amendments and then ask the question?

The SPEAKER: The Chair would answer in the affirmative.

Mr. STROUT: Mr. Speaker, Ladies and Gentlemen of the House: As I look at the two amendments, "A" and "B", and the good lady from Auburn has just explained to you that the commissioner will have the appointment, but I guess I am inclined as a volunteer fireman to lean towards Report "A". The reason that I lean that way is that I think we should not leave all the appointments up to the Commissioner of Education without having some of the various associations concerned who might be recommended. This is why, in looking at Report "A," I don't see a real big change on what the makeup is going to be.

My big reason for supporting this is having some of these associations recommend to the Commissioner of Education. This is the thing that concerns me. As a volunteer fireman, I am not afraid to go this route. There is one thing I would like to have the committee clarify. Under the "A" section, if somebody might comment on "A" and "B", for example, the difference between one full-time chief and one municipal chief and two full-time firefighters compared to one municipal firefighter and a call firefighter? What is the difference between municipal firefighters and a full-time firefighter?

The SPEAKER: The gentleman from Corinth, Mr. Strout, has posed a question through the Chair to any member who may care to answer.

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

Mr. CONNOLLY: Mr. Speaker, Ladies and Gentlemen of the House: In response to the question, it is a good question, I guess. In Committee Amendment "A" it says 'municipal'. I think the committee felt that there would probably be a fire chief from one of the larger cities. In Committee Amendment "B", it says 'full-time' so that would leave it open. It is my understanding that the distinction here would leave it open so there might be a fire chief from a smaller community rather than a large community. That is why, in Committee Amendment "A," and those of us that adopted Committee Amendment "A" to begin with, insisted on having a full-time call chief and a volunteer chief in there, to make sure that there was representation from smaller communities.

The other issue that one of the other speakers addressed has to do with the Maine Council of Firefighters, and I would just point out that in this amendment we are providing representation for union firefighters but we are also providing for representation for non-union firefighters as well.

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

Mr. STROUT: Mr. Speaker, I would like to pose another question through the Chair to the gentleman from Portland, Mr. Connolly. Could not, in fact, a municipal chief also be part-time chief?

The SPEAKER: The gentleman from Corinth, Mr. Strout, has posed another question through the Chair to the gentleman from Portland, Mr. Connolly, who may answer if he so desires.

The Chair recognizes that gentleman.
Mr. CONNOLLY: Mr. Speaker and Members of the House: In response to that question, the answer is yes.

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

Mrs. BEAULIEU: Mr. Speaker and Members of the House: I think what is happening here is exactly what happened in the committee when the bill was brought to the committee and that is, an in-depth understanding of the differences between volunteer, call and municipal firefighters.

I support Committee Amendment "A" and I think really what everyone would have to do and I will try to do it for you is to go to the cur-

rent law as it exists. I feel that Committee Amendment "A" does provide better protection to make sure that our call and volunteer firefighters are very well represented.

In the current law, it said you could have one full-time firefighter and one call or volunteer firefighter. We didn't feel that was adequate. Therefore, in Committee Amendment "A," we do not leave an either/or situation, we insist that there be a call firefighter and a volunteer firefighter. The same under "A" for the chiefs. It could have been one call or volunteer chief in the current law. We wanted to make sure that both were there, so I think we certainly have given much attention to make sure that the smaller communities were better represented than they were even by current law.

I think it is important to understand that what we are trying to do is to make sure that there is input from those who work on a day to day basis in the field of firefighting. I want to make sure that there is an input to the department to make sure that any education programs offered on a voluntary basis, be adequate and proper training programs.

Firefighting today is no longer just a situation of using water to put flames out. You could have firefighters come to your home and within the confines of one room in your home, they could be subjected to gases from your furniture and carpeting, not just the flames and the smoke, so firefighting today is not a simple matter.

Arson, according to the Congress of the United States, last year has become a number one crime, which has never happened, recognition has never been given to that. There is a lot of education that needs to happen for all people involved in firefighting in the United States.

As I indicated, I am insistent that the federation have an input in naming the people who are going to serve on this advisory committee. I think the MMA does represent towns and municipalities and they should have voice in recommending people to serve on this advisory committee. It certainly should not be left up to just the commissioner of Education. Let the professionals, be they volunteer, call or organized, be the ones to serve as members of this advisory committee. I think the committee took a bill that I presented that sounded simple, and did one heck of a job in making sure that there was equal representation.

The Maine Federation of Firefighters, the Maine Fire Chiefs' Association and the Council of Firefighters' are all backing this bill. They worked very hard with us to make sure that we had a comprehensive, fair representation kind of bill and I personally owe them a vote of thank you and I hope you will adopt Committee Amendment "A".

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

Mrs. LEWIS: Mr. Speaker, Ladies and Gentlemen of the House: I couldn't agree more than I do with the good lady from Portland, Mrs. Beaulieu, in that the firefighters do need this educational program and that is why I am supporting this advisory council.

However, Report "A" is discriminatory. A municipality that doesn't belong to the MMA cannot have representation. A city fire department, that does belong to the teamsters union but does not belong to the AFL-CIO cannot be on this board. I consider that discriminatory. I think it is much better to allow people to be selected from all over the state and not depending upon their membership in a certain private organization. I think it is important that there be more firefighters on this particular board, and Report "B" does have six firefighters and Report "A" has only five.

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

Mr. ROLDE: Mr. Speaker, Ladies and Gentlemen of the House: Again, I want to emphasize that I come from a smaller town. I represent three volunteer fire departments. I

have always worked very hard for them, and my only reason for supporting this bill and any change in the current situation is that I would like to see my volunteer departments in York and Kittery Point made eligible when these federal funds come down. They are not going to have to take them. We have written into a bill that there is nothing mandatory whatsoever, but I would like to see them eligible for this additional training that they could get. That is the only reason that I am supporting this.

In terms of Report "B", I want to again emphasize the fact that the Maine Federation of Firefighters, which represent most of the 7,000 volunteer firefighters in this state, is very strongly opposed to Report "B" because it gives total control of this board to the Commissioner of Education. There is no input from any other group under Report "B". I just want you to remember that.

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

Mrs. BEAULIEU: Mr. Speaker and Members of the House: There needs to be a correction here. Organized firefighters, especially those from the Maine Council, belong to the International Firefighters' Association, which happens to be an affiliate of AFL-CIO. The AFL-CIO is not their primary union.

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

Mr. SILSBY: Mr. Speaker, Ladies and Gentlemen of the House: I would just like to point out that I am a member of the Maine Federation of Firefighters, my volunteer company - the members and my fire chief are members. My fire chief is the one that asked me to oppose this measure, so we are not always in agreement even though we are members of these organizations. I feel personally, in response to the gentleman's remarks from Portland, that we are in a power struggle today. I believe the small volunteer companies are in a power struggle with the large communities. We try to get along and we do get along, but we are, nevertheless, in a struggle over unionization, binding arbitration and issues like that. I feel that we have to defend ourselves the best way we can. We represent the majority of the firefighters in the State of Maine, and I feel that we should have the balance of power on this board.

The SPEAKER: A roll call has been ordered. The pending question is on the motion of the gentleman from Portland, Mr. Connolly, that the House accept the Majority "Ought to Pass" Report.

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

Mr. GRAY: Mr. Speaker, I would like to pair my vote with the gentleman from Lewiston, Mr. Jalbert. If Mr. Jalbert was here he would be voting yes; and I would be voting no.

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

Mr. JACKSON: Mr. Speaker, I would like to pair my vote with the gentleman from Portland, Mr. Brannigan. If Mr. Brannigan were here, he would be voting yes; and I would be voting no.

ROLL CALL

YEA — Aloupis, Bachrach, Baker, Barry, Beaulieu, Benoit, Berry, Birt, Blodgett, Boudreau, Brenerman, Brodeur, Brown, A.; Brown, K.C.; Call, Carroll, Carter, D.; Chonko, Cloutier, Conary, Connolly, Davies, Davis, Diamond, Doukas, Dow, Dutremble, D.; Elia, Fowlie, Gould, Gowen, Gwadosky, Hall, Hickey, Howe, Hughes, Jacques, E.; Jacques, P.; Joyce, Kane, Kany, Kelleher, Laffin, Lancaster, Lizotte, Locke, MacEachern, Mahany, Marshall, Martin, A.; Masterton, Maxwell, McHenry, McKean, McMahon, McSweeney, Michael, Mitchell, Nadeau, Nelson, M.; Nelson N.; Norris, Paradis, Paul, Pearson, Post, Prescott, Reeves, P.; Rolde, Simon, Soulas, Strout, Theriault, Tierney, Tozier, Tuttle, Vincent, Violette, Vose, Wood, Wyman,

The Speaker.

NAY — Austin, Bordeaux, Bowden, Brown, D.; Brown, K.L.; Bunker, Carrier, Carter, F.; Churchill, Cunningham, Curtis, Damren, Dellert, Dexter, Drinkwater, Dudley, Dutremble, L.; Fenlason, Fillmore, Garsoe, Gavett, Hanson, Higgins, Hunter, Hutchings, Immonen, Kiesman, LaPlante, Leighton, Leonard, Lewis, Lougee, Lowe, Lund, MacBride, Masterman, Matthews, McPherson, Morton, Nelson, A.; Payne, Peltier, Peterson, Reeves, J.; Rollins, Roope, Sewall, Sherburne, Silsby, Small, Smith, Sprowl, Stetson, Stover, Studley, Tarbell, Torrey, Twitchell, Wentworth, Whittemore.

ABSENT — Gillis, Hobbins, Huber.

PAIRED — Brannigan-Jackson; Gray-Jalbert;

Yes, 84; No, 60; Absent, 3; Paired, 4.

The SPEAKER: Eighty-four having voted in the affirmative and sixty in the negative with three being absent and four paired, the Majority "Ought to Pass" Report is accepted.

The Bill, was read once. Committee Amendment "A" (H-132) was read and adopted and the Bill assigned for second reading tomorrow.

Consent Calendar

First day

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

(H. P. 637) (L. D. 788) Bill "An Act to Prohibit Vehicles from Passing School Buses on School Property while Buses are Receiving or Discharging Students" Committee on Transportation reporting "Ought to Pass"

(H. P. 331) (L. D. 430) Bill "An Act to Limit Additional Retirement Benefits under the Maine State Retirement System" Committee on Aging, Retirement and Veterans reporting "Ought to Pass" as amended by Committee Amendment "A" (H-137)

(H. P. 498) (L. D. 622) Bill "An Act Regulating Hunting with Muzzle-loading Rifles" Committee on Fisheries and Wildlife reporting "Ought to Pass" as Amended by Committee Amendment "A" (H-138)

No objections being noted, the above items were ordered to appear on the Consent Calendar of March 29 under listing of Second Day.

Consent Calendar

Second Day

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

(S. P. 222) (L. D. 606) Bill "An Act to Permit the Retirement Earnings Limitation to Increase as Cost-of-Living Increases in Retirement Benefits"

(S. P. 107) (L. D. 212) Bill "An Act to Restrict the Placing of Hazardous Objects on Utility Poles" (C. "A" S-52)

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

Passed to Be Engrossed

Bill "An Act to Allow Prorated Benefits but for Times When a Person is Available for Work but Cannot Work for Important Personal Reasons" (H. P. 345) (L. D. 444)

Bill "An Act Concerning Removal of Unattached Nonmembers from Indian Reservations" (H. P. 398) (L. D. 505)

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

Second Reader Tabled and Assigned

Bill "An Act to Permit Signed Statements of Psychologists and Chiropractors to be Admitted into Evidence Before the Workers' Compensation Board" (H. P. 377) (L. D. 540)

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

On motion of Mr. Wyman of Pittsfield, tabled pending passage to be engrossed and specially assigned for Friday, March 30.

Amended Bill

Bill "An Act to Adjust the Penalty Assessed Against Small Employers under the Employment Security Law" (H. P. 310) (L. D. 400) (C. "A" H-127)

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

Enactor

Later today Assigned

An Act to Clarify the Ability of the State Auditor to Seek the Advice of the Attorney General (H. P. 196) (L. D. 245) (C. "A" H-91)

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

On motion of Mr. Higgins of Scarborough, tabled pending passage to be enacted and later today assigned.

Passed to Be Enacted

An Act to Define Employer's Rights after Failure to File a Separation Report in Unemployment Compensation Cases (H. P. 307) (L. D. 402) (C. "A" H-105)

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

Enactor

Indefinitely Postponed

An Act to Provide for Art in Public Buildings and Other Facilities (H. P. 1071) (L. D. 1224)

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

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

Mr. CUNNINGHAM: Mr. Speaker, Ladies and Gentlemen of the House: I hadn't looked at this bill to a great extent until this morning. I think I am supportive of the concept that we should encourage art in public buildings and other facilities through the state of Maine. However, I wonder if we are doing this in the proper methods by the bill which we have before us, which is L. D. 1244?

The bill sets up the Maine State Commission on the Arts and Humanities, which will not become involved in every public building project in the State of Maine, that is every project over \$100,000. There are very few buildings built in the State of Maine now for less than a million dollars, I guess, so I would think that nearly every building project in the state would now have to go through another layer of commission approval, another commission, and if anybody has been on a local school board during the time of constructing a local school, I am sure you will understand the tremendous number, I think something like 13 different steps that you have to go through, various commissions and places of approval in order to get a school building built in the State of Maine. Now we are going to add another one.

I am a little bit concerned that in our effort to encourage art in public buildings, we are mandating that a minimum amount of money be spent.

I can think of some very beautiful school buildings that have some very inexpensive pieces of art in them. I refer to murals that have been done by art students of the schools. Certainly these murals done by art students in a local public school did not cost the minimum one percent, or if the building was a \$100,000 building, certainly \$1,000 was not spent on these murals. In some instances, if these buildings, then the one percent, up to \$25,000, certainly was not spent on some of these beautiful

murals that you see in our public school buildings.

I just question whether or not we should mandate spending of money by a commission to an artist or group of artists or any other person in the State of Maine, even though I don't quibble with the concept that we should encourage artists to work in the State of Maine. I do think that you just preclude the possibility that some local person who is willing to donate perhaps an expensive work of art to a local building couldn't do that unless a sum of money was spent on that particular piece of art.

After reading the different provisions of the bill and after thinking of some of these possibilities, unless there is somebody that has worked on the bill in more depth than I have, and I am sure there are some here, I can't see where the positive benefits would be cost-effective benefits. For that reason, in order for us to do something positive today, I would move that this bill and all accompanying paper be indefinitely postponed.

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

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

Mr. KELLEHER: Mr. Speaker, Ladies and Gentlemen of the House: The bill that we have before us is a bill that was introduced in the last session of the legislature and it was soundly defeated in this House on May 31, 1977, by a vote of 85 to 44. The document that we have here today is worse than the bill that was here in 1977.

Let me just read one portion of this bill, and if all of you people who believe in local control, believe that the municipalities, towns and school boards should have something to do with school construction and the renovation and building of schools, let me just read one section of the bill and then you can vote your conscience whether you truly believe in local control representation in your own communities.

On Page 2 of L. D. 1224, Section B, it says: "Public buildings or public facilities shall also include all new school construction projects which have been approved by the State Board of Education after the effective date of this chapter, and which are subject to state reimbursement for their debt service costs." Here is the punch line — "Any school construction project approved after the effective date of this chapter which does not include a work of art as part of the project shall not be eligible for future state reimbursements for any debt service costs related to the project." That ought to be enough to encourage you to support the indefinite postponement motion, and I hope you do.

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

Mrs. MITCHELL: Mr. Speaker and Members of the House: Representative Kelleher is, indeed, quite skillful on the floor. It is very interesting to note that he is concerned about our reconsidering a bill which was defeated in the last session. You may have noticed on yesterday's calendar, he was trying to resurrect from the dead a bill requiring September primaries, and I know that he had sponsored that several times.

The SPEAKER: The Chair recognizes the gentleman from Bangor, Mr. Kelleher, and inquires for what purposes he rises.

Mr. KELLEHER: Mr. Speaker, a point of information to the Chair: The topic that the gentlelady was talking about was an order that was presented by my good friend Mr. Jalbert and it was not introduced. I can't see for the life of me, Mr. Speaker, the relationship between what was done yesterday in terms of what is being said here today.

The SPEAKER: The Chair would advise the gentleman from Bangor that references may be made to a pending matter.

The gentlewoman may proceed.

Mrs. MITCHELL: Mr. Speaker and Members of the House: I am very sorry, but I was simply trying to make the point that we reconsider many bills in many different sessions. Many bills never pass the first time, but when they are worthy of consideration, we bring them back again for further consideration. That was the only point I was trying to make.

Let's talk about the local control issue for just a minute. Mr. Kelleher and the other representatives who share Mr. Cunningham's view are absolutely right. This legislature has no business telling Bangor or any other town in this state how to spend local dollars. The bill doesn't do that. The bill tells the towns how to spend state dollars; we are talking about state dollars only in public buildings, either public buildings built by the state or public buildings built for our school children.

Mr. Cunningham has raised some interesting questions about how can we afford to do such a thing? Well, let's look at it purely from a business point of view.

Art is an investment, it does nothing but increase in value, and may I give you an example of something that happened under a similar bill in another rural state called Montana. An unknown artist in the early 1900's was commissioned to paint a mural in the Senate. The original cost is unclear; it probably was around \$5,000 because he was just beginning his work as an artist. In 1978, a painting by this same artist, which was very small, sold for \$425,000. So, I am just saying that it is an investment. Clearly we are not going to strike gold with every beginning artist, but let's think about it from a business point of view.

The Kennebec Journal, in an editorial recently, suggested that businesses should consider art in their public buildings because business and art go hand in hand because tourists come to see fine works of art.

Let's just think about the building we are in, and I know Representative Kelleher appreciates the beauty here. He spends much time in the marbled halls under the dome. I would like to ask how many of you would like to spend a great deal of time in that lovely building that you can see out the window where no care was given for art? It was simply to build the most inexpensive building possible. I call it early government haste or waste, or whatever. But just think carefully about what you think is most important. We are trying to put some sense of perspective in our priorities.

I know that some people, when you first look at this bill, you say, I couldn't possibly vote for such a bill. Your macho instincts come up and you say this is really just a petticoat bill; only women could be interested in such a bill. That is not the issue at all. Art is very important both from an investment point of view, for lifting up our environment and certainly for the kids in our public schools. We certainly take an interest in the structural soundness of the roof of the building — I am interested in the structural soundness of the kids who are under those roofs, in the buildings.

If I may share with you very briefly something that I feel is right on point. This editorial talks about driving to a rural country town, very poor, and coming to a beautiful cathedral in the middle of the town and wondering why the citizens of that town would spend their money on something so extravagant. The first reaction was, they shouldn't. They are very poor, they should be worried about feeding themselves. After reflective consideration, the response should be, no, it is not enough. Those people scratching to make a living willingly gave some of the little they had to create one object of beauty in their town. We can afford something to give our public buildings a little beauty.

I would like to ask you if you think the people in Italy were very wealthy when Michelangelo painted the Sistine Chapel, or it was wealthy

people in Lewiston who built the cathedral that the people in that city are so proud of?

Let's think for a moment about putting our priorities in the right place. It is a very small amount of money set aside for something very important to all the citizens of the State of Maine.

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

Mr. GARSOE: Mr. Speaker, Ladies and Gentlemen of the House: This bill is in big trouble, because I am the macho side of the bill, I am an enthusiastic sponsor. I can only offer thanks today that my good friend from New Gloucester, Representative Cunningham, didn't learn about this yesterday or he wouldn't have let us out of here for quite a while. He did quite a job of listing his general support and his specific concern, but I don't think he has made his point on indefinite postponement and I would just like to share with you, before we vote on this why I hope we will not indefinitely postpone, some of my reasons for agreeing to be a sponsor to this bill.

In my town of Cumberland, Cumberland and North Yarmouth, SAD 51, we have a pretty new school facility, high school facility, very efficient, very well designed by an engineer, and its chief work of art is a soft drink machine that leans out through the glass front and reflects on the snow in the wintertime. That is really what you see when you drive into the area of the building. On the other hand, our junior high school, which was donated by Elisha Greely back in the 1800's and built with a gift he gave to the town, is now regarded as a work of art, cupola slate roof, certainly an expensive type of building and one that had a great many features on it that didn't educate children. That sort of brings you back to the fact that there should be more to what we put into our public buildings than bricks and glass.

If there are problems with this piece of legislation, and I think we have heard a couple here today, certainly the cure is not to indefinitely postpone it but to send it back for some medication. If that is what has to be done, I think the sponsors would be willing to take another look, but I hope today we can avoid the drastic step of killing the bill through the gentleman's motion for indefinite postponement.

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 share, if I might, a couple of experiences that I have had. An old farmer like me, spent all my life on a farm never knowing much about art except when I see a comic in a paper or something. Two experiences made me believe that this is a very important bill and something that we should consider very seriously as we build buildings in the future.

I was fortunate before my father passed away in 1971 to go to California to visit with some of my relatives there. I have always been involved in our local schools, I have always been involved in our local town affairs. They took me to two or three of the new schools that were built and they seemed to enlighten me as I walked through them. There was something there that I hadn't seen. When I got back to look at our own schools, I said to some of the people, what did I see out in the California schools that I don't see here? And two years ago when I saw this bill, it struck me. You know me well enough and my language isn't always the best, it is pretty hard work for me to speak on the floor without being colorful, so I have to hesitate once in a while, but there is a little church in our town. I attend it often, not as much as I should because sometimes the minister and I aren't on the same sides of the fence, but there is one thing in there I would like to have you people remember. As I look up in the balcony of that church, a painting was done with Christ giving the Sermon on the Mount. I have been back there many, many

times and the reason I do is to look at the paintings that are there that were done over by people that have been motivated through somebody in our area who has taken the time to teach a little bit of art to them. It is there for any of you people to see.

I would hope we wouldn't be so narrow minded as to not want to pass something like this that is constructive, that would be helpful to the children of the future.

The SPEAKER: The Chair recognizes the gentleman from Sabattus, Mr. LaPlante.

Mr. LaPLANTE: Mr. Speaker, Ladies and Gentlemen of the House: I have a slight problem with Page 3, Section 453, first subsection. That deals with one percent of the appropriation. What I would like to know is whether this would be part of the actual appropriation that we would appropriate for the building of a school?

In our area, for instance, when we had \$2 million to build a school, that was the expense that we had. If we had had to take one percent of that total amount and put it into art work, we would have to do away with the art department, so I don't know whether we are defeating our purpose or not here. I think we should be very careful on our school construction area here.

Another part on Page 1, which is Section 452, subparagraph 2, describing what an artist is, I think somehow if you were to build a school and you wanted to put art in there, there are many people in the local communities that may not be considered by critics to be artists but are very good artists, and they could also donate their time to put art in the schools.

I think that Part B that Representative Kelleher pointed out is very serious, and when you add that with Section 453, Subsection 1, there it is very serious need for school construction, especially in small, rural areas that now have a very limited amount of money and it may mean that we would have to do away with other resources to add art, and I think art can be added in a more fiscal manner.

The SPEAKER: The Chair recognizes the gentlewoman from Cape Elizabeth, Mrs. Masterton.

Mrs. MASTERTON: Mr. Speaker and Members of the House: I appreciated the remarks of my fellow tree person this morning. I guess I want to say that a poet once said that "Only God could make a tree." But I would like to add that only man can make a work of art.

I was a member of a subcommittee of the State Government Committee that really went over the language of the original bill with a fine tooth comb, and we tried to resolve some of the problems that some of you have been evincing this morning.

With regard to the local control issue that Representative Kelleher brought up, if you look carefully at the bill, the selection process of the artist, the work of art and how it is going to be placed in the public building is very, very carefully drawn up to give the local community full control over that selection process and decisionmaking process, but with the final approval of the Art and Humanities Commission, which, Representative Cunningham, this bill does not establish. It has already been established in this state, as has federally the national endowment for the arts. So there is a role for state policy regarding art in our state and in our federal government. For example, we have the Maine State Museum, so the State of Maine has already started down that road of taking a more active role in supporting the art.

With regard to whether or not students could participate in providing murals and art for their local school, at the hearing, we had a delightful young lady who teaches art therapy over at AMHI. She told about a day that she had sponsored for local artists to come in and paint murals on a long, dull, underground corridor, similar to what we have between the State House and the State Office Building. It was a

very successful day. There is art for the patients to look at, appreciate, to be stimulated by. There is nothing in this bill that prevents her from doing that from an art teacher in the school, from encouraging this or indeed, for us to encourage murals on that corridor leading to the State Office Building.

Finally, I want to say that from a personal point of view, I think that art delights the spirit, it blends grace and beauty to our everyday lives and it infuses a sense of pride in our community, whether it be our municipality, our state or our nation. It is the measure of our civilization.

I would like to see this legislature give full support to this bill and send it on its way.

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

Mr. BOUDREAU: Mr. Speaker, Ladies and Gentlemen of the House: Mr. Kelleher mentioned Part B, Section 5 of the bill, which the proponents haven't even commented on yet, dealing with debt service. On page four of the bill, we are giving the Commissioner a lot of power.

Mrs. Masterton says the local people have the ability to make a decision. It says here, additional selection of the artists. So, someone in Augusta is going to make the decision for your town and city who the artists are going to be, to begin with. Next, the commissioner is going to review the design, execution and placement of that art object in your public building, in your town or your city.

No one is going to stand up here and say they don't think art is a good thing, but I think there are some problems with this bill and I hope you follow Mr. Kelleher this morning.

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

Mrs. BEAULIEU: Mr. Speaker, Ladies and Gentlemen of the House: I would hope that you would not support indefinite postponement.

In my city, my name proudly hangs as the member of a building committee in the Portland Regional Vocational Technical School. In less than a month, my name will be on a plaque for the building of a brand new library that is going to serve this state. If a bill like this had been in place, there would have been art involved. I am sorry we did not have a law to force us to do it, because the two buildings, beautiful as they may be, are going to be rather bland.

Two years ago, through a federal grant, some of the students at the vocational school built a statue called Michael. We had hoped that that statue would have been placed on the grounds of the new vocational school. However, our city fathers decided to put it somewhere else, in the old Port Exchange. Maybe where it was built at the school by the students, it could have been retained and kept at the school, had we had somebody higher up than the City Council in Portland urging us to do so. I guess I am extremely concerned that we would try to shoot down this idea of having art in our public buildings.

Last week or the beginning of this week, my newspaper, the Portland Press Herald and the Evening Express, reported on an art find in one of our buildings in Portland, a school building, which is almost a 100 years old. A portion of the blackboard fell off one day and when the teacher went to pick it up, other pieces were loose and when he pulled them off we found a whole wall full of painting, about Robin Hood. Nobody ever knew that it was there. Somebody had the courage to paint it in a school building years ago. It has become a treasure this past week to the City of Portland, so art in public buildings, is extremely meaningful and I would urge that we not vote for indefinite postponement.

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

Mrs. MacBRIDE: Mr. Speaker, Ladies and Gentlemen of the House: I think it is very im-

portant that we do have art in our public buildings.

I originated an art loan program in the new wing that we were building in the Presque Isle Hospital. At that time, we didn't think very much about art, but I just couldn't believe the enthusiastic reaction from both the public and the patients to that or the therapy that is created.

If you travel through Europe, I think you are amazed at the amount of money that the people there have contributed to their sculpture, paintings and etc. and I think it is the time that we did that here.

If there is trouble with this bill, I think it should have a chance. I urge that you do not indefinitely postpone it so that it can be sent back to the committee.

The SPEAKER: The Chair recognizes the gentleman from Sabattus, Mr. LaPlante.

Mr. LaPLANTE: Mr. Speaker, Ladies and Gentlemen of the House: I am not opposed to the bill or public buildings in general. I am very sensitive to school areas. This is the part of the bill that I am very sensitive to and that is that portion that mandates to schools what they will have for art and if they will have art.

The fact of the total appropriations of any school, and I would like to pose a question to someone who can answer it, on section 453, Page 3. Is that one percent part of the total appropriation? That is the first question.

Second, if you have absolutely no other place to turn to for funds, would you then have to cut some projects in that school? Some academic area? I certainly would oppose even a locker room but anything in that area? I would like to have that answered. I think it is very sensitive to rural areas.

I think that Representative Beaulieu made a good point. In old schools, that is fine. You may find some art that has been covered over. But I think that new schools that are going to be built in rural areas, the fiscal problems that we have today, people will not appropriate money and put one percent of their budget for art and still probably have the opportunity to have all the curriculum area covered that they would like.

The state tells you per pupil how much square footage area you are going to have to have and that is a must, you can't have any more or less. They make the final decision on square foot per pupil. Then they allocate the amount of money per square foot that it costs and that is all the money you have. Now, if you take one percent of any appropriation on \$2 million or \$2.5 or \$3 million, you are talking about some projects or some areas of concern in those areas that will have to be cut and you will be doing a disservice to your students in small rural areas. You are going to have to pay interest on that money because you have to appropriate from the beginning. If the state would say, fine, you build a \$2 million school and then we will give you \$25,000 to put art in it, that is something different, but here it is taken out of the total appropriations and that is going to hurt small schools.

The SPEAKER: The gentleman from Sabattus, Mr. LaPlante poses a question through the Chair to any member who may answer if they so desire.

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

Mrs. KANY: Mr. Speaker and Members of the House: That is a very legitimate question and you certainly deserve an answer.

I would like to point out that under the present School Construction Act, some schools actually receive no state money for a school building. We in the State Government Committee were extremely conscious of local control, every single one of us on that committee is well aware that no one likes to have anything mandated to them, and consequently, even though we are a very hardnose committee, you might have noticed on the calendar yesterday that we had six or seven or eight "Leaves to Withdraw."

we haven't been passing out too many bills from our committee, so we all took a great interest in this particular one. Perhaps, just because it is so uplifting and we all need something to uplift us this particular year. We decided that we would work very hard on this bill, we had a subcommittee headed by Representative Masterton, who is a co-sponsor of this bill and they worked very hard on the bill. Even after that, we worked very hard with Walley Bushman, who you, who have been here before, know is the Attorney General assigned to the Department of Education, just because we had questions on how this would affect school construction particularly.

We took everything out of the original bill that had to do with municipalities. We are only talking about when there is state monies. Even so, we are just talking state agencies, normally, and you will notice, at the top of Page 2 that the contracting agency in the case of schools where there is state money, it is that local school board. We took this into consideration and we felt very strongly that we wanted it always to be the local communities, even when there was some state money involved, as there often is, in school construction, to be the one to work with the commission only, basically, to consult with them in the design of and discussion of the art. So, that is the story.

Here we are, this terribly hardnosed committee filled with conservation, liberals, Democrats, Republicans, whatever, and we all took the time, kept this in our committee a long time, really debated every single little word, probably it is still far from perfect, we realize any time you get into something new, you might have problems, but we hope that your attitude will be the same as ours in that, "let's give it a try, we can always work out problems in the future, if there are any, and that you will consider this just as uplifting as we did."

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

Mr. DUDLEY: Mr. Speaker and Members of the House: I do come from a rural area and I don't mind saying so. There is some difference in our views of art that I might consider art. I am sure some other people would consider wasn't art. First, of all, that makes one point. The point is I can go back further. In my area, I can show you school houses built 100 years ago and the roof has never leaked. Augusta makes us now, to build a school house, we have spent something like 10 percent in architectural design or more and it has to be an approved licensed architect. So, help me God, we don't have a building built in my districts by these architects that after two or three years, the roof hasn't begun to leak, every one of them, every single one of them. Now, the old fellows that built buildings 100 years ago and more, these roofs don't leak. So, this is just one thing why my people don't want to be dictated any further from this establishment down here on what they have for art or when they will have it or where they will hang it, no more than they want to be there telling them how they can build a building and make the roof leak.

Now, this is why I stand firmly this morning for indefinite postponement of this bill. I could say buy this bill if it said possibly something like this, that these people may spend up to one percent on art. I think a lot of people there would buy it, I would. We are doing more than that, we are saying that down here, they are going to tell us what is art, worse than that, where we are going to hang it in our buildings. We don't buy that. I don't buy it, my people don't buy it and I hope you don't buy it.

So, as I read this bill in its entirety with amendments, I feel justified this morning in voting with Mr. Kelleher to indefinitely postpone this bill.

We have had enough of this from this establishment to my community dictating now even in art. Now, I am not against art, I am sure my people wouldn't be against spending one per-

cent for art, provided it said, we "may" do it.

We are going to decide what art is, because what is art to a country person might not be art to someone down here in this building by the wayside here, number one. We might decide to hang certain pictures in the outhouse, other pictures we would hang in a corridor, other pictures, we would hang in a classroom, but we want to have something to say, what picture and where we are going to hang it, where I come from. I don't see any latitude or longitude in this bill that would give us that respect.

I think you would be using good judgment if you indefinitely postpone this bill until such time your local people, whether it be Portland or Portland may have a different idea on art than I do. Certainly I know they have a different idea on where they wanted to hang it. I don't want to be dictated to any further. Now, if you want to sell me a piece of legislation, first of all, you would have to say in the bill somewhere, that you "May" spend of the state money, up to one percent for art. You might sell me this type of legislation but not this piece that is before; us this morning. Thanks for being so patient, I seldom talk this long.

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

Mr. BROWN: Mr. Speaker, Ladies and Gentlemen of the House: It distresses me greatly to disagree with many of my friends in the House this morning and I suppose that my comments will be construed to mean that I don't appreciate art. In fact, I think just the opposite is true. However, if you were to check my grades in art at the University of Maine, you might not think that is true.

I would like to go back to some of the remarks that the gentledady from Vassalboro made. She mentioned this bill in the context of a business point of view and I would like to point out to the House that when I vote with the gentleman from New Gloucester on indefinite postponement of this bill that is exactly what I have in mind I am looking at it from a business standpoint.

You know it is very difficult for us to go back home and tell people, if we pass a bill such as this, it is difficult to tell people, don't worry, you won't have to pick up the tab, the state will. I think we all understand the implications of that kind of an argument. There is no such thing as a free ride and don't let anybody convince you that there is. We certainly can't convince our constituents of that.

The gentledady also mentions that art is an investment. It certainly is. Again, let us not kid ourselves into thinking that that is the kind of investment we are going to be cashing in. My home is an investment. It is worth, perhaps, twice as much now as it was when I purchased it. However, I have no intention of leaving that home until I absolutely have to.

It seems that the state now has a new concept in education. Instead of a good basic education that was once provided in little red schoolhouses, we now have large elaborate school houses that keep us in the red.

You know many of the local areas have some very qualified people in the arts, who can provide and are willing to provide and are providing these pieces of art to the schools and the public buildings. I think that we should be going in that direction rather than in other state mandated programs.

Two days ago, I spent an afternoon traveling around rural Androscoggin County. I saw some pretty depressing situations. I met with AFDC mothers. I met with people who had been unemployed for long periods of time. I saw small children with many, many problems. If the state of Maine has the kind of money that this bill purports that it does, then I would submit to you that we would be much better off taking that money, using it to bring people out of depression and to a situation where they can enjoy the art that is available.

The SPEAKER: The Chair recognizes the

gentleman from York, Mr. Rolde.

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

Thereupon, the Report was read by the clerk.

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

Mr. ROLDE: Mr. Speaker, Ladies and Gentlemen of the House: I first became introduced to this bill by way of several constituents who called me and asked me to support it. Almost automatically I said that I would support it. There was something about the idea that just naturally appealed to me. Until now, I have not taken the time to examine the exact nature of what I like about this bill, just why does this notion of putting art into public buildings have merit? It seems to me that it has merit in the sense that for once we are sort of pausing in the middle of our hectic, very materialistically oriented lives and saying hey, wait a minute, isn't there something else? Shouldn't there be a touch of beauty or fineness or even if you want to call it spirituality in our surroundings? We often give lip service to the philosophy that we are more than materialistic beings. But, this bill does more than give lip service. It is saying that we devote a portion, albeit an extremely small portion of the large sums of state money that we spend on public buildings to artistic expression.

Civilizations are never judged on their material achievements. We honor ancient Greece and Rome, not for their practicality but their spirituality that has survived in their literature, their philosophy, their sculpture, their art and the beauty of their public buildings which were adorned with art. Vast armies of tourists annually visit the beautiful public buildings of Europe to see their statuary or their stained glass windows or the magnificent paintings they contain.

I am not suggesting that our limited efforts, as contained in this bill, will put our Maine public buildings in the same category, but they will at least mark us, this legislature, as having had a concern with the nature of our society, a concern to civilize it, to humanize it and to make it stand out as something more than merely a day to day practical existence.

To me, that is not the kind of concern that can be spelled out totally in a fragmented way at the local level and why this bill is not only desirable but necessary.

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

Mr. WOOD: Mr. Speaker, Ladies and Gentlemen of the House: As one of the co-sponsors of this bill, I would like to just rebut some of the arguments that have been made.

I pride myself on my record of local control. This session I have a bill in to repeal state evaluation outright. I sponsored bills to have voting at the local level on budgets, so I think that my credentials as far as local control are in order. It is refreshing to see more people joining our local control efforts. With that in mind, though, I look at this bill and do not see any problems with my credentials on local control and my support of this bill because we are only talking about public buildings that receive state funds. And we are saying that if the state is providing some of the money, then the state should have some input as to what those buildings are going to be like. We already have input in terms of safety and all of that, we are saying there is another criterion and that we are setting a policy at the state level to encourage art and we are saying that one of the policy considerations will be if you put art in the building. So, it is state funds, we are not talking about local municipal buildings.

The second area is that we are saying, and we talked to a lot of architects and there were architects at the hearing and we are talking about \$25,000 at the most. No more than \$25,000. This could be worked right into the planning stages, that they would be putting some money into some art, so the architect

would be working with the school committee, it very well could be that they would put a wall in and instead of having regular covering, they would have a mosaic. So, you have got to pay for the wall anyway, and maybe for a little extra money, you can incorporate art into that wall.

We defined art in a very loose way including photographs, including paintings, including sculpture, including murals, so, there wouldn't be these rigid standards of how we define art. We have made it very loose so that school boards have a great deal of latitude in defining what they are going to put into the schools. This approach has been used nation-wide. There are a number of states that have this, a number of cities that have it and it is my understanding it is also part of the federal government. Nowhere have there been any problems with erosion of local control. In all the states that have it, it has been an overwhelming success and people have really enjoyed it. So, if those states haven't had a problem, I can't imagine we are going to have different problems because we modeled our bill after what other states are doing.

We have a lot of other problems, we have AFDC, we have economic problems, we have environmental problems, and somehow this should be done away with. I would argue that if we say then, that this is unimportant, then we are saying that art is only for the rich, only for the wealthy in our society and it has no relationship to the rest of us. I would argue that is an elitist attitude and I would argue that most of the problems we are having might be in some way alleviated if we had a little more art in our lives.

Finally, I would say, if you are going to apply the standard of local control, it is a very difficult standard to apply. We have many pieces of legislation before us this year and if you went through them with a fine tooth comb, you would find all kinds of examples of where they stand on the local control test. In fact, just going through the book, randomly pulling out bills, we have one that sets up court facilities in the state. Part of that bill is a mandate of court facilities that includes those facilities that don't even receive any state funds. This is sponsored by some of the same people that are for local control. I would argue that you can go through any bill and find areas where it could potentially infringe on local control. I would hope that the same standard, if we apply it to this bill, will be applied to these other bills coming down the line.

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

Ms. LUND: Mr. Speaker, Ladies and Gentlemen of the House: I rise in support of this bill today. I was on the subcommittee that did a great deal of work.

To answer some of the questions that I have heard raised on the floor of the House this morning, I would like to respond, first of all, to Mr. Brown of Livermore Falls, who talked about visiting people and needing spirits uplifted. There is one place in this State House complex that depresses my spirit every time I see it and that is the yellow corridor between here and lunch. Just think, if you had something to look at, as you walk through that corridor, how much better you would feel.

We have talked a lot about school buildings and local control. If you read the bill carefully, you will see that the local community picks the artist, the local community picks the type of art, the local community decides where it should go. I view this as a place for involvement of local people who might not otherwise care too much about a school building.

The money that comes for the art may be used in the design of the art, it may be painted by the children after it is designed. Money can be used for materials. The money can be used almost as broadly as you can imagine and that is one of the exciting parts of the bill.

The other thing that I want to say is that this for other state buildings besides schools. Do not confuse this with an educational cost issue, which it is not. When the Department of Transportation builds a building, we are saying to Maine, we are concerned enough about taking pride in our buildings to set aside an amount of money to make it look better when it is built. We are in charge of state dollars, we call art a high priority as far as we are concerned in the state. We have many good artists and we are going to have many walls to put something on.

I urge you to vote against the indefinite postponement of this bill.

The SPEAKER: The Chair recognizes the gentleman from Sabattus, Mr. LaPlante.

Mr. LaPLANTE: Mr. Speaker, Ladies and Gentlemen of the House: I have absolutely no problem with public buildings in general.

Mr. Speaker, at this time, would it be in proper order to move that this bill be recommitted to the Committee on State Government?

The SPEAKER: The Chair would advise in the affirmative.

Mr. LaPLANTE: Mr. Speaker, I move that this be recommitted to the Committee on State Government.

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

Mrs. MITCHELL: Mr. Speaker, I ask for a division on that motion.

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

Mr. KELLEHER: Mr. Speaker, Ladies and Gentlemen of the House: If I understood the comments made by my good friend from Cumberland, Mr. Garsoe, when he spoke here this morning, he stated the fact that there could be some problems and perhaps an amendment or two could be worked out in the bill.

Obviously, some of us see some real problems with this bill and he, being the cosponsor, and myself, along with Mr. Boudreau and some others who have some sincere problems with this bill, I would be willing to support sending it back to the committee so they could work it out.

A comment made by Mrs. Kany was that they had the bill in committee for a long time. They had the bill in committee approximately 30 days, not legislative days.

I sincerely believe that there were some honest objections raised by this House this morning concerning this bill. If the sponsors and supporters want to meet those of us who object to it halfway, then I would be willing to see this go back to the committee and have some of the objections ironed out.

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

Mr. NORRIS: Mr. Speaker, Ladies and Gentlemen of the House: I apologize, but I am afraid that my good and dear friend Mr. Kelleher from Bangor has some designs on this bill to deep six it and I don't think recommitting or playing with it will make any difference. He said in the beginning of his remarks that the bill was killed two years ago and that the only thing to do was to follow through the prescription of the previous legislature. I don't agree with that. I think we have debated this morning now for most of an hour and I think this issue is one that has been fully debated here and I think now is the time to bite the bullet. I think we either fly with it or die with it.

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

Mr. KELLEHER: Mr. Speaker, Ladies and Gentlemen of the House: I sincerely object to this bill as it is. I really raise the question, Mr. Norris, what your intentions were in saying that I want to deep six the bill? I want to deep six 1224, that is correct. Some of the very people who are sponsoring this bill here today voted to kill the bill two years ago.

I honestly believe that the minority floor leader would have no objection if we did send

this bill back to see if the objections raised by many of us on the floor could be ironed out. It is not an attempt to deep six the bill, because I don't know who has the votes here this morning, whether it can be passed or killed. So, if both sides are willing to meet a compromise in recommitting it, then so am I.

There isn't any single one of us, I am sure, in this House who objects to art in public buildings. I think we object to the document as it is written, a mandation of certain amounts of dollars being put into art. We all know what the financial situation is in this state and we all know what it costs for brick and mortar to build schools.

I have listened to my good friend from Limerick, Mr. Carroll, who mentioned what a difficult time the Highway Committee is having on the budget, and I might submit that if he looks at it, it also includes buildings pertaining to the highway department or any other state agency. We know by the Governor's budget that was sent to us, there is a small amount of dollars to handle all the state's needs.

I honestly wouldn't mind sending it back to the committee if they want to sincerely attempt to eliminate some of the objections that were raised here this morning. It is not an attempt to deep six it, because I am not so sure that the votes aren't here to deep six it right now. I don't want to call the cards; I would like to see it go back to the committee.

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

Mr. LANCASTER: Mr. Speaker, Ladies and Gentlemen of the House: I also am a member of the subcommittee that more or less redrafted this bill. In its original form, I had many objections, especially when I interpreted that it could mean art on sewer disposal plants, solid waste treatment plants, etc. The first thing that entered my mind was, when I was town manager of Kittery many years ago and Frank Kauffman was chairman of the town council, we constructed a sewer treatment plant. I am afraid that if we had had this bill in its original form then, we might have well ended up with a sculpture of Frank Kauffman in front of the sewage treatment plant. It might have been fitting because Frank is a good friend of mine, but he has brown eyes.

I have spent the better part of my adult life as a town or city manager in two states with a population of 1,300 to 60,000, and I spent a lot of time in regards to redrafting this bill, in regards to local consent and whether we felt that it might be an infringement upon principles of home rule. I don't see that it is. I feel that as it is now, it is a good bill and it could work.

It eliminated everything on the municipal level except school buildings, and you would have the final consent by your local school board. Someone spoke about being dictated to by the commission in regard to the selection of artists, etc., that is not true. It does state that we have to follow the proper rules and regulations, but it is your local government body of your SAD's, etc., that would do the selecting and decide what kind of art you wanted. It is very feasible that a local artist could do the work and the \$25,000 would be the maximum. It would be a non-deductible item in the bid.

I hope the people in this body will support the bill as presented.

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

Mr. GARSOE: Mr. Speaker, Ladies and Gentlemen of the House: Having been reinvented in this, this morning, by my good friend from Bangor, Representative Kelleher, who certainly does have some sincere problems, one of them, I think, being that he has decided to deep six this bill, I feel constrained to urge you not to recommit and not to indefinitely postpone.

I would merely observe that I haven't heard one argument from the folks here today who are upset with this bill that would lead me to think that they want to indefinitely postpone.

Anything can be pounded into shape, and I suggest that if we give it test on the vote that is coming up now and test it again on indefinite postponement, if it survives those, we may have a ground, because I am giving you people credit, who have had objections, as being sincere. I have had some notes coming in here that I think would make me quite open on considering some modifications. I don't think anything has been said here this morning that really justifies sending it back to the committee or, above all, indefinitely postponing it.

The SPEAKER: The pending question is on the motion of the gentleman from Sabattus, Mr. LaPlante, that this bill be recommitted to the Committee on State Government. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.
25 having voted in the affirmative and 95 in the negative, the motion did not prevail.

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

A vote of the House was taken.
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. Those in favor will vote yes; those opposed will vote no.

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

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

Mr. LEONARD: Mr. Speaker, Ladies and Gentlemen of the House: If I may, I would like to just make an example. I would like to present the Speaker with a picture today, a piece of art. People probably don't realize that I am in the field of art and probably wouldn't qualify by the definitions of this bill; however, I would like to give this to the Speaker.

This is a print, worth very, very little, as you probably will be able to tell when you see it. However, I have been in the Speaker's office and I think it is somewhat barren of art and I would like to see that maybe you put some more in there. I am not mandating you do that nor am I mandating that you put my piece of art in there. I simply, as a taxpayer in the State of Maine, think that maybe that would be wise.

The thing that bothers me is the local control aspect. Mr. Wood said that he is a local control advocate. The definition of local control, in my opinion, is that we allow the people to make the decisions whenever humanly possible.

It has been said in voting, and I am not sure exactly how it goes, but if the people cannot exercise with intelligence their right to vote, then it is not incumbent upon government and the people in government to take their right to vote away but to educate them. The same is true here. We are mandating something that we should be educating the people to realize that they really, truly want and need. It is not government's place, I don't believe, to keep telling the people what, in fact, they should have. That is my objection of Mr. Kelleher, I believe, and many others.

If you are not going to recommit the bill, then I hope you do, in fact, as the word goes, deep six it, and maybe cooler heads will prevail next year or the year after and we will come out with a piece of legislation that is palatable to all.

Whereupon, the Speaker was presented with the print.

The SPEAKER: The Chair would like to thank the gentleman from Woolwich, Mr. Leonard, for his sketch. The Chair does note that it is a numbered print.

The Chair would also point out that among

the art that is in the Speaker's office is the work of an artist from the gentleman's district, a Hasenus painting which the Speaker personally purchased and is now worth \$750, from the original price.

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

Mr. HIGGINS: Mr. Speaker, Ladies and Gentlemen of the House: Mr. Speaker, I apologize that I don't have a picture to go along with it, from another part of the state.

I have some objections and problems with this bill today, too. Most of them have already been portrayed here to you today. The one that has not and the one that comes to my mind — most of us here are familiar with local problems on the local level with school buildings and that seems to be where most of the debate has laid today.

The good gentlelady from Vassalboro talked about an investment in these art objects. What would we do if they were destroyed? That is a possibility and an ever increasing possibility that seems to me is becoming more apparent.

I think I read in the paper of Auburn or Portland or somewhere, the young people there did something like \$5,000 or \$10,000 worth of damage to windows. I wonder who is going to be responsible for replacing these art objects if they are destroyed. That is a possibility.

It kind of brings me back to an old saying about: The government should only do for the people what they can't do for themselves. I know that it is a wornout phrase, but I think it is really apt here today. I think if the local units, the school districts now, and that is my major concern, if they want to have art in the buildings, they can do so and, more importantly, they can do so by letting the children do it themselves or by hiring a local person, but I think it is important that the children do it themselves.

I have two sons and one of them goes to school and that school had a program and they all drew pigs. They are not going to deface it or rip it down, throw it out the window or whatever if it is there own. It gives them some respect for their school. It gives them a feeling of reliance. I think that is the kind of thing we should encourage. We should encourage the children to be artists themselves rather than us going out and buying a picture and hanging it on the wall and say, isn't that beautiful? Why not say to the child, you draw a picture — isn't that wonderful? I think that is the issue.

I hope today you will go along with indefinite postponement.

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

Mr. WOOD: Mr. Speaker, Ladies and Gentlemen of the House: I think the person who just spoke answered the question about what would happen if it was destroyed when he said the students would not deface the property because they took an interest in it. What has happened nationwide when you have put art in the school is that vandalism in those schools that had art decreased to the point where it was non-existent, because the students felt a very positive part of the school. In many of the schools, they participated in buying the art, in deciding where it would go, and this bill allows for that, and in the end, they took much more interest in the schools and the vandalism decreased.

So, you have a cost saving there generated from a very modest investment in art. Of course, the works of art would be insured, but I think historically, nationwide, they haven't needed to be insured because the problem was taken care of because we did something in the schools that the children, the students, appreciated and enjoyed. There is nothing in this bill that prevents the students from doing it themselves and local artists doing it. So, I think the gentleman, in his conversation and his speech before the House, answered that question of destroying it.

I would only like to point out that we are talking about state dollars, and I think at the state level we can set state policies. If they are state dollars they are not local funds per se, but they come via the local funding route. It is state money and we are setting a state policy.

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

Mr. LEIGHTON: Mr. Speaker, Ladies and Gentlemen of the House: I don't mean to prolong the debate but it amazes me how we become insulated after 50 days up here from the wishes of the people. If you were on the same kind of campaign trail that I was on last fall, it wouldn't seem to you now that this was a year for luxury investments. Despite the desirability of art, it certainly has to be defined as a luxury.

In response to the arguments of the gentlelady from Vassalboro about the investment aspect of art, I would like to remind you of our experience in Harrison with Dudley Fentworth, a noted artist from Albany Plantation. A few years ago, the selectmen bought a picture from him for \$15 to put in the bath house at Crystal Lake and someone used it instead of the Sears, Roebuck catalog and we are out that money now.

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

Mr. L. DUTREMBLE: Mr. Speaker, Ladies and Gentlemen of the House: As chairman of the Biddeford school board, I am going to vote to indefinitely postpone this bill.

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

ROLL CALL

YEA—Aloupis, Austin, Berry, Bordeaux, Boudreau, Bowden, Brown, A.; Brown, D.; Brown, K. L.; Brown, K. C.; Bunker, Call, Carrier, Carroll, Carter, F.; Churchill, Cox, Cunningham, Curtis, Davis, Dexter, Drinkwater, Dudley, Dutremble, L.; Fillmore, Fowlie, Gavett, Gray, Hanson, Higgins, Hunter, Immonen, Jackson, Jacques, E.; Jacques, P.; Joyce, Kelleher, Kiesman, Laffin, LaPlante, Leighton, Leonard, Lougee, Lowe, MacEachern, Mahany, Marshall, Martin, A.; Masterman, Maxwell, McHenry, McKean, McPherson, McSweeney, Nelson, A.; Nelson, N.; Paul, Peltier, Peterson, Prescott, Reeves, J.; Rollins, Roope, Sherburne, Silsby, Smith, Soulas, Sprawl, Stover, Strout, Studley, Tarbell, Theriault, Torrey, Tozier, Twitchell, Wentworth, Whittemore.

NAY—Bachrach, Baker, Barry, Beaulieu, Benoit, Berube, Birt, Blodgett, Brenerman, Brodeur, Carter, D.; Chonko, Cloutier, Conary, Connolly, Damren, Davies, Dellert, Diamond, Doukas, Dow, Dutremble, D.; Elias, Fenlason, Garsoe, Gould, Gowen, Gwadosky, Hall, Hickey, Howe, Howe, Huber, Hughes, Hutchings, Kane, Kany, Lancaster, Lewis, Lizotte, Locke, Lund, MacBride, Masterton, Matthews, McMahon, Michael, Mitchell, Morton, Nadeau, Nelson, M.; Norris, Paradis, Payne, Pearson, Post, Rolde, Sewall, Simon, Small, Stetson, Tierney, Tuttle, Vincent, Violette, Vose, Wood, Wyman. The Speaker.

ABSENT—Brannigan, Gillis, Hobbins, Jalbirt, Reeves, P.

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

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

Sent up for concurrence.

Orders of the Day

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

Bill, "An Act to Implement a Plan for the Prevention and Treatment of Alcoholism and Alcohol Abuse (H. P. 1206) (Committee on Ap-

propriations and Financial Affairs suggested) Tabled — March 27, 1979 by Mrs. Mitchell of Vassalboro.

Pending — Reference.

On motion of Mrs. Prescott of Hampden, was referred to the Committee on Health and Institutional Services, ordered printed and sent up for concurrence.

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

House Divided Report — Majority (12) "Ought Not to Pass" — Minority (1) "Ought to Pass" — Committee on Aging, Retirement and Veterans on Bill, "An Act to Provide Minimum Retirement Benefits for Mrs. Beatrice H. Colbath of Bangor" (H. P. 652) (L. D. 812)

Tabled — March 27, 1979 by Mr. Birt of East Millinocket.

Pending — Acceptance of Either Report.

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

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

The SPEAKER: The Chair recognizes the gentleman from Rumford, Mr. Theriault.

Mr. THERIAULT: Mr. Speaker and Members of the House: Here we go again. I had hoped that this year would be different and I would not have to stand before you and again be that mean old man that refuses to give relief to these poor people who are so much in need. Those of you who were in the 107th know that regardless of my personal feeling about this, I have to ask you to go along with the "Ought Not to Pass" Report.

Monday, I will come and meet with the board of trustees of the retirement system. If you read the papers yesterday, you must have noticed the retirement system is supposedly in trouble. It is not as bad as the paper would make it appear but it is not good. The papers say that we are \$16 million in the red. Actually, the estimate is that we will be paying out in benefits for the current year \$10 million more than we will be taking in. This is the first time in the history of the retirement system that this has happened. There is not much the system or the board of trustees can do in a case of this sort but to ask for more money from the General Fund or to borrow. The borrowing is where the system gets into trouble, because they have to take money from the active members' contributions and even contributions from the districts to continue to pay out the benefits.

I have been warning you for the last four years about the consequences of passing bills that would give benefits to people who have not contributed at all or did not meet the requirement of 10 years minimum employment for the minimum of \$100 a month. Now it is catching up with us.

Every time we pass a bill such as this one, the only way the benefits can be paid is by taking active members' contributions to pay for them. I ask you, is this justice? Is that fair? We just can't let our hearts dictate to our minds in these cases.

I know very well that every one of these people who are asking for these benefits feel that they deserve them, that they have earned them. The sponsors of the bills are not to be blamed for trying to help them out either, but we, the legislature, just have to make up our minds that we can't keep giving out money and then refusing to appropriate the money to pay for our generosity.

I urge you to accept the "Ought Not to Pass" Report.

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

Mr. BIRT: Mr. Speaker and Members of the House: I would like to go to a couple of brief areas on this. It is very possible that this bill should have had a cost factor in there because there has been a cost factor applied to it. I nor-

mally have voted with Mr. Theriault on all of his actions, because I have been a very strong advocate over the past 10 years of the problems that the retirement system has been getting into and I think some of the things that were done several years ago are starting to come out from now where people are recognizing what has happened.

Let's go back and take a history of bills of this type. Back some 10 years ago when we passed a minimum retirement benefit, one of the former superintendents of schools at that time who was retired found that there were quite a few teachers in the State of Maine who were not eligible for retirement benefits. They, not having been members of the system at the time the teachers were brought under it, lost their eligibility. We dug up the names of these people and the first couple of times around, we found quite a few of them. There was quite a large cost factor, and these minimum retirement benefits, as I understand it, were funded. There were appropriations put on and in several cases the appropriations were met. Some cases might not have been.

The last bill that was passed, which was about four years ago, at that time there wasn't an appropriation on it and I think if anyone wants to look it up, they will find what the appropriation was — I don't know what it was but somewhere in the neighborhood of \$150,000. I believe, and on that list, and this is how I happened to be drawn into this particular bill — on that list was one teacher's name. The person we are concerned about today, interestingly enough, was my first grade teacher. That was quite a few years ago. I hadn't seen her for many years, although I knew where she was living. Last summer I got a letter from her and the teacher, the last name on the list of the previous group, taught the other half of a first grade section when I was in school, so you have a situation in which one teacher is drawing a retirement benefit but the other one, who taught at the same time, is not drawing this retirement benefit, although Mrs. Colbet taught the longer of the two. She was not aware of what had been done until the New England Tel. and Tel. opened up a little better line of communication so they could call back and forth — one lives in Hampden and one lives in Bucksport. They got talking on the phone and this is the story that developed. Mrs. Colbet wrote me a letter and asked me if I would look into it and see what I could do. A short while later, she spent the afternoon with me and I had an interesting afternoon talking with her.

I do believe that the cost factor on this is about \$6,000 each year. It has been costed to take off what would be her retirement benefits based on a normal life expectancy. At the present time, she is 81 years of age. The other teacher is also about the same age. I frankly think there is some justification for this. It is the type of bill that could go on the Appropriation Table, which would be the appropriate place in this kind of a case. I think she has some justification because she spent the time in teaching, the same time the other one did and one is getting a pension and the other one isn't.

The SPEAKER: The Chair recognizes the gentleman from Rumford, Mr. Theriault.

Mr. THERIAULT: Mr. Speaker, Ladies and Gentlemen of the House: I understand the problem, but if you are going to permit this one to go in, you have to go back and permit all the others that we turned down in the last four years because it is the same reason.

When Mr. Shibles, the gentleman that Mr. Birt was referring to, brought in these names, the last time he brought them in, I believe was in the 106th, we asked him to go out and get more names, get all the names that he could so that, from now on, after we had passed this bill in the 106th, that no more would be allowed in. That is what he did. As a result of that, in that particular category, the state is now \$107 mil-

lion in unfunded liabilities for that particular section.

Whatever you want to do on this one, it is not discrimination because we stopped doing this four years ago, and if we start going back and doing that same thing all over again, we are opening the door and you can bet that in the future there will be plenty more that will be finding reasons to get that.

One thing I want to explain is that it is not only teachers that apply for or try to get these benefits, there are so many other former state employees and some of them were not even considered state employees who have tried and did get the minimum of \$100 a month. In fact, we had two such bills heard before our committee yesterday. If we pass this one, what right do we have to turn down the next one? We are just opening the door up to everybody else.

Please, vote "ought not to pass." Don't let your heart rule your mind on this one. You have got to be hard on these cases and I guess that is not always pleasant.

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

Mrs. PRESCOTT: Mr. Speaker, Ladies and Gentlemen of the House: I am cosponsoring this bill with Mr. Birt because this lady lives in my district: she lives in Hampden. It mentions Bangor on the title, but that is her mailing address and not her residence. She has lived there for 31 years, a lot longer than me.

I don't believe that she deserves any less than the lady that lives in Bucksport who did receive the same retirement four years ago. I don't think that the other people who will be coming before you after this bill is debated deserve any less than Mrs. Colbet.

The appropriation is roughly \$6,000 to \$8,000. We have spent roughly \$400,000 on past ladies and gentlemen who have been in the retirement system. She did not even know that she was eligible until her friend, who was also a second grade teacher at the time, did receive the retirement. Her friend is 82; she will be 81 on October 6. The \$8,000 appropriation is to carry the lady for probably seven to eight years. That disturbs me a bit, because I hope she lives a lot longer than that.

But what she was told when she found out that she was eligible was that you must tell the department how many years you have had as a teacher. They first asked her to explain that she had ten years and to dig up the ten years that she had, and it is not easy to go back that many years that she had, and it is not easy to go back that many years and find the principals and the school still in existence. She did manage to dig up the 10 years that she had put into the system. Once she supplied this information, she was then told that she needed an additional five years to go with that. She managed to scrape up an additional two more years. It is impossible to go back and to have all of this information verified. The lady's birthday will be on October 6; that will be just about the time the legislature's bill will be going into effect, if they do not go into effect immediately. I submit to you that this lady deserves no less than those who have preceded her or those that follow.

Mr. Theriault of Rumford was granted permission to speak a third time.

Mr. THERIAULT: Mr. Speaker and Members of the House: That is correct. We can't expect to give her any less than those that preceded her. Twenty-five to thirty have been turned down in the last four years, so if we turn down this one, she will be used just like those 25 or 30 others.

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

Mr. HICKEY: Mr. Speaker, Ladies and Gentlemen of the House: We met this past week with the trustees and actuaries of the retirement system, and they made us very aware of how acute the system is at the present time. Unfortunately, three or four years ago when we

started turning these people down, we were told by the trustees that we were rapidly eroding the system and it was absolutely mandatory that action be taken. Senator Collins was chairman of the committee at that time, and he recommended turning them down, which we were forced to do.

It isn't a pleasant thing for anyone to do. If we could give this to Representative Prescott's teacher, I think everybody would like it, but, unfortunately, the system is at stake and we are forced to vote against them.

The SPEAKER: The pending question is on the motion of the gentleman from Portland, Mrs. Nelson, that the Minority "Ought to Pass" Report be accepted. All those in favor will vote yes; those opposed will vote no.

A vote of the House was taken. Whereupon, Mrs. Prescott of Hampden requested a roll call vote.

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

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

The SPEAKER: The pending question is on the motion of the gentleman from Portland, Mrs. Nelson, that the Minority "Ought to Pass" Report be accepted. All those in favor will vote yes; those opposed will vote no.

ROLL CALL

YEA—Aloupis, Baker, Beaulieu, Benoit, Birt, Brodner, Brown, A.; Carter, F.; Connolly, Davies, Dexter, Doukas, Dutremble, D.; Elias, Fowlie, Gould, Gowen, Hall, Howe, Kelleher, Laffin, Mitchell, Nadeau, Prescott, Rolde, Rollins, Soulas, Sprowl, Strout, Tarbell, Tierney, Tuttle, Vincent, Wood.

NAY—Austin, Bachrach, Barry, Berry, Berube, Blodgett, Bordeaux, Boudreau, Bowden, Brenerman, Brown, K. L.; Brown, K. C.; Bunker, Call, Carroll, Carter, D.; Chonko, Cloutier, Conary, Cox, Cunningham, Curtis, Damren, Davis, Dellert, Diamond, Dow, Drinkwater, Dudley, Dutremble, L.; Fenlason, Fillmore, Garsoe, Gavett, Gray, Gwadodsky, Hanson, Hickey, Higgins, Huber, Hughes, Hutchings, Immonen, Jackson, Jacques, E.; Jacques, P.; Joyce, Kane, Kany, Kiesman, Lancaster, LaPlante, Leighton, Leonard, Lewis, Lizotte, Locke, Lougee, Lowe, Lund, MacEachern, Mahany, Marshall, Martin, A.; Masterman, Masterton, Maxwell, McHenry, McKean, McMahon, McPherson, McSweeney, Michael, Morton, Nelson, M.; Nelson, N.; Paradis, Paul, Pearson, Post, Reeves, J.; Roope, Sewall, Sherburne, Silsby, Simon, Small, Smith, Stetson, Stover, Studley, Theriault, Torrey, Tozier, Twitchell, Violette, Vose, Wentworth, Whittemore, Wyman.

ABSENT—Brannigan, Brown, D.; Carrier, Churchill, Gillis, Hobbins, Hunter, Jalbert, MacBride, Nelson, A.; Norris, Payne, Peltier, Peterson, Reeves, P.;

Yes, 34; No, 100; Absent, 16.

The SPEAKER: Thirty-four having voted in the affirmative and one hundred in the negative with sixteen being absent, the motion does not prevail.

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

Mrs. NELSON: Mr. Speaker, having voted on the prevailing side, I would like to ask for reconsideration and I hope people will vote against me, and I would like to speak to my motion.

Men and women of the House, I won't prolong this, we have had a long day. I just wanted you to recognize the fact that you took a hard line, you did what you believed was right and you kept the integrity of the retirement system intact. Now, next year or the year after, should you be back, and should people ask you the need that I worked in the system and I am not being

paid my pension, if you will remember your vote today and remember that it is indeed very difficult for those 13 people who serve on that committee to hear, to listen, to try to understand and still keep the integrity of the system intact.

The SPEAKER: The pending question is on the motion of the gentleman from Portland, Mrs. Nelson, that the House reconsider its action whereby it failed to accept the Minority "Ought to Pass" Report. All those in favor of reconsideration will say yes; those opposed will say no.

A viva voce vote being taken, the motion did not prevail.

Thereupon, the Majority "Ought Not to Pass" Report was accepted and sent up for concurrence.

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

Bill, "An Act to Increase the Surplus Account of the Kennebec Sanitary Treatment District" (H. P. 223) (L. D. 271)

Tabled—March 27, 1979 by Mr. Davies of Orono.

Pending—Passage to be Engrossed.

On motion of Mr. Tierney of Lisbon Falls, retabled pending passage to be engrossed and tomorrow assigned.

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

Communication (H. P. 1113) From Rodney S. Quinn, Secretary of State Relative to initiative petitions relating to "An Act to Repeal the Forced Deposit Law"

— In House, House reconsidered placing Communication on file on March 22, 1979.

Tabled—March 27, 1979 by Mr. Tierney of Lisbon.

Pending—Placing on File.

Thereupon, the Communication was ordered placed on file.

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

Mr. KELLEHER: Mr. Speaker, on An Act to Provide for Art in Public Buildings and Other Facilities, House Paper 1071, L. D. 1224, having voted on the prevailing side, I would now move reconsideration and I would hope that the 78 of us that voted against the bill would not vote for reconsideration.

The SPEAKER: The gentleman from Bangor, Mr. Kelleher, moves that we reconsider our action whereby L. D. 1224 was indefinitely postponed.

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

Mr. TIERNEY: Mr. Speaker and Members of the House: The hour is late, the issue has been debated at great length. If I do remember the good gentleman from Bangor when he began his excellent remarks earlier today, he said he really didn't want to deep six and kill this bill.

We have heard a lot of arguments, most of them very constructive, from such as my good friend from Sabattus, Mr. LaPlante, and my good friend from Farmington, Mr. Morton. Since we had the vote a few moments ago, I have had the occasion to speak with the prime sponsor; of course, she is my seatmate, and Representative Masterton from Cape Elizabeth, and a few others, and they are anxious and willing to meet with the opponents of this Bill to discuss various amendments and various ways that we can keep this bill alive. I think the proper way to proceed at this point will be to have this bill lie on the table for one legislative day pending reconsideration.

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

Mr. GARSOE: Mr. Speaker, I move that this matter lie on the table for one legislative day.

Whereupon, Mr. Kelleher of Bangor requested a vote.

The SPEAKER: The pending question is on the motion of the gentleman from Cumberland, Mr. Garsoe, that this matter be tabled pending the motion of Mr. Kelleher of Bangor to reconsider and tomorrow assigned. All those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

79 having voted in the affirmative and 46 having voted in the negative, the motion did prevail.

The Chair laid before the House the following matter:

Bill "An Act to Exempt Certain Transportation Statutes from the Administrative Procedure Act" (S. P. 445) (L. D. 1365) which was tabled earlier in the day pending reference in concurrence.

On motion of Mr. Carroll of Limerick, tabled pending reference in concurrence and tomorrow assigned.

The Chair laid before the House the following matter:

An Act to Clarify the Ability of the State Auditor to Seek the Advice of the Attorney General (H. P. 196) (L. D. 245) (C. "A" H-91) which was tabled earlier in the day pending passage to be enacted.

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

Mrs. KANY: Mr. Speaker and Members of the House: Before this bill is passed to be enacted, I just wanted to read into the record a correction of wording in the Statement of Fact in the original bill, and the original wording is "The purpose of this bill is to permit the state auditor to seek the advice of the attorney general concerning any possible illegal or improper transaction he may discover during any audit." The intent of the bill is rather to clarify that permission.

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

(Off Record Remarks)

Mr. McKean of Limestone was granted unanimous consent to address the House.

Mr. McKEAN: Mr. Speaker, Ladies and Gentlemen of the House: I guess all of you have had a chance to read the newspaper this morning, and I guess all of you are also aware of the fact that we are about to lose an industry in this state which brings about a \$38 million payroll and a state gross product in excess of \$125 million annually. I think it is a very sad day for the State of Maine. I am not too optimistic. We have about 16 or 18 hours until a final decision is rendered. I have talked with some people in Washington. There is slight chance, but very slight, for an overturn. I am not looking for it at this point in time. I think this is a very sad day for the State of Maine. I think tomorrow, when the decision is rendered, I think you should agree with me. That is a lot of money for this state to give up.

On motion of Mr. Leonard of Woolwich, Adjourned until nine-thirty tomorrow morning.