

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, April 25, 1979

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

Prayer by Pastor Douglas W. Drown of the First Congregational Church, Bingham.

Pastor DROWN: For the privilege of service, for the privilege of this great and beautiful state, we thank you, Lord. As this body gathers this morning, we pray your blessing upon it. Let your spirit rest upon this place. We pray for guidance, for wisdom, for sensitivity, for courage, for unity and peace. Let all be said and done with courtesy and most especially with the needs of your people in mind. Amen.

The journal of yesterday was read and accepted.

Papers from the Senate

The following Communication:

THE SENATE OF MAINE
Augusta

April 24, 1979

The Honorable Edwin H. Pert

Clerk of the House
109th Legislature
Augusta, Maine 04333

Dear Clerk Pert:

The Senate today voted to Insist and Join in a Committee of Conference on Bill, "An Act Regulating Hunting with Muzzle-loading Rifles", (H. P. 498) (L. D. 622).

Respectfully,

S/ MAY M. ROSS

Secretary of the Senate

The Communication was read and ordered placed on file.

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

Mike McGee, a sophomore at Colby College, has been named to the Division III All-American Basketball Squad by the National Association of Basketball Coaches. (S. P. 517)

Came from the Senate Read and Passed.

In the House, was read and passed in concurrence.

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

Nettie Mitchell, a lifelong resident of Fayette and an active participant in civic affairs in that municipality, celebrated her 93rd birthday on March 23rd and was honored by the citizens of Fayette, who, in tribute to her, proclaimed March 17th "Nettie Mitchell Day." (S. P. 518)

Came from the Senate Read and Passed.

In the House, was read and passed in concurrence.

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

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

In the House, was referred to the Committee on State Government in concurrence.

Reports of Committees

Ought Not to Pass

Report of the Committee on Election Laws reporting "Ought Not to Pass" on Bill, "An Act to Extend the Deadline for Filing a Declaration of Candidacy" (S. P. 299) (L. D. 900)

Report of the Committee on Election Laws reporting "Ought Not to Pass" on Bill "An Act to Prohibit any Constitutional Officer from Running for a Statewide or Federal Office during his Term" (S. P. 333) (L. D. 968)

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

Leave to Withdraw

Report of the Committee on Election Laws

reporting "Leave to Withdraw" on Bill, "An Act to Prohibit Out-of-State Contributions for Candidates for State or Certain Federal Offices" (S. P. 332) (L. D. 966)

Report of the Committee on Agriculture reporting "Leave to Withdraw" on Bill, "An Act to Repeal the Maine Potato Tax" (S. P. 366) (L. D. 1113)

Report of the Committee on Agriculture reporting "Leave to Withdraw" on Bill "An Act to Create the Maine Potato Board" (S. P. 451) (L. D. 1446)

Came from the Senate with the Reports read and accepted.

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

Divided Report

Majority Report of the Committee on Labor reporting "Ought to Pass" as amended by Committee Amendment "A" (S-115) on Bill "An Act Concerning Unemployment Compensation Benefits for Employees Formerly Working for a Bankrupt Employer" (S. P. 92) (L. D. 178)

Report was signed by the following members:

Messrs. PRAY of Penobscot
SUTTON of Oxford
LOVELL of York

— of the Senate.

Mrs. MARTIN of Brunswick
Messrs. FILLMORE of Freeport
McHENRY of Madawaska
BAKER of Portland
TUTTLE of Sanford
Mrs. BEAULIEU of Portland

— of the House.

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

Report was signed by the following members:

Messrs. CUNNINGHAM of New Gloucester
DEXTER of Kingfield
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-115)

In the House: Reports were read.

On motion of Mrs. Beaulieu of Portland, the Majority "Ought to Pass" Report was accepted in concurrence and the Bill read once.

Committee Amendment "A" (S-115) 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 Permit Prosecuting Attorneys to Initiate Petitions for Revocation of Probation" (H. P. 503) (L. D. 611) which was Indefinitely Postponed in the House on April 19.

Came from the Senate passed to be engrossed as amended by Committee Amendment "A" (H-225) in non-concurrence.

In the House: Mr. Joyce of Portland moved that the House adhere.

On motion of Mr. Simon of Lewiston, tabled pending the motion of Mr. Joyce of Portland to adhere and tomorrow assigned.

Non-Concurrent Matter

Bill, "An Act Establishing Penalties for Cutting Timber Without the Owner's Permission" (H. P. 434) (L. D. 551) which was passed to be engrossed as amended by Committee Amendment "A" (H-172) as amended by House Amendment "A" (H-192) thereto in the House on April 18.

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

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

Non-Concurrent Matter

Bill, "An Act to Prohibit Unreasonable and Unjust Fuel Charges from Being Passed on to Consumers" (Emergency) (H. P. 1333) (L. D. 1580) which was referred to the Committee on Energy and Natural Resources in the House on April 24.

Came from the Senate referred to the Committee on Public Utilities in non-concurrence.

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

Non-Concurrent Matter

RESOLVE, to Authorize Kennebec County to Develop a Pilot Program for Inmates Incarcerated at the County Jail (H. P. 301) (L. D. 398) which was passed to be engrossed as amended by Committee Amendment "A" (H-207) in the House on April 20.

Came from the Senate passed to be engrossed in non-concurrence.

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

Messages and Documents

The following Communication: (S. P. 519)

State of Maine
SENATE CHAMBER
President's Office
Augusta, Maine

April 23, 1979

Honorable Walter W. Hichens
Honorable Luman P. Mahany
Chairmen, Agriculture Committee
State House
Augusta, Maine 04333

Please be advised that Governor Joseph E. Brennan is nominating Stewart N. Smith of Exeter to serve as Commissioner of the Department of Agriculture.

Pursuant to Title 7, MRSA, Section 1, this nomination will require review by the Joint Standing Committee on Agriculture and confirmation by the Senate.

Sincerely,

S/JOSEPH SEWALL

President of the Senate

S/JOHN L. MARTIN

Speaker of the House

Came from the Senate Read and Referred to the Committee on Agriculture.

The Communication was read and referred to the Committee on Agriculture in concurrence.

Petitions, Bills and Resolves
Requiring Reference

The following Bill was received and referred to the following Committee:

Agriculture

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

(Presented by Mr. Silsby of Ellsworth) (Approved for introduction by a Majority of the Legislative Council pursuant to Joint Rule 27)

(Ordered Printed)

Sent up for concurrence.

Orders

An Expression of Legislative Sentiment (H. P. 1337) recognizing that:

The Preppers of Maine Central Institute, coached by Jim Elias, have won the Maine Small College Conference Basketball Championship for the academic year 1978-79 and have completed the season with an 18 and 4 record

Presented by Mr. Wyman of Pittsfield (Co-sponsor: Mr. Lancaster of Kittery)

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

An Expression of Legislative Sentiment (H.

P. 1338) recognizing that:

Alex and Shirley Richards, of Madison, jointly plan retirement in June of 1979, which marks the end of an era of 52 years of continued service at Madison High School and a total of 61 dedicated years in education.

Presented by Mr. Elias of Madison
The Order was read and passed and sent up for concurrence.

On motion of Mr. Wyman of Pittsfield, the following Joint Order: (H. P. 1339)

ORDERED, the Senate concurring, that the following be recalled from the Governor's Office to the House: Bill "An Act to Relate the Qualifying Wage Levels for Unemployment Compensation to the Average Weekly Wage" (H. P. 437) (L. D. 554)

The Order was read and passed and sent up for concurrence. By unanimous consent, ordered sent forthwith to the Senate.

House Reports of Committees Ought Not to Pass

Mr. Kelleher from the Committee on Appropriations and Financial Affairs on Bill "An Act to Reimburse the Division of Community Services for Expenditures Incurred in Operating an Excess Property Program" (H. P. 1159) (L. D. 1424) reporting "Ought Not to Pass"

Mr. Pearson from the Committee on Appropriations and Financial Affairs on Bill "An Act to Encourage an Increase in the Number of Primary Care Physicians Locating in Maine" (H. P. 1236) (L. D. 1496) reporting "Ought Not to Pass"

Mr. Carter from the Committee on Appropriations and Financial Affairs on Bill "An Act to Appropriate \$75,000 to Northeast COMBAT Inc." (H. P. 262) (L. D. 338) reporting "Ought Not to Pass"

Mr. Pearson from the Committee on Appropriations and Financial Affairs on Bill "An Act to Provide for Aid to Families with Dependent Children Benefits for Unemployed Parents under the Aid to Families with Dependent Children - Unemployed Fathers Program" (H. P. 777) (L. D. 979) reporting "Ought Not to Pass"

Mr. Morton from the Committee on Appropriations and Financial Affairs on Bill "An Act to Appropriate \$30,000 to Day One, Inc." (H. P. 778) (L. D. 980) 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. Pearson from the Committee on Appropriations and Financial Affairs on Bill "An Act Appropriating Additional Funds to the Department of Agriculture for Enforcement of the Wood Measurement Act for the Fiscal Year Ending June 30, 1979" (H. P. 1118) (L. D. 1391) reporting "Leave to Withdraw"

Mr. Kelleher from the Committee on Appropriations and Financial Affairs on Bill "An Act Providing a Salary Increase for the Several District Attorneys" (H. P. 861) (L. D. 1073) reporting "Leave to Withdraw"

Mr. Pearson from the Committee on Appropriations and Financial Affairs on Bill "An Act Appropriating Funds for the Maine Commission for Women" (H. P. 232) (L. D. 278) reporting "Leave to Withdraw"

Reports were read and accepted and sent up for concurrence.

Referred to the Committee on Energy and Natural Resources

Mr. Post from the Committee on Taxation on Bill "An Act to Recodify and Resolve Minor Administrative Problems in the Forestry Statutes; and Reorganize the Maine Forestry District" (H. P. 1127) (L. D. 1498) reporting that it be referred to the Committee on Energy and Natural Resources.

Report was read and accepted, the Bill referred to the Committee on Energy and Natu-

ral Resources and sent up for concurrence.

Divided Report

Majority Report of the Committee on Education reporting "Ought to Pass" on Bill "An Act to Provide Student Loans to Candidates for Practice of Chiropractic in Maine" (H. P. 694) (L. D. 872)

Report was signed by the following members:

Mr. MINKOWSKY of Androscoggin
Mrs. GILL of Cumberland.

— of the Senate.

Mrs. BEAULIEU of Portland
Mrs. LOCKE of Sebec
Mrs. LEWIS of Auburn
Messrs. BIRT of East Millinocket

FENLASON of Danforth
ROLDE of York
CONNOLLY of Portland

Mrs. GOWEN of Standish
Messrs. LEIGHTON of Harrison
DAVIS of Monmouth

— of the House.

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

Report was signed by the following member:
Mr. TROTZKY of Penobscot

— of the Senate.

Reports were read.

On motion of Mr. Rolde of York, the Majority "Ought to Pass" Report was accepted, the Bill read once and 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:

(S. P. 293) (L. D. 854) Bill "An Act to Provide for Consistent Hours of Operation by State Retail and Agency Liquor Stores" (Emergency) Committee on Legal Affairs reporting "Ought to Pass" as amended by Committee Amendment "A" (S-117)

(S. P. 287) (L. D. 847) Bill "An Act to Simplify the Requirements for Licensing Certain Clergymen to Perform Marriages" Committee on Legal Affairs reporting "Ought to Pass" as amended by Committee Amendment "A" (S-116)

(H. P. 923) (L. D. 1138) Bill "An Act to Revise the Qualifications for Burial in the Veterans Memorial Cemetery" Committee on Aging, Retirement and Veterans reporting "Ought to Pass" as amended by Committee Amendment "A" (H-264)

(H. P. 943) (L. D. 1177) Bill "An Act to Revise the Service Requirements for Maine Veterans to Determine Eligibility for Veterans Benefits" Committee on Aging, Retirement and Veterans reporting "Ought to Pass" as amended by Committee Amendment "A" (H-265)

(H. P. 488) (L. D. 617) Bill "An Act to Require Construction Permits Prior to Building Hotels and Motels with 2 or More Stories" Committee on Business Legislation reporting "Ought to Pass" as amended by Committee Amendment "A" (H-267)

(H. P. 533) (L. D. 654) Bill "An Act to Allow the Evaluation of the Existing Toll Facilities on the Maine Turnpike" Committee on Transportation reporting "Ought to Pass"

(H. P. 1173) (L. D. 1439) Bill "An Act Relating to Registration of Trailers and Semitrailers under the Motor Vehicle Laws" Committee on Transportation reporting "Ought to Pass"

(H. P. 575) (L. D. 723) Bill "An Act Establishing Weight Tolerances for Certain Vehicles" Committee on Transportation reporting "Ought to Pass" as amended by Committee Amendment "A" (H-268)

No objections being noted, the above items were ordered to appear on the Consent Calendar of April 26, under listing of Second Day.

Consent Calendar Second Day

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

(H. P. 981) (L. D. 1217) Bill "An Act Concerning the Leasing and Management of Public Lands" (C. "A" H-259)

(H. P. 1100) (L. D. 1352) Bill "An Act Relating to the Management of the Department of Attorney General"

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

Bill "An Act to Permit Sorority Houses at the University of Maine Campuses" (H. P. 946) (L. D. 1179)

Bill "An Act Concerning Public Agencies Contracting for Architectural Services" (H. P. 1331) (L. D. 1578)

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

Amended Bills

Bill "An Act to Require that all Public Employees be Paid at Least the Federal Minimum Wage" (H. P. 435) (L. D. 552) (C. "A" H-238)

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

Mr. McHenry of Madawaska offered House Amendment "A" and moved its adoption.

House Amendment "A" (H-258) was read by the Clerk and adopted.

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

Bill "An Act to Require that Certain Employers Provide Regular Physical Examinations for their Employees to Detect Carcinogenic and Pulmonary Disorders" (H. P. 220) (L. D. 268) (C. "A" H-237)

Bill "An Act Relating to Penalty Provisions under the Maine Labor Laws" (H. P. 247) (L. D. 292) (C. "A" H-236)

Bill "An Act to Establish a Deadline for Removal of Ice Fishing Shacks" (H. P. 432) (L. D. 549) (C. "A" H-252)

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

RESOLVE, Authorizing Barry A. Brann of Wilton to Bring Civil Action Against the State of Maine" (H. P. 547) (L. D. 678) (C. "A" H-251)

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

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

Mr. MCKEAN: Mr. Speaker, Ladies and Gentlemen of the House: Just to kind of clear my own mind on this item, I would like to know a little more about it if I may pose a question through the Chair.

What was the background behind this law. Where did it occur and how did it occur? I think it would be good for the people in the House to know.

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

Mr. SOULAS: Mr. Speaker, Ladies and Gentlemen of the House: This bill was introduced to the Legal Affairs Committee by the gentleman from Farmington, Mr. Morton. I am sure that he is probably in a better position to explain it than I am.

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

Mr. MORTON: Mr. Speaker, Ladies and Gentlemen of the House: This bill was introduced by me, and it is very clear, if you read the bill, what the circumstances were.

Actually, the committee heard more detailed testimony than appeared here, and they may well be able to fill in the details that aren't in the bill, and you will note that the printed bill did have one error in it and that has been amended by the committee.

Basically, the petitioner, Mr. Brann, was a guest of the State at the Thomaston Prison at the time the incident occurred and he was playing basketball at the facility that is available there. It seems that there was a screen over a window, which had been removed for maintenance purposes and had not been put back, and the allegation is that the guards at the prison did not advise the petitioner that he was not allowed to play basketball; in fact, they even participated in the game with him. In the ensuing game, he crashed through the window and permanently injured his arm.

These are the facts that I have been presented with. I feel that this is no different from any other action and the fact that Mr. Brann was a prisoner at the time should not preclude his attempting to find redress through the courts. That is what this bill does, it allows Mr. Brann to have his day in court.

Thereupon, the bill was passed to be engrossed and sent up for concurrence.

Passed to Be Enacted Emergency Measure

An Act to Provide Birth Certificates for Foreign-born Adopted Persons (S. P. 72) (L. D. 126) (C. "A" S-106)

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

Emergency Measure

An Act Extending Reimbursement to Municipal Clerks and Municipalities for Revenue Loss Due to Amendment of the Uniform Commercial Code (H. P. 335) (L. D. 434) (C. "A" H-222)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure, and a two-thirds vote of all the members elected to the House being necessary, a total was taken. 130 voted in favor of same and none against, and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

An Act to Allow Registrars of Deeds to use Facsimile Signature Stamps in Lieu of Original Signatures (H. P. 159) (L. D. 187) (C. "A" H-223)

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

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

Mr. PEARSON: Mr. Speaker, Ladies and Gentlemen of the House: I set this aside and then I found out that it was Mr. Hickey's bill and with some trepidation I want to ask this question. If you provide them the ability to use signature stamps, it would seem to indicate to me that they were going to have other people sign the deeds or the documents that they need to do, and it seems to me that if you elect a registrar of deeds, they ought to be doing it themselves, they ought to be signing it themselves.

Unless I don't understand the volume of the business that they do, I would like to know why it is they need to use signature stamps that I suppose other people could use?

The SPEAKER: The gentleman from Old Town, Mr. Pearson, has posed a question through the Chair to anyone who may answer if they so desire.

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

Mr. HICKEY: Mr. Speaker, Ladies and Gentlemen of the House: The bill was presented to

me by the Joint Registrars of Deeds throughout the state. Many of them have 20,000 and 30,000 of these to handle a year, and it was felt it would be much more expeditious if they could use a facsimile signature and save on the element of time. Plus the fact, a lot of them contended that the signature wasn't legible after you recorded 15,000 or 20,000 on the different deeds.

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

An Act Concerning Issuance and Renewals of Liquor Licenses (H. P. 316) (L. D. 382) (S. "A" S-113)

An Act Providing for Rent Receipts and Requiring Disclosure of a Landlord's Identity (H. P. 394) (L. D. 502) (C. "A" H-219)

An Act to Permit the Use of Facsimile Stamps on Municipal Sewerage Assessments and Charges (H. P. 524) (L. D. 646)

An Act to Provide for Certain Signs to Assist Blind Persons in Elevators (H. P. 708) (L. D. 882) (C. "A" H-226)

An Act to Exempt from Sales Taxes Depreciable Machinery Used in Commercial Farming and Fishing (H. P. 762) (L. D. 942) (C. "A" H-213)

An Act to Exempt Out-of-State Technical and Vocational Schools from Registration under the Transient Sellers Law (H. P. 1076) (L. D. 1329)

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

Orders of the Day

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

Bill, "An Act to Amend the Statutes Relating to Airmobiles" (H. P. 663) (L. D. 838) (C. "A" H-204)

Tabled—April 24, 1979 (Till Later Today) by Mr. Blodgett of Waldoboro.

Pending—Passage to be Engrossed.

Mrs. Huber of Falmouth offered House Amendment "C" and moved its adoption.

House Amendment "C" (H-263) was read by the Clerk.

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

Mrs. HUBER: Mr. Speaker, Members of the House: I am a little concerned that this amendment has not been distributed after checking with my seatmate and not finding it on my own desk, so I would briefly explain to the members of the House that what this amendment would do is to require the Commissioner of Inland Fisheries and Wildlife to adopt rules governing the use of airmobiles. It would also put an effective date of the bill which would permit this to be done prior to the effective date of the bill.

Thereupon, House Amendment "C" was adopted.

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

Reference was made to (S. P. 199) (L. D. 495) Bill "An Act Relating to Occupational Loss of Hearing"

In reference to the action of the House Thursday, April 19, 1979, whereby it insisted and asked for a Committee of Conference, the Chair appointed the following members on the part of the House as Conferees:

Mrs. BEAULIEU of Portland
Mr. BAKER of Portland
Mr. SOULAS of Bangor

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

Bill "An Act to Amend the Law Relating to the Maine Milk Tax Committee" (H. P. 206)

(L. D. 254) — In House. Passed to be Engrossed as Amended by House Amendments "C" (H-232) and "D" (H-243) on April 19, 1979. — In Senate, Bill and Accompanying Papers Recommended to Committee on Agriculture on April 20, 1979.

Tabled—April 23, 1979 by Mr. Mahany of Easton.

Pending—Further Consideration

On motion of Mr. Mahany of Easton, the House voted to recede and concur.

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

An Act to Clarify and Correct Laws Related to Real Estate Brokers and Salesmen (S. P. 391) (L. D. 1202)

Tabled—April 24, 1979 by Mr. Vincent of Portland.

Pending—Passage to be Enacted.

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

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

House Amendment "A" (H-261) was read by the Clerk.

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

Mr. HOWE: Mr. Speaker, Ladies and Gentlemen of the House: I would just like to have the House think about this amendment for a moment. Mr. Vincent would like to attach it to a bill which came out of the Business Legislation Committee with a unanimous report.

I guess I don't have strong feelings on the amendment and, yet, I think it deserves some thought before we enact it. I would ask for a Division on the amendment.

The basic bill is a fairly modest one clarifying a couple of the powers, actually limiting a couple of the powers of the Real Estate Commission with respect to entry level courses and suspension of licenses of real estate salesmen.

The amendment that Mr. Vincent proposes would remove the requirement that somebody sitting for an examination as a real estate salesman or broker not be required to have a high school diploma.

I think the body ought to think for a moment whether that is an appropriate action on our part or whether we feel that people entering that profession ought to have a minimal education at the high school level.

I would ask for a division on the amendment.

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

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

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

Mr. JACKSON: Mr. Speaker, Ladies and Gentlemen of the House: I would speak in support of this amendment, I guess it follows the philosophy that I have always had. If a person is good enough to be able to take the courses that are given by the Real Estate Commission and pass the exam on it, I think they should be able to be licensed as a salesman or a broker. If they have had no education, if they have self-taught themselves well enough so they can pick up and pass these courses, I think they have every right to be allowed to take them. I don't think we should put the barrier in the way of requiring that they have so many years of formal education beforehand.

Therefore, I would urge you to pass this amendment.

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

Mrs. MARTIN: Mr. Speaker, Ladies and Gentlemen of the House: Mr. Jackson beat me to the punch. I just got up to say that I know a lot of people who do not have a high school diploma that do a better job than we are doing here.

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

Mr. HOWE: Mr. Speaker, Ladies and Gentlemen of the House: My colleagues have persuaded me and I will support the amendment.

The SPEAKER pro tem: The Chair recognizes the gentleman from Skowhegan, Mr. Whittemore.

Mr. WHITEMORE: Mr. Speaker, Ladies and Gentlemen of the House: I am very much in favor of this amendment. I, for one, never went to high school and I passed the examination. I took seminars and I was quite successful in the real estate business, and I don't think I needed the high school diploma to do it.

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

Mr. HOWE: Mr. Speaker, I withdraw my request for a division.

Thereupon, House Amendment "A" was adopted. The bill passed to be engrossed as amended and sent up for concurrence.

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

An Act Concerning the Powers of the Board of Trustees and the Treasurer of the University of Maine and Concerning Real Property Belonging to the University (H. P. 793) (L. D. 1001)

Tabled—April 24, 1979 by Mrs. Mitchell of Vassalboro.

Pending—Passage to be Enacted.

On motion of Mr. Hughes of Auburn, tabled pending passage to be enacted and specially assigned for Friday, April 27.

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

HOUSE DIVIDED REPORT — Majority (9) "Ought Not to Pass" — Minority (4) "Ought to Pass" — Committee on Education on Bill, "An Act to Extend the National School Breakfast Program Availability to Maine School Children" (H. P. 660) (L. D. 820)

Tabled—April 24, 1979 by Mr. Tierney of Lisbon.

Pending—Motion of Mr. Connolly of Portland to Accept the Minority "Ought to Pass" Report.

On motion of Mr. Rolde of York, tabled pending the motion of Mr. Connolly of Portland to accept the Minority "Ought to Pass" Report and later today assigned.

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

Bill, "An Act to Prohibit an Intentional Attempt to Elude a Police Officer through High-Speed Driving" (H. P. 543) (L. D. 674)

Tabled—April 24, 1979 by Mr. Simon of Lewiston.

Pending—Adoption of House Amendment "A" (H-260) to Committee Amendment "A" (H-182)

On motion of Mr. Hobbins of Saco, tabled pending adoption of House Amendment "A" to Committee Amendment "A" and later today assigned.

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

Bill, "An Act to Prohibit the Gathering of Signatures Within 250 Feet of the Entrance to a Polling Place and Within any Registrar's Office" (H. P. 174) (L. D. 208) (C. "A" H-203)

Tabled—April 24, 1979 by Mr. Pearson of Old Town.

Pending—Motion of Mr. Berry of Buxton to Indefinitely Postpone Bill and all accompanying papers.

The SPEAKER pro tem: The Chair recognizes

es the gentleman from Buxton, Mr. Berry.

Mr. BERRY: Mr. Speaker, I withdraw my motion to indefinitely postpone.

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

Mr. MORTON: Mr. Speaker, Ladies and Gentlemen of the House: I propose this morning to make a change in the bill in its present condition and propose a different amendment from the Committee Amendment.

Thereupon, on motion of Mr. Morton of Farmington, under suspension of the rules, the House reconsidered its action whereby Committee Amendment "A" was adopted.

On further motion of the same gentleman, Committee Amendment "A" was indefinitely postponed.

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

House Amendment "A" (H-257) was read by the Clerk and adopted.

The SPEAKER pro tem: The Chair recognizes the gentleman from So. Portland, Ms. Benoit.

Ms. BENOIT: Mr. Speaker, Ladies and Gentlemen of the House: I would now move indefinite postponement of the bill and all its accompanying papers.

I let this amendment be put on for a reason. I wanted you to all look and see what it does and I didn't like the bill the way it was before, so this way perhaps we can kill it altogether.

This amendment is an Act to Prohibit the Gathering of Signatures Within 250 Feet of the Entrance to a Polling Place and Within Registrar's Office. I am sorry, I have the wrong amendment.

Mr. Morton, would you explain your amendment to the people, please?

The SPEAKER pro tem: The gentleman from So. Portland, Ms. Benoit, has posed a question through the Chair to the gentleman from Farmington, Mr. Morton, who may answer if he so desires.

The Chair recognizes that gentleman.

Mr. MORTON: Mr. Speaker, Ladies and Gentlemen of the House: I thank the gentlelady for the opportunity to explain this amendment. I am very grateful that she wishes me to do so.

I always like to see things on the floor of this House which are clear and distinct and where the issue is very carefully drawn. I attempted to do so with this amendment.

What it says is, and I think it is short enough so I can read it — "Signature Solicitation is Prohibited" and, by the way, we have eliminated everything else from the bill, nothing to do with the registrar's office anymore, that follows the Committee Amendment.

We are dealing now with the soliciting of signatures and it is prohibited under this bill. It says simply this: "Soliciting signatures for any petition on election day within any building housing a polling place, or within 250 feet of the entrance outside of a polling place, is prohibited." That is what it says, that is what it means and what it is supposed to do, to remove the availability of the polling place 250 feet from its entrance for the purpose of gathering of signatures on petitions. It is simply that, it is a good issue, I think. It is complete, it doesn't allow for any fooling around, it doesn't say they can't be outside but they can be inside; it says they can't be anywhere in the polling place in the building that it is housed or within 250 feet of the entrance in conducting a petition drive on election day. It is just as simple as that. It is an issue which I have felt was a good issue, that should be decided by this legislature as a policy. I am not in favor of petitions being handled on election day during the election process. I think it is an intimidation of voters and I think it is an obstruction of voters, a harassment of voters and, therefore, I believe that since the polling place is for that polling on the elections that are before the people, that have properly been brought before the people

through petition or through primaries, that is what the activities should be restricted to and that is why this amendment is drawn the way it is and I hope you will support the bill with this amendment.

The SPEAKER pro tem: The Chair recognizes the gentleman from So. Portland, Ms. Benoit.

Ms. BENOIT: Mr. Speaker, Men and Women of the House: First of all, I apologize for a few moments ago, I had the wrong amendment.

Mr. Morton has explained it quite clearly and I have very strong objections to it. He explained what it does. Now I would like to ask a lot of you in here a question. How many of you have ever worked for or supported a referendum petition drive? I know full well that a lot of you in here worked very hard a year and a half ago for a cause that I did not support, but you had the right to do that.

A point of interest, Mrs. Adams did testify before our committee and the majority of the signatures gathered on that petition were done on election day at the polls. There is a good reason also for doing that. When people gather signatures at the polls, they are usually good signatures, because you are getting the signatures of voters, people that are registered to vote. They usually sign their names properly and their place of residence and all those things that are required on a petition.

If we allow this amendment to be put on and any of you want to support a referendum drive or want to work on one, it will be very difficult. You will not have access to the polling place.

Mr. Morton may disagree with me, but I understand that it can be very costly to run a referendum petition drive if you have to go out and solicit from the public.

Also, the question has been raised that it may even be unconstitutional, although I do not have the answer to that.

I have also heard that some people supported the original amendment because they may disagree with a petition being circulated at this time. Well, I disagree with that petition too, very strongly. However, the law gives each citizen in this state the right to do that, the right to petition their government, and if you put this amendment on, you are going to make it so difficult that we might just as well not have the law unless there is one heck of a lot of money out there behind our petition drives and I do know of one that was just completed and there was a lot of money behind that.

So, I do hope that you will vote to indefinitely postpone this bill and all its accompanying papers.

The SPEAKER pro tem: The Chair recognizes the gentleman from Biddeford, Mr. Lizotte.

Mr. LIZOTTE: Mr. Speaker, Ladies and Gentlemen of the House: I would just like to clarify a statement made by the gentleman from South Portland. The proponents of this bill are not trying to undermine the petition process. We are just trying to remove an impediment that now exists to the voting process. Now, the petitioners can go door to door, they can go to shopping centers, they don't have to stand outside the polling place on election day and hassle the voters and this problem sometimes happens.

Now, as the sponsor of this bill, I am in full agreement with the amendment presented by the gentleman from Farmington, Mr. Morton, because this was the original intent of my bill. As I stated Thursday when this was thoroughly debated, the polls are voting places, not petition places. This problem seems to exist across the state who were in full agreement with this bill.

Many of you here are probably saying to yourselves, that you never heard of this problem or you never received complaints. Well that doesn't mean that the problem doesn't exist in your area. As a matter of fact, the people that are affected by this the most, the timid and reluctant voters, are not the ones

that are going to complain, they just won't vote again. As I gave you the figures last Thursday of the low percentage of people turning out on Election Day, we can't afford to lose these people. These people are the people that elect you to be here.

I urge you to defeat the motion to indefinitely postpone.

The SPEAKER pro tem: The Chair recognizes the gentlewoman from Wells, Mrs. Wentworth.

Mrs. WENTWORTH: Mr. Speaker and Members of the House: I would just like to agree with Mr. Lizotte that complaints come from the voters and they do not like to weed through two or three lines of petitioners. I agree it is the best place to get legal signatures but the voters come first. I urge you to follow his advice.

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

Mr. BERRY: Mr. Speaker, Ladies and Gentlemen of the House: I hope that you will support the indefinite postponement motion. This is the bill that we debated the other day and this is the bill that would make the little old lady that I spoke about go up over the icy steps and so forth, only, it is worse now. Now she can't even go inside the polling place.

You know it is conceivable that someday some of you people may want to circulate a petition for some reason or other, I know a person in this body now that wants to circulate a petition. I must say, I hope he is unsuccessful but I am not going to infringe on his right to circulate that petition and I am not going to try to make it more difficult for him to circulate that petition.

Imagine if you would, two years from now, supposing that this body, by some reason or other, was Republican, all Republican, the body at the other end of the hall in the same fashion, it is conceivable that legislation might come out of this place that some of you who are not Republican might not like. The only recourse you have got then is to initiate a referendum. The same recourse that people that are outside of this body now have to use, if they don't like whatever comes out of here, regardless of who is in here. Let's just suppose that it was all Republican and a terrible bill was passed similar to some of them I have seen passed here, it is very, very difficult, if not impossible, to circulate a petition successfully if you are not allowed to do it near the polling place. Petitions and polling go hand in hand. If you try to circulate a petition at a shopping center, you are getting signatures that probably are not going to be good ones, they are difficult to verify it complicates the process for each town clerk in every community to verify signatures on petitions that come in helterskelter from some shopping center. If they are collected locally in a community, there is not much problem. The clerk knows most of those people, usually.

Recent petition drives that weren't conducted in polling places have failed. 35,000 signatures is a lot of signatures to have to get. The only way you can get those signatures is if you have got money enough so you can go out and hire people and pay them to solicit those names, then you might be successful. Outside of that, it is practically impossible.

I would hope that you would support the indefinite postponement.

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

Mr. KELLEHER: Mr. Speaker, Ladies and Gentlemen of the House: In my humble opinion, petitions and polling places should not go hand in hand. When our electoral system was set up, it was set up to protect the integrity of the voter and an opportunity for privacy and not to be intimidated by anybody for any issue in the respective polling places of this state.

I support Mr. Morton's efforts this morning simply because I believe when the voters of the

State of Maine or the voters in your respective towns and communities go to the polls, they go to vote. They go to vote on the issues or they go to vote for the candidates that are before them.

I have no problem with anyone soliciting or trying to get petitions for an issue but I honestly believe that the polling places in our respective communities in the state are not the places to do it.

The argument that was raised that if you do not have sufficient money you cannot get sufficient signatures for an issue is absolutely wrong. If you have a viable, honest issue, you will get the signatures of the State of Maine from the people of the State of Maine because they are interested in that particular issue. It is absolutely unnecessary for us to allow people to be intimidated — I say intimidated, because when most people go to the polls, they honestly go there to vote, as I just stated, for the issues of the candidates and not to be harassed and asked to sign a petition.

I participated in searching for signatures for petitions and, let me tell you, it is not an easy issue and it shouldn't be an easy issue, because if the issue itself demands the attention of the people of the State of Maine, you will get you 35,000 signatures and you will get them properly, you won't get them improperly.

I would ask the House to oppose the gentlelady's motion from So. Portland and adopt the amendment that Mr. Morton has offered this morning.

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

Ms. LUND: Mr. Speaker, Ladies and Gentlemen of the House: Although I am not a little old lady, I do have a cane and I do have problems getting around. However, when I ran for office, I didn't let that stand in the way. I campaigned as well as I could. I did not go door to door because I cannot do that. However, I think the voters of Augusta recognize quality and they put me here. I would therefore say in support of what Mr. Kelleher has just said, if you have a good issue, you are going to win, it doesn't matter what shape you are in.

I also was one of the ones who at first opposed the bill as it was presented and I said that I thought it was poorly drawn. Mr. Morton has carefully addressed that, has drawn what I consider to be an excellent amendment. I would urge you to support the amendment and defeat the motion to indefinitely postpone.

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

Mr. HALL: Mr. Speaker, Ladies and Gentlemen of the House: I think I take a different point of view than my friend Mr. Kelleher does, because I do feel that any of these names that you get on petitions are an important part of our process.

The point about this amendment, which I don't like is because in my district a great deal of the polling is done in school houses and fire stations or in places like that that don't give you the 250 feet. Otherwise, they are going to be outdoors in the rain or something, where they are going to have to set up a table or something outside, which I think is very wrong.

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

Mr. SIMON: Mr. Speaker, Ladies and Gentlemen of the House: A couple of constitutional issues were raised earlier in the debate, and because this body and its committees constitute the first line of defense for unconstitutional legislation, I feel obliged to clarify the issues that were raised.

First of all, it was suggested that this bill would violate constitutional rights guaranteed by the first amendment to petition the government for a redress of grievances. I would submit to this body that that argument is based on a pun, on a play on words, that a petition, within the meaning of the first amendment, does not mean a petition in the sense that this bill deals with. The first amendment applies to

the federal government. The federal government has never had a petition process whereby legislation could be initiated or repealed.

The second constitutional issue raised was the general issue of freedom of expression. Now, if this bill deals with freedom of expression, which I am not sure that it does, it does not necessarily violate the first amendment, because the first amendment allows regulation of expression with respect to time, place and manner. The first amendment does not require that a person be allowed into a jury room to make a speech in behalf of one party or another in a criminal or a civil case. The first amendment does not require that people be allowed indiscriminately at the scene of a crime. The first amendment does not require that a candidate be present in the polls to solicit support for his own candidacy.

In Lewiston, we have a very stringent petition requirement whereby one must go to the city clerk's office to sign a petition. Recently, an issue arose in the City of Lewiston concerning the closing of a street, and within one week, 600 people had signed the petition. There were approximately six incorrect signatures.

I would urge that the issue before us here is the practical issue of whether the presence of persons soliciting petition signatures is a deterrent to the voters or an intimidation to the voters or is inconsistent with the dignity of the voting process. Without intimating an opinion, whether the bill should be indefinitely postponed or not, I would wish to assure the body that this is not unconstitutional.

The SPEAKER pro tem: The Chair recognizes the gentleman from Lewiston, Mr. Call.

Mr. CALL: Mr. Speaker and Members of the House: This is the third term I have been in this House with the gentleman from Buxton, Mr. Berry. Basically we are good friends, but he delights being on the other side of the fence from me. Those of you who were in the 107th Legislature will remember the unmerciful, even brutal attack he waged against my chicken bill.

When I fought strenuously to keep dogs off leashes during the 105th Legislature, he opposed me vehemently at that time on that issue. Well, so much for that right now.

This bill must become law. As I said before, and as the sponsor of this bill has said, we go to the polls to vote, not to sign petitions. As I said before, this bill is badly needed. Too many people do not vote as it is. If these petitions are permitted, we will lose even more voters. I urge you to support this legislation, particularly its latest amendment.

At this point, Speaker Martin returned to the rostrum.

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

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

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

Mr. DAVIES: Mr. Speaker and Members of the House: The good gentleman from Lewiston, Mr. Simon, has very lucidly explained the aspects of the constitutionality or non-constitutionality of this matter under federal law. Not being a scholar of Federal Constitutional Law, I can hardly argue with him on it. However, I do have a certain amount of historical experience with this issue as it relates to the Maine Constitution. I would assert to you that by a ruling of the Attorney General's Office, two years ago, on this very same measure, the language that is currently contained in the amendment that Mr. Morton has suggested is unconstitutional pursuant to Article I, Section 15 of the Maine Constitution which reads: "the people have a right at all times in an orderly

and peaceful manner to assemble, to consult upon the common good, to get instructions to their representatives, and to request that either department of the government, by petition or on remonstrance, redress of their wrongs and grievances." This bill has been before the legislature a number of times and because of the language problems that it has had in its previous attempts, the Attorney General has ruled, in his opinion, that it was unconstitutional. I agreed with that position, I fought the matter in this House and was victorious on three occasions.

The language that came out of the committee on Mr. Lizotte's bill met the constitutional test that was set up by the Attorney General's Office. The language that was contained in there was considered to be reasonable and just. However, with the amendment that Mr. Morton has proposed, I think if a ruling was requested of the Attorney General again, or if we referred back to opinion that he issued two years ago, we would find that this was an unconstitutional matter. I would urge you rather than to dabble with the constitution, intentionally or unintentionally, that we should either return to the bill and its form as it came out of the Election Laws Committee or lay it to rest one more time.

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

Mr. LAFFIN: Mr. Speaker, Ladies and Gentlemen of the House: We have talked this morning about people and their rights. Well, how many times on the floor of this House have members of this House said, that they are sick and tired of Augusta telling their community what they want to do. The people in the community is a perfect example today. They can make a law in their home town to take care of their problem. If they have a problem in Lewiston, the City Council can make an ordinance and they can say, you cannot collect signatures anywhere in the city, if they want to. Of course, I would challenge that in the courts but they could make that law. They could make an ordinance, and say, we don't want you in our polling places, we don't want you outside. Every city in this state and every town can make that law.

Sometimes, here in Augusta, we have to make a law because we do not have the ways or the means for each individual town to make that law. That is understandable, but the bill that we have before us today can be handled in each of our own municipalities. It can be handled there and it can be done effectively. We now have four or five communities that do have that law. So, if the people in Biddeford are not happy, people in Farmington are not happy, they can make that law but, no, we have certain people who want to come to Augusta who want to tell the people all over the state that they can't do this or they can do that when you can do it in your own town. If this was something that you couldn't do in your own town, I could sympathize with you and probably we would take a different approach but you can do this in your own community.

The other thing that a couple of people got up and said, they had been on petition drives. Well, I could almost very seriously doubt that. Because you see, when you get signatures at a shopping center, they forget to put their middle initial in or they write their maiden name, especially with the women signatures that we are finding, they forgot that they got married. Consequently, the Board of Registrations throws that out. That is no good, that is not a valid signature.

A lot of people move, they put their address that they are living at now on the Board of Registration at the place they were two months ago and they are thrown out. So, every petition that is passed, you lose roughly about 10 percent because the people don't understand, not because they are ignorant, they know what they want. You see, they have to do it by the law. One of

them was thrown out because they wrote their nickname on there. Well, when I go vote I say my nickname and everybody knows me, true. Fine and good, but on the voting list, his legal name is there. The technicalities are thrown out, he thinks he signed my petition, well, he didn't. When you look and see the several thousand that we have now, and hundreds are thrown out, only because they did not know the proper way to do it. Their intentions are good. Skip Balanger is Skip Balanger and everybody knows him, but on the Board of Registration, he is not Skip Balanger, so he is thrown out. He isn't on this list and this is what we are dealing with.

We are not trying to put anything over on you. You people are well educated people, much more so than myself. You know the score. You know how the game is played and you know that the warden, in all of the voting precincts across this great State of Maine are in control. They even threw me out once for fighting, but that was 19 years ago, I wouldn't do that today. Here we are with a situation that they are in control, you give a warden any trouble, he will take care of you. If he can't, he will call the police in and they will take care of you.

This is a local issue, this is a local problem. So, you people who believe in local issues, don't desert your principles this morning for a broken promise. If you desert it today, when we have another local issue come up, I might get up and ask you about that vote that you gave the 25th of April.

I don't usually do this but I would certainly hope this morning that the very fine gentleman from Buxton and the lovely lady from South Portland, Ms. Benoit, that you will very seriously consider supporting their way of thinking because it is local control, whether you approve of the petition drive or who is doing what, whether you disapprove of me and my efforts, that is not the issue. The issue today is, do we have the right under the constitution, granted us in the Bill of Rights, to do this? If you do, if you feel that way, then you have to vote this morning with Ms. Benoit.

I hope that the members will indefinitely postpone this horrible bill.

The SPEAKER: The Chair would ask the members, if at all possible, to restrict their remarks to about a total of seven minutes.

The Chair recognizes the gentleman from Biddeford, Mr. Lizotte.

Mr. LIZOTTE: Mr. Speaker, Ladies and Gentlemen of the House: Yes, Mr. Laffin, it is a local problem but it is a local problem across the state. When the localities don't do anything to correct that problem, I think that is when the state has to mandate. As a matter of fact, many of the town and city clerks that I spoke to said that they would like this to be a state law.

I think it is a question of priority here this morning, between the voting process and the petitioning process. Election Day occurs once every two years in this state, and I believe the voters of this state have a right to go to the polls without being hassled or intimidated. Remember, only 53 percent of the electorate voted in the last election. Now, granted a lot of that is due to voter apathy. Some of it is due to the hassling that people receive at the polls, by these people gathering signatures. I might just remind you that if this activity keeps up, petitioners won't have to go to the polls on Election Day to obtain signatures because there just won't be enough signatures there to obtain.

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

Mr. VINCENT: Mr. Speaker, Ladies and Gentlemen of the House: I rise in support of Mr. Morton's proposal. I would remind the members that there are only two state-wide elections, every two years, and the next one is well over a year away. There is also a time limit on the time that you have to gather signatures, once you file with the Secretary of State's Office, which would in effect, leave the

current petitions that are being circulated around the state, away from statewide elections petition signature gathering.

I would also remind people, that when we go to vote, there is usually a long list of referendum items that have to be read over, which is time consuming and, in some localities, long ballots. I would hope you would support Mr. Morton's motion.

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

Ms. BENOIT: Mr. Speaker and Members of the House: Briefly, I would like to respond to a couple of things made by Representative Lizotte.

Two people came to the hearing that I recall and spoke in favor of this bill. Two people! I received no letters in support of this. If Mr. Lizotte did, he did not share them with the committee. I would furthermore contend that perhaps it is the Clerks who are concerned with this. Well, I am not concerned with the Clerks. I am more concerned with the citizens of the State of Maine. I have never been harassed at the polls. Mr. Laffin is absolutely correct, this is a matter of local control. If there are problems in Biddeford, if there are problems in other towns, well, take care of them in your own towns, but don't tell every town in this state what they have to do in regard to petitions.

Mr. LAFFIN of Westbrook requested a roll call vote.

The SPEAKER: A roll call has been requested.

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

Mr. MORTON: Mr. Speaker, Ladies and Gentlemen of the House: Quickly, I hope, but I do feel as though this needs to be answered, some things.

I would refer to the remarks, first, of the gentledady from South Portland, Ms. Benoit. I think she made my case for me this morning. She said very distinctly, that a majority of the signatures gathered on a certain petition were gathered on election day at the polls. So, it is very obvious to me, that this particular method of collecting signatures, definitely tilts the procedure in the direction of gathering signatures more easily. Well, there is nothing wrong with that except that it is being done at the polls. I say that voting is a higher calling.

Now, the gentleman from Buxton said it would be impossible to circulate petitions. You all know that is ridiculous, there have been petitions circulated throughout the state, even in the days, when we didn't have good transportation. They were successful and they brought about new legislation.

Finally, let me address the constitutional question brought up by the gentleman from Orono, Mr. Davies. I would call your attention to the amendment, to the constitutional provision he called for, and it is the general constitutional provision providing for the right to, at all times, in an orderly and peaceful manner assemble, consult and so forth. No reason why that should not continue and it will continue. I would point out to you that it is a red herring to draw that across this particular law at the present time. Certainly, if the committee amendment was not unconstitutional, then this amendment is not unconstitutional. There is only a difference in scope, not a difference of meaning and the gentleman knows that.

Furthermore, I would point out to you, that an Attorney General opinion is that, one man's opinion. It has not the force of law, and I would point out to you, that this legislature creates many restrictions and regulations around the voting process. I doubt very sincerely if this would be declared unconstitutional, if it went to court. As far as the Attorney General's opinion, in the last session, we do have a different Attorney General at this time.

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

Mr. PEARSON: Mr. Speaker, Ladies and Gentlemen of the House: I hope that you will vote to adopt Mr. Morton's amendment. It seems to me that it is a question of removing an impediment to the polls for those people who are timid, and there are people who are timid, and those people who are old and get confused, when there is a lot of pressure put on them and they want to go to the polls and they want to go to vote and that's all they want to do. They don't want people running up to them.

If you live in a college town like I do and there is lots of — we have six wards in our town and they are given the word in the morning, okay, here are the petitions everybody spread out. They go to all the different communities, it seems to me that you have to have some kind of uniformity around the state, so I hope that Mr. Morton's amendment will be adopted.

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

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

The SPEAKER: The pending question is on the motion of the gentlewoman from South Portland, Ms. Benoit, that this Bill and all its accompanying papers be indefinitely postponed. All those in favor will vote yes; those opposed will vote no.

ROLL CALL

YEA — Austin, Bachrach, Baker, Barry, Beaulieu, Benoit, Berry, Berube, Birt, Blodgett, Brennerman, Bunker, Carroll, Chonko, Connolly, Cunningham, Curtis, Davies, Diamond, Dow, Elias, Fillmore, Fowlie, Garsoe, Gould, Gowen, Hall, Hickey, Hughes, Hutchings, Jackson, Joyce, Kany, Laffin, Leighton, Leonard, Lewis, Locke, Lougee, MacBride, McHenry, McKean, McMahon, Mitchell, Nelson, A.; Nelson, M.; Nelson, N.; Payne, Peltier, Peterson, Post, Prescott, Reeves, J.; Reeves, P.; Sewall, Sherburne, Silsby, Small, Smith, Stetson, Stover, Strout, Studley, Tarbell, Torrey, Tozier, Twitchell, Vose, Wyman

NAY — Aloupis, Bordeaux, Boudreau, Bowden, Brannigan, Brodeur, Brown, D.; Brown, K. C.; Call, Carter, D.; Carter, F.; Churchill, Cloutier, Conary, Cox, Damren, Davis, Dellert, Dexter, Doukas, Drinkwater, Dutremble, D.; Dutremble, L.; Fenlason, Gavett, Gillis, Gray, Gwadosky, Higgins, Hobbins, Howe, Hunter, Immonen, Jacques, E.; Jacques, P.; Jalbert, Kane, Kelleher, Kiesman, Lancaster, LaPlante, Lizotte, Lowe, Lund, MacEachern, Mahany, Marshall, Martin, A.; Masterman, Masterton, Matthews, Maxwell, McPherson, McSweeney, Michael, Morton, Nadeau, Norris, Paradis, Paul, Pearson, Rolde, Rollins, Roope, Simon, Sprowl, Theriault, Tierney, Tuttle, Vincent, Violette, Wentworth, Whittemore, Wood

ABSENT — Brown, A.; Brown, K.L.; Carrier, Dudley, Hanson, Huber, Soulas

Yes, 69; No, 74; Absent, 7.

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

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

The Chair laid before the House the following Special Order of the Day:

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

Tabled—April 24, 1979 by Mr. Tierney of Lisbon.

Pending—Motion of the same gentleman to Recede and Concur.

(Specially Assigned for Wednesday, April 25 at 9:30 A.M.)

The following Communication from the Governor was read by the Clerk.

State of Maine
OFFICE OF THE GOVERNOR
Augusta, Maine

April 25, 1979

Honorable John L. Martin
Speaker of the House
Maine House of Representatives
Augusta, Maine 04333
Dear Mr. Speaker:

As you know, many State workers have illegally left their jobs. The leadership of the MSEA has sanctioned and joined in this illegal conduct.

This strike has now been enjoined by the Superior Court as of 12 minutes after 8 this morning.

I am extremely disappointed that the Court did not act yesterday. For the law is clear, strikes are absolutely forbidden for public workers in this State. The functions they perform are too vital, and the services upon which the people depend are too critical, to allow for work stoppages by State employees.

As you know, no one in this State has empathized more with the plight of Maine's public workers. They have been tormented and tantalized by a succession of statements and actions that have raised, then dashed, their legitimate hopes that in some way they would be able to maintain their modest standard of living.

I continue to want to see the long overdue pay and benefit increase provided for State employees. It is, therefore, an especially bitter disappointment to me that the leadership of these workers could ever urge or advocate such illegal and dangerous conduct. Or that some workers could choose to express their legitimate concerns by defying the law.

I cannot in any way lend the support of this office to any action which would sanction or acquiesce in illegal activities. To do otherwise would subvert our system of law and justice. To do otherwise would be to reward unlawful conduct.

Consequently, I respectfully urge this body to table the legislation which would implement the MSEA contract until we can advise you that MSEA and its membership are in compliance with the terms of the injunction and the State employees have returned to their work.

I hope, for the good of all, that I can make that report to you soon.

Sincerely,
S/JOSEPH E. BRENNAN
Governor

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

Mr. TIERNEY: Mr. Speaker, Men and Women of the House: The motion pending before the House is that to recede and concur. It is an issue which has been with us for some time, an issue which most likely will be with us for some time more.

We have just received a communication from the Governor basically asking all of us to return to some of the basic principles which brought us here and which led us to be servants of the people of this body. So, I would first like to speak to the state employees, to the members of my caucus and then, if I may be so presumptuous, I would like to say a few words directed to Mr. Garsoe and those people who are voting with him.

First, to my friends who are state employees and members of the Maine State Employees Association. At twelve minutes past eight this morning, a Superior Court Judge has enjoined the illegal activity that you are currently engaging in. That judge was absolutely correct.

The Democratic caucus, the Democratic leadership and the Governor of this State does not countenance illegal activity. You were wrong! That court has said that it is time for your leadership to exercise control over you and to ask you to go back to your jobs, and I urge you very, very strongly to follow the guidance of that judge and to follow the guidance of your own leadership who have been enjoined, for to not do so not only impairs you legally but greatly reduces your moral and legal and political position before the eyes of the people of the State of Maine.

Now, I do not say that easily. I know that hundreds of you work everyday for less than minimum wage. I know that thousands of you collect food stamps. I know that thousands of you have to moonlight and find other forms of employment in order to make ends meet and even then you don't do it. Yet, I must urge you to remain calm.

I know there are inflammatory voices which have brought many of you here today, have brought many of you to this action, voices, some of whom sit with me in this body, who have been more busy making press releases and trying to excite you and saying that we will never vote and will not cave in to strong-arm tactics and all of the terrible rhetoric that we have heard in the last few days. But if you want to win this fight and if you want that contract approved, you can only do so by obeying the law.

Now, to my friends in the Democratic caucus. We have fought this fight Friday, we have fought it Monday, we have fought it Tuesday and we are going to fight it again tomorrow, and we are going to pass the state employees' contract. Governor Brennan is committed to it, we are committed to it and we are going to keep committed to it, because those state employees deserve every penny, and we are going to get it for them. So to you, I urge you to be here again tomorrow morning, because we are going to table this bill until nine-thirty, and if there is any justice in the world, we are going to pass it, because it is a compromise, it was a negotiated compromise which started well over two years ago and it has come a long, long way, and there are only a few, a very few, a mere handful, of obstructionists who are denying this benefit to the state employees, and as the state employees return to their jobs and go back to work, they will see that in the state employees obeying of the law, it is about time for the people who are blocking this package to also obey the law and to honor the collective bargaining agreements arrived at in good faith.

Now, to my friends in the Republican caucus. I understand you are going to have a little joint gathering this morning to discuss this issue. To you I say, and especially to those who are here for the first session, because so many of you seem to be unsure as to how to vote, voting one way one day and the other way the next, especially to you Republicans who are here for your first session, I urge you to remain calm, I urge you to avoid the inflammatory rhetoric, I urge you to go into that caucus and listen to both sides because there are a lot of very seasoned, capable, experienced members of your party, legislators of your party, who are going to be trying to give you some advice as to how we can get ourselves out of this legislative dilemma, because until we do so, the wheels of government will have stopped, because even though state employees will be back at their desks, they are not going to be thinking about their jobs, they are going to be thinking about you.

The only thing that we can do in order to solve this problem is to get this issue behind us. We won't be able to pass the Part II Budget because we won't know how much money we have available. We won't be able to deal with L. D.'s because we won't know how much money we have available. We won't be able to

negotiate with other employee groups, such as the Maine State Troopers Association, because they don't know whether to negotiate with the Governor or with the Republican caucus. So, listen to those wise, noninflammatory voices in your own caucus and look into your own mind and realize that the result of what happens to this state, not just tomorrow but the years to come, and the result of the quality of service that we will be able to deliver to the million individuals who put us in this room might very well depend on your vote. So think very carefully, avoid the rhetoric, be calm, come back here tomorrow morning.

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

Mrs. MITCHELL: Mr. Speaker, I move that this item be tabled until a time certain, that time being Thursday, April 26, at 9:30 A.M.

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

The SPEAKER: For the Chair to order a roll call, it must have the expressed desire of one-fifth of the members present and voting. All those desiring a roll call vote 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 Vassalboro, Mrs. Mitchell, that this matter be tabled and specially assigned for nine-thirty tomorrow morning. All those in favor will vote yes; those opposed will vote no.

ROLL CALL

YEA—Bachrach, Baker, Barry, Beaulieu, Benoit, Berry, Berube, Birt, Blodgett, Brannigan, Brennerman, Brodeur, Brown, A.; Brown, K. C.; Call, Carrier, Carroll, Carter, D.; Chonko, Churchill, Cloutier, Connolly, Cox, Curtis, Davies, Diamond, Doukas, Dow, Dutremble, D.; Dutremble, L.; Elias, Fowlie, Gowen, Gray, Gwadosky, Hall, Hickey, Hobbs, Howe, Huber, Hughes, Hunter, Jacques, E.; Jacques, P.; Jalbert, Joyce, Kane, Kany, Kelleher, Laffin, LaPlante, Lizotte, Locke, MacEachern, Mahany, Marshall, Martin, A.; Masterman, Matthews, Maxwell, McHenry, McKean, McMahon, McSweeney, Michael, Mitchell, Morton, Nadeau, Nelson, M.; Nelson, N.; Norris, Paradis, Paul, Pearson, Post, Prescott, Reeves, P.; Rolde, Simon, Soulas, Strout, Theriault, Tierney, Tozier, Tuttle, Twitchell, Vincent, Violette, Vose, Wood, Wyman, The Speaker.

NAY—Aloupis, Austin, Bordeaux, Boudreau, Bowden, Brown, D., Brown, K. L., Bunker, Carter, F., Conary, Cunningham, Damren, Davis, Dellert, Dexter, Drinkwater, Fenlason, Fillmore, Garsoe, Gavett, Gillis, Gould, Hanson, Higgins, Hutchings, Immonen, Jackson, Kiesman, Lancaster, Leighton, Leonard, Lewis, Lougee, Lowe, Lund, MacBride, Masterton, McPherson, Nelson, A., Payne, Peltier, Peterson, Reeves, J., Rollins, Roope, Sewall, Sherburne, Silsby, Small, Smith, Sprowl, Stetson, Stover, Studley, Tarbell, Torrey, Wentworth, Whittemore.

ABSENT—Dudley.

Yes, 92; No, 58; Absent 1.

The SPEAKER: Ninety-two having voted in the affirmative and fifty-eight in the negative, with one being absent, the motion does prevail.

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

Mr. GARSOE: Mr. Speaker, Ladies and Gentlemen of the House: All I would have said was that I had a gentleman's agreement with the gentleman from Lisbon this morning that I would not object, in the event the Governor requested we not deal with this matter today because of the inflammatory circumstances we find ourselves in, that I would have no objection to it. It was on that basis that I felt we shouldn't contribute to this electric situation

we find ourselves in with what we understand as debate but does come off sometimes as rhetoric and statements of an inflammatory nature, and I couldn't believe what I was hearing coming from the other corner, having given that agreement, to hear his most comprehensive speech on the whole subject labeling the people who are voting my way obstructionists. All I just wanted to say is it is obvious that I didn't have a gentleman's agreement.

Mr. Tierney of Lisbon Falls was granted unanimous consent to address the House.

Mr. TIERNEY: Mr. Speaker, Men and Women of the House: Obviously, one man's debate is another man's rhetoric.

If the good gentleman found my remarks inflammatory, I certainly apologize. In my legislative career, I feel I have been much more inflammatory than I was this morning, and I am sure there are plenty of witnesses here to give some testimony to that. I certainly didn't mean to do so, and I am sorry if the good gentleman took any umbrage at my remarks.

Mr. Stetson of Wiscasset was granted unanimous consent to address the House.

Mr. STETSON: Mr. Speaker and Members of the House: I would just like to respond briefly to the gentleman from Lisbon Falls, Mr. Tierney, concerning his address to the state employees, to the Democratic caucus and then to those who he has labeled obstructionists. There is one group that he has left out of his consideration, and that is the 900,000 taxpayers of the State of Maine who are not members of the MSEA, who are not employees, they are the citizenry of this state. There are 900,000 of those good people out there who are watching what we do here today.

This bill calls for "An Act to Fund and Implement Agreements between the State and the Maine State Employees Association," but asks that people of the state of Maine raise and appropriate the money to fund a contract that would call for some \$500,000 a year excuse me, some \$152,800 a year, I forgot my own figure there—\$152,800 per year to fund a contract which calls for a subsidy to the Maine State Employees Association, and if that be obstructionism, ladies and gentlemen, I intend to persist.

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

Bill, "An Act to Authorize Service of Process by Notaries Public and Justices of the Peace" (S. P. 246) (L. D. 695)

Tabled — April 24, 1979 by Mr. Hobbins of Saco.

Pending — Passage to be Engrossed.

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

Mr. SILSBY: Mr. Speaker, Ladies and Gentlemen of the House: I know this is a difficult time to bring up a subject like this bill and get into the technicalities of it after what we have just been through, but I have had some concerns about the legislation and, first off, I would like to express my thanks to the gentleman from Saco, Mr. Hobbins, our House Chairman, for holding this bill up so that I could express my concerns to the House.

I would like to say that I am not trying to draw a red herring across the bill, I am not trying to torpedo it, I am not trying to kill the bill, but there are some policy decisions, I believe, in this legislation that I would like to share with you.

L. D. 695 is a very short bill and I will read it to you. It relates to the service of legal process by notaries public and justices of the peace. It provides "Service of all process may be made by a notary public or justice of the peace not a party to the action, who shall be compensated therefor as our sheriffs and their deputies."

The Statement of Fact just briefly says, "Presently, process may only be served by

sheriffs, sheriffs' deputies and constables. Recently, delays have been frequent in service. To avoid delays, this bill authorizes service for process by notaries public and justice of the peace, in addition to sheriffs and their deputies."

Before this bill is enacted, I would like to share with you some of these concerns that I have. It has been the law in the State of Maine for many years that service for legal process within the state may only be made by sheriffs and their deputies or by constables provided that they are bonded in the amount of \$500 and in special circumstances, process may be served by persons appointed by the court. That happens very rarely, however. Basically, most of our service of process is accomplished by deputy sheriffs in the State of Maine today.

Like anything else, some sheriffs have a good job done with service of process and some do only a mediocre or a poor job at it. There have been many complaints in this area, I know.

In order to commence a civil action, a complaint must be filed in court and service of the complaint must then be made on the defendants. If the sheriff is not interested in doing a good job, service may be delayed and the development of the case held up. Delays in service of process result in criticism of the attorney and the court system in general and cause the system to be bogged down.

Of course, some sheriffs are very diligent in serving process and some have a civil deputy who works fulltime serving papers and performing the variety of other duties required of them. Some papers are easy to serve and some are very difficult, particularly where the person is aware that he is about to be served and wants to avoid service. This type of situation often becomes very frustrating for the deputy.

In addition to the regular service of process, the deputy is charged with the duty of serving other types of process, such as disclosure subpoenas and capias, attachments of real estate, replevin, or the return of personal property, to make civil arrests, service of tax summons and warrants, levying execution upon personal property, levying execution on real estate and conducting sheriff sales on execution. There are all types of service of process. It is not an all-inclusive list, there are other things, but that, basically, gives you an idea of what a deputy sheriff will do for service.

These are sometimes very complicated and difficult tasks which are learned by the deputy sheriff over a period of time, generally by going through the school of hard knocks.

The bill before us would allow a notary public or justice of the peace to serve legal process just the same way as the deputy sheriff. A sheriff and his deputies are restricted to their own county. They are generally known to the court. When a proof of service is filed with the court, it generally is not questioned as to validity. The court generally known the name of the deputy sheriff and is acquainted.

Notaries public and justices of the peace do not have to observe county line and may perform their duties statewide. Under this L. D., the notary public or justice of the peace, for example, from Ellsworth may jump in his automobile and travel down to Portland and serve some papers to repossess an automobile. If the particular suit is brought in Cumberland county, how do the defendants know that process servers were doing a legitimate job? They can, of course, back up and check out his identity and go through the means of identifying through the Secretary of State, but there are other situations where these people are running around statewide. I can see all kinds of problems.

Sheriffs are required to be bonded. Deputy sheriffs are either bonded or carry liability insurance. In my particular county, deputy sheriffs carry liability insurance in the amount of \$250,000. Even constables, under our statutes,

are required to give bond in the amount of \$500 to secure faithful performance of their duties. There is no requirement in this bill for the bonding of notaries public or justices of the peace. I think it is dangerous to allow process servers to make service without being bonded or having some type of insurance.

Another concern is the impact of this L. D. on the existing system. Assuming that this bill passes, notaries public and justices of the peace will obviously take care of all the easy services. So what happens when they get a tough case? They go to the sheriff and what do you suppose he is going to say? You can't take all the cream and leave the skim milk to somebody else.

Another concern I have is the question of incompatibility between the offices of notary public and justice of the peace. It has been held by our Attorney General, which has been stated here this morning it is only one man's opinion, but the Attorney General has stated time and time again — I will read from an opinion, April 25, 1969, from George C. West, Deputy Attorney General.

"We have on many occasions indicated that a person may not hold the office of deputy sheriff and either justice of the peace or notary public. The holding of these positions is incompatible."

Now, we are not making notaries public and justices of the peace actually a deputy sheriff, but won't they be performing many of the same functions as the deputy sheriff? I think the question is certainly there as to the compatibility of office.

In my profession, the ability to get prompt and effective service is most important. I would undoubtedly benefit in my work by being allowed to have a secretary make service of process. Yet, I feel that as a matter of policy we should be careful in getting into this area. If problems exist, and I feel they do, and certainly the sheriffs' departments throughout the state, I think they should be addressed through the legislative process as to the service of process within the sheriff's office and not go into a different area to allow a different category of people, which I understand is some 2,000 notaries and justices of the peace to get into this area.

I hope you will take these comments into mind. As I said before, I am not trying to kill the bill. I think if you are satisfied as a matter of policy that this is okay, so be it.

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

Mr. McMAHON: Mr. Speaker, Ladies and Gentlemen of the House: I had to kind of shift mental gears from the last subject to be prepared to speak on this subject, but I have been waiting for this bill. And unlike the previous speaker, who did not want to kill the bill, I do, and I move its indefinite postponement and I would like to tell you two reasons why.

This might more accurately be called a lawyer's relief act. Look at the bill. Service of all processes may be made by a notary public or justice of the peace not a party to the action who shall be compensated therefor as our sheriffs and deputies. I may be wrong, but it is my understanding that once an attorney passes the Bar, he is considered to have the authority of a notary or justice of the peace, so these attorneys can very well serve these processes themselves. However, that is not my major reason for opposing this bill.

All of you, as we have in our county, have just come through the county budget process, the annual agony that we have to go through up here according to the statutes that are now in effect. If your counties are like mine, you have built into your county budget anticipated income, and if you have looked at your budget carefully, you may find that some of that income is income from the service of papers which is presently done by your sheriff's department, and it is from that perspective, I

guess, that I am most concerned. We have a particularly devastating situation. If this bill were to be enacted, we would lose up to \$50,000 in anticipated income from the service of papers from the three full-time civil deputies that our sheriff has for that purpose. So before you pass this, I would urge you to consider the comments of the previous speaker, as well as my own, and do what you think you should do, and I hope that is to kill the bill.

Mr. Speaker, I request a division on the motion to indefinitely postpone.

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

Mr. HOBBS: Mr. Speaker, could you have the Clerk read the committee report?

Thereupon, the Report was read by the Clerk.

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

Mr. HOBBS: Mr. Speaker, Members of the House: This bill was sponsored by the Senate chairman of my committee and he addressed the problem that exists in the State of Maine in most of the counties, and that is the slowness and the delay of service of process. In many instances, this slowness and delay that has occurred has been detrimental to individuals such as ourselves, who are bringing a legal action against another individual. There are certain circumstances, for example, when an attorney and a client, through the attorney, sues someone and part of that suit they want to satisfy that potential judgment which might be rendered with an attachment of a piece of property. There have been instances which I know of personally in which we have heard testimony from where the service of process hasn't taken place for three or four weeks from the time that client and that attorney prepare their suit to the time when the papers are finally served upon that individual. During this three or four week period, there have been instances where that property, which has been tried by the attorney to be attached, has been sold and, therefore, there are no assets left to satisfy that particular judgment.

This bill will allow a choice, a choice of an attorney or an individual, not just an attorney, to have service of process done by someone other than a deputy sheriff.

In York County, which my good friend from Kennebunk has mentioned, we have a system where money is returned to the county from the fees. What he failed to tell you is that we have a situation where there are only four professionals of process service, four deputy sheriffs who do this full-time. We have 148,000 in our little county and I think this amount of people is inadequate to provide that service to the constituents of mine and also those constituents in all the other legislators' districts who happen to have the misfortune or the good fortune to use our court systems and to have to utilize this particular device.

This bill, of course, will be lobbied, I am sure. There are a few selfish deputy sheriffs, as they said before who like the easy ones along with the hard ones, but I submit that on some potentially easy service of process, a notary or a justice should be allowed to serve papers.

My good friend from Ellsworth, Mr. Silsby, mentioned the bonding requirements. Part of the bonding requirements of a deputy sheriff is the possibility, if that deputy sheriff institutes a sheriff sale, or something complicated such as that, the requirements are not for the simple service of a simple paper for a simple divorce or a process on an individual who is well known to be at a certain location with both parties knowing each other. I think the bonding requirement argument is for those complicated instances such as a sheriff sale with this possible liability.

I urge you today to support this bill. I think the arguments raised at the public hearing had merit. I feel that this will provide a situation where the delay which occurs now might be

rectified and I think the individuals in this state will benefit by an efficient system whereby the case can be speedily taken care of. This will cut down also on the delays and probably the stacking and over-stacking of our court systems in some way.

I urge you to vote against the motion for indefinite postponement and let this bill become law.

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

Mr. JOYCE: Mr. Speaker, Ladies and Gentlemen of the House: I will use one minute. This is a bad bill. How simple my great friend of tender age wants to have you believe. Those of you who have dealt the deck in reality have long since learned that there is no simple assignment for the deputy sheriff or law enforcement officer. When you go to hand that clear paper to a person, telling them you are taking their car, his only love in life, oh, what battles that often starts.

I urge that you vote for the indefinite postponement of this bill and all its accompanying papers.

The SPEAKER: The pending question before the House is on the motion of the gentleman from Kennebunk, Mr. McMahon, 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. Gray of Rockland requested a roll call.

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

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

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

Mr. GRAY: Mr. Speaker, Ladies and Gentlemen of the House: I, too, will try to be very brief, but I don't think there has been anybody in here who has been more critical of lawyers, but I look upon this bill as a consumer's bill.

Service hasn't been all that good, as the gentleman from Saco pointed out. The papers have not been served timely. The so-called wasted papers that are served after it is too late for them to be of any good, the deputies still want to be paid. The papers many times can be served by a notary in an office. Under present law, if a lawyer has a bill on his desk that needs to be served, he must summon a deputy and a deputy must make a special trip into the lawyer's office to hand the paper from the lawyer into the hands of the person that is being served. Many times, a person is willing to come into a lawyer's office to be served, rather than to be served, say, at his place of occupation.

As far as the notaries doing a bad job, I am sure with the number of notaries that we have throughout the state, there are some conscientious ones and some that aren't. So, I am sure that Mr. Silsby and Mr. Hobbins and anyone else in the profession will carefully select those notaries for serving their civil process.

As far as this being revenue to the counties, I was a member of the Local and County Government Committee when we changed the law. The law now reads that if full-time deputies serve civil papers, the fees shall go into the county treasury, although if part-time deputies, those not on regular salary, serve papers, they can keep that income themselves. The purpose of this law was not to provide revenue for the counties but to discourage full-time deputies from utilizing their on-duty time for tracking down individuals in serving papers at the expense of the county and, really, when you have a full-time deputy getting the salary that he is getting, using the county vehicle, out trying to find people to serve papers on, that is

not good economics for the county. They would be better off to let the part-time deputies do it than to keep the revenue themselves.

So, I would hope that you would not indefinitely postpone this bill, that you would look upon it not as a lawyers' bill but as a consumer's bill.

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

ROLL CALL

YEA — Austin, Bachrach, Baker, Beaulieu, Benoit, Berry, Birt, Blodgett, Bordeaux, Boudreau, Bowden, Brannigan, Brown, D.; Brown, K.L.; Brown, K.C.; Bunker, Carter, F.; Chonko, Churchill, Cloutier, Conary, Connolly, Cunningham, Curtis, Davies, Davis, Dellert, Dexter, Diamond, Drinkwater, Fenlason, Fillmore, Garsoe, Gavett, Gillis, Gould, Hall, Hanson, Hickey, Higgins, Huber, Hunter, Htuchings, Immonen, Jackson, Joyce, Kane, Kiesman, Lancaster, Leighton, Leonard, Lewis, Locke, Lougee, MacBride, MacEachern, Mahany, Marshall, Martin, A.; Masterman, Masterton, Matthews, McHenry, McMahon, McPherson, McSweeney, Morton, Nelson, A.; Nelson, M.; Nelson, N.; Norris, Paul, Pearson, Peltier, Peterson, Post, Prescott, Reeves, J.; Reeves, P.; Rolde, Rollins, Roope, Sewall, Sherburne, Silsby, Small, Smith, Sprowl, Stetson, Stover, Strout, Theriault, Torrey, Tozier, Tuttle, Twitchell, Vincent, Violette, Vose, Wentworth, Whittemore, Wood, Wyman

NAY — Aloupis, Barry, Berube, Brenerman, Brodeur, Brown, A.; Call, Carrier, Carroll, Carter, D.; Cox, Damren, Doukas, Dutremble, D.; Dutremble, L.; Fowlie, Gowen, Gray, Gwadosky, Hobbins, Howe, Hughes, Jacques, E.; Jacques, P.; Jalbert, Kany, Kelleher, Laffin, LaPlante, Lizotte, Lowe, Lund, McKean, Michael, Mitchell, Nadeau, Paradis, Payne, Simon, Studley, Tarbell, Tierney

ABSENT — Dow, Dudley, Elias, Maxwell, Soulas,

Yes, 103; No, 42; Absent, 5.

The SPEAKER: One hundred three having voted in the affirmative and forty-two in the negative, with five being absent, the motion does prevail.

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

Mr. WOOD: Mr. Speaker, Ladies and Gentlemen of the House: Having voted on the prevailing side, I now move that we reconsider our action whereby this bill was indefinitely postponed.

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

Mr. HOBBS: Mr. Speaker and Members of the House: It looks evident from the vote that the deputy sheriffs have done a good job of lobbying. The only thing I can say is, I guess in my naive state of being of young age, I shouldn't have tabled this bill for five days.

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

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

Mr. McMahon requested a division.

The SPEAKER: The pending question is on the motion of the gentleman from Buxton, Mr. Berry, that this be tabled for one legislative day. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

41 having voted in the affirmative and 86 in the negative, the motion did not prevail.

The SPEAKER: The pending question is on the motion of the gentleman from Sanford, Mr. Wood, that the House reconsider its action whereby the bill was indefinitely postponed. Those in favor will say yes; those opposed will say no.

A viva voce vote being taken, the motion did

not prevail.

Sent up for concurrence.

(Off Record Remarks)

On motion of Mr. L. Dutremble of Biddeford, adjourned until eight o'clock tomorrow morning.