

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

LEGISLATIVE RECORD
OF THE
One Hundred and Ninth
Legislature

OF THE
STATE OF MAINE

Volume II

First Regular Session

May 7, 1979 to June 15, 1979

INDEX

First Confirmation Session

August 3, 1979

INDEX

First Special Session

October 4-5, 1979

INDEX

Second Special Session

October 10-11, 1979

INDEX

Second Confirmation Session

December 7, 1979

INDEX

HOUSE

Wednesday, May 23, 1979

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

Prayer by the Reverend David Glusker of the Green Street United Methodist Church, Augusta.

Reverend GLUSKER: Let us pray! Lord, God, we begin our session by pausing in your presence. We do this with the consciousness of your impact on all the events of life. We pray in these moments that as we enter into the business of the day, we may see both the serious and the humorous aspects of life, that we may be responsible in every sense and yet not take ourselves too seriously, that we may be forward looking and progressive and yet, at the same time, recognize our accountability to all whom we serve.

O Lord, God, we pray for your blessing and for your guidance during this day and every day of our lives. Amen.

The journal of yesterday was read and approved.

Papers from the Senate

The following Communication:

THE SENATE OF MAINE

Augusta

May 22, 1979

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

The Senate today voted to Adhere to its action whereby it accepted the Majority Ought Not to Pass Report on Bill, "An Act to Provide that a Person's Picture shall Appear on His Driver's License and to Provide for a Photographic Identification for Nondrivers". (H. P. 940) (L. D. 1164)

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

The Communication was read and ordered placed on file.

Divided Report

Majority Report of the Committee on Local and County Government reporting "Ought to Pass" on Bill "An Act to Improve Local Government Investment Opportunities" (S. P. 449) (L. D. 1364)

Report was signed by the following members:

Messrs. COTE of Androscoggin
EMERSON of Penobscot
— of the Senate.

Messrs. DRINKWATER of Belfast
L. DUTREMBLE of Biddeford
BORDEAUX of Mt. Desert
Mrs. WENTWORTH of Wells
Messrs. NELSON of Roque Bluffs
McHENRY of Madawaska

— of the House.

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

Report was signed by the following members:

Mr. REDMOND of Somerset
— of the Senate.

Messrs. BROWN of Livermore Falls
McMAHON of Kennebunk
LaPLANTE of Sabattus
STOVER of West Bath

— of the House.

Came from the Senate with the Majority "Ought to Pass" Report read and accepted and the Bill Passed to be Engrossed as amended by Senate Amendment "A" (S-189).

In the House: Reports were read.

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

Mr. LaPLANTE: Mr. Speaker, I move we

accept the Minority "Ought Not to Pass" Report.

The SPEAKER: The gentleman from Sabattus, Mr. LaPlante, moves that the Minority "Ought Not to Pass" Report be accepted in non-concurrence.

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

Mrs. KANY: Mr. Speaker, may I inquire as to the reason for accepting the "Ought Not to Pass" Report?

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

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

Mrs. KANY: Mr. Speaker, may I ask for an explanation of this bill?

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

Mr. LaPLANTE: Mr. Speaker and Members of the House: There was some skepticism on this whether it would help the local banks. There is also a possibility that local communities would not realize the effects by taking their money from local banks and putting it with the state. When they do need bank anticipation notes, they might get higher interest and wouldn't get the services that they need from their local banks. This was one of the major factors why some of us signed the "Ought Not to Pass" Report.

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

Mrs. KANY: Mr. Speaker and Members of the House: I asked the question because I remember this was part of a larger bill that came to the State Government Committee last session. We unanimously approved that portion of the bill. Other parts of that particular bill ran into trouble and I know that this year's treasurer is kind of breaking up last year's treasurer's old bill into sections and sending them out to committee. It just seemed to make sense to me that the local governments could kind of pool their resources and perhaps get a greater return.

I can't understand why you would recommend that. Did you have a lot of local bankers there lobbying or what is the reason?

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

Mr. KELLEHER: Mr. Speaker and Members of the House: I support Representative LaPlante's position because I honestly believe that our local town officials can invest their money, if they do have any money to invest in their local banks, without giving it to the state and having the state either invest it locally in the state. In a lot of instances our money is invested outside the State of Maine.

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

The SPEAKER: The gentleman from Bangor, Mr. Kelleher, moves that this Bill and all its accompanying papers be indefinitely postponed in non-concurrence. All those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

43 having voted in the affirmative and 20 having voted in the negative, the motion did prevail.

Sent up for concurrence.

Divided Report

Majority Report of the Committee on State Government reporting "Ought to Pass" on Bill "An Act to Exempt Certain Transportation Statutes from the Administrative Procedure Act" (Emergency) (S. P. 445) (L. D. 1365)

Report was signed by the following members:

Messrs. SUTTON of Oxford
AULT of Kennebec
MARTIN of Aroostook

— of the Senate.

Mrs. MASTERTON of Cape Elizabeth
Mrs. KANY of Waterville.
Mr. PARADIS of Augusta
Ms. LUND of Augusta
Mrs. DAMREN of Belgrade
Mr. LANCASTER of Kittery
Mrs. REEVES of Pittston
Mr. CONARY of Oakland

— of the House.

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

Report was signed by the following members:

Mrs. BACHRACH of Brunswick
Mr. BARRY of Fort Kent

— of the House.

Came from the Senate with Majority "Ought to Pass" Report read and accepted and the Bill Passed to be Engrossed as Amended by Senate Amendment "A" (S-217).

In the House: Reports were read.

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

Senate Amendment "A" (S-217) was read by the Clerk and adopted in concurrence and the Bill assigned for second reading tomorrow.

Divided Report

Majority Report of the Committee on Judiciary reporting "Ought Not to Pass" on Bill "An Act to Provide for Self-help for Minor Repairs under the Landlord-tenant Statutes" (S. P. 267) (L. D. 808)

Report was signed by the following members:

Messrs. COLLINS of Knox
DEVOE of Penobscot

— of the Senate.

Messrs. STETSON of Wiscasset
GRAY of Rockland
SILSBY of Ellsworth
Mrs. SEWALL of Newcastle
Mr. CARRIER of Westbrook

— of the House.

Minority Report of the same Committee reporting "Ought to Pass" as Amended by Committee Amendment "A" (S-213) on same Bill.

Report was signed by the following members:

Mrs. TRAFTON of Androscoggin

— of the Senate.

Messrs. LAFFIN of Westbrook
JOYCE of Portland
HOBBINS of Saco
SIMON of Lewiston
HUGHES of Auburn

— of the House.

Came from the Senate with the Majority "Ought Not to Pass" Report read and accepted.

In the House: Reports were read.

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

Mr. HOBBINS: Mr. Speaker, I move acceptance of the Minority "Ought to Pass" Report.

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

Mr. WHITTEMORE: Mr. Speaker, I would strongly recommend that you defeat that and come back with the "Ought Not to Pass".

Stop and think, if you have a tenant in your apartment and there is damage, what this bill does, it gives them the authority to say what has to be done. Many people in an apartment have no idea how something should be done, but they can go ahead and do this repair and charge you for it. I don't think this is right.

I wasn't paying much attention to this bill or I would have been better prepared this morning, but I could give you a lot of reasons why it shouldn't pass.

As a landlord, if something is wrong and I own a building or am in charge of it, I should be the one responsible for those repairs. And if I don't want to make those repairs and that place is not fit to live in, it should be condemned I think the building code in your communities

can handle this problem. Any place that is not fit to live in should be condemned. They should not mandate that it has to be repaired unless the landlord wants to repair it. It certainly shouldn't be up to the tenant to decide what has to be done. I don't think they are qualified.

I urge you to go against this motion and then go along with the Majority "Ought Not to Pass" Report.

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

A vote of the House was taken.

Whereupon, Mr. Hobbins of Saco requested a roll call vote.

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

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

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

Mrs. PAYNE: Mr. Speaker, Ladies and Gentlemen of the House: This bill also says that the tenants can make those repairs themselves. I wouldn't like to be the next tenant in a house where some amateur had done the wiring.

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

Mr. HOBBS: Mr. Speaker, Ladies and Gentlemen of the House: This bill is not an unreasonable bill. I know that this is one of the other bills we have, the landlord and tenant situation, and as you know, we always have controversy surrounding this type of legislation.

This particular bill, in its original form, I could not have supported; however, with the amendment on this particular bill, I don't see any problem with the legislation. It only addresses that situation where there is a condition in that particular house which is going to cause a safety or health problem. The tenant can only make a repair after he has given due notice and a reasonable time for the landlord to repair that particular safety or health problem. It is not the situation where the tenant can take it upon himself or herself to rewire a building or do anything of that sort, which he or she is not experienced at and which that tenant can do without any type of notice at all to the landlord.

I stand before you in a different position than I have in previous sessions because I am a landlord. I have a building with four units in it. I think it is the responsibility of landlords to keep their premises in a habitable condition, a safe condition, and a condition which is fit for human habitation.

This bill doesn't address the good landlord, it addresses the problem we have sometimes with a very small minority of landlords who abuse the right to rent their property. It addresses a situation where a landlord isn't responsible, just like we have situations where tenants aren't responsible.

During the session, we had over 25 pieces of legislation involving landlord-tenant relationships. Fortunately, we had responsible tenants represented by a couple of different groups and responsible landlords represented by a couple of different groups that worked on this legislation. They came down to making compromises, and there were only three or four bills which they were in disagreement on when these particular bills were sponsored, and this is one of them. Unfortunately, it is felt by many of the landlords that this oversteps the bounds which they feel they should go because they feel it is a foot in the door.

I have talked to a couple of landlords in my area, a couple of responsible ones, the ones

who keep their buildings in good shape, and they see no problem with this particular piece of legislation. They feel, as I do as a landlord, that a landlord has a responsibility. He should get a good rate of return for his investment but he also should make his buildings so a person can live in it in decent condition.

I think it is a little early this morning to address this situation. I could see from the initial roll call that everyone was scared this legislation was going to cause a situation where a tenant could go and rewire a building or fix a boiler or do anything of that sort. This only addresses serious situations where that particular defect which might be in existence will cause a situation where a person could not live in a place unfit for human habitation or a situation which caused a safety or health problem to that particular tenant.

I urge you today to look at this bill not as a big monster of a piece of legislation or a bill that goes overboard, but I think it is a bill that we should consider as a reasonable means for a tenant, a responsible tenant, who has not caused that particular health or safety problem, which I discussed with you, but which is caused by the irresponsibility of some of the landlords that are not keeping their property up.

I urge you to accept the "ought to pass" report.

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

Mrs. BEAULIEU: Mr. Speaker, Ladies and Gentlemen of the House: I sincerely hope that you will think again on this kind of bill. As a Representative from an area in the City of Portland where 90 percent of my constituents are renters, I feel this bill is appropriate and truly needed.

Not only do I find in my area landlords who are totally irresponsible, we are also plagued with absentee landlords, people who come from out of state, buy the property, rent it, leave the state and simply collect the check at the end of the month.

I come from a district where we have a lot of low-income families trying to deal with absentee landlords over property that is, indeed, not fit for habitation, which is an atrocious process. Even I, this year, put a bill in this legislature and it has been signed by the Governor to assist my city officials to begin to better enforce the laws concerning housing that is totally inappropriate. I believe that it will help city officials to enforce housing codes and whatnot. Unfortunately, the bill does not become law until 90 days after we leave here.

I am willing to say to you that far more landlords, in my end of the city anyways, are, indeed, responsible people and they have very good tenants, but there is that element of landlords that will not pay attention, who simply refuse to cooperate with city officials. They are high powered with their lawyers, they can stall the process of having to meet a housing code violation courts, and the end result is that our people are living in atrocious, substandard housing and can't do a thing to help themselves, because financially they cannot afford the lawyers on the other side to assist them.

I urge you not to defeat this bill. If there are problems with it and there is concern about repairs in wiring, that can be taken care of and I really think the amended version of the bill does take care of that. But for my constituents, I plead with you not to defeat this bill.

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

Mr. WHITTEMORE: Mr. Speaker, Ladies and Gentlemen of the House: I think the problem lies with your building code officials. If the building inspectors inspect this property and it isn't proper, then they will condemn it. That is where your problem lies. You don't need anymore laws to handle this situation. If you are not handling it properly in your cities, then it is your fault.

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

Mr. LEIGHTON: Mr. Speaker, Ladies and Gentlemen of the House: I won't take a great deal of time because this falls in the same category as the bill that we debated the other day at some length.

It seems to me that this bill sets the tenant up rather unfairly as the sole judge and jury as to what ought to happen. In other words, the tenant, under this situation, is expressly authorized, if he decides that his rights have been violated, to simply deduct the money from his rent.

The landlord, on the other hand, well, Section 3 of the amendment says: "The provisions of this section may not be invoked if the unsafe or unhealthy condition was caused by the tenant or a person acting under his control." But the landlord is in the position of having to sue the tenant. And I might remind you, in the case where this even becomes an issue, when we talk about tenants suing landlords and landlords suing tenants, the tenant is usually in the fortunate position of dealing with someone or some entity that is not judgment proof. But my experience has been with landlords dealing with the tenant, he usually is judgment proof and also doesn't usually have to pay for his attorney, the landlord does.

I think this is a terrible bill and let's get it defeated.

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

Mr. CALL: Mr. Speaker and Members of the House: This bill, if it passes, would create one more reason to cause landlords to wish somebody else had their property.

This is a terrible bill. Most of these bills, if they pass and become law, tend to make landlords miserable. But, fortunately, it has been my experience in three terms in this House that very few of these very unfair and discriminatory bills don't pass, and they shouldn't.

When the landlord lets that tenant paint a room, it is often a hideous color and in two weeks, after many nightmares, the tenant moves out, being unable to stand his own handy work, and the landlord cannot let that unit until he goes and paints the room himself a different color.

The landlord could return from a trip and find that a tenant had smashed a hole in the wall so he could visit his neighbor without going out into the corridor—a terrible inconvenience.

I am not attempting to be humorous. These things do happen. I could write a book on my experiences as a landlord, a mixture of humor and great discomfort and annoyance.

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

Mr. BAKER: Mr. Speaker, Ladies and Gentlemen of the House: I think I could write a book about my experiences in the legislature and think I am going to. This will make a very interesting chapter.

I think we are beginning to forget what the bill is all about. It may seem kind of funny to you but it is not funny to me. Who do you think lives in some of these tenements; of course, a lot of people, a lot of voters, a lot of people that feel very powerless. A lot of people get very upset because people like us always make laws that affect their lives in a very negative way. That is exactly what we do up here.

I wish some of you would take a good look at some of the buildings in some of the cities, some of these areas. You think of it as absolutely no communication between tenants and landlords. Of course there is. There are a lot of landlords that sometimes would like to have this type of thing happen so that they don't have to go make the repairs, it is less bother for them. If a tenant does some of this stuff, they have some pride in the property where they live, and that is important, that is very important.

I wish you would give this bill a little bit more serious consideration.

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

Mr. TARBELL: Mr. Speaker, Ladies and Gentlemen of the House: Just very briefly by way of rebuttal. I would like to remind members of the House and for those who weren't with us a couple of years ago, we did pass a fairly novel piece of legislation that would permit tenants, if there were an unfit condition which breaks warranty of habitability, to go to court, get an injunction to order that the landlord make the necessary repairs if there were an unfit condition for human habitation. So, I do think we do have some measures on our law books that already cover this area fairly suitably, and it is my understanding that they are being used throughout the state. In fact I even invoked them on a couple of occasions for clients that I represent as tenants and I don't think that all is a hopeless loss if this measure is not passed today. We did pass some good very, strong legislation a couple of years ago.

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

Mr. HOBBS: Mr. Speaker, Men and Women of the House: The gentleman is right, we did pass a statute, but I think that L. D. 808 will void some of the need for litigation arising under the warranty of habitability statute by creating a reasonable alternative to litigation, which would be a saving to not only the landlord but the tenant.

All this bill does is establish a new remedy for any expensive violations of the warranty of habitability. After giving notice of an unhealthy situation or safety situation, the tenant must give the opportunity to make the repair, as I mentioned earlier. If the landlord fails to act within 14 days, the tenant may arrange to repair the condition to be made and deduct the cost from his rent. The condition being repaired must be serious, that is substantial enough to be covered by the warranty of habitability. The cost of repair must be less than \$100 or an amount equal to one half of the monthly rent. The value of labor provided by the tenant or any member of his immediate family may not be deducted from the rent, thereby discouraging unnecessary repairs. The "repair and deduct" option does not apply to conditions caused by the tenant, as I mentioned earlier, nor where the landlord is denied access, nor where extreme weather conditions interfere with the inability of the landlord to make the repair.

The landlord is protected from liability under this bill if there is any injury to the tenant or others arising from the repair. This section does not apply to a tenancy in an owner occupied building of five units or less, same as the standard applied to the security deposit provisions. While the landlord is prohibited from retaliating against the tenant who has utilized the repair and deduct option, no rebuttable presumption is created by this bill and therefore it is the responsibility of the tenant to affirmatively prove that an eviction action was filed because of retaliation of making the repair.

I think, as I mentioned earlier, this is not the anti-landlord bill like you all say. I think it is a good bill that responsible landlords should support and I hope you do today.

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

Mr. LEIGHTON: Mr. Speaker, Ladies and Gentlemen of the House: Not to prolong this thing too much, but I am very fearful of this bill.

Let me recount to you a personal experience I just had within the last 24 hours. In my capacity as a real estate broker, I sold a retirement home to a gentleman from New York State some five or six years ago. I have agreed since then to watch the property for him free of charge, and summer he comes here and each winter I rent the property for him free of charge. All he wants to do is get back some of

his expense. We charge, from September to June, \$200 a month. This includes heat, lights, water and rent, and it is furnished, when it comes down to what anybody is really paying for rent, it is less than \$100.

Each year, I try to screen out the tenants to make sure that someone decent goes in there, again at no charge to this fine fellow from New York State who someday is going to come here to live. Sometimes I am successful, sometimes I am not. References don't seem to mean a thing. Last September, unknowingly, I rented it to a bum. There was nothing I could do about it. He has been in there and every month the rent is late, each month I have to go over and collect it when he is supposed to send it to me. Each time I go over to collect it, I see the further depreciation that has incurred in the property and the just plain general filth.

Last night, after I got home after a hard day at the legislature, my good wife reminded me, you have got to go over and collect the rent. Today is the 22nd, it was due on the first. Glen Burdick in New York is going to want to know where his money is. It is going to take a few days to get down there. I went over and the guy wasn't home; I talked to his wife. I said, look it is the 22nd of the month, how about the rent? she said, he is not home yet. When he comes home, I will send him over to see you. Well, I took that with a grain of salt. Well, wonder of wonders, just as I was into Three is Company, which I enjoy very much, there was a knock on the door and here is the guy out there and he is just as filthy as the house is. He said "Listen, I don't have the rent and, beside, you know the garage has got water in it?" I said "It does?" He said, "Yes." I set some stuff on the garage floor and it spoiled. I had to take it to the dump." He said, "It is worth about \$300. I don't know why I should pay you any rent anyway." I said, "That is an old story, you don't really mean that, what you really mean is that you don't have the rent to pay or don't want to pay it." He said, "Well look, why don't you just keep the security deposit and I will move out next week." I said, "That is a whole month's rent, the guy in New York, who had an understanding with you, isn't going to get that to offset his bill." He said, "I can't help it, but if you do that I won't try to get you on any of that stuff that was spoiled by the water leaking into the garage."

So, the point I am trying to make is all this is, from a practical standpoint, allows the bum to be judge and jury and say whenever he is short of money that something happened and without benefit of hiring a lawyer or going to court, he can simply deduct it. If the landlord, on the other hand, who wants to come back and make it right, he has got to hire a lawyer and he has got to go to court, and even if he wins he has to pay and he is going to lose. That is why this bill stinks.

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

Mr. BAKER: Mr. Speaker, Ladies and Gentlemen of the House: I am very sorry for the good gentleman from Harrison, but if he was familiar with the landlord-tenant laws, he would know that commission of a nuisance is a seven day eviction notice. I would like to present him with a little book here she can be informed of the landlord-tenant laws in the future.

The SPEAKER: A roll call has been ordered. The pending question is on the gentleman from Saco, Mr. Hobbins, that the House accept the Minority "Ought to Pass" Report. Those in favor will vote yes; those opposed will vote no.

ROLL CALL

YEA — Baker, Barry, Beaulieu, Benoit, Bordeaux, Brennerman, Brodeur, Brown, K.C.; Chonko, Cox, Davies, Gowen, Gwadosky, Hall, Hobbins, Joyce, Kane, Kany, Laffin, McHenry, Reeves, P.; Rolde, Simon, Theriault, Tierney, Vincent, Vose, Wood, Wyman.

NAY — Aloupis, Austin, Bachrach, Berube,

Birt, Blodgett, Bowden, Brown, A.; Brown, D.; Brown, K.L.; Bunker, Call, Carroll, Carter, D.; Carter F.; Churchill, Cloutier, Conary, Cunningham, Curtis, Davis, Dellert, Diamond, Dow, Drinkwater, Dutremble, D.; Fenlason, Fillmore, Garsoe, Gavett, Gillis, Gould, Gray, Hanson, Hickey, Higgins, Huber, Hunter, Immonen, Jacques, P.; Jalbert, Kelleher, Kiesman, Lancaster, LaPlante, Leighton, Leonard, Lewis, Locke, Lougee, Lowe, Lund, MacBride, MacEachern, Mahany, Marshall, Martin, A.; Masterman, Masterton, Matthews, Maxwell, McKean, McPherson, McSweeney, Mitchell, Morton, Nadeau, Nelson, A.; Nelson, M.; Nelson, N.; Norris, Paul, Payne, Pearson, Peltier, Peterson, Reeves, J.; Rollins, Sewall, Sherburne, Silsby, Smith, Soulas, Sprowl, Stetson, Strout, Studley, Tarbell, Torrey, Tozier, Twitchell, Violette, Wentworth, Whittemore.

ABSENT — Berry, Boudreau, Brannigan, Carrier, Connolly, Damren, Dexter, Doukas, Dudley, Dutremble, L.; Elias, Fowlie, Howe, Hughes, Hutchings, Jackson, Jacques, E.; Lizotte, McMahon, Michael, Paradis, Post, Prescott, Roope, Small, Stover, Tuttle.

Yes, 29; No, 94; Absent, 27.

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

Thereupon, the Majority "Ought Not to Pass" Report was accepted in concurrence.

Non-Concurrent Matter Later Today Assigned

Bill "An Act to Increase the License Fees of the Master, Journeyman and Apprentice Oil Burner Man" (H. P. 1420) (L. D. 1623) which was referred to the Committee on Business Legislation in the House on May 22, 1979.

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

In the House:

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

Mr. BIRT: Mr. Speaker, I move we recede and concur.

Whereupon, Mr. Tierney of Lisbon Falls requested a division.

The SPEAKER: The Chair recognizes the gentleman from Hope, Mr. Sprowl.

Mr. SPROWL: Mr. Speaker, Ladies and Gentlemen of the House: I am sorry that our chairman of Business Regulation is not here. We have another bill which addresses this, and these fees have been increased. I think that is the reason that the Senate did what it did on the other side.

I talked to Mr. Howe yesterday, and we would rather not go through another hearing on something that we have already covered.

On motion of Mr. Tierney of Lisbon Falls, tabled pending the motion of Mr. Birt of East Millinocket to recede and concur and later today assigned.

Non-Concurrent Matter

Bill "An Act to Amend the Salary Range for the Insurance Superintendent" (Emergency) (H. P. 1421) (L. D. 1624) which was referred to the Committee on State Government in the House on May 21, 1979.

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

In the House: On motion of Mrs. Kany of Waterville, the House voted to adhere.

Non-Concurrent Matter

Bill "An Act to Increase Interest Rates on Judgment Debts to 18%" (H. P. 501) (L. D. 608) on which the Minority "Ought to Pass" as amended by Committee Amendment "A" (H-449) Report of the Committee on Judiciary was read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (H-449) in the House on May 21, 1979.

Came from the Senate with the Majority "Ought Not to Pass" Report of the Committee

on Judiciary read and accepted in non-concurrence.

In the House: The House voted to adhere.

Non-Concurrent Matter

Bill "An Act to Protect Management Personnel Where Unjustly Discharged or Involuntarily Retired" (H. P. 748) (L. D. 957) on which Report "C" "Ought to Pass" as amended by Committee Amendment "A" (H-448) of the Committee on Labor was read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (H-448) in the House on May 21, 1979.

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

In the House: On motion of Mr. Wyman of Pittsfield, the House voted to insist and ask for a Committee of Conference.

Non-Concurrent Matter

Bill "An Act Concerning State Valuation and Assessment" (H. P. 531) (L. D. 652) on which the Minority "Ought to Pass" as amended by Committee Amendment "A" (H-411) Report of the Committee on Taxation was read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (H-411) in the House on May 16, 1979.

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

In the House:

Mrs. Post of Owl's Head moved that the House adhere.

Whereupon, Mr. Morton of Farmington moved that the House recede and concur.

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

Mrs. POST: Mr. Speaker, Men and Women of the House: Obviously, I have some feelings on this bill and it seems as though the other body is not interested in dealing with this issue.

We have several bills before us, and while I think this would have been good for the people of the State of Maine, it obviously is not going anywhere this session, so I would be willing to go along with the recede and concur motion.

Thereupon, on motion of Mr. Morton of Farmington, the House voted to recede and concur.

Non-Concurrent Matter

Bill "An Act to Prohibit Rate Discrimination by Public Utilities" (H. P. 837) (L. D. 1041) which was passed to be engrossed as amended by Committee Amendment "A" (H-384) in the House on May 16, 1979.

Came from the Senate passed to be engrossed as amended by Committee Amendment "A" (H-384) as amended by Senate Amendment "A" (S-212) thereto in non-concurrence.

In the House: On motion of Mr. Davies of Orono, the House voted to recede and concur.

Non-Concurrent Matter

Later Today Assigned

Bill "An Act to Permit Nonprofit Legal Services Organizations" (H. P. 642) (L. D. 797) on which the Minority "Ought Not to Pass" Report of the Committee on Judiciary was read and accepted in the House on May 16, 1979.

Came from the Senate with the Majority "Ought to Pass" as amended by Committee Amendment "A" (H-409) Report of the Committee on Judiciary read and accepted and the Bill passed to be engrossed as amended by Committee amendment "A" (H-409) as amended by Senate Amendment "A" (S-205) thereto in non-concurrence.

In the House:

Mr. Hobbins of Saco moved that the House recede and concur.

On motion of Mr. Gwadosky of Fairfield, tabled pending the motion of Mr. Hobbins of

Saco to recede and concur and later today assigned.

Non-Concurrent Matter

Joint Order Relative to Committee Cloture (S. P. 563) which was passed as amended by House Amendment "A" (H-479) in the House on May 21, 1979.

Came from the Senate with that Body having adhered to its former action whereby the Joint Order was passed in non-concurrence.

In the House: The House voted to adhere.

By unanimous consent, ordered sent forthwith to the Senate.

Messages and Documents

The following Communication:

COMMITTEE ON AUDIT AND PROGRAM REVIEW

May 21, 1979

The Honorable John Martin

Speaker of the House

State House

Augusta, Maine 04333

Dear Speaker Martin:

The Committee on Audit and Program Review is pleased to report that it has completed all business placed before it by the First Regular Session of the 109th Legislature.

Bills received in Committee 1

Unanimous Report

Ought Not to Pass 1

Sincerely,

S/GEORGETTE B. BERUBE

House Chairman

The Communication was read and ordered placed on file.

Orders

A Joint Resolution (H. P. 1428) in memory of Durward S. Heal of East Millinocket, an outstanding leader in education and school sports presented by Mr. Birt of East Millinocket (Cosponsor: Senator Pray of Penobscot)

The Resolution was read.

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

Mr. BIRT: Mr. Speaker, Ladies and Gentlemen of the House: I would like to make a few remarks about Durward Heal.

Durward Heal was an East Millinocket boy who went to Colby, was an outstanding athlete at Colby, played in the line for Colby for four years as a tackle, pitched for the Colby baseball team. Among his credits at Colby, he had at least one 'no hit-no run' game that he pitched. Later on, he spent his entire life in the field of education. He taught at Cape Elizabeth, Rockland, New Gloucester, was athletic director at Bangor High for about seven years, and then he came back to East Millinocket where he was principal for 21 years.

He was President of the Maine Principals Association in 1957 and 1958. I think his chief claim to fame was in 1950 developing the Heal point system. The Heal point system probably did more to restore credibility to the major sport that the high schools in the State of Maine participate in, basketball, than other action that has been taken during the history of that game.

Prior to 1950, there were various methods of selecting tournament teams, and after the selections, every year there was criticism in the papers and from the people as to the selection. In 1950, Durward Heal developed the Heal point system, and that system has stood all kinds of pressures from then to now, and invariably it has been able to select the teams in a rating system whereby the teams that usually finish on the higher end of the rating system are the teams that usually come out on top. I think that that one single achievement was probably one of the most note worthy things that had been done in sports and he is entitled to a great deal of credit.

Durward passed away and his funeral was yesterday, but I think the people of the state,

particularly sports-minded people owe a great deal to the efforts that he made in this particular area.

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

On motion of Mr. Cox of Brewer, it was ORDERED, that Representative Bruce Roope of Presque Isle be excused May 23 and May 24 1979 for personal reasons.

House Reports of Committees

Ought Not to Pass

Mrs. Lewis from the Committee on Education on Bill "An Act to Honor School Construction Projects Approved under Prior Laws" (Emergency) (H. P. 696) (L. D. 874) reporting "Ought Not to Pass"

Ms. Benoit from the Committee on Election Laws on Bill "An Act to Revise the procedure for Filing Absentee Ballots" (H. P. 999) (L. D. 1234) 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. Jackson from the Committee on Business Legislation on Bill "An Act to Provide for Public Input to Insurance Classifications and Classification Rate Structures" (H. P. 1021) (L. D. 1253) reporting "Leave to Withdraw"

Mr. Lancaster from the Committee on State Government on Joint Resolution to Ratify An Amendment to the Federal Constitution to Provide for Representation of the District of Columbia in the Congress (H. P. 679) (L. D. 805) reporting "Leave to Withdraw"

Reports were read and accepted and sent up for concurrence.

Ought to Pass in New Draft

Miss Brown from the Committee on Business Legislation on Bill "An Act Requiring Certain Consumer Agreements to be Written so that they are Readable and Understandable" (H. P. 483) (L. D. 631) reporting "Ought to Pass" in New Draft (H. P. 1427) (L. D. 1634)

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

Mr. Gray from the Committee on Judiciary on Bill "An Act to Amend the Laws Relating to Criminal History Record Information" (H. P. 629) (L. D. 780) reporting "Ought to Pass" in New Draft (H. P. 1425) (L. D. 1632)

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

Mr. Brannigan from the Committee on Business Legislation on Bill "An Act to Require the Payment of Interest or Payment Services on Escrow Accounts Used for Paying Municipal Taxes" (H. P. 725) (L. D. 912) reporting "Ought to Pass" in New Draft under new Title Bill "An Act to Require Financial Institutions Either to Pay Taxes from Mortgage Escrow Accounts or to Pay Interest on Escrowed Sums" (H. P. 1426) (L. D. 1633)

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

Ought to Pass

Pursuant to Joint Order H. P. 135

Mr. LaPlante from the Committee on Local and County Government on RESOLVE, for Laying of the County taxes an Authorizing Expenditures of Franklin County for the Year 1979 (Emergency) (H. P. 1424) (L. D. 1631) reporting "Ought to Pass" — pursuant to Joint Order (H. P. 135)

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

Consent Calendar**First Day**

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

(H. P. 1121) (L. D. 1390) Bill "An Act to Require that Insurance Coverage for Outpatient Community Mental Health Services be Provided in Group Health Care Policies and Contracts" Committee on Business Legislation reporting "Ought to Pass" as amended by Committee Amendment "A" (H-496)

(H. P. 234) (L. D. 280) Bill "An Act Concerning the Profession of Public Accountancy" Committee on Business Legislation reporting "Ought to pass" as amended by Committee Amendment "A" (H-497)

(H. P. 1147) (L. D. 1409) Bill "An Act Pertaining to Solicitation by Law Enforcement Officers" Committee on Business Legislation reporting "Ought to Pass" as amended by Committee Amendment "A" (H-495)

(H. P. 1214) (L. D. 1520) Bill "An Act Relating to the Employment of Minors and Overtime Pay" Committee on Labor reporting "Ought to Pass" as amended by Committee Amendment "A" (H-494)

(H. P. 1380) (L. D. 1605) Bill "An Act to Ensure the Prompt Decision of Cases Before the Workers' Compensation Commission" Committee on Labor reporting "Ought to Pass" as amended by Committee Amendment "A" (H-492)

(S. P. 169) (L. D. 370) Bill "An Act to Increase the Term of Special Licenses under the Marine Resources Law" Committee on Marine Resources reporting "Ought to Pass" as amended by Committee Amendment "A" (S-210)

(S. P. 378) (L. D. 1158) Bill "An Act Relating to Appointment of Local Plumbing Inspectors in the Unorganized Townships" Committee on Energy and Natural Resources reporting "Ought to Pass" As amended by Committee Amendment "A" (S-206)

(S. P. 455) (L. D. 1385) Bill "An Act to Clarify the Consent Requirements for Adoptions" Committee on Judiciary reporting "Ought to Pass" as amended by Committee Amendment "A" (S-207)

(S. P. 492) (L. D. 1532) Bill "An Act to Allocate Moneys for the Administrative Expenses of the State Lottery Commission for the Fiscal Years Ending June 30, 1980 and June 30, 1981" (EMERGENCY) Committee on Appropriations and Financial Affairs reporting "Ought to Pass"

(H. P. 1081) (L. D. 1517) Bill "An Act Altering the Organization and Governance of Community School Districts" Committee on Education reporting "Ought to Pass" as amended by Committee Amendment "A" (H-498)

No objections being noted, the above items were ordered to appear on the Consent Calendar of May 24, under listing of Second Day.

Consent Calendar

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

(H. P. 737) (L.D. 924) Bill "An Act concerning the Coordination of Health Services Funded Through the State and Federal Funds" (C. "A" H-483)

(S. P. 345) (L. D. 1102) Bill "An Act to Expand the State's Program to Promote Apprenticeships" (C. "A" S-199)

(S. P. 402) (L. D. 1266) Bill "An Act to Amend the Statutes Governing Vocational Regions" (C. "A" S-202)

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

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

(H. P. 934) (L. D. 1166) Bill "An Act to Strengthen the Penalties for Operating Under the Influence" (C. "A" H-484)

On the objection of Mr. Kelleher of Bangor, was removed from the Consent Calendar.

Thereupon, the Report was accepted, the Bill read once. Committee Amendment "A" (H-484) was read by the Clerk and adopted and the Bill assigned for second reading tomorrow.

Second Reader**Later Today Assigned**

RESOLVE, to Study the Need for an Environmental Health Program. (Emergency) (H. P. 1422) (L. D. 1627)

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

On motion of Mrs. Bachrach of Brunswick, tabled pending passage to be engrossed and later today assigned.

Passed To Be Engrossed.

Bill "An Act to Incorporate Standards in the Motor Vehicle Inspection Law and to Provide for Legislative Review of Rules Promulgated to Implement the Inspection Program" (H. P. 1423) (L. D. 1628)

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

Second Reader**Later Today Assigned**

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

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

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

Amended Bills

Bill "An Act to Clarify the Powers and Duties of the Office of Energy Resources" (S. P. 423) (L. D. 1294) (S. "A" S-211 to C. "A" S-156)

Bill "An Act Concerning Gas Tax Refunds" (S. P. 150) (L. D. 327) (C. "A" S-200)

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

Second Reader**Later Today Assigned**

Bill "An Act to Insure Parental Participation in a Minor's Decision to have an Abortion" (S. P. 220) (L. D. 604) (C. "A" S-181)

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

On motion of Mr. Tierney of Lisbon Falls, tabled pending passage to be engrossed as amended and later today assigned.

Bill "An Act to Establish Special Retirement Provisions for CETA Employees" (Emergency) (S. P. 268) (L. D. 809) (C. "A" S-201)

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

On motion of Mr. Garsoe of Cumberland, tabled pending passage to be engrossed as amended and later today assigned.

Bill "An Act to Allow Municipalities the Option of Charging Reasonable Service Charges on Certain Tax Exempt Property" (H. P. 982) (L. D. 1162) (C. "A" H-466)

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

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

Mr. CARTER: Mr. Speaker, at this time, I move that this Bill and all its accompanying papers be indefinitely postponed and would speak to my motion.

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

The gentleman may proceed.

Mr. CARTER: Mr. Speaker, Ladies and Gentlemen of the House: L. D. 1162, as amended, would impose service charges on certain non-profit organizations. The amendment puts this bill in line with the recommendations made by the Committee on Taxation as a result of the special study of all property tax exemptions. Originally, I supported those recommendations, but as I thought about it further, my support turned to opposition.

First, I would like to consider briefly some of the problems in the administration of the bill which, in my opinion, would be a real nightmare. For example, Paragraph M-1, on Page 1 of the amendment, it says the following: "The owners of certain institutional and organizational real property, which is otherwise exempt from state or municipal taxation, may be subject to service charges when these charges are calculated according to the actual cost of providing municipal services to that real property and to the persons who use that property."

Then, if you look on Page 5 of the amendment, we see the following standards: "(a) The institution or organization must receive the service for which it is charged, and the service must reasonably reflect the value of that service."

I would suggest that these criteria are very subjective and very difficult to establish and would impose an almost impossible burden on the local town and city officials. It would cause a great deal of controversy and possibly litigation.

The proponents of this bill are promoting this in the name of local control. In my opinion, this very factor of local control or local option is one of the reasons we should not pass this bill. This bill calls for a referendum to determine what charges shall be imposed on which organizations. In the towns, this referendum would have to be called on petition of 10 per cent of the voters. In a town where the sentiment was quite evenly divided pro and con, I can see referendums being called each year. We would have a situation of complete chaos where one year service charges were imposed and the next year they were withdrawn and later reimposed. It would be a real patchwork thing.

There is also the confusion that would be caused by pitting one town against the other where one town does impose service charges and another town does not.

The framers of our Constitution took care to avoid a similar situation regarding property taxes. Section 8 of our Constitution says: "All taxes upon real and personal estate assessed by authority of the State shall be apportioned and assessed equally according to the just value thereof."

I am not in any way saying that these service charges would be unconstitutional, I am merely saying that if uniformity is desirable as far as property taxes are concerned, it very well may be that uniformity is also desirable if we are imposing service charges.

L. D. 1162, as amended, does, indeed, have a certain appeal to it. We would all like to shift some of our tax burden onto somebody else, but if it is a question of shifting the tax burden from ourselves, in other words, from one pocket to the other, possibly it doesn't become quite as attractive.

Also, there is no question that some of our larger cities are desperate for additional revenue, but if they find additional revenues, do you

think they are going to reduce our taxes? I think the answer to this is no, and the answer is no for the very simple reason that the demands for services on our municipalities far exceed the funds available, and if more funds are made available, they are going to meet some of these unmet demands.

Now, I have no idea what service charges would mean to the city of Bangor, and no one else has any idea what the total effect of this would be. But, for example, suppose the city of Bangor raises a million in service charges. It means that the organizations that paid this million dollars are going to have to do one or two things—They are going to have to raise a million dollars of additional revenue or curtail the services they were providing. To the extent that they curtail their services, we have merely had a shift in spending from the private sector to the public sector. To the extent that they attempt to replace the million dollars, three guesses as to where they are going to get the money. They are going to get it from you and me, from the public.

If we assess service charges to the Eastern Maine Medical Center, for example, our Blue Cross rates are going up. If we assess other nonprofit organizations, we will be asked to dig a little deeper for the United Way drive and to pay a little more when we send our children to YMCA camps or pay for similar services.

I would point out that our mental health centers have not been too successful in securing funding as is. Service charges might be the final blow that would cause them to greatly curtail their services.

As I assess the situation, yes, there might be a tax shift but no tax reduction. The public would be faced with additional demands from the non-profit organizations but would be less inclined to meet these demands. So let's ask ourselves what we really would accomplish by L. D. 1162.

First, we might expect to receive slightly better services from our municipal government, but if my somewhat cynical assessment is correct and taxes do not go down, we have merely increased the total demands on the public and at a terrific cost to us all in administrative costs, complexity, uncertainty, accounting requirements and possibly litigation.

I ask you to support my motion to indefinitely postpone L. D. 1162.

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

Mrs. POST: Mr. Speaker, Men and Women of the House: I would like to respond to a couple of comments that were made by Representative Carter. Unfortunately, he was totally incorrect in his very first statement when he said that this bill imposes service charges on several classes of tax exempt property. It does not do that. What this bill does is allow local municipalities to make the decisions on several classes of tax exempt property whether or not service charges should be imposed. The Taxation Committee was not making a judgmental decision on whether or not service charges should be imposed in those instances; we simply said it should be up to the local municipalities to make that decision.

Representative Carter mentioned that this bill would put a tremendous administrative burden on a particular community in terms of trying to determine what the actual service charges were, what they should be. My response is, that is up to that town to try to decide whether they want that administrative burden or want to try to go through that process when in fact, they make that decision of whether or not they want to levy a service charge.

I would remind you that there is presently on the statute books, and it has been on the books for a couple of years in taxation presently allowing service charges in one particular instance, and the very same language that is in this bill is in that one service charge bill now, and it does read that certain kinds of institu-

tional organizations may be subject to service charges when these charges are calculated according to the actual cost of providing municipal services. It only deals at this time with residential properties totally exempt from property taxation yet used to provide rental income. That statute has been on the books and is very much the same language that we are proposing now and evidently there have been no tremendous administrative problems with that or court cases in that particular instance.

The issue is raised that this is going to put one town against another, and I guess I would simply say that it has not been my experience that one town has really competed to try to get a tax exempt property in its individual town. We are not talking about trying to lure a great industry that is going to provide a huge number of jobs and yet pay taxes, we are talking about that community having to shoulder the burden of providing services, police protection, fire protection, road repairs, snow plowing for those tax exempt organizations.

I am glad that Representative Carter didn't mention that it was unconstitutional, although he did raise that flag. I want to say that we were very careful on this and the committee spent a lot of time trying to figure out whether or not we should come up with a specific formula; for instance, to say that a certain amount of road footage should have to pay a certain percentage of the snow removal budget. But when we tried to do that, it seemed as though there were some formulas that maybe were applicable to rural areas and some that were applicable to urban areas.

What we did instead was to take a look at the Attorney General's opinion and to put those standards in the bill, which he said we would have to follow in order to be constitutional. He said that there had to be a benefit received by the person paying the charge and the charge must reasonably reflect the value of that benefit and that the charge must be imposed on all similarly situated users. Those were "musts" as far as the Attorney General's Office was concerned in order for us to have constitutional services charges and those standards are set out on Page 5.

We treated this issue like we do many other issues when we are dealing with municipal government. We do it with general assistance, we do it with many issues and we say, we set the standards and then you set up the mechanisms that best meets your needs of collective service charges that meets these constitutional standards.

In terms of the question on everybody being asked to give more on the United Way drive, I want to point out that which can be levied a service charge are only those charitable institutions which receive a majority of their income from fees for service. That does include Medicaid and Medicare, it does include hospitals.

I think as we heard testimony from municipal officials and individuals throughout the state, although I realize that the Maine lobbying force against this bill has come from hospitals, those are exactly the kinds of organizations which perhaps some communities should be able to decide whether or not they want to levy a service charge.

In many instances, you have a hospital which requires a large amount of services from the community and yet that hospital actually treats patients from all over the state. The issue would be, do those people in that community want to bear the entire burden for providing all those services to that hospital or should that burden be paid by the people who are actually using the service itself?

I don't think that we should be asking what do we expect to receive under this particular bill? That is the question that would be asked by individuals as they make their own decisions through referendum in their own local communities, as we say we think that you have the ability to make this decision and the legis-

lature, in this instance, does not have to be all knowing and all protective.

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

Mr. KELLEHER: Mr. Speaker, Ladies and Gentlemen of the House: I don't believe there is a community in the State of Maine that has more tax exempt property than the community the five of us from Bangor represent.

I oppose this bill for two reasons. One is, I dislike the idea of the legislature passing a possible taxing instrument that would let individual communities make up their mind to do it. I don't think that is the philosophy or should be the philosophy of this legislature in creating independent areas in the state where they can levy taxes in one community and not in another.

I honestly think that this could be an attempt to put the foot in the door, that we would be seeing bills in the next session and we would be creating a precedent, maybe we are and maybe we aren't in allowing communities to establish income taxes in their respective communities.

I oppose it for those two reasons and when the vote is taken, Mr. Speaker, I would request the yeas and nays.

The SPEAKER: The Chair recognizes the gentleman from Brooklin, Mr. Bowden.

Mr. BOWDEN: Mr. Speaker, Ladies and Gentlemen of the House: I would like to pose a question through the Chair to any member of the Taxation Committee.

Under this bill, as Mrs. Post pointed out, there are some general standards which will be applied, but in the event an institution or organization feels that the service charge imposed upon it has been unfairly established, who is going to make the determination of whether these standards have been properly observed, whether it is fair. Is it going to require a court test or is there some sort of arbitrator who will make the decision in instances such as that?

The SPEAKER: The gentleman from Brooklin, Mr. Bowden, has posed a question through the Chair to anyone on the Taxation Committee who may respond if they so desire.

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

Mrs. POST: Mr. Speaker and Members of the House: That issue would be settled the same way that all issues between assessors and municipal officials versus different types of tax exempt property are concerned, and those issues would be decided by the court if it became necessary.

We go through that process many items when tax assessors either try to put on the tax books or take off the tax books certain types of property, so it would be handled through the same way in court. There is no state level agency at this point that would be making a decision on that.

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

Mrs. LEWIS: Mr. Speaker, Ladies and Gentlemen of the House: I am not really opposed to this bill. I think especially in areas where there is a large non-profit institution and it does serve people from other communities, it probably does seem fair that the other communities should share in paying their taxes or their service fees.

However, I am thinking about the veteran's tax, not tax but the deduction that the veteran's are allowed. A few years ago, when I first came into this legislature, veterans were allowed, I believe, a \$3500 exemption which was based on the valuation of the communities. So in some communities, a veteran really didn't pay any property tax at all and in another community, where the valuation was closer to 100 per cent, the veteran did pay a tax. I wondered if the committee had considered having the state set a tax. I wonder if that would be a fair way of doing it rather than leaving it up to each individual community.

At first blush, home rule sounds great, but I

am wondering if it would really work since it didn't as far as the veterans were concerned?

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

Mrs. POST: Mr. Speaker, Ladies and Gentlemen of the House: First of all, this bill has absolutely nothing to do with veterans and in the issue of veterans, there was absolutely nothing to do with veterans' exemptions were concerned. Those veterans' exemptions were set by statute, the change was made that it had to be according to just value. There was no option as far as the local communities were concerned. The decision was made within the Taxation Committee. I have to mention again that we are not talking about a tax, the legislature should not further the wrong that it has probably done by exempting the amount of tax exempt property we have and passing that burden onto the local communities by mandating that they had to impose a service charge. In many instances, the towns want to support institutions in their communities through the property tax and that should be their choice.

This has nothing to do with veterans. There was no local control as far as the veterans issue was concerned and we are not talking about a tax. In fact, the Attorney General's Office has said that we cannot talk about local option property taxes.

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

Mr. BRENNERMAN: Mr. Speaker, Ladies and Gentlemen of the House: To further answer the question from the gentledady from Auburn, Mrs. Lewis, according to the Attorney General's opinion, service charges, in most cases, cannot be based upon valuation. Otherwise, this could be a tax. We see the only place where valuation could be used as in fire protection, where you are basing the service charge on the insured value of the property.

We attempted to come out with a piece of legislation that is fair to all tax exempt organizations that are included. That is why we felt that service charges should be phased in over a period of time, which is something that is in the original bill, and that is why we felt so strongly that the people have an opportunity to vote in referendum whether they would like to charge service charges to certain classes of tax exempt property.

The mood of the taxpayers seems to be toward more equity in the tax structure across the board by making some tax exempt organizations pay a share of the cost of government.

It seems that we here in the legislature like to take the credit and reap the political gain for responding to the pleas of tax exemptions on property. However, we have done that without considering the cost to the local government.

Our bill places some of the responsibility back to the local governments by giving them the option and, I repeat, the option, to impose service charges to certain tax exempt property. We thought that the decision should be made at the local level.

If the property taxpayers feel that one classification of exempt organizations does serve a public benefit, then they can vote not to impose a service charge. By doing that, they will continue to assume the tax burden, or should I say the homeowner and the commercial property will continue to assume the tax burden. If they feel otherwise, then service charges can be imposed.

It seems to me that if my community wants to impose service charges on these particular organizations, then they ought to have that right to vote to do it. If your community doesn't want to do it, then they don't have to.

Mr. Carter brought up the situation of the hospital. The Maine Medical Center is in Portland and 70 per cent of the patients at Eastern Maine Medical Center in Bangor don't come from Bangor; yet, the property taxpayers of Portland and Bangor have to support those people in that particular building.

I am sure that the case is similar in other hospitals in other parts of the State. What we are saying is that if the people in that community feel that the hospital is imposing some type of burden, in fact, in Portland, Maine Medical Center built a garage a number of years ago and that is tax exempt, and the people in my community and the people in Bangor and the people anywhere else ought to have the right to vote to charge service charges to those classifications that they feel should be paying some type of service charge.

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

Mr. KELLEHER: Mr. Speaker, Ladies and Gentlemen of the House: I appreciate the remarks made by the good gentleman from Portland, but there is one other issue that I think this House should consider. The City of Bangor gets no tax money at all from Bangor Mental Health, but a vast majority of those employees that serve there, that work there, live in Bangor. There are tremendous amounts of dollars because of the Bangor Mental Health, the University of Maine in Bangor, the largest single employee in the city of Eastern Maine General Hospital, I think the second largest would be St. Joseph's, and all that money, a vast majority of that money, is trickled back into the business community in the City of Bangor and I think that reflects in some way dollars that are left in my community or even in the communities of Portland and elsewhere.

I do hope that you support the motion of the gentleman from Bangor to indefinitely postpone.

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

Mr. MARSHALL: Mr. Speaker, Ladies and Gentlemen of the House: In response to the good gentledady from Auburn, Mrs. Lewis, who said that local control sounds great, well, I submit that it sounds great because it is great. It is a great idea, and I, for one, who supported repeal of the Uniform Property Tax in a very small minority in this body in the 108th, also as a member of Taxation have supported this measure.

This is one remaining vestige of state interference in property, which the state grants but which the local communities must pay for.

In answer to Mr. Kelleher from Bangor his argument regarding the redeeming value of these organizations within the various communities, I might point out that this is optional, at the discretion of the local community who may, of themselves, judge the work and value of the services these organizations provide for their community.

This allows the various communities in Maine the option of levying a service charge, not a tax but a service charge, for those services that are provided and for those services that are only provided for various classifications of tax exempt property. Those classifications include charitable and benevolent institutions.

It includes fraternal organizations; it does not include churches, for those who have asked me regarding that issue; it does not include literary and scientific.

I think the Taxation Committee, a majority of that committee in this 9 to 4 report, has taken a very bold step of equity of local control of actually, instead of paying lip service, allowing these communities to levy taxes on those organizations which enjoy the privilege of exemption but also enjoy the privilege of service.

I urge my fellow legislators here today to join us in that bold step and not be deflected by the various special interest groups. Their interests can be reflected on the local level by virtue of the referendum vote.

I urge you, as I will be speaking to my local community in opposition to the levying of service charge on fraternal organizations, but it will be at the local level where it should belong. Property taxation should be a prerogative of

the local community and not the state, and I urge you to join us in this very bold, brave and courageous step.

The SPEAKER: The Chair recognizes the gentleman from Calais, Mr. Gillis.

Mr. GILLIS: Mr. Speaker, Ladies and Gentlemen of the House: I rise this morning in support of this bill, L. D. 1162. This bill will permit the municipalities, as you know, to exercise the option of a service charge on tax exempt property. This would mean that certain institutions and organizations of real property that now enjoy a tax exempt status would be subject to a service charge for specific services rendered and only the services they receive as provided by the municipality. This is a permissive piece of legislation. There is nothing mandated on down and is leaving the final decision up to the electorate of each community.

For many years now, the tax exempt organizations have been enjoying the freedom from property taxation and the communities have gone along with this exemption and accepted the extra tax burden very graciously. Now that the inflation and the result in high cost of just about everything that is utilized today, with the inflation rate hitting anywhere from 10 to 12 percent a year and the wage increase only averaging about 5 to 6 percent, the property owner, the taxpayer, is finding the going a great deal rougher than he did a few years ago. Now the taxpayer is seeking some relief from the heavy tax burden, someone else to help him or her to bite the bullet, to help ease the load, to share the load.

With the overburdensome tax load experienced by us all, I sponsored a bill on service charges along with my cosponsors Representative Brennerman and Representative Leonard. It was about one of, I believe, four bills that went on in.

We presented our bill to the Committee on Taxation for their consideration and several other bills were presented at the same time.

This Committee Amendment, which is filing number H-466, is the committee bill that replaced the L. D.'s. It is a very good bill and places the provisions of the bill strictly under the control of the local community. Nothing is mandated from Augusta. It is strictly a permissive bill, strictly the option of the community and a fine presentation of local control.

This bill contains several features that have gained widespread support over the State of Maine. I have here a report of a survey taken by the Maine Municipal Association in the past year. On one question, which would require payment in lieu of taxation from governmental and non-governmental institutions that are currently exempt from property taxes, are you in favor, yes or no? 93 percent of them voted yes, they would be in favor of it and they are in favor of it. We have received strong support from all these communities across the state.

As I said, this bill contains several features and they are: (1) it is local option, strictly, and there is nothing wrong with one town buying it and another town not buying it; this is democracy; (2) it will be approved by local referendum. There is nothing wrong with that; (3) if a unit in one classification is assessed a service charge by a community, all units in that classification would be assessed the same charge. The electorate will choose by their vote which classifications they want to levy their service charge on. It is local choice.

Number five, with respect to determination of service charges, and appeals process will be provided by municipal ordinance.

Number six, full implementation of the service charge, if approved by referendum, will be spread over a four-year period. If your community buys the service charge, the first year those units assessed the charge will pay only 25 percent; the second year they will pay 50 percent of it; the third year they will pay 75 percent of it, and the fourth and succeeding years thereafter they will pay 100 percent.

Seven, the institutions or organizations assessed the service charge must receive the service for which it is charged. If you read the committee amendment H-466, you will readily see that the local control feature is in evidence throughout. Nothing is mandated, again, and this is one of the principal features of the bill.

I am going to support the bill and I earnestly solicit your support and ask you to vote for this bill, vote against indefinite postponement. It is a bill that deserves your complete support and I again solicit your support.

In reply to some of the statements made by some of the speakers—Representative Carter made the comment that this is a nightmare. Well, if this is a nightmare, I hope I can bring back four or five more nightmares in the next session.

On page five, he made the statement that the charges received—I can't make that one out, my own writing—he said we are promoting local control. He better believe we are promoting local control. What better cause is there to promote in a democracy? He made the statement that larger cities are desperate for money. Well, I am sure he is quite aware that not only are larger cities desperate for money but the small cities and the smaller towns are desperate for money. If you look on the front page of the Bangor Daily News, in the right hand column you will see where the city of Calais has directed the city manager and the superintendent of schools to cut the school budget by \$200,000—desperate, you bet we are.

Assessment of the service charge is strictly up to the local taxpayer and not mandated, as his presentation implied.

Again, I say that we received widespread support for this bill from all over the State of Maine, from every nook and cranny of Maine. We are here to represent, not to govern. We are here to establish laws with the consent of the people. This is a people's bill, they are in favor of this bill, they support this bill. I sincerely request that you vote against the indefinite postponement.

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

Mr. COX: Mr. Speaker, Ladies and Gentlemen of the House: I signed the "Ought to Pass" Report of this bill. This is a recurring issue with the Taxation Committee in the legislature, and every session that I have been here, we have dealt with it in one way or another and always with the idea that we might say that "big brother knows best" and we made the decision here that these exemptions would continue.

Now, this bill does not talk about taxes, it talks about service charges. Some valid objections, I think, have been raised by the gentleman from Bangor, Mr. Carter, but I would submit that the place that these objections should be raised is perhaps not in Augusta every two years but should be raised at the local level where the referendum was presented under this bill should it pass. I think this is a modest step in the direction, as the Representative from Calais, has said, that the people all over the state seem to support.

I know that in my questionnaires that I sent out on this, I got, I would say, overwhelming support for the idea of communities being able to charge service charges on this tax exempt property.

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

Mrs. BERUBE: Mr. Speaker and Members of the House: I agree with what has been said, especially when Mr. Gills said that everyone should share in the expenses of the community.

I do have two questions. I, like everyone else, do not like to see my property taxes go up and others go untouched. But my questions are, how much, first of all, revenue would this generate to a municipality? Secondly, if it does, and obviously it would generate additional revenues, would the property taxes be cut accord-

ingly?

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

Mr. HICKEY: Mr. Speaker, Ladies and Gentlemen of the House: I cannot support this service charge because it does not address the problem that is serious to us in the city of Augusta. For many years, we have been coming to the legislature asking for some sort of reimbursement for the state-owned and federal property that we are forced to share taxation on. Over 35 percent of our total land in Augusta is either controlled by the federal, state or county offices or buildings, and we have never been able to be reimbursed for anything. So, I cannot support this legislation.

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

Mrs. POST: Mr. Speaker, Ladies and Gentlemen of the House: I would like to respond to the question of the gentlelady from Lewiston. That is, it is impossible to tell, without working through a specific formula the town is going to use, the amount of money that will go to pay the service that is actually levied.

The way the process works, for instance, if a town decides that in the one instance where valuation would probably be appropriate, and that might be in the fire protection services, that a particular institution had one-one thousandth of the total amount of property valuation in that community, then that one institution would have to pay on what could be subject to the charge of one-one thousandth of the fire protection cost in that community if in fact the people decided by referendum they wanted to go that route. If you had a budget for any service that is being totally now paid by the residential and commercial property taxpayers and part of that budget, which may include services, is then going to be paid by the nonprofit organizations which are receiving that service, I would assume that the taxes are going to go down. If they go up, that will be a decision that will be made at the local level. There are no guarantees, it is a decision for the local people to make, and that would have to be the fight that would be fought at the local level.

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

Mr. BRENERMAN: Mr. Speaker and Members of the House: I just wanted to answer the comments of the gentleman from Augusta, Mr. Hickey. First of all, the state cannot levy on the federal government and neither can the local government, so there is no way, unless the federal government voluntarily decided to pay Augusta for federal property or any other community, could we get any money from the federal government.

The other thing is that we still have a bill in committee that will be coming out later which deals with reimbursing municipalities for the cost of state and county property that is located in those communities.

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

Mr. SOULAS: Mr. Speaker, Ladies and Gentlemen of the House: Just to be very brief. First of all, all this bill is going to do is raise more money for your city to get back to the city councilors so they can spend it. They are not going to save it; all they are going to do is spend it. I would suggest that you go back to your own drawing boards, look over your own budgets, get to your city council and tell them you would like to get your taxes reduced. Start cutting some services instead of trying to increase so-called services.

The City of Bangor, in the last three years, has had a tax reduction of \$4.15 per thousand. We are not down here asking the legislature to bail us out. I hope you will go back and get your own house in order.

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

Mr. LEONARD: Mr. Speaker, Ladies and Gentlemen of the House: I knew if I waited I

would get the perfect opportunity. I just have one answer for Mr. Soulas—unbelievable. If we are going to be here in Augusta passing judgment like that, I just don't understand that at all.

You know, I am the cosponsor of this bill and I feel compelled to speak on it. It is just one thing that has been eating at me for a long, long time. The one thing we always should shoot for in this legislature and in this state is tax equity. When we levy a tax on some person, we should levy that tax with some degree of knowledge of that person's ability to pay.

Right now, we are experiencing some really traumatic changes in this country, people on fixed income facing inflation, with inflation facing escalating costs in municipal government, state government, the cost of police protection, fire protection, many other costs as well, and those costs, especially on the local level for police protection and fire protection, are being borne by those people. And if, for example, there is a hospital in Portland that requires those services, I think it is only fair for that hospital and the people who use that hospital to accept the cost of that service provided and not, under the guise of being for humanitarian purposes, shift that cost over to those people less than able to pay, those old people on fixed incomes, those young people that are trying to make a way in this life and certainly making that way is ever increasingly difficult.

It is tax equity. If you have a building in a municipality that is presently tax exempt, all we are doing in this bill is saying, if you are requiring services of that municipality, please accept the cost of those services as part of doing business. There is nothing unreasonable about that, and I suggest that we pass this bill overwhelmingly.

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

Mrs. KANY: Mr. Speaker and Members of the House: I must be extra dumb today, extra stupid, but I am extremely confused. I hear one person speak about tax equity and service fees or user fees in which one community might charge and another might not and then talk about tax equity. I hear someone else say that we have to have equal taxation throughout the state. But the way this bill is drafted, it is all right as far as the Attorney General's opinion because we aren't talking about differing taxes, and I really don't understand.

I heard someone else say, what we need is tax justice, local control over taxes, and yet if there are just service charges, why did it even go to the Committee on Taxation? I really must be confused and I hope somebody will enlighten me. Taxes, user fees, are these actually de facto exemptions and could they vary from town to town throughout the state?

The SPEAKER: The Chair would ask the Sergeant-at-Arms to escort the gentleman from Madison, Mr. Elias, to the rostrum for the purpose of acting as Speaker pro tem.

Thereupon, Mr. Elias assumed the Chair as Speaker pro tem and Speaker Martin retired from the hall.

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

Mrs. POST: Mr. Speaker, Men and Women of the House: I would like to respond to the question the gentlewoman from Waterville. I simply would recommend that she read the bill, actually it is now the amendment, filing number H-466, and the title of the bill is "An Act to Allow Municipalities the Option of Charging Reasonable Service Charges on Certain Tax Exempt Property." The particular reason why this bill decided on or reviewed by the Committee on Taxation is because the Committee on Taxation, according to its statutory obligation, has to review tax exempt property and make recommendations on that

tax exempt property.

The service charge bill was partially resolved by that review, which took a couple of months. We are talking about service charges that have to be very closely related to the services which are actually given, and since those services vary from community to community, the charges would vary from community to community.

As I said before, the Attorney General's Office was very clear in setting up specific standards that would have to be met in order to make sure that the service charge was a service charge for services and was not a backdoor approach to differing taxation. And those standards are set out in Page 5. Again, they are A, B and C, I have read them before. They are in your amendment. We are not talking about taxes, we are talking about an optional service charge for services that actually are provided.

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

Mr. BIRT: Mr. Speaker, Ladies and Gentlemen of the House: I think there have been some questions asked on the floor this morning that really haven't been given any answer. The gentlelady from Lewiston, if I understood her right, asked a rather interesting question as to just how much money we actually are talking about. I think if the truth were known as to how much money in proportion to the overall amount of taxes in any community, whether it be Lewiston, Portland, Bangor or anywhere where this is a large hospital, when you figure the amount of service charge that would be involved and the amount of revenue that would be gained in the reduction of taxes, I think it would be so miniscule that it would be almost imperceptible as far as your overall tax mix is concerned.

I have long taken a look at the charitable exemption laws as far as property taxes are concerned in the State of Maine and compared them to other states. There has been a good deal of comment made in other states, such things as a large fraternal organization owning Yankee Stadium and the fact that it didn't pay any taxes for the property that the Chrysler Building was on. I don't think we have that type of situation in the State of Maine. The situation we have in the State of Maine, which has been on the tax books for many, many years, this is not a new issue, this has been on them for many years, is that services that are rendered by organizations that are utilized by a large number of the populous, in hospital cases practically all of us, would be given exemptions. I think this has been a reasonable approach, it was at the time it was done, and I am sure but maybe some of this goes back to even the founding of the state in 1820, and even to this day I don't think there is anything wrong with that situation.

I think most of this is zeroed in on hospitals. I think it might be interesting to take a look at some of the other situations, and this could be a two-edged sword, too. Hospitals, at the present time, do a good deal of charitable work themselves. I have a letter here from a hospital in the state has been faced with the same situation.

I got my mail just a few minutes ago. I asked one of the Pages if he would go out and get my mail, and in there was a letter from a person who I happen to know from a large city in the State of Maine, and she points out that she hopes this bill will be defeated. This is one of the points that she makes, the large amount of charity care hospitals do.

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

Mr. BRENERMAN: Mr. Speaker and Members of the House: Just to answer Representative Birt. Hospitals provide free services if they were built with federal Hill-Burton Act funds, and that is because the act required

them to provide free services to people who were low income. And as for people who don't pay their bills for other reasons, of course that particular cost comes out of all the other patients.

What we are saying is, if your community thinks your hospital is providing such a great service to your community, then your voters will vote not to charge that classification a service charge. That is all we are saying.

I wish that everyone would vote against the motion for indefinite postponement and I would request a roll call.

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

Mr. CARTER: Mr. Speaker, Ladies and Gentlemen of the House: I have a few statements that I would like to make. I don't want to prolong this debate much longer.

I would point out that if we exclude hospitals or if a town does not choose to impose service charges to the hospital, we are really talking about a very insignificant amount of money, because most of the value of such organizations is in the hospitals involved.

I am very glad that the gentleman from Millinocket, Mr. Birt, did bring up the point as to really how much money are we talking about. What is the total impact of this? I would submit that the total impact is very small for the amount of red tape and referendums and faldral that would be involved.

Concerning the hospitals, if the Maine Medical Center and the Eastern Maine Medical Center and some of the other larger hospitals in the larger cities, if these cities should choose to impose service charges on these organizations, I would point out that your Blue Cross rates and your insurance rates for all of you will be going up.

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

Mr. JALBERT: I move the previous question.

The SPEAKER pro tem: For the Chair to entertain a motion for the previous question, it must have the expressed desire of one-third of the members present and voting. All those in favor of the Chair entertaining the motion for the previous question will vote yes; those opposed will vote no.

A vote of the House was taken, and more than one-third of the members present having voted for the motion for the previous question, the previous question was entertained.

The SPEAKER pro tem: The question now before the House is, shall the main question be put now? This is debatable with a time limit of five minutes by any one member. Is it the pleasure of the House that the main question be put now? Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken. 42 having voted in the affirmative and 9 in the negative, the motion did prevail.

The SPEAKER pro tem: The pending question now before the House is on the motion of the gentleman from Bangor, Mr. Carter, that this bill and all its accompanying papers be indefinitely postponed, a roll call being requested.

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

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

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

ROLL CALL

YEA — Austin, Berube, Birt, Blodgett, Bor-

deaux, Brown, D.; Brown, K.L.; Brown, K.C.; Bunker, Call, Carrier, Carter, D.; Carter, F.; Churchill, Conary, Dellert, Dow, Drinkwater, Dudley, Dutremble, L.; Gavett, Gould, Hanson, Hickey, Hunter, Immonen, Jacques, E.; Jalbert, Kany, Kelleher, LaPlante, Leighton, Lewis, Lowe, Lund, MacBride, Mahany, Masterman, Matthews, Maxwell, McHenry, McPherson, McSweeney, Mitchell, Nelson, A.; Nelson, M.; Norris, Paradis, Peltier, Peterson, Rollins, Smith, Soulas, Sprowl, Stetson, Strout, Theriault, Torrey, Tozier, Twitchell, Wentworth, Whitemore

NAY — Aloupis, Bachrach, Baker, Barry, Beaulieu, Benoit, Berry, Bowden, Brenerman, Brodeur, Brown, A.; Carroll, Chonko, Cloutier, Connolly, Cox, Cunningham, Curtis, Damm, Davies, Davis, Dexter, Diamond, Doukas, Dutremble, D.; Fenlason, Fillmore, Fowlie, Gillis, Gowen, Gray, Gwadosky, Hall, Higgins, Hobbins, Huber, Hughes, Hutchings, Jackson, Joyce, Kane, Laffin, Lancaster, Leonard, Lizotte, Locke, Lougee, MacEachern, Marshall, Martin, A.; Masterton, McKean, Michael, Morton, Nadeau, Nelson, M.; Paul, Payne, Pearson, Post, Reeves, J.; Reeves, P.; Rolde, Sewall, Sherburne, Silsby, Simon, Small, Stover, Studley, Tarbell, Tierney, Tuttle, Vincent, Violette, Wood, Wyman

ABSENT — Boudreau, Brannigan, Elias, Garsoe, Howe, Jacques, P.; Kiesman, McMahon, Prescott, Roope, Vose

Yes, 62; No, 77; Absent, 11.

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

Thereupon, the Bill was passed to be engrossed, as amended.

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

Mrs. POST: Mr. Speaker, having voted on the prevailing side whereby this bill was passed to be engrossed, I now move reconsideration and hope you all vote against me.

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

Mr. STROUT: Mr. Speaker, I move that this be tabled for one legislative day.

Mrs. Post of Owl's Head requested a division.

The SPEAKER pro tem: The pending question before the House is on the motion of the gentleman from East Corinth, Mr. Strout, 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.

50 having voted in the affirmative and 80 in the negative the motion did not prevail.

Mr. Kelleher of Bangor requested a roll call on the motion to reconsider.

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

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

Mrs. Post of Owl's Head moved the previous question.

The SPEAKER pro tem: For the Chair to entertain a motion for the previous question, it must have the expressed desire of one-third of the members present and voting. All those in favor of the Chair entertaining the motion for the previous question will vote yes; those opposed will vote no.

A vote of the House was taken, and more than one-third of the members present having voted for the motion for the previous question, the previous question was entertained.

The SPEAKER pro tem: The question now before the House is, shall the main question be put now? This is debatable with a time limit of

five minutes by any one member. Is it the pleasure of the House that the main question be put now?

A vote of the House was taken.

92 having voted in the affirmative and 24 in the negative, the motion did prevail.

The SPEAKER pro tem: The pending question before the House is on the motion of the gentlewoman from Owl's Head, Mrs. Post, that the House reconsider its action whereby this bill was passed to be engrossed, a roll call having been ordered. Those in favor will vote yes; those opposed will vote no.

ROLL CALL

YEA — Austin, Barry, Berube, Birt, Blodgett, Bordeaux, Brown, K.C.; Bunker, Call, Carrier, Carter, D.; Carter, F.; Churchill, Conary, Davis, Dellert, Dexter, Drinkwater, Dudley, Garsoe, Gavett, Gould, Hanson, Hickey, Hunter, Immonen, Jacques, E.; Jacques, P.; Jalbert, Kany, Kelleher, LaPlante, Leighton, Lewis, Lowe, MacBride, Mahany, Masterman, Matthews, Maxwell, McPherson, Mitchell, Nelson, A.; Nelson, N.; Norris, Paradis, Peltier, Peterson, Rollins, Sewall, Smith, Soulas, Sprowl, Stetson, Strout, Studley, Theriault, Torrey, Tozier, Twitchell, Wentworth, Whitemore

NAY — Aloupis, Bachrach, Baker, Beaulieu, Benoit, Berry, Bowden, Brennerman, Brodeur, Brown, A.; Brown, D.; Brown, K.L.; Carroll, Chonko, Cloutier, Connolly, Cox, Cunningham, Curtis, Damren, Davies, Diamond, Doukas, Dow, Dutremble, D.; Fenlason, Fillmore, Fowlie, Gillis, Gowen, Gray, Gwadosky, Hall, Higgins, Huber, Hughes, Hutchings, Jackson, Joyce, Kane, Kiesman, Laffin, Lancaster, Leonard, Lizotte, Locke, Lougee, Lund, MacEachern, Marshall, Martin, A.; Masterton, McHenry, McKean, McSweeney, Michael, Morton, Nadeau, Nelson, M.; Payne, Pearson, Post, Reeves, J.; Reeves, P.; Rolde, Sherburne, Silsby, Simon, Small, Stover, Tarbell, Tierney, Tuttle, Vincent, Violette, Wood, Wyman

ABSENT — Boudreau, Brannigan, Dutremble, L.; Elias, Hobbins, Howe, McMahon, Prescott, Roope, Vose

Yes, 62; No, 78; Absent, 10.

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

Sent up for concurrence.

Bill "An Act Relating to Withdrawal Penalties under the Tree Growth Tax Law" (H. P. 1003) (L. D. 1237) (H. "A" H-485 to C. "A" H-476)

Bill "An Act to Redistribute Responsibility for Enforcement of Laws Prohibiting Certain Unfair Trade Practices" (S. P. 413) (L. D. 1277) (S. "A" S-203)

Bill "An Act Amending the Claim Period Provision of the Workers' Compensation Act" (H. P. 706) (L. D. 881) (C. "A" H-450)

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

Constitutional Amendment

Tabled and Assigned

RESOLUTION, Proposing an Amendment to the Constitution of Maine to Maintain and Protect the Integrity of the Maine State Retirement System (H. P. 780) (L. D. 973) (C. "A" H-424)

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

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

Enactor
Recommitted

An Act to Amend Provisions of the Charter of the Gardiner Water District Relating to Trustees and Funding (H. P. 712) (L. D. 855) (C. "A" H-407)

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

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

Mr. DAVIES: Mr. Speaker, Ladies and Gentlemen of the House: There is a matter of concern to the Gardiner Water District and it is necessary to recommit this bill to committee so that we can take care of a problem that has developed not necessarily in this bill but in another one that we will combine with this one and report out in a new draft.

So, I would move that this bill be recommitted to the Committee on Public Utilities.

Thereupon, on motion of Mr. Davies of Orono, the bill was recommitted to the Committee on Public Utilities in non-concurrence and sent up for concurrence.

By unanimous consent, ordered sent forthwith to the Senate.

Enactor

Tabled and Assigned

An Act Relating to the Purchase of Railroad Rights of Way (H. P. 1042) (L. D. 1275)

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

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

Mr. TIERNEY: Mr. Speaker, Ladies and Gentlemen of the House: I have had the opportunity to read the engrossed copy and I would just like an explanation from someone as to exactly what this bill does?

The SPEAKER pro tem: The gentleman from Lisbon Falls, Mr. Tierney, has posed a question through the Chair to anyone who may care to respond.

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

Mr. McKEAN: Mr. Speaker, Ladies and Gentlemen of the House: The bill was of primary interest to Representative Vose, who is not here at this time, and I would hope that someone would table this until he returns.

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

Mr. TIERNEY: Mr. Speaker, I move that this item lie on the table until later in today's session.

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

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

Whereupon, on motion of Mr. McHenry of Madawaska, tabled pending passage to be enacted and specially assigned for Tuesday, May 29th.

Passed to be Enacted

An Act to Amend the Law with Regard to the Diagnostic Laboratory of the Department of Human Services (S. P. 406) (L. D. 1245) (H. "A" H-393; S. "A" S-149)

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

An Act to Insure that Informed Consent is Obtained before an Elective Abortion is Performed (S. P. 484) (L. D. 1482) (S. "A" S-190 to C. "A" S-182)

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

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

Mrs. MASTERTON: Mr. Speaker, at this time, I would like to move the indefinite post-

ponement of this bill and all its accompanying papers and I would request a roll call.

The SPEAKER pro tem: For the Chair to order a roll call, it must have the expressed desire of one-fifth of the members present and voting. 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 pro tem: The pending question before the House is the motion of the gentlewoman from Cape Elizabeth, Mrs. Masterton, that this bill and all its accompanying papers be indefinitely postponed. Those in favor will vote yes; those opposed will vote no.

ROLL CALL

YEA — Aloupis, Bachrach, Baker, Benoit, Berry, Brannigan, Brennerman, Brown, K.L. Connolly, Davis, Dexter, Doukas, Dow, Drinkwater, Garsoe, Gould, Gowen, Gwadosky, Higgins, Huber, Hughes, Hutchings, Jackson, Kiesman, Leonard, Locke, Lowe, Lund, Masterton, Maxwell, McKean, Morton, Nelson, M.; Post, Reeves, J.; Reeves, P.; Rollins, Sewall, Sherburne, Small, Sprowl, Tarbell, Tozier

NAY — Austin, Barry, Beaulieu, Berube, Birt, Blodgett, Bordeaux, Bowden, Brodeur, Brown, A.; Brown, D.; Brown, K.C.; Bunker, Call, Carrier, Carroll, Carter, D.; Chonko, Churchill, Cloutier, Conary, Cox, Cunningham, Curtis, Damren, Dellert, Diamond, Dudley, Dutremble, D.; Dutremble, L.; Fillmore, Fowlie, Gavett, Gillis, Gray, Hobbins, Hunter, Jacques, E.; Jacques, P.; Jalbert, Joyce, Kane, Kany, Laffin, Lancaster, LaPlante, Leighton, Lewis, Lizotte, Lougee, MacBride, MacEachern, Mahany, Marshall, Martin, A.; Martin, J.; Matthews, McHenry, McPherson, McSweeney, Michael, Mitchell, Nadeau, Nelson, A.; Norris, Paradis, Paul, Payne, Pearson, Peltier, Peterson, Rolde, Silsby, Simon, Smith, Soulas, Stetson, Stover, Strout, Studley, Theriault, Tierney, Twitchell, Violette, Wentworth, Whitemore, Wood, Wyman

ABSENT — Boudreau, Carter, F.; Davies, Elias, Fenlason, Hall, Hanson, Hickey, Howe, Immonen, Kelleher, Masterman, McMahon, Nelson, N.; Prescott, Roope, Torrey, Tuttle, Vincent, Vose

Yes, 43; No, 87; Absent, 21.

The SPEAKER pro tem: Forty-three having voted in the affirmative and eighty-seven in the negative, with twenty-one being absent, the motion did not prevail.

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

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

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

The SPEAKER pro tem: The gentleman from Lewiston, Mr. Simon, having voted on the prevailing side, now moves that we reconsider whereby this bill was passed to be enacted. Those in favor will say yes; those opposed will say no.

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

An Act to Assess a Surcharge on fines for the Operation of the Maine Criminal Justice Academy (S. P. 545) (L. D. 1608)

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

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

Mr. TIERNEY: Mr. Speaker, Men and Women of the House: You will recall that I spoke to you at great length on this issue before. It is the old Criminal Justice Academy chestnut which is back again. It is up for enactment and I think, unfortunately, ladies and gentlemen, the moment of truth is at hand because

we are dealing with enactment on this bill. It is not a partisan issue and I certainly don't want to imply, because I am floorleader, I am trying to make it such. I would like to make that matter clear.

It is just a bad bill, we all know it is a bad bill. I spoke to one very prominent member of this House, who informed me absolutely that this was the worst bill he had ever seen but, well, he was locked into a constituent back home and maybe the Governor would do us all a favor and get rid of this with a veto or something. Don't count on that, ladies and gentlemen, this is a bad bill. It has been heavily lobbied by a particular interest group. It takes one of our institutions, just one of many, takes it out of the whole appropriation process and gives it special status, and I don't think that is a good idea. It is wrong.

I think the Criminal Justice Academy is very important and I think we should have a good one. I also think we need a good University of Maine, I think we need a good vocational-technical institute. I think we need good mental health institutes and I think all of these things have to take their chances in the appropriation process so we can form the correct priorities through the legislative process. I think this is a bad bill.

I move that this bill and all its accompanying papers be indefinitely postponed. I request the yeas and nays.

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

Ms. LUND: Mr. Speaker, Ladies and Gentlemen of the House: I would urge you to support the motion made by the gentleman from Lisbon Falls, Mr. Tierney. It makes me feel good to have him on my side for once.

This bill represents an attempt to avoid the appropriation procedure. It raises the fines for criminal and traffic offenses and it uses the funds to support the training academy. I do not speak as an opponent of this Criminal Justice Academy, I do speak as an opponent of any attempt such as this to replace federal funds with a secure dedicated bounty tax. If we follow the logic of this bill, we would have no hesitation in adding assessments to fines and to raise judges salaries, to support the parole system and even to purchase uniforms for Deputy Sheriffs. We could argue that each of these are as vital in the law enforcement field and we should support them to increase assessments on fines.

A last thought on L. D. 1608, it sets up a complicated administrative mechanism where the assessment bears no relationship to the need of the Criminal Justice Academy. This is bad legislation and I urge you to support the move to indefinitely postpone.

The SPEAKER pro tem: The Chair recognizes the gentleman from Augusta, Mr. Paradis.

Mr. PARADIS: Mr. Speaker, Ladies and Gentlemen of the House: I don't have a prepared speech on this bill to give to you this morning, but I hope that you will vote against the motion of the majority leader of this body, the gentleman from Lisbon Falls, Mr. Tierney.

I believe that this is a good bill. I hoped to have him on my side. I am sorry that my fellow colleague from Augusta is also against this bill. I don't believe in all of the statements that she made, that it has a cumbersome administration to the bill. It is very simple. It is simply a 10 percent surcharge that is levied. It is very simple. L. D. 1608 is much simpler than the original bill, L. D. 714. It is a good bill for our rural communities, it helps to reimburse them for the cost of training their local constables and law enforcement officials.

It was passed in this chamber last week by some 13 votes. I hope this morning that we can defeat that motion, get this bill passed so it can go on to the other body.

I notice that many of the proponents of this bill are absent right now and I can see the Chairman of the State Government Committee ready to speak on this bill, but I would hope

that you would go along with the vote of last week so we can pass this bill once again.

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

Mr. PEARSON: Mr. Speaker, Ladies and Gentlemen of the House: Mr. Paradis' position is intriguing to me. A while ago, he had a bill in to dedicate money from the lottery to the elderly in Maine and now he is advocating that we dedicate funds for the Criminal Justice Academy. If you follow that to its logical conclusion and dedicate money for everything, how do you operate state government? I just don't understand, it doesn't make sense to me. If you dedicate and you dedicate and you dedicate, you don't have any General Fund left after awhile to meet the other priorities which, from time to time, will be greater than the Criminal Justice Academy. Surely that is an institution that deserves our support.

Mr. Tierney says, so are the VTI's, we have problems in Northern Maine Vocational-Technical Institute, we have problems in southern Maine, we have problems in eastern Maine, we have a lot of problems at the University of Maine in Orono and some of the other institutions. You can't dedicate everything because your priorities are going to change from year to year.

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

Mr. BIRT: Mr. Speaker, Ladies and Gentlemen of the House: I guess I am a little confused with some of the comments that have been made relative to this bill. Comments have been made to the fact that it is dedicated, but as I read the second paragraph in this, it doesn't dedicate the revenue, it puts the money into the Criminal Justice Academy Training Fund, which the Appropriations Committee can recommend amounts to be transferred out for the operation of the Criminal Justice Academy and the balance of that fund will lapse into the General Fund. I don't interpret that as dedicated revenue. It just sets up a fund whereby funding can be transferred to operate a particular function and then the balance of it goes into the General Fund.

I think the Criminal Justice Academy has had a problem at times getting sufficient revenue to operate. Federal funds are drying up on that, and I think the mechanism that is set up here for funding that is a good mechanism to provide proper police training for the police officers in the State of Maine.

I do hope that you will oppose the indefinite postponement of this.

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

Mrs. KANY: Mr. Speaker, Ladies and Gentlemen of the House: In answer to Representative Birt's question, it isn't dedicated funds as we use to know it, it is a new twist, a new, cute little trick on dedicating revenue. What it is, it proposes a 10 percent surcharge on fines and that goes into the brand new fund created called the Criminal Justice Training Fund, and then after that is all separately accounted for, separately administered, that goes through its own cute, little separate appropriation process, and then, if there is something left over from that nice, new, little gimmicky, dedicated-type fund, then that would go to the General Fund.

I hope you support the motion before us.

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

Mr. JALBERT: Mr. Speaker and Members of the House: First, I would like to tell my young friend, Mr. Paradis from Augusta, that the gentleman from Lisbon Falls, Mr. Tierney, very definitely stated that he was speaking for himself and not as the Majority Leader, and I would like to put that into the record for correction out of fairness to him.

I would like to address my remarks to my very good friend, who is not in his seat, from

East Millinocket, Mr. Birt. I hope that he heeded the words of the gentlelady from Waterville, Mrs. Kany. This is a twist, and he is not only a good legislator but a personal friend and he has oftentimes been a member of the Appropriations Committee and if this isn't a foot in the door for dedicated revenue two years now, I will join the Republican party.

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

Mr. BROWN: Mr. Speaker, Ladies and Gentlemen of the House: I can assure you that I will be among the first who will be there at the door when my good friend from Lewiston, Mr. Jalbert, joins our party. I can't think of a gentleman I'd rather have in our party than Mr. Jalbert.

I think this is a terrific bill. The police force in my hometown of Livermore Falls each year seems to have the burden of sending one of its full-time members of the police force to the police academy. It is costly to the town because not only does it have to pay the fee but it has to cover the services of that officer while he is absent.

Basically, we are talking about a situation where we are just simply asking those people who choose to disobey the law to pay for the cost of running the academy so that our local police forces will be able to participate in this program, which, incidentally, is mandated by state law.

As one who is no stranger to the district court section, the speeding section, I can say that even though it would come hard to fork over that extra 10 percent, I feel that if I am going to disobey the law by speeding or by whatever means, I should be the one that is going to cover the burden of those extra costs.

As far as the VTI's and all these other programs, I don't think that is a valid argument. The VTI's are supported in large part by those who attend through tuitions and so on and so forth.

I don't think it is a bad bill at all. I think it is a great bill. I would like to see the move for indefinite postponement opposed.

The SPEAKER pro tem: The Chair recognizes the gentleman from Calais, Mr. Gillis.

Mr. GILLIS: Mr. Speaker, Ladies and Gentlemen of the House: I stand this morning to rebut a few of the remarks made by the good gentleman from Lisbon Falls, Mr. Tierney. He stated that the passage of this bill would place the Maine Criminal Justice Academy in a special status. It should be in a special status. This is where we train our law enforcement officials. It is a good bill. The criminals are the main reason why we have our law enforcement agencies. They are the main reason why our police budgets are so cotton picking high, and it is only poetic justice that they help pay the bill.

Representative Pearson made the comment that we have problems. Yes, we have problems in every hamlet, town, and city in the State of Maine with the criminal rate and the criminal acts going sky high year in and year out. We need this bill to insure the continued training of our law enforcement officers.

I urge you to vote against the indefinite postponement.

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

Mr. NADEAU: Mr. Speaker and Members of the House: I would like to pose a question through the Chair.

I am a little confused in terms of some saying that this is dedicated revenue. I read the bill and it says: "The legislature shall make an annual appropriation from the Criminal Justice Training Fund to the Maine Criminal Justice Academy of any amounts available which it deems appropriate." In what way does this change the appropriation process? Does, indeed, the Appropriations Committee and the legislature still have the control over how much money is given to the Criminal Justice

Academy? If, indeed, the legislature does have that power now, what is the purpose of this surcharge? Why not just increase the fines directly? Could I have that explained, please?

The SPEAKER pro tem: The gentleman from Lewiston, Mr. Nadeau, has posed a question through the Chair to anyone who may care to answer.

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

Mr. MORTON: Mr. Speaker, Ladies and Gentlemen of the House: The answer is very clear. It has been given before that the Appropriations Committee does have the responsibility—you can find it on Page 688 of the big book—for allocating the funds for the Criminal Justice Academy from whatever source those funds might be available.

I think the reasoning and logic behind this bill is just as has been said many times, that this bill will add a surcharge to the fines, a surcharge in a specific amount, specified in the law, and that that will be earmarked to go into a special fund for the Criminal Justice Academy. I think the important thing to remember is that this is new money coming in from those who do not obey the law, and are adjudged guilty by the fining process, and that that money is going to be allocated by the Appropriations Committee.

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

Mr. HUGHES: Mr. Speaker and Members of the House: In the fairly innocuous guise of a bill to provide a few hundred thousand dollars for the Maine Criminal Justice Academy, we are fundamentally reordering our system of criminal justice, and that is why I am opposed so strongly to this bill. We are tying one small, a very small element of the criminal justice system to income produced from the fines from convictions on criminals.

Other parts of the country have done this for years, and I think their systems have suffered incredibly for all of us because of it. We all know the situation in the south where judges receive part of their income from the fines they levy and all the kinds of abuses which have existed for years and which they are finally doing something about eliminating. Maine has been fortunate in that we have had a criminal justice system with some real integrity where you or I or anybody who gets stopped for speeding, and remember, we are not talking about murderers and rapists, we are talking about the average citizen who runs up against these kinds of laws occasionally during his life, but when you run up against the criminal justice system, you feel a little bit put upon anyway because you are in court and you begin to realize that perhaps this person's salary or that person's program or whatever it may be is tied to what kind of fine they can get out of you, you begin to lose confidence in the criminal justice system. To destroy some of the confidence in that system, simply to set up a fund for a few hundred thousand dollars for one small agency, to me is not worth it.

I would hope that you would indefinitely postpone this bill. It is a bad bill and ought to be defeated.

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

Mrs. BACHRACH: Mr. Speaker, Men and Women of the House: Just a couple of points. One is that obviously, if there is a nice little sum put aside for the Criminal Justice Academy, it will certainly have the best chance of getting as much money as it wants, and the second is, I don't believe there is anything in this bill that says it will pay the municipality's cost for the officers going to school. It just pays for the operation of the school.

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

Mrs. BERUBE: Mr. Speaker, Ladies and

Gentlemen of the House: I would urge you to vote for the indefinite postponement. Just to remind you, that in the budget of the Criminal Justice Academy for 1977-78, they had \$278,950; this year, they will be having in the Part I Budget, \$344,350, an increase of 23 percent. I refuse to believe that we should increase the fines. It is a tax, actually, and we are not supposed to have taxes in this session, as we have been told. We have to increase the fines by 10 percent, an additional penalty, which will be earmarked dedicated to the Criminal Justice Academy, and it seems to me that if they can have an increase of that amount in their budget, that they could very well operate without the increase in fines.

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

Mr. MORTON: Mr. Speaker, Ladies and Gentlemen of the House: I am a little confused by the figures that the gentlelady just placed before the assembly. Total expenditure of all funds for the Criminal Justice Academy in 1978 was \$346,000. The estimated amount in 1979 is \$447,000; budgeted for 1980 is down from \$447,000 to \$418,000 and for 1981, \$425,700. The total expenditures for the Maine Criminal Justice Academy are suffering a great pinch at this present time, if the figures in this budget or document on Page 2-689 are correct.

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

Mrs. KANY: Mr. Speaker, I would like to pose a question through the Chair to the gentleman from Farmington, Mr. Morton. Did he take into consideration the federal funds available to the academy?

The SPEAKER pro tem: The gentlewoman from Waterville, Mrs. Kany, has posed a question through the Chair to the gentleman from Farmington, Mr. Morton, who may respond if he so desires.

The Chair recognizes that gentleman.

Mr. MORTON: Mr. Speaker, Ladies and Gentlemen of the House: The answer to the question is yes; both federal and state funds are in those totals that I read.

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

Mr. STETSON: Mr. Speaker, Ladies and Gentlemen of the House: I was astounded to hear the good lady from Lewiston, Mrs. Berube, characterize this as a tax. If it is a tax, it is one that I don't intend to pay and I don't think that any of us are compelled to pay such a tax unless we violate the law.

I look at one very practical aspect of this bill. It is simply this, that a good many of our traffic violators are out-of-staters and if it weren't for the fact that they are cluttering up our highways, and I don't mean just the main street of Wiscasset, I mean they are really cluttering up our highways, if it weren't for that fact, we might not need so many policemen, we wouldn't need so many dollars into our police academy, and I think it is about time they started to help pay for it.

The SPEAKER pro tem: The Chair recognizes the gentleman from Waterville, Mr. Jacques.

Mr. JACQUES: Mr. Speaker, Ladies and Gentlemen of the House: Last week, I got up and spoke on this bill, mainly because I had heard that this was a Waterville bill. Well, I have been trying to think since then why it is a Waterville bill, and I haven't been able to come up with the answer and I would welcome anybody to clarify this point for me.

There are a few points that I would like to make, and I will try to be brief. Mrs. Bachrach said she doesn't believe this will help curb the cost any, this fund will not pay for the training. Well, she is right, it will not, but I will tell you this, as the federal funds start to dry up, and we are all well aware that they are going to, somebody is going to have to pay for that cost.

If all the towns and communities don't mind, fine, that is up to them.

Mr. Hughes brought out that the average citizen would be affected by this in the fines that he pays.

Well, when I was a little kid growing up, my father always told me that if you break the law, you break the law. Now, if it is a speeding violation, 10 percent of \$25 is \$2.50. I don't think that is going to put anybody out.

I would like to close by just saying this. Last week I asked you all if you would check around with your people back home and see how they felt on this bill. Down here, I believe my feelings, personally, a lot of times, I vote a way I don't always agree with, but I was told when I came down here that I represent the people in District 52-3. I have tried to do that to the best of my ability. So I checked around on this bill since I heard it was coming up. I must remind you, the report was 10 to 3 "Ought to Pass", so I thought there was a pretty good chance that it would be here and we would have some debate on it. I checked up and my people said they liked the bill. I had nobody opposed to it and I can truthfully say that. Now, if you did the same thing, you will vote the way you have to vote. I know what way I have to vote. I represent 6,500 people; I don't represent Paul Jacques. It is up to you how you vote on this one.

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

Mrs. MASTERTON: Mr. Speaker, Ladies and Gentlemen of the House: In answer to the good gentleman's question about why this was referred to as a Waterville Bill, I think probably it was because the Criminal Justice Academy is located in Waterville. I am glad that the gentleman brought up the point about the federal funding for the Criminal Justice Academy. This is a typical example of a program which starts at the federal level, gets federal bucks and then, after a few years, the bucks are withdrawn and the state of Maine is held holding the bag. In the meantime, we have written into the statutes that your local police officials have to be trained by the Criminal Justice Academy.

I don't see why this bill is called a bad bill. It is neither a good bill nor a bad bill, it is a necessary bill. These federal funds are being withdrawn, soon to be withdrawn, that is what we heard at the hearing. This is a substitute means of paying for the Academy.

I note with interest that the House Chairman of the Appropriations Committee leapt to his feet to defend the appropriations process. I think that it has been pointed out that that power is not being taken away from the all powerful Appropriations Committee and I do want to suggest that the Appropriations Committee and I do want to suggest that the Appropriations Committee won't be nearly as all powerful if there is nothing left to appropriate.

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

Mr. JALBERT: Mr. Speaker, Ladies and Gentlemen of the House: I would like to answer the good lady, Mrs. Masterton. As far as I am concerned, I would be delighted if she wanted to take my seat on the Appropriations Committee for the next two weeks, I can tell you that right now, I would be delighted to have you.

You people have to stop and realize once in awhile it might be a little work to be on the Appropriations Committee. If you don't think it is, you just follow me when I leave here to go to my house, to the hospital sometimes and see the books. After a while you can take only so much of that knocking.

The Appropriations Committee is the greatest thing in the world, except its name. Then we are all a bunch of bums. I am one of those that is willing to work here Friday. We are going to have to work evenings and if we don't work and work hard and diligently, we are not getting anywhere, we are not getting out of here in 12 days. I know the gentleman on the far

left will agree with me. I am one of those, when the bell rings on June 14, 'gonzo.; So much for the Appropriations Committee.

You know, I have grown to like the gentleman from Wiscasset, Mr. Stetson, being a neighbor in Wiscasset by marriage for 41 years. I don't blame him for speaking the way he does because I go down there, and I am looking forward to going down there this weekend, and I am still a stranger down there. I would like to remind my good friend from Wiscasset, Mr. Stetson, that the Indians get no more money from the English in how to fight the French, that is all over. I didn't think you knew that, by just the way you speak. I really have grown to like you Mr. Stetson, because you reveal something to me everytime you get on your feet to speak. That is all over, the Civil War is over, those wars are over. I want to tell you one thing right now, I wonder just what Lincoln County would do without those tourist dollars. I am amazed at that statement. Why, if you go into Lincoln County Saturday, Sunday and Monday, seven out of eight cars you see are from another state, and beginning about June 20th or 25th from then on to Labor Day, that is all you will see there. They are good people and they are spending their dollars there and if they are cluttering up our highways, as long as they drop that money, it is perfectly all right with me. I am sure that it might be all right with you.

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

Mr. JOYCE: Mr. Speaker, Ladies and Gentlemen of the House: Representative Paradis from Augusta was right, this is a very simple bill. This is a familiar bill to this body, it is the bounty bill. Yes, my good friend in front of me from Livermore Falls, he shouldn't have to worry about 10 percent, the figure is 20 percent. A week ago, the judges agreed to 10 percent on all fines.

And for the good Representative from Waterville in the back row, I am glad that the gentlelady from Cape Elizabeth has informed him that the West Point of the North is truly located in Waterville.

I support law enforcement training, and this body has always been generous on the issue of training law enforcement people.

I urge you to vote yes on the indefinite postponement motion that is before you.

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

Mr. STETSON: Mr. Speaker, Ladies and Gentlemen of the House: This debate seems to be generated into one for those of us who are over 55 and those of us who are under 55, and I am speaking about speed limits.

The SPEAKER pro tem: The Chair recognizes the gentleman from Calais, Mr. Gillis.

Mr. GILLIS: Mr. Speaker, Ladies and Gentlemen of the House: In reply to a few of the comments that were made here concerning this bill, Representative Hughes from Auburn made reference to the possible revisions of the Criminal Justice System. Well, I think it is time that we revised something to insure that the law-abiding citizens in the State of Maine are the recipient of some consideration.

Now, I think this is the bill that can do that. It will not deprive the state of any money, it is a new source, as has been explained before, and in essence, will save the state money.

Representative Berube read from the budget on the cost of the academy in the past year. What price can you place on citizen security? I don't think you can put a price on it. The citizens must be protected.

Representative Jacques was worried about this being called a Waterville bill. It is not a Waterville Bill. As Representative Joyce said, it is the West Point of the North. It is strictly a training area for our law enforcement officers and it is a state-wide bill. Everybody will benefit from it.

I urge you to vote against the indefinite post-

ponement.

The SPEAKER pro tem: The Chair recognizes the gentlewoman from Lewiston, Mrs. Berube.

Mrs. BERUBE: Mr. Speaker, Ladies and Gentlemen of the House: I forgot to add that last year there was \$679,605, which was sent to the State of Maine from the Department of Justice in various miscellaneous grants. A few of them went to the Academy, one for \$269,949, and there are two or three more, but my point is that some of this federal grant money was utilized for, I remember in one particular case, a study. I defy any one of you to find the report, which is probably in the round file, which mine is, which cost \$130,000. It was a study. Now, if the fines that you will be increasing are dedicated to this academy, if the money is to be utilized to prevent crime, then I will go along, but how do we know that the money will not be utilized again for a study or advisory committees that are going to advise the Academy?

The SPEAKER pro tem: The Chair recognizes the gentleman from Augusta, Mr. Paradis.

Mr. PARADIS: Mr. Speaker, Ladies and Gentlemen of the House: Let me read just briefly from the Statement of Fact of the original bill. "This bill enacts a penalty assessment statute for criminal justice training. The bill is necessary because under the present level of funding the Maine Criminal Justice Academy is currently unable to meet its obligation under Maine Law; the number of applications to the academy's municipal and county police school exceeds by almost double the available seats in the 12-week school. The Academy is presently budgeted to train 3 schools of 35 students per fiscal year. Figures from the report, "Crime in Maine 1978," show a total of 1,944 sworn law enforcement officers in the State. Statistics from the Maine Criminal Justice Data Center show a state turnover rate for 1977 of 15.2 percent or 203 individuals. These figures do not include State Police personnel.

The legislature, in its special session in 1978, mandated training for all full-time correction officers. This statute was established without appropriation for training. Reimbursement monies of \$50,000 were included to their parent agency to supplement salaries of the trainees. This level of training must be met if the academy is to meet requirements of the law.

The academy has no money budgeted for in-service training programs for full-time law enforcement and correction officers which training is mandated under Maine law. Hence, this statute provision has not been implemented, except for occasional LEAA funded programs.

In the area of training for criminal justice personnel, probation and parole and courts, both of which are included in the statutory concept of the academy as a criminal justice training facility, very little has been done.

The proposed "Penalty Assessment Statute of Criminal Justice Training" is supportable for the following reasons. The need for additional revenue to offer more training programs per year and to have the state assume a greater percentage of the training costs of local full-time law enforcement and correction officers. This would be done by providing reimbursement to local agencies for a percentage of salary costs while the officer is in training. For example, the State of California currently reimburses up to 60 percent for salary costs, while local officers are in training.

There are 13 states which currently have a penalty assessment statute to provide revenue for the training of law enforcement and correction officers.

Let me read them to you; California, Florida, Washington, Arizona, Indiana, Massachusetts, even neighboring New Hampshire, Oregon, South Carolina, Nebraska, Oklahoma, Wisconsin, and Georgia, every region of the country has one of these in operation today.

"Additional revenue would allow the academy board of trustees to provide and mandate

in-service training for Maine full-time law enforcement officers. This mandate of law, Title 25, section 2805, subsection 3, has not been implemented in the 6-year history of the law due to lack of resources;

Additional revenue would allow the academy to be less dependent on volunteer instructors which, in addition to inherent problems of scheduling, is a costly practice to loaning agencies, particularly the Maine State Police which provides hundreds of hours of instruction to the academy per year;

Additional revenues would allow the academy to continue and expand the operation of the academy's Media Resource Center which loans, at no fee, training films and equipment, provides research and loans publications to all Maine criminal justice agencies; and

The proposed penalty assessment for criminal justice training has been supported and endorsed by the Governor's Advisory Committee on the Problems in Law Enforcement."

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

Mr. MCHENRY: Mr. Speaker, Ladies and Gentlemen of the House: It is fine for us to say here that we are going to get a criminal to pay a 10 percent surcharge, but you are not getting the criminal because the criminal is a robber, a mugger, a guy that rapes, a guy that murders. What is the fine on that? They don't have any penalty. It is a fine on us, the taxpayers, by keeping them in jail. What you are getting at is the people that are speeding. So, why call it a criminal academy, you should call it a speed car academy because there are 36 state troopers that came out of the academy. Where did they put them? They didn't put them on drugs or real crimes, they put them on the street, street cops that is what they turned out. That is where they are putting them. So, if we are going to say let's provide money for them, let's put it as a fact, speeding, not criminals. Your ordinary people are going to pay for this.

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

Mr. SPEAKER: Ladies and Gentlemen of the House: Mr. Paradis, if I am not mistaken, was reading from the original bill under the Statement of Fact, which is not before us. There is a redraft of that bill and much of what was said in the Statement of Fact in the original bill is no longer true. I just don't understand the propriety of reading that Statement of Fact, when it has been so changed in the redraft. Let me give you an example. At least going through this very quickly, in the original bill it said there were going to be monies transmitted back to the localities to pay for the officers who came. In the redraft, I don't think that is happening. There were all sorts of other things that he read that are no longer true in the redraft.

The SPEAKER pro tem: 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 in favor of a roll call vote will vote yes; those opposed will vote no.

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

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

Mr. HUGHES: Mr. Speaker, Ladies and Gentlemen of the House: I would simply like to add a couple of things which haven't been covered. First of all, I hope, but I am not sure, that all members of the House understand that the present court system pays in its entire fine revenue to the General Fund of this state, but none of its budget comes out of that revenue or gain from fines. Then, in order to get their budget, they must come to the state legislature, through its appropriations process, and justify some very tough decisions they request for ser-

vices. The State Police Department does the same thing, and all agencies of that type do and should.

The question before us has been sort of assumed that somehow there would be additional revenue created by this bill. I am not sure that is the case, it may be. Indeed, a 10 percent surcharge may bring in 10 percent more dollars than the present fine system does, but I really rather doubt it, because the judge is charged with the task of coming up with a fine which adequately suits the crime. If he thinks it is worth \$50 for this person to have done what he did, he will assign a \$50 fine, and that is the way it ought to be; that is the way I hope it will continue.

Now, judges very quickly read changes in the law and they know that a \$50 fine now means a \$55 or a \$100 fine now means \$110. I think they will take that into consideration and simply lower the fine to 10 percent, so the total sum paid by the defendant is the sum the judge feels is proper for the crime that person has committed.

I am afraid that we are all using that word 'crime' rather loosely. Traffic offenses aren't even crimes under the law; they are civil offenses, for example. A number of the other offenses which result in crimes are not even crimes under our law. So again there are points that have been made that these aren't criminals and in that sense it is very true.

I think if we took a survey of this House which quite adequately represents the public population of the state, we would probably find that a great majority of us have, at one time or another, come up against this segment of our criminal justice system. So the Criminal Justice Academy is in the position of being short on funds. Their federal funds, we have heard, are drying up. I think that it is the process, the way it is supposed to work, and we have all said and we are all aware that federal funds often start programs off, many of them are intended to do just that, and then it is up to the local community or the state government to decide whether that service is worth continuing and at what level it is worth continuing. Those hard decisions are being made last year, this year, the coming year, and it is up to us to decide whether we want to fund the Criminal Justice Academy at the level to which it has become accustomed. If we decide that it ought not to be funded at that level, that should be our decision and they ought not to create new pools of money, of dedicated revenue, to short circuit that process.

The gentleman from Farmington, Mr. Morton, is a member of the committee which is going to make that decision, and if he feels that that agency is short funded, he ought to be working, and I am sure he is, among his committee to make some adjustments in the budget as requested by the Governor. So, let's not short-circuit that process, let's not prostitute our system of justice to help any agency, however worthy.

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

Mrs. KANY: Mr. Speaker, Ladies and Gentlemen of the House: I just wanted to set the record straight on a couple of things. One is that this legislature, last year, gave the Maine Criminal Justice Academy every cent it requested to train correction officers. Secondly, and I almost feel like repeating this, and that is, no money goes back to the communities for training. I just double checked on that out in the hall with Maurice Harvey. I said, Maurice, I believe it is true that no money goes back to the communities, is that the way it is? He said, yes, no money. So, not one red cent goes back to your towns.

I hope that you keep that in mind and I hope you vote against this gimmicky, new financing trick.

The SPEAKER pro tem: The Chair recognizes

the gentleman from Sabattus, Mr. LaPlante.

Mr. LaPLANTE: Mr. Speaker, Ladies and Gentlemen of the House: I would like to respond to the lady from Waterville, Mrs. Kany. She might look at L. D. 413. The bill is on the Appropriations Table returning 25 percent of all the fines to local communities.

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

Mr. BERRY: Mr. Speaker, Ladies and Gentlemen of the House: I really don't have an awful lot to say on this bill, but I was out in the hallway and I got the uneasy feeling that probably I was the only one in here that hadn't spoken, so I came back in and I thought I was going to get shut off, but then Mrs. Kany saved me, she spoke again and two or three others, so I didn't miss my chance.

I was riding down the turnpike the other night and I quite often like to discuss some of these matters with the state troopers and they quite often oblige me. They know that I want to talk to them and come up behind me sometimes and put on their blue light and I asked one of the troopers about this bill. He wasn't particularly enthused about it. He thought that maybe pressure would be put on them from the top to raise funds for the Criminal Justice Academy. We discussed that and a few other things but that is what he told me.

I thought surely you all ought to know that, because I thought you probably didn't know how to vote. Knowing what I have just told you, I know now you are going to do the right thing.

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

ROLL CALL

YEA — Bachrach, Baker, Benoit, Berry, Berube, Blodgett, Brannigan, Brodeur, Brown, A.; Call, Carroll, Carter, F.; Chonko, Cloutier, Connolly, Cox, Cunningham, Curtis, Davies, Dellert, Doukas, Dudley, Dutremble, L.; Fowlie, Gowen, Hall, Hobbins, Howe, Hughes, Immonen, Jacques, E.; Jalbert, Joyce, Kane, Kany, Kelleher, LaPlante, Lund, MacBride, Mahany, Martin, A.; Maxwell, McHenry, McSweeney, Mitchell, Nadeau, Nelson, A.; Nelson, M.; Nelson, N.; Norris, Paul, Pearson, Peterson, Post, Simon, Smith, Stover, Strout, Tierney, Torrey, Tuttle, Twitchell, Violette.

NAY — Aloupis, Austin, Barry, Beaulieu, Birt, Bordeaux, Bordreau, Bowden, Brown, D.; Brown, K. L.; Brown, K. C.; Bunker, Carrier, Carter, D.; Churchill, Conary, Damren, Davis, Dexter, Diamond, Dow, Drinkwater, Dutremble, D.; Fenlason, Fillmore, Garsoe, Gavett, Gillis, Gould, Gray, Gwadosky, Hanson, Hickey, Higgins, Huber, Hunter, Hutchings, Jackson, Jacques, P.; Kiesman, Laffin, Lancaster, Leighton, Leonard, Lewis, Lizotte, Locke, Lougee, Lowe, MacEachern, Marshall, Masterton, Matthews, McPherson, Michael, Morton, Paradis, Payne, Reeves, J.; Reeves, P.; Rollins, Sewall, Sherburne, Silsby, Small, Sprowl, Stetson, Studley, Tarbell, Theriault, Tozier, Vincent, Wentworth, Whittemore, Wood, Wymann.

ABSENT — Brenerman, Elias, Masterman, McKean, McMahon, Peltier, Prescott, Rolde, Roope, Soulas, Vose, The Speaker.

Yes, 63; No, 76; Absent, 12.

The SPEAKER pro tem: Sixty-three having voted in the affirmative and seventy-six in the negative, with twelve being absent, the motion does not prevail.

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

An Act to Modify the Dispute Resolution Process under the Labor Statutes (H. P. 824) (L. D. 1035) (S. "C" S-198)

An Act Relating to the Protection of Under-

ground Facilities (H. P. 838) (L. D. 1036) (C. "A" H-419)

An Act to Improve Election Laws and to Make Equal Application of Legal Requirements for Independents, Democrats and Republicans in all Respects (H. P. 898) (L. D. 1136) (S. "A" S-195)

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

An Act Pertaining to Motor Vehicles Passing Stopped School Buses (H. P. 1041) (L. D. 1278) (S. "A" S-188 to H. "A" H-368)

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

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

Mr. MacEACHERN: Mr. Speaker, Ladies and Gentlemen of the House: This bill has been riding along here and having a lot of debate. I can't understand how some of the attorneys in this House can support a bill like this. It is absolutely unenforceable. It is just going to cause an awful lot of confusion and extra work for the police and the district attorneys' offices and I don't think there will ever be a conviction on this. It gives people the authority to go and confiscate someone's car on the word of a school bus driver. If that complies with our Constitution, I have lost a lot of faith in our Constitution. I think this is just a monster, this bill, and with 25 years of police experience behind me, I can't figure out a way that it could be enforced.

I moved the indefinite postponement of this bill and all its accompanying papers.

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

Mr. TARBELL: Mr. Speaker, Members of the House: I beg to differ with the good gentleman from Lincoln, Mr. MacEachern. The matter has been worked and reworked by legal counsel of our AG's Office, the Secretary of State division, and has been given a lot of work and I would just like to briefly explain to you again the mechanics of how the bills work and then I will leave up to you the policy decision of whether or not you think it is good or bad.

First of all, the problem is, the only way you can catch anybody if they are passing school buses is if the school bus driver can identify the driver. It is my understanding that many drivers are putting their heads down and driving by and passing the school buses so they can't be identified. Only if the driver cannot be identified would this action be instituted.

The school bus driver would have to do an awful lot of things before he could even have an officer serve a summons; it is a civil summons. The school bus driver would have to first be able to identify the number on the plate of the vehicle, plus other identifying features of the vehicle, the color, perhaps its make, its model. He then would have to go to a police officer, give the information to the officer, who probably would run a check on that vehicle to see if those identifying features matched up in order to find the registered owner. If the police officer could not match it up or the police officer was dissatisfied that there was not enough information, the officer would probably just turn down the case right there and would not issue a civil summons.

So, first, the school bus driver is going to have to persuade the officer and the officer would check with Motor Vehicle Registration to see if all these identifying features, plus the plate number, match up. If they do match up, the officer could then issue a civil summons to the registered owner of the vehicle. The registered owner of the vehicle could then say, listen, I was not driving the vehicle but I can tell you who was. It was my son, it was my daughter, it was an employee of mine, or what have you, and direct them to the driver of the vehicle, which would be a defense and, at

which point, there would be evidence of who was the driver of the vehicle and then you could proceed if you had enough evidence against the driver directly and not against the vehicle owner.

If it did go to a court hearing, the school bus driver would have to meet a very, very high burden of proof, and this was a Senate Amendment that was added in the other body and is on the bill now. Two things would have to be proven beyond a reasonable doubt, which is the standard that is used in criminal cases throughout our courts and throughout the land. Yet, this is a civil case. So, we have used beyond reasonable doubt, which is a criminal standard for a civil case.

The bus driver would have to prove two things, both beyond a reasonable doubt, the number of the plate and also identifying features of the vehicle.

It is going to have to be a strong case before you would even get into court with a summons and an officer would even issue one and it would have to be a very strong case. The school bus driver would really have to have that information beyond a reasonable doubt, so I think there are an awful lot of safeguards for this. That is the essential mechanics of it.

I would like to point out one other thing. A few years ago, we passed a law in here which made possession of marijuana, under an ounce and a half, a civil infraction and our civil complaint and civil summons, uniform traffic tickets, civil summons complaint, are used to prosecute civil infraction marijuana possession cases, so there is a system whereby our courts are using this kind of system for other types of civil infractions, which used to be treated as crimes.

I would like to repeat, once again, that this is only a civil infraction. There are instances already now under our law where the owner of the vehicle lets somebody else use his or her vehicle and an accident occurs or what have you, there is some liability placed on the owner of the vehicle even though the owner of the vehicle was not driving that car. This really is an extension of that kind of state policy that we have set up in other areas of the law.

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

Mr. MACEachern: Mr. Speaker, Ladies and Gentlemen of the House: I am amazed at the arguments that have just been presented to you. I just can't imagine anybody putting his head down and driving by a school bus. That is the most ridiculous statement I have ever heard on the floor of this House.

Secondly, I would like to have somebody hold their registration plate up in front of this place for 10 seconds, which is about all you would see it in front of the school bus, and get everybody to write down their impression of what is on that number plate. I bet you get 75 different interpretations of those five numbers on that number plate. I don't see how you could prove beyond a reasonable doubt with a glancing view of a number plate that that was a number plate that passed that school bus. That is just ridiculous.

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

Mr. STROUT: Mr. Speaker, Ladies and Gentlemen of the House: I would like to remind the good gentleman from Bangor, Mr. Tarbell, I respect as a friend of mine, the other day when I gave you some comments on this bill and asked that maybe you people might look at it, he made the statement on the record that those statements were inaccurate. Well, let me remind you, ladies and gentlemen of the House, that those statements that I read came from the DA's office in Bangor. A lot of work went into it. He says that there has been a lot of work done on this bill and he has an opinion from the Attorney General. Well, I say to you this morn-

ing that some of the statements that he made on this are inaccurate.

I would like to bring to the attention of the members of the House that on House Amendment "A", Section 4, if you have the bill, I think you ought to look at it. You can read it if you want to, but what it says is, if a vehicle is stolen, that vehicle is excluded. I am not a lawyer, but I read it loud and clear. I guess I would ask some of you people who support this bill, why should a vehicle that is stolen be excluded anymore than mine? I think one of the big problems out there is that when a vehicle is stolen, that person might go by a school bus in a hurry or not look at whether the lights were on or not. That is one of the sections that I oppose. Why should a stolen vehicle be excluded?

The other parts of this bill and the amendment, in my opinion, from the legal advice that I got and also from law enforcement officers, there is no way possible that this bill can be enforced. What you are trying to do is to say that you are going to take my registration for 90 days. I don't believe that the school bus drivers across the State of Maine are going to be able to give accurate readings on the plates; this bothers me, and if you have some school bus drivers that may have friends in the community, there could be problems here, I am not worried about that.

I agree with the gentleman from Lincoln, Mr. MacEachern, who has had some experience in law enforcement.

I think he is giving you the right direction today and I think you ought to follow his light. This, in my opinion, is going to create great havoc to the people of the State of Maine.

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

Mr. COX: Mr. Speaker, Ladies and Gentlemen of the House: I think if the gentleman from East Corinth wants to read a section of the bill, he should read it accurately. He mentioned Section 4 as referring to stolen vehicles. Section 4 refers to unlawful possession, which is a broader term than stolen vehicle. I think most everyone in here would agree that this was a reasonable provision. Certainly, if someone steals your vehicle and while he is driving it passes a school bus, it is bad enough for you to have had your vehicle stolen without having it proven that this vehicle passed a school bus and then you are going to lose your registration. So, this seems a rather strange objection to bring up.

We are told by several people here that this is or may be unenforceable. The reason that we have this bill is because the present law is practically unenforceable because it depends on someone identifying the driver of the vehicle. If there were problems in identifying the number plate, which is right out in the open, and you may possibly see this guy as some of our school bus drivers report that they have seen, they see this car swing out and pass a line of stopped vehicles and go by the school bus. This gives you a little longer time to look at the plate.

Anyway, if you can't identify the plate and the color of the vehicle and perhaps the make, how could anyone be expected to identify the driver of the vehicle? What has been happening is that the police, we are always talking about the police being handcuffed, the police are handcuffed in the present situation, in that they have to have a positive identification of the driver.

We talk always about the school bus driver as if the school bus driver is the only person involved. I would submit to you that under the present law, if a police officer is following that school bus in a cruiser and he pursues that vehicle and gets the license number, the color, the model and everything else, if he loses sight of that vehicle before he catches up with it, the police officer is handcuffed because he cannot use the registration number in the identification of that vehicle to proceed with. If a police

officer is standing on a corner and the school bus stops under the present law, I am not a lawyer but I can understand a few of these things, and he sees this car go by the school bus and immediately takes down the registration number, the model of the car or the make and color of the car, possibly a bashed in left fender, the car has gone out of his sight, they won't accept this in court. So it is not only the school bus driver that is involved here.

Objection is raised to losing your license or your registration or having restrictions placed on you because someone else may be driving your car. I would submit to you right now, if your car is parked in a tow away zone, the police will send a wrecker and tow your car away or can, then you are not going to get your car back until you pay the towing charges. They are not going to ask you if violation is reason enough for your car being confiscated.

Mention was made of confiscating a car, this bill that we present here does not confiscate anyone's car. It simply, upon finding of the court that this car was used in the commission of a crime let us remember this, at the present time, it is a crime to pass a parked school bus and your car must be positively identified in a court of law, with all of the protections in the world, as having been the car used in the commission of a crime.

If you are worried about losing your own registration, let's stop and think from the standpoint of any of us here, if you are the only one who drives your car, you have nothing to worry about if you don't pass a stopped school bus. If you let other people drive your car, you should have the responsibility, I think, to know who is driving your car. I would think the ones who park their car beside of the street and hang the keys on a post beside of the car so anyone could drive it and we would not have anyway of knowing who was driving it, I think this would be a little bit ridiculous to think that we would be as irresponsible in taking care of our cars as this. So what I would say is, anyone who was being reasonably responsible for who was using their car is going to know or be able to find out who it was who drove by that school bus.

Remember again, before any suspension of registration is going to take place, you will have plenty of time to come forward and make this identification of who was driving the vehicle, which would take it out of this present statute.

I think the safety of our school children, who are depending on cars stopping, is somewhat more important than parking space in a tow away zone under which you can have your car confiscated.

I would go on to say that I think the lives of these school children are more important than these parking spaces for which the police do not have to present identification of a driver for a non-moving violation. This is new territory we are breaking, and anytime we pass a new law, we don't know how it is going to work, how easily it is going to be enforced, but we do know that the present law, according to the testimony we are getting from school bus drivers, school officials, the present law is not working well, and I certainly think that it is worth our effort to try to remedy this situation.

As Representative Tarbell has said, we have done an awful lot of work on this bill trying to come up with something that will, we hope, get around what you might call a gimmick in the law that the driver has to be positively identified before you can take any action.

The SPEAKER pro tem: The Chair recognizes the gentleman from Brooklin, Mr. Bowden.

Mr. BOWDEN: Mr. Speaker, I would like to make just three quick points in line with what Mr. Cox said. If I read this bill correctly, if a bus driver cannot make a clear identification of the car, he certainly doesn't even have a case to bring to court.

Number two, if he can, the owner still is not liable to suspension unless he refuses to identi-

fy the driver of the car.

Number three, the owner is exempted under the law from suspension even if the bus driver has made a clear identification if his car has been taken unlawfully. So, it seems to me that the bill is a good bill and should be supported. I think it is worth a try.

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

Mr. MacEACHERN: Mr. Speaker, Ladies and Gentlemen of the House: I don't want to prolong this thing, but I have to answer one of the statements that Mr. Cox made.

The present law that we have has been on the books for some years, even way back when I was a police officer, and I used to enforce it and I used to enforce it effectively. I would use a plain car and I would get in a line of traffic behind the bus and I never lost one that passed it yet. I got convictions on them all. If the police want to make the right kind of an effort to enforce the law that we have, they can do it and have a case that they have sufficient evidence to get a conviction on.

This thing that is before us, I don't know how anybody could ever get a conviction on it.

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

Mr. CARROLL: Mr. Speaker, Ladies and Gentlemen of the House: We had a public hearing on this legislative document. There were 37 instances in a particular area in the State of Maine where people had passed school buses when children were attempting to either get on a bus or get off a bus. Think of it—37 vehicles passed a stopped school bus. This wasn't just one child, because I have been making a count travelling back and forth, and usually there are anywhere from two to six or eight children getting on or off a bus. You stop and think of it. This vehicle isn't just going to hit one person or dodge one person, this vehicle could kill as many as six or eight children right in one wallopp.

What we are asking you to do is to pass a law there today to save some lives. Let's give it a trial run for a year. We are coming back next year and if we find that this law is something that is unrealistic, that this law is something that shouldn't be on the statutes, we are coming down here and we can remove it. But we have at least made an all-out effort, and this is what I am asking for, I am asking for an all-out effort here today. I don't care what these law enforcement officers are telling you here, or the retired ones are telling you, what I am telling you is, you have had 37 instances right in one area of this state where people are deliberately passing school buses while children are attempting to alight or get on these buses. This is the problem.

Tomorrow and the next day, you are going to read or hear or even see a horrible incident happening in your state, because the law of average is telling you, it is just as plain as the sun comes up and the sun goes down, daylight and dark, somebody is going to get killed, and that is why this legislative body is addressing this problem. It will not be one, it will not be two, it could be five or six right in one swoop.

Just because some person thinks they are smart behind the wheel, they are going to pass deliberately and they are doing it deliberately, they have got to be when you have this many cases, and they are going to kill some poor, innocent child and they are going to break somebody's heart. That is it, pure and simple. I have laid the cards on the table; you pick them up. You cast your vote today and let's put this on the books.

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

Mr. STROUT: Mr. Speaker, Ladies and Gentlemen of the House: you have just heard the fine words of the gentleman from Limerick, Mr. Carroll.

At the hearing, I will agree with him that there were maybe 37 instances, but those instances all came from one area of the state. It is my feeling on this that if all the problems are in one area of the state, there are problems with taking care of this. One of the ways to do this is like some of the communities are doing at the present time. They are putting a police officer on the bus and stationing a police cruiser down the road and communicating that way. That is the way I believe it should be done.

If they can do it in some areas of the state, why can't they do it where they are having all the problems? I think one of the reasons they are having so many problems in the Orrington area, where which was brought out at the hearing, is because of the situation with the railroad tracks. I know that road very well, and I know that they can have problems there.

Even though I have children myself riding on the school buses, I feel this, ladies and gentlemen, is not the bill. I am for safety, but this is going to create more problems than what we want to put on the books of the State of Maine.

Mr. Speaker, I would request a roll call vote.

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

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

The SPEAKER pro tem: The pending question is on the motion of the gentleman from Lincoln, Mr. MacEachern, that this Bill and all its accompanying papers be indefinitely postponed. All those in favor will vote yes; those opposed will vote no.

ROLL CALL

YEA — Aloupis, Berry, Blodgett, Boudreau, Brannigan, Brown, D., Brown, K. L., Brown, K. C., Call, Carrier, Carter, F., Churchill, Drinkwater, Dudley, Garsoe, Gillis, Hickey, Hunter, Hutchings, Immonen, Jacques E., Kane, Kany, Kelleher, Leighton, Leonard, Lewis, Locke, Lowe, MacEachern, Masterman, Maxwell, McHenry, McPherson, Nelson, A., Nelson, M., Paradis, Pearson, Peterson, Reeves, J., Sewall, Sherburne, Silsby, Strout, Theriault, Tozier, Twitchell, Violette, Whittemore.

NAY — Austin, Baker, Barry, Beaulieu, Benoit, Berube, Birt, Bordeaux, Bowden, Brennerman, Brodeur, Brown, A., Bunker, Carroll, Carter, D., Chonko, Cloutier, Conary, Connolly, Cox, Cunningham, Curtis, Damron, Davies, Davis, Dellert, Dexter, Diamond, Doukas, Dow, Dutremble, D., Dutremble, L., Elias, Fillmore, Fowlie, Gavett, Gould, Gowen, Gwadosky, Hall, Hanson, Higgins, Howe, Huber, Hughes, Jackson, Jacques, P., Jalbert, Joyce, Kiesman, Laffin, Lancaster, LaPlante, Lizotte, Lougee, Lund, MacBride, Mahany, Marshall, Martin, A., Masterton, Matthews, McKean, McSweeney, Michael, Mitchell, Morton, Nadeau, Nelson, N., Norris, Paul, Payne, Post, Reeves, P., Rolde, Rollins, Simon, Small, Smith, Soulas, Sprowl, Stetson, Stover, Studley, Tarbell, Tierney, Tuttle, Wentworth, Wood, Wyman.

ABSENT — Bachrach, Fenlason, Gray, Hobbins, McMahon, Peltier, Prescott, Roope, Torrey, Vincent, Vose, The Speaker.

Yes, 49; No, 90; Absent, 12.

The SPEAKER pro tem: Forty-nine having voted in the affirmative and ninety in the negative, with twelve being absent, the motion does not prevail.

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

An Act to Clarify the Authority of the Public Utilities Commission in the Enforcement of Rebate Orders (H. P. 1149) (L. D. 1416) (H. "A" H-430 to C. "A" H-410)

An Act to Encourage the Maine State Museum Commission to Acquire Works of Art Beneficial to the State (H. P. 1171) (L. D. 1454) (C. "A" H-406)

An Act to Establish a Committee to Report to the Legislature on the Feasibility of Rebuilding Dams for the Production of Electricity (H. P. 1194) (L. D. 1461) (C. "A" H-420)

An Act to Convert Wallagrass Plantation into the Town of Wallagrass (H. P. 832) (L. D. 1039) (C. "A" H-423)

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.

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

Mr. SIMON: Mr. Speaker, with reference to enactors, is the House still Informed Consent is Obtained before an Elective Abortion is Performed?

The SPEAKER pro tem: The Chair would answer in the affirmative.

Mr. SIMON: Mr. Speaker, I move that the House reconsider its action whereby this Bill was passed to be enacted and ask that all of you vote against me.

The SPEAKER pro tem: The gentleman from Lewiston, Mr. Simon, moves that the House reconsider its action whereby L. D. 1482 was passed to be enacted. All those in favor will say yes; those opposed will say no.

A Viva Voce Vote being taken, the motion did prevail.

Orders of the Day

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

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

Tabled—May 21, 1979 by Mr. Wyman of Pittsfield.

Pending—Passage to be Engrossed.

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

Mr. WYMAN: Mr. Speaker I move this be tabled two legislative days. Whereupon, Mr. Garsoe of Cumberland requested a vote.

The SPEAKER: The pending question is on the motion of the gentleman from Pittsfield, Mr. Wyman, that this matter be tabled pending passage to be engrossed and specially assigned for Tuesday, May 29. All those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

Whereupon, Mr. Wyman of Pittsfield requested a roll call.

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

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

The SPEAKER: The pending question is on the motion of the gentleman from Pittsfield, Mr. Wyman, that this matter be tabled pending passage to be engrossed and specially assigned for Tuesday, May 29. All those in favor will vote yes; those opposed will vote no.

ROLL CALL

YEA — Austin, Bachrach, Baker, Barry, Beaulieu, Benoit, Berry, Blodgett, Brannigan, Brennerman, Brodeur, Brown, A.; Brown, K.C.; Carrier, Carroll, Churchill, Cloutier, Connolly, Cox, Curtis, Davies, Doukas, Dow, Dutremble, D.; Dutremble, L.; Fowlie, Gwadosky, Hall, Hickey, Howe, Hughes, Jacques, E.; Jacques, P.; Joyce, Kane, Kany, Kiesman, Laffin, LaPlante, Leighton, Lewis, Lizotte, Locke, MacBride, MacEachern, Mahany, Martin, A.; Maxwell, McHenry, McKean, McSweeney, Michael, Mitchell, Nadeau, Nelson, M.;

Nelson, N.; Norris, Paradis, Paul, Rolde, Simon, Smith, Sprowl, Strout, Theriault, Tierney, Tuttle, Twitchell, Violette, Whittemore, Wood, Wyman.

NAY — Aloupis, Berube, Birt, Bordeaux, Boudreau, Bowden, Brown, D.; Brown, K.L.; Bunker, Call, Carter, F.; Conary, Cunningham, Damren, Davis, Dellert, Drinkwater, Fenlason, Fillmore, Garsoe, Gavett, Gould, Gowen, Hanson, Higgins, Huber, Hunter, Hutchings, Immonen, Jackson, Lancaster, Leonard, Lougee, Lowe, Lund, Marshall, Masterman, Masterton, Matthews, McPherson, Nelson, A.; Payne, Peltier, Peterson, Reeves, J.; Sewall, Sherburne, Silsby, Small, Soulas, Stetson, Stover, Studley, Tarbell, Torrey, Tozier.

ABSENT — Carter, D.; Chonko, Dexter, Diamond, Dudley, Elias, Gillis, Gray, Hobbins, Jalbert, Kelleher, McMahon, Morton, Pearson, Post, Prescott, Reeves, P.; Rollins, Roope, Vincent, Vose, Wentworth, The Speaker.

Yes, 72; No, 56; Absent, 23.

The SPEAKER pro tem: Seventy-two having voted in the affirmative and fifty-six in the negative, with twenty-three being absent, the motion does prevail.

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

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

Tabled—May 21, 1979 by Mr. Davies of Orono.

Pending—Passage to be Enacted.

On motion of Mrs. Mitchell of Vassalboro, retabled pending passage to be enacted and specially assigned for Tuesday, May 29.

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

HOUSE DIVIDED REPORT — Majority (9) "Ought Not to Pass" — Minority (4) "Ought to Pass" — Committee on Transportation on Bill, "An Act to Adjust Motor Vehicle Registration Fees" (Emergency) (H. P. 1318) (L. D. 1572)

Tabled—May 22, 1979 by Mr. Tierney of Lisbon.

Pending—Acceptance of either Report.

On motion of Mrs. Mitchell of Vassalboro, retabled pending acceptance of either Report and tomorrow assigned.

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

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

Tabled—May 22, 1979 by Mr. Carrier of Westbrook.

Pending—Adoption of House Amendment "A" (H-486) to Committee Amendment "B" (H-437).

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

Mr. CARRIER: Mr. Speaker, the sponsor of the amendment isn't here and I want to kill the amendment. I hate to table it for two days because the thing is no good to start with.

I move the indefinite postponement of House Amendment "A" to Committee Amendment "B".

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

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

I would further comment that I am not a signer of the report that is under consideration here. I personally would have preferred the more moderate approach of the gentleman from Rockland, Mr. Gray, but I do think that we need to increase the gain time if we can't increase the good time; therefore, I would ask that you vote against the motion to indefinitely postpone, so that by the time this bill has made its course through the legislative process, we will have made some addition to the amount of time that well-behaving, hard-working prison

inmates can have decreased from their sentences without at the same time diminishing the deterrent effect of sentences by giving them too much.

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

Mr. HOBBS: Mr. Speaker, Men and Women of the House: We debated this issue the other day and the amendment before you was an inadvertent staff mistake as far as the contents of the particular piece of legislation. There is no substantive change from the intent of the initial bill or the position that the Department of Mental Health and Corrections has taken.

I was contacted by the staff involved, and they inadvertently left out one particular clause in the original bill, and all this particular amendment does is make it consistent with the intent of the bill.

I hope that today we don't indefinitely postpone this amendment, because all we are doing is making it inconsistent with the vote and the response of this body two days ago.

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

Mr. CARRIER: Mr. Speaker, Ladies and Gentlemen of the House: Either I don't understand the amendment or else somebody else doesn't. There is a total substantive change in this particular amendment and this is why I wanted the sponsor of the amendment to explain what it is, but if he feels this way, that is not the way it is. You go ahead and explain it and if it isn't the way I look at it, then we will go ahead and debate.

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

Mr. CONNOLLY: Mr. Speaker, Ladies and Gentlemen of the House: Perhaps I can respond to the question, because I was the one who first called the error to the attention of the Chairman of the Judiciary Committee.

In the law, the way it stands now, Mr. Carrier, there are two sections, one that deals with inmates who were incarcerated before January 1, 1978, and another section, that deals with those inmates who were incarcerated after January 1, 1978. Committee Amendment "B" that we adopted the other day deals with those inmates prior to 1978. Inadvertently, the section of the law that deals with inmates after January 1, 1978 was not touched. This amendment is to clarify that section of the law. It isn't a substantive change.

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

Mr. CARRIER: Mr. Speaker, Ladies and Gentlemen of the House: At least there is one person that knows correctly what this amendment does. When you start putting a certain number of prisoners by this amendment, you are actually giving the prisoners that were incarcerated after January 1, 1978, the good time, the good time deduction just like the others. Where in the report that you accepted the other day, they were not given that time and this is a substantive change, because actually you are taking another class of people and putting them in there. If they have made a mistake on their own, and I was aware at the time we accepted a Committee Report "B", that you people accepted Report "B", because I think it is a bad bill, that this was in there. This is a change and this is why I wanted to have an explanation on it, but they don't give you the explanation because they think you haven't done your homework. All they refer to is Subsection 3A, which wasn't in the bill that you people accepted the other day. I especially wanted to call it to the attention of the Judiciary Committee, for those who have signed the "A" or "B" report, you have actually been deceived by this particular amendment, by this Committee Amendment. I think the intention was to make everybody available for the good

time but they didn't and you accepted the report where they did not, and this is what this is about. Now, it is changed and is to take effect in 1978 instead of the amendment, which says is to take effect for those that were starting in 1980, and this is exactly the thing you are doing. You are taking another group of people and giving them deduction time.

Another thing that I want to say about the amendment is that it says twelve days, but if you look at Section 4, they are also entitled to another three days if they behave. That makes 15 days, how about the furlough time? These people who are sent there for six months by the judges, he doesn't mean four months, he means six months and that is the way it should be. When they are sent there for 30 days, it doesn't mean 20 days. These people will be outside more than they will be inside. That is not where they belong.

As far as the amendment is concerned, the amendment is a total change from what you accepted the other day. I watched it very closely because very seldom a member of the committee will change the Committee Amendment "A" if he has signed the report. I still hope you vote for the indefinite postponement of this amendment.

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

Mr. CONNOLLY: Mr. Speaker, Ladies and Gentlemen of the House: I don't want to debate the merits and good time and gain time and how much time - that issue was adequately debated the other day by the members of this House and I think the House, by a substantial margin, showed where it stood on that issue.

I would just like to point out that this amendment is not an attempt on anyone's part to deceive anybody in this Legislature, let alone Representative Carrier or any people on the Judiciary Committee.

When I was reviewing this particular amendment, I thought there was a mistake. I went to the Clerk of the Committee, the staff person of the committee, and called it to her attention. I asked her if there was a mistake. She checked it out and sent me back a note and I will produce the note for Representative Carrier that says it was a mistake. This is not a substantive change from the intent of the original amendment from the committee, it was an error. It doesn't happen very often in the Judiciary Committee but this time it did happen and I would hope that you would adopt the amendment.

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

Mr. GRAY: Mr. Speaker and Members of the House: I think the question is, does this amendment make the good time retroactive? In other words, does it apply to those who are being sentenced beginning in 1980, which I believe was the intent of the original bill; will it also apply to those who have already been sentenced?

The SPEAKER pro tem: The gentleman from Rockland, Mr. Gray, has posed a question through the Chair to anyone who may care to respond.

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

Mr. CONNOLLY: Mr. Speaker and Members of the House: This amendment does not make the good time retroactive. The good time, under this bill, will go into effect in 1980; What it says, though, it will apply to prisoners who have been incarcerated prior to 1978 as well as after 1978, but it does not go into effect until 1980 and doesn't make any good time retroactive.

The SPEAKER pro tem: The Chair will order a vote. The pending question before the House is on the motion of the gentleman from Westbrook, Mr. Carrier, that House Amendment "A" to Committee Amendment "B" be indefinitely postponed. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

42 having voted in the affirmative and 54 in the negative, the motion did not prevail.

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

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

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

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

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

Tabled—May 22, 1979 by Mr. Marshall of Milinocket

Pending—Passage to be Enacted.

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

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

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

Tabled—May 22, 1979 by Mr. Tierney of Lisbon.

Pending—Passage to be Engrossed.

On motion of Miss Brown of Bethel, under suspension of the rules, the House reconsidered its action whereby Committee Amendment "A" was adopted.

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

House Amendment "A" (H-506) to Committee Amendment "A" (H-547) was read by the Clerk and adopted.

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

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

On motion of Mrs. Huber of Falmouth, the House reconsidered its action whereby this Bill was passed to be Engrossed.

Mrs. HUBER: Mr. Speaker, I would like to pose a question through the Chair to the gentlewoman from Bethel, Miss Brown. I would like to know what her amendment does?

The SPEAKER pro tem: The gentlewoman from Falmouth Mrs. Huber, has posed a question through the Chair to the gentlewoman from Bethel, Miss Brown, who may answer if she so desires.

The Chair recognizes the gentlewoman.

Miss BROWN: Mr. Speaker, Members of the House: L. D. 385 was passed by the Committee to consolidate the laws regulating the Great Ponds Act. As it presently stands right now, the Fish and Game Department has to give some permits for certain alterations of streams. What they want to do is consolidate it under the DEP, but what happened the way the law was written was, the regulations were not taken off the books for the Fish and Game. In other words, you would have to get two permits, you would have to get one from Fish and Game and one from DEP and what my amendment does is just consolidate the repeal of those sections for Fish and Game.

Thereupon, the Bill was passed to be Engrossed as amended and sent up for concurrence.

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

SENATE DIVIDED REPORT — Report "A" (6) "Ought to Pass" Report "B" (5) "Ought Not to Pass" Report "C" (2) "Ought to Pass" as Amended by Committee Amendment "A" (S-196) — Committee on Labor on Bill, "An Act to Continue Medical Benefits to Employees During Collective Bargaining Negotiations, Lockouts, Strikes, and Other Job Actions" (S. P. 317) (L. D. 947) — In Senate, Bill and Accompanying Papers Indefinitely Postponed on May 21, 1979.

Tabled—May 22, 1979 by Mr. Wyman of Pittsfield.

Pending—Motion of Mrs. Lewis of Auburn to Indefinitely Postpone Bill and all Accompanying Papers.

(Roll Call Requested)

On motion of Mr. Tarbell of Bangor, tabled pending the motion of the gentlewoman from Auburn, Mrs. Lewis, that this bill and all its accompanying papers be indefinitely postponed and later today assigned.

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

Mr. McHENRY: Mr. Speaker, is the House in possession of Bill "An Act to Allow Direct Purchase by Citizens of Certain Bonds" House Paper 459, L. D. 1373?

The SPEAKER pro tem: The Chair would answer in the affirmative.

Mr. McHenry of Madawaska moved that the House reconsider its action whereby the Bill was passed to be engrossed.

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

At this point, Speaker, Martin returned to the rostrum.

Speaker MARTIN: The Chair would thank the gentleman from Madison, Mr. Elias, for presiding.

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

(Off Record Remarks)

On motion of Mr. Davis of Monmouth. Receded until 3:45 this afternoon.

After Recess
3:45 P. M.

The House was called to order by the Speaker.

The Chair laid before the House the following matter:

Bill, "An Act to Permit Nonprofit Legal Service Organizations" (H. P. 642) (L. D. 797) which was tabled earlier in the day and later today assigned pending the motion of the gentleman from Saco, Mr. Hobbins, that the House recede and concur.

In House, the Minority "Ought Not to Pass" Report was read and accepted on May 16th.

In the Senate, the Majority "Ought to Pass" as amended by Committee Amendment "A" was read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" as amended by Senate Amendment "A" thereto in non-concurrence.

Mr. Hughes of Auburn requested a Division on the motion to recede and concur.

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

Mr. SIMON: Mr. Speaker and Members of the House: This bill comes back to us from the other body having been amended to make it clear that this bill would not threaten any other prepaid legal service program now in existence or that may come into existence, so this afternoon, without taking up too much of your time, I would just like to ask you to take a calm, second look at the bill.

Perhaps the reason a number of you voted against prepaid legal was because on the surface it seemed tainted with lawyerism. I would like to ask you not to let this response obscure your rational consideration of the thrust of this legislation. Granted, prepaid legal would allow lawyers to enter into a stable, contractual relationship with clients, but the bill is not particularly likely to make a profit for lawyers, nor would lawyers be able to manipulate it so as to turn a profit with any more ease than under current lawyer-client agreements.

I hope that you won't let anti-lawyer senti-

ment interfere with your careful attention to this consumer legislation. If you are really worried about having a society with too much law, and I am sure that many of you are, then I would urge you to pass fewer laws and to make them clearer. I would urge you not to deny to middle income people the option to plan for their legal services ahead of time, as would be allowed in L. D. 797.

The SPEAKER: The Chair will order a vote. The pending motion before the House is on the motion of the gentleman from Saco, Mr. Hobbins, that the House recede and concur. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

Mrs. Sewall of Newcastle 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 gentlewoman from Newcastle, Mrs. Sewall.

Mrs. SEWALL: Mr. Speaker, Men and Women of the House: Very briefly, I wanted to take this opportunity to agree completely with Mr. Simon this afternoon. I hope you will move to recede and concur.

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

ROLL CALL

YEA — Aloupis, Barry, Boudreau, Bowden, Brodeur, Carter, F.; Cloutier, Cox, Dellert, Diamond, Dow, Dutremble, D.; Gould, Gowen, Hobbins, Hutchings, Jalbert, Kany, LaPlante, Lewis, Locke, Lund, Masterton, Matthews, Nadeau, Pearson, Peterson, Reeves, J.; Sewall, Simon, Small, Soulas, Stetson, Tarbell, Torrey

NAY — Bachrach, Baker, Beaulieu, Benoit, Berry, Berube, Bordeaux, Brannigan, Brown, A.; Brown, K.C.; Call, Carrier, Carroll, Carter, D.; Chonko, Churchill, Conary, Connolly, Cunningham, Damren, Davies, Davis, Drinkwater, Elias, Fenlason, Fillmore, Garsoe, Gavett, Gillis, Gray, Gwadosky, Hanson, Hickey, Howe, Hughes, Hunter, Jackson, Jacques, P.; Joyce, Kane, Kelleher, Kiesman, Laffin, Lancaster, Leighton, Lowe, MacEachern, Mahany, Marshall, Martin, A.; Masterman, Maxwell, McHenry, McKean, McSweeney, Mitchell, Nelson, A.; Nelson, M.; Nelson, N.; Paradis, Paul, Peltier, Post, Reeves, P.; Rolde, Rollins, Smith, Sprowl, Strout, Studley, Theriault, Tierney, Tozier, Tuttle, Twitchell, Violette, Vose, Wentworth, Whittemore, Wyman, The Speaker

ABSENT — Austin, Birt, Blodgett, Brenerman, Brown, D.; Brown, K.L.; Bunker, Curtis, Dexter, Doukas, Dudley, Dutremble, L.; Fowlie, Hall, Higgins, Huber, Immonen, Jacques, E.; Leonard, Lizotte, Lougee, MacBride, McMahon, McPherson, Michael, Morton, Norris, Payne, Prescott, Roope, Sherburne, Silsby, Stover, Vincent, Wood
Yes, 35; No, 81; Absent, 35.

The SPEAKER: Thirty-five having voted in the affirmative and eight-one in the negative with thirty-five being absent, the motion did not prevail.

Thereupon, the House voted to adhere. By unanimous consent, ordered sent forthwith to the Senate.

The Chair laid before the House the following matter:

Resolve, to Study the Need for an Environmental Health Program (Emergency) (H. P. 1422) (L. D. 1627) which was tabled earlier in

the day and later today assigned pending passage to be engrossed.

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

Mrs. BACHRACH: Mr. Speaker, Ladies and Gentlemen of the House: I am sorry I held you up on this bill, but I had received a message from the Department of Human Services and I just wanted to be sure there were no problems.

There is no problem. They are happy to do this, look into this problem for us, and I hope for some good legislation in the next session.

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

The Chair laid before the House the following matter:

Bill "An Act to Make Certain Adjustments for Legislative Personnel as a Result of Collective Bargaining (Emergency)" (S. P. 564) (L. D. 1626) which was tabled earlier in the day and later today assigned pending passage to be engrossed.

Thereupon, the Bill was passed to be engrossed in concurrence.

The Chair laid before the House the following matter:

Bill "An Act to Insure Parental Participation in a Minor's Decision to have an Abortion" (S. P. 220) (L. D. 604) (C. "A" S-181) which was tabled earlier in the day and later today assigned pending passage to be engrossed as amended.

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

Mrs. MITCHELL: Mr. Speaker, I move that we reconsider the adoption of Committee Amendment "A".

I would like to have an opportunity not to destroy the nature of the bill but simply to offer a responsible amendment.

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

Mr. CARRIER: Mr. Speaker, Ladies and Gentlemen of the House: I urge you people to vote against the reconsideration motion.

The SPEAKER: The Chair will order a vote. The pending question before the House is on the motion of the gentlewoman from Vassalboro, Mrs. Mitchell, that the House reconsider its action whereby Committee Amendment "A" was adopted. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

Mrs. Mitchell of Vassalboro requested a roll call.

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

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

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

Mrs. MITCHELL: Mr. Speaker and Members of the House: I want to assure the members of this body that this is not attempt to kill a very important bill. I am simply asking for the courtesy to offer an amendment which is very important to many members of this House, an amendment which we feel is necessary, at least to consider, and I am simply asking for that opportunity. Clearly, there are the votes here to pass this bill and I would simply ask for the courtesy of offering my amendment.

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

Mr. HOWE: Mr. Speaker and Members of the House: Very briefly. I have kept my trap shut on these other abortion bills. I guess what I am asking you today is to let the gentlewoman from Vassalboro reconsider so that some of us, for whom this is not an easy issue on either

side, can at least look at this amendment with a possibility that we might be able to support this bill.

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

Mr. LAFFIN: Mr. Speaker, Ladies and Gentlemen of the House: I certainly hope today that we will not allow any more amendments put on. I think we all know what they are trying to do and I would certainly urge the members of this House to stick fast. We have them on the run and we are going to keep them there.

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

Mr. JALBERT: Mr. Speaker, Ladies and Gentlemen of the House: I might remind the gentleman, Mr. Howe, that I am sure all the members can read. We have the amendment, we can read it, we can't discuss it now. The motion is to reconsider. Let's vote on that.

The SPEAKER: A roll call has been requested. The pending question is on the motion of the gentlewoman from Vassalboro, Mrs. Mitchell, that the House reconsider its action whereby Committee Amendment "A" was adopted. Those in favor will vote yes; those opposed will vote no.

ROLL CALL

YEA — Aloupis, Bachrach, Baker, Beaulieu, Benoit, Berry, Birt, Blodgett, Bowden, Brannigan, Brennerman, Brodeur, Brown, D.; Brown, K.L.; Call, Carter, F.; Cloutier, Connolly, Cox, Davies, Davis, Dellert, Dow, Elias, Fillmore, Garsoe, Gavett, Gould, Gowen, Gwadosky, Hall, Higgins, Hobbins, Howe, Huber, Hughes, Hunter, Hutchings, Jackson, Jacques, P.; Kane, Kany, Kiesman, Lancaster, LaPlante, Leighton, Lewis, Lizotte, Locke, Lowe, Lund, MacEachern, Mahany, Marshall, Masterman, Masterton, Maxwell, McHenry, McKean, Michael, Mitchell, Morton, Nelson, A.; Nelson, M.; Nelson, N.; Norris, Paul, Payne, Peltier, Post, Prescott, Reeves, J.; Reeves, P.; Rolde, Sewall, Simon, Small, Sprowl, Stetson, Tarbell, Tierney, Torrey, Tozier, Tuttle, Twitchell, Violette, Vose, Wentworth, Wyman.

NAY — Barry, Berube, Bordaueaux, Boudreau, Brown, A.; Brown, K.C.; Carrier, Carroll, Carter, D.; Chonko, Conary, Cunningham, Damren, Dexter, Diamond, Doukas, Drinkwater, Dutremble, D.; Fenlason, Gillis, Gray, Hanson, Hickey, Jalbert, Joyce, Kelleher, Laffin, MacBride, Martin, A.; Matthews, McPherson, McSweeney, Nadeau, Paradis, Pearson, Peterson, Rollins, Silsby, Smith, Soulas, Strout, Studley, Theriault, Whittemore.

ABSENT — Austin, Bunker, Churchill, Curtis, Dudley, Dutremble, L.; Fowlie, Immonen, Jacques, E.; Leonard, Lougee, McMahon, Roope, Sherburne, Stover, Vincent, Wood, The Speaker.

Yes, 89; No, 44; Absent, 17.

The SPEAKER: Eighty-nine having voted in the affirmative and forty-five in the negative, with seventeen being absent, the motion does prevail.

Mrs. Mitchell of Vassalboro offered House Amendment "A" to Committee Amendment "A" and moved its adoption.

House Amendment "A" to Committee Amendment "A" (H-505) was read by the Clerk.

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

Mrs. MITCHELL: Mr. Speaker, Ladies and Gentlemen of the House: First, I would like to thank you very much for the courtesy that you afforded me in allowing me to offer this amendment.

I have served in this body for three terms and this is the very first time I have spoken on this issue. I find it very personal, very private and very difficult to speak on, and I certainly respect each of you, where you are coming from, and I am not attempting to make you vote against any of your convictions.

As my responsibility, I would like to offer this amendment for your consideration but, as

I said, I respect your positions.

The amendment that I would offer to the bill does not say that a parent should not be notified in the case of a minor child seeking an abortion. Just as there are no absolute rules in human nature, just as there are exceptions to every rule that I have ever heard of, there are some occasions, very rare occasions, indeed, I would hope, where it would be a mistake, where it would cause harm to the minor if the parents were notified. What this bill says, if the doctor, in his best medical judgment, feels that it would be to the detriment of this child, and we have all certainly spoken of child abuse, we have certainly spoken of broken families, we have certainly spoken of many problems in the area of the human family and there are certain occasions when it would certainly harm the child. In this position and in this case, using his judgment, not the minor's objection but his own best medical judgment, could then choose not to notify the parents.

As I said, I hope this would be a very rare occasion but I think you would all admit there are sometimes where parents are not appropriate in this process, very rare indeed.

I have a daughter of my own and I would want to know. I would not want some peer pressure to make her go to an abortion doctor and get an abortion without letting me know. As a parent, I am certainly concerned with the notification process. Each of you in here who is a parent or who has children around feel the same way. As I said, I am in favor of the notification but I also think it is very important to have a place to go in this rare occasion when the parents might abuse the child, where there might be some harm coming to the person.

There is a second part to the amendment. In the case where this happens, the physician still must notify the Department of Human Services so that the clear responsibility is on him, he is taking a grave risk when he chooses not to notify the parents, someone will know, it would be reported to the department. It is this amendment that I offer to you. It is a very difficult decision, a very personal decision, but I think you will all admit that there are problems.

When we talk about abortions, and I mentioned this to some friends today, we usually think of the family. I think you remember back to your grade school books a long time ago, I am telling my age, when we talked about Dick and Jane, Puff and Spot and the happy family where the father came home every day to a nice dinner. Well, the real world isn't all like that and a lot of times when we are talking about landlords and tenants in this body, you tend to talk about another kind of family, and I would suggest that in the real world, there are some occasions when a family is not the best support that a young adult in trouble can have and I would appreciate your consideration and I hope you might vote for this amendment.

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

Mr. PEARSON: Mr. Speaker, Ladies and Gentlemen of the House: I understand the gentlewoman from Vassalboro is trying to address a problem that is of a concern to her and it is to me too. However, I think that her amendment has a hole in it as big as a barn door, that is the health for the child. If the doctor says that it would impair the health of the child, then that would not have to be reported to the parent. If a child went to have an abortion to a doctor that performs abortions, I would think that his prejudice would come down on the side of the health of the child almost every time. In other words, I think he is leaning in that direction, and I just think that it would open this up so wide that what she is trying to address really wouldn't be addressed because everybody would be going through that loophole.

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

Mr. BOUDREAU: Mr. Speaker, Ladies and Gentlemen of the House: I really feel that a lot

of minors, under this amendment, could probably convince the doctor that the doctor shouldn't tell their parents.

We are talking about parental participation in the decision of a minor. You know, I had a bill in here about two months ago that 120 people in this House voted against. That bill would have allowed 17 year olds to give blood without parental consent—120 of you voted against that bill. The argument at that time was that the parents should be able to make the decision as to whether or not their 17 year old should give blood or not. I would find it quite difficult to understand how any of those people, who voted that way on that bill, could possibly vote for this amendment. I hope you will defeat the amendment.

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

Mrs. BEAULIEU: Mr. Speaker, Ladies and Gentlemen of the House: I think we need to talk about the real world. I have been voting right along for the abortion bills that have been brought before us, but I can not support this one unless this amendment is attached to it. I not only ask you to adopt the amendment, I implore you to adopt it.

Last year, a 13-year-old boy pounded on my door at 2:30 in the morning, pleading with me to come to his home to help his sister. This is very emotional for me and I don't like to talk about it but I think the time has come to address it.

When I got to the home, there was a 16-year-old girl on the floor doubled over in pain, the victim of a savage beating by her mother. She had been caught in the bathroom vomiting by the mother and finally had to tell her mother that she was pregnant. The mother started to beat the child, the young woman, and insisted that the very next morning the girl was to go get an abortion. She refused and she was beaten badly. She refused to even go to the hospital, but I knew that I had to get her out of that setting and out of the house.

I am trained in knowing where to go for help, but my first reaction was to get her out and in my frustration and fear and just plain upset, I forgot a lot of the things that I was trained to do and I headed for the nearest rectory. As a Catholic, we are told and raised that when you need help, go to your priest. I went to the nearest rectory hoping that between the priest and I we could at least calm the girl down, get her to a hospital and into protective care when the Department of Human Services opened the next morning. Unfortunately for me and for her, it was the worst experience of my life. I am grateful that it was not my own parish that I went to, but the priest responded by saying, "I am sorry this happened but we must all pay for our sins." Let me tell you, ladies and gentlemen, that this priest will never again be regarded by me as a priest but as a despicable man.

I did get help for her. We stayed in the car. We went to Human Services and we did get her to a hospital. The end result, ladies and gentlemen, she kept her child. She is now married and this young couple are the parents of a deformed and retarded child for the rest of their lives.

I say to you that passage of this bill without the amendment before you is opening a door of abuse to other young women. I think it is time that you and I in this House start opening our eyes and recognize that family violence in this state is probably the most critical social problem facing us. Statistics are being gathered every day and the statistics are alarming if you check with the Department of Human Services. The statistics we have are just the tip of the iceberg. While I don't know how many of you choose to place your faith in statistics, I choose to give them some credibility and I am the first-hand witness of not only this incident I have told you about but many more, and let me tell you that one does not have to look very far

to find out what is going on in homes and not only low income areas.

On Page 8 of today's calendar, Item-5, I voted for a bill that allowed a waiting period before an abortion was performed. I supported that. This is the bill where, in my opinion, exploration should be made about family support or nonsupport of a potential abortion. Adopting the bill, as it states today, I promise you will create more serious problems in the areas of abuse in the home for young women and turn back of the seeking of legal abortions than anything I have seen come forward yet. I plead with you to adopt this amendment. If you don't then I am going to find the courage to get up and ask you to kill the bill.

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

Mrs. LEWIS: Mr. Speaker, Ladies and Gentlemen of the House: I, too, hope that you will support the amendment. I have consistently voted pro-life in this session of the legislature and in previous sessions too, I believe. But one of my chief reasons is that we know that many, many of the children who are pregnant and who may be seeking an abortion are really the victims of incest. I don't think anybody here now, and I don't think that I am being egotistical when I say it, everybody here must know that I am making every effort under the sun to try to seek treatment and/or punishment for people who are molesting children. If these children are the victims of incest, then it doesn't seem right that the very parent who possibly is the cause of the child's pregnancy should be informed. I urge you to support this amendment.

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

Mr. CARRIER: Mr. Speaker, I move the indefinite postponement of House Amendment "A" to Committee Amendment "A" on L. D. 604 and when the vote is taken, I ask for a roll call.

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

Mrs. PAYNE: Mr. Speaker, Ladies and Gentlemen of the House: I, too, have voted as Mrs. Mitchell has right straight through on his issue, but I feel this amendment is something that is very important and there are very good safeguards in this.

The second part of the amendment, if the physician does not give notice under Subsection 2, he shall notify the Department of Human Service in writing of the exception of notification. The notice shall be confidential and not open to public inspection. This notice shall contain a statement of the number of abortions performed on unemancipated minors when the person performing the abortion was unable to give the notice. Now, if the same doctor's name came up again and again, it certainly would tip the Department off that he was going ahead and not making much effort to reach the parents, and I think that is a safeguard.

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

Mr. DIAMOND: Mr. Speaker, Ladies and Gentlemen of the House: I don't for a second, and I haven't spoken on any abortion bills, I have just been quietly pushing my button, but I have to say briefly that I don't in the least bit, question the sincerity of the gentlewoman from Vassalboro, Mrs. Mitchell, but if you read the paragraph of the section above that which the gentlewoman from Portland just read, you are going to read in there "harm to the health of the minor." The statement of fact talks about mental or physical. To me, when you say mental, that opens the door wide open.

Essentially what you are doing, and I think Mrs. Mitchell would agree, you are really putting in this bill, and if you agree with the bill then you should be aware of it, a large, large loophole, because mental concern could be about anything. In fact, in my opinion, which is only one person's humble opinion, a teenager who is pregnant, that in itself presents a very

typical, worthy concern in the terms of mental concern. So, I think that is what bothers me, the mental part of it.

If she is just trying to get at the physical kind of health problem we are talking about, that is a different story. But to put in there mental, that is the one that opens it up too much and I just can't buy it.

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

Mr. TARBELL: Mr. Speaker and Members of the House: I have not spoken on any of these bills thus far before us. I would like to throw out perhaps a contribution to the debate and some of the arguments and remarks that have been made about the overbreath of the word health. Currently, under our child abuse and neglect statutes that we have in the State of Maine in which a child is abused or neglected and the State Human Services Department is petitioning to take custody away and to take legal rights away from the parents of that child and to take total custody of that child, the standard that is being used legally, and we have a large body of law on it, is circumstances which are seriously jeopardizing the health and welfare of that particular individual. The words "seriously jeopardizing Health and Welfare" are the standards that are used for child abuse, child neglect, physical child abuse and neglect, and I am wondering, if this particular amendment that Mrs. Mitchell has offered were to raise a higher standard and to close that loophole, if that would really meet some of the objections of overbreath from members here in the House. I just would throw this out as a suggestion.

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

Mr. BAKER: Mr. Speaker, Ladies and Gentlemen of the House: I guess what I would like to say to you this afternoon is that I hope you would not vote for the indefinite postponement of this amendment, because I would like to vote for this amendment and then vote for the bill as amended.

I am thinking a little bit about something I remember from my childhood when I used to listen to the radio. I used to listen to the series of Doctor Kildare. I recall listening to the part about the Hippocratic oath. I think that is something we really haven't brought up here, about that oath that that doctor takes when he deals with a patient. That is why I have problems with the bill, because it doesn't leave any room for the doctor to make a very important judgement that he has sworn to uphold.

If you would vote for this amendment, and I hope you would vote for the amendment, then myself and people who have my position can vote for the bill. I hope you would do that in the spirit of some kind of compromise. I think that is awfully important. This issue, I think, tears us apart far more often than it should, and that really bothers me. So, once again I hope you seriously consider the amendment so that I can then go ahead and vote for the bill.

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

Mr. LAFFIN: Mr. Speaker, Ladies and Gentlemen of the House: It is hard for me to sit here this afternoon and really believe that a person that has voted against all the good bills that we have had here on abortion, then all of a sudden an amendment comes down the pike and he is then going to turn around and vote for the bill. Well, that tells me something and I am sure it tells the rest of the Members of the House something.

I think all of us in our travels could stand up on the floor of this House and tell some drastic tale of a young boy or a girl. Where was my very good friend Mrs. Beaulieu, when a 7 year-old little girl was brutally murdered by child abuse. I didn't see her then doing much hollering. Well, I will tell you my friends, yes, I am going to be quiet. I am telling you, my friends, that when we get down to the final stages and

start throwing things that are going to weaken the bill, they know we are on the right track. Maine's finest hour is only a short few days away. When all of these bills get downstairs, we know what is going to happen and the State of Maine is finally going to stand up and say, we don't want any more unborn children that are alive to be brutally murdered. That is what we are saying. I am not going to get excited about this I am not going to say anymore about it. That is all I am saying.

I know we have debated this thing, I know it is an emotional issue, but I am telling you, the people of Maine want young babies to live and if we don't see that they live, we will have the wholesale abortions that we have always had. I certainly hope that you would listen very strongly to Mr. Pearson, because what he said, he hit this right on the head.

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

MR. SILSBY: Mr. Speaker, Ladies and Gentlemen of the House: I know this issue has been debated at length. I don't believe, however, that this particular notification bill has been discussed in any great detail. I would like to take you through a few parts of it.

Our committee did a substantial amount of work on the bill and on the committee amendment. We also worked with the representative of the Maine Medical Association for the purpose of arriving at something that would satisfy both the medical profession and satisfy the public at large. We felt that we arrived at such an agreement or compromise on this issue.

With all due respect to the gentlelady from Vassalboro, I believe that House Amendment "A" would effectively destroy the integrity of our committee amendment and I urge you to oppose it.

You know, when we start talking about parental notification and everything, we didn't hatch it up in the State of Maine and we didn't hatch it up in this House. This proposition has been supported by the Supreme Court of the United States.

You have all received the handouts that have been passed around quoting various justices on this particular notification issue. I would just like to reread this one little paragraph which shows what we are talking about. There can be little doubt that the state furthers a constitutionally permissible end by encouraging an unmarried pregnant minor to seek the help and advice of the parents in making the very important decision whether or not to bear a child. That is a grave decision, and a girl of tender years, under emotional stress, may be ill equipped to make it without mature advice and emotional support. Now, that is the Supreme Court of the United States talking whether we like it or not. We have tried to adapt a committee amendment that would lie within the constitutional perimeter and I think we have done that.

There is one area that I would like to mention to you, the definition of minor. As you know, under our law a minor is a person of 18 years or younger. However, you will see in Committee Amendment "A", a minor is defined as a person who is less than 17 years of age. I would like to have you know why that is in there as 17 years of age. It is in there because the Maine Medical Association suggested to us that doctors would have very great difficulty with young girls who had gone off to college who were in their 17th year, approaching 18, and were living apart from their parents but not emancipated. For the purpose of accommodating the profession and making it easier, the committee thought that was a reasonable approach to reduce the age of minority down to 17.

Now, as far as the notification part of the bill is concerned, the physician is required to give actual notice, if he can, within 24 hours of performing the abortion. If he can't give actual notice, he has to give written notice 48 hours before the abortion and also keep a record.

There is an exception. It is just like House Amendment "A", in effect. The exception provides, if in the best clinical judgment of an attending physician the life or health of the minor will be endangered if the abortion is not performed immediately, the notice requirements shall not apply. The person who performs the abortion shall notify actually or in writing one of the parents or guardians of the abortion within 24 hours of that abortion or notify the department of his inability to give notice. Now, that provision deviates from the House amendment which we are looking at now, in that the House Amendment, the physician could make the subjective judgment as to whether to give notice. If he does not want to give a notice, he merely files a statistical report with the Department of Human Services in his next reporting period. However, the committee amendment requires him, in the case of an emergency, to give a notification even after abortion. I see nothing wrong with that and I am sure that most of you don't either.

As I have indicated before, we have worked long and hard on this to accommodate the professional and also meet the needs of the public. I don't believe, really, that we have significantly impaired the physician's right to make a living and I don't believe we have placed a significant burden on the profession. So, I hope you will defeat this amendment and pass the bill.

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

MR. MORTON: Mr. Speaker, Ladies and Gentlemen of the House: I would like to reply to some of the remarks that have been made. I think I will work backwards. I will go right from the gentleman who was first on his feet, in his last remarks he dealt with the exception that is in the committee amendment, which is one of the things we are amending with his House Amendment.

He pointed out that it was about the same thing. I submit to you, ladies and gentlemen, it is definitely not the same thing, not the same thing at all, because the implications of the House Amendment are that the parents would not be notified. It is just as simple as that.

If the physician felt the life or health of a minor, as it is stated in the Committee Amendment or as it is stated in the House Amendment, if the health of the minor were to be harmed or impaired, then the Committee Amendment says that the person who performed the abortion shall notify actually or in writing one of the parents or guardians of the abortion within 24 hours of that abortion or notify the department of his inability to give notice. Certainly there is a tremendous difference in the notification requirements between the Committee Amendment and the House Amendment. So, I hope you will not be misled by the remarks of the gentleman and I am sure he did not intend to mislead you.

I would also like to respond to the remarks of the gentleman from Westbrook when he implied that the gentlelady from Portland had no concern for an abused seven year old child. Obviously, that is not correct, absolutely and incontrovertibly not correct. The gentleman from Westbrook is certainly wrong in asserting any such thing or implying any such thing.

I think the gentlelady from Portland has told you a story which is the real world out there, what really goes on, and the need for an exception for the likes of which this Committee Amendment would support.

I am really surprised that the gentleman from Old Town, Mr. Pearson and his seatmate, the gentleman, Mr. Diamond, would talk about barn doors. The impugning of the medical profession under such terminology, it seems to me, would be pretty great.

I would point out to you, as was pointed out by the gentleman from Bangor, Mr. Tarbell, that there are in statute words and language which deal with the word health. The gen-

tleman from Bangor mentioned the state statutes; well, I would like to go a little bit higher than that, and although I question the validity of the value, I should say, of discussing Supreme Court rulings of this body, I do feel as though it is incumbent on me to point out that the word health has been defined.

In Doe versus Bolton and so forth and so forth and I quote, "Whenever an abortion is necessary to professional judgment that may be exercised in the light of all factors, physical, emotional, psychological, familial and age, relevant to the well being of the patient, all these factors may relate to health." I repeat, all these factors may relate to health. It goes on to say that this allows the attending physician through whom he needs to make his best medical judgment.

Now I would like to refer to the amendment. I want you to know that there was great care that went into the drafting of this amendment. I was in on the drafting, as were a lot of other people, and some real hard decisions were made. The key section of the amendment comes right after number four, in the middle of the page, "The exception," it says "if after professional consultation." Now we are talking about what that doctor does as a professional. After professional consultation with the minor, and we are not changing the definition of minor, the definition that the gentleman from Ellsworth described is the minor that is referred to here and that same definition still stands, is still in the committee version—in the medical judgment of the physician—notice the word "medical judgment"—we could have left the word medical out, but then the thing would have been wide open and you could have said, well, you are letting the physician use his moral judgment. So the word medical was put into this specifically so that the physician would be restricted to using his medical judgment. What else do you hire him for? That is what he is there for. Why does anyone go to a doctor but to get his medical judgment. We must remember that he is a professional, a professional called to one of the highest callings there is. I am just a little bit appalled that the gentleman from Old Town would even think to impugn the motives of a physician under these circumstances.

Finally, the word "evidence" is in here. That physician has got to learn from his professional consultation, using his best medical judgment, that there is evidence, ladies and gentlemen, that the notification would result in harm to the health of the minor. Now, that is pretty simple, pretty easy to understand. It pins it down. It doesn't say anything about what the minor might say, the objections that the minor might have. The doctor has got to find "evidence" in his professional consultation that harm would result from the notification.

You have had examples of that harm described to you. This is a very serious amendment. I would point out that what the gentleman from Ellsworth said about the rest of the bill and why the committee structured it the way they did, the fact that the bill as amended by the committee was to encourage notification. Well, that is just exactly what the bill will continue to do, encourage notification. But it will not require that doctor, against his best medical judgment, after a professional consultation, to take an action which would result in harm to one of his patients, someone who has gone to him for protection and good advice. Can you take that away from the doctor? I think not. I think this is a very reasonable and fair amendment, and if good old Maine common horse sense can ever be applied to this issue, it can be applied with this amendment. I certainly hope you will support it.

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

MR. D. DUTREMBLE: Mr. Speaker, Ladies and Gentlemen of the House: I find problems with this amendment in one place in particular,

and I think Mr. Morton hit it. I don't know if he answered my objections or not. He said that you have to find evidence. Does that mean that there would have to be medical evidence that the child had been abused in the past? How do you judge mental evidence? What kind of evidence do you show as possible mental harm that the child did suffer?

The section that I have the biggest problem with is the part that says "in the medical judgment of the physician." I do have a daughter, and after 15 or 16 years, I have loved that daughter. I have raised her and we have shared problems and we have shared good times. I would think it would not be the medical judgment of the physician but the consultation of this whole abortion thing should be with me or my wife or the parents. I find deep problems with having the physician make such a decision like that.

Representative Silsby talks about a girl being in severe stress during these times, and I can agree with that. But I can also see that the parents of that child will be the ones that are more apt to help her.

If my daughter had the unfortunate experience that she had to come to me and say, I have to have an abortion, the first thing I would try to do is talk her out of it. That is the way I believe, that is what I believe. But if I could not, then I would be able to help her out. I would be able to console her. I think that the mental harm that you could cause to a child by hiding something like this from a close knit family would be as severe. I also think that a girl could make any physician believe that there could be possible harm if they were to let it be known to the parents. It is also possible, this whole time, that all the child is trying to do is protect the mental anguish of the parents.

So, I would hope that we would vote against this amendment.

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

Mr. KELLEHER: Mr. Speaker, Ladies and Gentlemen of the House: In the six terms that I have been in this body, I have never spoken on an abortion bill and I don't intend to speak now. I just want to give you my 11 years of experience in here in observations. Those who are for abortion are speaking in behalf of the amendment and those who are against are speaking against the amendment. I say, why don't we just vote on the amendment.

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

Mr. ROLDE: Mr. Speaker, Ladies and Gentlemen of the House: The gentleman from Ellsworth, Mr. Silsby, has ably explained the bill to which we are putting this amendment, which we haven't discussed before since it went under the hammer on the first reading. He has aroused several questions in my mind and I would like to pose them to either that gentleman or anyone else who would answer.

These question are: (1) are both parents to be informed under the bill? (2) What if the parents are divorced? If so, which parent is informed and if only one parent, who makes the judgment? (3) Did the Committee deal with the question of incest? If a father has caused his daughter to become pregnant and seeks an abortion, is the mother to be informed? Finally, can a past record of child abuse be taken into account by the doctor under the committee's exemption in the Committee Amendment?

The SPEAKER: The gentleman from York, Mr. Rolde, has posed a series of question through the Chair to any member who cares to answer.

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

Mr. SILSBY: Mr. Speaker, Ladies and Gentlemen of the House: I am sorry, I didn't get all four questions but I did get the first question and the Committee Amendment provides that the notice will only have to be given to one

parent.

As far as incest is concerned, the doctor is presently under an affirmative obligation to report child abuse and or child neglect, and in the 108th Legislature, we passed a statute, Title 22 Section 3853 and subsequent sections, which provides in part that persons are mandated to report suspected child abuse or neglect. When any medical physician also includes other occupations, without just when any medical physician knows or has reasonable cause to suspect that child has been subjected to abuse of neglect or observes the child being subjected to conditions or circumstances which would reasonably result in abuse or neglect, when such individual is acting in his professional capacity, he shall immediately report or cause a report to be made to the department. So you can see, we already have in our laws a requirement, an affirmative obligation on the physician to report anything when he feels there has been neglect or abuse or there appears that there might be.

I am sorry, I don't recall the other questions but I would be glad to answer them.

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

Mr. ROLDE: Mr. Speaker, Ladies and Gentlemen of the House: My final question was whether a past record of child abuse could be taken into account by the doctor under the exemption in the committee amendment? Also, now that you have cited the law on child abuse reporting, would the doctor, even in this instance, be required to notify the parents even though he is required under the child abuse statute to report to the department? Would he also have to make this notification to the parents?

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

Mr. SILSBY: Mr. Speaker, Ladies and Gentlemen of the House: In answer to Mr. Rolde's question, I believe he would still have to give the notice, although he would also have to give a notice to the Department of Human Services.

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

Mr. JALBERT: Mr. Speaker, Ladies and Gentlemen of the House: I was in back of the hall and I think I heard the gentleman, my good friend from Farmington, Mr. Morton, say that he helped write this amendment. I may be wrong, but I thought I heard that comment. I thought this amendment had been pretty much drafted by a young lobbyist from the Maine Medical Association. Is that correct or isn't it? I would ask anyone that might be able to answer that, please.

The SPEAKER: The gentleman from Lewiston, Mr. Jalbert, poses a question through the Chair to anyone who may care to respond.

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

Mr. MORTON: Mr. Speaker, Ladies and Gentlemen of the House: As I said before, the amendment that is here on the floor of the House this afternoon was drafted by several people and I had a great deal to do with it.

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

Mrs. HUBER: Mr. Speaker and Members of the House: I think you probably know how I feel about abortion in general and certainly this bill is not one that pleases me. However, I rise today not to deal with abortions, because the amendment, which I hope we will restrict our remarks to, does not deal with abortion, it deals with the potential of child abuse.

The gentleman from York, Mr. Rolde, made the point extremely well when he elicited the response from Mr. Silsby that in fact if child abuse was apparent, the physician would be required to inform not only the Department of Human Services, but those who were abusing the child.

Mr. Silsby's remarks bothered me considerably or I wouldn't have gotten to my feet. He

spoke of satisfying the medical profession and the public at large.

I would submit to you that somebody very important has been left out, that is the pregnant young woman. He also stated that the state should encourage communication between the pregnant young woman and her parents. I would certainly agree with that. For what it is worth, I have three daughters and I would want to know.

However, this bill does more. Mr. Morton might forgive me but this does more than encourage, it requires, without the amendment, that the parents be notified and the amendment, to me, is the crux of this problem.

I happen to believe in a woman's right to an abortion in the first three months of her pregnancy without the interference of anyone. However, this bill infringes on that and what is worse, it allows a potential case of child abuse to happen with the encouragement of this legislature. That is more than I can take and that is more than I will be responsible for.

I can only commend the gentlelady for her amendment. It speaks directly to a problem. I guess I would say I will live with the amendment if it is amended, but by itself, it does not answer this equally important question, that of health and safety of all our children, and I wish the committee had considered them when they wrote the amendment.

Mr. Doukas of Portland moved the previous question.

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

A vote of the House was taken, and more than one-third of the members present having voted for the motion for the previous question, the previous question was entertained.

The SPEAKER: The question now before the House is, shall the main question be put now? This is debatable with a time limit of five minutes by any one member. Is it the pleasure of the House that the main question be put now?

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

Mr. CARRIER: Mr. Speaker, Ladies and Gentlemen of the House: I object to putting the main question now. As much as I have my own feeling about the bill and the contents and I haven't spoken on the abortion bills yet, I have held myself back very strongly but I do wish, even if the opponents don't agree with us and don't see the way we do, I think as before, as I always have objected to putting the main question now.

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

Mr. NORRIS: Mr. Speaker, Ladies and Gentlemen of the House: I do not intend myself to speak in this issue but I think it is very important to everyone in this House and I think everyone should be given a chance to have their say this afternoon. So, I would hope you would defeat the motion for the previous question.

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

Mr. DOUKAS: Mr. Speaker, Ladies and Gentlemen of the House: I have a lot of patience and I hardly ever get up to say that much, but in the past couple of days I have heard everything I ever wanted to know about abortions and anti-abortion and the whole thing. And I came in here and I am going out with same things that I had in mind when I came in. Nothing anybody has said has really dissuaded me one way or the other. Maybe I have learned a few things, but I think that is true of 99 percent of the people in here. I would like to get to some other business.

The SPEAKER: The pending question now is, shall the main question be put now? All those in favor of the main question being put

now will vote yes; those opposed will vote no. A vote of the House was taken.

44 having voted in the affirmative and 54 in the negative, the main question was ordered.

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

Mr. SIMON: Mr. Speaker, Ladies and Gentlemen of the House: Thank you, Mr. Speaker, and I would like to thank the majority of those who voted on this issue who perhaps have an open mind on some aspects of the issue and who are willing to listen a little bit longer to people who have given it a lot of thought. I would like to address myself specifically to the comments of the gentlelady from Falmouth, Mrs. Huber. I think she has raised an excellent point with respect to this bill. That point is the interaction between the problem of minor's abortions and child abuse.

If there is a problem of child abuse in a family, that will have preceded the pregnancy and it will go on if there were no pregnancy. It was a feeling of the majority of the committee that we should treat that or punish that and not use secret abortion as a quick fix.

We had a very fine hearing yesterday afternoon at which three bills on domestic violence were presented. The gentlelady from Waterville, Mrs. Kany, the gentlelady from Portland, Mrs. Nelson, and two fine representatives with the Department of Human Services explained to us the theories of dealing with domestic violence that represent the state of the art in this area in this country today. The key to that state of the art is treating the family as a unit and not using quick fixes or bandaid approaches as an easy out and as a means of avoiding the overall problem.

The Department of Human Services can afford the emergency shelter by means of an ex parte court order, a court order issued without adversary proceedings, without the knowledge of the parent, to protect a minor who a physician believes to be in danger as the result of an abusive home situation. In other words, if a girl, who has become pregnant and seeks an abortion and believes that she will be abused if she has the abortion, and if her parents are notified, if this sad situation arises, then we have laws on the books to protect that girl, and those laws will be enforced.

I respect the gentlelady from Vassalboro, Mrs. Mitchell. From the bottom of my heart, I know she is trying to address this problem in good faith. I appreciate the energetic efforts of the gentleman from Farmington, Mr. Morton, in helping draft this amendment, but I really don't think that this amendment, which would gut the bill, is the right answer to the problems of domestic violence.

Domestic violence is a terrible and complex situation, but if we don't treat the family as a whole, if we don't recognize that a give mother may not be a wonderful mother, but she is still that girl's mother, then we are burying our head in the sand. And for that reason, Mr. Speaker, I hope that you will vote to indefinitely postpone the present amendment.

The SPEAKER: The Chair recognizes the gentleman from Calais, Mr. Gillis.

Mr. GILLIS: Mr. Speaker, Ladies and Gentlemen of the House: As the good gentleman from Ellsworth outlined, the notification of a parent that his or her child is about to have an abortion is recognized by the Supreme Court. To deny this notification to a parent is, in my estimation, the denial of the existence of the sanctity of the home, it is there. If your child was going to have an abortion, wouldn't you want to know about it? I know I would. Please vote against this amendment.

The SPEAKER: The Chair recognizes the gentleman from Brooklin, Mr. Bowden.

Mr. BOWDEN: Mr. Speaker, Ladies and Gentlemen of the House: I hadn't intended to get up like some of you, but I have got to respond to what Mr. Gillis said. I think there are times when, as far as the sanctity of the home

is concerned, it has been destroyed by the parents already. I don't think there is any sanctity.

I have two little girls who are growing up much too rapidly for me, and I hope and pray that they never find themselves in the situation this bill seeks to address. I certainly would want to know and be able to share whatever problems they have.

I think it is as plain as the nose on anybody's face that there are times when parental notification in a situation like this would just plain be disastrous.

The SPEAKER: The Chair recognizes the gentleman from Fort Kent, Mr. Barry.

Mr. BARRY: Mr. Speaker, Ladies and Gentlemen of the House: It is rather interesting to listen to the debate. I would like to possibly address some comments to the gentleman from Farmington, Mr. Morton, who stressed professional judgment of a medical doctor. I would find that pretty fascinating to judge the professional qualifications and judgment of the doctor in the case of an abortion clinic in South Portland, in the State of Maine, whether or not that judgment would prevail towards the parents or towards the person having the abortion, or whether or not that would be a neutral professional judgment. That is a question, I guess.

The SPEAKER: The Gentleman from Fort Kent, Mr. Barry, has posed a question through the Chair to anyone who may care to answer.

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

Mr. MORTON: Mr. Speaker, the good gentleman certainly has his right to his opinion of the profession of medicine. I can't argue with that, but it is his opinion and I think we certainly have found that the body of professionalism that is embodied by the medical profession is the very highest, and I see very few instances where this particular sort of a thing would be breached.

You are never going to have perfection, ladies and gentleman. If you did have perfection, the young lady wouldn't be pregnant in the first place. She probably didn't want to be, probably didn't intend to be, probably had no intention of her parents ever knowing that she was sexually active, but the fact remains, that is the situation that she is faced with. But that really hasn't anything to do with this bill or this amendment, despite the very learned remarks of the gentleman from Lewiston, Mr. Simon.

A great debating tactic is to talk about something else when you don't want to talk about what the subject is. So he put a pretty good dissertation before you about child abuse. Child abuse isn't mentioned in this amendment anywhere nor is it mentioned in the committee amendment. This amendment deals with harm to the health of the minor, and the judge of that harm to the health of the minor, no matter what it may be, is a position after a professional consultation, and it is confined to his medical judgment. That is all we are talking about. Anything else that you bring into the argument is extraneous and intended to confuse.

I understand the feelings of those who would not wish to have something of this nature kept from them, and I am sure that those who are standing here and saying that would be most supportive. Unfortunately, they do not necessarily represent what goes on out there in the real world. So, I urge you to give these doctors, and that is what this amendment addresses itself to, these doctors the opportunity to make their professional judgment. It is all the amendment asks for.

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

Mrs. NELSON: Mr. Speaker Men and Women of the House: I will be very brief. In response to Representative Simon talking about the Department of Human Services, don't count on them to come immediately to the aid of this young woman, because it will depend on the Watts line, who answers the phone, and how fast that person can get to the aid. I called the

Department of Human Services and asked that very question, so don't rely on the Department of Human Services to come and help this young lady before she gets to her home or after.

Also, one thing struck me. You know, what if you were a young woman, where you find yourself in the position to have an abortion, and Mr. Dutremble were your father, and what if Mr. Laffin were your father?

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

Mr. CLOUTIER: Mr. Speaker, Ladies and Gentlemen of the House: I find it quite difficult to get up and speak against the good woman from Vassalboro, Mrs. Mitchell, but I also feel that we are getting off the subject. The subject is that this amendment will water this bill down so bad that it will give the jurisdiction to the doctor who performs abortions to make a decision. I think it would totally wipe out the clear intent of the bill.

I don't know how much validity you can place on a doctor who performs abortions. I guess a lot of people could place a lot and other people could place a little, but I know from the neighborhood that I grew up in, child beating occurred almost every day. It didn't only occur because the daughter was pregnant.

And as far as incest is concerned, I think that a parent, if he were the only parent, as long as that had to be reported to the Department of mental Health, then that man would have to be taken care of, because it would not only be known by his daughter and himself, it would be known by the people who could take care of the problem.

I have here 24 cases where girls have died with legal abortions being performed upon them, and I would like to read just a few. An 18 year-old girl died on June 14, 1977, a few hours after undergoing a legal abortion in an abortion clinic. Autopsy revealed the cause of the death to be a hemorrhage from a ruptured uterus. Fetal parts were still present in uterus, including fragments of skull and vertebral column. A teenager died in the back seat of an automobile while being rushed to hospital near her home after having fainted in her bathroom a few hours after the abortion. A 14-year old, 22 weeks pregnant, underwent saline abortion. She continued to bleed heavily after delivery. Multiple sharp curettages were performed during which the uterus and bowel were perforated internally, torn. The patient died of peritonitis in septicemia 22 days after the saline abortion. Another 19-year old teenager, 10 weeks pregnant, died because of recurring convulsions and postoperatively expired.

I am not going to read through a lot, but I did think that this was pretty important and everybody should understand. According to documented reports, many teenage girls undergo the abortion operation needlessly, as they were never pregnant to begin with, and this following case report illustrates this. An 18-year-old female underwent suction curettage for the suspected pregnancy of 8 weeks duration. She committed suicide 3 days after the procedure, having expressed guilt about having killed her baby. There had been no pregnancy tissue in the suction specimen but the patient was never told this.

Ladies and gentlemen, I understand what everybody here is trying to do today and I can sympathize but I can't agree. Whether or not the woman involved, or the young teenager involved, or if she does not have that parental notification, this bill is no good, and I will give you an example of a girl who we have instructed in class, my wife and I, and she came to us, a 13-year old girl, she was pregnant. She came to us before she went to her parents and we tried to help her out. But she had such guilt feelings, she told her parents. I know you are going to think this is great to debate against, but I want to tell you the reason why. Her parents made her have an abortion when she wanted to have that child. And I guess the

reason I stood up to talk on it is a reason nobody else had talked about yet, and that is that the parents need to be informed more so than the children do, and if a child feels that she is going to be beaten when she goes home to tell her parents, or if the doctor is notified, then I think, under due process of the law, somebody should be there with that child when this occurs.

Parental beating will take place anyway, I have seen it, I am sure you all have seen it in your lives but, ladies and gentlemen, don't be misled, that is not the real reason the people who have talked on this bill, and I respect them very highly, but some of the people, even some of the people who drew up the amendment on this bill, have been voting against this issue. It is an out, and I hope that you will vote against the amendment.

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

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

The SPEAKER: The pending question is on the motion of the gentleman from Westbrook, Mr. Carrier, that House Amendment "A" to Committee Amendment "A" be indefinitely postponed. All those in favor will vote yes; those opposed will vote no.

ROLL CALL

YEA — Austin, Barry, Berube, Blodgett, Bordeaux, Boudreau, Brodeur, Brown, A.; Brown, K. C.; Call, Carrier, Carroll, Carter, D.; Carter, F.; Chonko, Churchill, Cloutier, Conary, Cunningham, Damren, Diamond, Drinkwater, Dutremble, D.; Elias, Fenlason, Gillis, Gould, Gray, Gwadosky, Hanson, Hickey, Hobbins, Hunter, Jacques, P.; Jalbert, Joyce, Kane, Kelleher, Laffin, Lancaster, LaPlante, Leighton, Lizotte, Lougee, Mahany, Marshall, Martin, A.; Matthews, McHenry, McPherson, McSweeney, Michael, Nadeau, Nelson, A.; Nelson, N.; Paradis, Paul, Pearson, Peterson, Prescott, Rollins, Silsby, Simon, Smith, Soulas, Strout, Studley, Theriault, Tuttle, Violette, Wyman, The Speaker.

NAY — Aloupis, Baker, Beaulieu, Benoit, Berry, Birt, Bowden, Brannigan, Brennerman, Brown, K.L.; Connolly, Cox, Davies, Davis, Dellert, Doukas, Dow, Fillmore, Garsoe, Gavett, Gowen, Hall, Higgins, Howe, Huber, Hughes, Hutchings, Jackson, Kany, Kiesman, Leonard, Lewis, Locke, Lowe, Lund, MacBride, MacEachern, Masterman, Masterton, Maxwell, McKean, Mitchell, Morton, Nelson, M.; Norris, Payne, Peltier, Post, Reeves, J.; Reeves, P.; Rolde, Sewall, Small, Sprowl, Stetson, Tarbell, Tierney, Torrey, Tozier, Vose, Wentworth, Wood.

ABSENT — Bachrach, Bunker, Curtis, Dexter, Dudley, Dutremble, L.; Fowlie, Immonen, Jacques, E.; McMahon, Roope, Sherrburne, Stover, Twitchell, Vincent, Whittemore.

Yes, 73; No, 62; Absent, 16.

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

Thereupon, Committee Amendment "A" was adopted.

The Bill was passed to be engrossed as amended by Committee Amendment "A" in concurrence.

By unanimous consent, ordered sent forthwith to the Senate.

The Chair laid before the House the following matter:

Bill "An Act to Increase the License Fees of the Master, Journeyman and Apprentice Oil Burner Man" (H. P. 1420) (L. D. 1623) which was tabled and later today assigned pending the motion of Mr. Birt of East Millinocket to

recede and concur.

Thereupon, the House voted to recede and concur.

The Chair laid before the house the following matter:

Bill "An Act to Establish Special Retirement Provisions for CETA Employees" (Emergency) (S. P. 268) (L. D. 809) (C. "A" S-201) which was tabled and later today assigned pending passage to be engrossed.

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

Mrs. BERUBE: Mr. Speaker, I would like to move indefinite postponement of this bill and all its accompanying papers.

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

Mrs. NELSON: Mr. Speaker, I ask that this be tabled for one legislative day.

Whereupon, Mrs. Berube of Lewiston requested a vote.

The SPEAKER: The pending question is on the motion of the gentleman from Portland, Mrs. Nelson, that this matter be tabled pending the motion of Mrs. Berube of Lewiston to indefinitely postpone and tomorrow assigned. All those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

27 having voted in the affirmative and 80 having voted in the negative, the motion did not prevail.

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

Mr. PAUL: Mr. Speaker and Members of the House: I do hope this afternoon you will support the good gentleman in her motion to indefinitely postpone.

As I sat on the committee and listened to this bill, I began to realize all the far-reaching implications this bill had.

This bill is designed to require the CETA employees be included under the Maine State Retirement System.

I realize we have a lot of business left, but I would like to take a few minutes of your time to explain to you why I am against this bill.

Let's consider the nature of the jobs, first of all, for these CETA employees. The law itself defines CETA employees as limited period employees. Most of you realize that most of these people are only working, for example, under a summer job program, maybe nine weeks. Some of them are in the potato fields in Aroostook County, some are taking classes. The point is, I believe a lot of these people that are CETA employees don't want this because, as the statistics indicate, 94 percent of the people enrolled in CETA are economically disadvantaged people. They need that money every week. They don't want to pay into the Retirement System. They can't afford that additional education.

Consider the cost to the employers as well. local businesses would have a hardship placed on them, the counties would have a hardship placed on them, because while awaiting reimbursement of these funds, which hopefully come, they have to put up the money, the county would have to raise by taxation their share of what would be considered the employer's contribution, and I submit it would be a hardship on many people.

The employer would have to wait, in the event the employee terminated his employment, for a period of time to be reimbursed for his contribution, and, again, I think that would be a hardship.

Finally, I would submit that this is counterproductive because, in my judgment, this bill would discourage employers from hiring people under CETA, because they would have this additional cost. They would have to pay the retirement benefit in addition to what they are paying now. Under workmen's comp they are required, in some instances, to pay health insurance, and I submit that this would discour-

age employers, it would be counterproductive to the whole CETA intent.

I think this bill might also have the effect of reducing the number of CETA jobs in the state because while the federal legislature debates monies to be allocated to the states under CETA, they have to consider the overall costs of the program, and certainly this is a cost, this retirement aspect would be an additional cost. When the federal legislature decides how much would go to the individual states, they are apt to be more concerned about x-number of dollars and not so much the number of jobs.

I would hope that before you vote on this bill, and I would request a division, you would think about the far-reaching implications of this bill.

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

Mrs. NELSON: Mr. Speaker and Members of the House: First of all, I would like to clarify some things. It is a cost to neither the state nor to the county nor to the city, the prime employer, the prime sponsor.

From the very beginning of CETA, in July of 1974, CETA enrollees were required to belong to the Retirement System, just as regular employees are required to belong, except that CETA funds from the enrollees prime sponsors, not the state or local money, who used to pay the employer contributions—let me first say this. We are not here to debate, it seems to me, the character or the quality of CETA positions, and what CETA is or isn't, that is not at hand. I know people bring different feelings to CETA. This is a program, supposedly, at this point, the hope is that people who are on CETA will, indeed, get full-time employment, not part-time employment, and in an effort to make the CETA program palatable, they have to have the same requirements for CETA full-time employees as regular full-time employees.

If you are a CETA employee in a city, all the other employees in your office belong to a retirement system and because you are a CETA employee, you do not, this would allow you to have that right to belong to the Retirement System.

Federal government has come up with rules and regulations for this program and has asked the individual states to comply with them; that is why the bill was introduced, so that those people who are on CETA programs, employed full time by a county, by the city or by the state, can belong to a retirement system. Right now, a CETA employee could, in fact, work for over 10 years and leave the job or retire or become disabled on the job and not receive any payment. But the same person doing the same job right next to them, who is not a CETA employee, would receive all the benefits that he was entitled to. This is to allow those CETA employees to join the system that everybody else belongs to in the same office they are working.

The SPEAKER: The pending question is on the motion of the gentleman from Lewiston, Mrs. Berube, that this Bill and all its accompanying papers be indefinitely postponed. All those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

82 having voted in the affirmative and 10 having voted in the negative, the motion did prevail.

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

Mrs. BERUBE: Mr. Speaker, I would like to move reconsideration and I hope that you all vote against me.

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

Mrs. NELSON: Mr. Speaker, I would request a division. I could see by the vote and all those beautiful green lights that this isn't going far.

I don't think you really understand if you are voting because you don't want people to become part of the State Retirement System or

if you are voting against the idea and the concept of CETA. I am not really sure. I wondered if somebody might be able to explain their concern and fear about this bill that received a twelve to one "Ought to Pass" report?

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

Mrs. MARTIN: Mr. Speaker, Ladies and Gentlemen of the House: I would like to put a question to the lady. I would like to ask her, if CETA is paid by federal money, would this pension be paid by federal money too?

What I am coming at is, this is a double standard of paying them twice.

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

Mr. CONNOLLY: Mr. Speaker, would the Clerk read the Committee Report, please?

Thereupon, the Report was read by the Clerk.

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

Mr. THERIAULT: Mr. Speaker and Members of the House: At first when this bill was heard before our committee, I was against it a hundred percent, but as time went on and it was explained to me more thoroughly, I became convinced that it was a good bill and that it should pass.

This bill will cost the Retirement System nothing. It will cost none of the employers anything. Any money that they spend will be refunded to them. Furthermore, if I understood it correctly, if these people work in any location under CETA with people who are under a retirement system who are not in CETA, then that employer will not be able to have people in CETA unless they do join the retirement system. It would mean that these people would not be able to get CETA employees.

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

Mr. NADEAU: Mr. Speaker, Ladies and Gentlemen of the House: A couple of quick comments. I would like to second the comments made by the gentleman from Sanford, Mr. Paul.

Number one, CETA, Comprehensive Employment Training Act, the comments made by the gentlewoman from Portland, Mrs. Nelson, she mentioned that if someone was in the CETA program—that is very unlikely. I hope that is not the case, because the federal dollars put into CETA are for one purpose and one purpose only, training, and the shorter time period a person stays under CETA, the more individuals that are in a position to be trained. The CETA program is to train the individuals, send them on to the private or public sector under budgeted situations, but let us not urge people to stay under CETA longer than they must.

Number two, again, it was commented by the gentleman from Sanford that these people were generally not paid very well and really could not afford to have that kind of money taken out of their weekly paychecks, so I would urge you to indefinitely postpone this.

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

Mrs. NELSON: Mr. Speaker, Men and Women of the House: These people would not be included in the retirement system while they were training, it is only after they have completed their training and are working full time.

I hate to mention the glorious name of the City of Portland, but at least in Portland there are 35 people who were trained as CETA employees who are now working for the City of Portland. All the other employees in the city are part of the retirement system, except for those 35 employees, as they are not in the retirement system. Should they remain in the City of Portland, working full time at a regular job, they would not have the same retirement benefits as those other people, and they are being paid by the city.

The SPEAKER: The Chair recognizes the

gentleman from Lewiston, Mr. Nadeau.

Mr. NADEAU: Mr. Speaker, correct me if I am wrong, but once a CETA employee finishes his or her term and is hired on a full-time basis by that prime sponsor, I believe they are no longer considered CETA employees and therefore would qualify for any benefits that the ordinary full-time employee would receive.

The SPEAKER: The pending question is on the motion of the gentlewoman from Lewiston, Mrs. Berube, that the House reconsider its action whereby this Bill and all its accompanying papers were indefinitely postponed. All those in favor of reconsideration will vote yes; those opposed will vote no.

A vote of the House was taken.

15 having voted in the affirmative and 74 having voted in the negative, the motion did not prevail.

Sent up for concurrence.

The Chair laid before the House the following matter:

SENATE DIVIDED REPORT — Report A (H) "Ought to Pass"; Report B (5) "Ought Not to Pass"; Report C (2) "Ought to Pass"; as amended by Committee Amendment "A" (S-196), Committee on Labor on Bill "An Act to Continue Medical Benefits to Employees During Collective Bargaining Negotiations, Lockouts, Strikes and Other Job Actions" (S. P. 317) (L. D. 947) which was tabled and later today assigned pending the motion of Mrs. Lewis of Auburn to indefinitely postpone the Bill and all its accompanying papers in concurrence. (Roll Call Requested)

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

Mr. WYMAN: Mr. Speaker, Ladies and Gentlemen of the House: I appreciate you being so patient this afternoon with us. This was the bill, as you remember, and I must remember with change was in error the other day.

I would hope you would defeat the motion to indefinitely postpone the bill so that I could move Report C, which is the report that we wanted all along, at least most of us on the committee who support the bill, and that is the bill in its amended form which will allow employees to pay for the continuation of their benefits. The employer will not have to pay at all during a strike or lockout, but the employee, if he wants to, will be able to pay for their benefits so they can keep their program going, so they can keep it in effect.

Right now, there is a real possibility, and I guess it has happened, where employees, during a strike or lockout, have lost their insurance coverage. This is not going to place any burden whatsoever on the employer, at least Report C will not, and that is the one I am supporting. I want you to keep that in mind. There was a little mistake, and the gentleman from Farmington, Mr. Morton, and some of you asked me about that and there was a mistake in committee on it. What we intended to sign out was not the bill without the amendment but we want the bill with the amendment, and I hope you will oppose the motion so we can move Report C.

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

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

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

Mrs. LEWIS: Mr. Speaker and Members of the House: I would call your attention to the amendment, because the original bill actually refers to Title 26 which, as you probably know, refers to the labor laws. However, the amendment is Title 24, it is the business laws, the in-

surance laws. I like the concept of the amendment very much. In fact, I think I might have been one of the ones on the committee to suggest that this possibly was the way to go. However, the people on the Labor Committee really do not have the expertise to write insurance laws. We didn't check with the Commissioner of Insurance about this at all. We were told that the Business Legislation Committee was dealing with some insurance bills that might have something to do with this subject and we thought some of conferring with members of that committee to find out which was the better way to go, but we didn't we came out with the report.

I can't really say that I am opposed to the amendment. What it does is, it says that no health insurance policy can be sold in the State of Maine that would not allow an employee to pick up his own benefits while he and his fellow workers are on strike. That concept is very good. Obviously, though, if there were ten of us all on strike, one of us decided to pick up our own insurance benefits, the other nine felt that it was more than they could afford, then it is obvious that somebody has to pay the difference in the premiums. This bill partially addresses that but it doesn't say who is making up that difference. Is it the employer who makes up that difference, is it this one single employee whose rates are really going to be so high you are not doing him that much of a favor, or will the other employees have to pay whether they want to or not? That is not addressed, and I think that we should deal with the Insurance Commissioner or with the people in the Insurance Department so that we fully understand what we are doing with this bill.

I hate to move indefinite postponement of it. Of course, I was opposed to the original bill, but the concept of the amendment is really very good. But as it reads, I know that the members of the Labor Committee, because we did discuss it, we don't fully understand the implications of it. Therefore, I guess I would have to move indefinite postponement, unless somebody can think of a better thing to do with it.

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

Mr. BOUDREAU: Mr. Speaker and Members of the House: I hope you won't vote for indefinite postponement. I think the thing we could do with it is to allow Mr. Wyman to move Report C. Then we could check with the Insurance Commission and see if we might be able to amend Report C to take care of some of the problems that might arise. That is one thing we could do with it.

Defeat Mrs. Lewis's motion, let him move Report C and we will work on the bill from there.

Thereupon, Mrs. Lewis of Auburn requested permission to withdraw her motion to indefinitely postpone, which was granted.

Mr. Wyman of Pittsfield requested permission to withdraw his motion to accept Report A, which was granted.

On motion of Mr. Wyman of Pittsfield, Report C was accepted in non-concurrence and the Bill read once. Committee Amendment "A" (S-196) was read by the Clerk and adopted and the Bill assigned for second reading tomorrow.

The following papers appearing on Supplement No. 2 were taken up out of order by unanimous consent:

Majority Report of the Committee on Judiciary reporting "Ought Not to Pass" on Bill "An Act Relating to Access, Copying and Release of Medical Records" (H. P. 935) (L. D. 1165)

Report was signed by the following members:

Messrs. COLLINS of Knox
DEVOE of Penobscot

— of the Senate.

Messrs. CARRIER of Westbrook
JOYCE of Portland

Mrs. SEWALL of Newcastle
Messrs. SILSBY of Ellsworth
GRAY of Rockland
STETSON of Wiscasset
HUGHES of Auburn

— of the House.

Minority Report of the same Committee reporting "Ought to Pass" as amended by Committee Amendment "A" (H-491) on same Bill.

Report was signed by the following members:

Mrs. TRAFTON of Androscoggin

— of the Senate.

Messrs. HOBBS of Saco
LAFFIN of Westbrook
SIMON of Lewiston

— of the House.

The Reports were read.

On motion of Mr. Hobbins of Saco, tabled pending acceptance of either report and specially assigned for Tuesday, May 29.

Majority Report of the Committee on State Government reporting "Ought to Pass" as amended by Committee Amendment "A" (H-503) on Bill "An Act to Clarify the Form of the Local Consent Resolution Regarding State Housing Authority Assistance Allocation" (H. P. 402) (L. D. 508)

Report was signed by the following members:

Messrs. AULT of Kennebec
SUTTON of Oxford
MARTIN of Aroostook

— of the Senate.

Messrs. PARADIS of Augusta
BARRY of Fort Kent
LANCASTER of Kittery

Mrs. KANY of Waterville
Mrs. DAMREN of Belgrade
Mrs. REEVES of Pittston
Mr. CONARY of Oakland

— of the House.

Minority Report of the same Committee reporting "Ought to Pass" as amended by Committee Amendment "B" (H-504)

Report was signed by the following members:

Mrs. MASTERTON of Cape Elizabeth
Ms. LUND of Augusta
Mrs. BACHRACH of Brunswick

— of the House.

The Reports were read.

On motion of Mrs. Kany of Waterville, the Majority "Ought to Pass" Report was accepted and the Bill read once. Committee Amendment "A" (H-503) was read by the Clerk and adopted and the Bill assigned for second reading tomorrow.

Majority Report of the Committee on Health and Institutional Services reporting "Ought to Pass" on Bill "An Act to Authorize the Administration of Medications by State Corrections Officials in Certain Cases" (H. P. 1025) (L. D. 1270)

Report was signed by the following members:

Mr. CARPENTER of Aroostook

— of the Senate.

Mrs. PAYNE of Portland
Messrs. MATTHEWS of Caribou
NORRIS of Brewer
BRODEUR of Auburn
CLOUTIER of South Portland
VINCENT of Portland

— of the House.

Minority Report of the same Committee reporting "Ought to Pass" as amended by Committee Amendment "A" (H-493) on same Bill.

Report was signed by the following members:

Mrs. GILL of Cumberland
Mr. HICHENS of York

— of the Senate.

Mrs. CURTIS of Milbridge
Mrs. PRESCOTT of Hampden
Mr. BRENERMAN of Portland

Mrs. MacBride of Presque Isle

— of the House.

The Reports were read.

On motion of Mrs. Prescott of Hampden, tabled pending acceptance of either report and tomorrow assigned.

Majority Report of the Committee on Election Laws reporting "Ought Not to Pass" on Bill "An Act to Establish a Presidential Primary in the State of Maine" (H. P. 45) (L. D. 56)

Report was signed by the following members:

Mr. PIERCE of Kennebec

— of the Senate.

Mr. BERRY of Buxton
Mrs. SEWALL of Newcastle

Ms. SMALL of Bath
Messrs. STUDLEY of Berwick
TIERNEY of Lisbon Falls

Ms. BENOIT of South Portland
Mr. NADEAU of Lewiston

— of the House.

Minority Report of the same Committee reporting "Ought to Pass" as amended by Committee Amendment "A" (H-502) on same Bill.

Report was signed by the following members:

Mr. FARLEY of York

— of the Senate.

Mr. HALL of Sangerville

— of the House.

Reports were read.

On motion of Mr. Tierney of Lisbon Falls, tabled pending acceptance of either report and later today assigned.

Majority Report of the Committee on Taxation reporting "Ought to Pass" as amended by Committee Amendment "A" (H-499) on Bill "An Act to Provide Property Tax Relief through a Homestead Exemption Tax Credit" (H. P. 1343) (L. D. 1585)

Report was signed by the following members:

Mr. TEAGUE of Somerset
Ms. CLARK of Cumberland
Mr. CHAPMAN of Sagadahoc

— of the Senate.

Mrs. POST of Owl's Head
Messrs. CARTER of Bangor
BRENERMAN of Portland
COX of Brewer
IMMONEN of West Paris
TWITCHELL of Norway
KANE of South Portland
WOOD of Sanford

— 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. LEONARD of Woolwich
MARSHALL of Millinocket

— of the House.

Reports were read.

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

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

This Maine Legislature, at least in the time that I have been here, has wrestled annually with the issue of property tax relief, permanent property tax relief, in the kind of form that that relief ought to take.

We have before you the Majority Report of the Committee on Taxation on a determination of that issue as we considered the Governor's Homestead Tax Credit Bill. What this particular bill does is provide for a permanent property tax credit in the amount of \$70 for homeowners and \$35 for renters. We made a few changes in the original bill and we did so for a couple of reasons. One was, as the testimony progressed on the various homestead bills that we have heard, even on our last day,

it became clear that having different amounts of money going to people in different communities, based on those mill rates, might both be confusing and, in fact, work against fiscal responsibilities, since the state would always be responsible for the amount of money that towns chose to levy at their own town meetings. Therefore, we made a decision to go with a set amount of money, making it possible for the state to more clearly judge its own expenditures and to prove some major fiscal responsibility for the various communities.

Renters are included in this homestead bill, primarily because all of us recognize that renters do, in fact, pay property taxes, albeit indirectly through their rental bills.

The bill presently calls for the same expenditure of money in this biennium and the committee was able to do that and yet include renters by taking the full amount of money that was to be spread over both years of the biennium, \$8 million in one year and \$13 million in the other, plus fractions in both, to make up \$22 million, and to fund a homestead credit in the second year of the biennium and thereafter, thereby being able to include renters, which I think was the wish of many people in this body and, in fact, the Governor himself.

I think all of us would like to have been able to use the property tax bill themselves and be able to give people a credit on their actual property tax bills, making it very clear that at that time the relief was directed through property taxes. Unfortunately, because of a Constitutional amendment that was passed last year the resulting Attorney General's opinion of that amendment, we were told that if we tried to have an exemption of valuation, or dollars on the local level, the state could only reimburse the communities for half of that exemption. That meant that other property taxpayers in that community would have to pick up the difference. I think that was the intent of none of us as far as homestead is concerned and therefore we do have to use the income tax form as a vehicle.

The people who do not pay income taxes, they will be able to use the same process as was available last year in the rebate, either filing through their tax and rent refund or if they do not use that, then filing a separate form. It is the best mechanism that we have presently to return property tax relief to the State of Maine at a low cost and I would urge your support.

When the vote is taken, I would request the yeas and nays.

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

Mr. LEIGHTON: Mr. Speaker, Ladies and Gentlemen of the House: I am not too familiar with this legislation but I would pose a question to anyone on the Committee who would care to answer.

Aren't we proposing to return money that possibly we don't have? That in the final analysis might have to be raised by increases in the income and or sales taxes? So people, some of whom don't pay real estate taxes at all, will get a decrease in their real estate taxes that some of them don't pay so they can have an increase in their income or sales taxes later on? Can someone clear that up for me?

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

Mrs. POST: Mr. Speaker, Men and Women of the House: I would be glad to respond to the question.

We have been assured by the finance people in the Governor's office that the money is available in this biennium and will be available in the next biennium. No one is more strongly committed to not increasing taxes, I think, than Governor Brennan. In fact, that was one of the issues that he ran on and I am sure that any issue which is going to increase taxes is likely to be vetoed by the Governor.

We are not talking about increasing any other

kinds of taxes. I think what essentially happens is, one of the reasons that the state has so much money is, for instance, that we have not funded business inventory reimbursement and people have had to pick up those millions of dollars on their property tax, thus freeing up more money in the state coffers. We have not funded education to the point that we said we would and therefore people have had to pick up those bills on the property tax, thereby freeing up more money in the General Fund.

The examples are numerous and we can argue from here to eternity on where every dollar in that General Fund came from. The issue is, do we want to give property tax relief to the people of the State of Maine or not? That is essentially the issue.

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

Mr. MARSHALL: Mr. Speaker, Ladies and Gentlemen of the House: I have that page of notes, which is about 40 words, which explains my rationale for voting against this. This is a \$22 million welfare redistribution bill from the income taxpayers of Maine to the property owners and renters of Maine. This is a redistribution measure at a time when we are sending out or recommending sending out to the people of Maine a \$22 million bond issue in transportation. This, to me, is a completely political move and I find it completely objectionable and I will never, ever support a bill of this nature.

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

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

The SPEAKER: The pending question before the House is on the motion of the gentleman from Owl's Head, Mrs. Post, that the House accept the Majority "Ought to Pass" Report.

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

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

The SPEAKER: The pending question before the House is the motion of the gentleman from Owl's Head, Mrs. Post, that the House accept the Majority "Ought to Pass" Report. Those in favor will vote yes; those opposed will vote no.

ROLL CALL

YEA — Aloupis, Baker, Barry, Beaulieu, Benoit, Berry, Blodgett, Brannigan, Brenerman, Brodeur, Brown, A.; Brown, D.; Brown, K.C.; Call, Carrier, Carroll, Carter, D.; Carter, F.; Chonko, Cloutier, Conary, Connolly, Cox, Cunningham, Davies, Diamond, Doukas, Dow, Dutremble, D.; Elias, Gavett, Gould, Gowen, Gwadosky, Hall, Hickey, Hobbs, Howe, Huber, Hughes, Jacques, P.; Jalbert, Joyce, Kane, Kany, Kelleher, Laffin, LaPlante, Lizotte, Locke, Lowe, MacEachern, Mahany, Martin, A.; Masterton, Maxwell, McHenry, McKean, McSweeney, Michael, Mitchell, Nadeau, Nelson, M.; Nelson, N.; Norris, Paradis, Paul, Pearson, Post, Prescott, Reeves, J.; Reeves, P.; Rolde, Sewall, Silsby, Simon, Soulas, Sprowl, Strout, Tarbell, Theriault, Tierney, Tuttle, Violette, Vose, Wood, Wyman, The Speaker.

NAY — Austin, Berube, Birt, Bordeaux, Boudreau, Bowden, Brown, K.L.; Damren, Davis, Dellert, Drinkwater, Fenlason, Fillmore, Garsoe, Gillis, Gray, Hanson, Higgins, Hutchings, Kiesman, Lancaster, Leighton, Lewis, Lougee, Lund, MacBride, Masterman, Matthews, McPherson, Nelson, A.; Payne, Peltier, Peterson, Rollins, Small, Smith, Stetson, Studley, Torrey, Wentworth.

ABSENT — Bachrach, Bunker, Churchill,

Curtis, Dexter, Dudley, Hunter, Immonen, Jacques, E.; Leonard, McMahon, Morton, Roope, Sherburne, Stover, Tozier, Twitchell, Vincent, Whittemore.

PAIRED — Dutremble L. — Marshall; Fowlie — Jackson.

Yes, 88; No, 40; Absent, 19; Paired, 4.

The SPEAKER: Eighty-eight having voted in the affirmative and forty in the negative with nineteen being absent and four paired, the motion does prevail.

Committee Amendment "A" (H-499) was read by the Clerk and adopted.

Under suspension of the rules, the Bill was read the second time, passed to be engrossed as amended and sent up for concurrence.

Majority Report of the Committee on Labor reporting "Ought Not to Pass" on Bill "An Act to Clarify the Disqualification Provisions of the Employment Security Law" (H. P. 821) (L. D. 1028)

Report was signed by the following members:

Mr. PRAY of Penobscot — of the Senate.

Mrs. BEAULIEU of Portland

Messrs. BAKER of Portland

WYMAN of Pittsfield

TUTTLE of Sanford

McHENRY of Madawaska

Mrs. MARTIN of Brunswick

— of the House.

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

Report was signed by the following members:

Messrs. SUTTON of Oxford

LOVELL of York

— of the Senate.

Messrs. CUNNINGHAM of New Gloucester

FILLMORE of Freeport

Mrs. LEWIS of Auburn

Mr. DEXTER of Kingfield

— of the House.

Reports were read.

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

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

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

Mr. BOUDREAU: Mr. Speaker, Ladies and Gentlemen of the House: If you would take out L. D. 1028 and take a look at it, it closes a loophole in the present law. As you know, now, Section I of Chapter 26, talks about a person having to earn four times their weekly benefit amount before they become eligible for unemployment. I think the intent of the present language in the law is to make sure that a person becomes attached to the labor force before they become eligible for unemployment.

The Commission has noted that some people have been coming into the Employment Security Committee requesting unemployment benefits and what they have been doing is bringing in affidavits to say, for instance, I painted my friend's house and I earned \$500 and here is a note from my friend saying that I did earn that money; therefore, under the provisions of the law, I am eligible to collect unemployment benefits. Well, I don't think the present language in the law means for that to happen, in that I think the intent is for a person to be attached to the labor force before they can become eligible again to collect unemployment.

If I'm wrong, I wish the gentleman from Pittsfield, Mr. Wyman, would clear this matter up for me, because it would seem that the Minority "Ought to Pass" Report would be the one we would want to accept.

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

desires.

The Chair recognizes that gentleman.

Mr. WYMAN: Mr. Speaker, Ladies and Gentlemen of the House: It is not very often in the Labor Committee that I have felt a certain ambiguity about bills that have come before us for our consideration. Most of the bills that come before us, I think both sides of the issue are pretty clear cut. Everyone knows where they stand and they know why they stand where they do and are able to justify their position.

In this particular case, this is not true. This is one of those issues that is not a black and white issue, it is a subtle gray area. I must frankly confess to you that for some time I was giving serious consideration to supporting this bill. I indicate that in all sincerity.

I do want to publicly state for the record that I applaud the efforts of the gentleman from New Gloucester, Mr. Cunningham, and the gentlelady from Auburn, Mrs. Lewis, for targeting in on what is admittedly a problem and a loophole in the law that definitely needs to be closed. I do not argue with that point, I agree with it wholeheartedly.

Under the current situation, there are those who are coming into the Employment Security Office when they have attempted to requalify and it has been very difficult, in fact virtually impossible, to verify whether they have in fact worked and earned the required amount. However, passage of this bill, that is, in its present form without amendment, will insure that every employee, in order to requalify for unemployment, we are talking about requalification now and not qualifying initially, but requalifying, will have to work for an insured employer. The intent is quite obvious, and that is to close the loophole to make sure that we can verify that these people have earned the required amount.

If you pass it, though, what is going to happen? I have been told and I believe that a number of employees in this state are working for uninsured employers. They are working at farm labor, marginal kind of work such as this. They are working at jobs other than painting people's houses and mowing their lawns. I think we need to keep that in mind. They are working at jobs that are legitimate work, they are working very hard and they are earning the amount.

If you pass this bill, they will not be able to qualify, even though they have earned the required amount, because they haven't worked for an insured employer.

Now I have been told by the proponents of this bill, both the lobbyists and the legislators who support it, that the overwhelming majority of the employers in this state are insured and that there would be no problem. However, because we are not protecting those employees, who in those rare instances are not going to be working for insured employers and even though they have earned all the money that they need, they are not going to be able to qualify or requalify to draw unemployment; I oppose the bill on that basis. Now if there were some way, ladies and gentlemen, to close the loophole and at the same time protect the employees who are working for the uninsured employer, then you could be very certain that I would be in the forefront supporting that legislation and supporting this bill if we could be sure, if we could do that. I have not seen any indication that we can and, therefore, I most reluctantly oppose the bill, because I think in this instance the cure is much worse than the malady.

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

Mr. BOUDREAU: Mr. Speaker, Ladies and Gentlemen of the House: I don't think there are any people in the House that are in business that are not insured employers. I would just ask the gentleman from Pittsfield if he would please name me a few specific instances where an employer can get away with being uninsured

under Workmen's Comp and Unemployment Compensation?

As you know, even the people Mr. Wyman talks about, for instance, apple pickers, blueberry pickers, all those people have to work for an insured employer. I don't know who he is talking about that is uninsured, and if he knows of a few specific cases, I don't know about, maybe he would like to tell me about them.

The SPEAKER: The gentleman from Waterville, Mr. Boudreau, has posed a question through the Chair to anyone who may respond if they so desire.

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

Mr. BAKER: Mr. Speaker, Ladies and Gentlemen of the House: In response to the good gentleman from Waterville, I am going to give you an example of an employer that did not pay into the Worker's Compensation Fund, the Yellow Taxi Company of Portland; it went bankrupt.

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

Mrs. BEAULIEU: Mr. Speaker, Ladies and Gentlemen of the House: I signed this report "Ought Not to Pass" for the very reasons that Representative Wyman has stated. I think passage of such a bill without serious thinking about it is going to be an instance where you are going to be hurting a lot more people than those you are trying to address.

Yes, there are employers who do not pay into the unemployment or the workmen's comp, the landlady in my area, who owns five houses and employs one man and he does the work for her, the people in small towns, small communities, who earn their income by working two, three or four weeks for a farmer picking strawberries in Cape Elizabeth or potatoes up in Aroostook. I believe we have in our statutes a section of the law where if a farmer does not pay, he is exempt up to a \$20,000 level. I apologize that I don't have that section of the law with me.

You read the Sunday Telegram, I hope, over the weekend and you read about communities like Van Buren, and there was a very good example on how people in those small communities with no industries in their community work here, there and everywhere to pick up dollars, and they don't necessarily work for an employer who pays into the fund.

This would totally disenfranchise them, and I agree we have a problem, a legitimate problem, and it needs to be addressed, but this committee did not come up with a resolve on how to address it. Even the professionals in the field could not begin to tell us how to address it. Yet, they recognize the point of view that I have discussed with you and they also recognize the point of view that Mr. Boudreau is talking about.

I would trust that with more time and with direction from the Bureau of Labor and the people involved, they should address this situation without disenfranchising a majority of good people who earn their money legitimately and should be allowed to requalify. So until that can be resolved, I feel the bill ought not to pass. That does not mean that we should not address the issue.

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

Mrs. LEWIS: Mr. Speaker, Ladies and Gentlemen of the House: I will try to be very brief. I would just point out that in order to collect unemployment insurance at all, you have to work for an employer who pays into the unemployment insurance fund. So a person who has worked in this house that the Representative from Portland, Mrs. Beaulieu, spoke of, that person couldn't possibly collect unemployment insurance because that was not an insured employer.

What this bill says is that if you have worked for an insured employer and are then laid off so that you—no, this isn't laid off, this is if you have quit or if you have been fired and you have

to make four times your weekly benefit, you have to attach yourself to the employment market. You can't take one of these jobs just to qualify to get that amount of money. Otherwise, think of the depletion on the unemployment insurance fund. Your original employer has paid into it, the secondary employer hasn't paid into it, but the person collecting from the original one, and it doesn't really make sense. I would like to have Mrs. Beaulieu point out how many of these uninsured employers there are in this state. I don't think there are very many.

The bill speaks of working for an employer, and I think you could probably count on one hand, if that, how many of these places you might work where the employer is not insured. I think we must not confuse this with workmen's compensation, as the gentleman from Portland, Mr. Baker did, because this isn't workmen's compensation, this is unemployment insurance we are talking about.

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

Mrs. BEAULIEU: Mr. Speaker and Members of the House: I can simply only respond to Mrs. Lewis that she knows full well that we could not get the response to that question from the bureau.

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

Mr. MCHENRY: Mr. Speaker, Ladies and Gentlemen of the House: The good lady from Auburn, has suggested that once you qualify, you would draw from your previous employer who had paid into the fund. That is not so, because you draw from the general fund.

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

Mr. BOUDREAU: Mr. Speaker, I guess the bottom line for this is, do we want to allow people to collect from the fund that were never attached to an employer that contributed to the fund? If you get people collecting from the fund who aren't attached to an employer, who are not attached to anyone who is contributing to the fund, you are depleting the fund and you are not going to have any money for the people who are legitimately collecting.

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

A vote of the House was taken.

49 having voted in the affirmative and 44 having voted in the negative, the motion did prevail.

Sent up for concurrence.

By unanimous consent, ordered sent forth to the Senate.

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

Majority Report of the Committee on Labor reporting "Ought to Pass" as amended by Committee Amendment "A" (H-500) on Bill "An Act to Revise the State Employee Labor Relations Act" (H. P. 341) (L. D. 440)

Report was signed by the following members:

Mr. PRAY of Penobscot — of the Senate.

Messrs. TUTTLE of Sanford
BAKER of Portland
Mrs. BEAULIEU of Portland
Mr. MCHENRY of Madawaska
Mrs. MARTIN of Brunswick
Mr. WYMAN of Pittsfield

— of the House.

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

Report was signed by the following members:

Messrs. SUTTON of Oxford
LOVELL of York

— of the Senate.

Messrs. FILLMORE of Freeport

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

Reports were read.

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

Mr. WYMAN: Mr. Speaker, I move that the House accept the Majority "Ought to Pass" Report and would speak briefly.

The gentleman may proceed.

Mr. WYMAN: Mr. Speaker, Ladies and Gentlemen of the House: This bill as amended accomplishes two changes in the collective bargaining law. First of all, it changes the coverage of the law to include employees after 30 days of employment rather than after 6 months. The only purpose of this change is to insure that all employees are covered by the terms of a negotiated settlement.

At present, they will receive and do receive all the benefits. This will conform the bargaining law to actual practice. It will not change the probationary period or the probationary status of new employees that are specifically excluded by the contract from the grievance procedure which grants permanent employees just cause protection.

Section 2 of the bill clarifies what is meant by the term "prescribed and controlled by public law." It is very uncertain what that language actually means. This bill, as amended, is an attempt to clarify that.

The law presently states that all matters are negotiable except those that are "prescribed and controlled by public law". However, certain matters such as mileage and vacation and sick leave benefits, which are clearly negotiable by other terms of the bargaining law, are also simultaneously covered by statute. Therefore, this phrase creates an apparent conflict. This bill is an effort to clarify that. The provision states that all matters are negotiable, but if a matter is negotiated which is covered by statute, then the statute must be changed by the legislature before it is put into effect.

I wanted to read into the record that brief explanation of this bill as amended. The bill does take out everything except the first three sections and I hope that that explanation clarifies it for you. I hope that you will accept the report.

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

Mrs. LEWIS: Mr. Speaker and Members of the House: I am sorry if people are getting tired of hearing me, but I have to speak on this bill. I would move the indefinite postponement of it.

This bill really usurps the power of the legislature. It allows labor negotiations to be carried on and then the legislature has an opportunity to vote on the package. It isn't as though the legislature makes the laws first. I can't imagine why we would want to give up such power in this body to an outside arbitrator. He isn't even a member or employee of the state. He is an outside arbitrator who comes in and decides what kind of a contract should be negotiated and then it comes to the legislature. It preempts our very statutes that we have on the books now, so I would have to move indefinite postponement.

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

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

Mr. GARSOE: Mr. Speaker, Ladies and Gentlemen of the House: I think the gentlewoman from Auburn is entirely too kind in regard to this bill. This is a potential for mischief like you have never seen in this body before. If you think the six weeks we have just been through that was culminated when the Governor signed the contract on, I understand the front steps this noon, then you ain't seen nothing if this

goes into effect.

The gentleman from Pittsfield, Mr. Wyman suggested that maybe mileage and another innocuous little tidbit might be negotiated and handed to us as an accomplished fact. Of course, that happened this time and mileage is taken care of. What he failed to mention was that this would allow eight different unions to negotiate eight different retirement packages—eight different health insurance plans. It would enable the union and the state's negotiator to negotiate to repeal the fact that wages, pensions and insurance are not subject to binding arbitration. They could be made subject to binding arbitration. They could negotiate anything that is in the statutes today and then hand it to this legislature as an accomplished fact and say "We dare you to do anything different." We would dare this time to do anything different. This would now be with the sanction of a piece of legislation such as this, and they could very successfully, I think, argue, here we are giving you a very carefully constructed contract, we are repealing half of the collective bargaining laws in a way that more nearly suits the union, what are you going to do about it?

The bill is also clumsy in that in one section it says they shall be submitted to the legislature for ratification, but in Section 3, all they talk about ratifying are the cost items. They didn't include that in Section 3.

I think there is plenty of reason in this bill for us to, indeed, give it indefinite postponement, which I hope we will.

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

A vote of the House was taken.

57 having voted in the affirmative and 20 having voted in the negative, the motion did prevail.

By unanimous consent, ordered sent forthwith to the Senate.

Majority Report of the Committee on Judiciary reporting "Ought to Pass" as amended by Committee Amendment "A" (H-490) on Bill "An Act Concerning Limited Decrees of Alimony" (H. P. 1168) (L. D. 1443)

Report was signed by the following members:

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

Mr. STETSON of Wiscasset
Mrs. SEWALL of Newcastle
Messrs. HOBBS of Saco

JOYCE of Portland
LAFFIN of Westbrook
CARRIER of Westbrook
SIMON of Lewiston
GRAY of Rockland
SILSBY of Ellsworth
HUGHES of Auburn

— 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. DEVOE of Penobscot

— of the Senate.

Reports were read.

The Majority "Ought to Pass" Report was accepted and the Bill read once. Committee Amendment "A" (H-490) was read by the Clerk and adopted and the Bill assigned for second reading tomorrow.

Majority Report of the Committee on Business Legislation reporting "Ought Not to Pass" on Bill "An Act to Clarify the Regulation and Control of Financial Institutions with Respect to Life and Health Insurance" (H. P. 486) (L. D. 616)

Report was signed by the following members:

Ms. CLARK of Cumberland
— of the Senate.

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

— of the House.

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

Report was signed by the following members:

Messrs. AULT of Kennebec
CHAPMAN of Sagadahoc

— of the Senate.

Mr. LIZOTTE of Biddeford
Miss BROWN of Bethel

Mr. DUTREMBLE of Biddeford
— of the House.

Reports were Read.

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

By unanimous consent, ordered sent forthwith to the Senate.

Majority Report of the Committee on Judiciary reporting "Ought to Pass" as amended by Committee Amendment "A" (H-489) on Bill "An Act to Prohibit Drinking in Public Under the Criminal Code" (H. P. 562) (L. D. 709)

Report was signed by the following members:

Mrs. TRAFTON of Androscoggin
Messrs. COLLINS of Knox
DEVOE of Penobscot

— of the Senate.

Messrs. JOYCE of Portland
GRAY of Rockland
LAFFIN of Westbrook
CARRIER of Westbrook
SIMON of Lewiston

Mrs. SEWALL of Newcastle
Messrs. HOBBS of Saco
SILSBY of Ellsworth
HUGHES of Auburn

— 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. STETSON of Wiscasset

— of the House.

Reports were read.

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

Mr. HOBBS: Mr. Speaker, I move that the House accept the Majority "Ought to Pass" Report.

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

Mr. TIERNEY: Mr. Speaker, Ladies and Gentlemen of the House: This certainly isn't a partisan bill but I would like a division.

I have had the opportunity to read Committee Amendment "A" and I suggest that we all do. It basically prohibits people from taking a six pack of beer with them when they go on a picnic. If they do, it is a Class E offense. I think it is the craziest idea I have ever heard of. I am going to vote against it and I hope we have a division.

The SPEAKER: The Chair will order a vote. The pending question before the House is on the motion of the gentleman from Saco, Mr. Hobbins, that the House accept the Majority "Ought to Pass" Report.

Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

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

A vote of the House was taken, and more

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

The SPEAKER: The pending question before the House is on the motion of the gentleman from Saco, Mr. Hobbins, that the House accept the Majority "Ought to Pass" Report. Those in favor will vote yes; those opposed will vote no.

ROLL CALL

YEA — Carter, F.; Cox, Cunningham, Gould, Hobbins, Hughes, Joyce, Kane, Kiesman, Lewis, MacBride, Marshall, Masterman, Matthews, McSweeney, Nelson, A.; Nelson, M.; Nelson, N.; Payne, Rollins, Sewall, Silsby, Simon, Soulas, Torrey, Violette, Wentworth, Wood, Wyman.

NAY — Alopis, Austin, Baker, Barry, Beau-
lieu, Benoit, Berry, Berube, Birt, Bordeaux,
Boudreau, Bowden, Brannigan, Brennerman,
Brodeur, Brown, A.; Brown, D.; Brown, K.L.;
Brown, K.C.; Call, Carroll, Carter, D.;
Chonko, Conary, Connolly, Damren, Davies,
Davis, Dellert, Diamond, Doukas, Dow, Drink-
water, Dutremble, D.; Elias, Fenlason,
Fillmore, Garsoe, Gavett, Gillis, Gowen,
Gray, Gwadosky, Hall, Hanson, Hickey, Hig-
gins, Howe, Huber, Hutchings, Jackson, Jac-
ques, P.; Jalbert, Kany, Kelleher, Laffin,
Lancaster, LaPlante, Leighton, Lizotte, Locke,
Lowe, Lund, MacEachern, Mahany, Martin,
A.; Masterton, Maxwell, McHenry, McKean,
Michael, Mitchell, Morton, Nadeau, Norris,
Paradis, Paul, Pearson, Peltier, Peterson,
Post, Prescott, Reeves, J.; Reeves, P.; Rolde,
Small, Sprol, Stetson, Strout, Studley, Tar-
bell, Theriault, Tierney, Tuttle, Vose.

ABSENT — Bachrach, Blodgett, Bunker,
Carrier, Churchill, Cloutier, Curtis, Dexter,
Dudley, Dutremble, L.; Fowlie, Hunter, Im-
monen, Jacques, E.; Leonard, Lougee, McMa-
hon, McPherson, Roope, Sherburne, Smith,
Stover, Tozier, Twitchell, Vincent, Whitte-
more, The Speaker.

Yes, 29; No, 95; Absent, 26.

The SPEAKER: Twenty-nine having voted in the affirmative and ninety-five in the negative, with twenty-six being absent, the motion does not prevail.

Mr. Stetson of Wiscasset moved that the House accept the Minority "Ought Not to Pass" Report.

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

Mr. LAFFIN: Mr. Speaker, Ladies and Gentlemen of the House: When this bill was first put in, it covered a vast amount of territory, and, consequently, I have been doing other things and this got by me tonight. I had some things to report on this but I don't have it before me, so I will have to go from memory.

By the way, we only had one person in the committee, as has already been stated, that was opposed to the bill. In many communities, we now have under the new criminal code a very liberal section that deals with people drinking in public. Consequently, if you live in a city like I do, where we have parks, where we have streets, where we have church steps, where we have this type of thing, and I am sure that could be any community within the State of Maine, we have been having a very bad problem in our community where people have been drinking. Consequently, remarks have been made as ladies walk by, and it has been a very, very bad situation because there is nothing you can do with them. So, when they gather in the park and when they gather on the church steps and are drinking in public, many people in my community have found this to be very offensive.

I was asked, I might say by a leading Demo-
crat in the city of Westbrook to put this bill in—I only put that in there for a little consid-
eration. What has happened is that it went
through committee, we put an amendment on it
that would take out a lot of objections of the
people who felt that it covered too broad an

area. It is now narrowed down to just sidewalks, public places, I don't have the amendment before me because it got a little ahead of me here tonight but, nevertheless, I know what the amendment is and that is all it pertains to.

What we have now is public highways, streets, lanes, sidewalks, parks, outdoor recreation and areas that have general public access. This is a good bill because all we are asking is to stop this from happening. Let it stop in Westbrook, let it stop in your city or town. I don't think you would like to have your wife or your children go by these groups of people sitting there drinking beer, saying obscene things and, consequently, this was not what the intent of the criminal code was. There were many parts of the criminal code, and I remember one gentleman who was in this House in the 107th when we passed this, and I will tell you who it was, it was Representative Donald Carter and he said that there were a lot of things in this that we would be objecting to and he advised the House at that time not to vote for it and, you know, he was pretty near right. There are a lot of things in the criminal code that we object to in certain sections, and this is one of them.

All I am asking is to stop this from happening. Do not allow people, young people congregating on church steps and in our parks and all the communities of the state and allow them to drink beer out in public like that, that is all we are saying. It has nothing to do with them drinking in bars. That is their prerogative. It has nothing to do with drinking out in public.

I would ask you to follow my light and I am sure we can pass this.

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

Mr. GARSOE: Mr. Speaker, I would like to pose a question through the Chair to anyone in this body who may know.

If Westbrook is having such a problem, isn't it perfectly within the province of the City of Westbrook to enact an ordinance that would perhaps be tailored to their problem and correct it at the local level, and relieve us so maybe we can go home in three minutes?

The SPEAKER: The gentleman from Cumberland, Mr. Garsoe, has posed a question through the Chair to anyone who may care to respond.

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

Mr. LAFFIN: Mr. Speaker, in answer to that question, Mr. Garsoe, Westbrook is right on the borderline with Portland on one side of our city and on the borderline with Portland on one side of our city and on the borderline with South Portland.

We have a lot of people who come in our city because we have a beautiful park, they love to congregate there. They know the law statewide, they know they can do this, they are challenging the law, the police can do nothing about it. Sure, we could put an ordinance in, you could put in an ordinance and everybody else could put one in, but under the law, as the bill is written now, it would cover everybody. What the law would be in South Portland and Portland, when they came to Westbrook, it would be the same law. I see nothing wrong with that. It is a good bill and I ask for your support tonight.

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

Mr. NORRIS: Mr. Speaker, Ladies and Gentlemen of the House: If this bill were to pass, there would be several members in this House either bailed or in jail this morning after the baseball game last night.

I hope we do to this bill what needs to be done to it.

The SPEAKER: The Chair will order a vote. The pending question is on the motion of the gentleman from Wiscasset, Mr. Stetson, that the House accept the Minority "Ought Not to Pass" Report. Those in favor will vote yes;

those opposed will vote no.

A vote of the House was taken.

70 having voted in the affirmative and 28 in the negative, the motion did prevail.

By unanimous consent, ordered sent forthwith to the Senate.

Majority Report of the Committee on Labor reporting "Ought to Pass" as amended by Committee Amendment "A" (H-501) on Bill "An Act to Require Premium Impact Statements for Certain Workers' Compensation Legislation" (H. P. 956) (L. D. 1222)

Report was signed by the following members:

Messrs. SUTTON of Oxford
LOVELL of York

— of the Senate.

Mr. DEXTER of Kingfield
Mrs. LEWIS of Auburn
Messrs. WYMAN of Pittsfield
CUNNINGHAM of New Gloucester
Mrs. BEAULIEU of Portland
Mr. FILLMORE of Freeport
Mrs. MARTIN of Brunswick
Messrs. TUTTLE of Sanford
BAKER of Portland

— of the House.

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

Report was signed by the following members:

Mr. PRAY of Penobscot

— of the Senate.

Mr. McHENRY of Madawaska

— of the House.

Reports were read.

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

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

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

Mr. McHENRY: Mr. Speaker, Ladies and Gentlemen of the House: I wish that we would not accept the Majority "Ought to Pass" Report in order to accept the Minority "Ought Not to Pass."

This bill would create another bureaucracy, and there is no fiscal note on the bill, to start off with. As I understand it, we could get any information we wanted through the Insurance Bureau. There was a person from that bureau that did testify that we could get any information we needed. This bill is unnecessary.

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

A vote of the House was taken.

80 having voted in the affirmative and 10 in the negative, the motion did prevail. Committee Amendment "A" (H-501) was read by the Clerk and adopted and the Bill assigned for second reading tomorrow.

Majority Report of the Committee on State Government reporting "Ought Not to Pass" on Bill "An Act to Create a Department of Forestry" (H. P. 1140) (L. D. 1433)

Report was signed by the following members:

Mr. MARTIN of Aroostook

— of the Senate.

Mrs. KANY of Waterville
MASTERTON of Cape Elizabeth
BACHRACH of Brunswick
Ms. LUND of Augusta
Mr. PARADIS of Augusta
Mrs. REEVES of Pittston
Mr. BARRY of Fort Kent

— of the House.

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

Report was signed by the following mem-

bers:

Messrs. SUTTON of Oxford
AULT of Kennebec

— of the Senate.

Mrs. DAMREN of Belgrade

Messrs. CONARY of Oakland
LANCASTER of Kittery

— of the House.

Reports were read.

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

Mrs. KANY: Mr. Speaker, I move that the House accept the Majority "Ought Not to Pass" Report.

The SPEAKER: The Chair recognizes the gentleman from Hope, Mr. Sprowl.

Mr. SPROWL: Mr. Speaker, Ladies and Gentlemen of the House: I ask for a Division.

I presented this bill to the State Government Committee on behalf of a group of people within the Forestry Department. They feel that since the Forestry Department has come under the Department of Conservation, it has steadily gone downhill and, in essence, that is the reason for the bill.

There isn't any price tag on the bill. Most of the Department of Conservation is made up of the Forestry Bureau now, and the only thing the bill would ask for is a commissioner to be appointed by the Governor, hopefully, who would know something about the Forestry Department, who had been educated in this field, so he would know what is going on and would upgrade the department, this new department, rather than have it go the other way.

We had a lengthy hearing on this bill and I think the committee members for their indulgence that afternoon. There were many people within the department who testified for this bill. I think there was only one person who was opposed to it. I hope that you will not accept the majority report.

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

Mr. TIERNEY: Mr. Speaker and Members of the House: One of the fundamentals of good government, and I think governmental reorganization, is that you don't reorganize a department or bureau or commission or an agency based on a personality situation, and yet this is exactly what this bill does.

We all know that there have been a lot of questions and a lot of controversy coming out of that department. The commission, at the present time, is without a commissioner or an acting commissioner, and the situation is obviously in flux. I don't think this is the time to change it. I think it is a reaction to a personality problem and not a substantive one and it is not the way to go when you talk of governmental reorganization. It is a bad bill. I hope you go along with Mrs. Kany.

The SPEAKER: The Chair will order a vote.

The pending question is on the motion of the gentlewoman from Waterville, Mrs. Kany, that the House accept the Majority "Ought Not to Pass" Report. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

69 having voted in the affirmative and 21 in the negative, the motion did prevail.

By unanimous consent, ordered sent forthwith to the Senate.

The Chair laid before the House the following matter:

Bill "An Act to Establish a Presidential Primary in the State of Maine" (H. P. 45) (L. D. 56) which was tabled earlier in the day and later today assigned pending acceptance of either report.

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

Ms. BENOIT: Mr. Speaker, I move that the House accept the Majority "Ought Not to Pass" Report.

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

Mrs. KANY: Mr. Speaker and Members of the House: I think we could debate this for a long time and I will tell you the truth, I am almost tempted because I really like the way you voted on that last bill. I, personally, would like to have a vote today, but I really hate to keep you because I know Mr. Laffin has planned a good game for you all.

I would request a division on this bill and see how that goes.

Mrs. Sewall of Newcastle requested a roll call vote.

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

Mrs. WENTWORTH: Mr. Speaker and Members of the House: If we are going to have a roll call, I would encourage you to accept the "Ought Not to Pass" Report.

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

Mrs. KANY: Mr. Speaker, Ladies and Gentlemen of the House: I would ask that somebody table this for two days so we could have an extended debate.

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

Mr. BAKER: Mr. Speaker, I move that we table this for two legislative days.

Mr. Garsoe of Cumberland requested a division.

The SPEAKER: The pending question is on the motion of the gentleman from Portland, Mr. Baker, that this bill be tabled for two legislative days. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

39 having voted in the affirmative and 67 in the negative, the motion did prevail.

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

Mrs. KANY: Mr. Speaker, Ladies and Gentlemen of the House: First of all, House members, I didn't do this to you, right? I hoped that it could be tabled so you wouldn't have to listen to any debate, but I guess we are going to have to.

This bill calls for a presidential primary here in the State of Maine. You know what our present process is. You know that we have caucuses and that we have kind of back-room type of selections on how we choose our presidential candidates. You are familiar with what the present process is. You also know that we have a primary election for gubernatorial candidates, for legislative candidates even, but not to help choose the most important position in the United States, the President, and I am really kind of sorry that we in Maine do not have a presidential primary now. Most states in New England do, and I would hope that if you aren't interested in joining New Hampshire as the first in the nation presidential primary, that you would at least consider having a New England Regional Primary.

You are well aware of the problems that we all face here in New England, our environmental problems, our energy problems, transportation, industrial development, our poverty—New England, the new south, our poverty. I think that we should bank together, we should address these questions. We shouldn't allow people who are party chairmen or whatever to make these selections themselves.

I would like to point out, before we go any further, that this is the second time this bill has been before the legislature, and the last time it received a great deal of support. It passed under the manner a couple of times here in the House and it was only with a lot of fooling around that it died quietly at the end of the session of the other body. I think it was because the House members were close to their people back home and realized that people do want to have a say in these most important decisions. Very few people attend those caucuses, maybe two or three percent of your enrolled, and when you vote in a primary, even in our statewide primary for gubernatorial candidates, for leg-

islative candidates, you get at the minimum 20 percent, 33 or 34 percent, upwards almost to 40 percent, and there are people who cannot attend a caucus when a caucus is set at a certain time in the day. They might be working, working on a split shift, they might be out of town, they might be ill, and they can't vote by absentee ballot.

I see nothing wrong with the State of Maine having a presidential primary, and if there are certain things that you would like to change in this bill, I hope that you will vote against that "Ought Not to Pass" motion, acceptance of the majority "Ought Not to Pass", and I hope you will send it to second reading and amend it if there is something you don't like, but please do not deny the citizens of Maine an opportunity to have a presidential primary.

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

Ms. BENOIT: Mr. Speaker, Men and Women of the House: I will be very brief. Actually, I do support a presidential primary, but at this time I don't. I don't like this bill in particular, and there is no way that we are going to have a presidential primary the same day as New Hampshire does. I think that everybody knows that.

But the real reason I voted this out "Ought Not to Pass" at this time is because the Republican party and the Democratic party have formed a bipartisan committee, which some of you may or may not be aware of. It is made up of private citizens and legislators from the House and from the Senate. We will be working for the next year together to work out resolutions that we can all support, which we hope will help to renew the two-party system in the State of Maine. Thus, it was my feeling that since I am part of that committee, I would like to sell an idea that I have for a presidential primary to the entire group, and perhaps if we can get the backing of this bipartisan committee, then we can submit this bill next session, and I would hope that no one in leadership would object if it did have the good wishes of everyone on the committee.

So that is why at this time I hope you will accept the "Ought Not to Pass" report and we can come out with a bill that we all like and that we all can support, and maybe we can justify the cost of \$100,000.

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

Mr. DOUKAS: Mr. Speaker and Members of the House: I think this bill does have some merits to it and I would like to look at it a little closer, not just in a few minutes. I would hate to see it die in a fit of hunger pains.

I have a couple of amendments sitting on my desk looking at me that I think we could work with. Therefore, I am going to ask my leadership, or even the leadership in the other corner, to table this for one day. I think we can look at it. That would save us the trouble of holding the bill and reconsidering and going through all the rigamarole.

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

Mr. BERRY: Mr. Speaker, Ladies and Gentlemen of the House: I will be as brief as I can. I have got 40 pages or so here, they are all reason for you to vote against the bill. My seatmate isn't too happy, so I did tell her that I wouldn't read all 40 of them.

It didn't particularly bother me to get up and speak against her bill, because I recall one day when I had a bill that was quite important and the vote was very close. I was right down in that little space here between the desk and the chair pleading for her vote, on my knees, and she looked down at me and she said, "Ha, ha, ha" and threw her switch the other way. Under other circumstances, probably I wouldn't have opposed my seatmate's bill, but it does call for a \$100,000 appropriation and it won't serve any useful purpose right now, as the chairman of the Election Laws Committee has already told

you. You haven't spoken too much in here as a group today, so I guess I will sit down and spare you.

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

Mr. NADEAU: Mr. Speaker and Members of the House: I just want you to show a little compassion for Mrs. Kany because of the fact that she has two members of the Election Laws Committee on each side of her, both of us signing the "Ought Not to Pass" report, so forgive her enthusiasm. But I just wanted to explain on the record, basically for the same reason that my House Chair, Ms. Benoit, signed the "Ought Not to Pass" report—those are basically my reasons. I also serve on that bipartisan committee. We are going to work on a proposal for next session. It is a good concept, I support the concept for a presidential primary, and give us a chance to put something together that is acceptable to everyone.

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

Mrs. WENTWORTH: Mr. Speaker and Members of the House: I will add one more member in Mrs. Kany's row who is voting "Ought Not to Pass" and also on Election Laws Committee, but I will add one more reason. It called for an election in the early spring when all towns are having town meetings. There is no way to successfully run a non-partisan town meeting with a partisan presidential primary.

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

Mr. KELLEHER: Mr. Speaker, Ladies and Gentlemen of the House: It is not very often that I agree with the gentlewoman from Waterville, but this afternoon I happen to.

I think contrary to the remarks made by the gentlelady from South Portland, Ms. Benoit, that the two-party system is extremely healthy in this state, and if you don't want to believe me, just look at the enrolled numbers of both party members that are in this House and look at the party that controls the other body. We have a Democratic Governor, we have Republican members in the National Congress, as well as a Democratic member. I think the two-party system is alive, and well and hooray, doing well here in the State of Maine, and I think that Mrs. Kany's bill has something to offer the people of the State of Maine, an opportunity for you and I to see live, in person, the real people who run for national public office and run for the office of presidency of the United States.

I am sure that the Kany bill, as it has been called, isn't perfect, but which one of us in this House has honestly always put in a perfect bill, except for Tuffy Laffin? He is the only one that I know.

I think the House would be wise this afternoon to accept Representative Kany's bill and let's look at all its problems in second reading. I supported her bill two years ago, and I think the people of Maine, if you would give them an opportunity to express their opinions here, which I hope they do in the right way this afternoon, that we support the gentlelady's bill, and I am not quite in her row.

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

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

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

Mrs. KANY: Mr. Speaker and Members of the House: I hate to say this about our good party chairman, but I think that committee is just one more stalling tactic, and I think that they have made a misjudgment if they think a presidential primary is going to hurt their

party.

I believe, and I have thought a lot about it, it might encourage some people to join a party, people who have no reason to right now. They might just want to vote in a presidential primary.

Secondly, if that committee actually does the work, if they really want a presidential primary, of course for it to be effective in 1980, don't forget that is next year and that would require an emergency bill of some sort, 101 votes in the House, everybody feeling that strongly that that is just the way to do it, and two-thirds of the elected membership over in that other body, however many that is. If there is that much agreement, I bet that you could get something in. You might even be able to amend the presidential primary bill that we enact right now. So I see no reason for us having to stall, and I would hope that you would do as you did earlier and reject a majority report from the committee, on which they had an 11 to 2 report, and use your common sense. Think in terms of the people that you represent and vote against the majority "Ought Not to Pass" Report.

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

Mr. DOUKAS: Mr. Speaker and Members of the House: I always thought it was the role of the legislature and the governor to decide what rules and regulations and laws we are going to have in the State of Maine, not the role of bipartisan committee of a few legislators and a couple of volunteers.

Now, getting down to the bill. There is one thing in here that a lot of people are objecting to, and that is the date intact and let New Hampshire stew over the weekend, let them worry about it a little bit. You know, give them a little hassle. Let the press play with it. We will come back next week, take one of these amendments and we will work on an amendment to move this date down to a more reasonable time period and we will go from there. That is what I would like to see happen.

The SPEAKER: The Chair recognizes the gentleman from Fort Kent, Mr. Barry.

Mr. BARRY: Mr. Speaker, Ladies and Gentlemen of the House: I guess I come from a different angle. Briefly, I support the concept of a presidential primary. I think it greatly increases participation in the electoral process and I think history proves that going through the caucus route you have minimal amount of participation, and I would sincerely hope that we would give this a second reading. I would urge you to vote to defeat the "Ought Not to Pass" report.

The SPEAKER: A roll call has been ordered. The pending question is on the motion of the gentlewoman from South Portland, Ms. Benoit, that the Majority "Ought Not to Pass" Report be accepted. All those in favor will vote yes; those opposed will vote no.

ROLL CALL

YEA — Aloupis, Austin, Baker, Benoit, Berry, Birt, Blodgett, Bordeaux, Brown, D.; Brown, K. L.; Call, Carroll, Carter, D.; Carter, F.; Cox, Cunningham, Damren, Davies, Davis, Dellert, Diamond, Drinkwater, Elias, Fenlason, Fillmore, Garsoe, Gavett, Gillis, Gould, Gwadosky, Hanson, Higgins, Howe, Huber, Hutchings, Jackson, Joyce, Kane, LaPlante, Lewis, Lizotte, Locke, Lowe, Lund, MacBride, MacEachern, Mahany, Martin, A.; Masterman, Masterton, Matthews, Maxwell, McSweeney, Michael, Mitchell, Morton, Nadeau, Nelson, A.; Nelson, N.; Payne, Peltier, Post, Prescott, Reeves, J.; Rolde, Rollins, Sewall, Silsby, Small, Sprowl, Stetson, Studley, Tarbell, Theriault, Tierney, Torrey, Vose, Wentworth.

NAY — Barry, Beaulieu, Berube, Boudreau, Brannigan, Brenerman, Brodeur, Brown, A.; Conary, Connolly, Doukas, Dow, Dutremble, D.; Gowen, Hall, Hickey, Hobbins, Hughes, Jacques, P.; Kany, Kelleher, Kiesman, Laffin,

Lancaster, Leighton, McHenry, McKean, Nelson, M.; Norris, Paul, Peterson, Reeves, P.; Soulas, Tuttle, Violette, Wood, Wyman. The Speaker.

ABSENT — Bachrach, Bowden, Brown, K. C.; Bunker, Carrier, Chonko, Churchill, Cloutier, Curtis, Dexter, Dudley, Dutremble, L., Fowle, Gray, Hunter, Immonen, Jacques, E.; Jalbert, Leonard, Lougee, Marshall, McMahon, McPherson, Paradis, Pearson, Roope, Sherburne, Simon, Smith, Stover, Strout, Tozier, Twitchell, Vincent, Whittemore.

Yes, 78; No, 38; Absent, 35.

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

Sent up for concurrence.

By unanimous consent, ordered sent forthwith to the Senate.

(Off Record Remarks)

Mr. Elias of Madison was granted unanimous consent to address the House.

Mr. ELIAS: Mr. Speaker, on Page 8, Item 9-5, L. D. 1482, where I was Speaker pro-tem, I didn't vote on this issue and I would like to be recorded in the negative on the indefinite postponement motion and positive on the bill.

On motion of Mrs. Hutchings of Lincolnville, adjourned until twelve o'clock noon tomorrow.