

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

***One Hundred and Ninth
Legislature***

OF THE

STATE OF MAINE

SECOND REGULAR SESSION

January 2 to April 3, 1980

THIRD SPECIAL SESSION

May 22, 1980

THIRD CONFIRMATION SESSION

July 17, 1980

FOURTH CONFIRMATION SESSION

July 24, 1980

FIFTH CONFIRMATION SESSION

September 12, 1980

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

HOUSE

Tuesday, March 18, 1980

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

Prayer by the Reverend James Murray of the Church of God, Appleton.

Reverend MURRAY: O' Lord, our Heavenly Father, we thank thee for this gathering this day. We thank thee for all of our lawmakers that leave their homes and their business interests and come here to help to plan for the best interests of this, our state, that we love so well. We thank thee, Lord, for every one of these men and women that are taking an interest, that are doing their best to solve the problems that we all face.

O' Lord, our Heavenly Father, do bless each one of them and help us all to appreciate our state. We thank thee, O' Lord, that we can pray for our state and for those that have the responsibilities of making the laws and carrying them out and solving the problems. Now, Father, do bless each one, give them wisdom, O' Lord, we pray, and understanding as to what is best for the state, themselves and all of us, and help us all to look unto thee; then, after we have done all we can in voting at the polls, or wherever we can have a part in state government, help us to realize that thy word says that the Eternal God is thy refuge and so beyond that may we look unto thee, the author and furnisher of our faith and the giver of all good and perfect gifts. Be with us all, we ask in Jesus name. Amen

The journal of yesterday was read and approved.

**Papers from the Senate
Non-Concurrent Matter
Later Today Assigned**

Bill, "An Act Concerning Revisions in the Maine Criminal Code and Other Criminal Laws" (S. P. 750) (L. D. 1925) which was passed to be engrossed as amended by Committee Amendment "A" (S-456) as amended by House Amendment "A" (H-909) thereto in the House on March 17, 1980.

Came from the Senate with that Body having Adhered to its former action whereby the Bill was passed to be engrossed as amended by Committee Amendment "A" (S-456) in non-concurrence.

In the House:

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

Mr. McKEAN: Mr. Speaker, Ladies and Gentlemen of the House: At this point, I don't really know whether to recede and concur would be the right motion.

I would like to tell you, the amendment I put on this particular bill yesterday is something that I think was very important. I think all of you know what my feelings are on drunken driving, especially if you were here during the 108th. But this particular bill, what it says is that if you refuse to take the alcohol test, it is admissible in court that you are in fact operating under the influence, and that is not correct. When you refuse to take the test, the only thing that you have proven is that you have refused to take the test. That does not mean that you are drunk.

A person can be a hemophiliac, can be scared of a needle, there can be any number of reasons why a person would refuse to take the test. In my way of thinking, it is not admissible in court that you were drunk because you refused to take the test. And the amendment that was put on this House yesterday stated that the only thing that was admissible in court was the fact that the results were not there because you did refuse to take the test.

I would hope that the House would insist.

The SPEAKER: The Chair would advise the gentleman that at this point in the process, the motion to insist will kill the bill.

The only possibility for this bill—there are

two options. Adhere or insist will kill the bill; to recede and concur would put the bill in the posture prior to the amendment. That is a decision for this body to make.

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

Mr. SIMON: Mr. Speaker and Members of the House: I hope that you will go along with the pending motion to recede and concur.

The SPEAKER: The Chair would advise the gentleman that at this point there is no pending motion.

Mr. SIMON: In that case, Mr. Speaker, I move that we recede and concur.

The SPEAKER: The gentleman from Lewiston, Mr. Simon, moves that the House recede and concur. The gentleman may proceed.

Mr. SIMON: Mr. Speaker and Members of the House: I don't think anyone questions the devotion of any member of the House to get drunken drivers off the road in dealing with this amendment, and I hope that no one who favors the amendment will question the commitment of the Judiciary Committee, which put out a unanimous report with the language that this floor amendment seeks to do away with, in our commitment to civil liberties.

In fact, however, there is no civil right to refuse a blood or breath test for alcohol; we have an implied consent law in the State of Maine. Implied consent laws that require people to take blood or breath tests have been upheld by the United States Supreme Court in *California v. Byers, 1967*, and there is no right to refuse to do this. The right to bodily autonomy is not so extensive as to immunize a person from the introduction of evidence obtained by such a test against his will.

The law, as it stands, would allow the person the option of a breath test or some other kind of test, if a blood test would be dangerous to his or her health, or obnoxious to his or her religious or philosophical principles.

Furthermore, the bill, as we reported it out of committee, does not make the refusal to take a blood test or a breath test conclusive evidence. It merely means that it may be introduced into evidence.

So, Ladies and Gentleman of the House, here we have a situation in which there is evidence bearing on the court's finding of the facts one way or the other. We have an amendment that seeks to exclude this from a court, and we have no constitutional reason why this evidence should be excluded.

I hope you will go along with the motion to recede and concur.

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

Mr. McHENRY: Mr. Speaker, I move that we adhere.

The SPEAKER: The Chair would advise the gentleman that the motion to recede and concur would have to be defeated first, prior to the motion to adhere.

Mr. McHENRY: Mr. Speaker and Members of the House: I would hope that this House would not go along with this motion, because I feel, and my constituents feel, and I am sure you are guilty, automatically guilty, no matter what you say. The Constitution says you are innocent until you are proven guilty, but this says you are guilty if you do not take the test, no matter what we say, no matter what the lawyers say, you are guilty.

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

Mr. STETSON: Mr. Speaker and Members of the House: I just have to answer that last argument because that is not the way it works at all. The fact that a person refuses to take an alcohol test may be introduced in evidence, but the defendant may then come back and explain why he refused to take the test. It does not prove anything, the fact that he refused to take the test.

Let me give you an analogy. It has been the law for a long time that if a person is running

away from the scene of a crime, that flight from the scene of the crime may be introduced in evidence, evidence of the person's guilt that he committed that crime. So, if a person is running down a street, away from the bank that has just been robbed, it may be introduced in evidence that he was running away from the bank at that particular time. It does not prove that he robbed the bank, but it is evidence of guilt. So, this is not even as condemning as the evidence of flight from the scene of a crime. It is merely a statement that the reason there is no blood test result or no breath test result is simply that he refused to take a test; that is all it is.

If the person who was accused comes forward and says the reason I didn't take a test is because I was insulted, I didn't like the way this matter was handled, I was indignant about it, maybe I was under a doctor's care, that may be brought forward in rebuttal of any inference as to why he didn't take the test.

As the Speaker has already advised you, if we adhere or if we insist, this whole bill goes down the drain, and I submit to you that this is a good bill, it was carefully considered, this very measure was carefully considered, and I think we ought to try to get the drunk drivers off the road and this will help to do it.

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

Mr. McKEAN: Mr. Speaker, Ladies and Gentlemen of the House: I agree, we are going to have to recede and concur; we have put ourselves in that position. But I want to read you the committee amendment, exactly what it says, and then you can think about it yourself.

"The revocation of a person's implied consent to a chemical test by refusing to allow the taking of a sample specimen, as authorized by this section, shall be admissible in evidence on the issue of whether that person was under the influence of intoxicating liquor." That is the part that I think is wrong.

I would hope that you would go along with the recede and concur motion, but I think it is a travesty of justice.

Thereupon, on motion of Mr. Hobbins of Saco, tabled pending the motion of Mr. Simon of Lewiston to recede and concur and later today assigned.

Non-Concurrent Matter

Bill "An Act Relating to the Provisions of the Charter of the Brunswick Sewer District" (H. P. 1707) (L. D. 1810) which was passed to be engrossed as amended by Committee Amendment "A" (H-903) in the House on March 14, 1980.

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

In the House:

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

Mrs. BACHRACH: Mr. Speaker, Men and Women of the House: The committee very kindly put a referendum on this bill so that everybody in the town could vote as to whether they wanted the sewer district to take this action or not, and the sewer district decided they didn't want a referendum and asked me to kill the bill. So, I move that the House recede and concur.

Thereupon, on motion of Mrs. Bachrach of Brunswick, the House voted to recede and concur.

Messages and Documents

The following Communication:

March 17, 1980

The Honorable John L. Martin
Speaker of the House
House of Representatives
State House
Augusta, Maine 04333
Dear Speaker Martin:
The Committee on Legal Affairs is pleased to

report that it has completed all business placed before it by the second regular session of the 109th Maine Legislature.
Total Number of Bills Received in Committee 8

Unanimous Reports	7
Ought to Pass	2
Ought to Pass as Amended	3
Leave to Withdraw	2
Divided Reports	1
Total Number of Amendments	3

Sincerely,
S/PAUL E. VIOLETTE
House Chairman

The Communication was read and ordered placed on file.

The following Communication:
March 17, 1980

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

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

Bills received in Committee	6
Unanimous Reports	3
Leave to Withdraw	1
Ought to Pass As Amended	2
Divided Reports	3
Recommitted	0

Respectfully,
S/Representatives
House Chairman
S/LUMAN P. MAHANY

The Communication was read and ordered placed on file.

The following Communication:
March 14, 1980

The Honorable John Martin
Speaker of the House
State House
Augusta, Maine 04333
Dear Speaker Martin:

The Committee on Labor is pleased to report that it has completed all business placed before it by the second regular session of the 109th Maine Legislature.

Total Number of Bills Received in Committee	5
Unanimous Reports	4
Ought to Pass	3
Ought to Pass As Amended	0
Ought to Pass in New Draft	0
Ought Not to Pass	0
Leave to Withdraw	1
Divided Reports	1
Total Number of Amendments	2
Total Number of New Drafts	0

Sincerely yours,
S/JASPER S. WYMAN
House Chairman

The Communication was read and ordered placed on file.

The following Communication:
March 17, 1980

The Honorable John Martin
Speaker of the House
State House
Augusta, Maine 04333
Dear Speaker Martin:

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

Bills Received in Committee	31
Unanimous Reports	23
Ought to Pass	4
Ought to Pass as Amended	12
Ought to Pass in New Draft	2
Ought Not to Pass	1
Leave to Withdraw	4

Divided Reports	8
Bills Held in Committee	0

Respectfully yours,
S/Rep. JUDY C. KANY
House Chairman

The Communication was read and ordered placed on file.

The following Communication:
March 17, 1980

The Honorable John L. Martin
Speaker of the House
State House
Augusta, Maine 04333
Dear Speaker Martin:

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

Bills Received in Committee	3
Unanimous Reports	2
Ought to Pass	0
Ought to Pass as Amended	2
Ought to Pass in New Draft	0
Ought Not to Pass	0
Leave to Withdraw	0
Divided Reports	1

Respectfully yours,
S/Representative SHARON B. BENOIT
House Chairman

The Communication was read and ordered placed on file.

The following Communication:
The Honorable John Martin
Speaker of the House
State House
Augusta, Maine 04333
Dear Speaker Martin:

It is with pleasure that I report to you that the Committee on Transportation has completed all business placed before it by the Second Regular Session of the 109th Maine Legislature.

Total Number of Bills	17
Unanimous Reports	12
Ought Not to Pass	1
Ought to Pass	8
Ought to Pass as Amended	3
Divided Reports	5

Respectfully,
S/GEORGE A. CARROLL
House Chairman

The Communication was read and ordered placed on file.

Orders

On motion of Mr. Cox of Brewer, it was ORDERED, that Representative William Garsoe of Cumberland be excused March 17 and 18 for legislative business.

Special Sentiment Calendar

In accordance with House Rule 56, the following items (Expressions of Legislative Sentiment) Recognizing, Kenneth Violette, Jr., of Old Town, a member of Troop 74, who has attained the high rank and distinction of Eagle Scout, (H. P. 1966) by Mr. Pearson of Old Town.

The Holy Cross Bantam Hockey Team, of Lewiston, 1980 Class B State Champions; (H. P. 1967) by Mrs. Berube of Lewiston. (Cosponsor: Mr. Jacques of Lewiston)

Leslie "Cappy" Hall, of Lincolnville, a 1980 Jefferson Award Winner, (H. P. 1968) by Mrs. Hutchings of Lincolnville. (Cosponsor: Senator Shute of Waldo) (Later Reconsidered)

The Red Riots, of South Portland, Winners of the Western Maine Class A Boys Basketball Championship for 1978-90; (H. P. 1969) by Ms. Benoit of South Portland. (Cosponsors: Mr. Kane of South Portland, Mr. Cloutier of South Portland and Mr. Howe of South Portland)

Dorothy J. Stoddard, of Yarmouth, President of the AMVETS Auxiliary Department of Maine, (H. P. 1970) by Mr. Jackson of Yarmouth. (Cosponsor: Senator Clark of Cumber-

land)
Carole Hamm of Lincoln, Miss Tri-County 1980, (H. P. 1971) by Mr. MacEachern of Lincoln. (Cosponsor: Senator Chapman of Aroostook)

The Tigers of Fort Fairfield High School, coached by Clarence Clark, winners of the 1979-80 Class C ski championship for girls; (H. P. 1972) by Mr. Mahany of Easton. (Cosponsor: Senator Carpenter of Aroostook)

State Police officer Peter Herring for his alert and courageous action in stopping a runaway car, thus avoiding loss of life of crossing school children, (H. P. 1978) by Mr. Higgins of Scarborough. (Cosponsor: Ms. Benoit of South Portland)

State Police officer Maurice Ouellette for his alert and courageous action in stopping a runaway car, thus avoiding loss of life of crossing school children, (H. P. 1977) by Mr. Higgins of Scarborough) (Cosponsor: Ms. Benoit of South Portland)

No objections having been noted, these Expressions of Legislative Sentiment were considered passed.

In Memory of, former Congressman Allard Lowenstein, of New York, Representative to the United Nations Human Rights Commission; (H. P. 1976) by Mr. Brenerman of Portland. (Cosponsors: Mr. Baker of Portland, Mr. Connolly of Portland, and Mr. Torrey of Lisbon).

On the objection of Mr. Brenerman of Portland, was removed from the Legislative Sentiment Calendar.

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

Mr. BRENERMAN: Mr. Speaker and Members of the House: I set aside this item for two reasons; one was to make note of the tragic shooting death of former Congressman Allard Lowenstein in his New York law office last week, and also because Al Lowenstein was a personal friend of several of us in the House.

To many of us, in the late sixties and early seventies, Congressman Lowenstein was one of those rare political leaders who gave us encouragement and who showed us that there were people in the political system who were responsive. He was a person who also showed us that politics still had humanity.

He was an articulate, humorous, selfless man with an acute sense of justice. His leadership in the civil rights movement is something that we can all be proud of and led to his appointment by President Carter as the Human Rights Representative to the United Nations.

Although I, personally, had only known Al Lowenstein for a year, I felt as if he had been my best friend since childhood.

Speaking for my cosponsors and for others who knew him and worked with him this year, we will certainly miss him.

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

Volunteer fireman, William R. Quentin, of Scarborough, whose life was tragically lost while serving his community, (H. P. 1979) by Mr. Higgins of Scarborough. (Cosponsor: Senator Danton of York)

There being no objections, this Expression of Legislative Sentiment was considered adopted.

On motion of Mrs. Hutchings of Lincolnville, the House reconsidered its action whereby Legislative Sentiment recognizing Leslie "Cappy" Hall of Lincolnville, a 1980 Jefferson Award winner, House Paper 1968, received passage under the Special Sentiment Calendar.

On motion of the same gentlewoman, tabled pending passage and later today assigned.

**House Reports of Committees
Divided Report**

Majority Report of the Committee on Business Legislation reporting Pursuant to Joint

Order (H. P. 1726) "Ought Not to Pass" on Bill "An Act Increasing the Minimum Handling Fee for Returnable Beverage Containers from 1¢ to 2¢" (H. P. 1973) (L. D. 2012)

Report was signed by the following members:

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

Miss BROWN of Bethel
Mr. HOWE of South Portland
Miss ALOUPIS of Bangor
Messrs. JACKSON of Yarmouth
GWADOSKY of Fairfield
BRANNIGAN of Portland
— of the House.

Minority Report of same Committee reporting Pursuant to Joint Order (H. P. 1726) "Ought to Pass" on same Bill.

Report was signed by the following members:

Mr. AULT of Kennebec
— of the Senate.

Messrs. SPROWL of Hope
DUTREMBLE of Biddeford
LIZOTTE of Biddeford
— of the House.

Reports were read.

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

Mr. HOWE: Mr. Speaker and Members of the House: I move we accept the Majority "Ought Not to Pass" Report and I would speak to my motion.

The SPEAKER: The gentleman from Portland, Mr. Howe, moves that the Majority "Ought Not to Pass" Report be accepted.

The gentleman may proceed.

Mr. HOWE: Mr. Speaker and Members of the House: I think, in speaking to several of my colleagues in the last couple of days that I was on the "ought not to pass" report, several of them seemed surprised because they apparently thought that was inconsistent with my strong, continued support of the bottle bill.

Indeed, a year ago, I probably would have thought this position was inconsistent with support of the bottle bill, and I must tell you today that I did a complete about-face on this issue. During the public hearings held during the last session of the legislature, we did not deal with this and several other items at the time because to have passed some of those items probably would have resulted in a competing question on the ballot last November which would have confused the matter, and we wanted to keep that repeal question clean, so we came back in this session to deal with the bottle bill.

I am, indeed, a strong supporter of this law and have been ever since before I was a legislator and it was debated up here two or three years running. There was nobody any happier on the first Tuesday of November, 1976, when the big winners nationwide were Carter, Howe and the Bottle Bill, and I continue to be a strong supporter of this law.

The handling fee provision was put in the law unlike, I understand, the Oregon law, to allay some of the fears of the people who would be handling returned containers, and those groups were the retailers and the redemption centers.

In addition, the redemption center concept was put in the law to act as a service for the retailers. When the law first became effective, a lot of people jumped into the redemption center business. We have been told approximately 90. I understand that today there are approximately two dozen redemption centers operating. It is my view that the redemption centers exist to serve retailers rather than consumers or customers. Indeed, it can actually be an inconvenience to some customers if they have to take their containers to a place other than the place where they bought the original product, the full container. So, it is clear to me that redemption centers were created, or the concept was created in the law to serve retail-

ers.

However, the fact is that both by population and geographically a majority of the state's retailers are not served by redemption centers. For various reasons, retailers have not, apparently, seen it in their best interest to make sure that redemption centers function, and if redemption centers are not needed in the eyes of the retailers, it is my view that perhaps there is not a role for them to play.

Now, clearly in some parts of the state, that is not the case, they do serve a role and retailers participate in those redemption centers. In some areas, all retailers in a given locale are participating in the redemption centers, and that means that a retailer may refuse to take back deposit containers if there is a redemption center within so many miles. In other areas, it is kind of a mixed bag; some retailers participate in that area and some don't.

The redemption centers get that one cent handling fee if the container comes back through their facility. The retailer keeps the one cent handling fee if it comes back through their facility. The redemption centers, it seems to me, if they are clearly in the best interest of retailers, retailers have the power and the ability and the economic wherewithal to make sure that redemption centers continue to exist. In some areas, in addition to that one cent, retailers enter into an agreement with the redemption centers to provide the redemption center with a flat monthly fee to help cover the redemption center's cost. This, to me, seems to be the way it ought to be.

The one cent handling fee was put into the law originally to get this concept started. It has had many months now to work or not to work, and I do not think we are breaking faith with anybody by not raising that handling fee another penny, because it seems to me that there are sufficient economic incentives in the marketplace to make sure that the redemption centers function as they should.

Now, as for the retailers, it is clear to me that they have it within their power to make sure that their handling costs are covered by merely raising the purchase price of the product and, indeed, they have done so. You will recall, I think, that there were threats, if you will, before this law became effective, that the price of beer and soda was going to increase if the law was passed. And the reason those costs would increase is because it was going to cost money to tool up the bottling line and it was going to cost money for distributors and retailers to handle these returned containers. Indeed, the cost went up to cover those handling costs. That, again, is as it should be.

It seems to me that the legislature does not need to tell retailers that it is within their power to raise their purchase price. They have done so in the past and they will do so again when it is necessary.

Again, as for the redemption centers, if it is in the economic interest of the retailers to make sure they continue to exist, they have the power to make that happen and it will not take a law to tell them to do so.

Now, some of you recall that in the past, once each session, in fact, my three previous sessions, I have used a visual aid in debate. Those have been my happiest days on the floor of this House. I have used visual aids in debate on issues such as woodstoves, pornography and the sky lab, and today I would like to present you another visual aid—very simple arithmetic.

The SPEAKER: The Chair would advise the gentleman he is in violation of the rules.

Mr. HOWE: I am sorry, I will just very slowly remove this. I wasn't so informed on those previous occasions; I didn't realize that was a violation of the rules.

The SPEAKER: The Chair was not contacted.

Mr. HOWE: Well, very simple arithmetic— one penny equals \$5 million, you all know that

is fundamentally true. The reason it is true is because there are about a half a billion deposit containers that go through the process each year. In fact, \$5 million is low. The reason for that is because if we pass this bill, what is going to happen is that the distributors are going to raise by one penny per container the wholesale price to retailers that they charge for beer and soda. They are going to do that unless, perhaps, you believe in the tooth fairy and that they are going to absorb that cost. They are going to raise the wholesale price by a penny is what they are going to do, but retailers don't simply mark up wholesale costs on a one to one ratio, they mark them up on something like a one and quarter to one ratio. So that one penny is really going to end up as more than a penny per container on the purchase price, and that \$5 million is probably closer to \$6 million or \$7 million.

Well, members of the House, I will rest my case at this point, but I hope you have listened to the debate and you will continue to listen to the debate, because I did an about face on this issue after the very lengthy public hearings, and I see nothing about the "ought not to pass" position which does an injustice to the concept of our bottle law.

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

Mr. D. DUTREMBLE: Mr. Speaker, Ladies and Gentlemen of the House: I am one of the members of the Minority "Ought to Pass" Report. It seems to me that when Representative Howe talks about one penny representing \$5 million, and Mr. Gwadosky, one penny equals \$3 million, I am sure if we asked somebody else, they would come up with \$10 million or \$17 million or whatever.

It seems to me you are talking about if the distributor raises the price a penny that it is going to cost the consumer \$5 million. If you let the store owner handle it and he raises it two cents, then it is going to cost the consumer \$10 million. It seems to me it doesn't make a bit of difference who raises the prices here, regardless if it's the store owner or it is the distributor, it is still going to cost the consumer some money.

I think the basic question here is, when the people of this state passed the bottle law, did they mean for the store owners, the retail grocer, to be the ones to handle the whole problem?

It has been mentioned in committee that you should let competition take care of this problem. Those people have to raise it to take care of their work, the bottles that are given them, and they should raise their prices. What you are doing then, if one person raises their price a penny or two to take care of the problems of handling the bottles and the other stores don't do it, then that person may lose business, and I am just wondering if the bottle bill was passed so that we could have one particular grocer lose money, lose business while the other grocer makes it? I just don't think that was the purpose of the bottle bill.

If we are going to talk about money, this penny here will be charged to the distributor; it will not be charged to the people. And you are talking about whether or not the distributor has to pass this cost along to the people, well, I just want to bring up one point, and it is called the float money. I don't know how many of you people know too much about the float money, that is the amount of money that the distributor makes because of all those bottles and cans that were never returned, the bottles that were broken or the cans that were crushed, that were thrown out and never returned to the store and never returned to the distributor. That means that every time that happens, the distributor does pocket some money. And if you are talking about 10 percent, you are talking about \$3 million right there. So, if we are going to talk about who is to pay for it, the distributor already has a built-in fund to pay for it; he

doesn't really have to but I am sure he will, but he doesn't really have to.

I think it is very important that we realize that the bottle bill was not passed so that the retail grocer handle it by raising prices whenever he feels that there is not enough money being made to take care of these bottles.

You know, we all go to grocery stores and we see the problems that these people have. I don't have any doubts at all that the grocer needs that extra penny to handle these bottles. The question is, who is the one it is going to be charged to? Is the retailer going to do it or are we going to pass it on to the distributor?

I would hope that you would vote against the motion for the "ought not to pass" report.

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

Mrs. MacBRIDE: Mr. Speaker, Ladies and Gentlemen of the House: In my area, there is much interest in redemption centers. The Mom and Pop stores want the redemption centers, the larger grocery stores want the redemption centers. However, the redemption centers say they cannot survive with one cent. They feel, however, that they can operate successfully at two cents.

One grocery store told me he would close his doors if we don't have redemption centers. He is much in favor of the bottle, as I certainly am, but says that bottles and cans can pile up in his store to make unsanitary conditions, promote rats and mice and create a storage problem.

The Mom and Pop stores said they need to add onto their stores in order to take care of the returnables if we don't have redemption centers, and they feel that they cannot afford to do that.

So, ladies and gentlemen, the people in my area would like to have that rate increased from one cent to two cents.

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

Mr. JACKSON: Mr. Speaker, Ladies and Gentlemen of the House: As you know, the bottle bill has been through two referendums statewide and it has been supported overwhelmingly in both of the referendums. If I could tell you that putting one cent would save the redemption centers and would bring them back, it might be something that we can consider, but the one cent isn't going to do that. What it is going to do, it is going to give the redemption centers a momentary lull, some of them will become viable economically again, and within a year or two they will be back to us asking for another penny, and possibly another penny, and so on.

We asked this question at the public hearing and they had to admit at that point they didn't know how many times they would have to come back for another penny or where they would become viable.

The problem is, the redemption centers, and this has happened with some of the redemption centers, they have got to sell their services, they have got to go out in the free market and they have got to go to the retailer, who has these nasty cans and bottles, and they have got to sell the service to that retailer of hauling them away and taking care of them.

The only way that we can guarantee to save redemption centers in this state is to pass a law saying that you may not return cans and bottles to anyone except a redemption center. This might be acceptable to some of the retailers, but I don't think it would be acceptable to the public, and I don't think they would want to drive out of their way to return cans and bottles to another point from the point where they had bought them in the first place.

The other area that would like the second penny are the retailers. The retailers claim that the costs of handling these are going up.

I would point out again that they act in a free market and they can raise their prices and that

the price for a can of, say, Coca Cola vary widely within the state, within towns, within the areas. Generally, the large chain stores charge less and the Mom and Pop grocery stores charge more. The Mom and Pop grocery stores offer a service and a convenience, so people are willing to pay more. But if we enter into this further than we already have as the state and mandate this extra penny, we are locking ourselves into adding one penny after another as the years go by and as inflation pushes the costs up higher and higher.

I hope very much that you will accept the report to do nothing here, the majority report on this bill, and not mandate another \$5 million. Let the free market system handle this problem.

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

Mr. BRANNIGAN: Mr. Speaker and Members of the House: I would like to follow up what Mr. Jackson has said. I also came here believing that redemption centers were a very important part of this bill, the bottle bill, and a very good thing, and I learned, I think, from the hearings why they won't work. Let me tell you why I think they won't work.

In order for them to work, as Representative Jackson has said, everyone has to band together in an area and support them. But what happens is, a lot of people don't want to get into that because they want the traffic coming back bringing bottles and buying things. But one of the major things that happens, it has happened in a number of your communities right here in Augusta it has happened, where some very enterprising, medium size grocer will become himself not a redemption center because they are very strictly licensed and controlled, he becomes a returnable center. He builds on a building, makes it very convenient, goes into the business of taking bottles back because he finds that (1) he has got to do it anyway, because he wants the traffic to come, but if he makes it easier, a lot more people will come. Therefore, he will get a lot more traffic in his store, people picking up other things.

Now, redemption centers are forbidden to sell anything at their place of business, so this returnable center, and there is one across the river here in Augusta, a very enterprising, admirable young man, who has just gone to work and made this a very important part of his business, and as long as that is available, redemption centers just can't work because someone else is going to see the profit in it for their own store and go into it. That is why, unless we mandate that everybody has to go to redemption centers and no one can take returnables, someone is always going to step into this profitable situation and make redemption centers not viable, and the only reason for the handling charge is for redemption centers, because otherwise, as you know now, the cost of the handling charge is put on the product by the distributor. If there is no handling charge, the cost of handling will be put on by the retailer.

So, I urge you not to give the struggling redemption centers another boost that they might be able to make it and then have them coming back year after year until we are putting three, four or five cents to try to keep a struggling group going that can't make it because of those other considerations.

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

Mr. SPROWL: Mr. Speaker, Ladies and Gentlemen of the House: Neither of these reports repeal the handling charge.

It seems to me that three of the speakers who have spoken against increasing the charge really want to do away with the handling charge; that seems to be the argument they are using. If that is true, I don't know why they didn't come out with a report to repeal the handling charge altogether.

The fact is, one cent is not enough. The people voted for the bottle bill, they voted for

the handling charge, and I think we should be realistic. Some of us were here when the bottle bill started, we have a moral obligation to those redemption centers. We really put the carrot out in front of them to build the redemption centers and now some of the people that were on the committee and some that have come since feel that we should leave them hanging with their mortgages and what not, I guess. I don't come from that side of the street.

I think the voters voted for the handling charge and one cent just isn't enough. The constituents in my area, the retailers, are all saying that one cent is not enough for them and there isn't a redemption store there, but just the retailers say they need more than one cent, and certainly if they need more than one cent, the redemption centers need more than one cent, and the voters, themselves, have voted this, as I see it. I don't like the idea of putting the redemption centers out of business with one cent, which we are going to do, and I don't like the idea of not paying what we should be paying to handle the bottles.

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

Mr. BRANNIGAN: Mr. Speaker, Ladies and Gentlemen of the House: One of the reasons why we didn't try to repeal the one cent is that if there are places, and maybe in Presque Isle, maybe there are places where a group of grocers truly have gotten together and all decided they will not have bottles coming into their store, they will support the redemption center and that is really going, there are a few of them, I am afraid, but if there are, then the one cent will be there, and if one cent is not enough, then the grocers will have to subscribe, their subscription cost to the redemption center will go up and that cost will go onto the product.

I understand the moral commitment that Representative Sprowl—he and I discussed it a lot in committee and I feel that, but if it is not going to work and it is not, then why keep going, two cents, three cents, why keep it going if that is really true?

The SPEAKER: The Chair recognizes the gentleman from Fryeburg, Mr. Kiesman.

Mr. KIESMAN: Mr. Speaker, Ladies and Gentlemen of the House: The focus of this seems to be on redemption centers, and I would like to say to you that there are a lot of little Mom and Pop stores that had the responsibility for redemption thrust upon them when this bill was passed originally to set up returnable bottles. They have struggled very hard to carry out this mandate that us thrust upon them. They have had to build separate areas to get the bottles out of their stores, which were minimal in size to begin with. It takes time to sort the bottles and handle them, and one cent a bottle just doesn't begin to cover the additional costs that they have had put upon them.

The people of Maine wanted a returnable bottle bill and I support it. I did support it and I do support it. I think it is important, necessary, but I do think we have to recognize that we had put quite a burden on one small segment of our society to do the function that the public wanted, and that was to clean up the bottle waste that has been thrown around the state.

It has been said that let the marketplace take it's course and this will sort it all out. Now, just a couple of weeks ago, my friend at the end of the aisle here, Mr. Carroll, made a statement that was quite appropriate; he said the big fish gobbled up the little fish. A big chain store can go ahead and take the loss and keep the cost of their returnables down and go ahead and eat that one cent and they survive, but that little Mom and Pop store can't do that. There are too many pennies involved here. You just saw two different estimates. We are talking about \$3 million, \$5 million, and we lightly toss these figures around. Well, let me tell you, you talk about \$3 million so many times and pretty soon you are talking about big money.

I think you ought to think about these little

Mom and Pop stores. This is not a redemption center bill. There are an awful lot of Mom and Pop stores handling these returnables that are not affiliated with any redemption center.

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

Mr. CALL: Mr. Speaker, Ladies and Gentlemen of the House: I did not want the bottle bill, although now that it is here, I am living with it. However, the proposed changes don't please me.

Many people have various cans and bottles in the trunks of their autos because some places don't handle a certain canned or bottled beverage.

It is a shame to have to take time, particularly now, to debate an auxiliary bottle bill. If we don't discourage supplementary proposals to the bottle bill now, they shall go on and on like Tennyson's book.

The "Ought Not to Pass" is a proper motion, and I urge you to vote accordingly.

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

Mr. GWADOSKY: Mr. Speaker, Ladies and Gentlemen of the House: Welcome to bottle bill day. It seems like we have had this in our committee for I guess about a year now, last year in study reports, and I guess it must seem like we are asking you to bite the hard bullet this morning. I know when we came back here last year, we came back this year and the voters, through the referendum, had voted to keep the bottle bill intact. I said, great, now we can finally make amendments and refine the bottle bill.

What we found out was that there is quite a problem because the distributors in the State of Maine have a monopoly on the market. Every time we tried to do something, and we had 12 or 15 different amendments, they simply were going to raise the price of soda.

Where Mr. Howe of South Portland and I might have disagreed on the total amount, whether it be \$3 million or \$5 million, I think we are right on the same track when we realize what the effect is going to be. When you mandate to the distributors that they pay more money, a penny extra, this is going to be two or three cents extra on every bottle of beer and every bottle of soda that you buy. It is as simple as that.

When we had the bottle bill hearings last year, I sent out memos to my local stores and redemption centers, gave them copies of the bills and told them we were going to have the bottle bill hearings. I got calls from every single one of them. They called and said, well, we hope you do this and we hope you consider this, and I took that into consideration.

When we had the bottle bill hearings this year, I did the same thing and I didn't get contacted by any of them. I thought that was a little unusual, so I went back to the stores and asked them, why didn't you give me a call this time? They said, well, we just raised the price, we had to cover the costs so we did it ourselves. So I think it is evident that the free marketplace will work in a situation like this. These stores have already raised the prices to compensate for the cost that it costs them to handle these bottles and cans.

There will be a lot of other things that will be coming down the road in the next couple of years, whether we go to more recycling, whether we go to standardized bottles, but I don't think trying to subsidize redemption centers, mandating that we subsidize redemption centers, is quite the answer. I guess it is my feeling that if we pass two cents this year, they are going to come back for three cents next year.

I think if it is the concern and the intent of retailers, small and large, to keep the redemption centers, they have the economic incentive to do this, they can join in a cooperative and make sure the redemption center in their town or in your town stays alive.

So, I hope that you will agree to the Majority "Ought Not to Pass" Report.

The SPEAKER: The Chair recognizes the gentleman from Houlton, Mr. Peltier.

Mr. PELTIER: Mr. Speaker, Ladies and Gentlemen of the House: I know about the bottle bill the same way an astronomer knows about the stars, by observation. I have been in quite a few back rooms, I have seen the grocery stores' problems; I am in favor of giving them the increase.

The SPEAKER: The Chair recognizes the gentleman from Waldoboro, Mr. Blodgett.

Mr. BLODGETT: Mr. Speaker, Ladies and Gentlemen of the House: Back in the 107th Legislature when we faced the bottle bill proposal, those of us who were in support of it did so, I think, to a large degree because we thought that through the redemption centers, through paying a small fee to the Mom and Pop stores to take care of this cost, we could take the bite out of it and make it something that we could live with. Since that time, of course, with the increased cost of living, with the handling costs that these people have had to face, I think it is only reasonable that we should be prepared to increase this by one more cent, in order to make not only the redemption centers but also the Mom and Pop store operations feasible. After all, we supported it, the people of the State of Maine supported this as a convenience and to clean up our highways and byways, and I think it is only reasonable that we should continue to do this by increasing that amount.

I would urge that the members of the House vote against the "ought not to pass" and then pass the bill as it has been put out.

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

Mrs. BEAULIEU: Mr. Speaker, Ladies and Gentlemen of the House: I guess the report that I am looking at today really poses an enormous problem for me because I feel that putting in one cent is, indeed, the most minimal of resolves in solving the problems of the bottle bill.

After the referendum vote and the successful retention of the bottle bill, I was named to a special commission by the Commissioner of Agriculture, and seated on that particular committee were people representing distributors, bottlers, recycling center representatives, the Audubon Society, the Natural Resource Commission, Redemption Center reps and other people. We talked at length at that one particular meeting about the problems of the redemption centers in the small stores. The majority of that committee left that meeting that day with a vote of agreement that the redemption centers were the ultimate answer to resolving the small store storage problems.

For example, in my area, we have some 22 small stores within a one-mile radius, less than one-mile radius, and many of our store owners want to set up a redemption center in the area. In other words, they would like to co-op a redemption center in that immediate area which would be within walking distance for the residents of Munjoy Hill, but, unfortunately, we don't know how to begin to do that process and we know full well that in order to make the redemption center operational, it also has to be economically feasible.

I have three island stores, for example, who absolutely need more money for the problems that they face, because they not only have to pay to bring the product from the mainland over to the island, but they also have to pay to return the empties back to the mainland and that becomes extremely expensive for them. So, the one cent increase would be of some immediate assistance to them.

Mandating returns to the redemption centers is not my idea of an answer to help the small stores. I am convinced that many of the voters who supported the bottle bill, who went and voted to support the bottle bill, were also convinced that the problems would be resolved,

those that they had heard about, that they would be addressed and corrected. Let me assure you, this one cent proposal is not the total answer.

I believe that during that particular campaign everyone, starting with our Governor, promised legislative action to help to take care of the concerns of mid-sized markets and small stores. I feel that as a beginning step to try to resolve and to assist the small stores, those particularly in my area, I have no alternative but to vote for the one cent increase.

I guess I am just bitterly disappointed that some of the other issues that I know were discussed at the hearing by the Business Legislation Committee, those that were pointed out by the Commissioner of Agriculture at that hearing, have not really been addressed, but then we have another session to make sure that we will have a constructive and purposeful bottle bill that will not put such a hardship on the very small stores, of which there are very, very many.

I am not worried about big buyers and Hanaford Brothers operation and the large markets, but I am really concerned, genuinely concerned, about the small stores, the Mom and Pop stores. This one cent is by no means all the answer for them, but I hope that if we can do this much at this time and allow people who genuinely care and really want to make the bottle bill a good one that will not distress the small businesses, that maybe throughout the summer and next fall we can come up with some other answers to assist. Unfortunately, I think I am just disappointed that this is all the Business Legislation Committee chose to come with as a result of it at this time.

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

Mr. KELLEHER: Mr. Speaker, Ladies and Gentlemen of the House: I move that this Bill and all its accompanying papers be indefinitely postponed and I would request the yeas and nays.

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

Mr. HOWE: Mr. Speaker, Ladies and Gentlemen of the House: Briefly, it seems to me that if this bill, the "Ought to Pass" Report is accepted, we might as well set up a Maine Handling Fee Commission to regulate the handling fee, because there is no question in my mind that the people who will benefit from this, whether they need it or not, will be back year after year after year.

I can't believe my ears that some of my free enterprise colleagues are telling me, unlike what they so often say, that all of a sudden this cost won't be passed along to the consumer, that somehow retailers don't have the ability to raise prices that in so many other debates we have been told they do. They clearly do, and it seems to be that this, as far as the redemption centers are concerned, may well backfire on them, because the retailers can double the handling fee, which they keep, and they may very well then decide to pull out of the redemption centers.

I rest my case.

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

Mr. SPROWL: Mr. Speaker and Members of the House: No one has tried to say that the consumer won't pay. The consumer is going to pay in any event, so this red herring, that by increasing from one cent to two cents will increase the costs—of course it is going to increase the cost, but no matter what we do, it

going to increase the cost. If I heard my committee chairman right, when he says that—I don't know who is going to pay that \$5 million, of course the consumer is going to pay the \$5 million, no one tried to say that.

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

Mr. HUGHES: Mr. Speaker, Ladies and Gentlemen of the House: I simply want to emphasize that the question before us isn't whether prices are going to go up, the question is, what is the best mechanism for deciding what price adjustments shall take place.

I would urge you to support the motion before us now to indefinitely postpone both bills, because I think the evidence is very clear that a legislative body is not the best price-setting mechanism that can be made. I know of stores in the Lewiston-Auburn area that are making money at one cent, not many, but some. It is possible if you don't have to add additional employees and if you have the space available. However, I am sure there are many who are not making money at one cent. For some, 1.25 cents would be enough; 1½ cents would be enough; 1¾, but there was no evidence presented at the hearings, there has been no evidence presented on this floor as to just how much costs are, just how much of a raise is necessary and yet we have before us a proposal to double the handling charge for the stores from one cent to two cents, just tossed out at us as a proposal, a 100 percent increase. Does that seem to you to be a thoughtful price-setting mechanism?

If we put ourselves in that process this time, this legislature will be in it forever and every session of the legislature, we are going to have a day where we debate the costs of doing business in the various stores of the State of Maine. If you think this is the best place to do it, then you would vote against the motion, but if you think the free enterprise system of each store-owner analyzing his own cost, his own situation, and deciding for himself what he must do to make a fair profit. If you think that is a better mechanism, then you will vote for Mr. Kelleher's motion.

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

Mr. BROWN: Mr. Speaker, Ladies and Gentlemen of the House: I am really sorry to prolong this now, but I will be very brief.

I just want everybody to understand that if we vote in favor of the pending motion, we are voting to do away with the whole bill, and that is, we are voting to ignore the problem that the Mom and Pop stores have, we are voting to ignore the problem that the redemption centers have, we are voting to ignore the problem that has come about as a result of the passage of the bottle bill, which I think, and everybody else, I think, agrees, was a good bill.

So, think very carefully before you vote to indefinitely postpone this bill.

The SPEAKER: The Chair recognizes the gentleman from Bangor, Miss, Aloupis.

Miss ALOUPIS: Mr. Speaker, Ladies and Gentlemen of the House: I think this whole thing is being blown out of proportion. Our Mom and Pop stores, and I am a little business lady, not in a grocery store but another little business, can charge that extra cent on their own. No one prohibits them from charging a little extra to handle that bottle.

The whole basic issue here is, are we going to be tossing a little bone each year to the redemption centers to keep them alive? My contention is, and we discussed this for about 30 hours in committee, that the redemption centers are going to have to go out and solicit and contract for business with the stores, get their one cent. Mary said her stores up home want the redemption centers—fine. Let her little Mom and Pop stores contract for \$200 a year, whatever, with the redemption center and make up that imbalance. Let's not lose perspective, please.

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

ROLL CALL

YEA — Aloupis, Bachrach, Baker, Benoit, Berry, Berube, Bowden, Brannigan, Brodeur, Brown, K.L.; Call, Carter, D.; Carter, F.; Conary, Connolly, Cox, Damren, Davies, Davis, Dellert, Doukas, Fillmore, Gowen, Gwadlosky, Hickey, Howe, Huber, Hughes, Jackson, Jacques, E.; Jacques, P.; Jalbert, Joyce, Kelleher, Leighton, Leonard, Lewis, Lougee, Lund, Mahany, Marshall, Masterton, Maxwell, McHenry, McMahon, Morton, Nelson, A.; Payne, Sewall, Simon, Small, Smith, Soulas, Stetson, Stover, Studley, Tarbell, Torrey, Vincent, Wentworth, Whittemore.

NAY — Austin, Barry, Beaulieu, Birt, Blodgett, Bordeaux, Brenerman, Brown, A.; Brown, D.; Brown, K.C.; Bunker, Carrier, Carroll, Chonko, Churchill, Cloutier, Cunningham, Curtis, Dexter, Diamond, Dow, Drinkwater, Dudley, Dutremble, D.; Dutremble, L.; Elias, Fenlason, Fowle, Gavett, Gillis, Gray, Hall, Higgins, Hobbins, Hunter, Hutchings, Immonen, Kane, Kany, Kiesman, Lancaster, LaPlante, Lizotte, Locke, Lowe, MacBride, MacEachern, Martin, A.; Masterman, Matthews, McKean, McPherson, McSweeney, Michael, Mitchell, Nelson, M.; Nelson, N.; Norris, Paradis, E.; Paradis, P.; Paul, Pearson, Peltier, Peterson, Post, Prescott, Reeves, J.; Reeves, P.; Rolde, Rollins, Roope, Sherburne, Silsby, Sprowl, Strout, Theriault, Tozier, Twitchell, Violette, Vose, Wood, Wyman, The Speaker.

ABSENT — Boudreau, Garsoe, Hanson, Laffin, Nadeau, Tierney, Tuttle.

Yes, 61; No, 83; Absent, 7.

The SPEAKER: Sixty-one having voted in the affirmative and eighty-three in the negative, with seven being absent, the motion does not prevail.

The pending question now before the House is on the motion of the gentleman from South Portland, Mr. Howe, that the Majority "Ought Not to Pass" Report be accepted. The Chair will order a voice vote. All those in favor will say yes; those opposed will say no.

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

Thereupon, the Minority "Ought to Pass" Report was accepted, the Bill read once and assigned for second reading later in the day.

Divided Report

Majority Report of the Committee on Business Legislation reporting Pursuant to Joint Order (H. P. 1726) "Ought to Pass" on Bill "An Act Prohibiting Nondegradable Connectors for Returnable Beverage Containers" (H. P. 1974) (L. D. 2013)

Report was signed by the following members:

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

Miss ALOUPIS of Bangor
Messrs. JACKSON of Yarmouth
LIZOTTE of Biddeford
DUTREMBLE of Biddeford
HOWE of South Portland
GWADOSKY of Fairfield
BRANNIGAN of Portland
— of the House.

Minority Report of the same Committee reporting Pursuant to Joint Order (H. P. 1726) "Ought Not to Pass" on same Bill.

Report was signed by the following members:

Mr. AULT of Kennebec
— of the Senate.

Miss BROWN of Bethel
— of the House.

Reports were Read.

Thereupon, the Majority "Ought to Pass" Report was accepted and the Bill read once. Under suspension of the rules, the Bill was read the second time, passed to be engrossed and sent up for concurrence.

By unanimous consent, ordered sent forthwith to the Senate.

Divided Report

Majority Report of the Committee on Business Legislation on Bill "An Act to Improve Private Remedies for Violations of the Antitrust Laws" (H. P. 1077) (L. D. 1330) reporting "Ought to Pass" in New Draft under New Title Bill "An Act to Improve Governmental Remedies for Violations of the Antitrust Laws" (H. P. 1975) (L. D. 2014)

Report was signed by the following members:

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

Miss ALOUPIS of Bangor
Messrs. LIZOTTE of Biddeford
DUTREMBLE of Biddeford
HOWE of South Portland
BRANNIGAN of Portland
GWADOSKY of Fairfield
— 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. WHITTEMORE of Skowhegan
JACKSON of Yarmouth
LIZOTTE of Biddeford
Miss BROWN of Bethel
— of the House.

Reports were Read.

Mr. Howe of South Portland moved that the Majority "Ought to Pass" Report be accepted.

Whereupon, Miss Brown of Bethel requested a vote.

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

A vote of the House was taken.

75 having voted in the affirmative and 22 having voted in the negative, the motion did prevail.

Thereupon, the Bill was read once and assigned for second reading later in the day.

Divided Report

Majority Report of the Committee on Fisheries and Wildlife reporting "Ought to Pass" as amended by Committee Amendment "A" (H-927) on Bill "An Act to Adjust License Fees for Inflation, for the Department of Inland Fisheries and Wildlife" (H. P. 1830) (L. D. 1934)

Report was signed by the following members:

Messrs. REDMOND of Somerset
USHER of Cumberland
— of the Senate.

Messrs. GILLIS of Calais
CHURCHILL of Orland
PAUL of Sanford
JACQUES of Waterville
MacEACHERN of Lincoln
DOW of West Gardiner
VOSE of Eastport
TOZIER of Unity
PETERSON of Caribou
— 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. PIERCE of Kennebec
— of the Senate.

Mr. MASTERMAN of Milo
— of the House.

Reports were Read.

On Motion of Mr. Dow of West Gardiner, the

Majority "Ought to Pass" Report was accepted and the Bill read once. Committee Amendment "A" (H-927) 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 by Committee Amendment "A" and sent up for concurrence.

By unanimous consent, ordered sent forthwith to the Senate.

Consent Calendar First Day

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

(H. P. 1771) (L. D. 1891) Bill "An Act to Establish a Modified Procedure on Matters before the Public Utilities Commission Relating to Contract Carrier Permits and Special and Charter Bus Licenses"—Committee on Public Utilities reporting "Ought to Pass" as amended by Committee Amendment "A" (H-928)

No objections having been noted, under suspension of the rules, the House Paper was given Consent Calendar Second Day notification, passed to be engrossed as amended and sent up for concurrence.

By unanimous consent, ordered sent forthwith to the Senate.

Passed to Be Engrossed Amended Bill

Bill, "An Act to Align Mortgage Loan Authority for Maine Thrift Institutions with Federal Regulation and to Adjust Interest Rate ceilings in Certain Consumer Credit Transactions" (Emergency) (S. P. 800) (L. D. 2004) (S. "A" S-463)

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

By unanimous consent, ordered sent forthwith to Engrossing.

Enactor Later Today Assigned

An Act to Provide for County Self-government (H. P. 831) (L. D. 1038) (H. "B" H-886 to C. "B" H-805)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. Mr. Tarbell of Bangor requested a roll call vote.

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

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

Whereupon, on motion of Mr. Strout of Corinth, tabled pending passage to be enacted and later today assigned.

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

Constitutional Amendment

RESOLUTION, Proposing an Amendment to the Constitution of Maine to Amend the Referendum and Initiative Provisions (H. P. 1638) (L. D. 1747) (C. "A" H-881)

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

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

Mr. HIGGINS: Mr. Speaker, Ladies and Gentlemen of the House: I would like to pose a question through the Chair to anyone on the Committee who dealt with this bill. I am looking at Section 18, No. 3, under timing of elections which, if you have the engrossed copy, is at the bottom of Page 6-2 and at the top

of Page 6-3. The amendment that we are adopting here eliminates a couple of words that are not put back in, and I guess those words are in the written petition, and I think it is somewhat cloudy as to the Governor's action in this matter. If he or she does not choose to call the election, the Secretary of State can do so within 10 days.

I would just pose the question, I guess—the first sentence reads, or will read—"The Governor shall, by proclamation...." Then it goes on in the next sentence to say "if the Governor fails to order a measure proposed." That seems contradictory to me if it says that the Governor 'shall', then the Governor shall and I don't think we need—I wonder if that makes sense later on in that section. That is part of the matter that I would like cleared up.

Then the bottom of that section, as I said, it has repealed or it has written out, stricken out, rather, the words 'written petition' and I think that at the bottom it should be clearly stated that the Secretary of State shall, by proclamation, order such measure to be submitted to the people in election as requested. I would pose the question—election as requested by whom? I assume that that means in the written petitions, as it did previously in that section, which has now been stricken out. Perhaps I am confusing the House even more, but I am not a constitutional lawyer and don't intend to be one, and that obviously will show here today, but I think that that section needs to be, at least on the record, cleared up as to how the process will work and whether or not that election, as requested, is, in fact, because of what was asked for in the written petitions.

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

Mrs. KANY: Mr. Speaker and Members of the House: I would like to refer Representative Higgins to a case called Kelly v. Curtis in which, although the Governor at that time was required to call an election, a Governor chose not to do so. That is really why we have even left the Secretary of State's involvement under both sections.

I am really glad that somebody has finally asked about this legislation because I am mighty proud of it, to tell you the truth, both as a sponsor and as the chairman of the State Government Committee. We worked long and hard over each individual word and did consult with the Attorney General's Office and many attorneys throughout the state.

What we attempted to do was not to totally rewrite the initiative and referendum sections at all, but basically to just clarify. For instance, this is the people's legislative power, that section of the Constitution, and many people are not aware, or at least were not until last Tuesday, that we had two sections, basically, two different concepts within that part of the Constitution, on which is suspension of laws that the legislature has passed, and that we have renamed the people's veto in here, which is the way it is referred to just once now in the Constitution.

Secondly, the initiative, which is really a direct initiative on being able to change the statutes.

I do think the wording was very carefully conceived and that section does refer to petition procedure under the directive initiative legislation, the referral to electors, unless enacted by the legislature without change, and the timing of such elections, so we are talking about those petitions and it should be clear to everyone just what was so conceived.

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

Mr. HIGGINS: Mr. Speaker, then there is no problem with anyone who is submitting petitions. Right now, they have the ability, as I understand it, to write on the petition that should the legislature fail to act on this matter, the referendum will be held on such and such a date, notwithstanding what we have done here

or what we intend to do here. We are not in any way infringing on that ability. I, personally, have some problems with — I know we are trying to save money in putting elections off until the fall, but this in no way would infringe on their ability to still be able to petition the legislature as to what particular date, if they wanted to have a particular date, then they can still do that with this law. Is that correct?

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

Mrs. KANY: Mr. Speaker and Members of the House: This will change and will consolidate the election dates. The direct initiatives will be acted upon by the legislature, basically, a little more than half through a legislative session and would go to the voters in a November election. Those would be consolidated at that time.

Now, the people's veto portion, which is the suspension portion, they would be held at any statewide election because, remember, the legislature took action, the legislature has decided something was worthwhile passing, and those were laws that are being suspended temporarily.

That election, that referendum on the suspension of some law will be held at the next statewide election unless it appears that there is more of an emergency, and then the Governor could call a special election for that purpose.

So, the idea is to consolidate; this is something that I have heard from many many people throughout the state, editorials, legislators and certainly municipalities throughout the state very much favor these consolidations. It cost about \$60,000 from the state to put on a special election just to deal with one issue and perhaps another \$200,000 for the municipalities. It is not only the idea of saving all that money, it is the idea that people get tired of having to go day after day, time after time, to the polls. So this does have broad support, and I think that you will find that this language was very carefully conceived.

The SPEAKER: This being a Constitutional Amendment, it requires the affirmative vote of two-thirds of the members present and voting. All those in favor of final passage will vote yes; those opposed will vote no.

A vote of the House was taken.

125 having voted in the affirmative and 5 having voted in the negative, the Resolution was finally passed, signed by the Speaker and sent to the Senate.

Finally Passed Emergency Measure

RESOLVE, for Laying of the County Taxes and Authorizing Expenditures of Oxford County for the Year 1980 (H. P. 1947) (L. D. 1995)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure and a two-thirds vote of all the members elected to the House being necessary, a total was taken. 126 voted in favor of same and none against and accordingly the Resolve was finally passed, signed by the Speaker and sent to the Senate.

Enactor Later Today Assigned

An Act Concerning Revisions in Maine's Juvenile Code and other Statutes Relating to Juveniles (H. P. 1847) (L. D. 1951) (C. "A" H-888)

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

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

Mr. CONNOLLY: Mr. Speaker, Members of the House: I haven't had an opportunity to review this particular bill until this morning, but I am going through the engrossed copy of it and there may be other things in here that should be called to the attention of this body. If you have an engrossed copy of this bill, I would

call your attention to Page 5, Section 21, the part that is titled "3A Victims" and I would read it for you and then I would pose a question through the Chair to any member of the committee who would care to answer.

"The name of a juvenile subject to juvenile court proceedings shall be made known by the juvenile court to the victim of the juvenile crime on his request." It would seem to me that this is in contradiction to action that this body took during the last session when we dealt with the issue of confidentiality of juvenile offenders. I guess the question would be, does this circumvent that and would this, in fact, allow juveniles' names to be released to the public?

The SPEAKER: The gentleman from Portland, Mr. Connolly, has posed a question through the Chair to any member who may care to respond.

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

Mr. HOBBS: Mr. Speaker, Men and Women of the House: What it would allow is the victim, who so requests, to be given the name of the individual who has wronged that person.

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

Mr. CONNOLLY: Mr. Speaker, Ladies and Gentlemen of the House: Given that answer, I would like to have an amendment prepared and try to back this bill up to remove this particular provision from this engrossed copy. So I would respectfully ask if someone might table this until later in today's session.

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

An Act Relating to Periodic Justification of Departments and Agencies of State Government under the Maine Sunset Law (H. P. 1936) (L. D. 1988)

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

The SPEAKER: The Chair recognizes the gentlewoman from Lincolnville, Mrs. Hutchings.

Mrs. HUTCHINGS: Mr. Speaker, Ladies and Gentlemen of the House: I feel like a lamb going to the slaughter house today. I do intend to vote for this bill as it is written, but I would like to be on record as opposing the section that I talked about the other day, the federal meat inspection program and the federal takeover of that program. I would just like to make clear a few points so that you will understand my position and others here who voted with me.

First, there is no duplication, which was a misconception of the federal and state inspection programs. There are presently 62 custom slaughtering houses in Maine with 10 state inspectors. The state inspectors inspect the custom house; federal inspectors inspect the poultry plants and the plants where meat is shipped out-of-state. Both operate under the same standards and regulations. The state inspection presently, and I think in the future, would be more effective, more economical, than to have the federal government take it over.

The state inspects every four to six weeks these houses and the federal government would only inspect three or four times a year, and eventually it will be a greater expense. It simply comes out of another pocket.

The federal government never does post-mortem examinations. The state has a much better check on the animal health and is called in to take blood samples by veterinarians when a problem is suspected. The veterinarians believe that this switch to federal inspection is a mistake and they deplore the action.

They speak of TB, undulant fever and leptospirosis diseases, all of which might be a resulting factor.

The state inspectors are strict but at least

they are more flexible than the federal government in certain situations. This action will put some of the custom houses out of business because they just don't feel it worth the harassment by the federal government nor the problems or obstacles put in their path to try and comply.

There was much testimony at the hearing about the rapport between the state inspectors and custom house owners. If some of them go out of business, this will create a hardship on the farmers and on the people who raise their own pigs and beef animals, who will have to travel further to take their animals to be butchered and dressed, and the ultimate costs will be passed on to you, the consumer.

Finally, now that the President has announced his austerity program in cutting back on certain programs, of course this isn't one of the ones that is mentioned yet, but we are already hearing about federal revenue-sharing, there certainly is a possibility that this could exist and this program could be discontinued and then passed back to the state, all of which is ridiculous exercise.

I simply say to you, that I hope you will understand my reasons for objecting so strenuously to this bill, even though I do intend to vote for it.

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

Mr. JALBERT: Mr. Speaker, Ladies and Gentlemen of the House: I, too, intend to vote for this bill. Unfortunately, I was unable to be here when it was first debated.

However, I am not very familiar with it but I was familiarized with it by a man from my community, very highly respected, who is in the sausage manufacturing business, who invested a tremendous amount of money and told me that he testified at the hearing. He spoke to me about what his testimony was at the hearing, I made a tremendous amount of notes, which I am not going to read here, but I thought he had a very valid point. He said that it could very well hurt him and could chase him up even in to Aroostook County to do business and he doesn't want to do that. His product is famous, at least in my area, the Mailhot sausage. The family is known for its integrity and complete honesty. They are very dissatisfied with this piece of legislation, and I have informed them that I would state their position for them on the floor of the House.

Any attempt to kill this bill would be futile, time consuming and we want to go home in a week, but I did want to state my position and make it clear to the membership before the vote is taken.

I would request a roll call, Mr. Speaker.

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

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

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

Mr. ROLLINS: Mr. Speaker, I move that the rules be suspended for the purpose of reconsideration.

Mrs. Berube of Lewiston objected.

The SPEAKER: The Chair will order a vote. The pending question before the House is the motion of the gentleman from Dixfield, Mr. Rollins, that the rules be suspended. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

Mr. Dexter of Kingfield 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 pending question before the House is on the motion of the gentleman from Dixfield, Mr. Rollins, that the rules be suspended. This requires a two-thirds vote of those present and voting. Those in favor will vote yes; those opposed will vote no.

ROLL CALL

YEA—Austin, Bordeaux, Brodeur, Brown, A.; Brown, D.; Brown, K.L.; Bunker, Call, Carrier, Carroll, Carter, F.; Churchill, Conary, Cunningham, Damren, Davis, Dellert, Dexter, Diamond, Drinkwater, Dudley, Elias, Fenlason, Fillmore, Gavett, Gillis, Gray, Hall, Hickey, Higgins, Hunter, Hutchings, Immonen, Jackson, Jacques, E.; Jacques, P.; Jalbert, Kane, Kiesman, Lancaster, LaPlante, Leighton, Leonard, Lewis, Locke, Lowe, Marshall, Masterman, Matthews, McMahon, McPherson, Morton, Nelson, A.; Norris, Payne, Pearson, Reeves, J.; Reeves, P.; Rollins, Sewall, Sherburne, Silsby, Small, Soulas, Sprowl, Stetson, Stover, Strout, Studley, Tarbell, Torrey, Vincent, Vose, Wentworth, Wood.

NAY—Aloupis, Bachrach, Baker, Barry, Beaulieu, Benoit, Berry, Berube, Birt, Blodgett, Bowden, Brannigan, Brenerman, Brown, K.C.; Carter, D.; Chonko, Cloutier, Connolly, Cox, Curtis, Doukas, Dow, Dutremble, D.; Dutremble, L.; Fowlie, Gowen, Gwadnosky, Hubbers, Howe, Huber, Hughes, Joyce, Kany, Kelleher, Lizotte, Lougee, Lund, MacBride, MacEachern, Mahany, Martin, A.; Masterton, McHenry, McKean, McSweeney, Michael, Mitchell, Nadeau, Nelson, M.; Nelson, N.; Paradis, E.; Paradis, P.; Paul, Peltier, Peterson, Prescott, Rolde, Roope, Simon, Smith, Theriault, Tozier, Twitchell, Violette, Wyman.

ABSENT—Boudreau, Davies, Garsoe, Hanson, Laffin, Maxwell, Post, Tierney, Tuttle, Whittemore, Mr. Speaker.

Yes, 75; No, 65; Absent, 11.

The SPEAKER: Seventy-five having voted in the affirmative and sixty-five in the negative, with eleven being absent, the rules are not suspended.

The question now before the House is on passage to be enacted, a roll call having been ordered. Those in favor will vote yes; those opposed will vote no.

ROLL CALL

YEA—Aloupis, Bachrach, Baker, Barry, Beaulieu, Benoit, Berry, Berube, Birt, Bordeaux, Bowden, Brannigan, Brenerman, Brodeur, Brown, D.; Brown, K.L.; Brown, K.C.; Bunker, Call, Carrier, Carter, D.; Carter, F.; Chonko, Churchill, Cloutier, Connolly, Cox, Cunningham, Davies, Dellert, Diamond, Doukas, Dow, Drinkwater, Dudley, Dutremble, D.; Dutremble, L.; Elias, Fenlason, Fillmore, Fowlie, Gavett, Gillis, Gowen, Gwadnosky, Hickey, Higgins, Hobbins, Howe, Huber, Hughes, Hutchings, Immonen, Jackson, Jacques, E.; Jacques, P.; Jalbert, Joyce, Kane, Kany, Kelleher, Kiesman, Lancaster, LaPlante, Leighton, Leonard, Lewis, Lizotte, Lougee, Lund, MacBride, MacEachern, Mahany, Marshall, Martin, A.; Masterman, Masterton, Matthews, McHenry, McKean, McMahon, McPherson, McSweeney, Michael, Mitchell, Morton, Nadeau, Nelson, A.; Nelson, M.; Nelson, N.; Norris, Paradis, E.; Paradis, P.; Paul, Payne, Pearson, Peltier, Peterson, Post, Prescott, Rolde, Roope, Sewall, Sherburne, Silsby, Simon, Small, Smith, Stetson, Stover, Strout, Studley, Tarbell, Theriault, Torrey, Tozier, Twitchell, Vincent, Violette, Vose, Wood, Wyman.

NAY—Austin, Blodgett, Brown, A.; Carroll, Conary, Curtis, Damren, Davis, Dexter, Gray, Hall, Hunter, Locke, Lowe, Reeves, J.; Reeves, P.; Rollins, Soulas, Sprowl, Wentworth.

ABSENT—Boudreau, Garsoe, Hanson, Laffin, Maxwell, Tierney, Tuttle, Whittemore,

Mr. Speaker.

Yes, 122; No, 20; Absent, 8.

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

Signed by the Speaker and sent to the Senate.

The Chair laid before the House the following matter:

Joint Order relative to Leslie "Cappy" Hall, of Lincolnville, a 1980 Jefferson Award Winner (H. P. 1968) which was tabled earlier in the day and later today assigned pending passage.

The SPEAKER: The Chair recognizes the gentlewoman from Lincolnville, Mrs. Hutchings.

Mrs. HUTCHINGS: Mr. Speaker, Ladies and Gentlemen of the House: I am pleased and proud today to present this order honoring a long-time citizen of Lincolnville on the occasion of his winning a Jefferson Award this year.

The Jefferson Awards, as most of you know, are awarded to people in Maine who have been nominated by citizens in communities for their contributions to community service. Mr. Hall, or "Cappy", as he is known to most people in Lincolnville, is not here today but many of his young friends at the Lincolnville School are. "Cappy" won the Jefferson Award because of his concern and work with crippled children.

Since 1956, he has been writing letters to disadvantaged and crippled children all over this country, his letters numbering more than 2,000. He continues to offer help and encouragement to these children and says some of his best friends are at the Mid-State Cerebral Palsy Center in Augusta. His picture appeared in their yearbook in 1975.

Besides his letter writing, his past-time is painting pictures, this in spite of his being practically blind. His paintings, usually of local scenes, are very popular in our area. On any summer day, they may be seen displayed on a table outside his home in Lincolnville to catch the eye of a passing motorist.

Cappy has a philosophy by which he lives and we would all do well to abide by it. He says, "I do believe I know what happiness is. I believe that happiness is harmony and unhappiness is discord. I believe that being able to accomplish something to serve others is what brings happiness. The rebound of it comes back to you. I have always been happy all my life; oh yes, why not?"

Thereupon, the Joint Order was passed and sent up for concurrence.

By unanimous consent, ordered sent forthwith to the Senate.

(Off Record Remarks)

On motion of Mrs. Mitchell of Vassalboro, Recessed until the sound of the gong.

After Recess

The House was called to order by the Speaker.

Orders of the Day

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

Bill, "An Act to Provide Funds for Residential Energy Conservation" (S. P. 766) (L. D. 1963) (S. "A" S-465)

Tabled—March 17, 1980 (Till Later Today) by Mr. Higgins of Scarborough.

Pending—Passage to be Engrossed.

Mr. Higgins of Scarborough offered House Amendment "A" and moved its adoption. House Amendment "A" (H-926) was read by the Clerk.

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

Mr. HIGGINS: Mr. Speaker, Ladies and Gentlemen of the House: I would first preempt my remarks, I guess, by saying that I did not attend the work session on this bill and some-

how it was sent out of committee without my knowledge, so I apologize to the House for that in the sense that I have to try to amend what I consider may be a problem.

I had some real problems with the bill itself, and I get this knotting feeling inside me that somehow this isn't going to work right, that we are doing something here that may not be just what we all think it is going to be. I know the bill has a lot of sex appeal, if you will, because it deals with low interest loans for middle income people, and we all here like to represent ourselves as being the friend of the middle class and I guess there isn't anybody here that has said that anymore than I have, but I still get this knotting feeling that this bill is really not going to solve the problem of the middle income person. I think the people who are going to benefit the most by it are going to be the savings banks and the banks who are going to be fronting the money for this situation. I guess I am not sure that anybody who is making up to \$27,500 a year is going to take advantage of benefit from a program that has a possible savings of maybe six or eight dollars a month, you know, low interest loans.

I do have some problems with that particular aspect of the bill, but having stated this, I would go on to call your attention to the amendment, and the amendment has two parts. The first part is that if we are going to offer these low interest loans, then I feel that they ought to be to owner-occupied dwellings rather than a person who happens to own an apartment house somewhere and wants to utilize that money, low interest money, for a business purpose. The intent of that should be obvious, that the less money that we spend on private enterprise endeavors, the more money we will have to hand around to the so-called middle income people in their own homes, and I think that is what we are trying to get at here.

If it is not economically feasible for someone who owns an apartment house to get involved in taking out a loan to protect themselves, help themselves in energy conservation, I am not sure that five or six dollars a month is going to make any difference. So I guess that is the first objection I have to it.

The second objection, and probably the more substantive one is that I have put in a sunset provision and the act is going to be repealed if you adopt the amendment and the other body goes along with it. This provision would be repealed in 1983, whereupon, the Maine Housing Authority would make some sort of a proposal or a finding of fact as to how this particular program has worked during this three-year period. I guess I would just simply say that I think if we are going to go along with this, that we ought to have it on a trial basis. We are talking about some differing priorities. There is a great potential between now and 1983, if everybody takes advantage of this, maybe the program won't be needed anymore, or maybe it will need to be restructured. But I just have this feeling that in three years we will get a real good feeling as to whether or not this program is going to be a great boon to the people in the middle income groups in this state. I don't happen to think it is going to be, and that is my priority, but I guess I think that if I am going to live with this bill, then I would like to see it repealed in three years, and if we still think it is such a great project, then we can continue on with it and I wouldn't have any problem, but I do have some problems with it and I have tried to address this in the amendment, and I would hope for your favorable consideration.

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

Mr. NORRIS: Mr. Speaker, I would move for the indefinite postponement of this amendment.

Whereupon, on motion of Mr. Birt of East Millinocket, tabled pending the motion of Mr. Norris of Brewer to indefinitely postpone House Amendment "A" and later today assigned.

The following Enactors appearing on Supplement No. 2 were taken up out of order by unanimous consent:

Passed to Be Enacted
Emergency Measure

An Act Increasing the Indebtedness of Veazie Sewer District and Amending the Charter of Veazie Sewer District (H. P. 1820) (L. D. 1948) (C. "A" H-902)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure and a two-thirds vote of all the members elected to the House being necessary, a total was taken.

Whereupon, Mr. Strout of Corinth requested a roll call vote.

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

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

The SPEAKER: The pending question is on passage to be enacted. This being an emergency measure, it requires a two-thirds vote of all the members of the House. All those in favor will vote yes; those opposed will vote no.

ROLL CALL

YEA—Aloupis, Austin, Bachrach, Baker, Barry, Beaulieu, Benoit, Berry, Berube, Birt, Bordeaux, Bowden, Brannigan, Breneman, Brodeur, Brown, A.; Brown, K.L.; Brown, K.C.; Bunker, Carroll, Carter, D.; Carter, F.; Chonko, Churchill, Cloutier, Conary, Connolly, Cox, Cunningham, Curtis, Damren, Davies, Davis, Dellert, Diamond, Doukas, Dow, Drinkwater, Dudley, Dutremble, D.; Elias, Fenlason, Fillmore, Fowle, Gavett, Gillis, Gowen, Gwadosky, Hall, Hickey, Higgins, Hobbins, Howe, Huber, Hughes, Hutchings, Jacques, E.; Jacques, P.; Kane, Kany, Kelleher, Kiesman, Lancaster, LaPlante, Leonard, Lewis, Lockø, Lowe, Lund, MacBride, MacEachern, Marshall, Martin, A.; Masterman, Masterton, Maxwell, McHenry, McKean, McMahon, McPherson, McSweeney, Mitchell, Morton, Nadeau, Nelson, A.; Nelson, M.; Nelson, N.; Norris, Paradis, E.; Paul, Payne, Pearson, Post, Prescott, Reeves, J.; Rolde, Sewall, Sherburne, Silsby, Simon, Soulas, Sprowl, Stetson, Stover, Strout, Studley, Tarbell, Theriault, Torrey, Tozier, Twitchell, Vincent, Vose, Wentworth, Wood, Wyman.

NAY—None.

ABSENT—Blodgett, Boudreau, Brown, D.; Call, Carrier, Dexter, Dutremble, L.; Garsoe, Gray, Hanson, Hunter, Immonen, Jackson, Jalbert, Joyce, Laffin, Leighton, Lizotte, Lougee, Mahany, Matthews, Michael, Paradis, P.; Peltier, Peterson, Reeves, P.; Rollins, Roope, Small, Smith, Tierney, Tuttle, Violette, Whittemore.

Yes, 116; No, 0; Absent, 35.

The SPEAKER: One hundred sixteen having voted in the affirmative and none in the negative, with thirty-five being absent, the bill is passed to be enacted.

Signed by the Speaker and sent to the Senate.

An Act to Authorize Operational Moneys for the Mattawamkeag Wilderness Park (H. P. 1845) (L. D. 1950) (C. "A" H-896)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure and a two-thirds vote of all the members elected to the House being necessary, a total was taken. 110 voted in favor of same and 4 against, and accordingly the Bill was passed to be enacted. Signed by the Speaker and sent to the Senate.

An Act to Revise the Salaries of Certain County Officers (H. P. 1946) (L. D. 1994) (H.

"A" H-913)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure and a two-thirds vote of all the members elected to the House being necessary, a total was taken. 110 voted in favor of same and none against, and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

Passed to Be Enacted

An Act to Revise and Clarify Certain Provisions of the Motor Vehicle Laws (H. P. 1667) (L. D. 1776) (S. "A" S-454 to C. "A" H-857)

An Act to Increase Interest Rates on Judgment Debts (H. P. 1687) (L. D. 1795) (H. "A" H-820 to C. "A" H-804)

An Act Relating to Motor Vehicle Warranties and Repairs (H. P. 1777) (L. D. 1878) (C. "A" H-877)

An Act to Expand the Kinds of Projects Eligible for Financing under the Maine Guarantee Authority Revenue Obligations Securities Act (H. P. 1764) (L. D. 1897) (S. "A" S-469 to C. "A" H-862)

An Act Relating to the Administration of the State Employees Group Accident and Sickness or Health Insurance Plan (H. P. 1765) (L. D. 1897) (C. "A" H-889)

An Act to Create a Combination Nonresident Hunting and Fishing License (H. P. 1832) (L. D. 1936) (C. "A" H-891)

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

An Act to Increase Trapping Fees (H. P. 1833) (L. D. 1937) (C. "A" H-890)

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

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

Mr. PAUL: Mr. Speaker and Members of the House: This bill has been progressing along rather smoothly and I haven't said anything on it and I would just like to make a few brief comments.

This is a bill that will increase the trapping fees, and I am very much against that. I feel that this is just one particular group of sportsmen that are being discriminated against. There is no other bill in here that is going to increase any of the other fees for the other sportsmen, but they are picking on the trappers here. You know, we only have about 4,000 trappers and maybe they weren't concerned with that, but I feel if they want to go up on the fees, they ought to do them uniformly.

I hope you agree with me. This is nothing but a tax in disguise on this particular group of sportsmen that are out there maybe making a living on this trapping, and I hope if you agree with me that you will vote with me.

I make a motion that we indefinitely postpone this bill, all its accompanying papers and ask for the yeas and nays.

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

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

The SPEAKER: The Chair recognizes the gentleman from West Gardiner, Mr. Dow.

Mr. DOW: Mr. Speaker, Ladies and Gentlemen of the House: I don't want to prolong the discussion. We had a good hearing on this bill, there was very little opposition to it and it came out of committee 10 to 1 "ought to pass" and it is one of the study committee's recommendations. I urge you to vote against the pending motion and later on vote for the bill.

The SPEAKER: The pending question is on

the motion of the gentleman from Sanford, Mr. Paul, 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.

ROLL CALL

YEA—Aloupis, Austin, Barry, Benoit, Berube, Blodgett, Bowden, Brown, K.L.; Bunker, Carroll, Churchill, Cox, Curtis, Duttremble, D.; Elias, Fowlie, Gwadodsky, Higgins, Hobbins, Hunter, Hutchings, Kiesman, Leonard, Lewis, Locke, Marshall, Martin, A.; McMahon, McSweeney, Nelson, N.; Paul, Payne, Prescott, Silsby, Sprowl, Studley, Tarbell, Torrey, Twitchell.

NAY—Bachrach, Baker, Beaulieu, Berry, Birt, Bordeaux, Brannigan, Brennerman, Brodeur, Brown, A.; Brown, K.C.; Call, Carter, D.; Carter, F.; Chonko, Cloutier, Conary, Connolly, Cunningham, Damren, Davies, Davis, Dellert, Diamond, Doukas, Dow, Drinkwater, Dudley, Fenlason, Fillmore, Gavett, Gillis, Gowen, Hall, Hickey, Howe, Huber, Hughes, Jackson, Jacques, E.; Jacques, P.; Jalbert, Kane, Kany, Kelleher, Lancaster, LaPlante, Lowe, MacBride, MacEachern, Masterman, Masterton, Maxwell, McHenry, McKean, McPherson, Mitchell, Morton, Nadeau, Nelson, A.; Nelson, M.; Norris, Paradis, E.; Pearson, Peterson, Post, Reeves, J.; Rolde, Sewall, Sherburne, Simon, Soulas, Stetson, Stover, Strout, Theriault, Tozier, Vincent, Vose, Wentworth, Wyman.

ABSENT—Boudreau, Brown, D.; Carrier, Dexter, Duttremble, L.; Garsoe, Gray, Hanson, Immonen, Joyce, Laffin, Leighton, Lizotte, Lougee, Lund, Mahany, Matthews, Michael, Paradis, P.; Peltier, Reeves, P.; Rollins, Roope, Small, Smith, Tierney, Tuttle, Violette, Whittemore, Wood.

Yes, 39; No, 81; Absent, 30.

The SPEAKER: Thirty-nine having voted in the affirmative and eighty-one in the negative, with thirty 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 Increase Registration Fees for Watercraft (H. P. 1835) (L. D. 1939) (S. "A" S-472; H. "A" H-883 to C. "A" H-872)

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

Enactor

Later Today Assigned

An Act to Permit the Department of Inland Fisheries and Wildlife to Borrow in Anticipation of Revenues (H. P. 1836) (L. D. 1940) (C. "A" H-897)

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

On motion of Mr. Birt of East Millinocket, tabled pending passage to be enacted and later today assigned.

An Act Adopting the Voluntary Energy Efficiency Building Performance Standards (H. P. 1913) (L. D. 1978)

An Act to Amend the Maine Sunset Law (S. P. 801) (L. D. 2005)

Finally Passed

RESOLVE, Authorizing Ervin Grant Bracy of Portland to Bring a Civil Action against the State of Maine (S. P. 758) (L. D. 1954) (C. "A" S-455)

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

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

Ought Not to Pass

Mr. Kelleher from the Committee on Appropriations and Financial Affairs on Bill "An Act to Reduce the Costs to Counties of Supreme Judicial and Superior Courts" (H. P. 1920) (L. D. 1983) reporting "Ought Not to Pass"

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

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

Senate Papers

Divided Report

Majority Report of the Committee on Judiciary on RESOLUTION, Proposing an Amendment to the Constitution of Maine Repealing the Exclusion of Judges of Probate from the Governor's Authority to Appoint all Judicial Officers" (S. P. 778) (L. D. 1969) reporting "Ought to Pass" in New Draft under New Title RESOLUTION, Proposing an Amendment to the Constitution Allowing Either the Constitution or Statutes to Determine the Manner of Selection of Judges of Probate and Justices of the Peace" (S. P. 804) (L. D. 2007)

Report was signed by the following members:

Messrs. COLLINS of Knox
DEVOE of Penobscot
TRAFTON of Androscoggin
—of the Senate.

Mrs. SEWALL of Newcastle

Messrs. SILSBY of Ellsworth

LAFFIN of Westbrook

HOBBINS of Saco

STETSON of Wiscasset

JOYCE of Portland

SIMON of Lewiston

—of the House.

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

Report was signed by the following members:

Messrs. CARRIER of Westbrook

GRAY of Thomaston

—of the House.

Came from the Senate with the Majority "Ought to Pass" in New Draft under New Title Report read and accepted and the New Draft passed to be engrossed.

In the House: Reports were read.

Thereupon, the Majority "Ought to Pass" Report was accepted in concurrence, the New Draft read once and assigned for second reading later in the day.

Non-Concurrent Matter

Later Today Assigned

Bill, "An Act Establishing the Child and Family Services and Child Protection Act" (H. P. 1787) (L. D. 1906) which was passed to be engrossed as amended by Committee Amendment "A" (H-882) in the House on March 12, 1980.

Came from the Senate passed to be engrossed as amended by Committee Amendment "A" (H-882) as amended by Senate Amendment "A" (S-474) thereto in non-concurrence.

On motion of Mr. Morton of Farmington, tabled pending further consideration and later today assigned.

Consent Calendar

First Day

(S. P. 684) (L. D. 1807) Bill, "An Act to Revise the Small Claims Law" — Committee on Judiciary reporting "Ought to Pass" as amended by Committee Amendment "A" (S-470)

(S. P. 737) (L. D. 1916) Bill, "An Act Relating to the Licensing of School Bus Operators within 60 Days of Examination and the Timing of Inspections of School Buses by the State Police" — Committee on Transportation reporting

"Ought to Pass" as amended by Committee Amendment "A" (S-462)

There being no objections, the Senate Papers were ordered to appear on the Consent Calendar Second Day later in today's session.

(Off Record Remarks)

On motion of Mr. Nelson of Roque Bluffs, Recessed until four o'clock in the afternoon.

After Recess
4:00 P.M.

The House was called to order by the Speaker.

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

The following Communication:

March 18, 1980

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

The Senate today voted to Adhere to its former action whereby it voted to accept the Ought Not to Pass report on Bill, "An Act to Establish an Environmental Health Program", (S. P. 698) (L. D. 1834)

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

The Communication was read and ordered placed on file.

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

Consent Calendar
Second Day

(S. P. 684) (L. D. 1807) Bill, "An Act to Revise the Small Claims Law" (C. "A" S-470) (S. P. 737) (L. D. 1916) Bill, "An Act Relating to the Licensing of School Bus Operators within 60 Days of Examination and the Timing of Inspections of School Buses by the State Police" (C. "A" S-462)

No objections having been noted at the end of the Second Legislative Day, the Senate Papers were passed to be engrossed in-concurrence.

By unanimous consent, ordered sent forthwith to Engrossing.

Passed to Be Engrossed

Resolution, Proposing an Amendment to the Constitution Allowing Either the Constitution or Statutes to Determine the Manner of Selection of Judges of Probate and Justices of the Peace" (S. P. 804) (L. D. 2007)

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

Mr. Gray of Thomaston offered House Amendment "A" and moved its adoption. House Amendment "A" (H-931) was read by the Clerk.

Mr. GRAY: Mr. Speaker, Men and Women of the House: I will attempt to explain the present Constitutional Amendment and my amendment to that amendment; it is rather complicated. I wish I had had an opportunity to talk with a few of you individually but, in any event, Section 6, Article 6, of the State Constitution was repealed in 1967, but with a condition.

I am going to take just a moment and read the amendment so you will have some idea what I am talking about. It reads: "Section 6 of Article 6 has been repealed by amendment, which by virtue of Chapter 77 of the Resolves of the 103rd Legislature, of 1967 shall become effective at such time the Legislature, by proper enactment, shall establish a different probate court system with full-time judges." That was 13 years ago and this amendment has never taken effect.

This, however, did leave a conflict, because

in the 1967 amendment, they did not address Article 5, Section 8, under executive power, which allows the Governor to nominate judicial officers, except judges of probate.

One of my problems is that I feel that by leaving this 1967 provision in the Constitution, which has never been used in the 13 years that it has been on the books, it leaves the door open to a lot of mischief. If other words, by passing a simple statute, they can change the selection method of the judges of probate. Now they are elected, but this can be turned over to appointment. In other words, it can be taken out of the Constitution and can be made an appointive office either by the Governor or some other method. I believe if we are going to make drastic changes like that, we should not rely upon some provision that was enacted 13 years ago.

In other words, this would put us back to square one and, if in the future, the Legislature chooses to change the method of the selection of the judges of probate, I think it should be done with a Constitutional Amendment, not a statute.

I hope you will go along with my amendment.

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

Mrs. SEWALL: Mr. Speaker, I would like to pose a question to the Chair.

I would like to know if this amendment is germane to the bill?

The SPEAKER: The Chair would rule that the amendment proposed by the gentleman from Thomaston, Mr. Gray, is not germane, based on the fact that the question to be answered is whether the question is appropriate and in a natural and logical sequence of subject matter of the original proposal, and the Chair would rule that it is not.

Mr. GRAY: Mr. Speaker, while we are talking about germaneness, perhaps another question ought to be posed to the original Constitutional Amendment, which includes judges of probate and justices of the peace.

The SPEAKER: Would the gentleman restate that: The question was what?

Mr. GRAY: Mr. Speaker, I am wondering if the original Constitutional Amendment, in other words, L. D. 2007, is germane where it includes judges of probate and justices of the peace?

The SPEAKER: Is the gentleman from Thomaston, Mr. Gray, asking for a ruling from the Chair as to whether or not the redraft of L. D. 1969, which is now L. D. 2007, would be germane with the original intent of the L. D., which is 1969?

Mr. GRAY: Yes.

The SPEAKER: The Chair would advise the gentleman and members of the House that the Chair is not in a position to rule on the germaneness on that question. The matter is not before this body, since this body accepted the Committee Report this morning. The only way that the Chair could rule on the germaneness of it is if we were to reconsider our action whereby Committee Amendment "A" was adopted, which was accepted earlier today.

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

By unanimous consent, ordered sent forthwith to the Senate.

The following items appearing on Supplement No. 6 were taken up out of order by unanimous consent:

Non-Concurrent Matter

Later Today Assigned

Bill, "An Act Appropriating Funds to the Department of Human Services, the Department of Mental Health and Corrections and the Department of Educational and Cultural Services for Insufficiently Disturbed Children in Residential Treatment Centers for the Fiscal Year Ending June 30, 1981" (H. P. 1868) (L. D. 1958) which was passed to be engrossed as amended by Committee Amendment "A" (H-915) in the

House on March 17, 1980.

Came from the Senate passed to be engrossed as amended by Committee Amendment "A" (H-915) as amended by Senate Amendment "A" (S-475) thereto in non-concurrence.

In the House:

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

Mr. MORTON: Mr. Speaker, a point of information, please. I intend to attempt to remove the Senate Amendment from this bill and substitute a House Amendment, which has been submitted an hour or so ago but it hasn't been printed yet. I have a number and a letter for it, but would it be proper at this point in time to move later in the day?

The SPEAKER: The Chair would answer in the affirmative, it would be in a position to be tabled by some other member of this body.

Thereupon, on motion of Mr. Peterson of Caribou, tabled pending further consideration and later today assigned.

Non-Concurrent Matter

Bill, "An Act to License Users of Ionizing and Nonionizing Radiation Equipment" (H. P. 1682) (L. D. 1791) which was passed to be Enacted in the House on March 17, 1980.

Came from the Senate passed to be engrossed as amended by Committee Amendment "B" (H-855) as amended by Senate Amendment "A" (S-477) thereto in non-concurrence.

In the House: On motion of Mr. Blodgett of Waldoboro, the House voted to recede and concur.

By unanimous consent, ordered sent forthwith to Engrossing.

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

Second Readers

Later Today Assigned

Bill, "An Act Increasing the Minimum Handling Fee for Returnable Beverage Containers from 1¢ to 2¢" (H. P. 1973) (L. D. 2012)

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

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

Mr. GWADOSKY: Mr. Speaker, Ladies and Gentlemen of the House: I have an amendment being prepared and I guess it hasn't arrived yet. I would appreciate it if someone would table this until later in the session, until we get the amendment.

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

Bill, "An Act to Improve Governmental Remedies for Violations of the Antitrust Laws" (H. P. 1975) (L. D. 2014)

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

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

Miss BROWN: Mr. Speaker, Ladies and Gentlemen of the House: I would like to take just a minute to talk to you about this bill. This is a very difficult bill to explain because of the complexities to the antitrust laws, so I would like to give you an example of how this works.

Picture a matrix on the top where the manufacturer sells a product to a dealer. The dealer, in return, sells the product to the State of Maine. If the manufacturer set an unfair price and passed it down the chain to the State of Maine, the state's recourse is to sue not the dealer but the manufacturer to cover the damages.

There can be an unlimited number of people in this chain and the state must prove everyone's cost and profit figures in order to sue the manufacturer at the top.

If the state can prove antitrust violations, the

state can recover threefold the damages sustained and the cost of the suit. If the state wins at this point, the next layer in the matrix, the dealers or the direct buyers, in turn can go through federal court and they also can be rewarded threefold the damages of the suit, and this can continue for years and years in court. If you have ten different dealers involved that passed this product down the line before it gets to the state, every one of those dealers can turn around and sue the manufacturer at the top and every one of those can be rewarded threefold what the damages of the suit were. Just picture how many years that could take to get through court.

If the state cannot prove everyone's profit and cost figures for the damages, then the State of Maine must absorb the investigation costs.

This L. D. came before the Business Legislation Committee two years ago because the AG had just returned from the States Attorney General's Conference. It was kind of interesting to me that the Attorney General sent this into us and that no one on his staff could cite one example of why they actually needed this piece of legislation. At present, the state already has criminal action to collect for any damages. An example of this is the HCI case where the state collected money through a consent decree.

This legislation was also offered on the federal level last year and it failed. It is also being offered again this year but it looks very doubtful that it will pass.

I hope you can support me in the indefinite postponement of this legislation.

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

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

Mr. HOWE: Mr. Speaker, Ladies and Gentlemen of the House:

First of all, I beg to differ with my colleague on the committee that the Attorney General offered no sorts of cases where this particular bill, if passed into law, would assist them in prosecuting antitrust cases because, indeed, I think they did. The Attorney General himself feels quite strongly about this piece of legislation and I think it is manifested by the fact that he came and testified personally before the committee and has since spoke personally to members of the legislature.

I would like to read for you, and I will try to read it quickly, a letter from one of his assistants that explains, I think, fairly succinctly why this legislation is needed.

"The purpose of L. D. 1330 is to amend the state's civil antitrust statutes so as to permit the Attorney General to bring suit on behalf of the state and its political subdivisions to recover taxpayer dollars which have been needlessly spent on goods whose prices have been fixed and raised as a result of illegal business activity in violation of our antitrust laws.

"Many of the goods the state purchases, it buys through middlemen. In fact, estimates by purchasing officials are that 90 percent of all state purchases are through middlemen.

"Common violation of the antitrust statute, however, happen at the manufacturer level and between the manufacturer and its first level distributor. These are the people the state does not often deal with directly, that is the manufacturers, and under current antitrust case law, most notably the decision *Illinois Brick v. The State of Illinois*, these are the people the Attorney General has no power to sue. This bill will allow the state to sue when it or its subdivisions have indirectly purchased goods from antitrust violators.

What does the state, its counties, towns, school boards and other subdivisions purchase? Just about everything — concrete, houses, bread, books, tires, fine paper, lighting fixtures, structural steel, the list is long and varied.

"In the past year, the Attorney General has uncovered and brought suit against the distributors of building hardware such as doorknobs, hinges and locks and against the manufacturer and distributor of architectural drafting supplies, such as blueprint equipment and specialized drafting tools. The first of these cases relating to building hardware is the HCI case," which Representative Brown mentioned. "These suits have returned \$70,000 for the state and its various subdivisions. The suits were successful only because the evidence against the wrongdoers was so utterly clear that rather than risk criminal prosecution, the parties chose to settle the suit and not contest the fact that under current case law the Attorney General has no standing to bring civil antitrust cases against persons who did not deal directly with the state."

Of course, the Attorney General will not always have such cooperative defendants, nor will it always have proof of a criminal as opposed to a civil conspiracy. And I would add at this point that it is much tougher to prove a criminal case than it is a civil case; that is the primary reason for the legislation.

It is necessary to provide the Attorney General with this civil remedy which clarifies and strengthens the state's right to sue as an indirect purchaser of goods which bear high price tags as the result of illegal acts in violation of the anti-trust statute. These acts can include price fixing, abuse of monopoly power, division of territory or customers, agreements not to compete, agreements to boycott a distributor who does not sell at the agreed upon higher price. Antitrust violations can take a myriad of forms. However, the end result is usually the same — higher prices and fewer businesses selling the desired goods.

L. D. 1330 is designed to deter this illegal activity by incorporating the current antitrust remedy of federal damages into the area of indirect purchases. A manufacturer will think twice before engaging in an uncompetitive scheme if it has to pay three times over for the higher prices it has caused.

The bill does, however, prevent the recovery of more than one set of treble damages for the same injury. That is a wrongdoer will not have to pay treble damages more than once under state antitrust law.

I would add that treble damages is a remedy that is found throughout the civil penalties in the statutes in this state and every state, precisely to act as a deterrent against wrongdoing. If the wrongdoers merely had to return the exact number of dollars that they had cost the taxpayers in higher prices, there would be no deterrent.

I hope you will not vote to indefinitely postpone this bill today and pass it to be engrossed.

The SPEAKER: The Chair will order a vote. The pending question is on the motion of the gentleman from Bethel, Miss Brown, that this Bill and all its accompanying papers be indefinitely postponed. All those in favor will vote yes; those opposed will vote no.

A vote of the House was taken. Whereupon, Mr. Howe of South Portland requested a roll call vote.

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

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

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

Mr. HOWE: Mr. Speaker and Members of the House: I think it is worth pointing out that we are not creating any new violations, we are not saying that certain kinds of behavior which is now not illegal is suddenly illegal. The kinds of activities which we are talking about are

presently against the law. What we are trying to do is to permit the State and the Attorney General's Office is the only one who exercise this right, and then only on behalf of governmental agencies, not on behalf of private parties. It is a very limited remedy, much much narrower than S. 1300, I believe the bill is that is pending in the U. S. Senate, a bill which, to the best of my knowledge, has not had a vote but been bottled up in committee. It is much narrower than that bill.

The Attorney General wanted precisely only this limited remedy, and I think it is imperative, if we are going to save taxpayers dollars which are spent on overpriced items, that we pass this legislation today.

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

Mr. KELLEHER: Mr. Speaker, I would like to pose a question through the Chair to any member of the House that is a lawyer — could they explain this bill to us?

Mr. SPEAKER: The gentleman from Bangor, Mr. Kelleher, has posed a question through the Chair to any member of the Bar who understands the bill.

The Chair recognizes the gentleman from South Portland, Mr. Howe, who is not a member of the Bar but may proceed.

Mr. HOWE: Mr. Speaker, thank you for clarifying that. I have often been accused of being a lawyer and I hotly deny it, but I would like, in as simple a manner as I can, to explain what this does.

The Illinois Brick decision, taken together with another decision, said that people cannot sue the people up the chain of purchase from manufacturer to distributor and perhaps to subdistributor on to the ultimate purchaser, but only the person next in that chain.

The problem is, the state buys 90 percent of its materials from distributors but the problem lies up here with the manufacturers. Passage of the bill will permit the state to sue those parties who are actually doing the price fixing.

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

Miss BROWN: Mr. Speaker, Ladies and Gentlemen of the House: If we pass this L. D., the state will be suing the manufacturers on the state level, and years and years will be spent in court with all the dealers suing the manufacturers between the federal level. Now, that is really great. There are a lot of inconsistencies, a lot of hours in court. I hope you support my motion to indefinitely postpone this.

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

Mr. JACKSON: Mr. Speaker, Ladies and Gentlemen of the House: I am neither a member of the Bar nor have I been at a bar recently, but I would like to address a couple of points on this bill.

There is a minority report; I believe there are either three or four of us on the minority report. I don't have too much hope of changing your mind on this bill. First of all, our very astute chairman has outlined what the bill does and I think the reply to that has been covered very well by the Representative from up near Sunday River, so I think you have got the picture of what is going on.

I also noted this House, earlier today, chose to take the view that they would like to expand government with the bottle bill, and I would just point out that this is expansion of government and I think that it should be handled on the federal level and it is not needed now.

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

Mrs. LEWIS: Mr. Speaker, I wonder if someone could explain to me what this has to do with antitrust laws. I don't see any real connection between these manufacturers who are going to be sued and antitrust laws, and what the connection might be with so-called state antitrust law and the federal antitrust laws.

The SPEAKER: The gentleman from

Auburn, Mrs. Lewis, has posed a question through the Chair to anyone who may care to answer.

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

Mr. WYMAN: Mr. Speaker, Ladies and Gentlemen of the House: I didn't rise specifically to respond to the gentlelady's question. Perhaps the gentleman from South Portland, Mr. Howe, can respond more specifically since this bill came before his committee.

But, I do wish to rise in support of Mr. Howe's position in favor of this legislation and against the pending motion of indefinite postponement and I would like to tell you why. I would hope that there would be some lawyers who would be able to speak on this bill, some attorneys who are present with us this afternoon who have some commitment to strong and effective antitrust laws, which I believe probably philosophically most of them agree with, and I don't know why they haven't stood up. So, obviously, I am not responding to the gentleman from Bangor's inquiry as far as the buyer is concerned, but I will say this — I believe very, very strongly that we need effective and fair and just antitrust laws in this state.

I think if we understand anything at all, and I agree with the gentlelady from Bethel, Miss Brown, when she speaks of the complexity of antitrust laws, but if we understand anything at all about antitrust laws, we know that antitrust laws were passed in the late 19th Century and the early 20th Century, not in any way to harass corporations or to trouble them or to penalize them unjustly, but they are simply to protect everyone's right to participate in the free enterprise system without any fear of monopoly power, and in an effort to try to curtail whatever monopoly power existed in this country during that period in our history. They are fair in principle. This particular bill will simply allow the State of Maine, the state government, to be entitled to the same source of legal remedies that a private citizen is entitled to when an antitrust law has been violated. That is my understanding of the bill, and if it is an erroneous understanding, then I certainly will stand to be corrected.

What this means is, if someone has violated antitrust law, they should not be exempt simply because they have violated that law against the state or any other public entity. If someone violates the law, if they violate antitrust law, if they are engaged in price fixing or price gouging or anything else which is clearly illegal on the books now, without this bill, and they do it against the state or they do it against any other governmental entity, then that party which has been aggrieved, under the law, is entitled to remedies. That, to me, seems fair, it seems just, it seems consistent with the law as we understand it and the way the law is written on our books now. This is not an expansion of governmental power whatsoever. This is an expansion of government's right to be protected under the antitrust laws, the same as we are all protected as individual citizens.

I would hope, ladies and gentlemen, that you would oppose the pending motion to indefinitely postpone this bill, that you will pass it in fairness and in justice, because certainly what is right and proper for this private citizen in terms of protection against violation of our law is equally applicable to laws which are violated or perpetrated the state or any other of its entities, and this is simply extending that same basic right to them. So, I hope you will defeat the pending motion.

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

Miss ALOUPIS: Mr. Speaker, Ladies and Gentlemen of the House: I guess sometimes the easiest way for me to understand something is to see an example.

Bangor buys five batteries from Angie's Battery Service. Meanwhile, she has bought the five batteries from Kelleher's Manufacturing

Company. And Eddie and his friends in the same manufacturing company have decided that those batteries should sell for \$80; they have decided amongst themselves that that is the price for the battery, \$80. Meanwhile, I, as the distributor, have bought them from Kelleher's Manufacturing Company, sell them to Bangor. Now, I have not price fixed; I have bought from the manufacturer and I have sold to Bangor. What this bill would do would be to allow the Attorney General, in behalf of Bangor, to sue Kelleher's Manufacturing Company as opposed to suing Angie's Battery Service, because I didn't fix any prices with anyone. This is the direction it is going. As opposed to being able to sue directly, which would mean Bangor would have to sue me and then I would have to sue Eddie, the Attorney General could sue Eddie directly, indirectly, actually, because he is the person up here and I am the person in the middle and Bangor is the third person down, and actually this is what this bill does.

The SPEAKER: A roll call has been ordered. The pending question is on the motion of the gentlewoman from Bethel, Miss Brown, that this Bill and all its accompanying papers be indefinitely postponed. All those in favor will vote yes; those opposed will vote no.

ROLL CALL

YEA—Austin, Birt, Blodgett, Bordeaux, Bowden, Brown, D.; Brown, K.L.; Bunker, Call, Carter, F.; Churchill, Conary, Cunningham, Damren, Davis, Dellert, Dexter, Drinkwater, Fillmore, Gavett, Gray, Higgins, Hunter, Hutchings, Jackson, Kelleher, Kiesman, Lancaster, Leighton, Leonard, Lewis, Lougee, Marshall, Masterman, Matthews, Maxwell, McPherson, Nelson, A.; Payne, Peltier, Peterson, Reeves, J.; Rollins, Roope, Sewall, Silsby, Sprowl, Stetson, Stover, Studley, Torrey, Twitchell, Wentworth, Whittemore.

NAY—Aloupis, Bachrach, Baker, Barry, Beaulieu, Benoit, Berube, Brannigan, Brenerman, Brodeur, Brown, A.; Brown, K.C.; Carroll, Carter, D. Chonko, Cloutier, Connolly, Cox, Curtis, Davies, Diamond, Doukas, Dow, Dutremble, D.; Dutremble, L.; Elias, Fenlason, Fowle, Gillis, Gowen, Gwadosky, Hall, Hickey, Hobbins, Howe, Huber, Hughes, Jacques, P.; Jalbert, Joyce, Kane, Kany, LaPlante, Lizotte, Locke, Lowe, Lund, MacBride, MacEachern, Mahany, Masterton, McHenry, McKean, McMahon, McSweeney, Michael, Mitchell, Morton, Nadeau, Nelson, M.; Nelson, N.; Norris, Paradis, E.; Paradis, P.; Paul, Pearson, Post, Prescott, Rolde, Sherburne, Simon, Smith, Soulas, Strout, Tarbell, Theriault, Tozier, Violette, Vose, Wood, Wyman, Mr. Speaker.

ABSENT—Berry, Boudreau, Carrier, Dudley, Garsoe, Hanson, Immonen, Jacques, E.; Laffin, Martin, A.; Reeves, P.; Small, Tierney, Tuttle, Vincent.

Yes, 54; No, 82; Absent, 15.

The SPEAKER: Fifty-four having voted in the affirmative and eighty-two in the negative, with fifteen being absent, the motion does not prevail.

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

By unanimous consent, ordered sent forthwith to the Senate.

The Chair laid before the House the following matter:

Bill, "An Act to Provide Funds for Residential Energy Conservation" (S. P. 766) (L. D. 1963) (S. "A" S-465) which was tabled earlier in the day pending the motion of Mr. Norris of Brewer to indefinitely postpone House Amendment "A" (H-926)

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

Mr. HIGGINS: Mr. Speaker, Ladies and Gentlemen of the House: I would ask leave of the House to withdraw House Amendment "A", as

I have another amendment coming and it is very simply read. It is not difficult at all.

Thereupon, House Amendment "A" was withdrawn.

On motion of Mrs. Mitchell of Vassalboro, tabled pending passage to be engrossed in concurrence and later today assigned.

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

House Report — "Leave to Withdraw" — Committee on Local and County Government on Bill, "An Act to Prevent the Exclusion of Manufactured Housing from Maine Towns by Unduly Restrictive Police Power Ordinances" (H. P. 1649) (L. D. 1758)

Tabled—March 14, 1980 by Mr. LaPlante of Sabattus.

Pending—Acceptance of the "Leave to Withdraw" Report.

Thereupon, the Report was accepted and sent up for concurrence.

By unanimous consent, ordered sent forthwith to the Senate.

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

Senate Report—"Ought to Pass" in New Draft Under New Title: Bill, "An Act to Amend the Probate Code" (S. P. 792) (L. D. 1990) — Committee on Judiciary on Bill, "An Act to Amend the Procedure for Appointment of Guardians and Conservators under the Maine Probate Code" (S. P. 721) (L. D. 1871)

—In Senate, Report read and accepted and the New Draft Passed to be Engrossed as Amended by Senate Amendments "A" (S-458) and "B" (S-466)

Tabled—March 17, 1980 by Mr. Hobbins of Saco.

Pending—Acceptance of the Committee Report.

Thereupon, the Report was accepted in concurrence and the Bill read once. Senate Amendment "A" (S-458) was read by the Clerk and adopted in concurrence. Senate Amendment "B" (S-466) was read by the Clerk.

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

Miss BROWN: Mr. Speaker, Ladies and Gentlemen of the House: Senate Amendment "B" — I want to explain to you what this does.

When a person dies, the court appoints an administrator to take care of the estate and this amendment removes from the probate code the requirement for bonding in interstate proceedings when there hasn't been a waiver by all the heirs. I feel that to insure against mismanagement, that the administrator should be bonded, and I would like to move that Senate Amendment "B" be indefinitely postponed.

Thereupon, Senate Amendment "B" was indefinitely postponed in non-concurrence.

The Bill was assigned for second reading later in the day.

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

An Act to Amend the Maine Health Facilities Authority Act to Include Certain Educational Institutions (S. P. 680) (L. D. 1798) (C. "A" S-451)

Tabled—March 17, 1980 by Mr. Tierney of Lisbon.

Pending—Passage to be Enacted.

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

Mr. CONNOLLY: Mr. Speaker and Members of the House: Although this bill deals with both the Maine Health Facilities Authority and also certain educational policy questions, the bill was referred and came out of the State Government Committee and neither the Health and Institutions Committee nor the Education Committee have had a chance to look it over.

Yesterday, when the bill was before us, the Chairman of the Health and Institutions Committee got up and asked several questions

about the legislation, only one of which was answered on the floor. That aroused my curiosity and I have since come up with several questions that I have not yet been able to resolve. In an attempt to work those out and avoid debate on the floor, I would hope that someone would table this until tomorrow so that we might resolve any problems.

Thereupon, on motion of Mr. Rolde of York, tabled pending passage to be enacted and tomorrow assigned.

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

Bill, "An Act to Clarify the Inland Fisheries and Wildlife Laws of Maine" (H. P. 1879) (L. D. 1962) (C. "A" H-919)

Tabled—March 17, 1980 by Mr. MacEachern of Lincoln.

Pending—Passage to be Engrossed.

On motion of Mr. MacEachern of Lincoln, tabled pending passage to be engrossed and specially assigned for Thursday, March 20.

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

House Divided Report—Majority (7) "Ought to Pass" as Amended by Committee Amendment "A" (H-917) — Minority (6) "Ought Not to Pass" — Committee on Election Laws on Bill, "An Act to Revise the Administration of the Election Laws" (Emergency) (H. P. 1641) (L. D. 1750)

Tabled—March 17, 1980 by Ms. Benoit of South Portland.

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

Thereupon, the Majority "Ought to Pass" Report was accepted and the Bill read once.

Committee Amendment "A" (H-917) was read by the Clerk.

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

Ms. BENOIT: Mr. Speaker, Men and Women of the House: I would now move indefinite postponement of Committee Amendment "A".

On motion of Ms. Benoit of South Portland, Committee Amendment "A" was indefinitely postponed.

The Bill was assigned for second reading later in the day.

Bill Held

An Act to Amend the Maine Securities Act (H. P. 1779) (L. D. 1901) (C. "A" H-887)

—In House, Passed to be Enacted on March 17, 1980.

Held at the request of Mrs. Post of Owl's Head.

On motion of Mrs. Post of Owl's Head, the House reconsidered its action whereby the Bill was passed to be enacted.

On motion of the same gentlewoman, tabled pending passage to be enacted and tomorrow assigned.

The following Papers appearing on Supplement No. 9 were taken up out of order by unanimous consent:

Leave to Withdraw

Mr. Davies from the Committee on Public Utilities on Bill, "An Act Requiring Public Utilities Commission Approval for the Purchase of Portions of Electrical Generating Facilities by Electrical Companies" (H. P. 1741) (L. D. 1859) reporting "Leave to Withdraw"

Report was read and accepted and sent up for concurrence.

Consent Calendar

(H. P. 1678) (L. D. 1787) Bill, "An Act to Permit the Bingham Water District to Withdraw from the Maine State Retirement System" — Committee on Aging, Retirement and Veterans reporting "Ought to Pass" as amended by Committee Amendment "A" (H-932)

(H. P. 1781) (L. D. 1892) Bill, "An Act to Empower the Board of Trustees of the Maine Veterans Home to Borrow Funds and to Issue Bonds, Notes and Other Evidences of Indebtedness" — Committee on Aging, Retirement and Veterans reporting "Ought to Pass" as amended by Committee Amendment "A" (H-933)

No objections being noted, the above items under suspension of the rules, were given Consent Calendar Second Day notification, passed to be engrossed as amended and sent up for concurrence.

By unanimous consent, ordered sent forthwith to the Senate.

The following Bill requiring reference to committee appearing on Supplement No. 10 was taken up out of order by unanimous consent:

Bill, "An Act Providing Standby Authority to Regulate Essential Oil Heating Deliveries" (H. P. 1984) (Presented by Mr. Davies of Orono) (Governor's Bill)

Committee on Business Legislation was suggested.

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

Mr. SPROWL: Mr. Speaker, it seems rather late in the session to refer a bill to committee. I just can't imagine the Business Legislation — I thought we had our last hearing today and it looks to me as if this passes, I don't see how we would have time to post a hearing or anything else. So, I move that this Bill be indefinitely postponed.

The SPEAKER: The gentleman from Hope, Mr. Sprowl, moves that this Bill be indefinitely postponed.

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

Mr. HOWE: Mr. Speaker and Members of the House: Indeed, it is late in the session. The Business Legislation Committee seems to get bills late in the session, but we did have one today and I trust that we will be able to report it out in a timely fashion, and I would hope that the House would give the Governor the courtesy of hearing this bill, albeit on very short notice.

I ask that you oppose the motion.

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

A vote of the House was taken.

Whereupon, Mr. Sprowl of Hope requested a roll call vote.

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

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

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

Mr. STETSON: Mr. Speaker, I just want to pose a question to Mr. Davies as to why, here we are on the 18th day of March, why does the Governor feel that this authority is necessary at this particular time? We are almost into summer and this has something to do with authority to regulate essential oil heating deliveries. Why does he feel it is so essential at this late date?

The SPEAKER: The gentleman from Wiscasset, Mr. Stetson, has posed a question through the Chair to the gentleman from Orono, Mr. Davies, who may answer if he so desires, and the Chair recognizes that gentleman.

Mr. DAVIES: Mr. Speaker and Members of the House: Mr. Stetson, unfortunately, I am not privy to the Governor's thinking on this, so

I can't tell you exactly why it is here at this time. I can give you my opinion as to why it is here and would offer to you that is the best I can do.

We have been discussing with the Governor's Office the subject matter of this legislation since almost the beginning of this session. There were a number of very touchy legal problems that were involved in the drafting of the bill. Because of the Energy Assistance Program that the legislature enacted during the last session, contracts were provided for the oil dealers and we had to be very careful so that we were not violating the language of any contracts.

The other problem was that we are awaiting some action on the part of the Public Utilities Commission to deal with termination of utility service, which they have done in recent weeks, so the combination of those two factors has caused this to be put back and put back and put back, and I would agree that it is fairly late in the session, but it is only now that the Governor has gotten the bill into what he considers to be the proper legal form so that it could be considered by this legislature.

I offer that to you as the best explanation that I can come up with.

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

Mrs. WENTWORTH: Mr. Speaker, I would pose a question to the Chair. How many days are required for public hearing notice on such a hearing.

The SPEAKER: The Chair would advise the gentlewoman that we are not required to give any notice of public hearing if we do not want to.

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

ROLL CALL

YEA — Aloupis, Austin, Berube, Birt, Bordeaux, Brown, D.; Brown, K.L.; Bunker, Call, Carter, F.; Conary, Cunningham, Damren, Davis, Dellert, Dexter, Drinkwater, Fenlason, Fillmore, Gavett, Gray, Higgins, Hunter, Hutchings, Jackson, Kiesman, Lancaster, Leighton, Leonard, Lewis, Lougee, Lund, MacBride, Marshall, Masterman, Matthews, Nelson, A.; Paradis, E.; Payne, Peltier, Peterson, Reeves, J.; Rollins, Roope, Sewall, Sherburne, Silsby, Smith, Sprowl, Stetson, Stover, Studley, Tarbell, Torrey, Wentworth, Whittemore.

NAY — Bachrach, Baker, Barry, Beaulieu, Benoit, Blodgett, Brannigan, Brennerman, Brodeur, Brown, A.; Brown, K.C.; Carroll, Carter, D.; Chonko, Churchill, Cloutier, Connolly, Cox, Curtis, Davies, Diamond, Doukas, Dow, Dutremble, D.; Dutremble, L.; Elias, Fowlie, Gillis, Gowen, Gwadosky, Hall, Hickey, Hobbs, Howe, Huber, Hughes, Jacques, P.; Jalbert, Joyce, Kane, Kany, Kelleher, LaPlante, Lizotte, Locke, Lowe, MacEachern, Mahany, Masterton, Maxwell, McHenry, McKean, McMahon, McPherson, McSweeney, Michael, Mitchell, Nadeau, Nelson, M.; Nelson, N.; Norris, Paradis, P.; Paul, Pearson, Post, Prescott, Rolde, Simon, Soulas, Strout, Theriault, Tozier, Twitchell, Violette, Vose, Wood, Wyman, The Speaker.

ABSENT — Berry, Boudreau, Bowden, Carrier, Dudley, Garsoe, Hanson, Immonen, Jacques, E.; Laffin, Martin, A.; Morton, Reeves, P.; Small, Tierney, Tuttle, Vincent.

Yes, 56; No, 78; Absent, 17.

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

Thereupon, the Bill was referred to the Committee on Business Legislation, ordered printed and sent up for concurrence.

By unanimous consent, ordered sent forthwith to the Senate.

The Chair laid before the House the following

matter:

Bill "An Act Concerning Revisions in the Maine Criminal Code and Other Criminal Laws" (S. P. 750) (L. D. 1925) which was passed to be engrossed in the House as amended by Committee Amendment "A" (S-456) as amended by House Amendment "A" thereto (H-909) in non-concurrence. In Senate, adhered to its action whereby the Bill was passed to be engrossed as amended by Committee Amendment "A" (S-456), which was tabled earlier in the day pending the motion of Mr. Simon of Lewiston to recede and concur.

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

Whereupon, Mr. McKean of Limestone requested a roll call vote.

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

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

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

Mr. McKEAN: Mr. Speaker, Ladies and Gentlemen of the House: I think you ought to know just what you are voting on. If you vote to recede and concur, what you are voting on is to have an individual admit guilt, and that is exactly what you are doing if you will read the Committee Amendment that we talked about this morning.

If a trooper or municipal police or sheriff or whoever stops an individual on the highway, that individual may not even have had a drink and the officer could ask him, will you take the test. If he refuses to take that test, then you are admitting guilt of being intoxicated, and if you don't believe me, read the committee amendment. This is not even constitutional, and this is what you are voting on.

Today, the other body sent it down here and they want to play hardball. I think this is the time for the House to sit down and play hardball and say no, we will not stand for that kind of action, and that is exactly what you are voting on.

I would hope that you would defeat this motion to recede and concur so we may adhere and get this bill in the right posture and get the committee amendment to read right.

Let's defeat the motion to recede and concur and then move to adhere.

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

Mr. STETSON: Mr. Speaker, Ladies and Gentlemen of the House: I have never heard a worse misstatement of the effect of a bill than I just heard.

It is not at all an admission of guilt. A refusal to take a test for alcohol content is not any admission at all, but that refusal may be offered in evidence in a trial of that person for operating under the influence. The person so accused may then come forward and explain why he refused the test. He has not admitted that he is guilty of operating under the influence, he has not admitted that he was drunk at the time he refused the test; he simply says, I refused the test on my own personal reasons, I refused the test because I had an aversion to needles and I had a chest injury so I didn't want to blow up the balloon. He can come forward with any legitimate reason as to why he refused it.

Let me tell you why this bill, as it was written, is a good bill and that this amendment should not attach to it, because the cost of driving under the influence has risen so high that attorneys are advising their clients—don't take the test, because if you do take the test, the chances are you will be found guilty by virtue

of the test. So if you don't take the test, sure, you may lose your license for six months, but you are not going to have that conviction on your record, you are not going to have to pay a substantial fine, you are not going to have to go to jail, and it won't be the first of the two convictions where the price even goes up higher.

I submit to you that this is not an unconstitutional measure as written. Certainly it has received the careful attention of the Attorney General's Office and it so recommended by that office that this is necessary because people are getting the idea that it is perhaps the wiser move to refuse a test, suffer the consequences of a temporary loss of license, than the heavy consequences of conviction.

All this does is to say that if you refuse that test, you better have a good reason for doing so, and you cannot frustrate the prosecutor simply by refusing the test.

I submit to you that this motion to recede and concur is proper, it is just, and if we want to get the drunk drivers off the road, this is one way to do it—recede and concur.

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

Mr. HOBBS: Mr. Speaker, Men and Women of the House: It is an unfortunate position where we are today because of a procedural maneuver or whatever you want to call it. We find ourselves in a position where the other body adhered to their action and therefore have put us in a position to either vote to recede and concur or vote to kill the entire bill.

The amendment is a 29 page amendment, Committee Amendment "A" and one of the provisions is the provision which would, in fact, make admissible into evidence the fact that you did not take a test.

The good gentlelady from Bangor, Miss Aloupi, gave a good example, I guess she put things in simple terms, and if you will bear with me, I will give you an example of how this law is affected if you are stopped by an officer.

Let's say, for example, that a person is stopped by an officer, the person is driving somewhat erratically, we will say, and that officer puts the blue lights on him and pulls that car over to the side of the road. The officer then approaches the car and asks for a license and registration, and he says to the individual, he suspects that individual has been drinking, he says, your motion of the vehicle was erratic and I think you have been drinking; would you step outside? The person steps outside and he says, I would like to give you a field sobriety test. What a field sobriety test is is a situation where you either walk a straight line or take your finger and touch your nose, things such as that, and on those determinations, if the person has probable cause to believe, because maybe the person's speech is impaired or something occurs where the person has probable cause to believe, that person can be arrested.

The officer, when he places that person under arrest, tells that individual that he has three options—he or she can either take a breathalyzer test, take a blood test or will inform that individual of the implied consent law in the State of Maine, which was sponsored by the good gentleman from East Millinocket, Mr. Birt, several years ago.

The person who this officer has told, if he or she doesn't take a breathalyzer test or a blood test, that person, in fact, can refuse, but if they refuse, you automatically lose your license whether you are guilty or not.

Now, a person can be adamant about being sober and not having a drop to drink, but that officer stopped you and he has a reasonable cause to believe that you, in fact, had been drinking; therefore, you refused to take the test because it is your word against his that you are not drinking, you haven't been drinking but you refuse to take the test, You automatically lose your license under present law. No excuse, you lose your license for 90 days, but if you take the course, you lose it for 30 days. That is that

part of the issue.

The problem is getting to a trial. Let's say you go to a trial in a district court or superior court and the prosecution puts their case on and they ask whether or not a test has been given. Of course, under the old—before we amended the law in the last session, there was an inference that you people thought if you didn't take a test, then why wasn't there a test taken? Maybe it was too low, maybe the prosecution didn't want to put it in because it was too low, and because of that problem, we addressed it in an amendment before this body two years ago, and what that amendment basically said was you could, in fact, at a jury trial or before a judge, for the purpose of showing that a test wasn't taken, use that fact that the person refused a test, not as conclusive evidence or evidence at all that you in fact were under the influence of intoxicating liquor but just to show and just to use as evidence to show, in fact, that you did not take the test. So, there would be no inference that the prosecution might have lost the test or it was a low test or whatever. That was a mechanism which the state police and law enforcement officers of the state said was necessary in order to show that that person did not take a test only for that purpose.

This particular amendment goes one step further and it says basically that you can use that as evidence that you were in fact intoxicated, the fact that you refused to take that test.

A lot of situations will occur where it is our word against that officers' word. There is no test at all to show that, in fact, you did not have an alcohol content either through breathalyzer test or through a blood test, so it is your word against the officer's word. It is my opinion that that goes too far, and I find that we are in a really difficult position because we have two choices, one to adhere and one to recede and concur.

Because of that one particular provision in the bill and because I have looked over the bill which encompasses a lot of housekeeping changes, and after conference with the counsel of our committee, which states that the earth would not shake or the roof would not come down if, in fact, we do not pass this whole bill, I will vote to adhere and vote against the pending motion.

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

Mr. JALBERT: Mr. Speaker and Members of the House: As far as driving is concerned, this couldn't affect me. I am forbidden from driving an automobile, have been for a number of years.

I have been going along on this, I have been going with the recede and concur motion, and I listened to Mr. McKean and, you know, let's say, for instance, and this happens very often, the phone rings at my house and someone has been arrested for driving under the influence. Of course, my first statement to this is, get a lawyer, I am not a lawyer, and I ask them, have you taken a blood test?

Suppose the officer stops you and you refuse to take a blood test; then you are arrested and you are bailed out. Within 24 hours the Secretary of State sends you a letter to send in your license. For instance, a fireman, at least in my community, if a fireman loses his license, he loses his job, because every fireman in the City of Lewiston must be able to drive a fire truck. So automatically that job is gone.

Let us say you are driving for a trucking company and you have a 1-A license. You are automatically off the road, so you lose your job, or at least you can't drive, and in a lot of big companies, you just plain lose your job.

My question is this, suppose he is stopped and he refuses to take a test, suppose he hasn't had a drink and he is off the road and there is little compensation for him if he has lost his job because he has refused to take the test, and there-

by refusing to take the test because he has got to have a license, he has got to drive to earn his living, and he loses his job, what then?

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

Mr. DIAMOND: Mr. Speaker, Men and Women of the House: Many of us in this House have worked long and hard to plug the loopholes in the OUI laws. Representative Tarbell, Representative Locke, Representative Silsby, myself and others have worked four years that I know of trying to make the OUI laws more useable.

There are drunk drivers on the road, they are getting worse every year, and I am sorry if we are going to impose a problem for somebody because they refuse to take two different kinds of tests, a breath test or a blood test, then I think we better stop and take a look at that whole process.

Representative Stetson explained very clearly and very accurately what would happen. We are not proving guilt upon refusing to take a test. That is clear; it is right in the amendment.

What I am concerned about is one thing, and that is minimizing and even stopping the drunk drivers on the roads in this state. One intoxicated driver coming over the top of a hill can wipe out a family, and it seems to me that we have to do all we can do in this House and down the hall to prevent that as much as we can, and this is going to do it. Anything less than this will not do it. An adhering motion will not do it, and I hope you recede and concur.

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

Mr. NORRIS: Mr. Speaker, Ladies and Gentlemen of the House: I did want to correct one statement that was made. Under the law, you don't lose your license, or your license is not suspended when you get arrested; it is suspended after you are convicted. When you are convicted, then the Secretary of State takes your license.

I am pleased to be up this afternoon and be on the same side of the issue with my good friend, the able lawyer, Mr. Stetson.

Back when I was convicted for drunken driving, I lost my license for a year and I got along.

Now, the people back where I come from, and I am involved with treatment and I want to do everything I can do to help the alcoholic or the drug abuser, but the people where I come from are getting awfully concerned, they are getting paranoid, they are getting frightened. There are people that I know of that don't go out on Saturday night late because they are afraid someone will hit them on the way home that is driving their automobile under the influence. So any small measure that this legislature can take to tighten this up, please do it.

There are provisions in the law that mandate that people get help, and it is just unconceivable—I don't know of anybody, and I am involved in this business all the time, I haven't known or heard or seen a case in our area anyway, maybe it is different in other parts of the state, but in my area I don't think there has been an innocent person convicted or even arrested for drunken driving if they were actually out on the road drinking. If you are out on the road and you have been drinking, there is no reason in God's world that you shouldn't take some sort of a test to determine how much you have had to drink.

I hope you will recede and concur on this bill this afternoon.

The SPEAKER: The Chair recognizes the gentleman from Roque Bluffs, Mr. Nelson.

Mr. NELSON: Mr. Speaker and Members of the House: If I understand what they are telling me here this afternoon, they say that if you are accused of drunken driving, you immediately lose your license before you even go to court if you don't take the test?

Well, sometimes I drive erratically when I am sleepy, but if someone comes along and

asks me to take a test, I think I would refuse to take that test, and why should I lose my license because I refused to take an alcohol blood test because I am driving erratically because I am sleepy?

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

Mr. BIRT: Mr. Speaker, Ladies and Gentlemen of the House: About 10 years ago, I did get involved in the implied consent law. It kicked around the House for quite a few years in the legislature and was continuously defeated because of questions of constitutionality. I think one of the most satisfying experiences I ever had was taking that particular case to the court and we worked on it for about three months. We got a decision from the Supreme Court indicating the implied consent law was constitutional by every law and section of the Constitution of the State of Maine.

This law does allow that if you are stopped and the officer feels that you are to any degree under the influence of liquor, he can request that you take a test. You can refuse to take that test if you want to, but if you do refuse, it automatically means a loss of license for a period of time. One time it was a year; I believe it has been changed to 90 days, which has been said on the floor. I think that was at least a deterrent for a long while in reducing some of the drinking on the roads. In late years, the last few years, that has picked up quite a bit.

I think that the action in this present bill is a good action, the only thing, it moves it into the court and I am absolutely confident that if that was taken to the Supreme Court, you would get the same decision you got 10 years ago.

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

Mr. JALBERT: Mr. Speaker and Members of the House: The gentleman from Wiscasset, Mr. Stetson, who I know, at least through my family, is an excellent attorney.

I appreciate very much the remarks that were made by the gentleman from Brewer, Mr. Norris. It took courage to stand up and comment the way he did and I am now back on the recede and concur end of it again. I mean I want to be right about the thing, but I do know this, I might suggest to the gentleman from Brewer, Mr. Norris, that if you do, it is not until after you are convinced; then you lose your license right off. Then if you are freed, you are on your way.

I will tell you one thing, and I guess this is as good a time as any to tell you. I go to a place that has a liquor license, a very small place, it is a family affair and they have excellent food. They have particularly good hamburgers and I would rather have a hamburger than a four inch steak, I am that stupid. I will tell you one thing right now, one time when I went to that place, there was one fellow there and he had what I would call a good hatfull, and I went to the owner of the place quietly and I told him, somehow you ought to get this fellow home. He told me in plain language to mind my business. I said, good, I will tell you just exactly what I would do—either you get this guy home and get the keys to his car in your pocket or I will do exactly that, I will mind my business by calling the Liquor Commission and they will have liquor inspectors in this place every day and every second that you are open. That is the big key right there, and I guarantee it, that within 15 minutes he had the guy's keys in his pockets and he took him home himself. There is the big education, when you tell these people, and of these TV ads are not all that foolish.

I don't want you to drive home because I am your friend. Probably in my lifetime and that is a long time gone with me, particularly when they told me 17 years ago that I couldn't have another beer as long as I lived, two big tears came down my cheeks and I haven't had a beer for 17 years. Once in a great while you might have a pop, but I will tell you one thing right now, not in an automobile. I don't have that

worry. The reason that I can't drive is because I take medication.

Somewhere along the line, I would like to have people who are interested in this thing just start a drive somewhere, somehow, to keep these people off the road before they get on the road, that is the answer. I can guarantee you that when I see it happen, I move and I move fast, and I know exactly how to mind my own business as far as these people are concerned.

I am going to vote to recede and concur.

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

Mr. MCKEAN: Mr. Speaker, Ladies and Gentlemen of the House: I certainly appreciate the remarks of my good friend Representative Diamond. I know which direction he is coming from and I would say this, and also my good friend Representative Norris—I don't think anybody in this House is anymore concerned with alcoholics on the road, or drunken drivers, than I am. Take a look at the amendment during the 106th that I put such a bill and that will tell you how I feel, but I think there is a right way and a wrong way to do it, and you don't do it at the expense of an innocent party. That is not the way justice is structured, it never was and I hope that it never will be.

I would refer you, just read it for yourself, Page 29 of the Committee Amendment, S-456 on L. D. 1925, and use your own judgment. Section 33, about a fourth of the way down the page, before the vote, read it. "The revocation of a person's implied consent to a chemical test by refusing to allow the taking of a sample specimen as authorized by this section shall be admissible in evidence on the issue of whether that person was under the influence of intoxicating liquor."

My friends, the fact that you don't take a test does not mean that you were drunk or even had a drink. It means that you did not take a test, and that is exactly the way the present law is structured. It is fair and it is equitable and that is the way it should remain, fair and equitable.

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

Mr. BRANNIGAN: Mr. Speaker and Members of the House: It seems to me that the implied consent law, because this is such a serious problem, that the implied consent law was put there. What it means is, if you take a license and you decide you are going to drive, then you, by taking that, it is implied that you will go along with this kind of testing, this kind of enforcement, which is trying to eradicate this very difficult problem. If we are going to make a mistake on this, let's make a mistake in severity.

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

ROLL CALL

YEA — Alopis, Austin, Beaulieu, Birt, Bordeaux, Bowden, Brannigan, Brodeur, Brown, A.; Brown, D.; Brown, K.C.; Bunker, Call, Carter, F.; Chonko, Conary, Cox, Cunningham, Curtis, Damren, Davis, Dellert, Dexter, Diamond, Dow, Drinkwater, Dumbrele, D.; Fenlason, Fillmore, Fowlie, Gavett, Gillis, Gray, Hickey, Higgins, Huber, Hughes, Hunter, Hutchings, Jackson, Jalbert, Joyce, Kiesman, Lancaster, LaPlante, Leighton, Leonard, Lewis, Locke, Lougee, Lowe, Lund, MacBride, Marshall, Masterman, Masterton, Matthews, Maxwell, McSweeney, Morton, Nadeau, Nelson, A.; Nelson, M.; Nelson, N.; Norris, Paradis, E.; Paul, Payne, Pearson, Peltier, Peterson, Prescott, Rolde, Rollins, Roope, Sewall, Silsby, Simon, Smith, Soulas, Sprowl, Stetson, Stover, Theriault, Torrey, Wentworth, Whittemore, Wood, Wyman.

NAY — Bachrach, Baker, Barry, Benoit, Berube, Blodgett, Brenerman, Brown, K.L.; Carroll, Carter, D.; Churchill, Cloutier, Con-

nolly, Davies, Doukas, Dutremble, L.; Elias, Gowen, Gwadosky, Hall, Hobbins, Howe, Jacques, P.; Kane, Kany, Kelleher, Lizotte, MacEachern, Mahany, McHenry, McKean, McMahon, McPherson, Michael, Mitchell, Paradis, P.; Post, Reeves, J.; Sherburne, Strout, Studley, Tarbell, Tozier, Twitchell, Violette, Vose, The Speaker.

ABSENT — Berry, Boudreau, Carrier, Dudley, Garsoe, Hanson, Immonen, Jacques, E.; Laffin, Martin, A.; Reeves, P.; Small, Tierney, Tuttle, Vincent.

Yes: 89; No: 47; Absent, 15.

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

By unanimous consent, ordered sent forth with to Engrossing.

The Chair laid before the House the following matter:

An Act to Provide for County Self-government (H. P. 831) (L. D. 1038) (H. "B" H-886 to C "B" H-805) which was tabled earlier in the day and later today assigned pending passage to be enacted.

The SPEAKER: The Chair recognizes the gentleman from Orland, Mr. Churchill.

Mr. CHURCHILL: Mr. Speaker, Ladies and Gentlemen of the House: The other day I jumped up and objected to this L. D. and since then, I have read over L. D. 1038. I don't know how many people have L. D. 1038, this was a carry over bill from the last session. Since then, my objections have become more compounded.

In the first place, it calls for a county council, which may consist of five, seven or nine members and these boundaries may be the same as your county commissioner districts. Most counties, I believe there are three county commissioner districts. It would be necessary to have nine members in order to divide this up fairly, because if you went to five members, two districts would have two and one would only have one. So, you are going to have nine members. This is one of my first objections to this.

Also, the county council is going to appoint a county manager. Furthermore, they are going to appoint all department heads. It is my feeling, for instance, that the treasurer and so forth, this can be set up in the charter, and if it isn't in the charter, they are going to appoint the treasurer and all the department heads.

As far as the policial part of this implication, I feel in the county you have a chance to do a lot of party politicking. I think this is going to hurt the party, whether it is Democrat or Republican, whichever the county may be. These offices we all believe that they are not too busy and they have a chance to do a lot of politicking. I talked with one today and it really benefits the parties to have these elected officials from the county. I object to this very much, also the contracts with localities.

In my county, the larger cities that have a police department object very strongly to paying any county tax in to fund the sheriff's department. For instance, if you had three or four or five towns in a small county like mine that have their own police force, they don't sheriff's department in there; they won't need them at all, but other towns may contract with these municipalities to have patrols in their towns. If they do this, the other towns are going to be subsidizing, in my viewpoint, the ones that they are patrolling in. They are not wholly, but a great deal of their salary and part of their income is coming from those other towns, those other than the ones contracting. They are not going to pay the whole of it. We will probably hear that this is going to be paid entirely.

We have some towns in Hancock County that hire the sheriff's department to patrol. This isn't entirely coming from just those towns. There are other towns contributing to this. I

think this is an added expense.

Also, you are going to set up various boards, finance committees, personnel boards, etc., and I can't help believing that this is going to cost added money to the county, because they are certainly going to get their expense money, they are going to get so much for a meeting. This is another layer of government that I believe is complicating county government.

Not only that, there is nothing in this bill that says it is going to reduce the county commissioner's salary. The county commissioners should not, if they are going to be advisory members of this council or have a county manager, the county manager should be the one to receive a salary. The county commissioners should have only like \$25 to attend a meeting, or whatever. There is no reason why you should continue with this. This has all got to be set up in the charter, I believe, and I think this is more complicated than what we already have.

Responsibility of personnel—now, when you get down to the responsibility of personnel, this may be all well and good for the county commissioner, if he can rely on the manager of the county, but I believe you are going to have a personnel board, it is going to require a lot of meetings. If someone objects to a certain thing, someone that has been appointed to a job that is improper, you are going to have to have hearings. This is going to complicate matters still further.

Also, every time you discuss the county budget, it has to be held in each district. At the present time, we have a budget hearing that is held at the county seat. In my county, we have two or three hearings; one is public and one is with the legislative delegation, and they also have one prior to that.

According to this L. D., you are going to have to hold one of these in each one of these districts. If this isn't complicating matters, it is going to be an added expense. If you are divided into only three districts, council districts, you will hold one in each council district. If you are divided into more than three, you are going to hold one in each council district. This is even more complicated.

Also, it says that this is enabling legislation, but as I read this, it says that if it isn't formed, the legislature will, within three years, prepare a plan for implementation of this act. So, I don't see why it is enabling legislation if it is necessary that they have to implement a plan and be voted on by the legislature for that county.

That is all I have to say. I just object to it and I want to go on record, as one of the other gentlemen said before—I told you so.

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

Mr. McMAHON: Mr. Speaker, Ladies and Gentlemen of the House: During the past couple of weeks, I have heard many many misstatements or inaccurate statements about the bill we have before us, and in spite of my affection for the previous speaker, his comments fall very squarely into that category.

To go back a ways, several weeks ago, Representative LaPlante and I were called upon to rebut an editorial or newspiece that was one of the television stations in Portland. A citizen of this state went on that television station and started talking about a bill, L. D. 1038, and neglected to realize or state that the original L. D. 1038 was gutted by the committee amendment and that, in fact, we are talking about something entirely different.

I was not here on Friday due to the weather, but when I came in yesterday and found on my desk a two-page memo from Mary Adams, I was hoping I would have the opportunity to respond to that before you and I intend to do that right now.

If you will remember that two-page memo, which perhaps prompted some debate on this bill, I guess on Friday, it starts off by showing two reports on the front, and the gentelady

from Garland suggests, if you haven't read the two publications below, you certainly should not vote for the bill because you won't know what you are doing. Well, it is obvious that the lady doesn't know that the committee rejected both reports. Neither one has any bearing at all on the bill that is in front of you right now. We have said that over and over again and it is a fact.

The report that deals with the more responsive government, November 15, 1978, that bill was not even introduced, much less heard by our committee.

The pamphlet goes on to talk about county taxes, like the Maryland County Income Tax. Well, the bill that you have before you in no way changes from the present the method of raising county taxes. That is done through the property tax, always has been, and it is collected by the municipal officials by piggy-backing onto your municipal bill. We don't change that, we don't want to change that, and nowhere was there any discussion, thought or proposal for a county income tax. And what the lady did not tell you was that in the State of Maryland it was an issue before that state's legislature for several sessions whether to allow their counties to have the power to impose a county income tax. So if that is in any of your minds, rest assured that that could not happen in this state without specific legislation authorizing it, and that is far from anyone's mind, certainly, I hope, in this body.

The lady goes on in her memo, talks about the possibility of creating a regional structure which will be more powerful than their own town or city government. That is patently ridiculous. The bill that you have before you recognizes and takes into consideration the traditional and legal role of Maine's counties, as it has been through the years.

Did you know that one of the first functions of Maine's counties when we became a state, other than to serve as a court, was to lay out roads between towns, because in those days, the counties were not totally divided into towns and they needed a level of government to lay out roads between the organized towns, and the county was assigned that task along with others.

We are very mindful of the traditional, relatively weak role of Maine's counties. We are not proposing to change that at all. The gentelady would have you believe that this bill is some kind of a monster that is going to create a whole new structure of government. My dear people, we are talking about the current existing structure of our government, which this state has always had.

The lady goes on in her memo to refer to my memo, which was basically a fact sheet that those of us on the committee had, quoting me as saying this bill is a protection against the expansion of substate regional governments headed by non-elected officials. She goes on to take issue with that but, in fact, she quoted me correctly. It is, because if we do not give our counties, which are headed by elected officials, the tools to do the tasks that they have to do nowadays, you are going to see a proliferation of appointed regional governments. We do not want that. We are asking you to strengthen our counties, to give them the ability to adopt a government structure necessary to carry them into the 20th Century.

I would like to respond and address some of the comments made by the previous speaker. The gentleman was going so quickly through his comments that I could barely keep up with him, but those points that I noted, I will address.

The gentleman kept talking about a county council. Where in this legislation do we see the words 'county council'? It is not there. The bill simply says that under a charter a county could establish a legislative body of three, five or seven members. It does not talk about a council or a manager of any particular kind of gov-

ernment structure. It says that the charter commission, which shall be formed after the first referendum within the county, shall be assigned the task of drafting a charter for that county's government.

I would point out to you that this part of the language is in the present law; Title 30, Chapter 11, presently allows counties to do that. They have not elected to do so, but they could under present law.

So, there is no requirement for a particular kind of government structure such as a council/manager form, which states like Maryland do have.

There is no requirement in here for appointment of department heads; we don't mandate that. Again, we leave it up to the charter commission in drafting the charter to determine the kind of government structure necessary for that county.

With regard to the partisan aspect, I happen to believe that it is more advantageous to have a county budget decided by the people on the local level. I do not feel, after eight years in this body, that I have been able to deal with the York County budget in any way better than the people in York County would have been able to deal with it. And under this bill, we are setting up a structure whereby they can do that in an open, under public scrutiny, in a less partisan manner. I say less partisan because the provision for the finance committee includes elected local municipal officials, who are usually elected on a non-partisan basis.

Reference was made to the sheriff's department. The sheriff is a constitutional officer, and I would be very surprised if any town in this state is not paying the basic assessment for its county tax for the basic sheriff functions. These are absolutely nothing in this bill or in present law to prohibit towns from contracting for additional services if they so wish.

Now, the gentleman is confused with regard to the addition of boards and commissions. He mentions a personnel board. Again, I don't know what he is talking about. There is no mandation of a personnel board; there is a mandation of a finance committee, as you have heard us say in previous discussions on this matter. Any county that wishes to adopt a finance committee made up in one of the two ways we put into the act. That finance committee will serve as a check and balance on the local level and, in fact, will take our place in that county.

The gentleman talked about hearings in each of the several commissioner districts. Again, apparently he is talking about another bill, because the bill requires a minimum of one hearing or more, as is desired, with no requirement that one be held in each district.

These are the points that came quickly to mind that I was able to jot down from the gentleman's comments. I would just conclude by saying that I sincerely hope you will pass this bill. The effort of many people over a long period of time has gone into this. We must give our counties the ability to deal with the problems that they are being faced with. We propose to do that on purely a local level. We are not mandating anything. Before a county can adopt a charter, it must have two, not one but two referendums in that county, coincidental with the state election, to ensure that a maximum number of people have voted.

I am not going to tell you that this bill is flawless. Perhaps there is an error in here, we hope not, but 13 of us this session and many more before us have worked on this over a long period of time, and to the best of our knowledge, this is the best product that we could place before you to give our counties the ability to acquire the government structure they need to deal with current problems.

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 Mr. McMahon and Mr. Church-

ill. I have got the original bill here, I have got five different amendments here. I have heard some conflicting viewpoints made by both gentlemen. It is late and I hate to ask someone to do this, but would you mind tabling the bill, because if there is one thing I would like to do is take Penobscot County out of it. I don't like the bill at all from the remarks made both by the gentleman from Orland and the gentleman from York County, so if some kind person would just table this bill, I would like to get an amendment prepared in case Mr. Churchill's motion didn't pass, so I could take Penobscot County out and let the 22 of us up in that county reach our own decisions on how we want to handle our county finances.

I know Mr. McMahon is going to object to it, but I say to him and York County, do whatever you want to do; let us have the privilege or at least the opportunity amongst ourselves to handle our own business. So if some kind gentleman would just table it, I would like to take county out, and then the other 15 of you can do whatever you would like to do.

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

Mr. McMAHON: Mr. Speaker, to my good friend Mr. Kelleher, I would like to allay your fears. Under the provision of this bill, Penobscot County, or any other county, can remove itself by simply not adopting a charter. There is absolutely no mandation here. The status quo remains in effect until such time as a charter is adopted.

The SPEAKER: The Chair recognizes the gentleman from Orland, Mr. Churchill.

Mr. CHURCHILL: Mr. Speaker, Ladies and Gentlemen of the House: I know it is late and we are all tired, but it seems very strange that year after year we come here and it is the same counties that have trouble with their county government. We have to put legislation on the books so that they can get out from under bothering with the county budget.

There are about 13 or 14 counties that have very little trouble; yet we pass legislation for the other two all the time, and we all have to suffer for it.

I would like to move that this be tabled for one legislative day.

The SPEAKER: The Chair would advise the gentleman that he has adequately debated the tabling motion.

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

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

Whereupon, Mr. LaPlante requested a vote.

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

A vote of the House was taken.

Whereupon, Mr. LaPlante of Sabattus 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 and voting 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 Harrison, Mr. Leighton, that this matter be tabled for one legislative day pending passage to be enacted. All those in favor will vote yes; those opposed will vote no.

ROLL CALL

YEA — Alopis, Austin, Blerube, Blodgett, Brown, A.; Brown, D.; Carroll, Carter, D.; Carter, F.; Churchill, Conary, Connolly, Curtis, Damren, Davis, Dellert, Dexter, Dutremble, D.; Fenlason, Gavett, Gillis, Gowen, Gray, Gwadosky, Hickey, Hunter, Hutchings,

Jackson, Jacques, P.; Jalbert, Kelleher, Leighton, Lewis, Lizotte, Lougee, Lowe, MacBride, Mahany, Marshall, Masterman, Matthews, Maxwell, Nelson, A.; Paradis, P.; Paul, Payne, Peterson, Post, Reeves, J.; Rollins, Roope, Sherburne, Simon, Soulas, Sprowl, Stetson, Stover, Studley, Tarbell, Torrey, Twitshell, Wentworth.

NAY — Bachrach, Baker, Barry, Beaulieu, Benoit, Bordeaux, Bowden, Brannigan, Brennerman, Brodeur, Brown, K.C.; Call, Cloutier, Cox, Cunningham, Davies, Diamond, Doukas, Dow, Drinkwater, Dutremble, L.; Fillmore, Fowlie, Higgins, Howe, Huber, Hughes, Joyce, Kane, Kany, Lancaster, LaPlante, Locke, Lund, MacEachern, Masterton, McHenry, McKean, McMahon, McPherson, Michael, Mitchell, Morton, Nadeau, Nelson, M.; Nelson, N.; Paradis, E.; Pearson, Prescott, Rolde, Sewall, Silsby, Strout, Tozier, Violette, Vose, Wood, Wyman.

ABSENT — Berry, Birt, Boudreau, Brown, K.L.; Carrier, Chonko, Dudley, Elias, Garsoe, Hall, Hanson, Hobbins, Immonen, Jacques, E.; Kiesman, Laffin, Leonard, Martin, A.; McSweeney, Norris, Peltier, Reeves, P.; Small, Smith, Theriault, Tierney, Tuttle, Vincent, Whittemore.

Yes, 63; No, 58; Absent, 29.

The SPEAKER: Sixty-three having voted in the affirmative and fifty-eight in the negative, with twenty-nine being absent, the motion does prevail.

The Chair laid before the House the following matter:

An Act Concerning Revisions in Maine's Juvenile Code and other Statutes Relating to Juveniles (H. P. 1847) (L. D. 1951) (C. "A" H-888) which was tabled earlier in the day pending passage to be enacted.

On motion of Mr. Connolly of Portland, tabled pending passage to be enacted and tomorrow assigned.

The Chair laid before the House the following matter:

An Act to Permit the Department of Inland Fisheries and Wildlife to Borrow in Anticipation of Revenues (H. P. 1836) (L. D. 1940) (C. "A" H-897) which was tabled earlier in the day 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 following matter:

Bill "An Act Appropriating Funds to the Department of Human Services, the Department of Mental Health and Corrections and the Department of Educational and Cultural Services for Insufficient Payments for Placement of Emotionally Disturbed Children in Residential Treatment Centers for the Fiscal Year Ending June 30, 1981" (H. P. 1868) (L. D. 1958) which was passed to be engrossed as amended by Committee Amendment "A" (H-915) in the House on March 17, 1980. In the Senate, passed to be engrossed as amended by Committee Amendment "A" (H-915) as amended by Senate Amendment "A" (S-475) thereto, which was tabled earlier in the day pending further consideration.

On motion of Mr. Morton of Farmington, the House voted to recede.

Senate Amendment "A" to Committee Amendment "A" (S-475) was read by the Clerk.

Mr. Morton of Farmington moved that Senate Amendment "A" to Committee Amendment "A" be indefinitely postponed.

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

Mr. PEARSON: Mr. Speaker, I would like to pose a question through the Chair to Mr. Morton and ask him why.

The SPEAKER: The gentleman from Old

Town, Mr. Pearson has posed a question through the Chair to the gentleman from Farmington, Mr. Morton, who may answer if he so desires, and the Chair recognizes that gentleman.

Mr. MORTON: Mr. Speaker, as usual, I didn't cover all the bases. I have discussed this very deeply with the chairman of the Committee on Education. I would be glad to inform my good House Chairman that this particular Senate Amendment completely, well, a good word is to foul up our intention to make these three departments work in an integrated manner and it defeats what we were attempting to do in the committee and with this particular appropriation.

Thereupon, Senate Amendment "A" to Committee Amendment "A" was indefinitely postponed in non-concurrence.

Thereupon, Committee Amendment "A" was adopted.

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

On motion of Mr. Morton of Farmington, the House reconsidered its action whereby it voted to recede.

The same gentleman withdrew his motion to recede.

On motion of Mr. Morton of Farmington, the House voted to insist.

Whereupon, on motion of the same gentleman, the House reconsidered its action whereby it voted to insist.

On motion of the same gentleman, the House voted to adhere.

The Chair laid before the House the following matter:

Bill "An Act establishing the Child and Family Services and Child Protection Act" (H. P. 1787) (L. D. 1906) which was passed to be engrossed as amended by Committee Amendment "A" (H-882) in the House; in the Senate, passed to be engrossed as amended by Committee Amendment "A" (H-882) as amended by Senate Amendment "A" (S-474) thereto in non-concurrence.

Tabled earlier in the day pending further consideration.

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

By unanimous consent, ordered sent forthwith to Engrossing.

The Chair laid before the House the following matter:

Bill "An Act Increasing the Minimum Handling Fee for Returnable Beverage Containers from 1¢ to 2¢" (H. P. 1973) (L. D. 2012) which was tabled earlier in the day pending passage to be engrossed.

On motion of Mr. Gwadosky of Fairfield, tabled pending passage to be engrossed and tomorrow assigned.

The Chair laid before the House the following matter:

Bill "An Act to Provide Funds for Residential Energy Conservation" (S. P. 766) (L. D. 1963) (S. "A" S-465) which was tabled earlier in the day pending passage to be engrossed.

Mr. Higgins of Scarborough offered House Amendment "B" and moved its adoption.

House Amendment "B" (H-935) was read by the Clerk.

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

Mr. HIGGINS: Mr. Speaker, Ladies and Gentlemen of the House: I do apologize to the House for the inconvenience of having to table this item again, but I wasn't familiar with when the bill was going to be brought up and consequently I got caught a little short. I really thought they would have this back much sooner than they did.

Nevertheless, House Amendment "B" to L. D. 1963 is a somewhat watered down version of

the House Amendment "A" which I withdrew. Simply, this amendment repeals the act in December of 1983. I guess what I said this morning would comply with my feelings this evening, and I would hope that you would act favorably on the amendment.

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

Mrs. KANY: Mr. Speaker and Members of the House: I hope the House does not accept this amendment. The amendment that was originally offered was ill-conceived and would have interfered with the bonds and notes outstanding with the Maine State Housing Authority, and this amendment does the same exact thing. You just simply cannot sunset an entire act when there are notes outstanding on it, and I certainly would hope that this would definitely be indefinitely postponed and I so move.

The SPEAKER: The gentleman from Waterville, Mrs. Kany, moves that House Amendment "B" be indefinitely postponed.

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

Mr. HIGGINS: Mr. Speaker, Ladies and Gentlemen of the House: It is not my intent to foul up the process once it gets started, and if there are notes and bonds that are issued previous to December of 1983, it is not my intent, and it should not be drafted that way, that this would in any way recall those notes. All it says is that the legislature will take a look at this act and its effectiveness, if you will, in the second session of the 111th Legislature and make some sort of a reassessment or an assessment of how the project has been working.

I have talked with the sponsor of the legislation. She has indicated to me that she doesn't have any particular problem with this amendment, but it does not in any way infringe on what has taken place during this three-year period in which this bill will be in effect.

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

Mrs. KANY: Mr. Speaker and Members of the House: It may not be your intent, Representative Higgins, but it is precisely what you have done. If you had wanted an amendment to say "no further notes shall be issued or review shall be held" then that is how you should have drafted your amendment.

You have had two opportunities; I certainly hope we indefinitely postpone this. The Maine State Housing Authority and all of its programs will come under review. And when we just amended the sunset law, which we did within the last couple of days and it was so enacted, we were very careful when we drafted that law to make certain that it was just a review.

Please indefinitely postpone this poorly drafted amendment on its second attempt at drafting.

The SPEAKER: The pending question is on the motion of the gentleman from Waterville, Mrs. Kany, that House Amendment "B" be indefinitely postponed. All those in favor will vote yes; those opposed will vote no.

A vote of the House was taken. Whereupon, Mr. Higgins of Scarborough requested a roll call vote.

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

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

The SPEAKER: The pending question is on the motion of the gentleman from Waterville, Mrs. Kany, that House Amendment "B" be indefinitely postponed. All those in favor will vote yes; those opposed will vote no.

ROLL CALL

YEA — Baker, Barry, Beaulieu, Benoit, Blodgett, Brannigan, Brennerman, Brodeur, Call, Carroll, Carter, D.; Chonko, Churchill,

Connolly, Cox, Curtis, Davies, Diamond, Doukas, Dow, Dutremble, D.; Dutremble, L.; Fowlie, Gowen, Gwadosky, Hall, Hickey, Hobbins, Howe, Huber, Hughes, Hutchings, Jacques, P.; Joyce, Kane, Kany, Kelleher, LaPlante, Lizotte, Locke, Lund, MacEachern, Mahany, Masterton, Maxwell, McHenry, McKean, McSweeney, Michael, Mitchell, Nadeau, Nelson, M.; Nelson, N.; Norris, Paradis, E.; Paradis, P.; Paul, Pearson, Post, Prescott, Rolde, Sewall, Theriault, Twitchell, Violette, Vose, Wood, Wyman, The Speaker.

NAY — Aloupis, Austin, Birt, Bordeaux, Bowden, Brown, A.; Brown, D.; Brown, K.L.; Brown, K.C.; Bunker, Carter, F.; Conary, Cunningham, Damren, Davis, Dellert, Dexter, Drinkwater, Fenlason, Fillmore, Gavett, Gillis, Higgins, Hunter, Jackson, Kiesman, Lancaster, Leighton, Lewis, Lougee, Lowe, MacBride, Marshall, Masterman, Matthews, McMahon, McPherson, Morton, Nelson, A.; Payne, Peterson, Reeves, J.; Rollins, Roope, Sherburne, Silsby, Smith, Soulas, Sprowl, Stetson, Stover, Strout, Studley, Tarbell, Torrey, Wentworth.

ABSENT — Bachrach, Berry, Berube, Boudreau, Carrier, Cloutier, Dudley, Elias, Garsoe, Gray, Hanson, Immonen, Jacques, E.; Jalbert, Laffin, Leonard, Martin, A.; Peltier, Reeves, P.; Simon, Small, Tierney, Tozier, Tuttle, Vincent, Whitemore.

Yes, 69; No, 56; Absent, 26.

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

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

Mr. TARBELL: Mr. Speaker, I have two questions I would like to pose through the Chair. The first one relates to the 150 percent of the medium family income. I am curious to know what income that would be, would it be twenty, twenty-five thousand, twenty eight thousand?

The second question is a more important question, it deals with the definitional scope of this measure.

The bill says that these low interest loans will be available to people if they meet the financial eligibility to improve or rehabilitate their structures for the purpose of energy conservation in its residential housing. What does improve and rehabilitate mean? How broad is that scope? If you have got a back porch that is not closed in or it is closed in and the thing is dilapidating and falling off your house, does that mean that you can get this low-interest loan to rebuild that back porch and insulate a little better so it might have some energy conservation impact on your home?

I can think of all kinds of ways in which the people could say "I am doing this rehabilitation or improvement to my existing home" that can stretch it to say, "I am doing this to make my house more energy efficient" and really be doing some major renovations to the home to basically just improve the home itself, which would be the primary purpose, and the secondary purpose might be that it might make it a little more energy efficient. I am just wondering how broad or how restrictive it is intended that this bill and the language in the definitional scope in Section 1 will actually, will actually be, or are we just simply delegating that authority over to the Housing Authority to let them promulgate rules and regulations to define this scope? Because I can see this thing being stretched way out of proportion. I am just wondering if this particular question was considered?

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

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

Mr. PEARSON: Mr. Speaker, Ladies and

Gentlemen of the House: We had this bill before our committee and the answer to the first question, I believe, is \$25,000, according to Page 4 of the L. D.

The answer to the second question is that there can be some alterations done in structure as long as they contribute to the insulating value of the House, and they will be overseen, as we were told, by the Housing people on a random, spot basis of checking up on how these funds were being spent.

While I am on my feet, I might go just a little further and tell you that we have testimony on this particular bill from the Energy Office in favor of it, from the insulation companies who are in favor of it and the backs who are in favor of it, although they had some reservations about the income; they thought maybe it should be \$20,000 instead of \$25,000, but I think that was a little picky. As I recall it, there was no opposition whatsoever.

This is the first attempt to help middle income families, and I hope that it won't be turned down by this legislature. Time and time again we hear people saying that the poor are helped and the middle income people have no recourse, and we are trying to provide one without any additional monies being appropriated by using the bonding ability of the Maine State Housing Authority to finance these particular loans.

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

Mrs. LEWIS: Mr. Speaker, Ladies and Gentlemen of the House: There is only one real way to help the middle income people, and that is to let them keep their own money in their own pocket. They don't want to send their money to Augusta through taxes to have some of it come back with directions on just how to spend that money.

The middle income people are weatherizing their buildings right now, and what this bill would do would be to allow those middle income people, who apply, to get these low interest loans, but the people who would be paying for it would be all the other low and middle income people who aren't applying. So it is going to be another real big boondoggle and it is going to cost the middle income people, who are paying for everything, to pay for this again, unless every middle income person in the state applies for this loan, and obviously there is not enough money for that.

Mr. Speaker, I move that this Bill and all its accompanying papers be indefinitely postponed, and I would ask for a division.

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 Old Town, Mr. Pearson.

Mr. PEARSON: Mr. Speaker, Ladies and Gentlemen of the House: I want to give you an example of how people in the middle income can finance some energy improvements to their home.

You have somebody who buys a house under the Maine State Housing Authority and they decide that they are going to leave the state or move from one place to another and they sell their house, and they pay back the mortgage sooner than they thought they were going to be able to do it. That will free up some money. That is one of the mechanisms that they will use. They will take that money and offer it to people in loans to insulate their homes.

I had quite a bit of accompanying paper with this particular bill, and all of the accompanying paper that I had with this particular bill said it was good.

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

Mr. BROWN: Mr. Speaker and Members of the House: I hesitate to stand up and oppose a bill that has energy attached to it because it seems like that is opposing motherhood and

apple pie.

But, you know, when our forms of government were established so many many years ago, it seems to me that the government influence in people's lives was one to help those who can't help themselves. I, frankly, maintain that somebody who is making \$25,000 a year is probably in a pretty good position to help himself.

I think if we pass this particular piece of legislation, we are giving the Maine State Housing Authority a whole brand new area of authority in which they probably don't have an expertise. I am not convinced that the Maine State Housing Authority should be getting into these areas of home rejuvenation. I think if you want some examples of what the Maine State Housing Authority has done, you can come into my municipality and many other municipalities and look at some of the housing projects which have sprung up over the past few years.

The gentlelady from Auburn's motion is a good motion, and I would hope that you would vote to indefinitely postpone.

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

Mr. LEIGHTON: Mr. Speaker, I hate to debate this extensively at this hour, but this is so important, and this type of an issue is one that frustrates me greatly. It reminds me of my old dog chasing his tail.

What is this bill trying to do in the first place? It provides an interest subsidy to people making up to \$25,000 a year. It gives the Housing Authority, an outfit that has only existed a short time, and we seem to have lived very nicely prior to its existence, another function to perform and an excuse to grow.

The whole thing is financed through tax-free bonds that lower federal tax collections and widen the federal deficit and create more of the inflation which is addressed, again, fiscally by the federal reserve, which dries up the funds that the banks have to lend as a national policy, which is why we don't have the money to lend in the first place, which is why the Housing Authority is set up, to sell tax-free bonds to put money back in that we don't have; it is really silly. And when it talks about conservation, let's think about that and let's read just a little bit on it. Is it things like this that encourage conservation or is it the natural force of market factors that enforce conservation? Do we not buy gas because somebody put up a poster that says 'don't buy gas'? We don't buy gas because the price of gas gets higher.

We insulate our homes and we cut down on our consumption of fuel as the price goes up. These are the natural market forces. What we are doing here is creating more bureaucracy. I urge you very strongly to support Mrs. Lewis's wonderful motion to indefinitely postpone.

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

Mr. DIAMOND: Mr. Speaker, just to answer the gentleman's question—I will tell you exactly what it does for energy saving. It is going to or could fix up a few thousand homes across the state of Maine this year and each year beyond that. That could mean two million gallons of oil. Two million gallons of oil, if you will write that down, per individual household, you are talking about 1,200 per single-family house. That, to me, Mr. Leighton, is pretty good energy savings and dollar savings.

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

Mr. JALBERT: Mr. Speaker, I request a roll call vote.

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

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

The SPEAKER: The pending question is on

the motion of the gentlewoman 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.

ROLL CALL

YEA — Austin, Birt, Bordeaux, Bowden, Brown, D.; Brown, K.L.; Bunker, Call, Carter, F.; Canary, Cunningham, Damren, Davis, Delert, Dexter, Drinkwater, Fenlason, Fillmore, Gavett, Gray, Higgins, Hughes, Hunter, Jackson, Kiesman, Lancaster, Leighton, Lewis, Lizotte, Lougee, MacBride, Marshall, Masterman, Matthews, Maxwell, McMahon, Nelson, A.; Paradis, E.; Payne, Peterson, Reeves, J.; Rollins, Roope, Sewall, Sherburne, Silsby, Sprowl, Stetson, Stover, Studley, Tarbell, Torrey.

NAY — Aloupis, Baker, Barry, Beaulieu, Benoit, Blodgett, Brannigan, Brenerman, Brodeur, Brown, A.; Brown, K.C.; Carroll, Carter, D.; Chonko, Cloutier, Connolly, Cox, Curtis, Davies, Diamond, Doukas, Dow, Dutremble, D.; Dutremble, L.; Fowlie, Gillis, Gowen, Gwadosky, Hall, Hickey, Higgins, Hobbins, Howe, Huber, Jacques, P.; Jalbert, Joyce, Kane, Kany, LaPlante, Locke, Lowe, MacEachern, Masterton, Mahany, McHenry, McKean, McPherson, McSweeney, Michael, Mitchell, Morton, Nadeau, Nelson, M.; Nelson, N.; Norris, Paradis, P.; Paul, Pearson, Post, Prescott, Rolde, Smith, Soulas, Strout, Theriault, Twitchell, Yvette, Vose, Wentworth, Wood, Wyman, The Speaker.

ABSENT — Bachrach, Berry, Berube, Boudreau, Carrier, Churchill, Dudley, Elias, Garsoe, Hanson, Hutchings, Immonen, Jacques, E.; Kelleher, Laffin, Leonard, Lund, Martin, A.; Peltier, Reeves, P.; Simon, Small, Tierney, Tozier, Tuttle, Vincent, Whittermore.

Yes, 52; No, 72; Absent 27.

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

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

By unanimous consent, ordered sent forthwith to Engrossing.

On motion by Mr. Gillis of Calais, adjourned until nine o'clock tomorrow morning.