

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

Wednesday, March 19, 1980

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

Prayer by Father William Bartoul of St. Joseph Maronite Church, Waterville.

Father BARTOUL: Let us pray! Heavenly Father, you are the creator of all things. It is from you that all good gifts come. You are the sower of the seed. Stretch forth your right hand and touch these, your servants; supply them with the rich soil that brings forth the fruit of the seed of your wisdom that you have planted in their hearts. Kindle in them the fire of your love which gives strength to the soldier and guidance to the leader.

Gathered here before you are the representatives of your people, chosen to serve and entrusted to be obedient to the needs of our communities. Within their grasp is the power to distribute help where help is needed, consolation where suffering reigns and peace where chaos cuts across the boundaries of friendship and understanding. Trust was their gift from the people and charity should be their return.

These men and women gathered here today must leave their personal goals and aspirations that do not fit their role as servants, for all too often the pledge is made from Shakespearean dramatics, but the effects are never felt at home. All too often a measure is taken that reads of Philadelphian integrity while the people are left alone. All too often the prophecy is fulfilled—all that glitters is not gold. The name 'representative' means just that, those who represent.

Heavenly Father, help these people present to fulfill this noble calling. Grant them the magnanimity to perpetuate the reputation of the Augusta House. Bless them with the fullness of your love so that their greatest joy will be found in serving those who put them here, for no representative should suffer the humiliation of usury and compromise but rather be honored as the carrier of the banners of justice, honesty and fairness. To represent the people is truly of noble calling, for being engaged to speak for another is important and mature, a role honored as long as Aaron speaking for Moses.

O Lord, our God, much care must be taken with these people present, for they do not speak for a group of institution; they speak for your people, local and neighborly. They must return to these same people with answers and actions befitting a caretaker, a member of the family, a trusted friend, a voice that echos from home to Augusta and back again.

Almighty God, it is easy to become corrupted when a role is important and influential. Protect these honorable men and women, for when one of them gets hurt, the pain is felt by many. Continue to bless them and abide with them as the seed of your wisdom takes root. O' Lord, seed the seed and the rich soil, for they are yours to give as you see fit. I raise my hands and voice to call upon your mercy and love, for today these men and women need your grace, they implore your help and promise their obedience to your precepts, for they are most interested in being the best people they can be and in doing the best job they can do. These things can only be accomplished in your presence and with your help, for the kingdom and the power and the glory are yours forever and ever. Amen.

The journal of yesterday was read and approved.

Papers from the Senate Ought to Pass as Amended

Report of the Committee on Appropriations and Financial Affairs reporting "Ought to Pass" as amended by Committee Amendment "A" (S-460) on Bill "An Act Making Supplemental Appropriations from the General Fund

for the Fiscal Years Ending June 30, 1980 and June 30, 1981, to the Department of the Attorney General for the Defense of Land Claims Asserted by the Passamaquoddy Tribe and the Penobscot Nation." (Emergency) (S. P. 719) (L. D. 1869)

Came from the Senate with the Report read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (S-460) as amended by Senate Amendment "A" (S-473) thereto.

In the House, the Report was read and accepted in concurrence and the Bill read once. Committee Amendment "A" was read by the Clerk. Senate Amendment "A" to Committee Amendment "A" was read by the Clerk and adopted. Committee Amendment "A" as amended by Senate Amendment "A" thereto was adopted.

Under suspension of the rules, the Bill was read the second time, passed to be engrossed as amended by Committee Amendment "A" as amended by Senate Amendment "A" thereto in concurrence.

By unanimous consent, ordered sent forthwith to Engrossing.

Non-Concurrent Matter

Bill, "An Act to Provide an Income Tax Checkoff for Voluntary Contributions to the Department of Inland Fisheries and Wildlife" (H. P. 1825) (L. D. 1929) which was passed to be engrossed as amended by Committee Amendment "A" (H-912) in the House on March 17, 1980.

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

In the House:

Mr. Dow of West Gardiner moved that the House adhere.

Whereupon, Mr. Rollins of Dixfield moved that the House recede and concur.

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

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

A vote of the House was taken.

36 having voted in the affirmative and 48 having voted in the negative, the motion did not prevail.

Thereupon, on motion of Mr. Dow of West Gardiner, the House voted to adhere.

By unanimous consent, ordered sent forthwith.

Non-Concurrent Matter Later Today Assigned

Bill "An Act Relating to Games of Chance at Agricultural Fairs" (H. P. 1797) (L. D. 1919) which was passed to be engrossed as amended by Committee Amendment "A" (H-910) in the House on March 14, 1980.

Came from the Senate passed to be engrossed as amended by Committee Amendment "A" (H-910) as amended by Senate Amendment "A" (S-480) thereto in non-concurrence.

In the House: On motion of Mr. Violette of Van Buren, tabled pending further consideration and later today assigned.

Non-Concurrent Matter

Bill "An Act to Adjust License Fees for Inflation for the Department of Inland Fisheries and Wildlife" (H. P. 1830) (L. D. 1934) on which the Majority "Ought to Pass" Report of the Committee on Fisheries and Wildlife was read and accepted and the Bill was passed to be engrossed as amended by Committee Amendment "A" (H-927) in the House on March 18, 1980.

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

In the House: On motion of Mr. Dow of West Gardiner, the House voted to adhere.

By unanimous consent, ordered sent forthwith to the Senate.

Non-Concurrent Matter

Bill "An Act to Expand the Kinds of Projects Eligible for Financing Under the Municipal Securities Approval Act" (H. P. 1767) (L. D. 1898) which was passed to be engrossed as amended by Committee Amendment "A" (H-859) in the House on March 11, 1980.

Came from the Senate passed to be engrossed as amended by Committee Amendment "A" (H-859) as amended by Senate Amendment "A" (S-468) thereto in non-concurrence.

In the House: On motion of Mrs. Kany of Waterville, the House voted to recede and concur.

By unanimous consent, ordered sent forthwith to Engrossing.

Messages and Documents

The following Communication:

March 18, 1980

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

The Committee on Fisheries and Wildlife 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	13
Unanimous Reports	6
Ought to Pass	1
Ought Not to Pass	3
Leave to Withdraw	0
Ought to Pass as Amended	2
Ought to Pass in New Draft	0
Divided Reports	7

Sincerely,
S/CHARLES DOW
House Chairman

The Communication was read and ordered placed on file.

The following Communication: (S. P. 808)

March 18, 1980

Honorable Roland L. Sutton
Honorable Jasper S. Wyman
Chairmen
Joint Standing Committee on Labor
State House
Augusta, Maine 04333

Please be advised that Governor Joseph E. Brennan is withdrawing his nomination of Donald W. Webber of Auburn to serve as the public alternate member of the Maine Labor Relations Board. This nomination is presently pending before your Committee.

Sincerely,
S/JOSEPH SEWALL
President of the Senate
S/JOHN L. MARTIN
Speaker of the House

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

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

Orders

An Expression of Legislative Sentiment (H. P. 1986) recognizing that:

The Maine National Guard, which has been cited as the best in the nation for 1979 by the National Guard Bureau in Washington

Presented by Mr. Paradis of Augusta. (Cosponsor: Mr. McKean of Limestone)

The Order was read.

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

Mr. PARADIS: Mr. Speaker, Ladies and Gentlemen of the House: The year 1979 has marked the emergence of the Maine Army National Guard as the best of 53 states and territories that comprise this country's National

Guard.

Let me quote to you what General Day announced: "Each person of this State can be proud of our men and women and citizen soldiers who have trained hard during the past year, not only using their skills in providing a helping hand to communities but, more importantly, maintaining a state of readiness second to none for any state emergency or national defense commitment."

"The National Guard Bureau in Washington selected the Maine Army National Guard as number one as a result of having the top composite performance profile."

One other point, ladies and gentlemen of the House, which I wish to share with you this morning. The Maine National Guard has achieved another distinction. By next week, it will join two other states, Florida and North Dakota and the Commonwealth of Puerto Rico in being the only two units in the country to obtain full strength.

I think that we should all give our heartiest congratulations to General Day and to the full strength, 2,977 men and women of the Maine National Guard.

Thereupon, the Order received passage and was sent up for concurrence. By unanimous consent, ordered sent forthwith to the Senate.

Special Sentiment Calendar

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

The Sisters of Saint Martha for their dedicated service to the Van Buren Community Hospital over the past 20 years; (H. P. 1982) by Mr. Violette of Van Buren. (Cosponsor: Senator Martin of Aroostook)

Wendy Lee Gilbert, of Eliot, 1980 Young Mother of the Year; (S. P. 806)

Lillian Herrick Crowell, of Eliot, 1980 Merit Mother of the Year; (S. P. 807)

There being not objections, these Expressions of Legislative Sentiment are considered passed.

By unanimous consent, ordered sent forthwith to the Senate.

House Reports of Committees

Ought to Pass — Pursuant to Joint Order (H. P. 1937)

Mr. BRENERMAN from the Committee on Taxation on Bill "AN ACT to establish the Municipal Cost Components for the Unorganized Territory for Services to be rendered in Fiscal Year 1981" (Emergency) (H. P. 1985) (L. D. 2018) reporting "Ought to Pass" — pursuant to Joint Order (H. P. 1937)

Report was read.

The SPEAKER: The Chair recognizes the gentleman from Kingfield, Mr. Dexter.

Mr. DEXTER: Mr. Speaker, I wonder if someone could explain this a little to me. It seems that my little towns have lost some money here under the tree growth reimbursement which we are supposed to have. I would appreciate a brief explanation.

The SPEAKER: The gentleman from Kingfield, Mr. Dexter, has posed a question through the Chair to anyone who may care to answer.

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

Mrs. POST: Mr. Speaker, Men and Women of the House: What this bill does is to essentially make reimbursements to two groups of people. One group of municipalities who will get reimbursement under this particular resolve will be those people who get more than 11 cents an acre, that are still receiving funds under the old funding formula that was put into effect when tree growth went in.

The other group of people who will receive reimbursement under this particular proposal are those who filed late. For all people who filed on time, all the municipalities that filed on time got 11 cents an acre, the Bureau of Taxation gave out 11 cents an acre, as they are able

to do. They are able to give up to 70 percent more of the 11 cents an acre and then present a later claim to the legislature.

They only gave 11 cents an acre to all towns who filed on time and then submitted a resolve to the legislature to pick up those people who were due more than the 11 cents an acre and to pick up those people who filed late.

Unfortunately, there wasn't enough money appropriated last year in the General Fund appropriation to go around, so the Taxation Committee had two choices — one is that we could pass a Resolve asking for \$25,000 more from the General Fund and let it sit on the Appropriations Table, or we could prorate the amount of money that was left between these two groups of municipalities. Knowing the general state of the General Fund, the committee decided to prorate the amount of money between these municipalities, and these municipalities are getting approximately 85 percent of what was due them.

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

Mr. HALL: Mr. Speaker, Ladies and Gentlemen of the House: I intend to vote for this bill, but to show my protest, I would like to tell you once more what is happening. The problem is, some of my towns are assessed at one price versus another. Now the state is reimbursing them up to 11 cents an acre, they were told that, and now they can't even do that. They are only going to get 85 percent of that. I just want you people to realize how unfair this tax has been from the very beginning. Something has got to be done about this before long. What is the sense of giving us less and less and less back to the towns that way?

Thereupon, the Report was accepted and the Resolve read once.

Under suspension of the rules, the Resolve was read the second time, passed to be engrossed and sent up for concurrence.

By unanimous consent, ordered sent forthwith to the Senate.

Ought to Pass—Pursuant to Joint Order (H. P. 1934)

Mr. KANE from the Committee on Taxation on Bill "An Act to establish the Municipal Cost Components for the Unorganized Territory for Services to be rendered in Fiscal Year 1981" (Emergency) (H. P. 1985) (L. D. 2018) reporting "Ought to Pass" — pursuant to Joint Order (H. P. 1934)

Report was read and 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 Appropriations and Financial Affairs on Bill "An Act to Create the Maine Spruce Budworm Management Act" (Emergency) (H. P. 1864) (L. D. 1953) reporting "Ought to Pass" in New Draft "A" (H. P. 1980) (L. D. 2015)

Report was signed by the following members:

Mr. PERKINS of Hancock — of the Senate.

Messrs. KELLEHER of Bangor
CARTER of Winslow
SMITH of Mars Hill
MORTON of Farmington
HIGGINS of Scarborough
BOUDREAU of Waterville
JALBERT of Lewiston
Mrs. CHONKO of Topsham

— of the House.

Minority Report of the same Committee reporting "Ought to Pass" in New Draft "B" (H. P. 1981) (L. D. 2016) on same Bill.

Report was signed by the following members:

Mrs. NAJARIAN of Cumberland

— of the Senate.

Messrs. DIAMOND of Windham
PEARSON of Old Town

— of the House.

Reports were read.

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

Mr. CARTER: Mr. Speaker, I move that we accept the Majority "Ought to Pass" Report.

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

Mr. DIAMOND: Mr. Speaker, I request a division.

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

Mr. MORTON: Mr. Speaker, Ladies and Gentlemen of the House: You will find on your desk this morning two bills, L. D. 2015 and L. D. 2016. I doubt if very many of you would be able to determine the difference between them unless you have studied them in very great detail, and I will attempt to explain that, and I am sure that the gentleman from Windham will also want to do the same thing.

The spruce budworm has been with us for many years, and the attempts to control it have also been with us for many years, and at the present time, there is no known way that we can preserve the resource in the State of Maine without, for the short term, using some chemical spraying. It is the only technique that is available to protect the raw material supply over large areas of Maine's spruce-fir using industries. I think the gentleman from Windham and I will agree on that. In fact, there is a tremendous amount of agreement.

However, the spruce budworm act that we presently have on the books has been criticized a great deal by many, including members of this legislature, over the last several years, and a year ago we passed Chapter 69, Section 7 of the Public Laws, which mandated that new policies be developed to reduce significantly the current level of dependence on chemical pesticides, to allow maximum landowner freedom to choose to participate or not to participate, achieve a more equitable tax mechanism to support the program, and to reduce the burden on landowners not being sprayed in any given year. The legislature further mandated that the commissioner recommend WHAT ongoing public functions in budworm management should receive General Fund support.

This order of the previous legislature was carried out. A budworm advisory committee was appointed and it recommended certain changes to the commissioner, who then put out the bill, which was worked over very significantly by everyone. A subcommittee of the Appropriations Committee was appointed, and the results are the bills you see in front of you today.

Just briefly, the 1976 law is now on the books and it goes to 1982 unless we make a change, and these two bills are the vehicles you can make that change.

First of all, that law set up a spruce-fir protection district for the year that we are currently in, although a somewhat district with some 112 towns removed from it.

The participation in the present law is mandatory for everyone in the district at 100 percent of the cost of the project. This new law that we are bringing to you today provides for mandatory participation in the district for two years only in L. D. 2015 and one year only in L. D. 2016, and that is roughly the basic difference, although the gentleman from Windham may wish to elaborate on that.

The 2015 bill, which is the one I support, provides for going to voluntary in 1982 as a sunset situation, unless the legislature takes specific action not to allow that to happen.

Under either bill, the Forestry Department decides what the high hazard area in the state that should be treated with chemicals is.

Participation in spraying, under the new bill, as far as the spraying is concerned, not the

actual membership in the district but the actual spraying, participation is voluntary starting this year, 1980, right now, and the program is presently under way. That is the spraying component.

As far as paying for it is concerned, under the law that is presently on the books, as I pointed out, we are talking about a hundred percent participation in the project based on the acres, whether they be sprayed or not, everything below 500 being exempt. You are talking about a 12 million acre forest out there, 6 million of which are roughly high hazard area, and the years past, we have sprayed as high as 4 million acres. This particular year, the program is considerably smaller than that, something down around a million and a half.

There was no voluntary withdrawal from spraying under the present law. There were minor withdrawals if you did something else in lieu of spraying, such as the silva cultural improvement of a woodlot. Under the new law that we are proposing, the spraying, as I said, would be voluntary this year and getting in or out of the district would be voluntary after 1982. Of course, the spraying would continue to be voluntary.

The sprayed acres, under the old law, all the acres paid a hundred percent regardless of whether they sprayed or not. Under the new law, both bills, if you get sprayed, you pay your share of what is considered to be across-the-board costs of the program, 10 percent of the total program. You pay your share of that whether you get sprayed or not, but those who get sprayed pay 90 percent, so have moved all the way from 100 percent, where everybody pays, to only 10 percent if you don't get sprayed. That is a big move, and that is true in both bills. The people that get sprayed, actually get sprayed on their hands, will pay for 90 percent of the cost spraying.

In the past, the state has paid 4 percent of the spray project; the final one was about \$400,000. Under this bill, the state will pay no direct General Fund monies for spraying. The state's money which shows up in the bill does pay for research, monitoring, administration, and the help of state-paid service foresters for small landowners in the areas where there will be no spraying and where they need to have help in their silvacultural work. That is basically what the new positions are for, seven out of the nine, and what the money is for.

Finally, the populated areas in the past have been sprayed with buffers around towns, houses, along roads, roughly a half mile wide. Under this bill, we have got a complete departure from that. We have a settlement area, so-called, and in the settlement area there are four, mile-wide corridors along all the populated roads. You can check the bills, it would be in Section 6 of the Bill, Section 8407-A of the law.

There will be no spray in any of the so-called settlement corridors unless the landowner makes a formal, written request. He has got to ask for it in order to be sprayed. It is not going to be done for him; he has got to make the request.

If a town in the settlement areas votes, as an organized municipality, votes in a town meeting that it not be sprayed, no matter whether a landowner requests spraying or not, the town will not be sprayed. This is local control to the best extent that we could arrive at. The town will have a veto over spraying within its own boundaries if it so chooses. That is in the settlement areas.

That, basically, is what the two bills are all about and, again, the differences, if you want to look at them in the bill, I would call your attention to Page 7 of the 2015 and Page 6 of 2016. At the top of Page 7 in 2015, you will notice under Section 8420, repeal—it says this subchapter is repealed on October 1, 1981. That is the sunset of this subchapter unless the Legislature acts differently for 1981. That is two years of

mandating a 10 percent participation in the district. There are good reasons for this, I won't get into them now, but if you need to know later on, I will explain it to you.

L. D. 2016 has, at the bottom of Page 6 in Section 8419, repeal—this subchapter is repealed on October 1, 1980. Obviously, a one-year difference.

On Page 17 of 2015, and on Page 17 of 2016, there is another slight difference. You look down in paragraph 8430, research—the first paragraph last sentence—in 2015 it says this research may be funded with other than excise tax monies; meaning any monies outside of the spray program that is taxed to landowners or the people who get sprayed. That opens it up to federal funds, the State General Fund, foundation grants, anything that is outside of that excise tax money.

Under 2016, this sentence reads, at the top of Page 17, about the fourth line down—this research may be funded with appropriations from the General Fund. That restricts it, as I read it, to funding from the General Fund.

Before I sit down, I want to give you just a few words about the dollars which appear on Page 17 and 18. You will see a figure near the bottom of Page 17 labeled 'unallocated.' You will notice that in that Section 13, just above that where it says "Department of Conservation" that Public Law of 1979, Chapter 64, Part B, is repealed.

This particular \$1,192,000 is landowner money. Actually it has been spent. It is necessary because that was repealed to reallocate it again this year.

Likewise, on Page 18, again because this whole bill, if it is adopted, repeals the 1976 Act, the appropriations actually, in the first year, \$157,248 is the reappropriation of money that already exists and, also, in the second year, the same amount, \$157,248, is included in the 325 as a reappropriation. The difference, \$167,752, is actually all the new money that this bill calls for.

I am sure there may be many questions, but before I sit down, I would just like to read a little bit of the testimony of the federal representatives at the hearing. This was from John Chancellor, Assistant Area Director for Resource Protection, Northeastern Area, Forest Service, United States Department of Agriculture.

"The USDA Forest Service seeks to reaffirm our support for the constructive strides made by the Maine Department of Conservation in dealing with the spruce budworm problem. We are particularly impressed by the initiative to reduce the use of chemical insecticides for combating the Maine spruce budworm infestation and efforts to encourage employment of integrated pest management techniques.

"We recognize and support the judicious use of chemical insecticides to avoid unacceptable losses to insect attack. Chemical insecticides, in our view, are now, and will continue to be, an integral and necessary component of an integrated pest management strategy for the spruce budworm."

He concluded by saying: "We favor the strengthening of the Maine forest service capability to more effectively and efficiently administer the spruce budworm program. We encourage a lead role for the Maine forest service and pesticide applications."

This bill does exactly what the U.S. Forest Service says they support. It looks down the road to reduced use of chemicals; it looks down the road to integrated pest management; and it looks down the road to protecting the Maine forest resource for the protection of jobs, manufacturing, tax base in the state of Maine. The difference between the two bills is relatively minor. I am sure the gentleman from Windham will explain the reasons for his difference, but I am sure we agree on vast proportions of this bill.

The SPEAKER: The Chair recognizes the

gentleman from Windham, Mr. Diamond.

Mr. DIAMOND: Mr. Speaker, Men and Women of the House: The two bills, 2015 and 2016, are very close in substance and in technical matter, but there is a major difference in the one area where we disagree. I just want to take a minute to explain that difference and then have you folks decide on your own if you feel as I do, that it is not simple and it is not just a matter of one year.

I served on the Spruce Budworm Subcommittee of the Appropriations Committee for two years now and I have learned an awful lot. I appreciated that information.

The spruce budworm, just so you will know what the little bugger is, in early May, he hatches out, crawls on the needle and he eats and he eats and he eats. In late June, he turns into a moth, flies off, lays 200 eggs and the whole process starts over. That is a simplification of what takes place.

The spray, the insecticide that comes down from the planes, lands on the needles and discourages he or she from eating the needles. In fact, when they do eat the needles, they become dead. So what happens is, the whole intent of the spray project is not to eradicate spruce budworm, it doesn't do that, that is why we have sprayed year after year for 26 years. All it does is stop it for that year and saves the foliage, which in turn saves the trees.

The money, the charge, as Representative Morton explained to you, is a 90-10 in both bills. If you are in that district and you are going to be sprayed, you are going to be charged 90 percent of the cost—very simple. If you are in that district by mandate of the state but you do not want to be sprayed, you pay 10 percent of the cost—that simple. That is just how it is.

The difference between the two bills, 2015 and 2016, is that his bill says you must be in that district this year, next year, and then they will look at it again. My bill says you are going to be in it this year, but after this it is voluntary.

Why is that such a big deal? There are lobbyists out in the hall that I am sure have talked to many of you and they have told you, what is 10 percent. This year's assessment, if you are a small landowner, have a thousand acres, you are going to be assessed 14 cents an acre; that is \$140, ladies and gentlemen, not bad—then why all the fuss? Well, I will tell you why all the fuss. There is a preproject tax. That means if you have a thousand acres, this lady has a thousand acres up in the districts, she is going to be charged \$144 preproject tax. She is putting up front \$1,440 for her thousand acres. Then, at the end of six months or so, she will be assessed a postproject tax. That means to get a rebate. In essence, that doesn't sound too bad, but what this lady has been made to do is to upfront \$1,300 interest free for the funding of this project. That small landowner has then become a lending institution.

The small landowner who does not agree with the project feels it does her no good, is opposed to the whole process, not only is she being made to put in it and stay in it, she is being made to fund it. That is one thing that is wrong. We are dumping a little salt in the wound, and why don't I tip the whole shaker over. There is a much more important component why they went, they being the large participating districts, why they want people in this project area. It would be okay if it was 98-2, ladies and gentlemen, believe me, as long as they can project the image and the appearance that this project is accepted by all. The appearance, the image, is very, very important. The participating people want those of us around this state and others to feel that it is supported by all, the rich, the poor, the small and large. The image is very, very important. That is one of the big reasons for the 10 percent.

So, not only is that person who disagrees with it being made to fund it interest free, she is also making it look like a lot of folks like the whole thing. You know, a lot of folks do; by golly, that

is great, a lot of them do, it is a valuable program to most and they should be able to stay in it.

My point is, and the difference between these two bills, there may be some up there and out there who don't want to be in it. All I am saying is, it is a good program, and it is, for many many people. American business philosophy says, if you have got a good product, it will sell. I don't think we should be making these people buy this policy if they are opposed to the concept and opposed to the product. I think there are very few people, but it is a concept. So, it goes a little deeper than simply 10 percent-90 percent, simply contributing or not contributing.

Mr. Morton spoke very correctly and very clearly that the reasons that paper companies and the large landowners have come a long way, and they certainly have, it was their idea, the 90-10 percent. We had a 30-70. They have come a long ways, ladies and gentlemen, not because they are reborn, not because they are overly generous, but because the pressure out there in the state is growing and growing and growing. It is that this basic, simple concept of what is fair, what is right and what is just has to be protected. That is what L. D. 2016 is simply saying. Let's support what is fair, what is just and what is right. It is a good program, many folks believe in it, okay, let them support it. If there is just one person up there who has a thousand acres and does not want to be in that program, by golly, they shouldn't have to be.

I appreciate your listening. I think there is a deeper concept here than what they would have you believe, and I hope that you would think about this one person, or these 20 people, the small landowners. They have a case and they are hoping you will listen to them.

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

Mrs. BACHRACH: Mr. Speaker, Men and Women of the House: I would just like to comment that yesterday the other body killed off the environmental health bill to monitor health of the citizens of this state. Today, we are going to hire a forest insect manager. If this guy should be a sort of pied piper for spruce budworms and lead them off into the sea, I would applaud the idea, but I don't understand why when the Governor has cut back on a great number of positions in this state affecting people we are hiring now a forest insect manager.

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

Mr. MORTON: Mr. Speaker, I think I should comment on a couple of things, and I am sure that if I am not correct, I will be corrected, but the gentleman from Windham made quite a thing of the so-called preproject tax. He is absolutely right; the money is put up in the first year by everyone at the 10 percent level, which is considerably more than—let me say that again. The money is put up for the full project at the beginning. They get 90 percent of it back, and the next year they will have that 90 percent to put on next year's program and they will get 90 percent of that back. That is where your 10 percent comes in; that is the 10 percent voluntary.

I would point out that that is all that the ongoing costs will be in both bills, have that first-year preproject tax in them. It is there for everybody the first year. The second year it is there again, but you would have 90 percent of your money back to apply towards it.

I would also point out that everyone under 500 acres is exempted.

This bill calls for two-years' mandation of the district and the 10 percent. After that, it is up for grabs as to whether the legislature would approve it. I think we need the two-years' time to operate under this 90-10 arrangement to see how it is working.

You have a dichotomy here, there is no question about it. Those people who have mills and

need to keep the mills supplied would like to have mandation forever. Those people who are in the management of timber and are raising timber for different purposes, not necessarily for mills, would like to have voluntary as soon as possible. They have gotten together and agreed on this, because as one big land manager pointed out to me, some of the people whose land he manages desperately need spraying, and those who don't want it at all have agreed that 10 percent is a reasonable premium to pay to maintain this as an ongoing program. But even that is only for two years and it is sunsetted unless the legislature takes advantage of it.

I want to emphasize again that even this year no one who does not wish to be sprayed will be sprayed. The spraying portion is one hundred percent voluntary starting right now.

And to mention what Mrs. Bachrach was talking about, Representative Bachrach, the forest insect manager is a position which has been on board for a long long time and it is actually the executive director of the whole program. It is moving him into the General Fund position, which is a change.

All I would say in respect to this is, that spraying is a massive relatively or comparatively low-cost procedure for preserving trees.

Other techniques, which will have to be adopted as spraying is reduced, include silva culture, all of them are of a much more manpower intensive way of handling the problem. This bill provides some new positions to commence that process. If you want to get rid of spraying, you are going to have to provide some other method of preserving fiber, and this is a very small step in that direction for those small landowners who do not have the resources that the big companies or even the big land holding companies have, and that is the reason for the new positions. It is supported by the department, obviously, I believe by the administration, and certainly by the testimony that I gave you from the U.S. Forest Service.

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

Mr. HALL: Mr. Speaker, Ladies and Gentlemen of the House: I think for the past two terms you have heard me adamantly oppose spraying programs of any nature, but I testified in favor of this bill with reservations. The reservations have mostly been cleared up with Mr. Diamond's report, and I would hope you would support the minority report. This really and truly is what the small landowners see as their best hope.

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

Mr. NORRIS: Mr. Speaker, before we vote, I simply wanted to reiterate what I put on the record the other day from Commissioner Barringer, that his top priority for this session of the legislature was the environmental health bill, that if any spraying was to go on, that it was going to put him in a tough place making decisions about the products that would be used. Due to the fact that that measure was defeated in the other body, I just simply want to put in the record that from the health part of it and from the Committee on Health and Institutional Services, that with the matter that I read into the record the other day dealing with that bill, anybody who sprays in this state does so at their own extreme peril, because the legislature, in my opinion, has failed to protect the interest of citizens and human life.

I heard the good gentleman from Farmington say that this program would be very great for the spruce forest, and I am all in favor of protecting the spruce forest. I don't see anything in this bill that takes care of the matter of the human health.

THE SPEAKER: The Chair will order a vote. The pending question is on the motion of the gentleman from Winslow, Mr. Carter, 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.

Whereupon, Mr. Diamond of Windham 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 Winslow, Mr. Carter, that the Majority "Ought to Pass" Report be accepted. All those in favor will vote yes; those opposed will vote no.

The Chair recognizes the gentlewoman from Falmouth, Mrs. Huber.

Mrs. HUBER: Mr. Speaker, I ask to be excused from voting on this matter pursuant to the Joint Rules.

THE SPEAKER: The Chair will allow the gentlewoman from Falmouth, Mrs. Huber, to be excused from voting.

ROLL CALL

YEA — Aloupis, Austin, Beaulieu, Berube, Birt, Bordeaux, Bowden, Brown, D.; Brown, K.L.; Bunker, Call, Carrier, Carter, D.; Chonko, Conary, Cunningham, Damren, Dexter, Drinkwater, Dudley, Fenlason, Garsoe, Gillis, Gray, Higgins, Hunter, Hutchings, Immonen, Jackson, Jacques, E.; Jacques, P.; Jalbert, Joyce, Kany, Kelleher, Kiesman, Laffin, Lancaster, Lewis, Lizotte, Locke, Lougee, Lowe, MacBride, MacEachern, Marshall, Masterman, Masterton, Matthews, Maxwell, McPherson, McSweeney, Morton, Nelson, A.; Paradis, E.; Payne, Peltier, Peterson, Reeves, J.; Rollins, Roope, Sewall, Simon, Small, Smith, Soulas, Stetson, Stover, Strout, Studley, Torrey, Tozier, Vose, Wentworth, Whittemore.

NAY — Bachrach, Baker, Barry, Benoit, Berry, Blodgett, Brannigan, Brennerman, Brodeur, Brown, A.; Brown, K.C.; Carroll, Churchill, Cloutier, Connolly, Cox, Curtis, Davies, Davis, Dellert, Diamond, Doukas, Dow, Dutremble, D.; Dutremble, L.; Elias, Fillmore, Fowlie, Gavett, Gowen, Gwadosky, Hall, Hickey, Hobbins, Hughes, Kane, LaPlante, Leighton, Leonard, Mahany, Martin, A.; McHenry, McKean, McMahon, Michael, Mitchell, Nadeau, Nelson, M.; Nelson, N.; Norris, Paradis, P.; Paul, Pearson, Post, Prescott, Reeves, P.; Rolde, Sprowl, Theriault, Tuttle, Twitchell, Vincent, Violette, Wood, Wyman.

ABSENT — Boudreau, Carter, F.; Hanson, Howe, Lund, Sherburne, Silsby, Tarbell, Tierney.

EXCUSED — Huber.

Yes, 75; No, 65; Absent, 9; Excused, 1;

THE SPEAKER: Seventy-five having voted in the affirmative and sixty-five in the negative, with nine being absent and one excused, the motion does prevail.

Thereupon, the New Draft, L. D. 2015, was read once and assigned for second reading later in the day.

Consent Calendar

First Day

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

(S. P. 764) (L. D. 1957) Bill "An Act to Extend the Period for Issuance and Coverage under the Maine Medical and Hospital Malpractice Joint Underwriting Association Act by One Year" (Emergency)—Committee on Business Legislation reporting "Ought to Pass"

(H. P. 1817) (L. D. 1945) Bill "An Act to Provide for Renegotiation of the Cost-sharing Formulas for School Districts"—Committee on Education reporting "Ought to Pass" as amended by Committee Amendment "A" (H-940)

There being no objections, under suspension of the rules, the above items were given Consent Calendar Second Day notification, the Senate Paper passed to be engrossed in concurrence and the House Paper was passed to be engrossed as amended and sent up for concurrence.

By unanimous consent, ordered sent forthwith.

Passed to be Engrossed

Bill, "An Act to Revise the Administration of the Election Laws" (Emergency) (H. P. 1641) (L. D. 1750)

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

Ms. Benoit of South Portland offered House Amendment "A" and moved its adoption.

House Amendment "A" (H-929) was read by the Clerk and adopted.

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

By unanimous consent, ordered sent forthwith to the Senate.

Amended Bill

Bill "An Act to Amend the Probate Code (S. P. 792) (L. D. 1990) (S. "A" S-458)

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

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

Mr. SIMON: Mr. Speaker, I move we reconsider our action of yesterday whereby Senate Amendment "B" was indefinitely postponed.

The SPEAKER: The gentleman from Lewiston, Mr. Simon, moves that we reconsider our action of yesterday whereby Senate Amendment "B" was indefinitely postponed.

The gentleman may proceed.

Mr. SIMON: Mr. Speaker and Members of the House: Senate Amendment "B" deletes a provision of the probate code that we adopted last year. The provision requires mandatory bonding in small estates. In other words, if a person dies without a will, the personal representative, the person handling the estate, must pay a fee to a bonding company.

Mandatory bonding was a policy adopted years and years ago when the average person was less educated, when people were less aware of their legal rights and when other parts of probate law were less oriented toward protecting people, when there were fewer other remedies to protect people against being defrauded out of their inheritance.

Inclusion of mandatory bonding in this probate code is unnecessary for small estates in light of the rest of the Maine Probate Code. If a person believes that there is some reason why the personal representative of the deceased might do something foolish or wrong with the money that the heirs ought to be inheriting, anyone having \$1,000 interest in the estate, or who might have \$1,000 interest in the estate, may petition the court for formal probate proceedings.

The spirit of the new probate code, the whole purpose of all the work that the Probate Code Revision Commission did over several years, and that the Judiciary Committee did over the entire first regular session, was to simplify the handling of small estates and to decrease the costs of inheriting an estate.

One of the things that we have done is made a distinction between formal proceedings and informal proceedings. If a bereaved family, let's say, elects to have informal proceedings, they have said to the court, we don't want the judge looking into everything that we do in settling this estate. We want to handle things out of court; we want to do things with minimal supervision. If anyone who stands to lose through the mishandling of the estate objects, the whole process is shifted to formal proceedings, and there are also middle-level types of proceedings that could be employed, so it is unnecessary because of the other protections that the

heirs have under the probate code.

The Probate Code Revision Commission proposed that this mandatory bonding be deleted. It proposed it when they made its report to us initially; mandatory bonding got in somehow. The Probate Code Revision Commission came back to us again this year and said, please take out this mandatory bonding, it defeats a major purpose of what we have been intending to do.

I don't know how they got the votes. We chuckled out the bill with a unanimous "ought to pass" report because we were under a deadline. Several of us, including all three members of the other body on the committee, would like to see mandatory bonding out. Why did it get back in? We know who has been lobbying it—the bonding companies. Why do they want that there? This is a 'sweetheart deal' for the bonding companies. The historical record has shown that mandatory bonding for a small estate is unnecessary. They simply don't have to pay the claims, but yet they can pick up \$50, \$75 or \$100 from a bereaved family because the statute says they have to pay that money.

Unless we take out mandatory bonding, we will be passing a bill that says to Mr. A., you must pay \$100 to Mr. B because your father didn't go to a lawyer before he died. I don't bait lawyers, but I would just ask you, do you want to fine people for not having gone to a lawyer if they have a simple estate that they are perfectly content to have their relatives handle?

I hope that you will reconsider the vote of yesterday which took place when I was unable to be here and that we will adopt Senate Amendment "B" and put ourselves in concurrence with the other body.

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

Miss BROWN: Mr. Speaker, Ladies and Gentlemen of the House: With due respect for the gentleman from Lewiston, Mr. Simon, I feel that in the spirit that most heirs are in at the time of death in a family, that many of these people won't know they have the right to request bonding, and I feel that to insure against mismanagement, that this administrator should be bonded.

Mr. Speaker, I request a division.

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

Ms. BENOIT: Mr. Speaker, I would like to pose a question through the Chair. When a person is appointed to take care of an estate, whether it be an administrator, or, I can't remember the other name of the word they use, is that person appointed by a judge of probate? I mean, you have to appoint someone to handle an estate if there is no administrator or executor or executrix, is that person appointed by the judge of probate and if so, does the judge of probate, as it stands now, have the right to determine whether you shall be bonded or not bonded?

The SPEAKER: The gentleman from South Portland, Ms. Benoit, has posed a question through the Chair to anyone who may respond if they so desire.

The Chair recognizes the gentleman from Newcastle, Mrs. Sewall.

Mrs. SEWALL: Mr. Speaker, Members of the House: To answer that question, if there is a will, of course it is in the will. If it is in intestate situation and there is none, the first relative who comes forward, and usually there is just one, would get it under the way it is now. So, if someone dies in Maine and the only other relative lives some place else and someone comes forward, some cousin or someone comes forward and asks to be the executor, that is pretty much it and that is how it is done and that is why some of us felt that this position should be bonded.

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

Mr. STETSON: Mr. Speaker, Ladies and Gentlemen of the House: It does pain me to have to oppose my very good friend from Le-

wiston, Mr. Simon, on this particular issue.

In the first place, the idea of affirmative bonding stems from the fact that in most cases you will see the language in a — let's take first a testate case, where a will has been signed and executed and properly filed, in most cases you will find a will that says, "and my executor shall serve without bond." That is the wish of the testator; namely, that the person who is going to carry out the administration of estate, the executor, shall serve without the necessity of posting bond. It is common language in almost every will.

Let's take the intestate estate, and that is where a person dies without a will. To answer more fully the question the good lady from South Portland, Ms. Benoit, asked — yes, the judge does actually make the appointment upon application of a relative, a close relative, to be appointed administrator of an intestate estate.

Let's say that there are three brothers, one brother is living in Maine; the other two brothers are living out-of-state. The parents of those three brothers die without a will. Ordinarily, the Maine resident, the brother who is a Maine resident, would go into the probate court and ask to be appointed administrator of that intestate estate.

Under the law as it exists today and as it existed for a long time, the person so applying would have to post bond unless the other interested parties waive it. If the other interested parties say, we waive the posting of bond, then no bond is necessary. That is what we call affirmative bonding. That is the way I believe the law should be because, otherwise, you are going to say that that person will serve without bond unless one of his brothers comes forward and requests that a bond be posted.

This puts a burden on the non-resident brother to go to the court and say, "hey, I really don't trust my brother, I want him to be bonded." It puts a burden on family members to come forward and say, "we want this person to be bonded before he administers the estate." I think that that is putting the burden a little too high. It is much better than if everybody is in accord, there is going to be no dispute, that they all can come forward and say, "we waive the posting of a bond."

There is one other thing that the good gentleman from Lewiston mentioned, the \$100. I don't know whether he was referring to the bond premium, but I believe that you will find that the bond premium in an intestate estate will run nearer to \$5 to \$10 rather than \$100. It isn't \$100 for a bond premium in a small estate; therefore, I don't think that the financial burden of requiring a bond, unless all the parties waive the bond, I don't think it is such a financial burden on estates, and this was the thinking that went into the majority vote on this particular issue. Last year, in the Judiciary Committee, this issue was debated fully and the majority of the Judiciary Committee agreed that affirmative bonding should remain a part of the probate law in the State of Maine. We unanimously reported out the bill.

It is true that this Probate Code Revision Commission came right back again this year and asked for what we rejected last year. This code hadn't even gone into effect yet; it won't go into effect until next January, and I think that it is wrong for the Commission, having been rebuffed last year after careful debate and consideration, to come back in and try to get their piece of cake this year. It is the Probate Code Revision Commission that is coming in and asking us to redo what was carefully considered a year ago when actually the code hasn't even gone into effect.

So, I ask you to reject Senate Amendment "B", leave it the way it is and do not reconsider our action.

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

Mr. SIMON: Mr. Speaker and Members of

the House: I would like to thank my colleague—I almost said my brother—Mr. Stetson, for helping lay out the issues here, because I think if you look at both the issues on both sides, you will go along with Senate Amendment "B".

Mr. Stetson explained that intestate estates, estates in which somebody has made a will, they invariably waive bonding. I have talked to probate lawyers about this, and their idea is that if you don't trust somebody enough to waive bond, you shouldn't name that person to handle the estate. I think the judges of probate have the same philosophy.

The difference between mandatory bonding and optional bonding, optional bonding being the position of Senate Amendment "B", is that in those estates where the person has not gone to a lawyer, the bonding issue would be resolved in the same way that it would be if they had gone to a lawyer. In other words, if a person goes to a professional, who deals in this area day in and day out, that professional is going to tell him, "waive bond." All we are saying is that absent some objection from somebody who has an interest in the estate, you should do the same when you don't have a will as you do when you do have a will. That is the principal difference.

Mr. Stetson brought up the situation of why put the strain on the family member of saying, "I object to this person serving without bond?" Well, I just don't see a substantial distinction between making the request to have the person bonded, on the one hand, and being contacted, on the other hand, and then turning down the proposal that the person serve without bond. Indeed, the strain on the bereaved family member might even be stronger. If you are there in the funeral home, let's say, and somebody says, "well now, is it all right if Uncle George serves without bond?" and I say "no"—what is the difference between that and my sending a letter to the judge of probate? I really don't see a critical distinction there. All I see is delay, that the relative in Washington State or Hawaii or Florida has to be contacted, delay and costs and lawyers fees and less of the inheritance going to the heirs, that is what we are talking about, that is why we have the probate code, to eliminate this very kind of problem.

Mr. Stetson said it was improper for the probate code to eliminate this very kind of problem.

Mr. Stetson said it was improper for the Probate Code Revision Commission to have come back to us this year. One of the principal reasons we put over a year's time delay into the implementation of the code was to allow the Probate Code Revision Commission, to a certain extent, and probate lawyers, in the first extent, to come back to us with objections to the code the way we enacted it.

The vote was close last year. Some people have changed their minds, and I think we ought to weigh very heavily the advice of the Probate Code Revision Commission that we have optional bonding rather than mandatory bonding. I don't think it is any discredit to them. They have made their arguments because they believe they are right.

I urge you all to vote for freedom of choice in this matter and to vote against paternalism, against protecting people from themselves in a way in which we do not do so in other laws. I hope you will reconsider on Senate Amendment "B".

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

Mr. HUGHES: Mr. Speaker and Members of the House: I, too, am one of those who has changed my mind since last year and support the efforts of the gentleman from Lewiston, Mr. Simon, to adopt Senate Amendment "B".

I served as a Representative of this House on the Probate Law Commission. I am a relatively new member; there have been just two

meetings since I was appointed recently to serve on that. At the first of those two meetings, that was the meeting at which the Probate Law Commission reconsidered this very question and decided unanimously to again ask us to reconsider our position and take out this affirmative bonding requirement.

Let me tell you who is on the Probate Law Commission without mentioning names. It is a commission set up with a broad representation of all the people who are involved in probate, lawyers who are involved in probate, judges who are involved in probate, professors from the law school who teach probate and a consultant who teaches wills and trusts, people from all areas of the field who know the subject and they unanimously oppose the affirmative bonding in the original draft and asked us again to reconsider it in this session. This says a lot to me, because there are not many people in this House who do probate law. We are, in my opinion, disadvantaged because we don't have enough lawyers who can answer these kinds of technical questions, and I am not one of those, but I have heard those people who do represent that profession unanimously oppose affirmative bonding. I have seen the people on the Judiciary Committee who do probate law in the other body now oppose affirmative bonding and that is impressive to me, at least, as a layman.

The question, of course is, are you willing to give bonding houses a windfall profit, and that is exactly what this is, and if you will look for the strength of any support for keeping affirmative bonding in, it originates in bonding houses, who do have a windfall through this affirmative bonding requirement of ours.

The probate code, as has been said before, was designed to provide both formal mechanisms for the kinds of estates that need formal mechanisms and informal mechanisms for the great majority of people who die either intestate or with very small estates and wills.

If it is going to serve any purpose at all, we have to maintain that informal mechanism, because a lot of consumers out there were tired of being ripped off by attorneys who charged outrageous fees for doing what it really is, in most cases, a very simple job. An element of that fee is bonding requirements and other fees that they have to pay to somebody else, and this was one of the thrusts of the probate code, to get rid of that kind of fee when it didn't matter. In small estates where the money is going to the next of kin, it is a very obvious situation, there is an amicable situation and nobody wants to ask for formal proceedings, then we ought to make it as easy and inexpensive as possible. If there is any kind of dispute within the family, any kind of distrust of the executors, then all they have to do, any one of them, is ask for formal proceedings, and all of the procedures, all of the safeguards that might be necessary in that case would be provided.

Let's keep that informal proceeding clean, free, inexpensive and available to the people that we represent. Let's support Senate Amendment "B" and do away with affirmative bonding.

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

Mr. SIMON: Mr. Speaker and Members of the House: I would like to reply to the gentleman's argument about affirmative bonding. I appreciate the fact that he is using a proper term—it is not mandatory bonding, it is affirmative bonding versus negative bonding.

There is freedom of choice. The freedom of choice here is that the person who applies to be appointed administrator, if he obtains a waiver from all of the inner said heirs, then he may serve without bond.

If he does not obtain that waiver and there is no will, then he pays a small premium and it isn't a big fee, it is a small premium, I think it is probably about \$5 or \$10 to obtain a bond. This protects not only the heirs but it protects creditors as well in the event that the adminis-

trator makes an error and distributes all of the assets of the estate and fails to pay a bill, for instance, fails to pay a fuel bill that was outstanding and was submitted to the administrator, and if the administrator failed to pay that bill that was properly submitted, the fuel dealer is either out of luck or maybe he has to go against the heirs of the estate. So it is protecting the heirs of the estate, who have received distribution, and the affirmative bonding provision does not remove any freedom of choice. It simply says that a person shall automatically post a bond unless he obtains a waiver.

Again, I say this matter was carefully considered last year, nothing has changed, except that the commission came right back at us again this year and wanted exactly what we rejected last year. I ask you to stay with the rejection of Senate Amendment "B".

The SPEAKER: The pending question is on the motion of the gentleman from Lewiston, Mr. Simon, that the House reconsider its action whereby Senate Amendment "B" was indefinitely postponed in non-concurrence. All those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

Whereupon, Mr. Hughes of Auburn 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 Lewiston, Mr. Simon, that the House reconsider its action whereby Senate Amendment "B" was indefinitely postponed in non-concurrence. All those in favor of reconsideration will vote yes; those opposed will vote no.

ROLL CALL

YEA — Bachrach, Baker, Barry, Beaulieu, Benoit, Berry, Blodgett, Brannigan, Brennerman, Brodeur, Brown, K.C.; Carroll, Carter, D.; Chonko, Cloutier, Connolly, Cox, Curtis, Davies, Diamond, Doukas, Dow, Dudley, Dutremble, D.; Dutremble, L.; Elias, Fowlie, Gwadosky, Hall, Hickey, Hughes, Jackson, Jacques, E.; Jacques, P.; Joyce, Kane, Kany, LaPlante, Lizotte, Locke, MacEachern, Mahany, Marshall, Martin, A.; Maxwell, McHenry, McKean, McMahon, McPherson, McSweeney, Michael, Mitchell, Morton, Nadeau, Nelson, M.; Nelson N.; Norris, Paradis, P.; Paul, Pearson, Prescott, Reeves, J.; Reeves, P.; Rolde, Simon, Soulas, Theriault, Tozier, Tuttle, Twitchell, Vincent, Vose, Wood, Wyman, The Speaker.

NAY — Aloupis, Austin, Berube, Birt, Borda, Bowden, Brown, D.; Brown, K.L.; Bunker, Call, Carrier, Carter, F.; Conary, Cunningham, Damren, Davis, Dellert, Dexter, Drinkwater, Fenlason, Fillmore, Garsoe, Gavett, Gillis, Gowen, Gray, Higgins, Hobbins, Huber, Hunter, Hutchings, Immonen, Kiesenman, Lancaster, Leighton, Leonard, Lewis, Lowe, Lund, MacBride, Masterman, Master-ton, Matthews, Nelson, A.; Paradis, E.; Payne, Peterson, Rollins, Roope, Sewall, Small, Sprowl, Stetson, Stover, Studley, Torrey, Wentworth.

ABSENT — Boudreau, Brown, A.; Churchill, Hanson, Howe, Jalbert, Kelleher, Laffin, Lougee, Peltier, Post, Sherburne, Silsby, Smith, Strout, Tarbell, Tierney, Violette, Whittemore.

Yes, 75; No, 57; Absent, 19.

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

The pending question now before the House is

the Indefinite Postponement of Senate Amendment "B" in non-concurrence. All those in favor will vote yes; those opposed will vote no. A vote of the House was taken.

64 having voted in the affirmative and 66 having voted in the negative, the motion did not prevail.

Thereupon, Senate Amendment "B" was adopted in concurrence.

Mrs. Sewall of Newcastle offered House Amendment "A" and moved its adoption.

House Amendment "A" (H-937) was read by the Clerk.

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

Mrs. SEWALL: Mr. Speaker, this amendment corrects an oversight in the probate code and allows for out-of-state or foreign banks and trust companies to continue to undertake fiduciary activities in the state after the effective date of the probate code.

Thereupon, House Amendment "A" was adopted.

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

By unanimous consent, ordered sent forthwith to the Senate.

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

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. 120 voted in favor of the same and 3 against, and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

Finally Passed Emergency Measure

RESOLVE, for Laying of the County Taxes and Authorizing Expenditures of Piscataquis County for the Year 1980 (H. P. 1961) (L. D. 2009)

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

Emergency Measure

RESOLVE, for Laying of the County Taxes and Authorizing Expenditures of Kennebec County for the Year 1980 (H. P. 1962) (L. D. 2010)

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

Passed to Be Enacted

An Act to Provide for Local Management of Timber on Public Lands in Organized Towns (H. P. 1603) (L. D. 1714) (C. "A" H-904)

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

An Act to Provide for Improved Information on Workers' Compensation and to Provide Funds for Full-time Workers' Compensation Commissioners (H. P. 1795) (L. D. 1911) (C. "A" H-907)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. The SPEAKER: The Chair recognizes the gentlewoman from Auburn, Mrs. Lewis.

Mrs. LEWIS: Mr. Speaker, Ladies and Gentlemen of the House: This is the bill that we debated the other day. It had the two reports, "A" and "B"; "A" was the report that was accepted and "B" was the report that I wish had been accepted. I am going to have to ask for a division on this because I am so opposed to the section of the bill that is included in Report "A". That is the part that has the information involving accidents in the work place. Instead of having them reported by the head of the Workmen's Compensation Commission directly to the Governor, this has been changed so that we have to involve another process in it and it has to go, some workmen's comp, to the Director of the Bureau of Labor, and then he gives a report. In the bill it doesn't say who he gives the report to, he just makes it public, I presume.

There is absolutely no need for it. The information is identical, nothing additional, it is just another layer, another bureau that it has to go through. It serves no purpose whatsoever, unless it is to strengthen the Department of Labor, and I don't really know why that would be so necessary.

The original bill, the law that we have on the books now, that has it reported by the Director of Workmen's Compensation, was a bill that was put in by the gentleman from Lisbon Falls, Mr. Tierney, so you can be positive that in no way is this a labor-management kind of thing. There wasn't one person from the labor movement who was there to speak in favor of that part of the bill, so I would move indefinite postponement of the bill and its accompanying papers.

The SPEAKER: The gentlewoman from Auburn, Mrs. Lewis, has moved that this Bill and all its accompanying papers be indefinitely postponed. The Chair will order a vote. All those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

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

The SPEAKER: 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 — Aloupis, Bordeaux, Bowden, Brown, A.; Brown, D.; Brown, K.L. Bunker, Carter, F.; Conary, Cunningham, Damren, Davis, Delbert, Dexter, Drinkwater, Dudley, Fenlason, Fillmore, Garsoe, Gavett, Gillis, Gray, Huber, Hunter, Hutchings, Jackson, Kiesman, Lancaster, Leighton, Leonard, Lewis, Lougee, Lund, MacBride, Masterman, Masterton, Matthews, Maxwell, Morton, Nelson, A.; Paradis, E.; Payne, Peltier, Peterson, Reeves, J.; Rollins, Roope, Sewall, Small, Sprowl, Stetson, Stover, Studley, Torrey, Twitchell, Wentworth, Whittemore.

NAY — Austin, Bachrach, Baker, Barry, Beaulieu, Benoit, Berry, Berube, Birt, Blodgett, Brannigan, Brennerman, Brodeur, Brown,

K.C.; Call, Carrier, Carroll, Carter, D.; Chonko, Churchill, Cloutier, Cox, Curtis, Davies, Doukas, Dow, Dutremble, D.; Dutremble, L.; Elias, Fowlie, Gowen, Gwadosky, Hall, Hickey, Hobbins, Hughes, Jacques, E.; Jacques, P.; Jalbert, Kane, Kany, LaPlante, Lizotte, Locke, Lowe, MacEachern, Marshall, Martin A.; McHenry, McMahon, McPherson, McSweeney, Michael, Mitchell, Nadeau, Nelson, M.; Nelson, N.; Norris, Paradis, P.; Paul, Post, Prescott, Reeves, P.; Rolde, Simon, Soulas, Strout, Tozier, Tuttle, Vincent, Violette, Vose, Wood, Wyman, The Speaker.

ABSENT — Boudreau, Connolly, Diamond, Hanson, Higgins, Howe, Immonen, Joyce, Kelleher, Laffin, Mahany, McKean, Pearson, Sherburne, Silsby, Smith, Tarbell, Theriault, Tierney.

Yes, 57; No, 75; Absent, 19.

The SPEAKER: Fifty-seven having voted in the affirmative and seventy-five in the negative, with eighteen 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 Further Define a Cord of Wood (H. P. 1909) (L. D. 1976) (C. "A" H-914)

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

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

Miss BROWN: Mr. Speaker, Ladies and Gentlemen of the House: I really feel that we have got more pressing matters that we can put in the statutes and that this can be taken care of by regulations, so I would like to ask for a division, please.

The SPEAKER: The pending question is on passage to be enacted. All those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

78 having voted in the affirmative and 44 having voted in the negative, the motion did prevail.

Signed by the Speaker and sent to the Senate.

An Act to Clarify the Law Concerning Abuse Between Family or Household Members (H. P. 1911) (L. D. 1979) (C. "A" H-918)

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

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

Mr. HOBBS: Mr. Speaker, Men and Women of the House: There are several bills that seem to go through this body without some recognition. This particular bill is a very important bill. It was one that was presented to our committee by the good gentleman from Farmington, Mr. Morton, which was introduced on behalf of the Governor, and it deals with a very important area, and tried to help solve that particular problem that we have, and that is family and child abuse. I just wanted to take this time to put on record the fact that this bill is passing, hopefully. It is a very important piece of legislation, and I would like to commend the individuals who worked on it.

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

An Act to Amend the Charitable Solicitations Act (H. P. 1953) (L. D. 2001) (H. "A" H-898)

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.

By unanimous consent, all preceding Enactors were ordered sent forthwith to the Senate.

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

RESOLVE, Authorizing the Bureau of Public Lands to Convey the State's Interest in a Certain Parcel of Land in Augusta to the Maine Veterans Home, Subject to Certain Conditions" (H. P. 1987) (Presented by Mr. Carter of Winslow) (Governor's Bill)

Committee on State Government was suggested.

Under suspension of the rules, the Bill was read twice.

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

Mr. MORTON: Mr. Speaker, I guess I would kind of like to know a little bit about this bill, lot particularly where the land is but what are some of the certain conditions?

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

Mr. CARTER: Mr. Speaker, to answer my good friend from Farmington, Representative Morton, this is an attempt to rectify something that should have been done several years ago when the bond issue was first issued authorizing the Maine Veterans' Home.

As you recall, the original bond issue was for \$2.5 million and subsequently was cut down to \$2.1 million and the operational funds for the veterans' home were eliminated.

This being a new agency, an agency that is supposed to survive on its own, they have no resources. Subsequently, they were granted a piece of land, which is located off Cony Road, the Piggery Road here in Augusta, consisting of 8.9 acres. However, in the transfer there is a reversionary clause which states that if the home should cease to be a veterans' home, the land would revert back the state.

No financial institution would lend any money on such a proposition. What this bill does, it eliminates that reversionary clause while the loan is still outstanding. Once the loan is completed, the land reverts back to the state. This, apparently, satisfies the financial institutions and this is the reason for this bill being introduced at this time.

I would hope that you would support passage of this.

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

Mr. MORTON: Mr. Speaker, I would like to ask another question. Is this the land that the veterans' home is to be built on? Do I understand that to be the case?

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

Mr. CARTER: Mr. Speaker, the answer is in the affirmative.

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

Mr. MORTON: Mr. Speaker, that being the case, there is a possibility in the future that this reversionary clause then would mean that if the loans were defaulted, the land would not get back to the state, is that correct?

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

Mr. CARTER: Mr. Speaker, again the answer is in the affirmative.

Thereupon, the Bill was passed to be engrossed without reference to any committee and sent up for concurrence.

By unanimous consent, ordered sent forthwith to the Senate.

Orders of the Day

The Chair laid before the House the first 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 18, 1980 by Mr. Rolde of York.

Pending—Passage to be Enacted.

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

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

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

Tabled—March 18, 1980 by Mrs. Post of Owl's Head.

Pending—Passage to be Enacted.

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

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

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

Tabled—March 18, 1980 by Mr. Leighton of Harrison.

Pending—Passage to be Enacted. (Roll Call Ordered).

The SPEAKER: The Chair recognizes the gentleman from Belfast, Mr. Drinkwater.

Mr. DRINKWATER: Mr. Speaker and Members of the House: I would just like to quickly run through what took place in the Local and County Government Committee. There has been quite a lot of confusion about the white paper, 1038, that was committee, and a lot of the language in that document that was killed in committee is not longer before us and never has been.

I would like to first clarify a couple of things, and that is how it was worked on. In our work sessions, it was worked on jointly by the 13 members of the committee, by a representative from the Maine Municipal Association, by a representative from the Maine County Commissioners Association, by a representative from the Governor's Office. We were in complete agreement when we finished and sent it up here to the House. The Governor's Office, Maine Municipal and the County Commissioners Association were in agreement, and I believe this is the first time ever that those two agencies were in complete agreement.

What this bill does, it allows the Commissioner to put on the warrant, or cause it to be voted on in the fall election, to set up a charter commission. If they don't do this, it allows 10 percent of the people voting in the last general election to petition the commissioners to have it done. Therefore, there will be a referendum to start with before you do anything, so if you don't like the bill, if you don't want to become involved in it, you can kill it at that point in time, at least the people in a certain county can kill it at that point in time.

After the charter commission is established and they have had all their public meetings and everything that they are supposed to have and they have put together the charter, then it comes back once again before the people in that county in referendum. That is twice you have voted on it. Then it comes to the legislature for ratification. So, I don't really know any way to get it closer to home rule, I don't know any way, really, that you can have exactly what you want, because if you don't want nothing, all you have got to do, number one, is to get the commissioners not to put it on and don't petition them. If it does go through that process, get out and lobby a little and get your people to vote against it if you think they should. If you find that when they come out at the very end with the suggestions or the charter plan, then you can vote it down or vote for it again there.

I feel quite strongly that this is the way to go. I have looked at it quite a lot and I don't happen to be one of the counties that is last getting their budget in, I think we are one of the first ones. Last time around, we were the first one to have it approved, in fact, the first one back in the counties, but we do feel quite strongly that we should have that opportunity to set up a charter commission providing our voters want that. I can't say whether they want it or not. Very well, we may stay as we are today and do

nothing; maybe we will ask the commissioners not to do anything.

I don't really know which way we are going, but I do know there are a lot of things coming up and a lot of things that we are going to be obligated to, that we feel the little towns in our county might very want some help. If they don't, they will have the opportunity to vote.

In closing, I would suggest or I would ask for you to give all your consideration to this and then vote whatever way you have to, but I sure hope that you will vote for passage of this bill.

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

Mr. CHURCHILL: Mr. Speaker, Ladies and Gentlemen of the House: I am just rising to apologize for quoting the original L. D. yesterday, but that was the one that I was given and that is the one that I thought we were talking on.

Last evening, Representative LaPlante went through the amendments and took away many reservations that I had in this regard.

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

Mr. BAKER: Mr. Speaker, Men and Women of the House: Being a freshman legislator, I never gave much thought to county government until I arrived here, and I have been giving quite a bit of thought to it and trying to develop my own ideas and how I feel about it.

You may recall, last session I opposed a certain provision of this particular bill because I felt that it would violate the principles of this person-one vote, and that has since been removed.

When the bill came up earlier, I voted against it. I am really not a believer in county government, I have come to that conclusion. However, since this bill does not mandate anything, and since this bill simply puts in place a mechanism to allow the voters to make that decision, I have decided to support this bill. I probably will not support county self-government for my own county. While the county budget is a big headache, I have decided that the headache is worth the legislative oversight. However, because I really believe in democracy, contrary to what some of you might think, I would like to see this go to the voters to allow the voters to make that decision.

I hope you will join with me and support this legislation.

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

Mr. LEIGHTON: Mr. Speaker, Ladies and Gentlemen of the House: Yesterday afternoon, my good friend Representative Churchill recited a list or catalog of problems with the bill, some of them in unintentional error. My good friend Representative McMahon then attempted to correct those misapprehensions on the part of Mr. Churchill. I think both dissertations tended to obscure the very simple basic issue that is before us.

Heretofore, we have had in the State of Maine two levels of government; we have had local government and we have had state government. County government has been a creature of the state, overseen, supervised by the legislature. It has not been a level of government unto itself.

I share the frustrations of all my colleagues in attempting to work with county budgets. I have been particularly involved in my county, and it is a frustrating experience. However, I think we can all safely conclude that if this enabling legislation goes forward today, you can rest assured that you will have created a third level of government. In some counties, it may take some time, it may take years, even, but ultimately you can rest assured that in each and every county there will be an attempt each and every year to make some sort of a charter, until finally all 16 counties will exist as a third level of what I would call district government. According to Parkinson's Law, they will take under them all the powers that anybody is will-

ing to surrender to them over the years.

I realize that there are many problems, but this, to me, is a very momentous, basic decision and I really am not ready to go with it. If I am to make error, I would prefer to err on the side of conservatism. I would urge you to vote against creating a third level of government in the State of Maine.

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

Mr. DUDLEY: Mr. Speaker and Members of the House: I am pleased there is going to be a roll call on this measure.

I feel very strongly that this is bad legislation if you don't want more government in the State of Maine. What it is, it is a way to get in the back door to get more money out of the real estate taxpayer. Unfortunately, the real estate taxpayer today is so busy trying to earn money to pay his bills and pay his taxes, he is not generally the majority vote in a given area like where I come from.

If this was for one county and it wasn't my county, I wouldn't feel so strongly, but this is for the whole state. In other words, this goes from state government to county government, another facet to pick the people's pockets on real estate taxes is all it is. I want to be on record, and I hope in bold print, that I am opposed, as well as the people I represent, to more government in any form in the State of Maine.

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

Mrs. MASTERTON: Mr. Speaker, Ladies and Gentlemen of the House: I want to be on record that I firmly support this bill. I think it is good government, it is a good bill.

You may remember that I was a cosponsor of Representative Bachrach's bill to reform Cumberland County government, and there were two or three other reform bills around last session. Those bills never got out of the Local and County Government Committee because they were working on another bill of which I also was a cosponsor, 1038. The way that bill finally came out of committee, I didn't like, and I got up on the floor of the House and spoke against it, called it bad government. I take back all my words. I hand it to the committee for the work that they have done on that original bill. They have gotten it in shape. It is a really super government bill.

Now, I want to answer the claim that this is going to increase county taxes—no so if we take advantage of one of the provisions of this amended version of the bill, and that is the appointment or selection by municipal officers of a finance committee within the county that will work on the county budget. I don't know about your county, but in Cumberland County, several of the municipal officials are getting really up tight about the county budget, because we know it comes out of our local tax.

They are pressing to participate more in the formulation of the budget process, and if we take advantage of this provision, municipal officials will be able to cut back in areas if they think the county budget is padded. I think we would just be going the other way. I think we would be making a much more economic county budget if we pass this bill, so I do urge you to vote in favor of the amended version of the bill.

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

Mr. ROLDE: Mr. Speaker, Ladies and Gentlemen of the House: I would simply reply to the gentleman from Harrison, Mr. Leighton, that I believe he has been erring on the side of the conservatism all session. For one wild moment there, I thought that he and I might be on the same side. After all, he has talked a great deal about local control and this is a completely local control bill because it puts it squarely up to each county as to whether they want to break off from the system that we have now.

I think myself as a legislator of the many, many agonizing hours that we have spent on county budgets here and I think also of the many, many hours of debate that we have had on various reforms that have been proposed for county government over the years. I think, after agonizing over these reforms, we have finally come to a measure that seems to have gotten some agreement and is probably the best measure that I have ever seen in the years that I have been up here.

To me, it is a question, again, completely of local control, it does not set up a new system of regional governments. We have had counties, our present counties, since we became a state and their boundaries have been pretty much determined, and so it is simply a question of how we are going to govern those counties. The system that we have now, I feel, is very awkward, time consuming, it takes great amounts of our time and this one, with a great measure of local control, may very well take that burden off us.

It has been said that it will increase county taxes. I agree with the gentlelady from Cape Elizabeth that it could very well decrease them. One of the things that I am most interested in county government are the social services. I have some concern in my own county, we have a finance committee that is dominated by the local officials, that they will be a lot tougher than certainly we have been in York County to our social services, but I am willing to take that risk so we can finally deal with this very thorny question of county government, and I hope you will support the bill.

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

Mr. GARSOE: Mr. Speaker, Ladies and Gentlemen of the House: That is twice this morning the word conservative has been spoken and it woke me up. I always respond to that and I am speaking strictly for myself and as a conservative.

I want to tell the gentleman from Harrison that in the time I have been up here, I have seen a lot of progress in the county budget. I have been against every bit of it; it has been brought on by the liberals, and when this budget goes back to the local communities and your town managers and your selectmen get a fist into it, we will see how wrong we have been in regards to the Cumberland County budget over the past years.

It is the very essence of local control, no one can deny that.

I would like to pose a question relative to another remark the gentleman from Harrison made, and the gentleman from Enfield, Mr. Dudley, as to the expansion of county government. I wouldn't want to see that happen either, but I recall a very specific laundry list of the powers of county government and I would pose the question to anyone on that committee as to whether or not we are cutting them loose from this list of specific authorized functions. It would seem to me that they are definitely going to have to come back to this body to expand or to skate onto new ground.

Another thing that I have learned since I have been in this legislature is that we all view county government quite differently. I find people up here who think county government is the highest and best form of government and it is obviously filling a need in their area, but it is the very diversity of how we view county government that makes this bill so important, and if we truly believe in local control and truly trust the people who are paying the freight, I don't see how we can really take serious issue with this bill.

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

Mr. HICKEY: Mr. Speaker, Ladies and Gentlemen of the House: I would ask you to support this piece of legislation. L. D. 1038 has been unjustifiably battered around. This bill has been under study for two years and was developed

by counties having a need for this law to solve their problems. This is not mandated legislation. Passage of this bill would give counties needing this legislation an opportunity to initiate a referendum. This will provide citizens with an opportunity to vote on their future course of action.

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

Mr. McMAHON: Mr. Speaker, Ladies and Gentlemen of the House: To answer the question posed by the gentleman from Cumberland—Section 23 of the engrossed version of the bill answers the gentleman's question very clearly and I think it is important that I read that section. It is under "Limits". It says "A county adopting a charter pursuant to this chapter may exercise only those powers specifically stated in the charter. New powers may only be exercised upon amendment or revision of the charter. In any event, no county may by the adoption, amendment or revision of a charter exercise any power or function which the legislature has power to confer upon it and which has not been conferred on that county either expressly or by clear implication by general law. Finally, a county may not alter the statutory method of raising money for county expenditures."

So, no, they cannot break away and, no, they cannot change the method of taxation and we make that clear in the bill.

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

Mr. JALBERT: Mr. Speaker and Members of the House: The record of the legislature will clearly show that probably I have been, over a number of years, the greatest friend that county government had. Today, I would be the first one to vote to eliminate county government. It is nothing but a cumbersome noose around our necks.

The way we are today, at least in our county and I am sure you do it in other counties also, for instance, there are 19 people in our delegation. If 10 out of 19 vote, thusly on the county budget, the county budget goes to the county government committee and nothing is changed because the vote is 10 to 9, so one person controls county government—one person, the vote is 10 to 9 and that is it. It has happened time and time again.

I can remember standing here and yaking my head off against home rule, and I found out that home rule—of course other things have taken up some of our time, but if we had home rule around here, and we had about 25 or 30 amendments to the charter for the City of Lewiston and others from Portland, here and everywhere, we would really not get out of here until Labor Day.

This is permissive, I think it is good legislation, I think it ought to pass. If a roll call hasn't been asked for, I would ask for a roll call.

As far as I am concerned, let them have their hassles at home. We have home rule on the local level, we can have it on the county level. I think this is a good piece of legislation and it ought to pass overwhelmingly.

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

Mrs. POST: Mr. Speaker, Men and Women of the House: I would like to pose several questions through the Chair to any members of the Local and County Government Committee.

Would the bill allow as one of the alternatives to a finance committee, a finance committee that was appointed by the county commissioners? Does it allow the abolishment of county officers, such as county treasurer? Does it allow the county commissioners to appoint three out of the nine charter commission members? Finally, if you would address the issue of the county commissioner districts, since it does not seem to be clear in the amendment, at the present time, people can be elected from the county commission districts in one of two

ways—in some instances, they have to be a member of the district that they are elected by the voters at large, through the whole county. In other instances, they have to be a member of the district and they are also elected by only those people who live in that district. Does this particular amendment allow either one of those instances to be changed? I guess that would be a change in the present law, but does that allow people who now are electing members from specific districts for a charter commission to be able to say those elections are going to take place county-wide, and coming from an area which has a relatively small number of towns and a fairly small percentage of votes in a county, I am particularly concerned with that particular issue.

The SPEAKER: The gentlewoman from Owl's Head, Mrs. Post, has posed a series of questions through the Chair to anyone who may care to answer.

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

Mr. LaPLANTE: Mr. Speaker, Ladies and Gentlemen of the House: In Section 24, it allows the county commissioners in each county shall appoint finance committee members from the commissioner district from among the municipal officers of that district.

It does allow municipal officers to also choose a second method amongst their members to serve on a finance committee.

It can be stated in the charter commission, if you wish the treasurer or the registrar of probate or whatever to be elected or not to be elected but, again, that goes to referendum.

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

Mr. McMAHON: Mr. Speaker, Ladies and Gentlemen of the House: To further respond to the gentlewoman's questions, the options for the finance committee are spelled out in the bill. One of them is the option the gentlewoman talked of; the other one is quite different, it is selection by municipal officials. The point is that the charter commission would determine and the people in the county would approve or disapprove one of those two options.

Regarding her other questions, the bill provides for in-district elections. You must be a resident in the district, and that is, any charter that is drafted would require that a 3, 5 or 7 member board, the members of those boards run from and be residents of the district.

Finally, the charter determines the role of the treasurers and the registrar of deeds. The bill before you does not in any way change the role of those individuals, but a county charter could, again, subject to local approval.

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

Mrs. POST: Mr. Speaker, Men and Women of the House: I understand that there are, in fact, two options and they will be chosen by the charter commission as to how the finance committee will be set up. One option is that the finance committee would be appointed by the county commissioners, sort of a fox watching the chicken house routine, and the other is, it could be made up of municipal officers. My concern is that the county commissioners will have a great deal of impact into the original charter commission, since they will be able to appoint 3 out of the 9 members and the others will be elected.

It has been my experience, when charter commissions put out a relatively lengthy change in the charter or adopting a charter, that those are usually chosen the first time around.

It is not clear to me, in taking a look at the language on districts, what it says, it is on Page 7 of the amendment, "a county adopting a charter pursuant to this chapter shall provide for the election of county officers from 3, 5 or 7 districts, from each of which one officer shall be elected. The charter shall specify the number of districts and establish the boundaries of each district." In the actual statutes

themselves, and I am familiar with it a little bit because I sponsored the bill which sent up the Knox County districts anyway, it very clearly says that you set up specific districts and that the voters themselves will elect people from the district. I am concerned that that language is not used and it is not clear exactly whether or not the people from the district from which they will serve. If they cannot be elected county-wide, there are some forms of elections in county government, which are presently in the statutes, that will not be allowable under this particular charter.

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

Mr. McMAHON: Mr. Speaker, Ladies and Gentlemen of the House: With regard to the first question posed by the gentlewoman, perhaps, I didn't properly respond in my earlier comments.

It is true that the commissioners will appoint 3 of the 9 members of the charter commission, but if you read Section 9 of the bill, the committee, in its amendment, has taken great pains, while we have given them a responsibility of appointing 3 of the 9 members, we make it quite clear that only one of those 3 may be a county official, one must be a municipal official and one a legislator. We further make it clear that no more than two may be of the same party, so we have anticipated the gentlewoman's concerns in this bill and have built into the bill language that would not permit the commissioners from designating 3 people that would not act independently of themselves. So, I think that is not or should not be a concern in any event.

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

Mrs. LEWIS: Mr. Speaker, Ladies and Gentlemen of the House: I will be very brief. I certainly do believe in local control. I think any record that I have had in the eight years that I have been here would show that I do.

But the point, as far as I am concerned about this bill, is not the local control so much, it is, do we really need county government?

I have heard people say that they don't like county government, they would vote in a minute to abolish county government, but this bill, even though it does promote local control, and I would agree to that, it promotes local control in a place that I don't think it belongs. I really think we would be better off without that layer of county government and I think when Mr. Leighton described the situation as two separate entities right now, local and state, with the county being in sort of a netherland in between, taking money from the local property taxes but being under the jurisdiction of the state, I don't think that that is all bad unless we can abolish it altogether. But to do this, to pass this bill today, would certainly start us on the way to a truly third layer of government, and in a state the size of Maine, I don't believe we need or can afford the three separate layers of government, so I do hope that you will vote to indefinitely postpone this.

The SPEAKER: A roll call has been ordered. The pending question before the House is on passage to be enacted. Those in favor will vote yes; those opposed will vote no.

ROLL CALL

YEA — Aloupis, Austin, Bachrach, Baker, Barry, Beaulieu, Benoit, Berube, Birt, Bordeaux, Bowden, Brannigan, Brenerman, Brodeur, Brown, K.C.; Call, Carrier, Carroll, Chonko, Cloutier, Conary, Cox, Cunningham, Davies, Davis, Dellert, Dexter, Diamond, Doukas, Dow, Drinkwater, Dutremble, L.; Elias, Fillmore, Fowlie, Garsoe, Gowen, Gray, Gwadosky, Hall, Hickey, Higgins, Hobbins, Huber, Hughes, Immonen, Jackson, Jalbert, Joyce, Kane, Kany, Kiesman, Laffin, Lancaster, LaPlante, Lizotte, Locke, Lowe, Lund, MacBride, MacEachern, Mahany, Marshall, Martin, A.; Masterman, Masterton, Matthews, McHenry, McKean, McMahon, McPherson,

McSweeney, Mitchell, Morton, Nadeau, Nelson, A.; Nelson, M.; Nelson, N.; Norris, Paradis, E.; Payne, Pearson, Peltier, Peterson, Prescott, Reeves, P.; Rolde, Rollins, Sewall, Simon, Small, Soulas, Sprowl, Stetson, Stover, Strout, Studley, Theriault, Tierney, Tozier, Twitchell, Vincent, Violette, Vose, Wentworth, Whitemore, Wood.

NAY — Blodgett, Brown, A.; Brown, D.; Brown, K.L.; Bunker, Carter, D.; Carter, F.; Churchill, Connolly, Curtis, Damren, Dudley, Dutremble, D.; Fenlason, Gavett, Gillis, Hunter, Hutchings, Jacques, E.; Jacques, P.; Leighton, Lewis, Lougee, Maxwell, Paradis, P.; Paul, Post, Reeves, J.; Smith, Torrey, Tuttle.

ABSENT — Berry, Boudreau, Hanson, Howe, Kelleher, Leonard, Michael, Roope, Sherburne, Silsby, Tarbell, Wyman.

Yes, 107; No, 31; Absent, 12.

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

Signed by the Speaker and sent to the Senate.

By unanimous consent, ordered sent forthwith to the Senate.

The Chair laid before the House the fourth tabled and today assigned 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)

Tabled—March 18, 1980 by Mr. Connolly of Portland.

Pending—Passage to be Enacted.

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

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

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

Tabled—March 18, 1980 by Mr. Gwadosky of Fairfield.

Pending—Passage to be Engrossed.

Mr. Jackson of Yarmouth offered House Amendment "B" and moved its adoption.

House Amendment "B" (H-939) was read by the Clerk.

Mr. JACKSON: Mr. Speaker, Ladies and Gentlemen of the House: This amendment basically embodies the bill that was presented to the 108th Legislature and to the 109th in our first session and also was considered by the Business Legislation Committee, presented by the Representative from Auburn, Mr. Hughes. It would expand the scope of the bottle bill to pick up certain other products that are on the market now which are noncarbonated. As you know, the bottle bill presently picks up carbonated products; this would pick up products with added sugar. It would not include fruit juices, natural fruit juices nor milk products. It also would not include products sold in paper containers, but it would add new metal and glass containers that are being marketed of soft drinks on the market.

The committee had discussed this in some detail and it was our intention not to present the majority of the committee felt that the penny should be left at one cent and not another penny added, but when the House chose to add the \$5 million penny to it, it seemed appropriate to present this amendment and to add these products to the bottle bill.

The intention of the penny, as was discussed here yesterday, is to help the redemption centers. The redemption centers would be aided by the addition of these products, it would give them further things to handle and would make them more useful to the grocer. I personally think that the grocers, and I break the grocers in my own mind down into two areas, one being the small grocer and the other being the larger grocery chain, and I personally think the small

grocers are being compensated by our act of mandating them the extra \$5 million and therefore handling the extra product is only reasonable at this point, and the large grocers, who I think probably thought that yesterday was Christmas will also have plenty of money to be able to handle these additional products.

I think it is a good amendment, I think it attacks that which both proponents and opponents of the bottle bill have talked about when they say why not add the other trash items. I think this is a growing area and it should be added to the bill, and I urge the acceptance of this amendment.

The SPEAKER: The Chair recognizes the gentlewoman from Sebec, Mrs. Locke.

Mrs. LOCKE: Mr. Speaker, I ask a ruling from the Chair as to the germaneness of this amendment.

The SPEAKER: The Chair would rule that the amendment is not germane.

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 Relating to the Games of Chance at Agricultural Fairs" (H. P. 1797) (L. D. 1919) which was passed to be engrossed as amended by Committee Amendment "A" in the House; in the Senate, passed to be engrossed as amended by Committee Amendment "A" as amended by Senate Amendment "A" thereto in non-concurrence.

Which was tabled earlier in the day pending further consideration.

Thereupon, the House voted to recede and concur.

On motion of Mrs. Mitchell of Vassalboro, the Chair laid before the House the first tabled and Unassigned Matter:

Bill, "An Act to Provide for Licensing and Regulation of Adult Foster Homes" (H. P. 1089) (L. D. 1466)

—In House, "Ought to Pass" in New Draft under same title (H. P. 1816) (L. D. 1927) report of the Committee on Health and Institutional Services read and accepted and the New Draft Passed to be Engrossed.

—In Senate, Bill and Papers Indefinitely Postponed.

Tabled—March 5, 1980 by Mrs. Mitchell of Vassalboro.

Pending—Further Consideration.

On motion of Mrs. Prescott of Hampden, the House receded from its action whereby the New Draft was passed to be engrossed.

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

House Amendment "A" (H-938) was read by the Clerk and adopted.

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

Mrs. PAYNE: Mr. Speaker, Ladies and Gentlemen of the House: L. D. 1927 is a department bill. It was held over from the last session. It was written, rewritten; we spent more time on it than any other bill, I think, that came before us.

Because the bill is having difficulties elsewhere, this amendment now comes before us, members of the committee and the House, as a complete surprise. It is a very, very watered-down but open-ended version of the bill. I believe it addresses very little of what we worked so hard on.

I was against the bill originally, feeling that we certainly and surely would be discouraging anyone from opening their home to foster care.

As you know, there is a great trend in deinstitutionalization. You know that nursing homes are very expensive and the small foster care home, taking care of up to four people, is a good answer. But if you could have seen the list of rules and regulations that would be facing

anybody wanting to open one, it would discourage them from beginning. But we were told it all had to be tied up to coincide with boarding care rules, which were tightened up too in the bill, giving the state the necessary authority to expand the program. However, we were never given or cited one instance of abuse of any foster care patient.

Now the boarding care rules have disappeared in this amendment. The department may adopt rules with very, very broad limitations, and the poor little widow, whose lonely, kind heart prompted her to think about taking in four adults for foster care, can, if this passes, be driven crazy and out of business by rules, regulations, inspections and paperwork not even spelled out in this amendment.

I ask for the indefinite postponement of this Bill and all its accompanying papers.

The SPEAKER: The Chair would advise the gentlewoman from Portland, Mrs. Payne, that a motion to indefinitely postpone is not in order.

The Chair recognizes the gentlewoman from Hampden, Mrs. Prescott.

Mrs. PRESCOTT: Mr. Speaker, Ladies and Gentlemen of the House: I would like to clarify one point that Mrs. Payne made, and that was the fact that this was a department bill, and that is not the case. This bill was sponsored by myself at the request of the adult foster home operators who are asking me to be licensed. They wanted to be approved by the department so that they could receive the funding from the department. This is not a department bill. It affects only adult foster homes.

The amendment which I am offering is offered because of the objections of the other body. It is my understanding that we can work out the problems that we have on the promulgation of rules and regulations.

I would like to call your attention to the statement of fact which is on the amendment itself. Under the statement it says that the Pineland suit, or the deinstitutionalization policies, and, I might add, the recent moratorium on the admissions at Pineland, means that more of these people will be going to adult foster homes and foster care. The department now does not have the authority to approve these homes, to say that there will be standards that will be met. These homes now are only voluntarily approved, and if a home operator does not want to be approved, they do not have to be.

The gentlelady said that there was not one case of abuse cited. I would like to correct that statement as well. There was a case cited, it was in Berwick, where an operator was taken to court and was proven guilty. The problem, you see, is that the state could not remove those two residents from the home. Therefore, other residents can go into the home because that home does not want to be voluntarily approved.

Further, in the statement of fact it says that the Department of Human Services operates an adult foster care program, but merely voluntarily approves these foster homes, but these homes are receiving state reimbursement. One of the problems is that there is no statutory authority for this program to continue, and according to a recent attorney general's opinion, the department's rules for approval of state reimbursed foster homes is in doubt. This is a critical problem because it threatens the state's ability to safeguard resident's health, safety and care, and it also jeopardizes federal matching funds. In fact, if the rules for approval of state reimbursed adult foster homes were challenged in court, we would be in danger of losing at least \$150,000 in federal funds per year. This would obviously put tremendous pressure upon the state to make up the loss.

The amendment merely places in the statute the authority to approve the adult foster homes that are seeking the state reimbursement, and it does restrict the department's rulemaking

authority, because it is very specific in stating that the areas in which rules would be promulgated would only be in the areas that are related to the health, safety, care and the sanitation.

Thereupon, Mrs. Payne of Portland requested a vote.

The SPEAKER: The pending question is on passage to be engrossed as amended by House Amendment "A" in non-concurrence. All those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

52 having voted in the affirmative and 41 having voted in the negative, the motion did prevail.

Sent up for concurrence.

By unanimous consent, ordered sent forthwith to the Senate.

(Off Record Remarks)

Mr. Jacques of Waterville was granted unanimous consent to address the House.

Mr. JACQUES: Mr. Speaker and Members of the House: During the past two years, every once in a while some of you get up and take this opportunity to say something on the record that is stuck in your craw, if you will pardon the expression, and if you will bear with me, I would like to do that today.

In yesterday's paper, there were articles in different papers where Sportsmen's Alliance of Maine blasted the Commissioner of Inland Fisheries and Wildlife for what he called incompetence and bordering on the possibility of being criminal. Now, we of the Fisheries and Wildlife Committee realize that Fisheries and Wildlife isn't the number one importance to a lot of you and we understand that because there are a lot of very important things here, but Mr. Jones, the Executive Director of Sportsmen's Alliance of Maine, and I might add that Sportsmen's Alliance of Maine has 5,000 members and last year we sold over 280,000 licenses in the State of Maine, different licenses, so his organization represents very few of the actual people that are involved here.

What Mr. Jones' motives were when he attached the commissioner I do not know and I would not dare to speculate, but I think it was one of the most irresponsible acts performed by anybody that I have seen in my two years down here, and I want it to be on the record that I think it was a gross injustice done to the commissioner, a commissioner that has been in that department for nine months, who inherited one of the biggest mixed up, messed up, balled up affairs, who has tried very hard to solve the problems of Fisheries and Wildlife.

He says the commissioner has done nothing to solve the financial problems. Since Mr. Manuel took over, he stopped the purchase of 44 new automobiles for Fish and Game, he has cut all out-of-state travel, it has cut capital expenditures over \$1,000, no new personnel, all positions left vacant when somebody retires, unless they are vital to the department they are not being filled. He has asked for a 10 percent reduction in his warden service and all the people involved in the department, and he has even gone to the point where they are cutting lumber on the department's lands that they feel should be cut to try to raise a little revenue for that department.

Now, why Mr. Jones comes up with something like that, I do not understand, and I would like to have the record show that Mr. Jones does not represent all the people that see him, and Mr. Jones certainly does not represent all the sportsmen in the State of Maine, and I hope all of you will take that into consideration.

I think he has caused some harm. We saw it in the other body yesterday. Some of the bills that we were hoping would solve this problem were killed. I think Mr. Jones has done something to set back the sportsmen's interest in the State of Maine, and that is not what SAM was

started out to be. I am not a member of SAM now and I will not ever be as long as this exemption what they intend to do.

I hope that all of you will at least give me a little bit of credit for the little that I do know about the Fisheries and Wildlife Department and take this with a grain of salt, and I hope that you will give the department the support which it needs now and not believe this garbage that you see here.

On motion of Mr. MacEachern of Lincoln, 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 paper appearing on Supplement No. 4 was taken up out of order by unanimous consent:

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

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

Mr. Morton of Farmington offered House Amendment "A" and moved its adoption.

House Amendment "A" (H-950) was read by the Clerk and adopted.

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

Mrs. PRESCOTT: Mr. Speaker, I have an amendment being prepared to offer to this bill, and I would hope that someone would table it until later in today's session.

Whereupon, on motion of Ms. Benoit of South Portland, tabled pending passage to be engrossed and later today assigned.

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

Leave to Withdraw

Report of the Committee on Judiciary reporting "Leave to Withdraw" on Bill "An Act to Transfer Probate Jurisdiction to the Superior Court" (S. P. 775) (L. D. 1968)

Came from the Senate with the Report read and accepted.

In the House, the Report was read and accepted in concurrence.

Non-Concurrent Matter Later Today Assigned

Bill "An Act Providing Standby Authority to Regulate Essential Oil Heating Deliveries" (H. P. 1984) (L. D. 2019) which was referred to the Committee on Business Legislation in the House on March 18, 1980.

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

In the House: On motion of Mrs. Mitchell of Vassalboro, tabled pending further consideration and later today assigned.

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

Non-Concurrent Matter

Bill "An Act to Clarify the Board of Environmental Protections' Responsibility to Regulate Roads under the Site Location Law" (S. P. 696) (L. D. 1832) which was passed to be engrossed as amended by Committee Amendment "A" (S-449) as amended by House Amendment "A" (H-920) thereto in the House on March 17, 1980.

Came from the Senate passed to be engrossed as amended by Committee Amendment "A" (S-449) as amended by House Amendment "A" (H-920) and Senate Amendment "A" (S-486) thereto in non-concurrence.

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

Non-Concurrent Matter

Bill "An Act to Permit the Department of

Inland Fisheries and Wildlife to Borrow in Anticipation of Revenues" (H. P. 1836) (L. D. 1940) which was passed to be Enacted in the House on March 18, 1980.

Came from the Senate, Failing of Passage to be Enacted in non-concurrence.

In the House: On motion of Mr. Dow of West Gardiner, the House voted to adhere.

By unanimous consent, ordered sent forthwith to the Senate.

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

The following Communication:

January 29, 1980

Honorable Joseph E. Brennan
Governor of Maine
State House, Augusta
Members, 109th Legislature
Dear Governor Brennan and Members of the Legislature:

The Board of Trustees of the Maine State Retirement System submits herewith a report of the financial transactions of the System, and statements of the assets and liabilities for the year ended June 30, 1979. Also included are reports of the Actuary, the Investment Consultant, the Executive Director and the Group Life Insurance Underwriter. This report is submitted in accordance with the provisions of 5 MRSA, Section 1031, subsection 9.

Membership on the Board of Trustees is comprised of seven voting members and the State Treasurer, who is an ex-officio, non-voting member. Voting members include two members appointed by the Governor, subject to review and approval of the Joint Standing Committee on Aging, Retirement & Veterans, and confirmation by the Legislature, one member appointed by the Governor from a list of three nominees submitted by the Maine Retired Teachers Association, one member elected by the Maine Teachers Association, on member elected by the Maine State Employees Association, one member appointed by the Maine Municipal Association, and one member who is a recipient of a retirement allowance through the System, selected by the foregoing members.

The book value of M.S.R.S. in vestments was \$247,923,507 at June 30, 1979. This amount was represented by bonds (\$111,107,155), common stocks (\$105,688,127), mortgage/type (\$25,128,498), insured guaranteed contract (\$5,000,000) and a time deposit (\$999,726).

Earnings on investments totalled \$16,881,815 during the year. The rate of return on the investments owned by the System for the year ended June 30, 1979, was 6.74% based upon the book value of investments.

Funds collected through the Augusta office are deposited in the State Treasury. During the fiscal year ended June 30, 1979, interest on cash balances held in the State Treasurer's "Cash Pool" averaged 9.54%.

Investments in common stock are made in anticipation that the market value will appreciate over the period of ownership. The market value of M.S.R.S. common stock at June 30, 1979, was \$117,082,848, which was \$11,394,721 more than the cost or book value.

The time-weighted rate of return on investments under management by the System's investment managers was 11.1% for the twelve months ending June 30, 1979. This measurement is based on the market value of securities and includes investment earnings.

The System's Actuary utilizes book value (adjusted for losses) on fixed income securities in computing investment return, and book value with five-year average market gains and losses in computing investment return on equities. The actuarially determined return on investments for the year was:

Fixed Income	7.96%
Equities	7.88%

All Assets

7.94%

The actuarial investment return on all assets (7.94%) is used in the determination of funding requirements by the Trustees.

The Board of Trustees adopted revised actuarial assumptions and mortality tables effective July 1, 1978, as follows:

Investment Earnings 8-1/2%

Salary Scale 5-1/2%

Cost-of-Living 4%

Mortality Tables (Group Annuity

Mortality Tables)

Teachers 1971 (set back 2 years)

State Employees 1971

Local District Employees 1951

The adoption of new mortality tables resulted in significant increases in appropriation requests for the 1978/79 and 1979/80 biennium.

The first regular session of the 109th Legislature, adjourned leaving serious funding problems for the System; however, a special session of this same Legislature provided the funding requested by the Trustees for the first year of the biennium, and further provided for a select committee to study the Maine State Retirement System operation, including funding, contributions, benefits, investment policies and all other aspects of the System.

Very truly yours,

WILLIAM G. BLODGETT,

Executive Director for

the Board of Trustees,

Maine State Retirement System

The Communication was read and ordered placed on file.

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

Divided Report

Majority Report of the Committee on Appropriations and Financial Affairs reporting "Ought to Pass" as amended by Committee Amendment "A" (H-942) on Bill "An Act to Authorize Bond Issues in the Amount of \$4,000,000 in each of 3 Years for Court Facilities Improvements" (H. P. 1916) (L. D. 1985)

Report was signed by the following members:

Mr. HUBER of Cumberland
Mrs. NAJARIAN of Cumberland
Mr. PERKINS of Hancock

— of the Senate.

Messrs. HIGGINS of Scarborough

JALBERT of Lewiston

CARTER of Winslow

Mrs. CHONKO of Topsham

Messrs. PEARSON of Old Town

KELLEHER of Bangor

MORTON of Farmington

— of the House.

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

Report was signed by the following member:

Mr. SMITH of Mars Hill

— of the House.

Reports were read.

On motion of Mr. Diamond of Windham, the Majority "Ought to Pass" Report was accepted and the Bill read once. Committee Amendment "A" (H-942) was read by the Clerk and adopted.

Under suspension of the rules, the Bill was read the second time, passed to be engrossed as amended and sent up for concurrence.

By unanimous consent, ordered sent forthwith to the Senate.

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

Divided Report

Six Members of the Committee on Appropriations and Financial Affairs on Bill, "An Act to Authorize Bond Issue in the Amount of \$6,000,000 for Improvements to Vocational-Technical Institutes" (Emergency) (H. P. 1757) (L. D. 1887) report in Report "A" that the same

"Ought to Pass" as amended by Committee Amendment "A" (H-943)

Report was signed by the following members:

Mrs. NAJARIAN of Cumberland
— of the Senate.

Messrs. DIAMOND of Windham
MORTON of Farmington

Mrs. CHONKO of Topsham

Messrs. CARTER of Winslow
PEARSON of Old Town

— of the House.

Two Members of the same Committee on same Bill report in Report "B" that the same "Ought to Pass" as amended by Committee Amendment "B" (H-944)

Report was signed by the following members:

Mr. PERKINS of Hancock

— of the Senate.

Mr. HIGGINS of Scarborough

— of the House.

Two Members of the same Committee on same Bill report in Report "C" that the same "Ought to Pass" as amended by Committee Amendment "C" (H-945)

Report was signed by the following members:

Messrs. JALBERT of Lewiston
KELLEHER of Bangor

— of the House.

One Member of the same Committee on same Bill reports in Report "D" that the same "Ought to Pass" as amended by Committee Amendment "D" (H-946)

Report was signed by the following member:

Mr. BOUDREAU of Waterville

— of the House.

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

Report was signed by the following members:

Mr. HUBER of Cumberland

— of the Senate.

Mr. SMITH of Mars Hill

— of the House.

Reports were read.

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

Mr. PEARSON: Mr. Speaker, I move acceptance of Report "A".

The SPEAKER: The gentleman from Old Town, Mr. Pearson, moves that Report "A" be accepted.

The gentleman may proceed.

Mr. PEARSON: Mr. Speaker, Ladies and Gentlemen of the House: There is an honest difference of opinion on this bill and Mr. Jalbert, I am sure, will explain to you a different position. There are a number of positions on this.

The report that I have signed, along with Mr. Morton, Mrs. Chonko, Mr. Carter, and Mr. Diamond, is for the original bill with an addition of some money to repair roofs at the Eastern Maine Vocational Technical Institute, which, I have been informed, if we don't do that, will cost us a considerable amount of money in a very short period of time.

I was told by people that I trust, that if this had been addressed some three or four years ago, it might have been able to have been addressed at the tune of about \$70,000; it has now grown to about a million dollar problem and it has got to be addressed along with some of the other pressing needs that you can find in this L. D.

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

Mr. JALBERT: Mr. Speaker and Members of the House: I hope you do not accept Report "A" so that I can move to accept Report "C".

Before I forget it, I appreciate the gentleman from Old Town, Mr. Pearson, saying he has been told on a reliable source about the roofs at Old Town. Here is a reliable source right here, and he knows it too, because I went there.

About a year ago, I was named by Senate Chairman Huber, as a committee of one, wherein it concerned itself with vocational schools. I asked him if I could have the assistance of the advisor of the committee and also the assistant finance officer, Mr. Schlosser, as well as his assistant, Mr. Richard Sawyer. We travelled the state from one end to the other and we had a short interruption for something which happened, which I am not going to go into now, at CMVTI. In any event, when we went first to the school in South Portland, I talked to the then acting director at length and because I am unable to walk too long a distance, it was a rather humid day, we rode all over the school, went into buildings, we had a fine meeting with the chairman of the committees, and we had a spot where we were standing at the end of our tour, and I told him, this is where your building should be. Unfortunately, having been one who helped former Representative Spears of South Portland when a bill was presented to move the present Southern Maine Vocational School from Augusta to South Portland, I was quite familiar with the vocational school program.

From 1945 to 1963, I attempted to put in legislation to get a school within my area, and you may not believe this, but oftentimes there was maybe myself at the hearing, sometimes a couple of friends of mine, Mr. Hal Schnerle, a former Senate President and Mr. Frank S. Hoye of Lewiston, a very dear friend who recently died. The room was always full and, believe it or not, the two groups that were the first to rise in opposition to vocational schools were always higher education and, believe it or not, labor, and their argument was seniority and it would hurt the labor movement. The labor people have since become great friends and supporters of vocational education, for which I am very grateful. The Department of Education has come forward and in some areas I am anything but happy with their performance.

In any event, on that day, I informed the acting director in South Portland, I said, "The trouble with your school is two things—in the first place, it does not look like a vocational school; in the second place, you have antiquated buildings and programs that are way wrong." I said, "Here is a beautiful plot of land, this is where we should start." We then agreed that the start would be a program whereby we would have a classroom and administration building and a welding machine shop, one floor.

At the CMVTI school, there have been six additions, and to this day, you can still go in through one door and go through the whole school from top to bottom, one floor, the cellar, of course and then the floor, the dining room facilities, everything in under one roof. You are saving time, saving fuel costs and it saves a great deal of money.

The reason I told him, and I told my seatmate and I told Mr. Connolly and others within the area of southern Maine, I would support this because if we do not have such a program, and I am fully aware that \$12.5 million is a large amount of money, but the fact remains that it covers the state, and I am not the one that is going to say that this is for that. I have been told that I have kind of decorated my own program, but to pass it, I can tell you this, and there have been firsts in my lifetime, but I have seen two firsts today, the first was a bill that passed by 75 to 65, a bill that needs two-thirds in order to have final passage, and I speak of the spruce budworm bill, and this thing here, which actually has five reports, because added to these four reports, of course, is the straight "ought not to pass" report.

The cost of adding another program, which is very badly needed, at South Portland would be fantastic—a roof, tearing down a wall, and I could go on. That is why I am for this amount of money here.

The Kennebec Valley School is something that we must start to build into a vocational school, because as it is now, and I have visited it from top to bottom, it needs to start as a new school, because as it is now it is nothing, in my opinion, it is not a vocational school, it is a nursery school, and I supported that from the very beginning.

I worked on this program, the former Senator from Kennebec County, Senator Levine, I worked honestly with him. He was as enthusiastic about vocational school education as I was when I first started here in 1945.

The Northern Maine Vocational School, when I visited there, I found the morale to be at a low, as the morale was at all the other schools, as it is today, believe me. But I did find out one thing at Northern Maine that really pleased me. Nothing like this has been done at South Portland, and I have suggested it, at Northern Maine they found a gentleman who was willing to tear down—when Northern Vocational School was started, it was made up of some old buildings from the World War II days, and some of these buildings had to be torn down, they were useless. This gentleman appeared on the scene and he told these people at the school that he was willing to take down the buildings and take the brick and wood and that would be his for the tearing down of the building. It naturally was a little bit profitable for him but it was also very profitable for the school because of the fact that they needed to have this tearing down done and they had no money to do it because there was no money at all to spend on any program concerning itself with all other money for the last five years. They have done a splendid job there. They need this program, and I think by doing the work that the are doing, when we left there that day, they were most enthusiastic.

As far as Washington County is concerned, there is nothing I would like any better than to see Peter Pierce, who is director at the Washington County Vocational School, be the director of vocational education for Maine. He is probably one of the best in New England. He doesn't go asking for something he doesn't need. He needs this and I am for it.

In Eastern Maine, my friend and chairman of the House Appropriations Committee has touched upon it.

When we had the hearing on the vocational bond issue, which was very badly presented, incidentally, I asked the question as to whether or not with the condition that the roofs were in, it could not be construed as new construction and consequently be included in the bond issue. The answer was yes, and that is why it appears here.

At Maine Maritime Academy, they have been after this money for years, and either we are going to handle it and take care of the Maine Maritime Academy or we are not.

I might say also that until I wasn't present one day this week, but last Friday when we voted this bill out, this L. D. 1887, the report of the committee was 9 "ought to pass" and 4 "ought not to pass" but in the meantime, some of my colleagues got together and they wheeled and dealt and they decided—I will go with yours, you go with mine, so we wind up with five reports. I never knew anything about it until the day before yesterday, until it hit me. Someone is getting theirs in one report and somebody else is not in another report. I think I have got to congratulate the "A" members, because they did a pretty good architectural job. They covered the north, they covered the Kennebec County area, they covered South Portland, and they did pretty well, but the fact of the matter is this—they picked out, and I don't think that is too good a program.

I want the bond issue to pass. I am thoroughly convinced that this bond issue, however high it might be, would pass. I think it is solid, it is sound and it is fair. It has been done by me. I admit that I drafted this after a great deal of

work, a great deal of consideration, days and weeks of work, of travel, being away from home night after night, not that it makes too much difference, but the fact of the matter is, it was at my own expense, I never put one cent in for mileage, one cent in for food, one cent in for sleeping accommodations. I might say, however, that when we landed up north, the gentleman from Mars Hill, Carl Smith, took us across the river for a meal and I never had such a beautiful meal in my life. I have never eaten as much in my life either, and I was delighted on all counts when we came back because I feel that we helped the morale, which was the intent.

Win, lose or draw, I don't intend to stop. We haven't made a full report of the committee to the full committee yet. We intend to keep on going this summer. I am not in any way speaking in anger. These are my colleagues, I serve with them, and when you serve with people for two years or four years or six years, you get to be quite fond of them, and there isn't one member of the Appropriations Committee for whom I haven't got anything but respect and a great deal of personal fond feelings.

I just think this is a sound, solid measure. I hope that you will not accept Report "A" so that I can make a motion to accept Report "C" and when the vote is taken, I move it be taken by the yeas and nays.

I am sorry I took so much time, but I had to say what was in the Report, Mr. Chairman.

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

Mr. HIGGINS: Mr. Speaker, Ladies and Gentlemen of the House: I will be very brief. It is a bit unusual to see the Committee on Appropriations split in such a manner. I don't think that the gentleman from Lewiston, Mr. Jalbert, intended to indicate perhaps a negative connotation that may have been inferred in the 'wheeled and dealed' part; I certainly didn't wheel and deal, nor was I coerced to do so.

I think the matter of events that took place after we signed the original jacket had something to do with changing my particular vote on this bill.

Very briefly, the Committee Report "A" which the chairman has moved, which we are voting on now, is a \$7 million bond issue; \$2.4 million at SMVTI, approximately now, and \$2 million at KVVTI; \$1.6 million at Northern Maine; \$1 million at Eastern Maine, for a total of somewhat around \$7 million.

The report that I signed, along with the Senator from Hancock, Senator Perkins, includes another million dollars for Maine Maritime Academy for a maintenance facility and an engineer shop down there at Castine.

The report that the gentleman from Lewiston is talking about is \$12.5 million, which includes additional money for the Washington County School as well as an additional building at SMVTI.

The fourth report, that signed by Mr. Boudreau, who is not here, is the original bill, as I understand it, though I am not a hundred percent sure on that, but I think the first three reports tried to portray to you the implications of adopting those three—you have a choice of \$7 million, \$8 million or \$12.5 million.

Frankly, the reason that I withdrew my support for the \$12.5 million bond issue is simply that I was afraid that that particular issue would not pass, and I don't think there is anybody in the House, well, there are a few, obviously, but I am greatly concerned with the facilities at SMVTI. Though I am not from South Portland, I do represent that particular neck of the woods, and I would sure like to see them get that extra building that would come in under the \$12.5 million plan. But I don't see that happening, or I think the chances of the bond issue being defeated are greatly increased by the extra millions that we add on. So that is why I withdrew my support from the \$12.5, not be-

cause I don't think they need it, because I know they need it, but what I don't want to see happen is the whole issue go down to defeat and have them get nothing. So, in my particular report, Report "B", I have tried to pick out those facilities that I think need immediate attention and focus on those for now and let the Washington County School, let the Southern Maine School, those additional monies wait and wait for another session, wait another year or two. I would like to have them now and I am sure the people in Washington County would like to have them now as well, but I am sincerely afraid, and I think a lot of us are aware of the feeling of the public out there, that they really are skeptical of issuing a lot of bonds.

I went back after signing that jacket at \$12.5 million and got thinking about it. We are going, to, or we have the ability to issue about \$7 million worth of additional bonds this session for energy improvements. That is a bill that I believe is in the other body now; it was enacted in here the other day.

We have just now accepted a report from the Appropriations Committee to issue another \$4 million worth of bonds for the judicial system, court renovations and whatever, and I simply did not want to get up a figure that was well over \$20 million. If you accept the \$12 million, then you are going to be in that situation.

Whether or not we accept the majority report of the committee, as the chairman has asked you, with \$7 million, or whether you accept my report for \$8 million, strictly is up to you, obviously, and I am not going to try to sway you one way or the other on it. I am just telling you the facts of life as I see them, the differences of the three or four reports—obviously, the "ought not to pass" report should be relatively self-evident, but, nevertheless, those three that are on the front page of this supplement are the ones that are going to be discussed here today. Maybe we don't need to discuss them an awful lot more, but that is the difference between those three reports.

My report has an extra million dollars in it, and that extra million dollars, as I said, is for the facility at the Maine Maritime Academy which, obviously, is not in my neck of the woods, but I am convinced that they need it and I think we need the support of those people from along the coast to pass the bond issue, quite frankly. I will be right up front about it, I think the people who signed the majority report at \$7 million would be up front and say that they included Eastern Maine in theirs to get the people from Bangor to support the bond issue. That doesn't say that we don't need that facility at Eastern Maine, that we don't need the roofs there; we certainly do, no one would deny that, but that is the reason why it is included in all the reports now. In addition to the fact that we need them, we need the support, and I think it is out there, but I think the danger is when we start getting up ten, twelve, thirteen million dollars, we put some highway bonds on the ballot in the fall, we put on \$7 million for energy, we put on \$4 million for judicial, one of these days we are going to lose one. We have lost them in the past, not any of the vocational schools, and I don't want this to be the first one.

That is the difference between the reports. I am going to vote against this report. I am not going to be terribly disappointed if it is accepted, but I would ask your consideration to go another million dollars extra to bond that facility at Maine Maritime Academy.

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

Mr. CARTER: Mr. Speaker, Ladies and Gentlemen of the House: It is not very often that I stand up and disagree with my colleagues on the Appropriations Committee, as my good friend, the gentleman from Lewiston, Mr. Jalbert, has pointed out, but in this case, I disagree, not because I was against the request that is listed in the report signed by my good

friend from Lewiston, Mr. Jalbert, I disagreed because I am concerned about our Double A bond rating.

We are going to retire, during the next year of the biennium, about \$21 million worth of bonds, and if we approve Report "A", along with the energy bond issue for \$7 million and the \$4 million bond issue for the courts, we would be very close to the \$22 million that is being retired.

I am sure when my good friend from Lewiston was referring to somebody wheeling and dealing, he was saying that in jest. I can assure him there was no wheeling and dealing. I don't believe any of us on the Appropriations Committee even think of doing that.

The items listed in Report "A" happen to be the first three top priority items of the department—industrial trades building, welding machine shop at SMVTI and auto mechanic facilities at Northern Maine VTI. We added the roofs in because we felt, as the good gentleman from Old Town has pointed out, Representative Pearson, that had the roofs been taken care of years ago, they wouldn't be costing us a million dollars, they would have cost only \$70,000. I can assure you that if I felt for one minute that the \$12.5 million bond issue had a chance of passage, I would vote for it. But knowing better than that, I chose to go for Report "A", and I would hope that you would go along with the majority of the committee and support Report "A".

The report that my good friend from Scarborough has signed and hopes that it passes, includes, as he has pointed out, an item for the Maritime Academy, and I believe that item was defeated not too long ago in a separate bond issue. If we want to make sure, as we stand here and say, that we don't want the VTI bond issue defeated by the voters, because it has been done before, then I would suggest that we not include something that has been recently defeated in another bond issue.

I would hope that you would support Report "A" and I would ask for a roll call if it has not already been asked for, Mr. Speaker.

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

Mr. SMITH: Mr. Speaker, Ladies and Gentlemen of the House: I feel like the Maytag repairman who used to have an ad on TV—I feel like I am the loneliest man in town, but the reason I voted as I did in the committee, I just felt at this time that the financial condition of our state, with the teachers' retirement fund not funded yet, and Transportation in the shape that it is in, and all things taken into consideration, I just felt that this was not time for a bond issue.

I, too, have always supported the VTI's, but I felt that at this time it wasn't the proper time to bring it before the people.

I move, Mr. Speaker, the indefinite postponement of this bill and all its accompanying papers and I ask for 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. 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 Mars Hill, Mr. Smith, 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, Austin, Berry, Bordeaux, Brown, K.C.; Curtis, Dexter, Gavett, Gray, Huber, Hunter, Hutchings, Lougee, Marshall, Masterman, Maxwell, McPherson, Nelson, A.; Nelson N.; Peltier, Peterson, Reeves, J.; Rollins, Roope, Sewall, Smith, Sprowl, Studley,

Torrey.

NAY — Bachrach, Baker, Barry, Beaulieu, Benoit, Berube, Blodgett, Bowden, Brannigan, Brennerman, Brodeur, Brown, A.; Brown, D.; Brown, K.L.; Call, Carroll, Carter, D.; Carter, F.; Chonko, Churchill, Cloutier, Conary, Connolly, Cox, Damren, Davies, Davis, Dellert, Diamond, Doukas, Dow, Drinkwater, Dutremble, D.; Dutremble, L.; Elias, Fenlason, Fillmore, Fowlie, Garsoe, Gillis, Gowen, Gwadosky, Hall, Hickey, Higgins, Hobbins, Hughes, Jackson, Jacques, P.; Jalbert, Joyce, Kane, Kany, Kelleher, Kiesman, Lancaster, Leonard, Lewis, Lizotte, Locke, Lowe, Lund, MacBride, MacEachern, Mahany, Martin, A.; Matthews, McHenry, McKean, McSweeney, Michael, Mitchell, Morton, Nadeau, Nelson, M.; Norris, Paradis, E.; Paradis, P.; Paul, Payne, Pearson, Post, Prescott, Reeves, P.; Rolde, Simon, Small, Soulas, Stover, Strout, Tarbell, Theriault, Tierney, Tozier, Tuttle, Twitchell, Violette, Vose, Wentworth, Wood, Wyman, The Speaker.

ABSENT — Birt, Boudreau, Bunker, Carrier, Cunningham, Dudley, Hanson, Howe, Immonen, Jacques, E.; Laffin, LaPlante, Leighton, Masterton, McMahon, Sherburne, Silsby, Stetson, Vincent, Whittemore.

Yes, 29; No, 102; Absent, 20.

The SPEAKER: Twenty-nine having voted in the affirmative and one hundred two in the negative, with twenty being absent, the motion does not prevail.

The pending question now is on acceptance of Report "A". A roll call has been requested. For the Chair to order a roll call, it must have the expressed desire of one-fifth of the members present and voting. All those desiring a roll call vote will vote yes; those opposed will vote no.

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

The SPEAKER: The pending question is on the motion of the gentleman from Old Town, Mr. Pearson, that Report "A" be accepted. All those in favor will vote yes; those opposed will vote no.

ROLL CALL

YEA — Austin, Bachrach, Baker, Barry, Berry, Berube, Blodgett, Brannigan, Brennerman, Brodeur, Brown, A.; Brown, D.; Brown, K.L.; Call, Carroll, Carter, D.; Carter, F.; Chonko, Churchill, Conary, Cox, Damren, Davies, Davis, Dellert, Dexter, Diamond, Doukas, Drinkwater, Dutremble, D.; Dutremble, L.; Elias, Fenlason, Fillmore, Fowlie, Garsoe, Gavett, Gillis, Gowen, Gwadosky, Hickey, Huber, Hughes, Jackson, Jacques, P.; Joyce, Kany, Kiesman, Lancaster, Lizotte, Locke, Lund, MacBride, MacEachern, Mahany, Marshall, Martin, A.; Matthews, Maxwell, McHenry, McKean, McPherson, McSweeney, Mitchell, Morton, Paradis, E.; Paradis, P.; Paul, Payne, Pearson, Peltier, Post, Prescott, Reeves, J.; Reeves, P.; Rolde, Small, Soulas, Sprowl, Stover, Strout, Theriault, Tierney, Tozier, Tuttle, Twitchell, Violette, Vose, Wentworth, Wyman, The Speaker.

NAY — Aloupis, Beaulieu, Benoit, Bordeaux, Bowden, Brown, K.C.; Bunker, Cloutier, Connolly, Curtis, Dow, Gray, Higgins, Hobbins, Hunter, Hutchings, Jalbert, Kane, Kelleher, Leonard, Lewis, Lougee, Lowe, Masterman, Michael, Nadeau, Nelson, A.; Nelson, M.; Nelson, N.; Norris, Peterson, Rollins, Roope, Sewall, Simon, Smith, Studley, Tarbell, Torrey, Wood.

ABSENT — Birt, Boudreau, Carrier, Cunningham, Dudley, Hanson, Howe, Immonen, Jacques, E.; Laffin, LaPlante, Leighton, Masterton, McMahon, Sherburne, Silsby, Stetson, Vincent, Whittemore.

Yes, 92; No, 40; Absent, 19.

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

Thereupon, the Bill was read once. Committee Amendment "A" (H-943) was read by the Clerk and adopted.

Under suspension of the rules, the Bill was read the second time, passed to be engrossed as amended and sent up for concurrence.

By unanimous consent, ordered sent forthwith to the Senate.

The following paper appearing on Supplement No. 11 was taken up out of order by unanimous consent:

Divided Report

Majority Report of the Committee on Judiciary reporting "Ought to Pass" as amended by Committee Amendment "A" (H-948) on Bill "An Act to Authorize Deductions from the Term of Imprisonment of Certain Persons Serving a Split Sentence" (Emergency) (H. P. 1917) (L. D. 1982)

Report was signed by the following members:

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

Messrs. HOBBS of Saco
STETSON of Wiscasset
JOYCE of Portland
SILSBY of Ellsworth
HUGHES of Auburn
SIMON of Lewiston
Mrs. SEWALL of Newcastle — 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. CARRIER of Westbrook
LAFFIN of Westbrook — of the House.

Reports were read.

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

Mr. HOBBS: Mr. Speaker, I move acceptance of the Majority "Ought to Pass" Report.

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

Mrs. MARTIN: Mr. Speaker, I would like an explanation of this bill.

The SPEAKER: The gentleman from Brunswick, Mrs. Martin, has posed a question through the Chair to anyone who may care to answer.

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

Mr. HOBBS: Mr. Speaker, Ladies and Gentlemen of the House: I would like to refer you to the L. D. in question, and if you will read the statement of fact, I think you will be able to see what problem presently exists because of an error which we made, not because of an error which was intentional involving this legislative body. It involves the situation of 50 inmates which were sentenced to an initial unsuspended sentence, which is known as the split sentence, and appears to be a problem that has occurred which has been brought to our attention by the Department of Mental Health and Corrections where there was an inequity involving sentencing between July 6, 1978 and September 13, 1979.

What it is, any person who committed a crime between those two dates are treated differently than those individuals who committed crimes during other periods of times in relation to their eligibility for good time credits on the split sentences.

This bill only relates to 50 inmates, which are presently serving sentences in the Maine Correctional Center. We heard testimony from the Department of Mental Health and Corrections in which they stated to us that to avoid a possible litigation, a law suit, which would challenge the particular statutes and also to possibly alleviate a morale situation at that institution, that this legislation was needed.

The committee, as you can see from the

report, voted, I think it was 11 to 2 "ought to pass" and if you know our committee, you know that some of those individuals, some of them are law and order types and some are not, and most of us on the committee concur that those individuals who because of the time when they committed the crime should not be subject to a different sentencing provision than a person who, because of our mistake, because of a drafting mistake which occurred, we find ourselves in a situation, because of this amendment, where two individuals are treated differently in their eligibility of good time.

If you read the statement of fact, which is very concise and which has been gone over thoroughly, I think you will find the explanation. If you would like, I would read it to you, but I think that statement of fact of L. D. 1982 explains exactly what this particular provision will do.

I should say that this bill will only affect those inmates who committed crimes between July 6, 1978 and September 13, 1979, and who were sentenced to a split sentence. That is all the people that it involves. It is something that the department feels was an inadvertent error, and because of an attorney general's opinion, advisory opinion dated January 15, 1980, which states that because of a technicality, these particular inmates in question, who had been expecting good time, are not eligible because of the fact that they committed crimes between those particular dates.

I don't think this issue comes down to a question of punishment for those individuals who were rightly sentenced to the prison after being convicted by a trial by jury or by a judge, it is a question that we inadvertently drafted the amendment, or the provisions of the split sentencing law wrong, and I think all this will do is correct our mistake.

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

Mrs. LEWIS: Mr. Speaker, Ladies and Gentlemen of the House: I would like to ask another question. The gentleman from Saco, Mr. Hobbins, did say this was an error. I didn't quite understand exactly what the error was, and maybe when I find out what the error is, my other question won't be so necessary, but are we kind of updating history? In other words, if a person commits a crime or is fined or something and then the law changes, does the sentence change? I am thinking of when the drinking age used to be 21, if a person was found drinking at 18 or 19, he was fined. Then it got to be 18, so should those fines be returned to those people who were fined when the law changed; now it is 20? Are we want to be constantly updating history in sentencing, or maybe the gentlemen can explain.

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

Mr. HOBBS: Mr. Speaker, Men and Women of the House: This would not affect the sentence. What this would do is allow those individuals who happen to have committed crimes between July 6, 1978 and September 13, 1979, the opportunity to be eligible for good time credits on these sentences.

The Attorney General, as I mentioned before, ruled in January that because of a technicality, these individuals who have been expecting good time were not eligible for good time within that time frame of July 6, 1978 and September 13, 1979. This does not affect the sentence which was given by the judge.

We debated the issue of split sentences, as you know—I'm sorry—good time and gain time in detail during the last legislative session. And there was a move to increase good time which you gain, and that particular amendment was defeated. This, however does nothing more than treat people who have been sentenced for the same offense, treat those individuals equally as far as their eligibility to get good time.

Good time is a device which is very effective for prison morale, for stability of our correc-

tional institutions, in order to keep order in those institutions. It is something that has been promoted because of a situation involving overcrowding, to help alleviate those problems which could arise as far as possible discontent, situations which you have seen occur at other state prisons or other correctional institutions.

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

Mrs. LEWIS: Mr. Speaker, I am sorry to prolong this. I understand all that he is saying about the good reasons, but he hasn't said what is the technicality.

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

Mr. HOBBS: Mr. Speaker and Members of the House: I will read the statement of fact into the record if you would all like me to, or to save the time of this particular legislative body, we can open up our legislative documents to L. D. 1982 and read the statement of fact. I will read it into the record if you would like, but I don't think at this particular late hour all of us would like to have this read. But I think if you will read the statement of fact, you will see the problem, the problem which all of us, except for two members of our committee, saw on the Judiciary Committee.

Thereupon, the Majority "Ought to Pass" Report was accepted and the Bill read once. Committee Amendment "A" (H-948) was read by the Clerk and adopted.

Under suspension of the rules, the Bill was read the second time, passed to be engrossed as amended and sent up for concurrence.

By unanimous consent, ordered sent forthwith to the Senate.

The following paper appearing on Supplement No. 12 was taken up out of order by unanimous consent:

Non-Concurrent Matter

Bill "An Act to Appropriate Operational Moneys for the Mattawamkeag Wilderness Park" (Emergency) (H. P. 1845) (L. D. 1950) which was passed to be Enacted in the House on March 18, 1980.

Came from the Senate passed to be engrossed as amended by Committee Amendment "A" (H-896) as amended by Senate Amendment "A" (S-482) thereto in non-concurrence.

In the House: On motion of Mr. Pearson of Old Town, the House voted to recede and concur.

By unanimous consent, ordered sent forthwith to the Engrossing.

On Motion of Mr. Tierney of Lisbon Falls, the Chair laid before the House the fourth tabled and Unassigned Matter:

Bill, "An Act to Amend Allocations from the Highway Fund for the Fiscal Years from July 1, 1979 to June 30, 1980 and from July 1, 1980 to June 30, 1981, Decrease the State Aid Bonus from 40% to 20%, and Revise Drivers' License and Examination Fees" (Emergency) (H. P. 1723) (L. D. 1827)

—In House, Passed to be Engrossed as Amended by Committee Amendment "A" (H-812) as Amended by House Amendment "E" (H-868) thereto on March 10, 1980.

—In Senate, Bill and Papers Indefinitely Postponed.

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

Pending—Further Consideration.

On motion of Mr. Tierney of Lisbon Falls, the House voted to recede.

Mr. Carroll of Limerick offered House Amendment "G" to Committee Amendment "A" and moved its adoption.

House Amendment "G" to Committee Amendment "A" (H-947) was read by the Clerk.

Mr. Garsoe of Cumberland requested a vote on the adoption of the amendment.

The SPEAKER: The pending question is on

the adoption of House Amendment "G" to Committee Amendment "A". All those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

Whereupon, Mr. Garsoe of Cumberland 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 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 is on the adoption of House Amendment "G" to Committee Amendment "A". All those in favor will vote yes; those opposed will vote no.

ROLL CALL

YEA — Bachrach, Baker, Beaulieu, Benoit, Berry, Berube, Blodgett, Bordeaux, Brannigan, Brenerman, Brodeur, Brown, A.; Brown, K.C.; Call, Carroll, Carter, D.; Churchill, Cloutier, Connolly, Curtis, Davies, Diamond, Doukas, Dow, Dutremble, D.; Dutremble, L.; Elias, Fowlie, Gwadosky, Hall, Hickey, Hobbins, Hughes, Jacques, P.; Jalbert, Joyce, Kane, Kany, LaPlante, Lizotte, Locke, MacEachern, Mahany, Martin, A.; Maxwell, McHenry, McKean, McSweeney, Michael, Mitchell, Nadeau, Nelson, M.; Norris, Paradis, P.; Paul, Pearson, Post, Prescott, Reeves, P.; Rolde, Simon, Strout, Theriault, Tierney, Tozier, Tuttle, Twitchell, Violette, Vose, Wood, Wyman, Mr. Speaker.

NAY — Aloupis, Austin, Barry, Birt, Bowden, Brown, D.; Brown, K.L.; Carter, F.; Conary, Cunningham, Damren, Davis, Dellert, Dexter, Drinkwater, Fenlason, Fillmore, Garsoe, Gavett, Gillis, Gowen, Gray, Higgins, Huber, Hunter, Hutchings, Jackson, Kelleher, Kiesman, Lancaster, Leonard, Lewis, Lougee, Lowe, Lund, MacBride, Marshall, Masterman, Matthews, McPherson, Morton, Nelson, A.; Paradis, E.; Payne, Peltier, Peterson, Reeves, J.; Rollins, Roope, Sewall, Small, Smith, Soulas, Sprowl, Stover, Studley, Tarbell, Torrey, Wentworth.

ABSENT — Boudreau, Bunker, Carrier, Chonko, Cox, Dudley, Hanson, Howe, Immonen, Jacques, E.; Laffin, Leighton, Masterton, McMahon, Nelson, N.; Sherburne, Silsby, Stetson, Vincent, Whitemore.

Yes, 72; No, 59; Absent, 20.

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

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

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

The following paper appearing on Supplement No. 13 was taken up out of order by unanimous consent:

Passed to be Enacted Emergency Measure

An Act to Amend the Hazardous Waste Statutes in Order that the State May Respond to Dangers to Public Health, Safety or Welfare and Allow Delegation of the Federal Program (H. P. 1759) (L. D. 1884) (C. "A" H-905)

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. 119 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.

House at Ease

Called to order by the Speaker.

The Chair laid before the House the following matter:

Bill "An Act Providing Standby Authority to Regulate Essential Oil Heating Deliveries" (H. P. 1984) (L. D. 2019) which was referred to the Committee on Business Legislation in the House on March 18. In Senate, indefinitely postponed in non-concurrence.

Which was tabled earlier in the day pending further consideration.

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

Mr. SPROWL: Mr. Speaker, could we have a gentlemen's agreement not to debate?

The SPEAKER: The Chair would answer in the negative; I would hope that there would be one. The issue should be made clear.

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

Mr. JACKSON: Mr. Speaker, I move that we recede and concur.

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

Mr. TIERNEY: Mr. Speaker, Men and Women of the House: Could Mr. Sprowl or Mr. Jackson please inform the members of the House why this bill should not have a public hearing?

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

Mr. SPROWL: Mr. Speaker, Ladies and Gentlemen of the House: I would be happy to answer.

Today is Wednesday and next Wednesday, hopefully, we will be home. We have four more days here. This bill will have to have a public hearing. It is a bill of some magnitude, there is a lot of interest in the bill, and I think we owe it to the people who would like to come testify a little more time. Thursday, Friday, Monday and Tuesday—I think that is just a little ridiculous. Where has this bill been?

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

Mr. JACKSON: Mr. Speaker, as you, yourself, have pointed out in the past, it is not necessary to have public hearings on bills and there are many examples when we haven't. I believe that the City of Saco was the last example where we didn't feel it was necessary to hold one.

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

A vote of the House was taken.

48 having voted in the affirmative and 56 having voted in the negative, the motion did not prevail.

Thereupon, the House voted to adhere.

The Chair laid before the House the following matter:

Bill, "An Act to Create the Maine Spruce Budworm Management Act" (Emergency) (H. P. 1980) (L. D. 2015) which was tabled earlier in the day pending passage to be engrossed as amended by House Amendment "A".

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

Mrs. PRESCOTT: Mr. Speaker, I am having an amendment prepared and it hasn't been returned yet, and I would hope that we would table this for one legislative day.

Whereupon, on motion of Mrs. Mitchell of Vassalboro, tabled pending passage to be engrossed as amended and tomorrow assigned.

The Chair laid before the House the following 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) 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:

An Act to Amend the Maine Securities Act (H. P. 1779) (L. D. 1901) (C. "A" H-887) which was tabled earlier in the day pending passage to be enacted.

On motion of Mrs. Post of Owl's Head, tabled pending passage to be enacted and tomorrow assigned.

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, under suspension of the rules, the House reconsidered its action whereby the Bill was passed to be engrossed.

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

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

House Amendment "A" to Committee Amendment "A" (H-915) was read by the Clerk.

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

Mr. CONNOLLY: Mr. Speaker and Members of the House: When this bill was at the enactment stage the other day, I raised some questions about it because I thought that the provisions for allowing the name of the juveniles was too broadly drawn. This amendment that is now before you tightens that up somewhat.

It would allow the court to make the juvenile's name known to the victim in certain instances but would define that in a way that apparently is acceptable to most if not all of the members of the committee that have worked on this, and I would hope that this body would adopt the amendment.

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

Mr. HIGGINS: Mr. Speaker, I would like to pose a question through the Chair to the gentleman from Portland. Under Subsection B, where it says that the victim will not publicize the name, what recourse would the court have, or anyone have, if the individual that was given the child's name, the juvenile's name, if he did publicize it? What action or what confidence do we have that that is going to be an effective part of them not releasing the name?

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

Mr. HOBBS: Mr. Speaker, if that individual, if he or she did that could be held in civil contempt by that particular judge.

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

Mr. STETSON: Mr. Speaker, Ladies and Gentlemen of the House: I would like to say first that the gentleman from Portland was courteous and considerate enough to show me this amendment before offering it here and to go over it with me.

Facially, it doesn't seem to do any violence to the idea that a victim should be entitled to know who was a perpetrator of the crime against him, but, on the other hand, I just wonder if we weren't creating such a barrier here that the victim would really have difficulty in learning the name of the juvenile who attacked him or injured him, because this requires that the court must make a finding that it would facilitate restitution. Well, if there is going to be restitution made, that isn't what the victim is interested in in wanting to know the name of the juvenile. The victim wants to know the

name of the juvenile so he doesn't invite him into his house to do work, or that he doesn't have him mowing the lawn, or that he doesn't have the juvenile working on his property.

The victim, I think, has a legitimate interest in knowing who attacked him other than just restitution or in bringing suit against the juvenile. I submit that this puts the standard a little too high.

I believe that, actually, if the victim is given the name of the juvenile as a matter of logic, the press is not going to be very much interested in this if the trial has already taken place. So, I suggest that the only time the press is really interested in publicizing the name of the juvenile is at the time the juvenile is brought to trial. They are not interested in just having the name of the juvenile after it is all over.

I would move the indefinite postponement of House Amendment "A" and that we stick with the bill as written, and I would ask for a roll call.

The SPEAKER: The gentleman from Wiscasset, Mr. Stetson, moves that House Amendment "A" to Committee Amendment "A" be indefinitely postponed.

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

Mrs. NELSON: Mr. Speaker, Men and Women of the House: As you all know, I am very concerned with the victim, as I am sure all of you are also.

I am part of a program called Restitutional Alternative in Portland where victims do receive restitution from those adjudicated juveniles. So I was concerned when this bill was tabled and then Representative Connolly introduced this amendment. I was concerned about the victims as they deal with the restitutional problem.

The Restitutional Alternative cannot deal from time to time with juveniles unless the victim knows the name of the juvenile. It is very important.

I asked the question, are the rights of the victim in any way diminished by this amendment, and I have been assured by the sponsor that they are not, and because of that, I will support this amendment.

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

Mr. BOWDEN: Mr. Speaker, Ladies and Gentlemen of the House: I won't prolong this very long, but it is my understanding, and someone can correct me if I am wrong, but there is nothing in statute now that would impose a penalty upon the press or news media for publishing the name of a juvenile that it had obtained from a source other than the court. So I can't see, if the concern is that somehow the victim is going to make available this name to any enterprising newspaper reporter, I would suspect if he is bent on obtaining the name of a juvenile involved in an incident, he will find a way to get that.

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

Mr. SIMON: Mr. Speaker and Members of the House: What the gentleman from Brooklin, Mr. Bowden, has referred to is specifically why this amendment is needed.

I urge you to vote against the motion for indefinite postponement, because I am afraid that if this bill passes without Mr. Connolly's amendment, we will open a door through which the confidentiality provisions of the juvenile code can be circumvented.

We debated this at length twice last year. I believe that this is a difficult problem, but I also believe that we have worked hard on it and have struck a decent balance. I am afraid that if we adopt this bill without Mr. Connolly's amendment, we will upset that balance, perhaps inadvertently. So, I hope you will vote on the motion to indefinitely postpone.

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

Mr. STETSON: Mr. Speaker, this whole question was debated last year and I think it was the will of the legislature last year that the names of juveniles be published. This is a much watered-down version from what we enacted last year. This does not call for the opening of juvenile proceedings to the press or to the public, but it simply allows the victim, and I am thinking of people my age and older, who are mugged in a dark alley and I don't know who did it, and I would like to know.

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

Mr. HOBBS: Mr. Speaker, Men and Women of the House: Presently, under the Maine Juvenile Code, a juvenile who commits a Class A, B or C crime, a C crime would be a crime such as a mugging—I'm sorry, it would be a Class B crime—if a firearm was used, it would be a Class A crime. In those particular instances, the courts are open and all documents are open if, in fact, that individual subjects himself to that type of exposure. Those procedures are open not only to the victim but also to the news media or anyone else.

This particular issue was debated somewhat in a different light as far as opening up all proceedings, those crimes which are classified as the less serious crimes, Class D or E crimes, and this legislature, through sustaining the Governor's veto on two particular bills, went on record as sustaining the Governor's veto on that particular proposal.

This particular House Amendment, I think, is a medium ground basically because it says in those instances, because, let's face it, if it is a very serious crime, the victim plus everyone else will know who that juvenile is, but in those instances where it is a Class D or E crime, which are less serious offenses, the victim will have the right to find out who, in fact, committed that offense if there are two criteria which are met and if the court finds that it would facilitate restitution or the victim has a legitimate interest in maintaining a civil action against the juvenile and that the victim will not publicize the name.

There are certain circumstances where an insurance company, we were given testimony, will not pay off on a claim. Let's say some kid who breaks a window, a lot of insurance companies, it was shown on some of those particular cases, unless the person was known or who did the offense, sometimes there was precluded a settlement or a payoff in that particular case. So, I think this meeting ground as far as this amendment is concerned is a rational one and I am going to support it.

Mr. Stetson of Wiscasset was granted permission to speak a third time.

Mr. STETSON: Mr. Speaker, Ladies and Gentlemen of the House: I would just like to answer the good gentleman from Saco along these lines. If I happen to be the victim of that mugging in the dark alley, there is no guarantee that that juvenile is going to be charged and tried for a Class C crime, because it may be that he will be charged and tried for something a lot less. We prosecutors know that this happens everyday, that you try your best case, not the most serious one necessarily and, consequently, it is not accurate to say that if the victim of a mugging is always going to learn the name of the juvenile who attacked him unless that juvenile is prosecuted as a Class C or B crime.

I think at least a majority of this House or this body supported twice the idea that the juvenile's name should be published in all of these cases. So, if we are talking about how this body has reacted to this question in the past, I say that we have gone along with publication.

Now I simply ask that a limited disclosure be made to the victims and I plead with you on behalf of the senior citizens.

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

Mr. HIGGINS: Mr. Speaker, I would like to pose a question through the Chair.

I am still concerned with that Section B where it says that the victim will not publicize the name verbatim. I don't believe that the victim would be publicizing any name anyway it would be a newspaper or some other person in that capacity. But forgetting all that, what would happen if the name were publicized in a paper and the victim said, well, I didn't tell them, what kind of a situation would you get into there? Are you going to have to haul the newspaper person into court to tell the court who gave him the name if it were publicized? Then what happens, I guess, would be my question.

The SPEAKER: The gentlemen from Scarborough, Mr. Higgins, has posed a question through the Chair to anyone who may respond if they so desire.

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

Mr. HOBBS: Mr. Speaker, Ladies and Gentlemen of the House: The good gentleman, Mr. Bowden, who is a newspaper person, wrote me a note similar to that particular question. I supposed I would be intellectually dishonest if I could give you exactly the answers to the question because I probably can't, but I know that in most of these particular legislations we can find an instance where that could exist.

What I mentioned earlier is that if a victim did publicize a name, the court, in most cases, because there is a court proceeding involved, could hold that individual in a civil contempt. That is something that is done very infrequently. It is not a standard that we find very often but that is a mechanism. I think if a person saw it in the law, hopefully they would obey it and not publicize that particular name.

Under the present situation we have now, under the existing amendment to the bill, upon request of the victim, the name of that particular juvenile would be made known to that person, and that was the extent of the amendment.

In the original bill, the language was somewhat similar to House Amendment "A", except for that second provision was involving the publication of the name.

I think the amendment before you, as I mentioned earlier, is a logical amendment. I know that that second provision was made in a good faith effort by the good gentleman from Portland, Mr. Connolly, to address that particular problem, if, in fact, that name was publicized.

As you know, cases have, as far as the courts are concerned, releasing of information and sources of mandating that the reporter disclose the source, those cases, as you know, have been litigated and the good gentleman from Brooklin, Mr. Bowden, knows those particular cases.

To be honest with you, I can't give you a concise legal answer to that particular question, although I hope that if it was in the law that people would obey it.

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

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

The SPEAKER: The pending question before the House is on the motion of the gentleman from Wiscasset, Mr. Stetson, that House Amendment "A" to Committee Amendment "A" be indefinitely postponed. Those in favor will vote yes; those opposed will vote no.

ROLL CALL

YEA — Aloupis, Austin, Berube, Birt, Blodgett, Bordeaux, Bowden, Brown, A.; Brown, D.; Brown, K.L.; Bunker, Call, Carter, F.; Churchill, Cunningham, Curtis, Damren, Davis, Dellert, Dexter, Drinkwater, Fenlason, Fillmore, Garsoe, Gavett, Gillis, Higgins,

Hunter, Hutchings, Jackson, Jacques, P.; Kelleher, Kiesman, Lancaster, Leonard, Lewis, Lougee, Lowe, Lund, MacBride, Martin, A.; Masterman, Matthews, Maxwell, McKean, McPherson, Morton, Nelson, A.; Nelson, N.; Paradis, E.; Paul, Peltier, Peterson, Reeves, J.; Rollins, Roope, Sewall, Small, Smith, Sprowl, Stetson, Stover, Studley, Tarbell, Torrey, Tuttle, Vose, Wentworth, Wood.

NAY — Bachrach, Baker, Barry, Beaulieu, Benoit, Berry, Brannigan, Brennerman, Brodeur, Carroll, Carter, D.; Chonko, Cloutier, Connolly, Cox, Davies, Diamond, Doukas, Dow, Dutremble, D.; Dutremble, L.; Elias, Fowle, Gowen, Gwadosky, Hall, Hickey, Hobbins, Huber, Hughes, Jalbert, Joyce, Kane, Kany, LaPlante, Lizotte, Locke, MacEachern, Mahany, McHenry, Mitchell, Nadeau, Nelson, M.; Norris, Paradis, P.; Pearson, Post, Prescott, Rolde, Simon, Soulas, Tierney, Tozier, Twitchell, Violette, Wyman, The Speaker.

ABSENT — Boudreau, Brown, K.C.; Carrier, Conary, Dudley, Gray, Hanson, Howe, Immonen, Jacques, E.; Laffin, Leighton, Marshall, Masterton, McMahon, McSweeney, Michael, Payne, Reeves, P.; Sherburne, Silsby, Strout, Theriault, Vincent, Whittemore. Yes, 69; No, 57; Absent, 25.

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

Thereupon, Committee Amendment "A" was adopted.

The Bill was passed to be engrossed as amended.

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

(Off Record Remarks)

On motion of Mrs. Beaulieu of Portland, adjourned until nine o'clock tomorrow morning.