

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

***One Hundred and Tenth
Legislature***

OF THE

STATE OF MAINE

Volume I

FIRST REGULAR SESSION

December 3, 1980 to May 1, 1981

KJ PRINTING
AUGUSTA, MAINE

HOUSE

Wednesday, March 18, 1981

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

Prayer by the Reverend Bradford Payne of Lincolnville Beach, Interim Pastor of the United Church of Christ.

The journal of yesterday was read and approved.

The SPEAKER: Would the Sergeant-at-Arms escort the gentleman from Lewiston, Mr. Nadeau, to the rostrum for the purpose of acting as Speaker pro tem?

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

Papers from the Senate

Bill "An Act to Establish and Coordinate Training, Education and Employment Programs for Recipients of Aid to Families with Dependent Children" (S. P. 437) (L. D. 1278)

Came from the Senate referred to the Committee on Health and Institutional Services and ordered printed.

In the House, referred to the Committee on Health and Institutional Services in concurrence.

Bill "An Act to Amend the Criminal Code and Related Criminal Laws" (S. P. 444) (L. D. 1283)

Bill "An Act to Amend Certain Aspects of Post-Conviction Review" (S. P. 443) (L. D. 1281)

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

In the House, referred to the Committee on Judiciary in concurrence.

Bill "An Act to Restructure the Public Utilities Commission" (S. P. 439) (L. D. 1279)

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

In the House, referred to the Committee on Public Utilities in concurrence.

Bill "An Act Concerning Legislative Services" (S. P. 446) (L. D. 1284)

Bill "An Act to Help Identify Lobbyists" (S. P. 445) (L. D. 1283)

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

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

Bill "An Act to Provide a Tax Exemption for Post-secondary Education Payments" (S. P. 442) (L. D. 1280)

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

In the House, referred to the Committee on Taxation in concurrence.

Referred to the Committee on Judiciary

Report of the Committee on Health and Institutional Services on Bill "An Act Concerning Participation of Physicians before the Professional Malpractice Advisory Panel" (S. P. 314) (L. D. 870) reporting that it be referred to the Committee on Judiciary.

Came from the Senate with the Report read and accepted and the Bill referred to the Committee on Judiciary.

In the House, the Report was read and accepted and the Bill referred to the Committee on Judiciary in concurrence.

Non-Concurrent Matter

Bill "An Act Concerning the Size of Exempt Lots under the Subdivision Laws" (S. P. 141) (L. D. 312) which was passed to be engrossed as amended by House Amendment "A" (H-85) in the House on March 11, 1981.

Came from the Senate passed to be en-

grossed as amended by House Amendment "A" (H-85) as amended by Senate Amendment "E" (S-53) thereto in non-concurrence.

In the House:

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

Mr. HALL: Mr. Speaker, Ladies and Gentlemen of the House: This issue has become so confusing, there are so many amendments, I now move that we insist and ask for a Committee of Conference.

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

Mr. DEXTER: Mr. Speaker, I move that we recede and concur and would request a roll call.

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

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

The SPEAKER pro tem: The Chair recognizes the gentlewoman from Falmouth, Mrs. Huber.

Mrs. HUBER: Mr. Speaker, Ladies and Gentlemen of the House: I urge you to vote against the motion before you and then to vote for Representative Hall's motion to have this bill go to a committee of Conference.

The amendment that has been put on in the Senate, in the Statement of Fact says, "this amendment clarifies." It does not clarify, it makes a substantial change. I think the best opportunity for working out these differences will be in a committee of conference.

The SPEAKER pro tem: The Chair recognizes the gentleman from Brunswick, Mr. Livesay.

Mr. LIVESAY: Mr. Speaker and Members of the House: L. D. 312 and its various amendments are examples of good intentions gone astray. This L. D. would decrease the lot size exempted from subdivision review. For those unaware of subdivision, it is the division of a lot into three or more smaller lots. The subdivision law is a complex statute which enables municipalities to review and to address the difficulties and burdens created for them when land is subdivided and the land use changed.

Let me say at this point that it is important for the members of the House to keep in mind that division triggers review, but change in use is the critical issue. Lot size historically has not been and should not be of critical importance.

L. D. 312 and, more specifically, Senate Amendment "E" creates a loophole that makes possible large scale land subdivision and change in land use without any review whatsoever.

We might fairly ask why in the world the House and Senate could let such a defective and meritless bill get so far. The answer is that certain members of the House and Senate have attempted to address the need for the 20 acre woodlot. In fact, that need has my sympathy. It would, in my opinion, be wise for the state to make possible such a sale without subdivision review. Certainly such lots would make the woods source, the source of wood as an alternative energy, more available.

But a 20 acre woodlot exception makes sense in another way. The 20 acre woodlot created from larger woodlots would not represent a change in land use, and that being so, the need for review is greatly diminished.

Unfortunately, some have seen this bill as a chance to water down the subdivision law. They have seen it as a chance to deprive the towns of the opportunity to review for no greater reason than the convenience of the developer.

The following hypothetical illustrates the circumvention of review made possible by Senate

Amendment "E." A developer buys a 200 acre parcel with 3,000 feet of road frontage. He creates on paper, and by recording in the registry, ten 20-acre woodlots with 300 feet of frontage and sets the property aside for five years. The five-year set aside allows him to exploit a five-year provision in Senate Amendment "E." At the end of that time, he redivides each 20-acre lot and creates ten 3-acre road front lots and ten 17-acre back lots. He can now sell these lots. Moreover, the town has no right of review because he has not created a subdivision as defined by law. In other words, on day five years, the town had ten 20-acre woodlots; on five years and one, the town has one half mile of road frontage divided into 10 front lots and 10 back lots for residential purposes, and all without review. This, I submit, would be a serious loophole in the existing law, and I would encourage you to support Representative Hall's motion to send this to a committee of conference.

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

ROLL CALL

YEA — Armstrong, Brown, D.; Callahan, Conary, Damren, Davis, Day, Dexter, Dillenback, Dudley, Foster, Gavett, Gillis, Hunter, Ingraham, Jordan, Lancaster, Leighton, Lewis, MacEachern, Masterton, Matthews, McPherson, Moholland, Nelson, A.; Norton, Paradis, E.; Peterson, Randall, Salisbury, Smith, C. W.; Strout, Theriault, Treadwell, Twitchell, Vose, Weymouth.

NAY — Aloupis, Baker, Beaulieu, Bell, Benoit, Berube, Boisvert, Bordeaux, Brannigan, Brenerman, Brodeur, Brown, A.; Brown, K. L.; Cahill, Carrier, Carter, Chonko, Clark, Conners, Connolly, Cox, Crowley, Cunningham, Curtis, Davies, Diamond, G. W.; Diamond, J. N.; Drinkwater, Erwin, Fitzgerald, Fowlie, Gowen, Gwadosky, Hall, Hanson, Hayden, Hickey, Higgins, Higgins, L. M.; Hobbins, Holloway, Huber, Hutchings, Jackson, Jacques, Jalbert, Joyce, Kane, Kany, Ketover, Kiesman, Kilcoyne, LaPlante, Laverriere, Lisnik, Livesay, Locke, Lund, MacBride, Macomber, Mahany, Manning, Martin, A.; Martin, H. C.; Masterman, McColister, McGowan, McHenry, McKean, McSweeney, Michaud, Mitchell, E. H.; Mitchell, J.; Murphy, Nelson, M.; O'Rourke, Paradis, P.; Paul, Pearson, Perkins, Perry, Post, Pouliot, Prescott, Racine, Reeves, J.; Reeves, P.; Richard, Ridley, Roberts, Rolde, Sherburne, Small, Smith, C. B.; Soulas, Soule, Stevenson, Stover, Studley, Swazey, Telow, Thompson, Tuttle, Walker, Webster, Wentworth.

ABSENT—Austin, Boyce, Carroll, Kelleher, Michael, Nadeau, Tarbell, Mr. Speaker.

Yes, 37; No, 106; Absent, 8.

The SPEAKER pro tem: Thirty-seven having voted in the affirmative and one hundred six in the negative, with eight being absent, the motion does not prevail.

Thereupon, on motion of Mr. Hall of Sangerville, the House voted to Insist and ask for a Committee of Conference.

Non-Concurrent Matter

Bill "An Act to Reduce the Minimum Size for Exempt Lots Subdivided under the Land Use Regulation Law" (S. P. 51) (L. D. 60) which was passed to be engrossed as amended by House Amendment "A" (H-84) in the House the March 11, 1981.

Came from the Senate passed to be engrossed as amended by House Amendment "A" (H-84) as amended by Senate Amendment "E" (S-54) thereto in non-concurrence.

In the House: On motion of Mr. Hall of Sangerville, the House voted to Insist and ask for a Committee of Conference.

Requiring Reference

The following Bills were received and, upon recommendation of the Committee on Reference of Bills, were referred to the following Committees:

Aging, Retirement and Veterans

Bill "An Act to Separate the Funding of Old System Teachers in the Maine State Retirement System" (H. P. 1145) (Presented by Representative Nelson of Portland) (Cosponsor: Senator Teague of Somerset)
(Ordered Printed)
Sent up for concurrence.

Labor

Bill "An Act to Provide for the Protection of the Pension Rights of Injured Maine Workers" (H. P. 1146) (Presented by Representative Baker of Portland)
Committee on Aging, Retirement and Veterans was suggested.
On motion of Mrs. Nelson of Portland, the Bill was referred to the Committee on Labor, ordered printed and sent up for concurrence.

Aging, Retirement and Veterans cont'd.

Bill "An Act to Require Disclosure of Contributions to a Retirement Account upon Request" (H. P. 1147) (Presented by Representative Nelson of Portland)
(Ordered Printed)
Sent up for concurrence.

Business Legislation

Bill "An Act to Prevent Price Mark-ups on Retail Food" (H. P. 1148) (Presented by Representative McHenry of Madawaska)
(Ordered Printed)
Sent up for concurrence.

Election Laws

Bill "An Act to Amend the Campaign Reporting Law" (H. P. 1149) (Presented by Representative McCollister of Canton)
(Ordered Printed)
Sent up for concurrence.

Later Today Assigned

Bill "An Act to Provide for Municipal Development of Energy Resources" (H. P. 1150) (Presented by Representative Michael of Auburn) (Cosponsors: Senator Charette of Androscoggin and Representative Kiesman of Fryeburg) (Submitted by the Office of Energy Resources pursuant to Joint Rule 24)
Committee on Energy and Natural Resources was suggested.

On motion of Mrs. Kany of Waterville, tabled pending reference and later today assigned.

Health and Institutional Services

Bill "An Act Relating to the Transport of State Prisoners in Knox County" (H. P. 1152) (Presented by Representative Post of Owl's Head) (Cosponsors: Representatives Fowlie of Rockland, Jordan of Warren, and O'Rourke of Camden)
(Ordered Printed)
Sent up for concurrence.

Judiciary

Bill "An Act to Require Restitution by a Criminal Offender to his Victim" (H. P. 1151) (Presented by Representative Jordan of Warren) (Cosponsors: Representatives Stevenson of Unity and Joyce of Portland and Senator O'Leary of Oxford)
(Ordered Printed)
Sent up for concurrence.

Legal Affairs

Bill "An Act to Amend the Charter of the Maine Historical Society" (H. P. 1153) (Presented by Representative Masterton of Cape Elizabeth)
(Ordered Printed)
Sent up for concurrence.

Marine Resources

Bill "An Act Relating to the Lobster Advisory Council" (H. P. 1154) (Presented by Representative Post of Owl's Head) (Cosponsors: Representatives Fowlie of Rockland, Hanson of Kennebunkport and Jordan of Warren)
(Ordered Printed)
Sent up for concurrence.

Public Utilities

Bill "An Act to Extend the Distance Limitations in the Exemption for Moving Household Goods" (H. P. 1155) (Presented by Representative Higgins of Portland)
(Ordered Printed)
Sent up for concurrence.

State Government

Bill "An Act to Authorize the Commissioner of Personnel to Study Wage Comparability Between Male and Female Workers in State Government" (H. P. 1156) (Presented by Representative Diamond of Windham) (Cosponsors: Representative Lund of Augusta and Senators Clark of Cumberland and Ault of Kennebec) (Governor's Bill)

Bill "An Act Concerning the Publication of Official State Highway Maps" (H. P. 1157) (Presented by Representative Fowlie of Rockland)

Bill "An Act to Establish a Consolidated Map of the State" (H. P. 1158) (Presented by Representative Carter of Winslow) (Cosponsor: Representative Fowlie of Rockland)
(Ordered Printed)
Sent up for concurrence.

Taxation

Bill "An Act to Provide Deductions under the State Individual Income Tax for Necessities" (H. P. 1159) (Presented by Representative McHenry of Madawaska)

Bill "An Act Concerning the Qualifications of Persons and Firms in the Valuation of Property for Tax Purposes" (H. P. 1160) (Presented by Representative Higgins of Portland)

Bill "An Act to Revise the Property Tax Laws" (H. P. 1161) (Presented by Representative Higgins of Portland)

Bill "An Act Concerning the Qualifications of Assessors" (H. P. 1162) (Presented by Representative Higgins of Portland)

Bill "An Act to Improve the Valuation of Property for Tax Purposes" (H. P. 1163) (Presented by Representative Higgins of Portland)

Bill "An Act to Provide an Investment Tax Credit for Farmers and Fishermen" (H. P. 1164) (Presented by Representative Post of Owl's Head) (Cosponsors: Senator Teague of Somerset and Representatives McCollister of Canton and Ingraham of Houlton)
(Ordered Printed)

Sent up for concurrence.

Orders

On motion of Representative Higgins of Portland, the following Joint Order: (H. P. 1165)

ORDERED, the Senate concurring, that the Joint Standing Committee on Taxation report out a bill to the House establishing the municipal cost component for the Unorganized Territory Tax District, under the Revised Statutes Title 36, section 1604.

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

On motion of Representative McSweeney of Old Orchard Beach, it was

ORDERED, that representative Swift Tarbell of Bangor be excused March 16, 17, and 18 due to illness.

AND BE IT FURTHER ORDERED, that Representative George L. Boyce of Auburn be excused March 18, 19, and 20 for personal reasons.

AND BE IT FURTHER ORDERED, that Edward C. Kelleher of Bangor be excused March 18, 19, and 20 for personal reasons.

Special Sentiment Calendar

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

Recognizing:

Elmer E. Lawrence of Bath, who has retired from Bath Iron Works after 26 years of service; (S. P. 462)

Cony High School Boys' Basketball Team, 1981 Eastern Maine Class A Champions; (S. P. 461)

The 2nd Annual Franco-American Day in Sanford held on February 28, 1981; (H. P. 1166) by Representative Tuttle of Sanford, (Cosponsors: Senator Wood of York and Representative Ridley of Shapleigh and Paul of Sanford)

Robert Parks, of Bangor, who was recently elected President of the Senate for the Model State Legislature; (H. P. 1167) by Representative Diamond of Bangor.

Officer Bruce Britting, Sergeant Douglas T. Cole, Officer John J. Collins, Detective Peter Conley, Officer Michael P. Cormier, Detective Peter DeRice, Patrolman Terry Dow, Officer David A. Drake, Patrolman Bernard Golder, Patrolman Cleophus L. Kelly, Patrolman Thomas J. Klimko, Patrolman William L. King, Jr., Detective Lieutenant Dewey Martin, Patrolman Chris A. Murphy, Patrolman Ralph Olsen, Detective Kenneth Pike, Detective Joseph C. Rich, Detective Sergeant Daniel Ross, Patrolman Dominic F. Rozzi, Detective Michael Russo, Officer Arthur M. Shaughnessy and Officer Stephen R. Thompson, Sr., for their outstanding police service to the City of Portland; (H. P. 1168) by Representative Beaulieu of Portland.

No objections being noted, the above items were considered passed in concurrence or sent up for concurrence.

Michelle A. C. Fortin of Lincolnville, who was named Maine YMCA's 1980-81 all-around gymnast for 10 and under age group. (H. P. 1169) by Representative Hutchings of Lincolnville. (Cosponsor: Senator Shute of Waldo)

On the objection of Mrs. Hutchings of Lincolnville, was removed from the Special Sentiment Calendar.

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

Karen Anderson of Lincolnville, who received Maine's Music Educators Association's 1980 certificate of honor and 1981 preliminary certificate of honor for accomplishment in piano studies; (H. P. 1170) by Representative Hutchings of Lincolnville. (Cosponsor: Senator Shute of Waldo)

On the objection of Mrs. Hutchings of Lincolnville, was removed from the Special Sentiment Calendar.

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

Bradford Christie Payne II, of Lincolnville, member of Boy Scout Troop 244, upon attaining the high rank and distinction of Eagle Scout; (H. P. 1171) by Representative Hutchings of Lincolnville. (Cosponsor: Senator Shute of Waldo)

On the objection of Mrs. Hutchings of Lincolnville, was removed from the Special Sentiment Calendar.

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

The Maine Historical Society, a treasure chest of our past and source of endless knowledge and joy for now and for generations to come; (H. P. 1172) by Representative Masterton of Cape Elizabeth. (Cosponsors: Senator Najarian of Cumberland and Senator Sewall of Penobscot and Representative Martin of Eagle Lake.

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

Masterton.

Mrs. MASTERTON: Mr. Speaker, Ladies and Gentlemen of the House: This is Maine Cultural Heritage Week, you know. Literature, poetry, music, dance, history, crafts, humor and native traditions all are elements of our Maine culture and they have been ably chronicled by Maine historians, so today it is fitting that we, who so often in our proceedings sense a feeling of history, celebrate Maine History Day.

The Maine Historical Society is rather squint-eyed, looking as it does to both the past and to the future. Founded in 1822, just two years after Maine became a state, the Historical Society is the fourth oldest in the United States. Originally housed at Bowdoin College, the Society moved to Portland in 1881 and has remained there ever since at various locations.

In 1895, the Society accepted the offer of Ann Longfellow Pierce to deed the Wadsworth-Longfellow house on Congress Street to the Society, provided that the Society would construct a library on the property and maintain at least part of the Longfellow homestead as a memorial to her brother, Henry Wadsworth Longfellow, the beloved poet of New England. Today, the Longfellow house is Portland's chief tourist attraction, attracting 8,000 visitors annually.

The Historical Society and the State are partners in storing and preserving historic documents and manuscripts. Public documents go to the State Archives; private papers and manuscripts to the Maine Historical Society. As the state designated repository of private papers, the Maine Historical Society receives a state subsidy of \$24,000 per year.

The Society houses the state's largest genealogical collection, a collection of over 6,000 printed historical works, more than 1.7 million manuscript items, Maine glassware, pewter, paintings, photographs, broadsides, maps, military and marine artifacts, and other museum objects, all of which are important resources to Maine historians, and many of which the Society lends out to other organizations and institutions in the state. In fact, if you were with us this morning for coffee and doughnuts, you might have noticed the paintings in Room 327, all of which are on loan from the Maine Historical Society.

Looking towards the future, the Maine Historical Society has embarked on an ambitious fundraising project to expand its endowment, restore its buildings and collections and improve its services. It was the only institution in Maine this year to receive a matching grant from the National Endowment of the Arts. This \$50,000 grant, matched by private contributions, will see the Society through its second century of preserving and promulgating Maine's own history.

On your desks today is a complimentary copy of the Society's Quarterly; we hope that you will enjoy it.

Thereupon, the Order received passage and was sent up for concurrence.

House Reports of Committee Ought Not to Pass

Representative Carroll from the Committee on Transportation on Bill "An Act to Require Headlights to be Used on Vehicles at Certain Times" (H. P. 391) (L. D. 434) reporting "Ought Not to Pass"

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

Leave to Withdraw

Representative Carroll from the Committee on Transportation on Bill "An Act to Regulate Passengers Standing in Motor Trucks" (H. P. 647) (L. D. 737) reporting "Leave to Withdraw"

Representative Carroll from the Committee on Transportation on Bill "An Act Relating to

the Registration of Boat, Camper and Utility Trailers" (H. P. 803) (L. D. 957) reporting "Leave to Withdraw"

Representative Post from the Committee on Taxation on Bill "An Act to Exempt Regional Planning Commissions from Real and Personal Property Taxes" (H. P. 78) (L. D. 101) reporting "Leave to Withdraw"

Reports were read and accepted and sent up for concurrence.

Majority Report of the Committee on Labor reporting "Ought to Pass" on Bill "An Act Relating to the Notice Provisions of the Workers' Compensation Act" (H. P. 465) (L. D. 517)

Report was signed by the following members:

Senator:

DUTREMBLE of York

— of the Senate.

Representatives:

HAYDEN of Durham

McHENRY of Madawaska

MARTIN of Brunswick

TUTTLE of Sanford

BEAULIEU of Portland

BAKER of Portland

LAVERRIERE of Biddeford

— of the House.

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

Report was signed by the following members:

Senators:

SUTTON of Oxford

SEWALL of Lincoln

— of the Senate.

Representatives:

LEIGHTON of Harrison

LEWIS of Auburn

FOSTER of Ellsworth

— of the House.

Reports were read.

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

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

The SPEAKER pro tem: The gentlewoman from Portland, Mrs. Beaulieu, has moved that the Majority "Ought to Pass" Report be accepted.

The Chair recognizes the gentlewoman from Auburn, Miss Lewis.

Miss LEWIS: Mr. Speaker, Ladies and Gentlemen of the House: L. D. 517 is a bill which changes the current 30-day notice law in workers' compensation cases. As you all know, this compensation is a type of insurance which pays for injuries that employees receive on the job. This bill, in effect, eliminates the 30-day notice period.

Under present law, if an employee is injured, he must notify his employer of that injury within 30 days of the injury and then the employee has up to two years to decide whether he does want to receive some sort of compensation.

There are several reasons why we have this current 30-day notice provision. First of all, the notice is a means to insure that an employee gets that prompt medical attention that he needs. Secondly, the notice gives both the employer and the employee the chance to investigate the case while facts are still fresh. For example, if the employee fell into a hole in the floor, it would give everyone a chance to see that yes, indeed, there is a hole in the floor and it is darn dangerous and they had better clean it up before somebody else gets hurt.

The present law does provide for several exceptions to this 30-day notice provision. In 39 M.R.S.A. Section 64, we see a list of these exceptions. First of all, if the employer knew that the employee was injured, then the employee doesn't have to give any notice; for example, if

it was very obvious that the truck driver was involved in a serious accident, the employee would not have to give notice.

Secondly, if the employee did not give notice because of a mistake in fact, for example, if the employee didn't know that he was injured, and this sometimes does happen with back injuries, or if the employee didn't realize the injury was work related until 30 days after the fact, that employee could still file a claim.

Finally, if an employee could not give notice within 30 days because the employee was physically or mentally incapacitated — for example, after this car accident he was in the hospital for a year, then a year later he certainly could and should file for that claim and this exemption is provided in present law.

Now, L. D. 517, in effect, eliminates this notice provision. This bill would totally shift the burden of proof to the employer. If you are reading your L. D., you will notice that it says, "unless the employer shows his ability to defend the employee's claim for compensation has been substantially prejudiced by lack of notice, the claim is not denied if otherwise valid." This means that an employee could state that he was injured 5, 10, 20 years after the alleged injury, and it would be up to the employer to prove that he had been substantially prejudiced.

This bill is totally unnecessary because of the provision that already exists to allow exemptions, and I have listed those for you, and, moreover, this is a very bad bill because it would open up a whole new area for litigation. It would no longer encourage employees to get that prompt medical attention that they need, and, finally, it would shift the burden of proof to the employer on notice issues. For these many reasons, and especially because we want to help our injured employees, please vote against this motion.

The SPEAKER pro tem: The Chair recognizes the gentleman from Sanford, Mr. Tuttle.

Mr. TUTTLE: Mr. Speaker, Ladies and Gentlemen of the House: I would like to thank Miss Lewis for a good explanation of what the bill does, and I would like to respond to some of her questions.

To say that the present bill is not necessary, I don't think is necessarily how we should approach this bill. If this is not necessary, why did we hear so much testimony at the public hearing to the opposite and why have there been a number of court cases pertaining to the necessity of this change in the present statute?

I guess essentially all this bill does is remove an artificial barrier to legitimate claims by the 30-day period for notice contained in the present statute. Under the provision as it now stands, the workers' compensation commission has no choice in some cases but to deny an otherwise valid claim simply because notice hasn't been given within 30 days. Rather than encourage proper reporting of work related injuries, the statute winds up penalizing essentially the honest worker who takes a wait-and-see attitude rather than attempting to quickly cash in on his benefits.

I guess in one reported case that was brought up at the hearing, a case of Farrell vs. Carr Bros., Inc. in 1978, a carpenter suffered a work related injury to his knee. The symptoms were at first not so serious that he even sought medical advice. No doubt he attributed the problem to mere fatigue. After several days, however, the condition grew worse and he notified the employer that he would be seeing a doctor about it. That carpenter never filed a claim until after the 30 days had expired and a law court held that even though the employer would not be prejudiced in any way by this claim being brought, Farrell was barred by Section 34 from seeking recovery.

Obviously, I guess, I could say, whereby reason of the employee's delay, witnesses and evidence have been lost to the employer. The change proposed by this bill would have no

effect on that. The 30 day limit would still be there to be extended only where the claim is otherwise valid.

For that reason, I hope you will support the Majority "Ought to Pass" Report.

The SPEAKER pro tem: The Chair recognizes the gentleman from Durham, Mr. Hayden.

Mr. HAYDEN: Mr. Speaker and Members of the House: I just wanted to clarify some points that have been raised about this bill and explain to you what I see as what this bill is all about.

Right now we have in workmen's compensation law an arbitrary rule that says if you are hurt, you have to give notice to your employer within 30 days or you give up the chance to make any type of claim. It has been argued in the State Supreme Court that the Workmen's Compensation Commission should have some chance to look at the circumstances and to decide whether the employer would be harmed in any way by a claim made in 31 days, and the court has said, whether that seems fair or not, because of the way the law is now, we are bound to this arbitrary rule; it is an arbitrary, unyielding principle, and until it is changed, the court or the commission can't apply fairness to this type of situation.

This is a situation where the fairness is going to come into effect. You have a fellow and he is working in the woods, he falls over a log, he takes a bad fall, he gets up, his knee is bothering him some, maybe his back hurts, and he keeps on going to work. He doesn't complain, he keeps to himself, he tries to cope. His leg is stiff or his back is stiff for 30 days. He gets up and some days it is bad and some days it is good. On the 31st day, that fellow can't get out of bed, his knee is swollen up like a balloon or he can't twist and turn because of his back, he has lost the right to even argue that he should be entitled to some type of claim under this act.

Now, what this bill does is say that this fellow still doesn't have a right to make that claim if the employer isn't going to have a chance, a good chance, to defend himself. If the hole in the floor that Representative Lewis talked about isn't there, this fellow doesn't have a chance to make that claim, but at least he has got the right to make an argument if in 31 days he can't move because of an injury that happened a month ago.

The question I had when I heard the testimony in this case at the hearing was, how often does this happen? Is it likely, first of all, that somebody is going to get hurt and 31 days later he discovers this is a really serious injury?

It was pretty interesting. We had at the hearing an attorney that represented a lot of insurance companies. He was arguing, first of all, that this law was unnecessary and, second of all, that it would produce a great deal of litigation, increase the cost of workmen's compensation, something that we didn't hear proven in any way, and he was asked the question, is it medically true that a person who has an injury to a knee or to a back is likely to be in a position of having to cope with some pain and a month later find that he is absolutely disabled? This attorney had to admit—he said, as a matter of fact, I have a back problem myself and I will have to tell you the truth, that does happen, that happened to me. Well, when I heard that, I had to ask him the question, I said, well sir, you say that this rule really is unnecessary, it is not a harsh rule, there are plenty of opportunities for a worker to defend himself, could you answer the question for me—what happens on that 31st day when somebody in good faith kept his mouth quiet, did his work, he hasn't complained, then he found he couldn't get out of bed? He would have to say, yes, that is a fact, he wouldn't have a right to make any type of claim under the law as it is today.

What this law does, it gives that fellow the right to make a claim, it gives the employer the protection to say if after those 30 days I am

put in the situation where I am hurt, I can't defend myself whether it is a valid claim or not, and he still loses that right, but at least he has got the chance to argue for fairness. Without this change, the rule isn't going to permit that. That is why I would urge you to vote to accept the "Ought to Pass" Committee Report, the Majority Report, and when the vote is taken, I ask that it be taken by the yeas and nays.

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

Mr. LEIGHTON: Mr. Speaker, Ladies and Gentlemen of the House: I must say, my good friend, the Representative from Durham, sure can talk, but he is dead wrong.

Representative Tuttle said that this bill is nothing more than opening an avenue for a legitimate claim due to the lack of notice.

I think the gentlelady from Auburn has already demonstrated to you by reading from Section 64 of the law that avenues for legitimate reopenings already exist.

Let me read to you — a notice given under Section 63 shall not be invalid or insufficient by reason of any inaccuracy in stating any of the facts therein required for proper notice, unless it is shown that it was the intention to mislead and that the employer was, in fact, misled thereby; want of such notice shall not be applied to proceedings under this act if it can be shown that the employer or his agent had knowledge of the injury anytime during which the employee is unable by reason of physical or mental incapacity to give said notice or fails to do so on account of mistake of fact.

I think we would all be well advised to take a real deep breath before we vote on this issue and think about it a real good deal, because the workers' comp system in the state of Maine is in crisis. In some occupations, the rates are as high as \$32 per hundred of salary, which means for every \$100 of salary you pay out, you have to pay out \$32 in just one fringe benefit.

We are the third highest benefit level in the United States of America. We have the lowest income, after adjustment for energy costs, in the country. We got a recent 25 percent increase in workers' comp rates that the insurance companies say should have been 140 percent. They have said they will hold off on requesting further rate increase filing until they have heard from the 110th Legislature. The ball is in our court, they are looking to us for reform, and I think everyone here knows who had to campaign in the last election, that workmen's comp was much on everyone's mind.

I think we need to keep in mind that we can't have the kind of business as usual situation as we had on workers' comp in the 109th. Both bodies of this legislature have got to agree on any bill in order for it to be passed. It is a bipartisan problem and it is going to require a bipartisan or nonpartisan solution.

There are a great number of bills down in the Labor Committee that address the workers comp situation. Some of them could be described as bills that will expand and liberalize the system and increase rates. Some of them could be described as bills that will cure some of the ills in the situation and reduce rates. This is the first of those bills. This is one of those that attempts to expand the system and cost it more money.

I think it is very important how we consider this and how we vote on it because it is going to set the tone for those other votes that are going to come after.

Our high workmen's comp rates are costing us our competitive position with other states in similar industries. We heard that from 200 angry small businessmen before our committee the other day. That translates into costing the state of Maine jobs.

What this bill does has been pretty well covered, but let me just briefly go over it. It invalidates the 30-day notice requirement, except in legitimate cases that I just quoted to you in

Section 64. The reason that we have the 30-day notice requirement is so that the employer has a chance to judge the claim on the basis the evidence and the evidence is only there and fresh right after it happens, or within 30 days, that is the only time that you can find the co-worker who said, yes, I saw that happen, I know what happened.

This tries to get away from the evidence and it puts the burden on the employer. The guy can come in five years later and can say, I injured my finger on that lathe over there five years ago and the employer has to prove that he didn't. In other words, the employee doesn't have to prove it. This is one of those tricky bills that, frankly, some tricky lawyers, and I am getting pretty disgusted about it as are a lot of people around the state of Maine, have forced upon us in the last several years and it is up to us to start curing some of those things and not making them worse.

This bill is an added burden to an already over-burdened system that can't take any more. I would like to go back, after my service is concluded in the 110th legislature, and say that Democrats and Republicans alike in the 110th acted in a responsible, non-partisan way to effect real meaningful reforms in the workers' comp system of Maine to benefit all of its citizens.

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

Mrs. BEAULIEU: Mr. Speaker, Ladies and Gentlemen of the House: You have heard an awful lot here concerning this little bill about all of the workers' comp problems, and I assure you that the workers' comp problems will be addressed by our committee. I also assure you that it will not be addressed by necessarily disenfranchising employers and hurt employees from their rights.

This bill doesn't invalidate the 30-day provision, the 30-day provision still stays. The examples and issues raised by Mr. Hayden concerning this bill, his comments are right on.

If you look at the bill, you also have to look at it from the point of view that the decision to appeal an injury, be it 31 days or five years later, cannot and will not be an arbitrary one because it is not the employer or the employee who is going to make the decision in the end, it is the Workers' Compensation Commission who will wind up listening to both the employee and the employer and it will be their decision on whether or not there was a forfeiture of rights on the part of the employee or if he did not apply because he did not understand the system or there was a valid reason why he did not do it.

Mr. Speaker, I would request a roll call on this bill.

The SPEAKER pro tem: The Chair recognizes the gentlewoman from Ellsworth, Mrs. Foster.

Mrs. FOSTER: Mr. Speaker, Ladies and Gentlemen of the House: The notice to the employee, to me, is very, very clear. It is posted anywhere they work. I have a copy in my hand. I think passing this piece of legislation would create a field day for the legal profession, a blue day for employers and days of procrastination on the part of employees. The notice is clear, it protects both of them, and I believe that we should leave it alone.

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

Mrs. BEAULIEU: Mr. Speaker, Members of the House: I wish to point out that notices of employees' rights are not posted in the woods, in the potato fields, in the lumber yards and in an awful lot of places.

The SPEAKER pro tem: The Chair recognizes the gentleman from Durham, Mr. Hayden.

Mr. HAYDEN: Mr. Speaker, Ladies and Gentlemen of the House: There has been a lot of debate on this but I just want to make one

more point before we vote on this.

During the hearing, the question was raised, how much would this increase litigation, how many more claims would be made? Again, the opponents had to admit that the situation, the example that I have given to you, doesn't happen that often. What we are doing is, we are trying to change this law to allow the commission to look at extenuating circumstances, which it can't do now. We have a lot of workers' compensation bills, a lot of labor bills in our committee, there is no question that we have a problem with the rates that small and large business people have to pay across this state. This isn't a bill that deals with that problem. It is a simple bill, it is not tricky, it says just what the words say, and I urge you to consider that when you are deciding whether or not to accept the Majority "Ought to Pass" Report and I urge you to accept that.

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

Mr. HIGGINS: Mr. Speaker, Ladies and Gentlemen of the House: The gentleman from Durham mentioned that this is a simple bill, and I would just pose a simple question and hope I can get a straight, simple yes or no answer, and the question is, if I were an employer, would it be possible for an employee who no longer works for me or perhaps still works for me to come in perhaps five or six years later and submit to me that he was hurt on the job and would it then be my responsibility to prove that he was not—yes or no?

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

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

Mrs. BEAULIEU: Mr. Speaker, Ladies and Gentlemen of the House: I believe that since the employee would be making the claim, the burden of proof would have to be placed on the employee.

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

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

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

Mr. LEIGHTON: Mr. Speaker, Ladies and Gentlemen of the House: I just wanted to make sure that the distinguished minority leader's question was answered. The answer to his question is yes. If you will read the bill, it is extremely simple, it is one short paragraph. It says, "unless the employer shows that his ability to defend the employee's claim for compensation has been substantially prejudiced by want of notice, the claim is not denied if otherwise valid." It opens up the system to further abuse.

The SPEAKER pro tem: The Chair recognizes the gentleman from Durham, Mr. Hayden.

Mr. HAYDEN: Mr. Speaker, Ladies and Gentlemen of the House: I would like to urge the House to consider what we have just heard here and the response that we first heard to the question. This bill does nothing to change the obligation that anybody who is hurt at their working place as a result of their employment has to prove their case. This bill does nothing to change that.

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

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

Does an employee have to agree—say I was working in an area for a relative and my relative, the employer, were to agree that I was in-

jured, would I be eligible years down the road? Can somebody answer that for me, please?

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

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

Mrs. BEAULIEU: Mr. Speaker, Ladies and Gentlemen of the House: The employee will file the claim that he was hurt on the job. Regardless of how many people stand up and say that that indeed did happen, the employer still has the right to challenge that employee's claim. That is what will happen, and then the commission will decide whether or not the employee has a valid case or the employer has a valid case and it will either grant it or deny it. But the burden of truth is on the person who files the claim. In more instances than not, it has to be the employee filing the claim against the employer.

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

Mr. LEIGHTON: Mr. Speaker, Ladies and Gentlemen of the House: I would suggest—we seem to keep asking the same question and getting the same answers and I sense a little confusion. I would suggest that everybody simply look at the L. D., it is very simple. It shifts the burden of proof from the employee to the employer and allows claims to be opened up where the 30-day notice provision hasn't been observed, it is as simple as that. It liberalizes and opens up the system further.

The SPEAKER pro tem: A roll call has been ordered. The pending is on the motion of the gentlewoman from Portland, Mrs. Beaulieu, that the House accept the Majority "Ought to Pass" Report. Those in favor will vote yes; those opposed will vote no.

ROLL CALL

YEA — Baker, Beaulieu, Benoit, Boisvert, Brannigan, Brennerman, Brodeur, Chonko, Clark, Connolly, Cox, Crowley, Davies, Diamond, G. W.; Diamond, J. N.; Erwin, Fitzgerald, Gwadodsky, Hall, Higgins, Hobbins, Jacques, Jalbert, Joyce, Kane, Ketover, LaPlante, Laverriere, MacEachern, Macomber, Mahany, Manning, Martin, A.; Martin, H. C.; McCollister, McGowan, McHenry, McSweeney, Michael, Michaud, Mitchell, E. H.; Mitchell, J.; Moholland, Paradis, Paul, Pearson, Perry, Post, Prescott, Reeves, P.; Richard, Roberts, Rolde, Smith, C. B.; Soule, Theriault, Thompson, Tuttle, Vose.

NAY — Aloupis, Armstrong, Bell, Berube, Bordeaux, Brown, A.; Brown, D.; Brown, K. L.; Cahill, Callahan, Carrier, Carroll, Conary, Connors, Cunningham, Curtis, Davis, Day, Dexter, Dillenback, Drinkwater, Dudley, Foster, Gavett, Gillis, Gowen, Hanson, Leighton, Lewis, Livesay, Lund, MacBride, Masterman, Masterton, Matthews, McKean, McPherson, Murphy, Nelson, A.; Nelson, M.; Norton, O'Rourke, Paradis, E.; Perkins, Peterson, Pouliot, Racine, Randall, Reeves, J.; Ridley, Salsbury, Sherburne, Small, Smith, C. W.; Soulas, Stevenson, Stover, Strout, Studley, Swazey, Telow, Treadwell, Twitchell, Walker, Webster, Wentworth, Weymouth.

ABSENT — Austin, Boyce, Carter, Damren, Kelleher, Nadeau, Tarbell, The Speaker. Yes, 58; No, 85; Absent, 8.

The SPEAKER pro tem: Fifty-eight having voted in the affirmative and eighty-five in the negative, with eight being absent, the motion does not prevail.

The Chair recognizes the gentlewoman from Auburn, Miss Lewis.

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

Mrs. Beaulieu of Portland requested a roll

call.

The SPEAKER pro tem: The Chair recognizes the gentleman from Durham, Mr. Hayden.

Mr. HAYDEN: Mr. Speaker, I move to table for one legislative day.

Mr. Leighton of Harrison requested a roll call.

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

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

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

ROLL CALL

YEA — Baker, Beaulieu, Benoit, Boisvert, Brannigan, Brennerman, Brodeur, Carrier, Carroll, Chonko, Clark, Connolly, Cox, Crowley, Davies, Diamond, G. W.; Diamond, J. N.; Erwin, Fitzgerald, Fowlie, Gwadodsky, Hall, Hayden, Hickey, Higgins, Hobbins, Jacques, Jalbert, Joyce, Kane, Kany, Ketover, LaPlante, Laverriere, Lisnik, Locke, MacEachern, Macomber, Mahany, Manning, Martin, A.; Martin, H. C.; Martin, J.; McCollister, McGowan, McHenry, McSweeney, Michael, Michaud, Mitchell, E. H.; Mitchell, J.; Moholland, Nelson, M.; Paradis, P.; Paul, Pearson, Perry, Post, Prescott, Reeves, P.; Richard, Roberts, Rolde, Smith, C. B.; Soule, Theriault, Thompson, Tuttle, Twitchell, Vose, The Speaker pro tem.

NAY — Aloupis, Armstrong, Bell, Berube, Bordeaux, Brown, A.; Brown, D.; Brown, K. L.; Cahill, Callahan, Conary, Connors, Cunningham, Curtis, Davis, Day, Dexter, Dillenback, Drinkwater, Dudley, Foster, Gavett, Gillis, Gowen, Hanson, Higgins, L. M.; Holloway, Huber, Hunter, Hutchings, Ingraham, Jackson, Jordan, Kiesman, Kilcoyne, Lancaster, Leighton, Lewis, Livesay, Lund, MacBride, Masterman, Masterton, Matthews, McKean, McPherson, Murphy, Nelson, A.; Norton, O'Rourke, Paradis, E.; Perkins, Peterson, Pouliot, Racine, Randall, Reeves, J.; Ridley, Salsbury, Sherburne, Small, Smith, C. W.; Soulas, Stevenson, Stover, Strout, Studley, Swazey, Telow, Treadwell, Walker, Webster, Wentworth, Weymouth.

ABSENT — Austin, Boyce, Carter, Damren, Kelleher, Tarbell.

Yes, 71; No, 74; Absent, 6.

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

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

Mr. BAKER: Mr. Speaker, Ladies and Gentlemen of the House: This is a very interesting situation I find that we are faced with today, very interesting, indeed. In fact, I haven't seen a situation like this since I witnessed the British Labor Party in action in 1945 — that is correct. Here we are with the perfect example of how you can confuse one party with another. This reminds me of the time when there was a split in the British Labor Party and J. Ramsey MacDonald walked out and joined the Tories. But, seriously, I think there are a lot of things that have been going wrong today with this bill. I think there is a lot of information that has not been made clear, a lot of waters that have been muddied, and I really believe, because a lot of waters have been muddied and a lot of misinformation flung about, I think it is time that we find a way of reconsidering this so that the debate can be a little more clear.

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

Mr. LEIGHTON: Mr. Speaker, I just wanted

to say that I think first instincts are the best instincts. I think that you folks are right on—let's go with no on reconsideration.

The SPEAKER pro tem: The pending question is on the motion of the gentlewoman from Auburn, Miss Lewis, that the House reconsider its action whereby it failed to accept the Majority "Ought to Pass" Report. A roll call has been requested. For the Chair to order a roll call, it must have the expressed desire of one fifth of the members present and voting. All those in favor of a roll call vote will vote yes; those opposed will vote no.

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

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

Mr. BROWN: Mr. Speaker, first of all, I want to congratulate you for an excellent in seeing this House through this very difficult matter. I think you have acted in an extremely responsible fashion. I am a little bit confused, however. The roll call that we are taking now, is this to reconsider the tabling motion or the original motion?

The SPEAKER pro tem: The pending motion is reconsideration whereby this House voted not to accept the Majority "Ought to Pass" Report of the Committee on Labor.

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

Mrs. MITCHELL: Mr. Speaker, I move that this item be tabled until later in today's session pending reconsideration.

Whereupon, Mr. Higgins of Scarborough requested a division.

Mrs. Mitchell of Vassalboro requested a roll call vote.

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

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

The SPEAKER: The pending question is on the motion of the gentlewoman from Vassalboro, Mrs. Mitchell, that this matter be tabled until later in today's session pending the motion of Miss Lewis of Auburn to reconsider its action whereby Acceptance of the Majority "Ought to Pass" Report failed. All those in favor of tabling will vote yes; those opposed will vote no.

ROLL CALL

YEA — Baker, Beaulieu, Benoit, Boisvert, Brannigan, Brennerman, Brodeur, Carroll, Chonko, Clark, Connolly, Cox, Crowley, Davies, Diamond, G. W.; Diamond, J. N.; Erwin, Fitzgerald, Fowlie, Gwadosky, Hall, Hayden, Hickey, Higgins, Hobbins, Jacques, Jalbert, Joyce, Kane, Kany, Ketover, Kilcoyne, LaPlante, Laverriere, Lisnik, Locke, MacEachern, Macomber, Mahany, Manning, Martin, A.; Martin, H. C.; Martin, J.; McCollister, McGowan, McHenry, McKean, McSweeney, Michael, Michaud, Mitchell, E. H.; Mitchell, J.; Moholland, Nelson, M.; Norton, Paradis, P.; Paul, Pearson, Perry, Post, Pouliot, Prescott, Racine, Reeves, P.; Richard, Ridley, Roberts, Rolde, Smith, C. B.; Soule, Theriault, Thompson, Tuttle, Twitchell, Vose, Webster, The Speaker pro tem.

NAY — Aloupis, Armstrong, Bell, Berube, Bordeaux, Brown, A.; Brown, D.; Brown, K. L.; Cahill, Callahan, Carrier, Conary, Connors, Cunningham, Curtis, Davis, Day, Dexter, Dillenback, Drinkwater, Dudley, Foster, Gavett, Gillis, Gowen, Hanson, Higgins, L. M.; Holloway, Huber, Hunter, Hutchings, Ingraham, Jackson, Jordan, Kiesman, Lancaster, Leighton, Lewis, Livesay, Lund, MacBride, Masterman, Masterton, Matthews, McPherson, Murphy, Nelson, A.; O'Rourke, Paradis, E.;

Perkins, Peterson, Randall, Reeves, J.; Salisbury, Sherburne, Small, Smith, C. W.; Stevenson, Stover, Strout, Studley, Swazey, Telow, Treadwell, Walker, Wentworth, Weymouth.

ABSENT — Austin, Boyce, Carter, Damren, Kelleher, Soulas, Tarbell.

Yes, 77; No, 67; Absent, 7.

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

Consent Calendar

First Day

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

(S. P. 180) (L. D. 458) Bill "An Act Providing Due Process when the State Liquor Commission Designates a Location for a State Liquor Store"—Committee on Legal Affairs reporting "Ought to Pass" as amended by Committee Amendment "A" (S-46)

No objections being noted the above item was ordered to appear on the Consent Calendar of March 19, under listing of Second Day.

Consent Calendar

Second Day

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

(H. P. 397) (L. D. 440) Bill "An Act to Provide that Certain Licenses Issued by the Department of Inland Fisheries and Wildlife be Issued on the Basis of Fiscal Year" (C. "A" H-109)

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

(S. P. 299) (L. D. 843) Bill, "An Act Concerning Retirement and Benefits for State Employees Returning to Work after Attaining the Age of 60"

On the objection of Mrs. Nelson of Portland, was removed from the Consent Calendar.

Thereupon, the Report was accepted in concurrence, the Bill read once and assigned for second reading tomorrow.

(S. P. 301) (L. D. 845) Bill "An Act to Amend the Group Life Insurance Program for State Employees and Teachers"

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

On motion of Mrs. Nelson of Portland, the House reconsidered its action whereby Bill "An Act to Amend the Group Life Insurance Program for State Employees and Teachers," Senate Paper 301, L. D. 845 were passed to be engrossed.

On motion of the same gentlewoman, tabled pending passage to be engrossed and specially assigned for Friday, March 20.

Second Reader

Tabled and Assigned

Bill "An Act to Establish a Kennebec River Future Commission" (H. P. 1141) (L. D. 1285)

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

On motion of Mr. Hunter of Benton, tabled pending passage to be engrossed and tomorrow assigned.

On motion of Mr. Diamond of Windham, tabled pending passage to be engrossed.

Passed to Be Engrossed

Amended Bill

Bill "An Act to Revise the Charter of the South Berwick Water District (H. P. 148) (L. D. 174) (C. "A" H-104)

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

Mr. McHenry of Madawaska offered House

Amendment "A" and moved its adoption.

House Amendment "A" (H-110) was read by the Clerk and adopted.

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

Enactor

Tabled and Assigned

An Act to Establish a Revolving Fund for the Maine State Library (S. P. 185) (L. D. 463) (H. "A" H-92)

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

On motion of Mr. Diamond of Windham, tabled pending passage to be enacted.

Passed to be Enacted

An Act to Establish a Sign on the Maine Turnpike for the University of Southern Maine (S. P. 212) (L. D. 577) (H. "B" H-95 to C. "A" S-34)

An Act to Create the Charleston Correctional Facility within the Department of Mental Health and Correction (S. P. 217) (L. D. 604) (C. "A" S-37)

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

An Act to Increase the Eating, Lodging and Recreational Place Licensing Fee (H. P. 63) (L. D. 97) (H. "A" H-65)

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

Mrs. Berube of Lewiston moved that the Bill and all its accompanying papers be indefinitely postponed in non-concurrence.

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

Mrs. PRESCOTT: Mr. Speaker, Ladies and Gentlemen of the House: I would ask you to vote against this motion to indefinitely postpone this bill. If we indefinitely postpone this, we will be putting the personnel and the sanitarians in the Department of Health and Engineering back to five sanitarians to inspect 8,600 eating and lodging establishments throughout the state and we can't afford to do that. I hope you would vote to keep this bill alive and enact it.

Mr. Connors of Franklin requested a roll call.

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

Mr. MANNING: Mr. Speaker, Ladies and Gentlemen of the House: I just want to explain what is going to happen if this is indefinitely postponed. There will be five sanitation engineers for the whole state of Maine. One will be located in Portland, one will be located in Lewiston, one in Augusta, one in Bangor and one in Houlton. There are roughly 8,000 places that they inspect yearly. That breaks down to about 1600 per engineer. If each engineer works roughly 40 hours a week, 50 weeks a year, with two weeks vacation, it breaks down to 2,000 that they get paid for. One hour per inspection, that is 1600 inspections, that is 1600 hours gone right there. They have 11 paid holidays, that is 88 hours gone. That leaves 312 hours to do their work, their reports and, by the way, it takes a long time to go from Houlton to Madawaska to Fort Kent. It takes a long time to go from Bangor to the end of Washington County.

Not many people know this, but just last week they had to go to Bangor to check on a restaurant that was closed down. They had to go to the Veazie Elementary School because they had to close the Veazie Elementary School down because 14 teachers got sick. They had to go to Husson College because they had to close down the Husson College cafeteria. If you think what we have heard is something that is going to happen once in a blue moon, you are mistaken. If you really feel that you want inspections every 18 months or so—I am from Portland and I wish you would all come to Portland because we all get inspected once a month—but I think

we would be really hurting the citizens of this state if we go with this indefinite postponement. I wish you would vote against the indefinite postponement.

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

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

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

Mrs. BERUBE: Mr. Speaker, Ladies and Gentlemen of the House: I would like to give you my three reasons why I am opposing this increase, the first of which is that the committee on which I serve is presently reviewing this division and we will, hopefully, come out with a recommendation later in the Fall. It is my understanding that funding is available until the 30th of September for the two federally funded positions.

According to what we read in the paper, this increase of \$5 on 8,600 establishments will bring in in the vicinity of \$40,000 to \$45,000 and if we are to believe what was also written in the paper over the weekend, this will be to retain only one sanitarian out of the two who are presently funded with federal monies.

It seems that \$40,000 to \$45,000 is more than enough to fund one position, which leads one to wonder what will be done with the excess revenues. It is also my understanding, from speaking with members of the department, that some of the long-range plans include, as I have mentioned before, inspection of public swimming pools and also inspection of long-term care units, and I also understand a bill will be coming to us shortly which carries no funding, by the way.

This \$5 increase across the board is, in the case of the larger establishments, an increase of 17 percent. In the case of the small establishments, it is a 30 percent increase, not to count the 100 percent increase on renewal visits they will charge, because if you multiply that by the 10 or 15 other fee increases they are not taxes this session, by the way—which are coming across our desks, at what point do we stop? There will come a point when the small businessman will not be able to absorb these increases any longer, will have to pass them on to the consumer, and at what point does the consumer client say that he stays home and does not spend money in a restaurant?

I guess those are briefly my reasons. I feel that there is a very strong trend this session to pick up federal positions funded in this state administration with increase of fees in lieu of taxes and so that is my reason for voting to indefinitely postpone.

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

Mrs. PRESCOTT: Mr. Speaker, Ladies and Gentlemen of the House: Representative Berube has talked about the Performance Audit Committee reviewing these fees, but the review will not help us in this fiscal year. We need \$20,000. This is a dedicated revenue account. The fees pay for the services being provided. The monies that should not be used in a dedicated revenue account.

This will allow a \$5 across-the-board increase for all concerned, restaurants and cafeterias alike. It is needed, there were no opponents to the bill, we need to make sure that the inspections are providing clean environment where food is being prepared, and without these inspections, and when we put the sanitarians in jeopardy, we are raising a lot of concern in the local communities. The salmonella outbreak is the example. We cannot address any more emergencies without sufficient staff at the

state level to do it.

As far as the department providing for additional or expanded services, such as swimming pools or long-term care facilities, this bill does not do that at all. Presently, swimming pools in motels are being inspected; they will continue to be inspected. Long-term care facilities, kitchen facilities, are inspected by the Department of Human Services, licensing and certification, not the sanitarians in this bill.

I hope you will support it and enact it.

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

Mr. BRODEUR: Mr. Speaker, Ladies and Gentlemen of the House: Just a few points. The gentlelady from Lewiston talks about two federally funded positions, but this was only a temporary position, temporarily funded by the federal government starting in September, when the legislature was not in session, so it was impossible to raise fees then. Prior to January of 1980, all the positions were paid for by dedicated revenues.

The SPEAKER pro tem: The Chair recognizes the gentleman from Canton, Mr. McCollister.

Mr. MCCOLLISTER: Mr. Speaker, Ladies and Gentlemen of the House: There were no opponents to the original bill. The original bill called for a hundred seventy some odd dollars increase in fees. I personally thought that was far too great.

What we are voting on is the amendment that I added which raises about \$40,000. The big increase that the bill called for would have maintained the department at its present manpower level. This \$5 increase will remove three to four employees from this department. If we do not pass this, we are going to cut the department so far that it cannot possibly do any amount of work. If we are going to cut it that much, we may as well cut the department out, that is why I changed my position and felt that a partial increase in funding was necessary.

The SPEAKER pro tem: The Chair recognizes the gentleman from Franklin, Mr. Connors.

Mr. CONNORS: Mr. Speaker, Ladies and Gentlemen of the House: I think at the store and the restaurant where I live, they paid \$20 to Human Services for their license there, and then I think starting in 1980, I believe it was 1980, there was a \$30 or \$35 license that they had to have from the Department of Agriculture that was new and, to me, this is another tax. They can call it a fee if they want but this is another tax for the people in the state of Maine to do business. I think we have gone about as far as we should in controlling and regulating business.

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

ROLL CALL

YEA — Aloupis, Armstrong, Bell, Berube, Bordeaux, Brown, A.; Brown, D.; Brown, K. L.; Cahill, Callahan, Carrier, Carter, Conary, Connors, Cunningham, Curtis, Damren, Davis, Day, Dexter, Dillenback, Drinkwater, Dudley, Foster, Gavett, Gillis, Hanson, Higgins, L. M.; Holloway, Huber, Hunter, Hutchings, Ingraham, Jackson, Jacques, Jordan, Kiesman, Lancaster, Leighton, Lewis, Livesay, Lund, MacBride, Martin, A.; Masterman, Masterton, McPherson, Murphy, Nelson, A.; O'Rourke, Paradis, E.; Paul, Perkins, Perry, Peterson, Pouliot, Randall, Reeves, J.; Ridley, Roberts, Salsbury, Sherburne, Small, Smith, C. W.; Stevenson, Stover, Studley, Telow, Treadwell, Twitchell, Wentworth, Weymouth.

NAY — Baker, Beaulieu, Benoit, Boisvert, Brannigan, Breneman, Brodeur, Carroll, Chonko, Clark, Connolly, Cox, Crowley, Davies, Diamond, G. W.; Diamond, J. N.; Erwin, Fitzgerald, Fowlie, Gowen, Gwadosky, Hall, Hayden, Hickey, Higgins, Hobbins, Jal-

bert, Joyce, Kane, Kany, Ketover, Kilcoyne, LaPlante, Laverriere, Lisnik, Locke, MacEachern, Macomber, Mahany, Manning, Martin, H. C.; Matthews, McCollister, McGowan, McHenry, McKean, McSweeney, Michael, Michaud, Mitchell, E. H.; Mitchell, J.; Moholland, Nelson, M.; Norton, Paradis, P.; Pearson, Post, Prescott, Racine, Reeves, P.; Richard, Rolde, Smith, C. B.; Soule, Strout, Swazey, Theriault, Thompson, Tuttle, Vose, Walker, Webster, The Speaker pro tem.

ABSENT — Austin, Boyce, Kelleher, Soulas, Tarbell.

Yes, 72; No, 73; Absent, 6.

The SPEAKER pro tem: Seventy-two having voted in the affirmative and seventy-three in the negative, with six 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 Establish a Maine Set-aside Program under the State Purchasing Law to Expand Work Opportunities for Multiple Handicapped Citizens (H. P. 224) (L. D. 261) (H. "A" H-77 to C. "A" H-75)

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.

At this point, Speaker Martin returned to the rostrum.

Speaker MARTIN: The Chair thanks the gentleman from Lewiston, Mr. Nadeau, for acting as Speaker pro tem. The Chair was listening to the whole thing from the office.

Thereupon, Mr. Nadeau returned to his seat on the floor and Speaker Martin resumed the rostrum.

Orders of the Day

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

Bill, "An Act to Encourage the Establishments of Municipal Energy Commissions" (H. P. 313) (L. D. 381) (C. "A" H-89)

Tabled—March 16 by Representative Hall of Sangerville.

Pending—Passage to be Engrossed.

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

Mr. KIESMAN: Mr. Speaker, Ladies and Gentlemen of the House: I would like to move indefinite postponement of this Bill and all its accompanying papers and would like to speak to my motion.

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

The gentleman may proceed.

Mr. KIESMAN: Mr. Speaker, Ladies and Gentlemen of the House: As you might have noticed, this swam right on upstream the other day, Friday, because we wanted to let you get on home, but I assure you, this is not something that I thought about over the weekend and decided to come back and oppose.

I think you have all heard the expression, "someone marches to a different drummer." Well, I want to tell you, when I was campaigning last summer and fall, I heard a drummer and that drummer said to me—don't give me any laws that I don't need; let's get government off my back. That is the drummer I listen to. I think you might reflect on that. There were a lot of drummers playing the same tune all over the country last November.

This proposed legislation falls into that category of something that just loads up on the people's backs and it is not necessary.

Under the Constitution, the home rule, everything that is called out in this legislation can already be done. It doesn't require any statutes and doesn't require any legislation. As a matter of fact, by passing this legislation, we

might very well restrict the freedom of action of a particular town to set up their own procedure for handling energy problems and energy planning within their town, because once we set up a structure, they will feel that this is what they have to do because it is something that has been sent down from the big white house with Minerva on the top telling them this is how you should do it. So we could very well affect their actions.

Throughout the State of Maine there are a number of municipal energy programs going on that were set up and are operating very well without any need of legislation such as this. If we have such legislation as this, it might very well have resulted in a different picture.

Passage of this legislation will not result in any action, as is suggested. I would point out that the Conservation Commissions, when they were passed some years ago, there was no action, nobody set up a conservation commission, there was no action taken on it until there was a Maine Association of Conservation Commission set up and they started pumping some money into it and going out to towns and encouraging them to set up conservation commissions, after which there was some action.

I might point out that as the funds have dried up for acquiring lands for public use and conservation easements and so forth, conservation commissions in the municipalities are not very busy, and if the municipality did so desire to take on the program that is called out in this legislation, a conservation commission would be an excellent group to carry on with this proposal.

I would submit to you that if we are really serious about giving some guidance to the municipalities on how they could set up some energy related activities, we would accomplish a great deal more by giving some guidance to the Office of Energy Resources to go out and tell the municipalities what they could do, what they should do or what they can help them with, and we would achieve a lot more results than putting an unnecessary piece of legislation on the books to cloud up the issue of the local towns and municipalities on how they can run their own show.

I urge you to support me in this move to indefinitely postpone this legislation.

The SPEAKER: The Chair recognizes the gentleman from Pittston, Mrs. Reeves.

Mrs. REEVES: Mr. Speaker, Men and Women of the House: I would urge you to vote no on indefinite postponement of this bill and pass it. It is enabling legislation in the best sense. It doesn't mandate but it provides a good model and guidelines for towns and cities who want to take steps to analyze and solve their local energy problems.

The bill is based on the model of the energy commission legislation which did begin that local involvement from the conservation commissions, which everybody agrees have been extremely successful in developing citizen participation.

Now that our federal and state funds for energy conservation are diminishing, local initiatives and local leadership are crucial to solve our energy problems. These local initiatives can save many dollars and create jobs.

It is true that a lot of our Maine towns and cities now have volunteer energy committees and they are making a real difference in their communities. Auburn will soon open a new steam generating solid waste disposal plant, and this plant will burn the waste from Auburn and 15 other surrounding towns and sell the steam to Pioneer Plastics. This project was designed by a volunteer committee.

Rangeley, which is a town of only a thousand people, organized a committee which conducted an energy audit that showed that Rangeley spent \$2.4 million last year on fuels imported from outside the town, and because of this study, hydro-power sites have been identified, audits of town buildings have been

made, greenhouses have been built, and the highway department's boiler may be converted to burn wood. A suggestion has also been made that residents be allowed to pay their taxes in wood.

The legislature is working hard on energy conservation legislation, but it is not just a job for state government and state agencies. We need to encourage local involvement and local people, and this bill will encourage that involvement.

The "ought to pass" report was signed by nine people on the committee. We had much testimony in favor of this model legislation and no opponents. Please vote against indefinite postponement.

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

Mr. LaPLANTE: Mr. Speaker, Ladies and Gentlemen of the House: The gentleman from Fryeburg, Mr. Kiesman, has suggested that the Office of Energy Resources go around to the local communities to suggest what to do in this area of municipal energy commissions. That surprises me, because usually that gentleman is opposed to bureaucrats going around to rural communities and suggesting what to do and what not to do.

I think what we find, especially in rural communities, the selectmen elected are very part time and don't have the opportunity to be aware of everything that is going on as you have in larger municipalities where they have many people in various areas that are more aware of this and do their job full time.

Another thing you find in rural communities, they are very nervous today because it is very easy to be sued or be reprimanded by the public or by lawyers or whatever for some of the actions that they take. They do ask not to be told but they do ask to have some guidelines on what the state would like to set for a guideline that says, yes, you can do this and here is how you can do that and how you may establish your guidelines, what areas you can look into under municipal energy commissions, but we are not telling you, we are just setting the guidelines so it is all right for you to do it, you don't have to be afraid of it. Manytimes they are afraid of jumping into something without any guidelines at all and just calling an agency up here and asking them what to do.

I think this is very permissive legislation. It will allay the fears of whether they can do this or not and it would certainly give them the guidelines necessary at the local level, and it is probably one of the better ways of doing it than having a bureaucratic office up here go down and try to get hold of about 200 to 300 towns, because they don't have the manpower to do it, and this bill give them the guidelines to do it.

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

Mr. ROLDE: Mr. Speaker, Ladies and Gentlemen of the House: Just a couple of comments on this bill. Again, to discuss Mr. Kiesman's suggestion of having someone from the Office of Energy Resources go around to the towns, I do note that there is also a bill put in by the gentleman from Harrison to abolish that office.

The gentleman from Fryeburg, Mr. Kiesman, mentioned the conservation commission movement and that it never really got going until there was some stimulation. Having been a very integral part of that movement from its beginning, that is correct, but it is also correct that there never would have been a conservation commission movement in the state without initial legislation.

The gentleman from Fryeburg has said that this is a bill that is not needed, that the towns can do it anyway. I can't quarrel with that, but if you will look on your calendars, item three under tabled and today assigned matters, which is An Act Providing for a Period of Silence in Public Schools, which is a bill that got a very favorable vote in this House the other

day and will probably get a very favorable vote again today, that bill operates in exactly the same way, because that is something that the schools can do but we are passing a bill to let them know that they can do it. I realize that consistency is not often honored in this body, but let's try and be consistent today, defeat the motion for indefinite postponement and pass this bill.

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

Mrs. HUBER: Mr. Speaker and Members of the House: I would like to call your attention to the committee amendment on L. D. 381, because it does, I think, clarify the permissive rather than the mandatory nature and would not put towns in the position of having to follow specific formats or do specific things. Under "other purposes" the amendment clearly states that these commissions shall be to serve other purposes related to energy as specified in the municipality.

The report was a bipartisan report, and I hope you will vote to defeat the pending motion.

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

A vote of the House was taken.

43 having voted in the affirmative and 82 having voted in the negative, the motion did not prevail.

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

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

Bill, "An Act to Prohibit State Mandates and Tax Shifts" (H. P. 1115) (Committee on Appropriations and Financial Affairs suggested)

Tabled—March 17 by Representative Pearson of Old Town.

Pending—Reference.

On motion of Mr. Pearson of Old Town, the Bill was referred to the Committee on Taxation, ordered printed and sent up for concurrence.

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

Bill, "An Act Providing for a Period of Silence in Public Schools" (S. P. 272) (L. D. 699)

— In House, Passed to be Engrossed as Amended by House Amendment "A" (H-98) on March 13.

— In Senate, Senate Adhered to Passage to be Engrossed as Amended by Senate Amendment "A" (S-40) on March 16.

Tabled—March 17 by Representative Connolly of Portland.

Pending—Motion of the same gentleman to Adhere.

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

Mr. CONNOLLY: Mr. Speaker and Members of the House: I still believe that this bill is completely unnecessary, but I guess I am enough of a realist to know that the 23 votes that we got the other day is not enough of a base upon which to try to overturn the vote.

I guess I am a little bit upset by the action that the other body took. The amendment that we accepted in here last Friday was approved pretty much under the hammer and there were some questions that were raised privately about its germaneness, but they never came to this body.

The sponsors of the legislation, all of whom come from the other body, had indicated to me before I ever offered the amendment, that that amendment was acceptable to them. Then, somehow or other, after we put the amendment on, it became unacceptable in the other body.

There are a few doubting Thomas's who felt

that the reason I offered that amendment the other day was something of a ploy to try to eventually kill this bill, and I just want to reassure all of you that that was not the intent, that was a very straight forward amendment.

But be that as it may, Mr. Speaker, I would now move that the House recede and concur.

Thereupon, on motion of Mr. Connolly of Portland, the House voted to recede and concur.

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

SENATE DIVIDED REPORT — Majority (8) "Ought to Pass" — Minority (5) "Ought Not to Pass" — Committee on Labor on Bill, "An Act Relating to Payment by an Employer When a Physician's Certification of Illness is Required" (S. P. 204) (L. D. 571)

— In Senate, Minority "Ought Not to Pass" Report Accepted.

Tabled—March 17 by Representative Beaulieu of Portland.

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

On motion of Mrs. Beaulieu of Portland, retabled pending acceptance of the Majority Report in non-concurrence and tomorrow assigned.

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

Bill, "An Act to Require Individually Marked Prices on Certain Retail Merchandise" (H. P. 445) (L. D. 507)

Tabled—March 17 by Representative Mitchell of Vassalboro.

Pending—Motion of Representative Brown of Livermore Falls to Reconsider Indefinite Postponement.

Thereupon, the House reconsidered its action whereby the Bill and all its accompanying papers were indefinitely postponed.

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

Mr. JALBERT: Mr. Speaker, there are two procedures that I could go through, and if I am wrong, I want you to make me aware of it. We could go right back to the original action of accepting or rejecting the majority or minority report, whichever we would choose, or we could entertain my motion to recommit. After having spent 14 weeks here, I would choose the latter, if that is permissible, and move that we recommit this bill back to its committee.

I have full confidence in the good gentleman from Portland, Mr. Brannigan, and his committee, that they can come up with a bill. I have stated over the years time and time again, I am not one that gets all these phone calls, but last night my phone was ringing when I got home and didn't stop ringing until I almost took it off the hook and I made my last call to the gentleman from Windham, Mr. Diamond.

I am sure that something can come from this if we recommit this bill. But if I move the other motion to accept the minority or majority report would reopen the floodgates again, and after spending the time I have spent here this morning, I don't care to do that.

Mr. Speaker, I now move that this Bill and all its accompanying papers be recommitted to the Committee on Business Legislation.

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

Mr. JACKSON: Mr. Speaker, I ask for a division on the recommitment motion and I hope you will defeat it.

We considered this bill very thoroughly in the committee. The bill certainly has some problems, I have problems with the whole concept of the bill, and I hope you will not send it back because we have a busy schedule and I hope we don't have to look at this again.

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

Mr. JALBERT: Mr. Speaker, I know the gentleman is busy, so are we.

Mr. Speaker, I ask for 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 Chair recognizes the gentleman from Fairfield, Mr. Gwadosky.

Mr. GWADOSKY: Mr. Speaker, Ladies and Gentlemen of the House: As a member of the committee, I would be willing to take another look at this bill in committee. We had a very good public hearing on the bill. It was my feeling during the workshop, it was somewhat of an abbreviated workshop, we spent about five minutes on the amended version, and I certainly have no bad feelings toward those who put the bill out because I knew they had made up their minds, and that is quite all right, but if it is the wisdom of the House this morning to recommit this bill, I would be more than happy, as one member of the committee, to work on this bill.

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

Mr. JACKSON: Mr. Speaker, could the Clerk read the original committee report on this bill?

Thereupon, the Report was read by the Clerk.

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

Mr. JALBERT: Mr. Speaker, the gentleman from Yarmouth, Mr. Jackson, sent me a somewhat humorous note yesterday during the debate. After listening to his question, I might make a comment that when that query was made, he reminded me that I broke my pinky crawling around my crib when that same question was asked.

The SPEAKER: A roll call has been ordered. The pending question is on the motion of the gentleman from Lewiston, Mr. Jalbert, that this Bill and all accompanying papers be recommitted to the Committee on Business Legislation. All those in favor will vote yes; those opposed will vote no.

ROLL CALL

YEA — Baker, Beaulieu, Benoit, Boisvert, Brenerman, Brodeur, Brown, K.L.; Callahan, Carrier, Carroll, Carter, Chonko, Clark, Connolly, Cox, Crowley, Cunningham, Davies, Dexter, Diamond, G.W.; Diamond, J.N.; Erwin, Fitzgerald, Gowen, Gwadosky, Hall, Hanson, Hayden, Hickey, Higgins, Hobbins, Jacques, Jalbert, Joyce, Kane, Kany, Ketover, Kilcoyne, LaPlante, Laverriere, Lisnik, Locke, MacEachern, Macomber, Mahany, Manning, Martin, A.; Martin, H.C.; McCollister, McHenry, McKean, McSweeney, Michael, Michaud, Mitchell, E.H.; Mitchell, J.; Moholland, Nadeau, Norton, Paradis, P.; Paul, Pearson, Perry, Prescott, Reeves, P.; Richard, Roberts, Rolde, Smith, C.B.; Smith, C.W.; Strout, Swazey, Theriault, Thompson, Tuttle, Twitchell, Vose, Webster, The Speaker.

NAY — Aloupis, Armstrong, Bell, Berube, Bordeaux, Brannigan, Brown, D.; Cahill, Conary, Connors, Curtis, Damren, Day, Dillenback, Drinkwater, Dudley, Foster, Fowlie, Gavett, Gillis, Higgins, L.M.; Holloway, Huber, Hunter, Hutchings, Ingraham, Jackson, Jordan, Kiesman, Lancaster, Leighton, Lewis, Livesay, Lund, MacBride, Masterman, Masterton, Matthews, McGowan, McPherson, Murphy, Nelson, N.; Nelson, M.; O'Rourke, Paradis, E.; Perkins, Peterson, Post, Pouliot, Racine, Randall, Reeves, J.; Ridley, Salsbury, Sherburne, Small, Soule, Stevenson, Stover, Studley, Telow, Treadwell, Walker, Wentworth, Weymouth.

ABSENT — Austin, Boyce, Brown, A.; Davis, Kelleher, Soulas, Tarbell.

Yes, 79; No, 65; Absent 7.

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

Sent up for concurrence.

The Chair laid before the House the following matter:

Bill "An Act to Provide for Municipal Development of Energy Resources" (H. P. 1150) which was tabled earlier in the day pending reference. (Committee on Energy and Natural Resources was suggested)

On motion of Mr. Hall of Sangerville, retabled pending reference and tomorrow assigned.

The Chair laid before the House the following matter:

Bill "An Act Relating to the Notice of Provisions of the Workers' Compensation Act" (H. P. 465) (L. D. 517) which was tabled earlier in the day pending the motion of Miss Lewis of Auburn to reconsider whereby the House failed to accept the Majority "Ought to Pass" report.

On motion of Mrs. Mitchell of Vassalboro, retabled pending the motion to reconsider and tomorrow assigned.

(Off Record Remarks)

On motion of Mr. Strout of Corinth, Adjourned until ten o'clock tomorrow morning.