

# 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**

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## HOUSE

Thursday, April 2, 1981

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

Prayer by the Reverend Charles Heslam, Pastor of the Waldo County Cooperative Ministry, Brooks.

The journal of yesterday was read and approved.

**Papers from the Senate  
Reports of Committees  
Leave to Withdraw**

Report of the Committee on Election Laws reporting "Leave to Withdraw" on Bill "An Act Pertaining to Ballot Inspections and Returns in Municipal Elections" (S. P. 157) (L. D. 365)

Came from the Senate with the Report read and accepted.

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

**Ought to Pass**

Report of the Committee on Legal Affairs reporting "Ought to Pass" on RESOLVE, Authorizing Jeanette Hodgdon, Administratrix of the Estate of Kenneth R. Hodgdon, to Maintain a Civil Action Against the State of Maine (S. P. 227) (L. D. 614)

Came from the Senate with the Report read and accepted and the Bill failing of passage to be engrossed.

In the House, the Report was read and accepted in concurrence, the Resolve read once and assigned for second reading tomorrow.

**Divided Report**

Majority Report of the Committee on Business Legislation reporting "Ought to Pass" as amended by Committee Amendment "A" (S-80) on Bill "An Act to Regulate Interest Rates on Life Insurance Policy Loans" (S. P. 153) (L. D. 361)

Report was signed by the following members:

Representatives:

RACINE of Biddeford  
MARTIN of Van Buren  
FITZGERALD of Waterville  
POULIOT of Lewiston  
PERKINS of Brooksville  
TELOW of Lewiston  
GAVETT of Orono

— of the House.

Minority Report of the same Committee reporting "Ought to Pass" as amended by Committee Amendment "B" (S-81) on same Bill.

Report was signed by the following members:

Senators:

SUTTON of Oxford  
SEWALL of Lincoln  
CLARK of Cumberland

— of the Senate.

Representatives:

JACKSON of Yarmouth  
BRANNIGAN of Portland  
GWADOSKY of Fairfield

— of the House.

In the House: Reports were read.

Came from the Senate with the Minority "Ought to Pass" as amended by Committee Amendment "B" (S-81) Report read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "B" (S-81).

In the House: Reports were read.

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

Mr. BRANNIGAN: Mr. Speaker, I move that we accept the Minority "Ought to Pass" as amended by Committee Amendment "B" Report.

The SPEAKER: The gentleman from Portland, Mr. Brannigan, moves that the Minority "Ought to Pass" Report be accepted in concur-

rence.

The gentleman may proceed.

Mr. BRANNIGAN: Mr. Speaker, Men and Women of the House: There are types of life insurance on which you can borrow money. In the past, this borrowing has usually been done by a few number of policyholders, about 15 percent of policyholders. It usually has been done for emergency needs, particular needs that come along, for someone to use the money for their personal problems or some house repair or some need like that.

The percentages that it costs to borrow that money, the percent on that money that was borrowed, was usually a little higher than what would be needed to borrow from the bank or from some other lending institution, but it was there for people to borrow if they wished. Now, in these last few years when interest rates have gone up so high, the rates of 6 and 8 percent that have been set on those insurance policies that people have, instead of being a little higher than the bank and a little unattractive, have now become a bargain, and the people who are sophisticated, and this is mostly the people who have large policies, we have sheets that show, statistics that show that the majority of people who are doing this massive borrowing now are going and borrowing on their insurance, people with one hundred, two hundred, three hundred thousand dollar policies and, by the way, that is not most of the people in Maine, these people are borrowing on their policies and investing it in other more lucrative investments. And all of a sudden, insurance, instead of becoming protection and savings, is becoming speculation. So we have a situation where the person who is not borrowing, and that is usually in the small policyholder, that is the kind of people we have in Maine as a rule, in Maine the average policyholder is under \$10,000, these people who don't have great advice from experts in financial matters, they are being penalized by this process, because instead of being able to get dividends or lower premiums because their insurance company is out with the pool of money they have investing it at the higher interest rates of today, those insurance companies are having to loan it back to their policyholders at these low, low interest rates.

So, the people who have a great understanding of financial matters are using the money in these pools that belong to the insurance companies and their members, and the people who don't borrow are suffering; things are topsy-turvy. That is why we have this matter before us this morning.

The future is what we are talking about. We are talking about the type of policy that the commissioners of insurance, our own included and across the country, are presenting in legislatures throughout the country. That is how insurance is regulated mainly, state by state. They are presenting a type of loan that can be offered by insurance companies that will have a flexible rate of interest, and we have a unanimous committee report on that, this is unanimous, our committee has decided that that is a necessary thing, to allow insurance companies to offer to people who want to buy it a flexible rate policy.

What we are trying to determine here, what the committee was not able to come unanimously to, is, what is going to control that flexibility, what index? There are all kinds of indices — Dow Jones, Consumer Price Index, Prime Rate Index — what index is it that that is going to be tied to that future, just future, nothing to do with present policies you hold but future policies, which are sold at a variable rate, what index is that going to be tied to?

The model bill that is being proposed by the insurance commissioners and the insurance industry across the country says that that should be Moody's Corporate Bond Yield Average Monthly Index — Moody's for short.

Moody's index was chosen, that is Triple A corporate bonds, but Moody's was chosen be-

cause it best reflects, these experts tell us in the insurance commissioner's offices and the insurance industry, it best reflects what insurance companies usually get as a return on their normal investments. So, that is being proposed as 'the' index to allow interest rates on these variable rate loans, if one should take them out, to go up and down. That is Report B and that is the report that I have chosen to go with.

I chose to go with this for two reasons, and I think we need to focus in on that. The focus of this debate this morning is just whether it is going to be Moody's or whether it is going to be Moody's minus 2 percent, and that is Report A. I chose to go with the Moody's standard rate being proposed, the model legislation, for two reasons, and one of the reasons is the model legislation. I chose to go with the recommendations of our commissioner and the veteran members of my committee because it seems that using model legislation across state lines, across the country, is valuable in insurance regulation. That is one reason.

But, more importantly, I believe that it is going to restore this type of insurance, which many people want to buy, I don't have any, I got rid of mine after being on our committee for two years and understanding more about it, but many people buy this kind of insurance, cash value insurance. They are my constituents, and I feel that it will give those customers, those people who wish to choose this, the lowest cost available insurance and it will stop this business of using insurance as speculation. It will return it to insurance of this kind being level premium protection throughout your lifetime, it is protection and savings and not speculation.

You will still be allowed to borrow and still be allowed to borrow at a good rate, because Moody's rate is not a bad rate. It has been running from 1970 to 1980 between 7 and 10 percent, not a bad rate. It will still allow people to borrow, but hopefully it will be people only when they need it and not the large speculator, the large policyholders, who will take it and use it to make money.

Now, the people on Report A, I feel, have focused in the wrong direction and they are going to allow this process where the little person gets hurt and the big person continues to make out. They have focused on the person who does have to borrow. Wouldn't it be nice if the fellow has to borrow, if the woman has to borrow, to get a new furnace or whatever, wouldn't it be nice to give them 2 percent less? Yes, it would, but the speculators, the people who deal in many matters, they are going to use that 2 percent, first of all, if that kind of policy is being sold, and they are going to make it work for them and they are going to make it work against the non-borrower, and we are back where we are now, not as wide a range between 8 and 12, but 2 percent for big money people, is a lot of money. They can use 2 percent and it is very profitable.

Insurance companies, if they have to write Moody's minus 2, are going to know this and they are going to have to build this into the cost of their policies. So, I think it is fair, and that is the second reason why I have joined with others in voting on this as Moody's and using a standard rate. I think it is fair, I think it will return this kind of insurance to be what it is supposed to be. It will allow borrowing at a decent rate and it will provide the lowest possible cost.

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

Mr. POULIOT: Mr. Speaker, Ladies and Gentlemen of the House: This bill, L.D. 361, regulates the interest rates which policyholders pay when they are borrowing money on their life insurance policies. It is important here to remember that we are talking about permanent life insurance, life insurance on which the same premium is paid each year no matter how many years the policy is in force.

With permanent life insurance, the premium pays for three things, the so-called death costs, or the amount paid out in claims, the expense of the insurance company and, finally, the value amount, the cash value, which occurs and which is available to the policyholder in the form of a policy loan.

This money which accrues at the rate of between 2.5 percent and 5 percent each year is entirely controlled by the policyholder, the same as is the money in the policyholder's savings account. So what this body is being asked today is this — how much should a person be charged to borrow his or her own money? Before deciding that issue, let's look at, first, how this borrowed money will be spent.

People often borrow against life insurance policies to handle emergency situations, replacing the broken furnace, paying for unexpected high car repairs, meeting a college tuition payment or even meeting skyrocketing fuel costs. It is my feeling that people who borrow their own money for what are most often emergency needs should be able to do so at a minimum rate, and my feeling is made even more certain when I contemplate the lack of risk that such loans pose to the insurance company.

Imposing high interest rates on policy loan borrowing won't stop or hinder borrowing in any way. People who have built large policy cash values are going to take their money out, cancel their policies, and then, perhaps, buy new insurance. I ask you, why should an insurance company mind that? A large cash value means that the company has paid its expenses and made its profits. They can write out a new policy at a higher rate, something that should please the insurance companies to no end.

Those of us in the majority believe the rate should be one which is close to the rate for long-term treasury bonds. This is a no-risk rate, which is fair for what is essentially a no-risk situation for the companies. That rate would run around 2 points below the rate suggested for long-term corporate borrowing. In 1978, the rate would have been 7.07 percent; for 1979, it would have been 8.12 percent; and for 1980, 10.75 percent. This rate would be fair. It would allow the companies a reasonable profit on a no-risk borrowing environment, and it makes policyholders' dollars available at a reasonable interest rate.

In conclusion, ladies and gentlemen of the House, all we are asking is that a policyholder be able to borrow his or her own money at a fair rate.

Mr. Speaker, I would ask for a roll call.

The SPEAKER: The Chair recognizes the gentleman from Brooksville, Mr. Perkins.

Mr. PERKINS: Mr. Speaker, Ladies and Gentlemen of the House: It is true that what we are here today to talk about is the maximum rate of interest which we will allow to borrow on an insurance policy.

My good friend, Mr. Brannigan, told you about a few statistics which showed that speculators, the boys with the big policies borrow. What he didn't tell you is where those statistics came from.

In the late 1950's and the 1960's, the companies came out with what was known as a minimum deposit plan. This plan was a great plan, they aggressively sold it. If you bought it, they would tell you that you pay your first premium and from then on you use your policy loan to pay most of your premium. They did show me the companies and four of the companies on there are the companies which used the minimum deposit plan and now 15 years later it is coming back to haunt them.

They tell you they need a higher rate, that possibly they need to sell securities. Well now, look, I went down to the Insurance Bureau and looked at the six companies which write over 75 percent of the life insurance in this state. I will give you some figures, and mind you, I am talking about insurance companies and not oil com-

panies. Their cash flow last year for these six companies was \$18 billion. Their policy loans were only 6.7 percent of that, and after they took and paid all of the surrender costs, policy loans, death claims and so forth, they put away \$1,200,000,000 to surplus.

A lot of you have had letters, I am sure, from a lot of agents. Let me tell you a little bit about a full-time life insurance agent. In the first place, you know in your committees you have heard the lobbyists come before you and say — I represent the independent agents or foreign casualty agents in the country. You never find that word 'independent' when you are talking about a full-time life insurance agent, and I will tell you why.

The first three years a full-time agent works for a company, he is financed, and from then on he is housed and he gets his renewal commissions and everything depending entirely, and in secretarial help, depending entirely on the company. His bosses, which might be a manager, which is a full-time employee of the company, he is paid by salary and bonus, or an agent who is tied in directly by expense allowances and housing and so forth, are always going to saw the company line. In fact, if a company tells them to do something, asks them to do something, they ask them to jump, their usual answer is, how high?

These same agents who have been telling you about these things should realize that what the company wants to sell, they are going to sell.

This bill does provide for a flat 8 percent if you want to take that policy. Let me tell you, those in the future are never going to get that 8 percent policy. Why? I have told you that the agents are practically captive, but on top of that, the company has a couple of little incentives which they could use. Number one, they will pay less commission on an 8 percent policy and, number two, which is a little more practical, they will not qualify for those all-expense trips which the agents take each year to conventions and such places as Bermuda, Puerto Rico and Hawaii.

Now, we talk about uniformity. Uniformity in insurance is very unique. Here in Maine we have tried to, as far as insurance bills are concerned, take into consideration what is best for the people of the state. I will give you an example. Fire insurance policies — we have in our statutes the Maine Fire Policy; it doesn't apply in any other state. Those of you who have casualty policies, automobile policies, will find Maine endorsements on them. Our entire credit life section is entirely Maine; no other state has it. And just this week we passed L.D. 514, which was a model bill which changed our entire group life insurance law, and L.D. 362, which did the same for group health. Did we pass that model bill, we did not. We put on Maine amendments, and those amendments, ladies and gentlemen, were actually offered by the people who are now meeting uniformity.

On top of that, this legislation isn't being introduced in 50 states, it is only being introduced in 24. What are we going to do about the other 26? And furthermore, two of the main states where this Legislation is not introduced are the insurance conscious states of New York and California.

As far as our report is concerned, the majority report is concerned, we believe that we are trying to help the small policyholders. Even the opposition has told you that the average policy is around \$5,000; I don't call that speculating.

However, in the future, those are the people that are going to need to borrow because they have no cash in back of them and this is the only place they actually can get it. Frankly, I can't see them borrowing at the present Moody's rate of 14 percent.

How did we come up with this 2 percent less than the Moody's rate? The policy loan rate, like bank securities, it represents no risk. If you went to a bank and you had \$10,000 in the bank and you wanted to borrow \$5,000 against

it, what would the bank charge you today? Somewhere between 7 and 8 percent.

Now, we have a no-risk security here. If you are going to use a flexible rate, you ought to use a rate which reflects a no-risk security, and the best one I know is long-term treasury bonds, and the rate in the majority report follows long-term treasury bonds, and don't tell me that companies don't invest in treasury bonds — take a look at that portfolio and you will find treasury bonds in them.

Therefore, ladies and gentlemen, I say let's give our own Maine policyholders a break. I cannot sit here and vote for an interest rate of 14 percent for borrowing my own money.

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

Mr. JACKSON: Mr. Speaker, Ladies and Gentlemen of the House: I don't know how many of you are trout fishermen, but when you catch a trout and after you have cooked it up, you lay it out on the plate and you look at it and you take your knife and you run it down the side and you separate the meat and you pull out the backbone and eventually you get down to the meat. You have got all the rest of it shoved to the side of the plate, and we are still doing that, we are still separating out the pieces here.

Business Legislation deals with a lot of technical bills. I think you have got a taste right now of how technical some of the things we get into are. This bill comes down to some very basic points.

The committee totally agreed with the gist of the bill. We agree that variable rates should be allowed; we agree that the present state law as far as borrowing on insurance policies has some problems and should be changed. We agreed that the variable rate is permissible and should be allowed. We are not going back to old policies, we are dealing with new policies from now on.

The only thing we disagreed on was the indexing rate that this money should be lent on, and you have two reports, Report B, which I am in support of, which would use the straight Moody's index, and Report A, which uses Representative Perkins' 2 percent solution. You have just heard him make a pitch for this. He talked about the fat cat companies, he talked about fire insurance, he talked about auto insurance and a number of different things, but, again, to me it comes down to a very simple solution. The question is, what do you want insurance for? We are talking here about whole life insurance, we are not talking about term insurance, and I believe, and I believe this legislature should believe, that it is to the benefit of the people of Maine to carry life insurance, so when they die or if they have an accident and are killed, or anything like that, there will be some money for their families, for their widows, for the husband, this type of thing.

One of the problems we are facing right now is the problem that people are borrowing on their insurance policies. Times are hard. People are looking for money wherever they can get it, they are borrowing on their policies. Many of the old policies have very low rates of interest, 6 or 8 percent, and it makes sense to borrow on it.

Interestingly enough, Maine people, the lower, well, I won't say lower income, but middle income people, the people without a great deal of money, don't borrow on their policies that much, the figures bear this out. The people who are really borrowing on their policies are the people with \$100,000 policies, the \$200,000 policies, this type of thing.

What we are saying here is, if we allow variable rates, if we allow the rate to float up and down on the new policies, and this is reasonable to do because if you are going to allow people to borrow at a very low rate, it has got to be covered somewhere, and the people buying the policies are going to have to pay more for the policies if you are going to allow them a low rate when they borrow on them.

Again I come back to our interest is for people to carry life insurance, our interest is that they be insured. We are not trying to provide them a cheap way to borrow money, that is a side issue. Sometimes policies are sold that way but what we really want is to have them be covered by life insurance.

I am in favor of the Moody index. Uniformity, you have heard spoken of here, I think uniformity is valuable. One of the things that we have seen very clearly is that it is going to be hard for the insurance companies to offer policies if Maine goes off on a special 2 percent solution that no other state is embracing. What will happen is, we will fall back to the second step of this bill, and that is, it will be a flat 8 percent, so the people of Maine will borrow on a flat 8 percent, instead of being able to benefit when the rates go up or the rates go down and be able to follow it as tied to an index.

So, I am urging you, all of you, to accept the B Report, the Minority Report, and to reject Representative Perkins' 2 percent solution and give us this bill, we need the bill, the whole committee agrees we need the bill, but give us an index and give us a rate that we can live with and we can work with and won't be an undue burden to the people of the State of Maine.

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

Mr. TELOW: Mr. Speaker, Ladies and Gentlemen of the House: As a member of the majority reporting the "ought to pass" as amended by Committee Amendment "A", it is a privilege to make a few remarks pertaining to this bill.

The only difference between the majority report and minority report lies in the maximum allowable policy loan rate. Policy loans represent a no-risk security to the insurance company. The majority report reflects this by suggesting as a maximum rates which parallel rates for long-term treasury bonds. The minority report parallels rates with the long-term corporate bonds by averaging Triple A, Double A and A ratings, and here is the most important part of this bill. Had this law been in effect in 1978, 1979 and 1980, the corresponding average allowable maximum would have been — I will give it to you by years — for 1978, our report, 7.07 percent; minority report, 9.07 percent; 1979, ours, 8.12; theirs, 10.12 percent; in 1980, 10.75 percent; theirs, 12.75.

Thank you, Mr. Speaker, for allowing me as a freshman to get up here and say a few words this morning.

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

Mr. WALKER: Mr. Speaker, Ladies and Gentlemen of the House: I am not on the Business Legislation Committee; however, I did spend 25 years in the life insurance industry. It is my opinion that if we reduce this loan rate by 2 percent, what will happen will be a special Maine dividend addition which will reflect this reduction. This has happened in other states. In the long run, I don't really think it is going to make much difference, it will just mean that the companies will pay their Maine policyholders a little bit less in dividends than they do in the other states. There is no two ways about it, small policy loans cost more than large policy loans because there is more administration.

I would say, though, in the 25 years I never realized that we were subject to such slavery that Mr. Perkins seems to indicate. But I do urge you to go with Committee Amendment "B".

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

Mr. RACINE: Mr. Speaker, Ladies and Gentlemen of the House: The thing that you should try to remember is that the money that is in an insurance policy is your money, and you should be able to obtain a loan at low interest rates. What the insurance companies are trying to do, they are trying to discourage people from bor-

rowing money, that is the only thing they are trying to do. They want to keep that money so that they can invest it at a higher interest rate.

As far as dividends are concerned, if you leave your dividends with an insurance company, how much do they pay you on your dividends? They pay you practically nothing. As a matter of fact, I have a policy right now where they are paying 3 percent, and there is nothing in this bill that would increase that amount. This is strictly insurance oriented. They are trying to discourage people from borrowing money. It is your money and you should be able to borrow on it if there is a need and if there is a requirement.

Another thing that I get upset about is that the committee has made a ruling that you should buy insurance for protection only. That is hogwash. You should be able to buy insurance any way that you want to. You should be able to invest your money, and if you have a need to borrow it, you should be able to borrow on it.

I urge you, before you accept Committee Report B, that you think very seriously about this, because it is your money that you are talking about.

Another factor that maybe misled you is the fact that if you own insurance right now, by the mere fact that you accept Committee Amendment "B" it will not have any effect on your insurance policies. Your dividends have been set and there will be no changes.

I urge you to reject Committee Amendment "B" so that we can accept Committee Amendment "A".

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

Mr. NADEAU: Mr. Speaker, I would like to pose a question through the Chair to anyone who may care to answer. Are there any statistics or studies which would reflect who borrows on these insurance policies? Is it predominately the larger policyholders or would it be the average John Q. Citizen, the small policyholder?

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

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

Mr. BRANNIGAN: Mr. Speaker, we have statistics that show, 1980 statistics, I have them here and would be glad to make them available to anyone — take one insurance company, the people in the small range of policies under \$5,000, 14 percent of those people are borrowing. When you get up in the \$100,000 to \$500,000 range, 63 percent of the people are borrowing; \$500,000 and over, 67 percent, and I could go on. It runs about that, the small policyholder is not borrowing, should be at the rates they get today, and the large policyholder, the people who know their business or have people to advise them, are borrowing.

While I am up, I would like to continue. I would just like to address this issue of "this is your money, this is your savings." I used to think that, and, again, I don't work for any insurance company, I don't sell any insurance, I don't own any of this kind of insurance, and I thought that, but it is not so. I hoped we wouldn't have to get into the whole business of cash value insurance, but, anyway, this type of insurance is the kind where you have a level premium. I have term insurance. Every five years it goes up and when you get as old as I am, it is getting up there kind of high and it is very expensive, but when you buy insurance in your twenties and thirties, when you should buy this kind of insurance we are talking about, you get a level premium, it will be the same when you are 50. That money is put into a pool of money and it is your money, all of you, it is a pool. It is your money but it is in a pool, and in that pool is figured what the insurance company can earn on that over the years. If you are borrowing that out at 2, 3, 4 or 5, or other

people are borrowing that out at 2, 3, 4 and 5 percent less than what your insurance company could be getting for it, if they were just doing protection and savings, then the non-borrower is being hurt. In that sense, it is not your money, the same as it is in a savings bank where you put it in and you take it out. So that is not exactly your money, it is a pool of all the money.

It has been said that there are great surpluses in the insurance companies. The insurance companies better have surpluses. A lot of people are going to die and that is what surpluses are about, it is how those surpluses and the money they have is invested, that is the health issue in the insurance company, it is a healthy business issue for those who are not borrowing, those who have policies in force.

I am surprised that the agents are being attacked here this morning. I thought the agents go out and sell — most agents I have talked to want to do the best for me, they want to do the best for you. If a lower borrowing rate policy down the road, if that is what is best for you and that is what you want, it should be explained to you, it is going to be available, it is going to cost you more, but if that is what you want, it will be available and your insurance agent, if he or she is a person who cares, I don't think that person is going to jump to any kind of string that is being pulled by the insurance companies. The agents here can testify to that better, as a gentleman just did.

I think I would like to end by saying again that we want to have the lowest possible rates for people who want to buy this kind of insurance, and the lowest way is to make it so that the larger policyholders are not penalizing the rates for everyone else, the large policyholders who use this as an investment, use the 2 percent.

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

Mr. RACINE: Mr. Speaker, Ladies and Gentlemen of the House: I hate to rise again, but I just want to pose a question to a member of the chamber. If you feel that the insurance companies have a cash flow problem, I recommend that you vote to accept Committee Amendment "B" and if you want to pay 13 percent instead of 11 when you borrow money, that is the whole issue right here, if you want to pay 13 percent or 11.

The SPEAKER: The Chair recognizes the gentleman from New Gloucester, Mr. Cunningham.

Mr. CUNNINGHAM: Mr. Speaker, Ladies and Gentlemen of the House: This morning the debate seems to have evolved around a lot of the technicalities involved in the insurance business itself. However, I think some of the last two or three speakers have tried to bring the debate down to John Q. Citizen level and just what is the effect of Committee Amendment "A" on John Q. Citizen and what is the effect of Committee Amendment "B" on John Q. Citizen. I think that some of the questions that have been asked regarding these effects have not been fully answered. I would like to ask some of these same questions again.

We have been referring to the dividend that is paid back to John Q. Citizen on his insurance policy. Now, my understanding of insurance is that the dividend is merely a refund of the overcharge that they charged you on your premium, so they refund you the overcharge each year, the overcharge being a reserve that they have to meet the expenses and so forth. At the end of the year, after they figure out how much they have overcharged everybody, they give it back to them. In that sense then, isn't this money really my own money?

Now, if I leave my own money with the insurance company, like if I put my money in the bank and a lot of other people put their money in the bank, there is a pool of money there, mine and somebody else's. Then I go to the bank to borrow some money to paint the house

or whatever, I am also borrowing my own money and I have to pay what the bank interest rate is.

I guess the question is, how much interest is a fair rate of interest for these insurance companies to charge for allowing me to borrow my dividends or my own money, and if I am unclear on this, I wish somebody who understands the technicalities a little better could explain it to me as an ordinary policyholder, the \$5,000 category policyholder, which is the majority policyholder in the State of Maine?

I would just like to understand how much of this money is really my own money anyway and how much is a fair rate of interest to be charged when I borrow my own money back?

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

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

Mr. JACKSON: Mr. Speaker and Members of the House: Mr. Cunningham's question has a couple of answers. First of all is the question of what he is getting under present Maine law.

Policy loans may clearly be made at any fixed rate of interest. Policy loan provisions establishing a maximum loan interest rate while reserving the right to loan money at a lower fixed rate of interest have been deemed to be in compliance with Section 2510 by opinion of the Attorney General. That is the present law; that is the law in the state.

Under either "A" or "B" the loan would be two choices, it could be at 8 percent flat across the board, or it can be a variable rate. The variable rate has to be offered by the company; the variable rate would be pegged to an interest rate and it would be either Moody's or the 2 percent solution which is Moody's minus 2.

The only thing I would point out to you is, no matter where the rate is, it is also going to be reflected in the cost of purchasing the policy or, in the case Mr. Cunningham is talking about, I believe he is referring to a mutual company, it would be reflected in the dividends that would be paid to the policyholders.

The SPEAKER: The Chair recognizes the gentleman from Brooksville, Mr. Perkins.

Mr. PERKINS: Mr. Speaker, Ladies and Gentlemen of the House: I just want to rise briefly on two points which I heard here, one by my good friend Mr. Brannigan, who says this money is pool. Of course it is pooled, all money is pooled, it doesn't make any difference where it is. But remember, your policy loan is an asset, just the same as anything else in a statement, it is just another investment. You are investing your own money and that pool question doesn't really mean much.

I would like to speak to the scare tactics from my good friend, Representative Jackson. He says, if this goes through they are going to have something special for Maine. You know, I wish they would. I would love to see them say we only issue 8 percent policies in this state; however, they will not. Mr. Jackson forgets that there are 1,800 life insurance companies in this country and they are not all mutuals, and the guarantee premium companies would just love to see them not issue a flexible rate in the State of Maine, because then they could get into their net costs, which they can't do now, and beat the mutuals at their own game. That isn't going to happen.

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

Mr. McHENRY: Mr. Speaker, Ladies and Gentlemen of the House: The way I understand this bill is that you are either going for 12 percent or 14 percent or you stay at the present level. I have learned something through the years, and that is that we can stay at where we are.

Therefore, I move the indefinite postponement of this Bill and all its accompanying papers.

The SPEAKER: The gentleman from Madawaska, Mr. McHenry, moves that this Bill and all its accompanying papers be indefinitely postponed in non-concurrence.

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

Mr. BRANNIGAN: Mr. Speaker, may I just point out that to do that would be to go against a unanimous committee report, and to do that would mean to stay with the present law, and to do that would mean that the present law, all it requires is that the amount be specified. We have some policies that are now on file at 15 percent if you want to borrow, so it is certainly a poor public policy, the whole committee agrees on that, that that is not the way to go.

I would ask for a division on that motion.

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

Mr. GWADOSKY: Mr. Speaker, Ladies and Gentlemen of the House: I think that the gentleman from Madawaska, Mr. McHenry's remarks are typical whenever we are talking about banks and insurance companies. Nobody here wants to stand up here and say, well, we are going to do something for the banks today or we are going to do something for the insurance companies today, but I think it is important to recognize your relationship between banks and insurance companies. You could always borrow money from your insurance company, but historically it has always been at a higher rate than you could borrow it from your bank, just because this was the nature of an insurance company, an insurance company was for insurance, for life insurance. A side benefit was that you could borrow money but it was at a higher rate and you understood that when you took your life insurance.

So to indefinitely postpone this bill today, where economic conditions have made it so appealing for people to borrow from their life insurance, would be simply to destroy the concept of life insurance altogether. Either you couldn't get life insurance or your policies would be so high it would be unrealistic.

I would hope that you would oppose this motion to indefinitely postpone and get on to the business of accepting one of these reports.

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

Mr. CARROLL: Mr. Speaker, Ladies and Gentlemen of the House: I am sorry to belabor the issue, but I would like to have explained to me what the procedure is when you want to borrow on your policy and what provisions are made for the repayment of the loan so that after paying a policy for 30 years, as my mother-in-law did years ago, you won't be informed that you have paid on a policy for 30 years with no provisions to pay back a loan and at 75 years old she was supposed to get \$10,000, she was told, and she didn't get one red cent. This is what we call a rip off with the insurance industry. I hope that the Chairman of the Committee on Business Legislation will tell us how you obtain a loan, what provisions are made to pay the loan back and what provisions are made to protect that poor person out there who doesn't have a lawyer or rich man advising her how to conduct her business affairs.

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

A vote of the House was taken.

8 having voted in the affirmative and 101 having voted in the negative, the motion did not prevail.

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

Mr. HIGGINS: Mr. Speaker, Ladies and Gentlemen of the House: I would just pose a simple question perhaps to any member of the committee that might answer. I understand the difference between the two reports, one is 2

percent less than the other, my question is, are those maximum figures or specified figures? If we accept the Moody's figure, are we saying that the interest rate cannot exceed Moody's or that it shall be Moody's?

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

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

Mr. BRANNIGAN: Mr. Speaker, in answer to Representative Higgins' question, it may be Moody's or less. Actually, in an experience in Canada, which has had a flexible rate for quite some time, it has never moved up to the — it has been well below the maximum rate of the index that has been set. It oftentimes does not move up there. It would only be if there was a tremendous drain, I think.

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

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

The SPEAKER: The pending question is on the motion of the gentleman from Portland, Mr. Brannigan, that the House accept the Minority "Ought to Pass" Report in concurrence. All those in favor will vote yes; those opposed will vote no.

#### ROLL CALL

YEA—Aloupis, Armstrong, Baker, Beaulieu, Bell, Boisvert, Bordeaux, Boyce, Brannigan, Brennerman, Brodeur, Brown, K.L.; Cahill, Callahan, Carrier, Chonko, Clark, Conary, Connolly, Cox, Crowley, Damren, Davies, Diamond, J.N.; Dillenback, Drinkwater, Dudley, Erwin, Foster, Fowle, Gillis, Gowen, Gwadosky, Hall, Hanson, Hayden, Hickey, Higgins, H.C.; Higgins, L.M.; Hobbins, Holloway, Huber, Hunter, Hutchings, Ingraham, Jackson, Jacques, Joyce, Kane, Kelleher, Ketover, Kilcoyne, Lancaster, Lewis, Lisnik, Livesay, Locke, MacBride, MacEachern, Macomber, Mahany, Masterton, Matthews, McColister, McGowan, McKean, McPherson, McSweeney, Michaud, Mitchell, E.H.; Mitchell, J.; Moholland, Nadeau, Nelson, A.; Nelson, M.; Paradis, E.; Paradis, P.; Pearson, Perry, Peterson, Post, Prescott, Reeves, J.; Reeves, P.; Ridley, Roberts, Rolde, Soule, Stevenson, Studley, Tarbell, Theriault, Thompson, Tuttle, Twitchell, Walker, Webster.

NAY—Austin, Berube, Brown, A.; Brown, D.; Carroll, Conners, Cunningham, Curtis, Davis, Day, Dexter, Fitzgerald, Gavett, Jordan, Kany, Kiesman, LaPlante, Laverriere, Leighton, Martin, A.; Martin, H.C.; Masterman, McHenry, Murphy, Norton, Paul, Perkins, Pouliot, Racine, Richard, Salsbury, Sherburne, Small, Smith, C.B.; Smith, C.W.; Soulas, Stover, Strout, Swazey, Telow, Treadwell, Vose, Wentworth, Weymouth.

ABSENT—Benoit, Carter, Diamond, G.W.; Jalbert, Lund, Manning, Michael, O'Rourke, Randall.

Yes, 97; No, 44; Absent, 9.

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

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

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

The SPEAKER: The gentleman from Portland, Mr. Brannigan, moves that we reconsider our action whereby the Minority "Ought to Pass" Report was accepted in concurrence. All those in favor of reconsideration will say yes; those opposed will say no.



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

Thereupon, the Bill was read once. Committee Amendment "B" (S-81) was read by the Clerk and adopted in concurrence and the Bill assigned for second reading tomorrow.

#### Non-Concurrent Matter

Bill, "An Act to Give the Maine Association of Retirees Proper Representation on the Board of Trustees for the Maine State Retirement System" (H. P. 369) (L. D. 407) which was passed to be engrossed as amended by Committee Amendment "A" (H-133) as amended by House Amendment "A" (H-149) thereto in the House on March 30, 1981.

Came from the Senate passed to be engrossed as amended by Committee Amendment "A" (H-133) in non-concurrence.

In the House:

Mrs. Mitchell of Vassalboro moved that the House adhere.

Whereupon, Mr. Paradis of Old Town moved that the House recede and concur.

The SPEAKER: The Chair will order a vote. All those in favor of receding and concurring will vote yes; those opposed will vote no.

A vote of the House was taken.

Whereupon, Mrs. Mitchell of Vassalboro requested a roll call vote.

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

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

The SPEAKER: The Chair recognizes the gentleman from Stockton Springs, Mr. Crowley.

Mr. CROWLEY: Mr. Speaker, Ladies and Gentlemen of the House: I dislike taking your time to repeat what I said earlier in the week on this bill. This is the bill where one organization representing the trustees of the Maine Retirement System will represent a category of about 9,000 retirees that are spread out from Aroostook to York County, to Somerset to Waldo, and every place in between.

This is one of six organizations that could be listed in this bill, and we are picking MAR, and I must admit that I am a member of MAR and we represent 19 percent, but I think it is unfair that we be listed here because, for example, there are 252 participating local districts under the Maine municipal side of this retirement system, and they have an organization, and MSEA has an organization with over 2,000 members, and we are going to pick this one organization to be represented in this bill. I think it would be unfair for us to list them and not the others.

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

Mr. WALKER: Mr. Speaker, Ladies and Gentlemen of the House: The only real virtue this bill has ever had lies in its sponsor, Dan Hickey.

To some, it may offer the satisfaction of a gratuitous kick at the pants of unorganized labor. But I would ask those that are so motivated, if it is not possible even for organized labor to be right on occasion?

This is a bad bill in that it accomplishes nothing. It permits an organization, which already had the power to do so, in fact holds a seat now, to nominate a member to a board of trustees which may or may not elect their nominee. Given the makeup of the board, it is doubtful that nomination is tantamount to election. We are talking of a slot that will not be open until December of 1982, we are injecting ourselves into the middle of a jurisdictional matter between organizations. We are being asked to put our seal of approval on an organization that represents only 1,660 out of nearly 9,000 eligible

for the position.

I ask that we defeat this motion so that this bill no longer can avoid the fate it so richly deserves, that of indefinite postponement.

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

Mrs. MITCHELL: Mr. Speaker, Men and Women of the House: You are in a very fortunate position; by voting to adhere, you can support both Representative Hickey, because you are spelling out in the statutes MAR's representation, and you can also support Representative Crowley, because you have also added all the other organizations and not excluded one or put one in a position more favorable than the others.

I think it is important to note that currently the representative to the board of trustees of retirees is a member of the MAR already, and this amendment, if you vote to adhere, you are supporting both Mr. Hickey's amendment of the MAR being represented and Representative Crowley, which says that all the representation should be fair.

So, I would hope that you would vote with me, vote against receding and concurring and then we can send the bill back. We sent it unopposed to the Senate when Representative Crowley put his amendment on Monday. I think we can stick with that position very proudly.

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

Mr. HICKEY: Mr. Speaker, Ladies and Gentlemen of the House: This bill was submitted to me by the Maine Association of Retirees, a relatively new organization which has a membership of 1,600 people. In the present statutes, it lists the different organizations which are entitled to apply for membership for the one member of the State Retirement Board, and in order for them to be included in this statute, they submitted L. D. 407. Unfortunately, the bill became very controversial. It was a relatively simple bill and a lot of hornets' nest developed, and I do hope that you will support the recede and concur motion.

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

#### ROLL CALL

YEA—Aloupis, Armstrong, Bell, Bordeaux, Boyce, Brown, K. L.; Cahill, Conary, Connors, Curtis, Damren, Davis, Day, Dexter, Dillenback, Drinkwater, Erwin, Foster, Gavett, Gillis, Hickey, Higgins, L. M.; Holloway, Hunter, Hutchings, Ingraham, Jackson, Jordan, Joyce, Kiesman, Lancaster, Lewis, Livesay, Masterman, Masterton, Matthews, McPherson, McSweeney, Paradis, E.; Perkins, Peterson, Reeves, J.; Ridley, Small, Soulas, Stevenson, Stover, Strout, Studley, Tarell, Treadwell, Twitchell, Wentworth, Weymouth.

NAY—Austin, Baker, Beaulieu, Berube, Boisvert, Brenerman, Brodeur, Brown, A.; Brown, D.; Callahan, Carrier, Carroll, Carter, Chonko, Clark, Connolly, Cox, Crowley, Cunningham, Davies, Diamond, G. W.; Diamond, J. N.; Dudley, Fitzgerald, Fowlie, Gowen, Gwadosky, Hall, Hanson, Hayden, Higgins, H. C.; Hobbins, Huber, Jacques, Kane, Kany, Kelleher, Ketover, Kilcoyne, LaPlante, Laverriere, Leighton, Lisnik, Locke, MacBride, MacEachern, Macomber, Mahany, Martin, A.; Martin, H. C.; McCollister, McGowan, McHenry, McKean, Michaud, Mitchell, E. H.; Mitchell, J.; Moholland, Murphy, Nadeau, Nelson, A.; Nelson, M.; Norton, Paradis, P.; Paul, Pearson, Perry, Post, Pouliot, Prescott, Racine, Richard, Roberts, Rolde, Salsbury, Sherburne, Smith, C. B.; Smith, C. W.; Soule, Swazey, Telow, Theriault, Thompson, Tuttle, Vose, Walker, Webster, The Speaker.

ABSENT—Benoit, Brannigan, Jalbert, Lund, Manning, Michael, O'Rourke, Randall, Reeves, P.;

Yes, 54; No, 88; Absent, 9.

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

Thereupon, on motion of Mrs. Mitchell of Vassalboro, the House voted to adhere.

By unanimous consent, ordered sent forthwith to the Senate.

#### Non-Concurrent Matter

Bill "An Act Changing the Name of the Department of Manpower Affairs and Clarifying the Term of its Commissioner" (H. P. 291) (L. D. 335) which was passed to be engrossed as amended by House Amendment "A" (H-139) in the House on March 27, 1981.

Came from the Senate passed to be engrossed as amended by House Amendment "A" (H-139) as amended by Senate Amendment "A" (S-86) thereto in non-concurrence.

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

#### Non-Concurrent Matter

Bill "An Act to Establish a Kennebec River Future Commission" (H. P. 1141) (L. D. 1285) which was passed to be engrossed as amended by House Amendments "A" (H-115) and "C" (H-150) in the House on March 30, 1981.

Came from the Senate with that Body having Insisted on its former action whereby it Indefinitely Postponed the Bill and Accompanying Papers and asked for a Committee of Conference in non-concurrence.

In the House: On motion of Mrs. Kany of Waterville, the House voted to insist and join in a Committee of Conference.

#### Non-Concurrent Matter

Bill "An Act to Authorize Payment of Overtime Rate for Certain Court Appearances of Municipal Law Enforcement Officers" (H. P. 521) (L. D. 587) on which the Minority "Ought to Pass" as amended by Committee Amendment "A" (H-131) Report of the Committee on Judiciary was read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (H-131) in the House on March 31, 1981.

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

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

#### Non-Concurrent Matter

RESOLUTION, Proposing an Amendment to the Constitution of Maine to Require that for Certain Counties, a Specific Percentage of the Population be Included in a Separate Senate District (H. P. 608) (L. D. 685) on which the Minority "Ought to Pass" Report of the Committee on State Government was read and accepted and the Bill passed to be engrossed in the House on March 31, 1981.

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

In the House: On motion of Mr. Dexter of Kingfield, the House voted to adhere.

#### Orders

On motion of Representative LaPlante of Sabattus the following Joint Order: (H. P. 1309)

ORDERED, the Senate concurring, that the Joint Standing Committee on Business Legislation report out a bill to the House concerning the sale of new, used, reconditioned or rebuilt parts of consumer goods under the Uniform Commercial Code.

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 Roger M. Pouliot of Lewiston be excused April 16, 21, 22, 23 and 24 for personal reasons.

#### House Reports of Committees Ought Not to Pass

Representative Day from the Committee on Taxation on Bill "An Act to Enable Diesel Fuel Dealers to Pay Fuel Taxes at the Source of Supply" (H. P. 955) (L. D. 1131) reporting "Ought Not to Pass"

Representative Twitchell from the Committee on Taxation on Bill "An Act to Amend Certain Property Tax Exemptions" (H. P. 1022) (L. D. 1232) reporting "Ought Not to Pass"

Representative Brennerman from the Committee on Appropriations and Financial Affairs on Bill "An Act to Extend the Manager's Position at Popham Beach State Park in Phippsburg from a 9-month Part-time to a 12-month Full-time Position" (H. P. 729) (L. D. 862) reporting "Ought Not to Pass"

Representative Joyce from the Committee on Judiciary on Bill "An Act to Provide Statutory Procedures for Grievances Against Attorneys" (H. P. 599) (L. D. 676) reporting "Ought Not to Pass"

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

#### Leave to Withdraw

Representative Gwadosky from the Committee on Business Legislation on Bill "An Act to Establish a Certification Program for Building Energy Auditors in Maine" (H. P. 618) (L. D. 701) reporting "Leave to Withdraw"

Representative Kane from the Committee on Taxation on Bill "An Act to Provide Deductions and Credits under the State Income Tax for Certain Foreign Taxes" (H. P. 965) (L. D. 1156) reporting "Leave to Withdraw"

Representative Kilcoyne from the Committee on Taxation on Bill "An Act to Permit the Taxation of Certain Athletic Property owned by Tax Exempt Organizations" (H. P. 954) (L. D. 1130) reporting "Leave to Withdraw"

Representative Kilcoyne from the Committee on Taxation on Bill "An Act Concerning Disability Benefits Paid to Veterans Receiving a Property Tax Exemption" (H. P. 858) (L. D. 1021) reporting "Leave to Withdraw"

Representative Nelson from the Committee on Aging, Retirement and Veterans on Bill "An Act to Remove Restrictions Preventing Retired Teachers Elected to the Legislature from Receiving Certain Benefits" (H. P. 887) (L. D. 665) reporting "Leave to Withdraw"

Representative Clark from the Committee on Fisheries and Wildlife on Bill "An Act to Permit the Establishment of a One-week Hunting Season for Antlered Deer Only" (H. P. 841) (L. D. 1007) reporting "Leave to Withdraw"

Representative MacEachern from the Committee on Fisheries and Wildlife on Bill "An Act to Authorize a Limited Hunting Season for Using Cross Bows" (H. P. 870) (L. D. 1039) reporting "Leave to Withdraw"

Reports were read and accepted and sent up for concurrence.

#### Referred to the Committee on Judiciary

Representative Beaulieu from the Committee on Labor on Bill "An Act to Clarify the Laws Pertaining to Municipal Personnel Records" (H. P. 1092) (L. D. 1289) reporting that it be referred to the Committee on Judiciary.

Report was read and accepted, the Bill referred to the Committee on Judiciary and sent up for concurrence.

#### Divided Report

Majority Report of the Committee on Health and Institutional Services reporting "Ought Not to Pass" on Bill "An Act Relating to Jail Administration" (H. P. 682) (L. D. 796)

Report was signed by the following mem-

bers:

Senators:

GILL of Cumberland  
BUSTIN of Kennebec

— of the Senate.

Representatives:

BRODEUR of Auburn  
MANNING of Portland  
RICHARD of Madison  
MacBRIDE of Presque Isle  
BOYCE of Auburn  
HOLLOWAY of Edgecomb  
RANDALL of East Machias  
KETOVER of Portland  
McCOLLISTER of Canton

— of the House.

Minority Report of the same Committee reporting "Ought to Pass" on same Bill.

Report was signed by the following members:

Senator:

HICHENS of York

— of the Senate.

Representative:

PRESCOTT of Hampden

— of the House.

Reports were read.

On motion of Mrs. Ketover of Portland, the Majority "Ought Not to Pass" Report was accepted and sent up for concurrence.

#### Divided Report

Majority Report of the Committee on Labor reporting "Ought Not to Pass" on Bill "An Act to Protect the Right of Public Employees to Freely Decide Whether to Support Labor Organizations" (H. P. 182) (L. D. 227)

Report was signed by the following members:

Senator:

DUTREMBLE of Biddeford

— of the Senate.

Representatives:

BEAULIEU of Portland  
MARTIN of Brunswick  
McHENRY of Madawaska  
LAVERRIERE of Biddeford  
HAYDEN of Durham  
BAKER of Portland  
TUTTLE of Sanford

— of the House.

Minority Report of the same Committee reporting "Ought to Pass" on same Bill.

Report was signed by the following members:

Senators:

SEWALL of Lincoln  
SUTTON of Oxford

— of the Senate.

Representatives:

LEWIS of Auburn  
FOSTER of Ellsworth  
LEIGHTON of Harrison

— of the House.

Reports were read.

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

Mrs. BEAULIEU: Mr. Speaker, I move acceptance of the Majority "Ought Not to Pass" Report.

Whereupon, Mr. Leighton of Harrison requested a vote.

The SPEAKER: The pending question is on the motion of the gentlewoman from Portland, Mrs. Beaulieu, that the Majority "Ought Not to Pass" Report be accepted. All those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

Whereupon, Mr. Leighton of Harrison requested a roll call vote.

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

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

ordered.

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

Mr. LEIGHTON: Mr. Speaker, Ladies and Gentlemen of the House: In my remarks today, I will attempt to anticipate what is ahead on the calendar and perhaps kill two birds with one stone. There is another divided report coming in front of us, and I would point out that my remarks on this report will apply to the second debate that will come up, except in the instance that this particular bill applies to public employees only.

Second 14-B of Taft-Hartley Law leaves the individual states to enact laws in their wisdom as to whether that particular state will have an agency shop law and compulsory unionism, or whether that particular state will have a right to work law and voluntary unionism, or whether, as in the case of Maine, that state will do nothing. This leaves a vacuum in law in the case of a state like Maine where we have to endure the constant competition between the proponents of compulsory unionism and the proponents of right-to-work. It also leaves us in danger of agency shops being enacted through the backdoor of collective bargaining. This, of course, was the essence of the MSEA controversy during the 109th Legislature when an agency shop law, in effect, came to us through a collective bargaining instrument. I don't think this is the way it ought to be addressed.

Twenty states, thus far, have right-to-work laws and enjoy a degree of affluence not shared by the others. It is argued oftentimes that these are the sunbelt states because the sunbelt states also enjoy a degree of affluence not shared by the others. However, if we look at the list of right-to-work states, we discover that amongst those states are Iowa, Kansas, Nebraska, Nevada, North Dakota, South Dakota and Wyoming, hardly states that could be termed sunbelt states.

By any measurement economically, the case for right-to-work is as follows: In terms of more jobs, new jobs increased dramatically in right-to-work states, and this is from the Bureau of Labor statistics. In the period from 1969 through 1979, right-to-work states had a 22 percent gain in new jobs. Non right-to-work states lost 2 percent. In terms of lower unemployment, unemployment rates are lower in right-to-work states. Right-to-work states in the period of 1979 had an unemployment rate of 4.8 percent; non right-to-work states had an unemployment rate of 6 percent.

In terms of higher union growth, and this is a statistic that oftentimes surprises people: right-to-work states in the period of 1962 through 1974 showed a dramatic growth in union membership in the right-to-work states. They enjoyed a net gain of 45,211 members. Non right-to-work states had a net gain of union members of 39,783.

In terms of faster income growth — per capita personal income grows faster in right-to-work states. In the period of 1968 through 1978, right-to-work states showed 150 percent gain and non right-to-work states showed 129 percent gain.

In terms of higher real income — disposable per capita income, factoring in taxes and cost of living, is higher in the right-to-work states, as shown in the Bureau of Labor statistics for 1977, the right-to-work states were 4,606; non right-to-work states, 4,601.

I have said before, and I will say it again, that I would be a friend to unions. I don't blame unions for all of the woes that this country has. For example, I don't blame unions for inflation. I think most responsible economists agree that in times of inflation, salaries and wages lag behind other prices or costs and demands for increased wages and salaries are the inevitable and legitimate result of the federal printing presses printing ever-increasing amounts of funny money to finance the federal deficit.

I believe that unions have been a positive and



a constructive part of the fabric of American society. It is on the issue of compulsion that I part company with many union bosses, that is forced unionism through the union or agency shop. So would have Samuel Gompers, the father of the American Labor Movement, who had these words to say as his last AFL convention, and I quote: "I want to urge devotion to the fundamentals of human liberty, the principles of voluntarism. No lasting gain has ever come from compulsion. If we seek to force, we but tear apart that which united is invincible. I want to say to you, men and women of the American Labor Movement do not reject the cornerstone upon which labor's structure has been built but base your all upon voluntary principles and illumine your every problem by consecrated devotion to that highest of all purposes, human well being in the fullest, widest and deepest sense."

So, compulsion has not been a part of the union movement in this country or, for that matter, the rest of the world, at the times of its greatest success and of its greatest effectiveness. Compulsion has not been a tool in Maine of Maine's most successful labor unions.

At this time, in all the wide world, I think we could all agree that the most responsive and effective union is in Poland, solidarity, and I would point out to you, that there is no compulsion involved in solidarity, so why then compulsion? Union bosses say that a union security agreement or agency shop that prevents free riders, that maintains discipline through compulsion, that ensures sufficient dues income to finance union activities, are the essential ingredients for a strong union.

Irving Crystal of the New York Times, certainly no conservative, says: "It has also become quite clear to everyone that labor's basic reform agenda was completed many years ago. At the moment, the things that labor wants are really special interest demands. They are no longer seen as pertaining to the public good." Mr. Crystal, implying that unions lack relevance in the 80's, seems to suggest that unions have substituted compulsion for a meaningful agenda.

I say that unions need a new agenda for the 80's that is relevant, that included such concepts as shared responsibility for management, with keeping their industry competitive; economic education for members; shared responsibility with management for increased productivity; recognition that union promotion of bigger and bigger government isn't really, in the final analysis, in the interest of their members.

Whenever and wherever unions have been perceived to be responsive to the needs, problems and aspirations of their members, they have been successful. Let's not trade relevance for the expediency of compulsion. There will be many issues raised in this debate but they all pale in significance to the overriding issue of individual liberty. The central question is whether we can allow dilution or compromise of our individual liberty in the interest of union security. For, after all, union security agreement or an agency shop is essentially a contract by an employer and an union that is a private corporation that abrogates certain rights previously held by the employees, and very basic rights at that. All else is secondary. We must not be diverted. Liberty must be affirmed. I ask you to give the people of Maine the right to work.

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

Mrs. BEAULIEU: Mr. Speaker, Ladies and Gentlemen of the House: The time has come, apparently, and I hope once and for all, to deal with the right-to-work issue, the bills before us today on the issue of compulsion.

The right-to-work issue in many quarters is a volatile one and brings out all manners of sometimes emotional arguments. I have my own strong opinions on this issue but for now I

think the time has come to lay out some facts before you.

**Fact:** Before this session, the Maine Legislature has dealt with this issue five other times. It was even dealt in a statewide referendum, and each time the state and its people have concluded by reaffirming the principles of democratic unionism.

**Fact:** There is no closed shop situation in Maine.

**Fact:** The National Right-to-Work Committee, the driving force behind these bills, and the Maine Right-to-Work Committee has been repeatedly cited by the National Labor Relations Board for violations and refusal to release information about their finances and activities.

**Fact:** In 1954, the Idaho Supreme Court took judicial matters of a deceptive nature of the term "right-to-work" and refused to allow the term on an initiative measure.

**Fact:** In 1978, right to work referendum in Missouri, the Secretary of State's Office reported an unprecedented number of requests from petitioners to remove their signatures from petitions.

**Fact:** Under this and the other bills before you today, free loading would be rewarded, since any benefits secured by unions would still, by law, have to be extended to non-members who, under these bills, pay nothing.

**Fact:** No Maine law requires a union shop.

**Fact:** No union was ever forced on the workers in this state. It takes 51 percent of the employees to certify a union; if there is even a 50-50 split, no union is certified, and it only takes 30 percent of those same employees to decertify a union.

I can't resist adding just this much opinion. When a person stands up and gives remarks to this body and has to preface those remarks with a lengthy statement explaining that they are not anti-union but their only goal is freedom for the worker, something isn't right. Otherwise, they would not be supporting union busting bills that can only serve to destroy what we know as the right of association.

Liberty has never been an absolute in this country. There are all kinds of conditions where workers and non-workers have to meet criteria. In the working field, the conditions are, wear hard hats, safety rules, health rules, working hours, retirement contributions, mandatory this and that. These things are not cited as individual rights issues basically because they are for the common good.

Also those in management today who came up through the ranks should appreciate the fact that their pay and benefits and working conditions of today are present because the unions' efforts made it right for them in those areas. That is something that too many people forget.

There were some very prominent people in our state over the years who have rejected and spoken out against the right to work — Margaret Chase Smith; Maine Attorney Sidney Wernick; Fredrick Payne; Governor Reed; Former Commissioner of the Maine Department of Labor and Industry, Marion Martin; so evidently I don't stand alone.

L. D. 222, like its fraternal twin, L. D. 232, strikes at the heart of the collective bargaining by seeking to divide and weaken employee bargaining power. What is more pernicious about this particular bill, however, is that it applies only to employees in the public sector. In recent weeks, the Labor Committee in the House and the other body have dealt with the issue of public sector collective bargaining on several occasions, a few days ago as a matter of fact. Throughout discussion of that issue, it has seldomed been questioned with any seriousness whether these people should be entitled to collectively bargain. Even the bill before us today refers to a right of this kind.

The fundamental logic of right to work, however, is contained in the assumption that freedom of the worker depends upon his ability not to join the system of collective bargaining set

up to ensnare his well being. The bill before us at this time contains an even more subtle illogic. While public employees under this bill would be free from contributing one cent to any labor organization, still any terms negotiated by the union acting as an agent for the bargaining unit would apply to the whole unit, and that is where so many people belonging to unions get upset. It removes the issues of union security and representation or alternate fees from the bargaining table.

I ask all of you to take a good, hard look and maybe even read the bills on right-to-work before us, those like L. D. 227, which is the one we are addressing right now, which discriminate public employees and those which do not. The same unfair illogical bills have been coming to us almost every session. This time I hope we can all join together and send a message to the right-to-work committee in Virginia that the State of Maine will not forsake the workingman, that collective bargaining will not be undermined in this state and that this Legislature, like those before it and certainly like others to come, will not be duped by phony rhetoric into taking away the right of the workers of this state to join together for the common good, to face their employer with one voice and to bargain collectively for decent work and wages.

I, too, am privileged to have all the data and statistics that were quoted to you how the other right-to-work states have been doing so well. It came to me from Virginia and I didn't appreciate it very much. Apparently I am on the right-to-work working list — probably should have joined their organization but the south has a long ways to come, ladies and gentlemen. It was less than a month ago when I clipped an article out of a newspaper where a reporter spent a year and a half working in one of the wonderful right-to-work sweatshops in the south. Those incidences are still happening. We don't have that in our state. I think we have good labor-management relations, and these kinds of bills that we are facing here today can only serve to destroy the relationships that both labor and employers are enjoying in our state.

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

Miss LEWIS: Mr. Speaker, Ladies and Gentlemen of the House: L. D. 227 and 232 are both a matter of principle, and for that reason we should not have a lengthy debate on these issues as we did on the more technical bill earlier this morning. However, I cannot help but point out two brief comments.

First of all, I would like to respond to the gentlelady from Portland, Mrs. Beaulieu's, comments about certain people who have opposed to right to work over the years, and I would like to point out to her that yesterday in this body we endorsed a resolution honoring the AFL-CIO, and in that resolution, we mentioned the founder of the AFL-CIO, Samuel Gompers. Samuel Gompers believed in voluntary unionism. Samuel Gompers, the founding father of the American Labor Union, was also one of our first right to workers.

The second brief point that I would like to make to you is that just like right to work in Maine has a national affiliate in Virginia, I believe that the Maine Teachers Union has a national affiliate; I believe that the University of Maine Faculty Association has a national affiliate; and, of course, the AFL-CIO and the Teamsters have a national affiliate.

I do hope that you will vote on your principles this morning.

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

Mr. ROLDE: Mr. Speaker, Ladies and Gentlemen of the House: My remarks were basically addressed towards the second bill we are going to discuss today, L. D. 232, but since the gentleman from Harrison, Mr. Leighton, also is in the same position and has addressed his remarks in a broader area, I will go ahead with

my remarks at this particular point.

I think perhaps I am coming from a somewhat different perspective. A number of years ago when we had a debate, I think, on the public employees, the gentleman from Dixfield, Mr. Rollins, sent me a note and asked me if I had ever been a union member. I responded to him that, no, I had never been a union member, and in all likelihood I would never be a union member. My approach to right-to-work legislation comes from the point of view of management because I have always been involved in labor — management relations from the point of management. Strange as it might sound, in several instances in my role in management, I have found it very advantageous as an employer, both in the construction business and later on in managing a professional theater, to have a union contract and a union shop agreement. So, this bill, L. D. 232, in Section 1803, would take away my rights and liberties as an employer to set conditions of employment in my own business. It is direct governmental interference in the operation of the business and it is hardly free enterprise; that is the first point I want to make.

As I have told my constituents, if this bill or similar bills were amended to allow employers, who are willing to accept union contracts or union shops or whatever you want to call them, to have them, I would give more consideration to this bill, but I doubt that the sponsors would allow that to happen.

The second point, nowhere in the bill do I see that a person who doesn't want to join a union or pay a fee did not get the salary increase negotiated by the union, I would give it more consideration, but I doubt even more strongly that that would happen.

The third point I would like to discuss is the National Labor Relations Board process. As you know, an election must be held and a majority must vote to have a union before a plant can be unionized, and there are similar procedures for deunionizing a bill.

This bill, in effect, negates the election. It says that those who lost don't have to abide by its results. There may be arguments in favor of doing this, but it seems to me that the logical extension is to eventually do away with the election altogether. Let 40 percent of the workers unionize a plant, let 30 percent, or 10 percent. This is what happens in England where there is no National Labor Relations Board type process. Frankly, I think the labor situation in England, with its repeated wildcat strikes, has gotten out of hand. I have just had a taste of this in New Zealand and Australia, and I would hate to see us go down that road, which is where this type of legislation is taking us.

The fourth point—we, in Maine, tend to lead pretty insulated lives. In fact, I think most Americans do, particularly in regard to our economic system which we take very much for granted. But I have done some traveling in the last few years. It was quite a cultural shock to me to go to political candidates night during the French elections of 1978 and hear a speaker get up and say very seriously, "all of these problems will be solved as soon as we can get rid of capitalism," and he wasn't a wild eyed radical; he was the Mayor of the largest town in the district where I was living. Or in Ravenna, Italy, where I was asked to move my car because there was going to be a funeral of an important local man and the deceased turned out to be the Communist Administrator of the nearby district, a local boy who had made good, and the parade of red flags and hammer and sickle insignia that I saw was as chilling as anything I witnessed in the Soviet Union.

We simply do not realize over here, because we are insulated from it, the strength of the Communist movement, even among some of our closest allies in the West, and that strength is based upon an appeal to the working people of those countries and its success is shown in

the fact that the largest unions in countries like France and Italy are communist controlled. But there are other unions over there, free unions, and the strength of those unions is growing, helped in a large measure by the efforts of our own free unions, our own strongly anti-communist unions in this country.

I bring this fourth point up in answer to one of my constituents who urged me to support this right-to-work legislation because, as he said, "we have to crush those blankety-blank unions."

I am sorry, but I don't think this is the time to crush or even to weaken our free trade unions here in America. Nowhere is this more evident than what is happening in Poland. The events there, the creation of the union, an independent union, are nothing less than a revolution within the Soviet world and the greatest possible check to Soviet expansionism that we have known in our lifetime.

I was not surprised to learn in talking to a representative of the AFL-CIO in the corridors here to learn of the support his organization is giving to Solidarity, of the printing presses that have been sent over there and the funds, not to mention the moral support. Crush labor unions in our country? No thanks. I think they happen to be our first line of defense against the spread of Communism.

A final point more specifically to the legislator—another of my constituents was urging me to support right-to-work legislation. He was a small contractor and the kind of person who is very much sympathetic to the idea of self-reliance, liberty and so forth. I was voicing my objections to the bills, but I don't think he was listening very carefully or very sympathetically. Then suddenly he said, "Oh, of course I think any worker should have to pay a fee if there is a union representing his plant; I just don't think he should have to have a union card and be a member." "Well, this bill wouldn't allow that," I responded. "Then I don't think that is fair," he said. "If there is a union, he should pay something for the services, he shouldn't get something for nothing."

With that final point, made out not by me but by a right-to-work supporter, I will leave you to your further deliberations.

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

Mr. CLARK: Mr. Speaker, Ladies and Gentlemen of the House: I must rise today to speak on this bill. It hits right at home. As you know I am from Millinocket, it is a union town. We have benefits there that a lot of people in the state do not receive. I don't feel that we would receive these benefits by not having a union. I would hate to go to the bargaining table, I have been there for 10 years, depending on a company to tell us or give us what their offer is. We would not be a leader in the state with some of our fringe benefits or wages or any of the issues that are getting out of hand on right to work.

One thing that Mr. Leighton did not mention in the letter he read on some of the states, that out of 50 states the state of Maine is the 46th in per capita—that is one of the lowest in the country.

Leaving it up to some of these industries and some of these manufacturers going to the table, I would hate to give it the thought and, like I said before, depending on them to give me their benefits. When we go to a vote, I request a roll call vote.

The SPEAKER: A roll call has been ordered. The pending question before the House is one the motion of the gentlewoman from Portland, Mrs. Beaulieu, that the House accept the Majority "Ought Not to Pass" Report.

The Chair recognizes the gentleman from Kennebunk, Mr. Hanson.

Mr. HANSON: Mr. Speaker, I request permission to pair my vote with the gentleman from Portland, Mr. Manning. If he were here, he would be voting yes and I would be voting

no. The SPEAKER: The Chair recognizes the gentleman from Auburn, Mr. Boyce.

Mr. BOYCE: Mr. Speaker, I would like to pair my vote with the gentleman from Lewiston, Mr. Jalbert. If he were here, he would be voting yes and I would be voting no.

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

Mr. STROUT: Mr. Speaker, I would like to pair my vote with the gentlewoman from Lincolnville, Mrs. Hutchings. If she were here, she would be voting no and I would be voting yes.

#### ROLL CALL

YEA — Baker, Beaulieu, Benoit, Berube, Boisvert, Brannigan, Brenerman, Brodeur, Brown, A.; Carrier, Carroll, Carter, Chonko, Clark, Connolly, Cox, Crowley, Davies, Diamond, G.W.; Diamond, J.N.; Dudley, Erwin, Fitzgerald, Fowlie, Gillis, Gowen, Gwadosky, Hall, Hayden, Hickey, Higgins, H.C.; Hobbins, Jacques, Joyce, Kane, Kany, Kelleher, Ketover, Kilcoyne, LaPlante, Laverriere, Lisnik, MacEachern, Macomber, Mahany, Martin, A.; Martin H.C.; Matthews, McGowan, McHenry, McKean, McSweeney, Michael, Michaud, Mitchell, E.H.; Mitchell, J.; Moholland, Nadeau, Nelson, A.; Norton, O'Rourke, Paradis, P.; Paul, Pearson, Perry, Post, Pouliot, Prescott, Racine, Richard, Roberts, Rolde, Smith, C.B.; Soulas, Soule, Swazey, Theriault, Thompson, Tuttle, Twitchell, Vose, The Speaker.

NAY — Aloupis, Armstrong, Austin, Bell, Bordeaux, Brown, D.; Brown, K.L.; Cahill, Callahan, Canary, Conners, Cunningham, Curtis, Damren, Davis, Day, Dexter, Dillenback, Drinkwater, Foster, Gavett, Higgins, L.M.; Holloway, Huber, Hunter, Ingraham, Jackson, Jordan, Kiesman, Lancaster, Leighton, Lewis, Livesay, Locke, MacBride, Masterman, Masterton, McCollister, McPherson, Murphy, Nelson, A.; Paradis, E.; Perkins, Peterson, Randall, Reeves, J.; Ridley, Salsbury, Sherburne, Small, Smith, C.W.; Stevenson, Stover, Studley, Tarbell, Telow, Treadwell, Walker, Webster, Wentworth, Weymouth.

ABSENT — Lund, Reeves, P.

PAIRED — Boyce-Jalbert; Hanson-Manning; Hutchings-Strout.

Yes, 82; No, 61; Absent, 2; Paired, 6.

The SPEAKER: Eighty-two having voted in the affirmative and sixty-one in the negative, with two being absent and six paired, the motion does prevail.

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

Mrs. BEAULIEU: Mr. Speaker, having voted on the prevailing side, I move we reconsider the action we just took and hope you all vote against me.

The SPEAKER: The gentlewoman from Portland, Mrs. Beaulieu, moves that we reconsider our action whereby Majority "Ought Not to Pass" Report was accepted. All those in favor of reconsideration will vote yes; those opposed will vote no.

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

Sent up for concurrence.

#### Divided Report

Majority Report of the Committee on Labor reporting "Ought Not to Pass" on Bill "An Act to Protect the Right of Employees to Freely Decide Whether to Support Labor Organizations" (H. P. 181) (L. D. 232)

Report was signed by the following members:

Senators:

DUTREMBLE of York  
SEWALL of Lincoln

— of the Senate.

Representatives:

BEAULIEU of Portland  
MARTIN of Brunswick  
McHENRY of Madawaska  
LAVERRIERE of Biddeford

HAYDEN of Durham  
BAKER of Portland  
TUTTLE of Sanford

— of the House.

Minority Report of the same Committee reporting "Ought to Pass" on same Bill.

Report was signed by the following members:

Senator:

SUTTON of Oxford

— of the Senate.

Representatives:

LEWIS of Auburn  
LEIGHTON of Harrison  
FOSTER of Ellsworth

— of the House.

Reports were read.

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

Mrs. BEAULIEU: Mr. Speaker, I move acceptance of the Majority "Ought Not to Pass" Report, I ask for a roll call and I wish to speak briefly.

The SPEAKER: The gentlewoman from Portland, Mrs. Beaulieu, moves that the Majority "Ought Not to Pass" Report be accepted.

The gentlewoman may proceed.

Mrs. BEAULIEU: Mr. Speaker, Ladies and Gentlemen of the House: The same arguments used for the previous bill are appropriate for this one, and I hope you will support the "ought not to pass" report.

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

Mr. LEIGHTON: Mr. Speaker, Ladies and Gentlemen of the House: I will be exceedingly brief. Chairman Beaulieu is essentially correct. This differs from the previous bill only that instead of just applying to the public sector only, this applies to both the public and the private sector. There really is no difference between the two, except that the National Labor Relations Act inaugurated in 1935, after most of the victories of organized labor in this country had been won, doesn't apply to the public sector.

I might just make a few very brief, disjointed remarks. First of all, Chairman Beaulieu talked before about a number of prominent Maine citizens that stood in her corner on this issue, and I would just like to point out that Fred Frenig of East Stoneham is with me.

I would leave one other thought with you, and that is that organized labor throughout the country represents approximately 23 percent of the work force. Here in Maine it is arguable, it is roughly 12 to 14 percent of the work force.

On these right-to-work versus compulsory unionism issues, I have had the occasion, as I am sure many of you have, to see many surveys. I have surveyed my own legislative district, I have surveyed other legislative districts, and I have seen it on a congressional level, and the results that I have seen, except in very unionized towns, is that people overwhelmingly want a right-to-work law. I have seen statistics or surveys that run 10 to 1 in favor, as much as 20 to 1 in favor, and I would just suggest that I don't think our vote has revealed that perspective of our constituents. It does indicate that the organized labor lobbying power is disproportionate to their numbers, and I would just leave you with a question—why?

The other comment that I would like to make in conclusion is that we keep hearing the argument that the majority rules. When we talk about majority rule, we are talking about levels of government. Unions are private entities, they are private corporations, and the gentleman from York referred to compulsory unionism being an effective tool oftentimes for management—that's absolutely true. The point is that management is a private entity, a private corporation dealing with another private entity, a union, deciding the fate of a third party who is a citizen of the United States of

America.

I won't belabor the point any further. I ask your support on this bill.

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

Mr. TUTTLE: Mr. Speaker and Members of the House: I will be very brief here. This is probably the only time I am going to speak on this issue today. I think essentially all these bills are attempting to address the same issue, but permit me to share with you some of my reasons for opposing the legislation or the so-called right-to-work bill.

I believe they have actually been misnamed and therefore many sincere and honest people are being misled into believing that this proposal is doing something which it is not. Every willing and able individual in this country should have the opportunity to hold a decent and rewarding job—that is beyond dispute.

Individual freedom has much to do with the economic freedom, and economic freedom can only be obtained when our people only have the full and rightful opportunity to work, but when that work yields an adequate, satisfactory and encouraging income, right-to-work will only limit economic freedom.

Organized labor in this country is largely responsible, as has been brought up before, for the United States enjoying the highest standard of living of anywhere in the world. Certainly unions, especially large ones, have suffered from the corruption, mismanagement and unresponsiveness that a lot of us see today. So are business and government, and no one is advocating to abolish or weaken them.

Right-to-work legislation, if passed, will serve to undermine and eventually destroy democratic unionism, and the protection it affords and offers the working people of this country. If you believe as I do, that the working men and women of the country are entitled to the right of organizing and associating together for their own common welfares, then hopefully you will reconsider your support of this bill. Therefore, I hope that you will support the position of the Majority "Ought not to Pass" Report.

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

Miss LEWIS: Mr. Speaker, Ladies and Gentlemen of the House: I thought that those of you in trying to decide how to vote on this issue might be interested to know that only 20 to 25 percent of Maine's labor force is unionized. A much higher percentage of the public sector is unionized than in the private sector. So I do hope that you will remember when you vote on the bill right now, which has to do with the private sector, that very few of Maine's labor force in the private sector is unionized, and yet in that small percentage where there are unions, many people are forced to pay union dues against their will.

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

Mr. MCCOLLISTER: Mr. Speaker, Ladies and Gentlemen of the House: I believe these bills went to the wrong committee; they should have gone to Public Utilities, because I believe that committee deals with monopolies, and what we are talking about here is giving the unions a monopoly.

The SPEAKER: A roll call has been requested. For the Chair to order a roll call, it must have the expressed desire of one-fifth of the members present and voting. All those desiring a roll call 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 Portland, Mrs. Beaulieu, that the Majority "Ought Not to Pass" Report be accepted. All those in favor will vote yes; those opposed will vote no.

The Chair recognizes the gentleman from Kennebunk, Mr. Hanson.

Mr. HANSON: Mr. Speaker, I request permission to pair my vote with the gentleman from Portland, Mr. Manning. If he were here, he would be voting yea; if I were voting, I would be voting nay.

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

Mrs. LOCKE: Mr. Speaker, I ask permission to pair my vote with Representative Jalbert of Lewiston. If he were here, he would be voting yea and I would be voting nay.

#### ROLL CALL

YEA — Baker, Beaulieu, Benoit, Berube, Boisvert, Boyce, Brannigan, Brenerman, Brodeur, Brown, A.; Brown, D.; Cahill, Carrier, Carroll, Carter, Chonko, Clark, Conary, Connolly, Cox, Crowley, Davies, Diamond, G.W.; Diamond J.N.; Dudley, Erwin, Fitzgerald, Fowlie, Gillis, Gowen, Gwadosky, Hall, Hayden, Hickey, Higgins, H.C.; Hobbins, Huber, Jacques, Joyce, Kane, Kany, Kelleher, Ketover, Kilcoyne, LaPlante, Laverriere, Lisnik, MacEachern, Macomber, Mahany, Martin, A.; Martin H.C.; Matthews, McGowan, McHenry, McKean, McSweeney, Michael, Michaud, Mitchell, E.H.; Mitchell, J.; Moholland, Nadeau, Nelson, M.; Norton, Paradis, E.; Paradis P.; Paul, Pearson, Perry, Post, Pouliot, Prescott, Racine, Richard, Roberts, Rolde, Small, Smith, C.B.; Soulas, Soule, Stover, Strout, Swazey, Tarbell, Telow, Theriault, Thompson, Tuttle, Twitchell, Vose, The Speaker.

NAY — Aloupis, Armstong, Austin, Bell, Bordeaux, Brown, K.L.; Callahan, Connors, Cunningham, Curtis, Damren, Davis, Day, Dexter, Dillenback, Drinkwater, Foster, Gavett, Higgins, L.M.; Holloway, Hunter, Hutchings, Ingraham, Jackson, Jordan, Kiesman, Lancaster, Leighton, Lewis, Livesay, MacBride, Masterman, Masterton, McCollister, McPherson, Murphy, Nelson, A.; O'Rourke, Perkins, Peterson, Randall, Reeves, J.; Ridley, Salsbury, Sherburne, Smith, C.W.; Stevenson, Studley, Treadwell, Walker, Webster, Wentworth, Weymouth.

ABSENT — Lund, Reeves, P.

PAIRED — Hanson-Manning; Jalbert-Locke.

Yes, 92; No, 53; Absent 2; Paired, 4.

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

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

Mrs. BEAULIEU: Mr. Speaker, having voted on the prevailing side, I ask that we reconsider our action and ask that you all vote against me.

The SPEAKER: All those in favor of reconsideration will say yes; those opposed will say no.

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

Sent up for concurrence.

#### Divided Report

Majority Report of the Committee on Labor reporting "Ought Not to Pass" on Bill "An Act to Make Voluntary Any Public Employee Labor Organization in the State" (H. P. 777) (L. D. 922)

Report was signed by the following members:

Senator:

DUTREMBLE of York

— of the Senate.

Representatives:

BEAULIEU of Portland  
BAKER of Portland  
LAVERRIERE of Biddeford  
MCHENRY of Madawaska  
HAYDEN of Durham  
TUTTLE of Sanford  
MARTIN of Brunswick

— of the House.

Minority Report of the same Committee reporting "Ought to Pass" on same Bill.

Report was signed by the following members:

Senators:

SUTTON of Oxford  
SEWALL of Lincoln

— of the Senate.

Representatives:

FOSTER of Ellsworth  
LEWIS of Auburn  
LEIGHTON of Harrison

— of the House.

Reports were read.

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

Mrs. BEAULIEU: Mr. Speaker I move acceptance of the Majority "Ought Not to Pass" Report.

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

Miss LEWIS: Mr. Speaker, Ladies and Gentlemen of the House: L. D. 922 is a slightly different bill and has a totally different concept than the two bills that we have previously argued. In the previous bills, we have been dealing with a situation in which a union must represent every person in a company whether or not the person in the company wanted that union.

In the arguments against those two previous bills, we heard examples of people saying things like, what about the free loaders? What about those free riders who want to get the union benefits without paying in? My bill is an attempt to answer that argument by saying, okay, if people do not want to join a union, they don't have to, but a union does not have to represent those people who refuse to pay their dues.

This seems to me to be the ideal bill for the workers in Maine. The reason why I believe this is that this will give the workers a chance to see if they need a union or not. For example, in a situation in which the union was getting excellent benefits for its people, representing people in their grievances, getting high salaries, so forth and so on, and the non-union members were not getting these benefits, the non-union members would see that they obviously join the union and the union would benefit because it would become stronger. In a situation, on the other hand, in which a union wasn't really getting much for its people, for example, the union was asking for higher wages but the taxpayers were saying, no, we can't afford those higher taxes, therefore you cannot have your raises, then it would show those workers that there was no need for them to pay \$100 or \$200 in union dues per year when they were really not getting anything from that union.

This is really why I believe that this is a bill for the workers. This is a way for the workers to see whether they need a union or not and help the workers on those grounds.

I would also like to point out another great benefit of this particular bill, and that is that this bill would eliminate the root cause of wild-cat strikes in the nation and in the state of Maine. For those of you who were members of the 109th Legislature, you perhaps remember when MSEA went out on an illegal strike over the issue of a union security clause. We now have that situation coming up again this spring; let us hope not, because I understand it was very difficult for all of you who were involved.

If you voted against the previous bills because of the free loader argument, please give my bill serious consideration. If you are concerned about the workers in Maine and whether they should or should not be paying union dues, please give my bill serious consideration.

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

Mrs. BEAULIEU: Mr. Speaker, Ladies and Gentlemen of the House: I rise in absolute op-

position to this bill. Unlike the other bills, L. D. 922 is not just another what I consider to be an anti-union bill but it is a real anti-employer bill. This L.D. strikes at the core again of collective bargaining by encouraging chaos on one side of the bargaining table; namely, the employer side. Under this bill, the public employer might have to negotiate as many employment contracts as there are employees. Please note, and this issue has been kind of muddled by people on both sides, note that we can refer to the cost of hiring before the days of collective bargaining if we pass a bill like this. In those days, management could act summarily, sometimes capriciously, sometimes rightfully in many of these matters, because employment was a take-it or leave-it basis and the employer was under no duty whatsoever to engage in what we call good faith bargaining.

Now, and I believe that it is only fair, management is compelled by law to sit down at the table and make honest attempts to hash out the differences it has with labor. But L. D. 922, by aiming at decimating the labor side, makes unions weak, if they continue at all, because of the need to have total agreement of all members on every single issue. It undermines the union's ability to bargain and, believe me, the employer's ability to plan. It gives rise to the threat of unsaid grievances, more litigation and chaos in labor-management relations, and yet this bill is really being regarded as one of the two gems by the right to work groups.

Problems such as litigation, grievances, and what not are the reasons we acted for collective bargaining for Maine's public employees in the first place. We should not destroy that system now. This bill flags the real intent of collective bargaining, a free-for-all in my opinion, and I have been involved on both sides of the table in labor issues. Management, for example, could grant higher benefits to a non-union member and the end result is, who needs a union? It could force management to deal with a constantly changing union representative. They don't need that as employers. I think a young man, Jim Cook of the Bangor Fire Department, said it so well at our hearing—municipalities hold down the costs of bargaining by bargaining with only one or two units.

Under this proposal, the cost, in my opinion and in the opinion of management people, would soar. You would have the potential split of many, many unions. For example, the ladder men from a fire department could wind up bargaining for themselves alone. The detectives from the police departments could choose to bargain for themselves alone and down the line it would go. It would have a distinct disadvantage, enormous costs, for both labor and management.

Finally, I guess the critical issue is that the bill takes away from the current union members the principle of their exclusivity, one of the largest or the most frequently mentioned issues for the proposing of this bill. I don't think you can hurt both sides at once and come out with a workable tool. This bill is not in order.

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

Mr. BAKER: Mr. Speaker, Men and Women of the House: Well, last session they debated one right-to-work bill and this session we have not just one right-to-work bill, we have four right-to-work bills plus a right-to-work amendment to the county employees' collective bargaining and the right-to-work report. We have a lot of right to work issues to discuss.

I would just like to discuss one particular aspect about this particular bill. Before I do that, I would like to say a few other things. I had planned to make a great impassioned speech this morning on the issue and I decided not to, but there are a few things that I think I would like to put on the record.

I am not a union boss and I came to my conclusions about labor unions not because of any

support that the AFL-CIO might have given me in my election; that was throughout my experience working.

I know that when we talk about democracy, we have often heard that democracy is always good for government but when we deal with a union, we are dealing with a private corporation. I guess I have a difference of opinion than the good gentleman from Harrison has on that point. I think democracy is good for unions and I think it is good for the work place, and that is where I stand.

To get to this bill, this bill would basically put an end to the collective bargaining process as we know it. If you support this bill, we might as well do away with collective bargaining. You know it sounds nice, it is great, you know, if you don't want to be represented, fine, but it ignores the real reasons that collective bargaining laws mandate that only one union at a time represent a given class or group of employees.

In each of our three bargaining laws, the municipal, the state and the university, it is stated, and I am going to take a little quote here—"It is the call to be the public policy of this state and it is the purpose of this chapter to promote the improvement of the relationship between public employers and their employees by providing a uniform"—I repeat—"a uniform basis for recognizing the right of public employees to join labor organizations of their own choosing and to be represented by such organizations in collective bargaining for terms of conditions of employment." The key word, as I mentioned before, "uniform and orderly."

Under this bill, you would have many different groups vying for collective bargaining in a bargaining unit. There wouldn't be a bargaining unit. You would have the people who belong to the union over here; then you would have somebody who wanted to be represented by another union over here, and then you would have to bargain with five additional people that decided they don't want to be represented by anybody, and that is sheer chaos. I just wanted to make the point clear about the concept of exclusive representation.

The United States Supreme Court in a leading case that has often been cited, *Abood* versus the Detroit Board of Education, recognizes this whole issue and they stated—"The principle of exclusive representation which underlies the National Labor Relations Act is a central element in the congressional structuring of industrial relations. The designation of a single representative avoids the confusion that will result from attempting to enforce two or more agreements specifying different terms and conditions of employment prevents intervening rivalries from creating dissension within the work force and eliminating the advantages of collectivization. It also frees the employer from the possibility of facing conflicting demands from different unions and permits the employer and a single union to reach agreements and settlements that are not subject to attack from rival labor organizations." But while that case dealt with the private sector, the court also said in the same case, "The desirability of labor peace is no less important in the public sector."

I will leave you with that thought and hope you will join with us in seeing that this bill dies the death it deserves.

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

Mr. LEIGHTON: Mr. Speaker, Ladies and Gentlemen of the House: Just a few brief comments. First of all, with respect to the allegation that this would destroy the collective bargaining system, that is ridiculous on the face of the Department of Labor's statistics that are available to all of us. The fact is that union membership is growing and collective bargaining is succeeding more in the right-to-work states than it is in the non right-to-work states. With respect to the allegation that this would create a multiplicity of bargaining units

and havoc in collective bargaining, I should remind you that we have only had collective bargaining in the public sector for just a short time. It was only a short while ago that a hundred percent had to bargain for ourselves, and even now 86 percent of us do.

Actually, the facts are that when it comes to joining a union, and I would be the first to join, most people will because of a very logical and readily apparent peer pressure. You have to be some kind of an oddball when your coworkers approach you and say, look, we have a good union that is responsive to our needs and we want to support it, the dues are such and such, or officers are such and such and our program is such and such. A guy has got to be some kind of a weirdo under those circumstances to say that I am not going to join and pay my fair share.

But frankly, ladies and gentlemen, the type of country that I was born into and that you were born into, we left a place for people like that. We protected minority rights and we did it, as I said before in earlier talks, back when the union movement was most successful and most productive in this country. We left a place for those who through principle or conscience couldn't bring it to themselves to be compelled to join an organization they didn't want to be a part of.

I am all for democracy in government intrinsically and that is where it belongs. But the opponents of this bill are talking about the kind of democracy that would let me go into a private restaurant, for example, and cause an election to be held over who was going to be waited on first. You don't place the mantle of government and democracy onto private corporations.

The growth of unions in the non right-to-work states, and Maine is one of them, has been primarily in the private sector. In the most recent period studied by the Department of Labor, Maine lost 8,000 members in the private sector of organized unions. The growth in unionism is coming primarily in these states through the public sector, and frankly, ladies and gentlemen, after the union gets in, they are locking them up with agency shop agreements so they can't get out. What this means then is that the union no longer needs to be responsive, since their members and potential members have no choice, they have to join. They can't say, 'a curse on your house if you don't follow such and such a program.'

Some of the things that we have to look for in compulsory unionism in the public sector are these kinds of situations, a situation where a policeman, for example, investigating a union has to, by virtue of compulsory unionism, have to be a member of the very union that he is investigating; a situation in journalism in the fourth estate where an investigative reporter investigating a union as a condition of being able to work for the newspaper has to be a member of the union that he is investigating. Harkening back to the gentleman from York's earlier comments. I am worried about unionism in Great Britain too.

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

Mrs. BEAULIEU: Mr. Speaker, I ask for a roll call.

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

Miss LEWIS: Mr. Speaker, Ladies and Gentlemen of the House: I was very interested this morning to hear the gentlelady and the gentleman from Portland talk for management. All this year they have led me to believe that they were very proud of their pro-labor, anti-management records, and I find it very interesting that they have now switched to become so concerned about management.

I would like to share with you a few brief statistics that show that this would not particularly hurt management. As the gentleman from Harrison, Mr. Leighton, pointed out,

before any unions came in, of course, a hundred percent of the people were bargaining for themselves.

But let's look briefly at our own state government. Before MSEA became the official bargaining unit in state government, less than one person, in other words, one person worked part time to implement the recommendations of the Hay Report and decide how much everybody should be paid in state government. As soon as the state legislature passed a law to allow collective bargaining, the Office of Employee Relations was formed, and in fiscal year 1978, over \$169,000 was spent. In fiscal year 1979, the first salary increases were negotiated for state employees under the law passed in 1974, and it took eight people to negotiate these contracts, and in fiscal year 1980, legislative count of people employed is nine positions. So if Mrs. Beaulieu and Mr. Baker were really so concerned for the taxpayer and for the employer, they should, of course, get rid of unions, which I am sure they would not want to do, nor would you or I, because what you and I are concerned about is the working people in the state of Maine. If a union can get the working people a better break, then let's have unions, and if the unions cannot get the working people a better break, then why should these people have to pay tributes?

The gentlelady from Portland pointed out that if management gave higher wages, it would bust the union. Is the gentlelady from Portland concerned about the union's existence or is she concerned about the workers? If she were concerned about the workers, she would see that if the management gave higher wages to the non-union members, only the worker would benefit, so let's go for the worker benefitting.

I do hope you will join me by voting no this morning.

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

Mr. BAKER: Mr. Speaker and Members of the House: I don't often get up twice on a bill; however, I am only going to say one thing in regard to whether or not unions can be responsive or how you force the union to be more responsive. You elect your union leadership. If they are not responsive, you kick them out of office. That is more than the workers could do to management.

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

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

The SPEAKER: The pending question is on the motion of the gentlewoman from Portland, Mrs. Beaulieu, that the Majority "Ought Not to Pass" Report be accepted. All those in favor will vote yes; those opposed will vote no.

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

Mr. JACKSON: Mr. Speaker, I would like to pair my vote with the gentleman from Lewiston, Mr. Jalbert. I would be voting nay and he would be voting yea.

The SPEAKER: The Chair recognizes the gentleman from Milo, Mr. Masterman.

Mr. MASTERMAN: Mr. Speaker, I would like to pair my vote with the gentleman from Portland, Mr. Manning. If he were here, he would be voting yea, and if I were voting, I would be voting nay.

#### ROLL CALL

YEA — Baker, Beaulieu, Benoit, Berube, Boisvert, Boyce, Brannigan, Brenerman, Brodeur, Brown, A.; Carrier, Carroll, Carter, Chonko, Clark, Connolly, Cox, Crowley, Davies, Diamond, G.W.; Diamond J.N.; Dudley, Erwin, Fitzgerald, Fowlie, Gillis,

Gowen, Gwadosky, Hall, Hanson, Hayden, Hickey, Higgins, H.C.; Hobbins, Jacques, Joyce, Kane, Kany, Kelleher, Ketover, Kilcoyne, LaPlante, Laverriere, Lisnik, Locke, MacEachern, Macomber, Mahany, Martin, A.; Martin, H.C.; Masterton, Matthews, McCollister, McGowan, McHenry, McKean, McSweeney, Michael, Michaud, Mitchell, E.H.; Mitchell, J.; Moholland, Murphy, Nadeau, Nelson, M.; Norton, Paradis, P.; Paul, Pearson, Perry, Pouliot, Prescott, Racine, Richard, Roberts, Rolde, Small, Smith, C.B.; Soulas, Soule, Strout, Swazey, Telow, Theriault, Thompson, Tuttle, Vose, Webster, The Speaker.

NAY — Aloupis, Armstrong, Austin, Bell, Bordeaux, Brown, D.; Brown, K.L.; Cahill, Callahan, Conary, Conners, Cunningham, Curtis, Damren, Davis, Day, Dexter, Dillenback, Drinkwater, Foster, Gavett, Higgins, L.M.; Holloway, Huber, Hunter, Hutchings, Ingraham, Jordan, Kiesman, Lancaster, Leighton, Lewis, MacBride, McPherson, Nelson, A.; O'Rourke, Paradis, E.; Perkins, Peterson, Post, Randall, Reeves, J.; Ridley, Salsbury, Sherburne, Smith, C.W.; Stevenson, Stover, Studley, Tarbell, Treadwell, Twitchell, Walker, Wentworth, Weymouth.

ABSENT — Livesay, Lund, Reeves, P.

PAIRED — Jackson-Jalbert; Manning-Masterman.

Yes, 89; No, 55; Absent 3; Paired, 4.

The SPEAKER: Eighty-nine having voted in the affirmative and fifty-five in the negative, with three being absent and four paired, the motion does prevail.

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

Mrs. BEAULIEU: Mr. Speaker, having voted on the prevailing side, I move we reconsider our action and ask that you all vote against me.

The SPEAKER: All those in favor of reconsideration will say yes; those opposed will say no.

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

Sent up for concurrence.

#### Consent Calendar

##### First Day

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

(S. P. 300) (L. D. 844) Bill "An Act Concerning Health Insurance Plans under the State Retirement System"—Committee on Aging, Retirement and Veterans reporting "Ought to Pass" as amended by Committee Amendment "A" (S-82)

(H. P. 266) (L. D. 329) Bill "An Act to Exempt Guide Dogs from Registration Fee Requirements During the Raising Period in Foster Homes"—Committee on Agriculture reporting "Ought to Pass" as amended by Committee Amendment "A" (H-163)

(H. P. 944) (L. D. 1120) Bill "An Act to Establish a Maine Guarantee Authority Reserve Fund" (Emergency)—Committee on Appropriations and Financial Affairs reporting "Ought to Pass" as amended by Committee Amendment "A" (H-162)

(H. P. 345) (L. D. 393) Bill "An Act to Make Allocations from the Maine Coastal Protection Fund for the Fiscal Years Ending June 30, 1982 and June 30, 1983" (Emergency)—Committee on Appropriations and Financial Affairs reporting "Ought to Pass"

(H. P. 632) (L. D. 713) Bill "An Act Relating to the Licensing of Hearing Aid Dealers and Fitters"—Committee on Business Legislation reporting "Ought to Pass" as amended by Committee Amendment "A" (H-164)

(H. P. 540) (L. D. 618) Bill "An Act to Permit the Town of Orono to Withdraw from the Group Life Insurance Plan under the Maine State Retirement System" (Emergency)—Committee on Aging, Retirement and Veterans reporting



"Ought to Pass" as amended by Committee Amendment "A" (H-165)

No objections being noted, the above items were ordered to appear on the Consent Calendar of April 3 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. 589) (L. D. 667) Bill "An Act Relating to the Marking of Glassware"

(H. P. 281) (L. D. 311) Bill "An Act to Permit the Workers' Compensation Commission to Grant a Rehearing on the Ground of Newly Discovered Evidence" (C. "A" H-160)

(S. P. 235) (L. D. 653) Bill "An Act to Amend the Social Worker Registration Act with Respect to Employment by Nursing Homes and to Foster Coordination with State and Federal Regulations Governing Required Social Services in Nursing Homes" (C. "A" S-79)

(S. P. 254) (L. D. 723) Bill "An Act to Revise the Charter of the Richmond Utilities District" (C. "A" S-78)

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

#### Passed to be Enacted

RESOLVE, for Laying of the County Taxes and Authorizing Expenditures of Franklin County for the Year 1981 (Emergency) (H. P. 1308) (L. D. 1510)

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

#### Amended Bills

Bill "An Act to Amend the Eating, Lodging and Recreational Place Licensing Law" (H. P. 62) (L. D. 74) (C. "A" H-152)

Bill "An Act to Establish the Department of Public Safety as the Lead Agency Regarding Accidental Spills of Hazardous Waste Matter" (H. P. 270) (L. D. 303) (H. "A" H-161 to C. "A" H-126)

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

#### Passed to be Enacted

An Act to Amend the Manufactured Housing Act (S. P. 63) (L. D. 90) (C. "A" S-62)

An Act to Revise the Law Concerning Discharges into Certain Lakes (S. P. 102) (L. D. 215) (C. "A" S-64)

An Act to Adopt a Lead Emission Standard under the Laws for Protection and Improvement of Air (S. P. 103) (L. D. 216)

An Act Relating to Cash Reserve Requirements (S. P. 197) (L. D. 565) (C. "A" S-63)

An Act Relating to the Issuance of Motorboat Racing Permits (H. P. 396) (L. D. 439) (C. "A" H-121)

An Act Relating to Loans to Purchase Foreclosed Properties (H. P. 518) (L. D. 584) (C. "A" H-125)

An Act Relating to Eligibility for World War Assistance (H. P. 699) (L. D. 824) (C. "A" H-124)

An Act to Improve Marketing of Maine Agricultural Products (H. P. 308) (L. D. 380) (C. "A" H-114; S. "A" S-73)

An Act to Describe, Define and Officially Adopt a System of Coordinates for Designating the Geographic Position of Points on the Surface of the Earth within the State of Maine (S. P. 346) (L. D. 989) (C. "A" S-65)

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.

#### Finally Passed

RESOLVE, Authorizing the Town of Milford to Convey its Interest in Certain Public Lands in Milford, Penobscot County (H. P. 315) (L. D. 345) (H. "A" H-147)

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

#### Orders of the Day

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

HOUSE DIVIDED REPORT—Majority (1) "Ought to Pass"—Minority (2) "Ought Not to Pass"—Committee on Health and Institutional Services on Bill, "An Act Relating to Furloughs for Inmates of County Jails" (H. P. 872) (L. D. 1041)

Tabled—April 1 by Representative Carrier of Westbrook.

Pending—Motion of Representative Prescott of Hampden to Accept Majority "Ought to Pass" Report.

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

Mr. MCCOLLISTER: Mr. Speaker, Ladies and Gentlemen of the House: I want to say just a few words about this bill. I believe it is wrong for us to allow a man out of jail before his sentence has been completed or we have granted him parole. That is the reason why I have voted in committee against this bill, and I would like the vote taken by 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 Chair recognizes the gentleman from Auburn, Mr. Brodeur.

Mr. BRODEUR: Mr. Speaker and Members of the House: First I would like to say that each sheriff, under this legislation, will choose whether or not this provision will be implemented in one's county.

I would like to address some of the reasons for this bill. A secondary reason for this bill is, presently the furlough system is available for the inmates at the Maine State Prison and the Maine Correctional Center. It is also available to inmates who are sentenced to the State Prison or the Correctional Center but are housed in county jails. Lesser offenders who are sentenced to county jails, with the exception of Kennebec County, are not allowed this privilege. The 109th Legislature granted Kennebec County the right to conduct a pilot program, and the sheriff of that county testified that this is a hundred percent successful in his county.

State correctional officials also consider their program a success after more than four years of experience with the program.

People who are sentenced to county jails, with rare exceptions, will get out of that jail in a relatively short time. Are we going to attempt to address the problems that may lead the offender to violations of our laws, or do we ignore it just to have it face us again after a six-month sentence is over?

According to the State Correctional System officials, the privilege of furlough is the best incentive an individual has for following rules and regulations, for being a model inmate. This incentive teaches responsibility and, just as important, it shows that when an individual is responsible, his life will be better for self and better for society.

By following rules, one may be eligible for this privilege. One example of how this could work is in its relation to alcoholism and abuse of alcohol or the drugs. The majority of offend-

ers are people whose crimes are related to abuse of alcohol and of the drugs. We presently have at the Eastern Maine Medical Center, in the Seton Unit in Waterville, and very shortly at Saint Mary's General Hospital in Lewiston, and also at the Veteran's Administration Hospital at Togus, a chemical dependency unit or an alcohol dependency unit, which has worked very well in the treatment of alcoholism. The abuser of alcohol and other drugs can benefit from this program.

The program is a 28 day long program in a hospital setting. Under present law, furloughs may be granted for not more than 3 days at one time in order to permit the prisoner to visit a dying relative or to obtain medical services which may be for a period of longer than three days if medically required. The alcohol and chemical dependency programs are not medically required but are desirable.

A sheriff who may be reluctant to put an inmate in a longer term program, such as the alcohol dependency program, can put that individual on a short-term furlough as a trial period to see whether that individual can put his fate in a long term program such as the program that I mentioned. A furlough could also be granted to a person for the purposes of seeking employment.

I would hope that this House would encourage those who have violated our laws to become responsible, productive members of our society.

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

Mr. CARRIER: Mr. Speaker and Members of the House: I hope you pay close attention to this particular bill. The last few days we have been talking about another bill and the other one was to protect the people. This one is where we are going to protect the criminals.

I want to ask a question, since when should we reward the criminals for behaving in prison? I think this is probably the main question about this particular bill. If you look at this bill very closely, this is extremely broad. It is all a matter of interpretation and it is left to the discretion of the sheriff.

On the first line of the bill it says, "furloughs may be granted for any reason." If anyone can tell me what "any" means in this particular bill, I might buy it, but I can't the way it is written right now.

If you look at the second sentence, the conditions where you can give a furlough — he has been sentenced to a county jail for more than 60 days, that is easy enough to understand. The second part of it says, "has served at least one-third of his sentence." I think the way this is written, referring to the second part of it, if somebody is sentenced, let's say, to the county jail for 60 days, after he has served 20 days in prison, he would be entitled to a furlough. Is this what we want? Is this what the people of this state want, to see these people, for whatever reason they are in jail, we are not worried about the alcoholics, if his main pursuit is drinking, as long as he doesn't do anything else, as long as they don't injure anyone or property or scare anybody, but is this the way it should be? Put them in for 20 days and they could get out on a 60 day sentence? I don't think this is the way it should be.

Then it says, "has obeyed all the rules and regulations." When they are in there they should obey the rules and regulations. I have to obey the rules and regulations and I don't get rewarded for it, but if I don't obey the rules, I should get it and I do, they poke it right to me.

The thing about this bill is not the Statement of Fact, but we can't discuss the Statement of Fact too much because that is not the bill, but let's take the last line, it says, "no furlough may be granted more than once a month." Okay, so he is in there and you give them three days for this and three days for that, it doesn't say how long a furlough he can have. I don't see the limitation in this particular bill, but let's



get to the Statement of Fact, which is easier for me to understand. The last sentence says, "county inmates are confined for lesser offenses," that is true, "than those of state institutions and" — this is cute — "should have the same privileges." What privileges are they entitled to, anyway? They gave up their privileges when they went in there and they shouldn't have any privileges. One of the privileges they have is, they don't even put them to work in there and they should put them to work in there, it would take some of the starch out of them.

The next one says, "persons are now being sentenced to county jail for longer periods of time." I don't know for what longer period of time. Whatever their sentence is, you have to believe that the officers and the judges have done a good job in sending them over there and this just circumvents the sentence that the judge has just given to them and I don't think that is the way it should be.

Here is the real clincher; you read that last line — "guidelines will be the same as those set forth by the Bureau of Corrections for their institutions." Let's talk about their institutions if this is going to be the same thing. Do you realize that the people in the state prison today, if they behave, as it is in this bill, they are entitled to about 12½ to 15 days a month off? Then they have the gall to come around and ask for one for one; in other words, they want 30 days off for good behavior now. This is what they are talking about. Is this what we want to do?

We have courts and judges who are supposed to know what they are doing, so let's give them the option that if they sent them in there, they know what they are doing and they are supposed to. I don't know, it doesn't hit my bleeding heart to keep those guys in there, whoever they are. I don't think they should have any privileges. We give them privileges. Look at the Cumberland County budget, we furnish them with all kinds of things. Some of them like it in there, so why the heck throw them out anyway?

I don't like this bill. I won't make a move now. I am going to give the sponsors, or whoever the great believers of this piece of legislation are, a chance to either amend this thing or else we will hit it later on.

I get all kinds of advice here. I am not trying to build an image on this. I wasn't going to be that vicious this morning, but I move the indefinite postponement of this bill and all its papers and ask for a roll call.

The SPEAKER: For the Chair to order a roll call, it must have the expressed desire for 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 have expressed a desire for a roll call, a roll call was ordered.

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

Mr. BOYCE: Mr. Speaker, Ladies and Gentlemen of the House: I enjoyed, as always, my friend from Westbrook, Mr. Carrier. Normally, we are on the same side in voting things, we shot them up yesterday together, but today I think we are on a little bit different plain. However, I think we probably agree on most of what he said and I also agree, obviously, with Mr. Brodeur, or I wouldn't have cosponsored this bill along with Senator Perkins of Hancock and Representative Randall of East Machias.

We have a very unusual situation in that the Maine Correctional Center and the State Prison have furlough privileges and the poor guy who has been sentenced for a short term to stay in county jail, who may be in, and I checked this out with the District Attorney of Androscoggin County yesterday, for no more than disorderly conduct charges or a traffic offense, theft of possibly something under \$500, criminal trespass or criminal mischief — there is

the old stealing of that pumpkin again — well, he is in there and he cannot go on furlough, try and look for a job to get on the work-release system and rehabilitate himself or, as Representative Brodeur pointed out, possibly his problem is drug abuse or alcohol abuse, and go obtain treatment at the various treatment centers throughout the area. Part of the furlough concept would be to let him out to see how he does control himself so he can go to these drug abuse centers and alcohol centers to be rehabilitated.

Yes, it meets the guidelines of the sheriff and most all of your county sheriffs actually have this privilege at the moment anyway, be it for a funeral or a death somewhere in the family, this sort of thing, as Mr. Brodeur mentioned. So, it is really an existing plan we have on a very limited basis now that is functioning in the county but not long enough to make it worthwhile for usage for drug rehabilitation and alcohol rehabilitation.

I think the question here is, are we just going to throw them in and throw the key away and say, to heck with it, turn them loose in 60 days or more and put them back into the same plan of attack again on Lower Lisbon Street? Or are we going to be able to do something with them to try and straighten things out and actually have a correctional institution rather than just a holding tank?

I hope you will vote against the indefinite postponement and vote for the bill today.

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

Mr. KELLEHER: Mr. Speaker, Ladies and Gentlemen of the House: I think Representative Carrier from Westbrook was trying to create a theme here this morning by enlightening this House that those people that go to the county jails aren't there for public spirited programs. They are not doing any good in the public community by going there.

Just what do we have for correctional institutions today? Are we running country clubs? Are we running day care centers for these scoundrels? Is that what we are attempting to do?

I think Mr. Carrier is trying to create a point here — why don't we stop with the illusion that you can take some of these people and lead them by the hand, spank their wrists, apologize for having them have to go to court, apologize that they were causing some problems for your neighbors and mine. Where is the correctional factor in here if they are not about to spend at least part of the time for which they were sentenced?

I think I am publicly spirited minded individual but I can't accept the gentleman from Auburn's solicitation of votes here this morning. I think Representative Carrier and others feel that it is about time that perhaps we make them spend the time that was allotted to them for not doing a public service, for doing a disservice to the people that they create problems for, are arrested for and prosecuted for.

I would hope that this House would support the gentleman's motion this morning.

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

Mr. ROLDE: Mr. Speaker, Ladies and Gentlemen of the House: Ordinarily, I would not have entered into a debate of this sort because it would not have been a bill that came before my committee, but I just happened to have been at the hearing because I was waiting to present another bill.

I want to make several points. The gentleman from Bangor, Mr. Kelleher, has talked about country clubs, day care centers, so forth and so on, and, as you have been told, a prisoner in the Maine State Prison at Thomaston is allowed a furlough. The prisoner in the Maine Correctional Center at Windham is allowed a furlough. But the prisoner in the county jail is not allowed a furlough. We are not talking about whether we should have furloughs or not.

This bill is very similar in a sense to the bill we had the other day dealing with collective bargaining for county employees, because there we had a situation where only one set of employees in the state were not allowed something that all the others were allowed, and that is precisely what we are doing here.

We are talking about whether prisoners at county jails can have the same system that prisoners at the State Prison and at the Correctional Center have.

I was very impressed by the testimony that I heard of Sheriff Bassinet of Kennebec County where we have had a pilot project. He described how that had worked one hundred percent, no problems whatsoever with any of the people who were furloughed and that it was a very, very valuable tool in helping him to maintain that county jail.

This bill is permissive. If a sheriff doesn't want it, he doesn't have to have it, so I hope we will defeat the motion to kill the bill and go ahead and accept the "ought to pass" report.

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

Mrs. PRESCOTT: Mr. Speaker, Ladies and Gentlemen of the House: I would like to simply make one point. That point is, there are prisoners from the Maine State Prison at our county jails. Those prisoners have been sent there because we have overcrowding at the Maine State Prison or at the Correctional Center. When those prisoners are transferred to the county jail, they are allowed furloughs, but the inmates who are there in the county jail who are not inmates from the prison are not allowed a furlough. We are discriminating against the lesser offender and we are asking for permission to not discriminate.

The SPEAKER: A roll call has been ordered. The pending question is on the motion of the gentleman from Westbrook, Mr. Carrier, 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 — Alopis, Armstrong, Austin, Bell, Berube, Brodeaux, Brown, A.; Brown, D.; Brown, K.L.; Callahan, Carrier, Carroll, Carter, Chonko, Clark, Conary, Connors, Crowley, Cunningham, Curtis, Damren, Davis, Day, Dexter, Dillenback, Drinkwater, Dudley, Erwin, Fowlie, Gavett, Gillis, Hanson, Hayden, Hickey, Higgins, H.C.; Higgins, L.M.; Hutchings, Jackson, Jacques, Jordan, Joyce, Kelleher, Kiesman, Lancaster, Laverriere, Leighton, Lewis, Livesay, MacEachern, Macomber, Mahany, Martin, A.; Masterman, Masterton, Matthews, McCollister, McGowan, McHenry, McKean, McPherson, McSweeney, Michaud, Moholland, Murphy, Nelson, A.; Norton, O'Rourke, Paradis, E.; Paul, Perkins, Perry, Peterson, Post, Pouliot, Racine, Randall, Reeves, J.; Ridley, Roberts, Salsbury, Sherburne, Small, Smith, C.B.; Smith, C.W.; Soulas, Soule, Stevenson, Stover, Strout, Studley, Swazey, Tarbell, Telow, Treadwell, Tuttle, Twitchell, Vose, Webster, Wentworth, Weymouth.

NAY — Baker, Beaulieu, Benoit, Boisvert, Boyce, Brannigan, Brennerman, Brodeur, Cahill, Connolly, Cox, Davies, Diamond, G.W.; Diamond, Fitzgerald, Foster, Gowen, Gwadosky, Hall, Hobbins, Holloway, Huber, Hunter, Ingraham, Kane, Kany, Ketover, Kilcoyne, LaPlante, Lisnik, Locke, MacBride, Martin H.C.; Matthews, Michael, Mitchell, E.H.; Mitchell, J.; Nadeau, Nelson, M.; Paradis, P.; Pearson, Prescott, Randall, Richard, Rolde, Theriault, Thompson, Walker.

ABSENT — Jalbert, Lund, Manning, Reeves, J.

Yes, 98; No, 48; Absent, 4.

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

The Chair recognizes the gentleman from

Bangor, Mr. Kelleher.

Mr. KELLEHER: Mr. Speaker, having voted on the prevailing side, I would request that the House reconsider its action and vote against my motion.

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

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

Whereupon, Mr. Kelleher of Bangor requested a division.

The SPEAKER: The pending question is on the motion of the gentleman from Portland, Mr. Connolly, that this be tabled for one legislative day pending the motion of Mr. Kelleher of Bangor to reconsider. All those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

Whereupon, Mr. Connolly of Portland requested a roll call vote.

The SPEAKER: For the Chair to order a roll call, it must have the expressed desire for 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 Portland, Mr. Connolly, that this be tabled for one legislative day pending the motion of Mr. Kelleher of Bangor to reconsider. All those in favor will vote yes; those opposed will vote no.

#### ROLL CALL

YEA — Baker, Beaulieu, Bell, Benoit, Boyce, Brannigan, Brennerman, Brodeur, Cahill, Chonko, Connolly, Cox, Davies, Diamond, J.N.; Fitzgerald, Fowle, Gowen, Hall, Hayden, Hobbins, Holloway, Kane, Kany, Ketover, Kilcoyne, LaPlante, Lisnik, Locke, MacBride, Martin H.C.; Matthews, Michael, Mitchell, E.H.; Mitchell, J.; Moholland, Nadeau, Nelson, M.; Paradis, P.; Pearson, Post, Prescott, Randall, Richard, Rolde, Soulas, Soule, Theriault, Thompson, Twitchell, Vose, Walker.

NAY — Aloupis, Armstrong, Austin, Berube, Boisvert, Bordeaux, Brown, A.; Brown, D.; Brown, K.L.; Callahan, Carrier, Carroll, Carter, Clark, Conary, Crowley, Cunningham, Curtis, Damren, Davis, Diamond, G.W.; Dexter, Dillenback, Drinkwater, Dudley, Erwin, Foster, Gavett, Gillis, Gwadosky, Hanson, Hickey, Higgins, H.C.; Higgins L.M.; Hunter, Hutchings, Ingraham, Jackson, Jacques, Jordan, Joyce, Kelleher, Kiesman, Lacaster, Laverriere, Leighton, Livesay, MacEachern, Macomber, Mahany, Martin, A.; Masterman, Masterton, McCollister, McGowan, McHenry, McKean, McPherson, McSweeney, Michaud, Murphy, Nelson, A.; Norton, O'Rourke, Paradis, E.; Paul, Pearson, Perkins, Perry, Peterson, Pouliot, Racine, Reeves, J.; Ridley, Roberts, Salsbury, Sherburne, Small, Smith, C.B.; Smith, C.W.; Stevenson, Stover, Strout, Studley, Swazey, Telow, Treadwell, Tuttle, Webster, Wentworth, Weymouth.

ABSENT — Huber, Jalbert, Iund, Manning, Reeves, P.; Tarbell, The Speaker.

Yes, 51; No, 43; Absent 6.

The SPEAKER: Fifty-one having voted in the affirmative and forty-three in the negative, with six being absent, the motion does not prevail.

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

Mr. CONNOLLY: Mr. Speaker and Members of the House: I don't really know what to say because this is not my bill nor have I been involved in this legislation. However, I think there are a couple of things that you ought to know.

Representative Brodeur, Senator Perkins, Representative Boyce and Representative Randall came to be cosponsors of this particu-

lar legislation, not because they were asked by any group of prison reform type people to put the bill in nor any inmates at an penal institution in the state, they came to be sponsors of this bill because they were asked by the former sheriff of Cumberland County to sponsor this particular piece of legislation.

Representative Carrier, when he got up and made his initial remarks and appealed to many people's emotions in this body, initially he said that he though he shouldn't take any action today to try to kill the bill, that perhaps it could be amended in a way that would make it acceptable to him and to other members of this body. Then, I guess on the advice of someone else, he went on to make the motion for indefinite postponement.

There is no harm in keeping this bill alive. I would ask you to support the motion of Representative Kelleher for reconsideration, so that at least we can get the bill to a position of second reader and see if there is an amendment that could be offered that would make this bill acceptable and then, if it isn't acceptable, I am sure that the vote, which was quite substantial today, will hold.

I would ask you to support Representative Kelleher's motion for reconsideration, and I would ask the Clerk to read the Committee Report.

Thereupon, the Report was read by the Clerk.

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

Mr. DUDLEY: Mr. Speaker and Members of the House: I would suggest that we let this go to the other body and see what action they take. Then it would be before us again and we might do something or they might do something.

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

Mr. CARRIER: Mr. Speaker and Members of the House: I just have to respond very briefly to what Mr. Connolly said. I think it is erroneous to say that I appealed on the people's emotions this morning, because this is not true.

I said what I thought was wrong with the bill and I thought I was extremely liberal, good and kind in giving them a chance to amend the bill. You accuse me of appealing to the emotions, I don't appeal on the emotions, I appeal on my own emotions, I appeal on my own beliefs. I have the greatest respect for the people who put the bill in. They believe in it; let them believe in it and it is their right if they want to do so. Mr. Randall, I don't know who he is, wherever he is or wherever he is sitting, I respect him. You are going to say to me that I am against young people having long hair or something like that, I really do.

But, as Representative Connolly knows, and his liberal friends know, I can also be liberal at times, but if not liberal, at least I can be considerate. On the advice of somebody else — that wasn't necessary either because I don't think that I live on the advice of somebody else. I don't put in bills on the advice of somebody else. There are very few cosponsors on mine. As a matter of fact and a matter of good gesture, I am not mad at Mr. Connolly, I will take him out to lunch today as long as he pays for it, what is wrong with that?

I want you people to remember that at one time I was on the Committee on Health and Institutional Services and I wasn't against these bills, because at that time, they never sent these bills over there. Apparently they must have gone to Judiciary, but things are changing around a little bit. I think the people on that committee are doing their job and if their belief is that this is a good bill, let them fight for it. If they survive, great. If they die, I die and all this.

All we are trying to do is to find a good medium for people to make this a better place to live. People are scared out there today. They need our protection, they need our advice, they need the help of the younger people. You people

have the energy, I hope you give it to them, the consideration that they need, and this is not the type of bill that they want. They don't want the criminals out of jail.

The best way that I can explain it — we say, well, we are short of room. What happened recently, just last week, I guess, they had a strike in Auburn about the jail or something and they had 40 or 50 criminals in there, 50 inmates in there? What did they do to them? They found a place for them. They put them some place until the strike was over. I might be incorrect on it being Auburn, but wherever it was, they found a place for them and if they don't I will tell them where they can send them.

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

Mr. WALKER: Mr. Speaker, Ladies and Gentlemen of the House: I think this bill comes right down to one thing. Do we trust the person elected as sheriff in our county, do we not trust him to use good judgment? I, for one, trust him and believe we should go along with the majority.

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

Mr. KELLEHER: Mr. Speaker, Ladies and Gentlemen of the House: In answer to the good gentleman's observation, do we trust our elected sheriffs in their respective counties? I say we all do. I think what Mr. Carrier and myself and others are trying to do this morning is to help create public confidence in our judicial system. I think this bill erodes it. It doesn't help it one single bit. I would urge you to vote against my motion to reconsider and give this bill the proper position that it needs, it should be killed.

Mr. Connolly of Portland requested a roll call.

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

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

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

Mr. CONNOLLY: Mr. Speaker, Men and Women of the House: Very briefly, Representative Carrier said when he stood up the first time, initially, that he had no objection to allowing this bill to move on to see if an amendment that was acceptable to him could be produced. I see no reason why this body shouldn't vote for reconsideration today so we can allow the people that put this bill to do it. I think a lot of the arguments that have been given against this bill have nothing to do with the legislation itself and I think what Mr. Walker said holds true for this bill. I hope that you would vote for reconsideration.

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

Mr. MCCOLLISTER: Mr. Speaker, Ladies and Gentlemen of the House: In my opinion, there is no amendment that could be put to this bill to make it a good bill. If you put an amendment on it, it would be to restrict inmates from other institutions in county jails from receiving furloughs while in the county jail.

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

Mr. HIGGINS: Mr. Speaker, Ladies and Gentlemen of the House: I think the good gentleman from Bangor, Mr. Kelleher, spoke very eloquently earlier about eroding public confidence in our judicial system and I think that perhaps is what this bill would end up doing. The only real rational reason I have heard for expanding this benefit to county jails is simply that everyone else obtains the same benefits.

I guess I feel a little differently about this one than I did about the county collective bargaining bill. I did vote for that one because they

were different and they were the only ones. The public perception out there is that if they had a choice, they would rather no one have this benefit than expand it to everyone, and that is why I think I will vote against this reconsideration today.

I think the gentleman from Enfield, Mr. Dudley, had a pretty good scenario when he said, let it go down to the other end of the hall, if there is some support for it down there and there are members of this body who think they want to attach an amendment to it when it comes back, we can do it then. Let's dispose of the bill today and then if it does come back, we will address it then.

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

Mr. McHENRY: Mr. Speaker, Ladies and Gentlemen of the House: I believe that we should not reconsider this matter. We are lenient enough with our prisoners. As you know, Dr. Spock, 20 years ago, said that we should spare the rod and listen to our kids and treat them as an equal, and look what he came out with 20 years after he said that — he said, I made a mistake, I am sorry.

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

#### ROLL CALL

YEA — Baker, Beaulieu, Benoit, Boyce, Brannigan, Brennerman, Brodeur, Cahill, Connolly, Cox, Davies, Diamond, G.W.; Diamond, J.N.; Fitzgerald, Foster, Gowen, Gwadosky, Hall, Hayden, Hobbins, Holloway, Kane, Kany, Ketover, Kilcoyne, LaPlante, Lisnik, Locke, MacBride, Martin, H.C.; Masterton, Matthews, Michael, Mitchell, E.H.; Mitchell, J.; Nadeau, Nelson, M.; Paradis, P.; Pearson, Prescott, Randall, Richard, Rolde, Theriault, Thompson, Walker.

NAY — Aloupis, Armstrong, Austin, Bell, Berube, Boisvert, Bordeaux, Brown, A.; Brown, D.; Callahan, Carrier, Carroll, Carter, Chonko, Clark, Conary, Conners, Crowley, Cunningham, Curtis, Damren, Davis, Day, Dexter, Dillenback, Dudley, Erwin, Fowlie, Gavett, Gillis, Hanson, Hickey, Higgins, H.C.; Higgins, L.M.; Hunter, Hutchings, Ingraham, Jackson, Jacques, Jordan, Joyce, Kelleher, Kiesman, Lancaster, Laverriere, Leighton, Lewis, Livesay, MacEachern, Macomber, Mahany, Martin, A.; Masterman, McCollister, McGowan, McHenry, McKean, McPherson, McSweeney, Michaud, Moholland, Murphy, Nelson, A.; Norton, O'Rourke, Paradis, E.; Paul, Perkins, Perry, Peterson, Post, Pouliot, Racine, Reeves, J.; Ridley, Roberts, Salisbury, Sherburne, Small, Smith, C.B.; Smith, C.W.; Soulas, Stevenson, Stover, Strout, Studley, Swazey, Tarbell, Telow, Treadwell, Tuttle, Twitchell, Vose, Webster, Wentworth, Weymouth.

ABSENT — Brown, K.L.; Huber, Jalbert, Lund, Manning, Reeves, P.; The Speaker.

Yes, 46; No, 98; Absent, 6.

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

Sent up for concurrence.

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

In reference to the action of the House on April 2, whereby it Insisted and Joined in a Committee of Conference, the Chair appointed the following members on the part of the House as Conferees:

KANY of Waterville  
JACQUES of Waterville  
LUND of Augusta

#### (Off Record Remarks)

On motion of Mr. Jacques of Waterville,  
Adjourned until twelve-thirty tomorrow afternoon.