

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

***One Hundred and Tenth
Legislature***

OF THE

STATE OF MAINE

Volume I

FIRST REGULAR SESSION

December 3, 1980 to May 1, 1981

KJ PRINTING
AUGUSTA, MAINE

HOUSE

Monday, April 6, 1981

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

Prayer by Father Harold McElwain of St. Paul's Episcopal Church, Portland.

The members stood at attention during the playing of the National Anthem by the Bucksport High School Band.

The journal of the previous session was read and approved.

Papers from the Senate

The following Communication:

The Senate of Maine
Augusta

April 3, 1981

The Honorable Edwin H. Pert
Clerk of the House
110th Legislature
Augusta, Maine 04333
Dear Clerk Pert:

The Senate today voted to Adhere on 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).

Respectfully,
S/MAY M. ROSS

Secretary of the Senate

The Communication was read and ordered placed on file.

The following Communication:

The Senate of Maine
Augusta

April 3, 1981

The Honorable Edwin H. Pert
Clerk of the House
110th Legislature
Augusta, Maine 04333
Dear Clerk Pert:

The President today appointed the following members of the Senate to the Committee of Conference on Bill, An Act to Establish a Kennebec River Future Commission, (H. P. 1141) (L. D. 1285):

Senators:

DEVOE of Penobscot
REDMOND of Somerset
O'LEARY of Oxford

Respectfully,
S/MAY M. ROSS

Secretary of the Senate

The Communication was read and ordered placed on file.

Ought to Pass as Amended

Report of the Committee on Energy and Natural Resources reporting "Ought to Pass" as amended by Committee Amendment "A" (S-76) on Bill, "An Act Further Amending the Planning and Zoning Statute" (S. P. 183) (L. D. 461)

Came from the Senate with the Report read and accepted and the Bill passed to be engrossed as amended by Senate Amendment "A" (S-94)

In the House, the Report was read and accepted in concurrence and the Bill read once. Committee Amendment "A" (S-76) was read and adopted in non-concurrence.

Senate Amendment "A" (S-94) was read by the Clerk.

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

Mr. KIESMAN: Mr. Speaker, Ladies and Gentlemen of the House: I will save my friend from Falmouth the trouble this morning of informing you that I am going to tell you more about land surveying than you probably ever wanted to know, and that is what I propose to do.

L. D. 461 came into the Energy and Natural Resources Committee from the Maine Society of Land Surveyors with a proposal that the only time a plat plan could be registered would be if

it had been sealed and signed by a registered surveyor. In the committee, it became quite obvious what the intent of this bill was, and after some discussion and questioning by the committee, it was brought out was what they really wanted to do was make the plats and plans that are registered be done in a much better manner than they were presently coming in. Their way of proposing to achieve this was to require that they be signed and sealed by a registered land surveyor. They pointed out that anyone can do their own and get a surveyor to put a stamp and signature on it. That became a little bit obvious, and when they were pinned down as to what really should be done, they acknowledged that the proper approach was to have plat plans that would lay out the minimum requirements for plans and plats that are being registered in the registry of deeds in subdivisions.

They were invited to bring in a proposed plat plan that would properly address the problem, which they did, and that was Committee Amendment "A", and after the plan was brought in by this same society and was polished a little bit to fit the particular situation, it was sent out as a committee amendment, but after it was put out, then some of the group decided they really didn't want to be told that they had to meet some certain minimum standard and they began objecting to it. Then they went to the sponsor of the bill, and as a result we have before us now a Senate Amendment that says, "All subdivision plats and plans required by this section shall contain the name and address of the person under whose responsibility the subdivision plat or plan was prepared." It is right back where we were at. It is a subterfuge, it is garbage, it does nothing for the law, it does nothing to make the plats any better, it does nothing to help the registry and it does nothing to alleviate the problems that are happening in the State of Maine with ill-prepared subdivision plats and plans.

I don't propose to put a bunch of garbage on the statutes; therefore, I would move that this Bill and all its accompanying papers be indefinitely postponed, and next year we will come in with an appropriate bill and address this problem.

The SPEAKER: The motion to indefinitely postpone at this time would not be in order. The pending question is on adoption of Senate Amendment "A". However, that is also a problem. Senate Amendment "A" and Committee Amendment "A" are in conflict and Committee Amendment "A" has already been adopted.

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

Mrs. HUBER: Mr. Speaker, I would ask the Chair to rule on the germaneness of Senate Amendment "A".

The SPEAKER: In reference to the question posed by the gentlewoman from Falmouth, Mrs. Huber, the Chair would rule that Senate Amendment "A" is germane, in light of the fact that it still deals with the original intent of the bill. Even though it dilutes the original purpose, it still deals with the registering of subdivision plats and plans which would be required by the section, even though one refers it to persons responsible for drafting and the other one specifically requires a registered surveyor. Therefore, the Chair would have to rule that it is germane.

Thereupon, on motion of Mr. Davies of Orono, Senate Amendment "A" was indefinitely postponed in non-concurrence.

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

Mr. KIESMAN: Mr. Speaker, Ladies and Gentlemen of the House: There is a certain amount of legitimacy to the argument by some of the surveyors that they didn't attend the hearings because they didn't know there was going to be plat plan proposed. They would have attended and made input to assure that we did have a truly adequate and properly drawn

plat law for the State of Maine. On that basis, I think it would be appropriate that we follow this procedure, and rather than put through a plat law that was an amendment to something that was entirely different, I would move the indefinite postponement of this Bill and all its accompanying papers.

Thereupon, on motion of Mr. Kiesman of Fryeburg, the Bill and all its accompanying papers were indefinitely postponed in non-concurrence and sent up for concurrence.

Divided Report

Majority Report of the Committee on Education reporting "Ought to Pass" as amended by Committee Amendment "A" (S-88) on Bill "An Act Authorizing Mid-State Business School to Confer Associate Degrees" (S. P. 208) (L. D. 573)

Report was signed by the following members:

Senators:

PIERCE of Kennebec
CLARK of Cumberland

— of the Senate.

Representatives:

GOWEN of Standish
ROLDE of York
LOCKE of Sebec
BROWN of Livermore Falls
MATTHEWS of Caribou
THOMPSON of South Portland
BROWN of Gorham
CONNOLLY of Portland
THERIAULT of Fort Kent

— of the House.

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

Report was signed by the following member:

Senator:

TROTZKY of Penobscot

— of the Senate.

Representative:

MURPHY of Kennebunk

— of the House — abstaining.

Came from the Senate with the Majority "Ought to Pass as amended Report read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (S-88)

In the House: Reports were read.

On motion of Mr. Connolly of Portland, the Majority "Ought to Pass" Report was accepted in concurrence and the Bill read once. Committee Amendment "A" (S-88) was read by the Clerk and adopted in concurrence and the Bill assigned for second reading tomorrow.

Non-Concurrent Matter

Bill "An Act to Amend the Lien Law for Sewer Districts" (Emergency) (H. P. 222) (L. D. 259) which was passed to be engrossed as amended by House Amendment "A" (H-155) in the House on April 1, 1981.

Came from the Senate passed to be engrossed as amended by House Amendment "A" (H-155) as amended by Senate Amendment "A" (S-98) thereto in non-concurrence.

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

Non-Concurrent Matter**Tabled and Assigned**

Joint Order relative to the Committee on Business Legislation reporting out a bill to the House concerning the sale of new, used, reconditioned or rebuilt parts of consumer goods under the Uniform Commercial Code. (H. P. 1309) which was Read and Passed in the House on April, 2, 1981.

Came from the Senate Indefinitely Postponed in non-concurrence.

In the House: On motion of Mr. Brannigan of Portland, tabled pending further consideration and tomorrow assigned.

**Petitions, Bills and Resolves
Requiring Reference**

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

Energy and Natural Resources

Bill "An Act to Restrict Importation of Hazardous and Radioactive Waste" (H. P. 1315) (Presented by Representative Ketover of Portland) (Cosponsors: Representatives Holloway of Edgcomb and Norton of Biddeford) (Ordered Printed)
Sent up for concurrence.

Marine Resources

Bill "An Act to Limit Scallop Dragging" (H. P. 1316) (Presented by Representative Salisbury of Bar Harbor) (Approved for introduction by a Majority of the Legislative Council pursuant to Joint Rule 27) (Ordered Printed)
Sent up for concurrence.

Special Sentiment Calendar

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

Recognizing:

The Town of Stockholm, on the centennial celebration of that town's founding to be held July 4-12, 1981; (H. P. 1317) by Representative Nelson of New Sweden.

Mark Hansen, from Sanford High School, 1981 State Class A Wrestling Champ in the 132-pound class, coached by Richard Faulkner; (H. P. 1320) by Representative Tuttle of Sanford. (Cosponsors: Representatives Paul of Sanford, Ridley of Shapleigh and Senator Wood of York) Dorothy Arndt, a sophomore at Freeport High School, who has been selected to represent Freeport in the Hugh O'Brien State of Maine Leadership Seminar" (S. P. 550)

In Memory of:

Robert L. Taylor of Canton, first selectman of the town for seven terms; (H. P. 1318) by Representative McCollister of Canton. (Cosponsor: Senator O'Leary of Oxford)

There being no objections, these items were considered passed or adopted in concurrence or sent up for concurrence.

House Reports of Committees

Ought Not to Pass

Representative Soule from the Committee on Judiciary on Bill, "An Act Relating to Limited Access to Adoption Records" (H. P. 797) (L. D. 951) reporting "Ought Not to Pass"

Representative Joyce from the Committee on Judiciary on Bill, "An Act Concerning Motor Vehicles Used in Crimes" (H. P. 819) (L. D. 973) reporting "Ought Not to Pass"

Representative Hobbins from the Committee on Judiciary on Bill, "An Act to Provide a Mandatory Fine for Illegal Possession of or Attempt to Purchase Intoxicating Liquor" (H. P. 874) (L. D. 1043) reporting "Ought Not to Pass"

Representative O'Rourke from the Committee on Judiciary on Bill, "An Act to Prohibit Welfare Fraud" (H. P. 913) (L. D. 1079) reporting "Ought Not to Pass"

Representative Livesay from the Committee on Judiciary on Bill, "An Act to Increase the Penalties for Drug Trafficking" (H. P. 914) (L. D. 1080) reporting "Ought Not to Pass"

Representative Reeves from the Committee on Judiciary on Bill, "An Act Concerning the Reporting of Welfare Fraud" (H. P. 960) (L. D. 1151) reporting "Ought Not to Pass"

Representative Roberts from the Committee on Local and County Government on Bill, "An Act to Improve Integrity of the Voting Process in Town Meetings and Elections" (H. P. 470) (L. D. 521) reporting "Ought Not to Pass"

Representative Fowlie from the Committee on Marine Resources on Bill, "An Act to Limit the Use of Wooden Pot Buoys in the Coastal Waters of Maine" (H. P. 288) (L. D. 324) reporting "Ought Not to Pass"

Representative Fowlie from the Committee on Marine Resources on Bill, "An Act to Reallocate Certain Seed Lobster Fund Moneys to Specific Research and Development Programs, as Directed by the Lobster Advisory Council" (H. P. 289) (L. D. 325) reporting "Ought Not to Pass" (Representative Conners of Franklin — abstained)

Representative Fowlie from the Committee on Marine Resources on Bill, "An Act Concerning the Taking of Marine Worms in Clam Flats" (H. P. 768) (L. D. 904) reporting "Ought Not to Pass"

Representative Fowlie from the Committee on Marine Resources on Bill, "An Act to Assure that Navigation Channels are Kept Free of Fishing Traps" (H. P. 984) (L. D. 1172) reporting "Ought Not to Pass"

Representative Connolly from the Committee on Education on Bill, "An Act to Establish the Maine Family Protection Act" (H. P. 806) (L. D. 966) reporting "Ought Not to Pass"

Representative Mahany from the Committee on Agriculture on Bill, "An Act Concerning Pregnancy Testing of Livestock by Artificial Breeders" (H. P. 242) (L. D. 276) reporting "Ought Not to Pass" (Representative McCollister of Canton — abstained)

Representative Swazey from the Committee on Local and County Government on Bill, "An Act to Modify the Contingent Account Requirement for Counties" (H. P. 853) (L. D. 1016) reporting "Ought Not to Pass"

Representative Swazey from the Committee on Local and County Government on Bill, "An Act to Establish Uniform Salaries for all Sheriffs" (H. P. 670) (L. D. 774) 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 Hobbins from the Committee on Judiciary on Bill, "An Act Concerning Appellate Review of Certain Criminal Sentences" (H. P. 961) (L. D. 1152) reporting "Leave to Withdraw"

Representative Kilcoyne from the Committee on Taxation on Bill, "An Act to Provide Deductions under the State Individual Income Tax for Necessities" (H. P. 1159) (L. D. 1380) reporting "Leave to Withdraw"

Representative Fowlie from the Committee on Marine Resources on Bill, "An Act to Increase Funding of the Maine Lobster Advisory Council" (H. P. 111) (L. D. 144) reporting "Leave to Withdraw"

Representative Wentworth from the Committee on Local and County Government on Bill, "An Act to Exempt Certain Services Provided Counties from Bid Requirements" (H. P. 752) (L. D. 889) reporting "Leave to Withdraw"

Representative Diamond from the Committee on State Government on Bill, "An Act to Clarify Administration of Appropriations Provided to the Maine Human Services Council" (H. P. 1276) (L. D. 1491) reporting "Leave to Withdraw"

Representative Bell from the Committee on State Government on Bill, "An Act Concerning Registers of Eligibility for Positions under the State Classified Service" (H. P. 610) (L. D. 687) reporting "Leave to Withdraw"

Representative Webster from the Committee on State Government on Bill, "An Act to Provide for an Increase in Legislators' Salaries" (H. P. 952) (L. D. 1128) reporting "Leave to Withdraw"

Representative Foster from the Committee on Labor on Bill, "An Act to Allow a 3-Day Deductible Provision in Workers' Compensation Insurance Coverage" (H. P. 564) (L. D. 640) reporting "Leave to Withdraw"

Representative Thompson from the Committee on Education on Bill, "An Act to Create an Interscholastic Athletic Board" (H. P. 549) (L.

D. 625) reporting "Leave to Withdraw"

Representative Mahany from the Committee on Agriculture on Bill, "An Act to Further Free Enterprise" (H. P. 592) (L. D. 670) reporting "Leave to Withdraw"

Representative Mahany from the Committee on Agriculture on Bill "An Act to Prohibit Certain Uses of Herbicide" (H. P. 972) (L. D. 1160) reporting "Leave to Withdraw"

Representative Day from the Committee on Taxation on Bill "An Act to Exempt State and Federal Retirement Pensions from State Income Tax on the First \$10,000" (H. P. 930) (L. D. 1101) reporting "Leave to Withdraw"

Representative Kilcoyne from the Committee on Taxation on Bill "An Act to Provide a Tax Credit for the Purchase and Use of Studded Snow Tires" (H. P. 1137) (L. D. 1354) reporting "Leave to Withdraw"

Representative Holloway from the Committee on Health and Institutional Services on Bill "An Act to Amend the Hospital Inspection Law" (H. P. 492) (L. D. 544) reporting "Leave to Withdraw"

Representative Jackson from the Committee on Business Legislation on Bill "An Act to Require that Insurance Coverage for Outpatient Community Mental Health Services be Provided in Group Health Care Policies and Contracts" (H. P. 790) (L. D. 944) reporting "Leave to Withdraw"

Reports were read and accepted and sent up for concurrence.

Ought to Pass

Pursuant to Joint Order H. P. 1044

Representative Locke from the Committee on Agriculture on Bill "An Act to Define a Loose Cord of Wood for Fuel Wood Sold on that Basis" (H. P. 1319) (L. D. 1517) reporting "Ought to Pass" — Pursuant to Joint Order (H. P. 1044)

Report was read and accepted, the Bill read once and assigned for Second Reading tomorrow.

Divided Report

Majority Report of the Committee on Election Laws reporting "Ought Not to Pass" on Bill "An Act Concerning Residing Prior to Voting in an Election" (H. P. 793) (L. D. 947)

Report was signed by the following members:

Senators:

PRAY of Penobscot
CARPENTER of Aroostook
— of the Senate.

Representatives:

NADEAU of Lewiston
BOISVERT of Lewiston
DIAMOND of Bangor
ROBERTS of Buxton
BENOIT of South Portland
— of the House.

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

Report was signed by the following members:

Senator:

PIERCE of Kennebec
— of the Senate.

Representatives:

BORDEAUX of Mt. Desert
WENTWORTH of Wells
CAHILL of Woolwich
HANSON of Kennebunkport
WEYMOUTH of West Gardiner
— of the House.

Reports were read.

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

Ms. BENOIT: Mr. Speaker, I move the House accept the Majority "Ought Not to Pass" Report.

The SPEAKER: The Chair recognizes the gentlewoman from Woolwich, Mrs. Cahill.

Mrs. CAHILL: Mr. Speaker, Ladies and Gentlemen of the House: This bill, L. D. 947, would

require a 30-day residency requirement in the State of Maine before one would be eligible to vote in our state. I feel this is a sensible approach and urge you to think carefully before you vote on this matter.

Currently, a person can move from Northeast Overshoe, if he desires, today, and then vote in Maine if there were to be an election tomorrow. Consequently, we have bus loads of people coming into our state to vote on particularly controversial topics such as the case during the past September referendum. One week preceding that referendum, there was not a motel or boarding room to be let in the Bath-Brunswick-Woolwich area. Traffic coming into the state from New Hampshire was four times that of the same time a year before. Do we really want to take the chance of letting these controversial issues be decided by perhaps out-of-state people, special interests? I think not.

I am not trying to prohibit anyone's legal right to vote, rather I am trying to assure that when an important issue is before us, that the outcome is truly a reflection of the Maine people's voice.

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

Mrs. WENTWORTH: Mr. Speaker and Members of the House: I would like to agree with my friend across the aisle, not only on controversial matters but any matter coming before your locality. If a person comes in a day or two days before the election, they have no way of knowing. The people concerned in an election are the problems of the area.

The SPEAKER: The Chair recognizes the gentlewoman from Woolwich, Mrs. Cahill.

Mrs. CAHILL: Mr. Speaker, I would request a division.

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

A vote of the House was taken.

Whereupon, Ms. Benoit of South Portland requested a roll call vote.

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

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

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

Ms. BENOIT: Mr. Speaker, Men and Women of the House: I thought perhaps we could avoid a lengthy debate on this today.

There is some interesting history to L.D. 947. It was originally introduced in November of 1972 by Representative Rodney Ross of Bath. He submitted L.D. 9 to the House, and it read, "Resolution Proposing an Amendment to the Constitution Reducing Resident Requirements for Voting to 30 Days. Debate on this L.D. actually began in March of 1973, shortly after the United States Supreme Court had handed down a ruling on residency requirements in the cases of Dunn versus Bloomstein and Marston versus Lewis. This legislature also requested a ruling from the Maine Supreme Court, the question being, would the Resolution Proposing an Amendment to the Constitution Reducing Resident Requirements for Voting to 30 days, if passed by the legislature and adopted by the electorate, be valid under the Constitution of the United States? The Maine Supreme Court answered in the negative and, in essence, said that 30 days was too long a time. Consequently, on April 26, 1973, Representative Rodney Ross addressed the legislature, and I will quote from the Legislative Record. At this time, they are still trying to get the 30 day residency requirement, and I quote Mr. Ross.

"I presented the bill as a constitutional

amendment to have the residency requirement, before you could register, be 30 days for all persons both in-state and moving into the state from out-of-state. Presently our law says that within the state it is 3 months and when moving into the state it is 6 months. However, during the last presidential election, the Supreme Court said that a person moving into the state could register immediately. Nevertheless, our residents still had to wait 3 months. This seemed unfair, and I was told that the court probably would approve 30 days for all persons.

"We sent this matter to our Supreme Court and received a ruling back from them and were told that our 30 days was too long. The United States Supreme Court would only approve a time limit in keeping with the individual state's difficulty in the registration process. Here in Maine the boards of registration are in session for different lengths of time according to the size of the city. The longest time is 90 days, not including weekends. If we had the weekends and a day or two to come and go on, we arrived at this number, 15 days, and our experts believe that this will satisfy all of the courts.

"I now move that this amendment be adopted" and it was. House Amendment "A" was adopted and the Resolution was passed to be engrossed. At this point, they have set a 15 day residency requirement.

The Record then, in reading it, becomes a little unclear, but for whatever reason, Representative Ross then moved, on May 4, 1973, to kill the 15 day residency requirement. I will quote him again.

"Mr. Speaker, Ladies and Gentlemen of the House: This afternoon, I have an unpleasant job to perform. I must attempt to kill my own bill which I liked so well which I filed on November 20, 1972; it concerns the length of time of residency. The first bill was 30 days for everyone, whether they moved from town to town within the state or came from without the state to the State of Maine. I did this to be fair."

At this point, he introduces a bill, an omnibus bill was presented and Representative Ross explained it as follows: "Back to our case in point, there is one more factor. All of the clerks of court and the registrars and the entire committee felt very strongly that in fairness to all people, all people should be allowed to register on election day, if we do this in person before the registrar or board of registration.

"This is an omnibus bill. For this reason, I have a letter from the Attorney General's Department saying that this amendment is not only constitutional but a nullity. In laymen's terms, a nullity is legally null, void and invalid.

"Our omnibus bill now states that in order to vote you must be a resident of the state and the municipality. Consequently, anyone could move into a municipality one day and vote there the next, if you register in person on election day with a registrar of the board of registration. They must take your word as to your being a resident. Some say that people will go from town to town and thus may vote several times. However, I doubt if this would be worth the risk. They probably would be found out, and the penalty is up to \$1,000 fine plus 11 months in jail."

He went on to kill the bill, and thus Representative Rodney Ross, Republican from Bath, was the first to put on the books voter registration on election day.

Members of this legislature have repeatedly refused to repeal that statute which does allow voter registration up to and including election day. I consider this proposed legislation to be a repeat of previous bills which have attempted to limit voter access to the polls. For that reason, I would suggest that we not spend a lot of time debating this issue again today. We have heard the arguments before and it has not changed our minds.

In closing, I would only add that the right to vote is just that, it is a right afforded to all

qualified citizens by the Constitution. It is not our responsibility to set in place barriers to that fundamental right. We have an obligation as elected officials to assure the people of Maine that they will continue to have access to the polls up to and including election day. I urge you to vote for the Majority "Ought Not to Pass" Report.

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

Mrs. WENTWORTH: Mr. Speaker and Members of the House: I would just like to remind you that the Supreme Court of the United States has ruled 30 days is not an excessive amount.

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

Mr. DIAMOND: Mr. Speaker, Members of the House: Just to clarify the point that the gentlelady from Wells, Mrs. Wentworth, just made, the Supreme Court did uphold the 30-day maximum limitation, but that was as long as the administrative duties performed by the registrars took 30 days.

The full interpretation both on the state and federal level is that the time limit for duration of residency must be established in keeping with the amount of time that it takes to process the registrations, and we have determined that that the day of the election is suitable time.

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

Mrs. HUTCHINGS: Mr. Speaker, Ladies and Gentlemen of the House: I asked for an opinion on the legality of this 30-day residency requirement from our AG's office, and the opinion came back to me that it was legal and that it was entirely within reason, based on their determinations.

I would simply like to remind you that these people, if you think that they are being disenfranchised from voting, may vote absentee from wherever their residency is or was, instead of just moving directly into another town and then deciding that they want to vote there and perhaps may be committing a fraud, which is not unheard of, of voting absentee from the other town.

I would like to give you an example in my own town of where this occurred. Actually, we did not press charges because we had nothing, and money was the big problem, to try to prosecute this case. We had a group of young people who are employed under a program, both federally and state financed, in a camp several miles from the main road. At the time of the nuclear referendum, they were encouraged by a group from Gardiner, Maine, and registered to vote, came over there on a special trip and got all of these young people to register, they went to the polls and voted, which is just fine, I guess, since no one ever knew whether they lived in Lincolnville, Maine, or somewhere else. The program has now been discontinued due to lack of funding and they have all left. They were there probably for a time span of about, I am going to say six weeks. They could have voted from their own towns on an absentee ballot, so I would just remind you that everyone has this right but by passing a 30-day residency law, I think we can prevent a lot of abuse and fraud that is possible.

The SPEAKER: A roll call has been ordered. The pending question is on the motion of the gentlewoman from South Portland, Ms. Benoit, that the Majority "Ought Not to Pass" Report be accepted. All those in favor will vote yes; those opposed will vote no.

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

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

The SPEAKER: The Chair recognizes the gentlewoman from Paris, Miss Bell.

Miss BELL: Mr. Speaker, I request permis-

sion to pair my vote with Mr. Lisnik from Presque Isle. If he were here, he would be voting yes and I would be voting no.

ROLL CALL

YEA — Baker, Beaulieu, Benoit, Boisvert, Brannigan, Brennerman, Brodeur, Carroll, Carter, Chonko, Clark, Connolly, Cox, Crowley, Davies, Diamond, G.W.; Diamond, J.N.; Erwin, Fitzgerald, Fowlie, Gowen, Gwadosky, Hall, Hayden, Hickey, Jacques, Joyce, Kane, Kany, Ketover, Kilcoyne, LaPlante, Locke, MacEachern, Macomber, Mahany, Martin, H.C.; Masterton, McCollister, McHenry, McSweeney, Michael, Mitchell, E.H.; Mitchell, J.; Moholland, Nadeau, Nelson, M.; Paradis, P.; Paul, Pearson, Perry, Pouliot, Prescott, Reeves, P.; Richard, Roberts, Rolde, Smith, C.B.; Soule, Swazey, Theriault, Thompson, Tuttle, Twitchell, Vose, The Speaker.

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

ABSENT — Austin, Higgins, H.C.; Hobbins, Laverriere, Manning.

PAIRED — Bell-Lisnik; Boyce-Jalbert.

Yes, 67; No, 75; Absent, 5; Paired, 4.

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

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

Divided Report

Majority Report of the Committee on Election Laws reporting "Ought to Pass" on Bill "An Act to Allow Voter Registration and Party Enrollment on the Same Form" (H. P. 520) (L. D. 586)

Report was signed by the following members:

Senators:

PRAY of Penobscot
CARPENTER of Aroostook
— of the Senate.

Representatives:

NADEAU of Lewiston
BOISVERT of Lewiston
DIAMOND of Bangor
ROBERTS of Buxton
BENOIT of South Portland

— of the House.

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

Report was signed by the following members:

Senator:

PIERCE of Kennebec
— of the Senate.

Representatives:

BORDEAUX of Mt. Desert
WENTWORTH of Wells
CAHILL of Woolwich
HANSON of Kennebunkport
WEYMOUTH of West Gardiner
— of the House.

Reports were read.

On motion of Ms. Benoit of South Portland, the Majority "Ought to Pass" Report was accepted, the Bill read once and assigned for second reading tomorrow.

Divided Report Later Today Assigned

Majority Report of the Committee on Judiciary reporting "Ought Not to Pass" on Bill "An Act to Exempt Illegal Possession of Liquor from the Maine Juvenile Code" (H. P. 875) (L. D. 1044)

Report was signed by the following members:

Senators:

DEVOE of Penobscot
CONLEY of Cumberland
KERRY of York
— of the Senate.

Representatives:

JOYCE of Portland
O'ROURKE of Camden
LUND of Augusta
BENOIT of South Portland
LIVESAY of Brunswick
SOULE of Westport
HOBBINS of Saco

— of the House.

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

Report was signed by the following members:

Representatives:

DRINKWATER of Belfast
REEVES of Newport
CARRIER of Westbrook

— of the House.

Reports were read.

On motion of Ms. Benoit of South Portland, tabled pending acceptance of either Report and later today assigned.

Consent Calendar

First Day

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

(H. P. 459) (L. D. 505) Bill "An Act to Make Operating a Vehicle under the Influence of Intoxicating Liquor or Drugs an Adult Crime Regardless of the Age of the Operator of the Vehicle" — Committee on Judiciary reporting "Ought to Pass" as amended by Committee Amendment "A" (H-172)

No objections being noted, the above items were ordered to appear on the Consent Calendar of April 7, under listing of Second Day.

(H. P. 753) (L. D. 890) Bill "An Act to Authorize County Commissioners to Charge Rent for Space Furnished to Other Governmental Entities in County Court Houses and Other County-owned Facilities" — Committee on Local and County Government reporting "Ought to Pass" as amended by Committee Amendment "A" (H-171)

On the objection of Mr. Pearson of Old Town, was removed from the Consent Calendar.

Thereupon, the Report was accepted and the Bill read once. Committee Amendment "A" (H-171) was read by the Clerk and adopted and the Bill assigned for second reading tomorrow.

(H. P. 669) (L. D. 773) Bill "An Act to Clarify and Make Corrections in the Liquor Laws" (Emergency) — Committee on Legal Affairs reporting "Ought to Pass"

(H. P. 931) (L. D. 1102) RESOLVE, Authorizing the State Tax Assessor to Convey the Interest of the State in Certain Real Estate in the Unorganized Territory — Committee on Taxation reporting "Ought to Pass"

(H. P. 757) (L. D. 894) Bill "An Act to Create a State Compensation Commission" Committee on State Government reporting "Ought to Pass"

(H. P. 523) (L. D. 589) Bill "An Act to Improve the Administration of Workers' Compensation Hearings and Appeals" — Committee on Labor reporting "Ought to Pass" as amended by Committee Amendment "A" (H-175)

(H. P. 166) (L. D. 230) Bill "An Act to Clarify the School Construction Law" — Committee on

Education reporting "Ought to Pass" as amended by Committee Amendment "A" (H-176)

No objections being noted, the above items were ordered to appear on the Consent Calendar of April 7, under listing of Second Day.

(S. P. 290) (L. D. 816) RESOLVE, Authorizing the Bureau of Public Lands to Convey the State's Interest in a Certain Parcel of Land in Dixmont — Committee on Energy and Natural Resources reporting "Ought to Pass" as amended by Committee Amendment "A" (S-87)

On the objection of Mrs. Prescott of Hampden, was removed from the Consent Calendar.

Thereupon, the Report was accepted and the Resolve read once. Committee Amendment "A" (S-87) was read by the Clerk and adopted in concurrence and the Resolve assigned for second reading tomorrow.

(H. P. 309) (L. D. 341) Bill "An Act to Control Brucellosis in Cattle" Committee on Agriculture reporting "Ought to Pass" as amended by Committee Amendment "A" (H-177)

(H. P. 519) (L. D. 585) Bill "An Act to Allow Savings Banks and Savings Associations to Accept Demand Deposits of Their own Funds" — Committee on Business Legislation reporting "Ought to Pass"

No objections being noted, the above items were ordered to appear on the Consent Calendar of April 7, 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. 596) (L. D. 673) Bill "An Act to Include Energy and Economic Considerations in Assessing Proposals before the Land Use Regulation Commission, the Department of Environmental Protection and the Department of Inland Fisheries and Wildlife and to Provide for Energy and Economic Review of Certain State Standards" (C. "A" H-166)

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

Later Today Assigned

(H. P. 385) (L. D. 428) Bill "An Act to Increase the Surplus Account of the Kennebec Sanitary Treatment District" (C. "A" H-167)

On the objection of Mr. McHenry of Madawaska, was removed from the Consent Calendar.

Thereupon, the Report was accepted and the Bill read once. Committee Amendment "A" (H-167) was read by the Clerk.

On motion of Mr. McHenry of Madawaska, tabled pending adoption of Committee Amendment "A" and later today assigned.

(H. P. 622) (L. D. 705) Bill "An Act to Amend the Law to Provide a Lien for Sewer Rates for the Houlton Water Company" (C. "A" H-168)

(H. P. 845) (L. D. 1011) Bill "An Act to Implement Certain Cost Savings while the State's Unemployment Compensation Fund Remains in Debt" (C. "A" H-169)

(S. P. 343) (L. D. 987) Bill "An Act to Require Disclosure of Reserves by Workers' Compensation Insurers" (C. "A" S-85)

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

Second Reader Tabled and Assigned

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) (H. P. 345) (L. D. 393)

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

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

Mr. KELLEHER: Mr. Speaker, Ladies and Gentlemen of the House: There have been a couple items brought to my attention on this bill dealing with the funding concerning the state tap over in the department. They may be minor questions and they may be significant, but I would ask that maybe the Chairman of the Appropriations Committee, if he so feels to move, or one of my leaders, to table this for one day so I could get the answers from Mr. Warren, which are bothering me to some degree.

Thereupon, on motion of Mr. Diamond of Windham, tabled pending passage to be engrossed and tomorrow assigned.

Passed to Be Engrossed Amended Bill

Bill "An Act to Exempt Guide Dogs from Registration Fee Requirements During the Raising Period in Foster Homes" (H. P. 266) (L. D. 329) (H. "A" H-173 to C. "A" H-163)

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

Tabled Unassigned

Bill "An Act to Place a Maximum Limit on the Inflation Adjustment under the Workers' Compensation Act" (S. P. 281) (L. D. 798) (C. "A" S-70)

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

Mrs. Mitchell of Vassalboro moved that this be tabled unassigned and further requested a roll call vote.

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

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

The SPEAKER: The pending question is on the motion of the gentlewoman from Vassalboro, Mrs. Mitchell, that this matter be tabled unassigned pending passage to be engrossed. All those in favor will vote yes; those opposed will vote no.

ROLL CALL

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

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

burne, Small, Smith, C.W.; Soulas, Stevenson, Stover, Strout, Studley, Tarbell, Telow, Treadwell, Walker, Wentworth, Weymouth.

ABSENT — Austin, Higgins, H.C.; Hobbins, Jalbert, Laverriere, Lisnik, Manning, Twit-chell.

Yes, 76; No, 67, Absent, 8.

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

Passed to Be Enacted

An Act to Exempt the Elderly from Beano Licensing and License Fees (H. P. 852) (L. D. 1015)

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

An Act to Allow Registers of Probate to Aid Persons Using Probate Courts (H. P. 429) (L. D. 476) (C. "A" H-132)

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

Mr. Drinkwater of Belfast requested a roll call vote.

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

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

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

ROLL CALL

YEA — Baker, Beaulieu, Bell, Benoit, Boisvert, Brannigan, Brennerman, Brodeur, Brown, A.; Carrier, Carroll, Carter, Chonko, Clark, Connolly, Cox, Cunningham, Davies, Diamond, G.W.; Diamond, J.N.; Erwin, Fitzgerald, Gowen, Gwadousky, Hall, Hayden, Hickey, Holloway, Huber, Jacques, Kane, Kany, Kelleher, Ketover, Kilcoyne, LaPlante, Livesay, Locke, Lund, MacEachern, Macomber, Mahany, Martin, H. C.; Masterton, McCollister, McGowan, McHenry, McKean, Michael, Michaud, Mitchell, E.H.; Mitchell, J.; Moholland, Nadeau, Nelson, M.; Norton, Paradis, P.; Paul, Pearson, Perry, Post, Pouliot, Prescott, Racine, Reeves, P.; Richard, Ridley, Roberts, Rolde, Small, Smith, C.B.; Soulas, Stover, Swazey, Theriault, Thompson, Tuttle, Vose, Webster.

NAY — Aloupis, Armstrong, Berube, Bordeaux, Boyce, Brown, D.; Brown, K.L.; Cahill, Callahan, Conary, Connors, Crowley, Curtis, Damren, Davis, Day, Dexter, Dillenback, Drinkwater, Dudley, Foster, Fowlie, Gavett, Gillis, Hanson, Higgins, L.M.; Hunter, Hutchings, Ingraham, Jackson, Jordan, Joyce, Kiesman, Lancaster, Leighton, Lewis, MacBride, Martin, A.; Masterman, Matthews, McPherson, McSweeney, Murphy, Nelson, A.; O'Rourke, Paradis, E.; Perkins, Peterson, Randall, Reeves, J.; Salisbury, Sherburne, Smith, C.W.; Soule, Stevenson, Strout, Studley, Tarbell, Telow, Treadwell, Walker, Wentworth, Weymouth.

ABSENT — Austin, Higgins, H.C.; Hobbins, Jalbert, Laverriere, Lisnik, Manning, Twit-chell.

Yes, 79; No, 63; Absent 8.

The SPEAKER: Seventy-nine having voted in the affirmative and sixty-three in the negative, with eight being absent, the Bill is passed to be enacted.

Signed by the Speaker and sent to the Senate.

An Act to Repeal the Provision Concerning Waiver of an Employee's Rights under the Occupational Disease Law (H. P. 566) (L. D. 642)

An Act to Remove Certain Time Restrictions

Exempting Tax on Sales, Storage or Use of Certain Food Products for Human Consumption (S. P. 105) (L. D. 235) (C. "A" S-77)

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.

Orders of the Day

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

Bill, "An Act Concerning the Use of Force to Protect Property" (H. P. 143) (L. D. 169)

— In House, Passed to be Engrossed as Amended by Committee Amendment "A" (H-145) on April 1.

— In Senate, Majority "Ought Not to Pass" Report accepted.

Tabled—April 3 by Representative McKean of Limestone.

Pending—Motion of the same gentleman to Recede.

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

Mr. JOYCE: Mr. Speaker, I would like a roll call and would like to speak on the Bill.

The SPEAKER: The gentleman may proceed.

Mr. JOYCE: Mr. Speaker, Ladies and Gentlemen of the House: This bill is not dead. This is the bill that picked up 102 votes here last week. This is a bill that has gotten to the conscience of the people, and I think just a few more words have got to be said about this bill.

Many people have tried to line it up with the sad event that happened one week ago today. The familiar questions that were heard one week ago today, they were the questions that I heard in my house, as well as many of you—that teenage daughter, Patricia, after getting out of school, was faced with the sad news of President Reagan being shot, came home to claim her place in front of the television set. Her only words were—daddy, is this the way it was when President Kennedy was shot? I said, no, Patty, this is not the way it was when President Kennedy got shot. When President Kennedy was shot, I was saddened, I was shocked and surprised.

Last Monday, we learn now from the national press, the people of America were not surprised or shocked, and after them living through the Bobby Kennedy, the Martin Luther King, the John Lennon, people of this great country were not surprised. Yes, many telegrams were received from throughout the world. The prime ministers and the presidents around the globe, they were shocked and they were surprised, but people at home were profoundly pained. All they could say was, not again, not again. No longer is it surprising when someone shoots our leaders.

When the press notified President Reagan's brother that the President had been shot, his reply was — expected something like this. The Governor of Montana, his reply — it has just gotten to be a game, whether it is John Lennon or a president. National radio went to interview the man on the streets; his only reply was — it is a sick world, a sick world.

Violence, by its repetition, has worn out our vocabulary of horror. Are you surprised, asked the radio reporter of a dozen Americans; their answer — surprised? No, not really. This was their stark answer. This is President Reagan's daughter — her reply, "I think the American people have got to become angry about the crime in this country, about the ability of people to do this to other human beings."

The swell of violence has taken the secret toll on each and every one of us. We know, we now believe what was once unbelievable. I said, no, Patty, this was not the way it was when Kennedy died.

This bill today, there is an amendment that will be presented to Committee Amendment "A" that will trim this bill down to that one sentence that everyone was searching for. This

amendment will say — to prevent other imminent commissions of burglary, robbery, be it Class B and C thefts by unauthorized taking in the nighttime or aggravated criminal mischief in the nighttime.

I think there are over 102 people in this House who could line up in favor of that bill.

Mr. Speaker, could I have 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 in favor will vote yes; those opposed will vote no.

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

The SPEAKER: The pending question is on the motion of the gentleman from Limestone, Mr. McKean, that the House recede from its action whereby the Bill was passed to be engrossed as amended by Committee Amendment "A". All those in favor will vote yes; those opposed will vote no.

The Chair recognizes the gentleman from Waldoboro, Mr. Curtis.

Mr. CURTIS: Mr. Speaker, I request permission to pair my vote with Representative Manning of Portland. If he were here, he would be voting nay and I would be voting yea.

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

Mr. POULIOT: Mr. Speaker, I would like to pair my vote with Mr. Hobbins of Saco. If he were here, he would be voting nay and I would be voting yea.

ROLL CALL

YEA — Aloupis, Armstrong, Berube, Boisvert, Bordeaux, Boyce, Brown, A.; Brown, D.; Brown, K.L.; Cahill, Callahan, Carrier, Carroll, Carter, Conary, Connors, Crowley, Cunningham, Damren, Davis, Day, Dexter, Diamond, G.W.; Diamond, J.N.; Dillenback, Drinkwater, Dudley, Erwin, Fowlie, Gavett, Gillis, Gowen, Hanson, Hayden, Hickey, Higgins, L.M.; Holloway, Hunter, Hutchings, Ingraham, Jackson, Jacques, Jordan, Joyce, Kane, Kelleher, Kiesman, Kilcoyne, Lancaster, LaPlante, Lewis, Locke, MacBride, Macomber, Mahany, Martin, A.; Martin, H.C.; Masterman, Masterton, Matthews, McCollister, McGowan, McHenry, McKean, McPherson, McSweeney, Moholland, Nadeau, Nelson, A.; Norton, Paradis, E.; Paradis, P.; Paul, Pearson, Perkins, Perry, Peterson, Post, Racine, Randall, Richard, Ridley, Roberts, Rolde, Salsbury, Sherburne, Small, Smith, C.B.; Smith, C.W.; Soulas, Stevenson, Stover, Strout, Studley, Swazey, Tarbell, Telow, Theriault, Treadwell, Tuttle, Vose, Walker, Webster, Weymouth.

NAY — Baker, Beaulieu, Bell, Benoit, Branigan, Brennerman, Brodeur, Chonko, Clark, Connolly, Cox, Davies, Fitzgerald, Foster, Gwadosky, Hall, Huber, Kany, Ketover, Leighton, Livesay, Lund, MacEachern, Michael, Michaud, Mitchell, E.H.; Mitchell, J.; Murphy, Nelson, M.; O'Rourke, Prescott, Reeves, J.; Reeves, P.; Soule, Thompson, Twitchell, Wentworth.

ABSENT — Austin, Higgins, H.C.; Jalbert, Laverriere, Lisnik.

PAIRED — Curtis-Manning; Hobbins-Pouliot.

Yes, 104; No, 37; Absent, 9.

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

Mr. Brodeur of Auburn moved that the House concur.

Thereupon, Mr. Tarbell of Bangor offered House Amendment "B" to Committee Amendment "A" and moved its adoption.

House Amendment "B" to Committee Amendment "A" (H-174) was read by the Clerk.

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

Mr. TARBELL: Mr. Speaker, Ladies and Gentlemen of the House: This is the amendment that I said I would offer last week when we were debating the bill in its original form that I thought was a little too extreme and too far-reaching. It has a filing number of H-174, and it is House Amendment "B" not House Amendment "A". If you would like to compare it to the Committee Amendment that we are amending, the Committee Amendment is pink and it is H-145.

What House Amendment "B" would do, it would amend the key section of the Committee Amendment and it would read in its ultimate form as follows:

"A person is justified in using deadly force upon another to protect his property when and to the degree that he reasonably believes that deadly force is immediately necessary to prevent the other's imminent commission of burglary, robbery, Class B or Class C theft by unauthorized taking in the nighttime, or aggravated criminal mischief in the nighttime." That is how the bill would read if House Amendment "B" were added.

What this amendment does is, it limits the use of deadly force to the most serious property theft crime — burglary, which is a felony, a Class C crime under our Criminal Code, which means breaking and entering into a structure with the intent to commit a crime therein; or robbery, which is a Class B, up to the maximum of 10 years imprisonment; a Class B crime and robbery is the physical taking of property, stealing property off a person's body or theft in the nighttime, either Class C or Class B, both of which are felonies, and a Class C theft means that you are stealing property that has at least a value of a thousand dollars or more; and aggravated criminal mischief in the nighttime, as defined in our Criminal Code, means that you are doing damage to property or tampering with property, doing damage to property, that the damage is at least in the amount of a thousand dollars or more; or aggravated criminal mischief is also doing damage that might subject a person to serious bodily injury.

This amendment also deletes the ability to chase after fleeing criminals, to chase them down the road or jump into a vehicle and go after them down the road shooting; you would not be able to do that. You would only be able to use deadly force in these serious property crimes to prevent during the occurrence of the crime.

This measure would dilute and water down the bill as far as I think you could water it down and still have anything left of the bill. It would remove the objections of stealing pumpkins, bicycles or other items of property of nominal value.

The robbery and the burglary could either occur in the daytime or the nighttime, and you could use such force to protect the property. The theft and the aggravated criminal mischief, you could only use such force if it were occurring in the nighttime. That is the technical explanation of the amendment.

I would be glad to answer questions, and I am sure there are others that wish to debate the actual merits of this bill.

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

Mrs. KANY: Mr. Speaker and Members of the House: I do have a couple of questions for the sponsor of the amendment. First of all, I don't have the Criminal Code on my desk, everything else but not the Criminal Code, and I am wondering what class shoplifting is, is that a Class C crime or is that a Class D crime?

The SPEAKER: The gentleman from Waterville, Mrs. Kany, has posed a question through the Chair to the gentleman from Bangor, Mr. Tarbell, who may answer if he so desires.

The Chair recognizes that gentleman.

Mr. TARBELL: Mr. Speaker, I believe that

shoplifting is not a Class C crime, it may be E or D, or both, depending on the nature of the shoplifting. Class C, once we hit a Class C crime, Class C is the demarcation line for a felony, that means that is an indictable offense by a grand jury in our counties.

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

Mrs. KANY: Mr. Speaker, further questions. Are stereo sets sometimes a little over a thousand dollars or a little bit less? What about television sets? I am wondering if someone is going to stop and say, if they have a deadly weapon and if they are thinking in terms of using that deadly weapon—now, I wonder if that television set costs a thousand dollars, did the stereo set cost a thousand dollars? Do you really believe this is going to solve all problems regarding the increased use of deadly force?

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

Mr. MURPHY: Mr. Speaker, Men and Women of the House: A good friend in this chamber last week told me that we, the bleeding hearts, were beaten. I was a little surprised, because that is the first time that term had ever been applied to myself, but I thought it was very appropriate in the selection of the adjective that he used—bleeding.

Last week, during the two-week debate on the deadly force bill, the supporters described the rural areas and people who have been left unprotected, and that is true. The how and why of how that came about is important, very important to the discussion of this bill.

We all know that during the last few years it has been politically popular to cut back the county budget, cut back local police budgets and to cut back the state police budget. We need to ask ourselves the following questions before we vote about our role in this problem.

Over the last few years have we in this chamber voted to weaken our laws, have we voted against raising judicial salaries, have we voted to cut back the number of state police officers in the DOT budget, have we voted against the modernization and expansion of our court system, have we voted against improvements in programs at our state prison? No amendment can clean up or water down this bill as long as it places property above human lives.

The people of this state look to this chamber for leadership and not Wyatt Earp, frontier blow 'em away justice. I urge your yes vote for the concur motion.

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

Mr. BAKER: Mr. Speaker, Ladies and Gentlemen of the House: I would like to pose a question to the gentleman from Bangor, Mr. Tarbell. As you know, very often when people attempt to burglarize a home, they are armed. What I would like to know is, under current statutes, under current law, if somebody is attempting to burglarize your home and they are armed with a knife or gun, do you now have the right to protect yourself with the use of deadly force?

The SPEAKER: The gentleman from Portland, Mr. Baker, has posed a question through the Chair to the gentleman from Bangor, Mr. Tarbell, who may answer if he so desires, and the Chair recognizes that gentleman.

Mr. TARBELL: Mr. Speaker, currently, under our Criminal Code, you can use deadly force to protect your home and your dwelling. That is current law. Just a point of clarification of your question, this bill goes a little further. This bill says that if there is a burglary of a non-dwelling structure, say it is a business or a store or any other structure, a garage, barn, shed, then this bill would go further and permit the use of such force in the daytime or the nighttime.

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

Ms. BENOIT: Mr. Speaker, I move that House Amendment "B" to Committee Amend-

ment "A" be indefinitely postponed.

Whereupon, Mr. Tarbell of Bangor requested a division.

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

Mr. CUNNINGHAM: Mr. Speaker, Ladies and Gentlemen of the House: I think what we are doing here is debating whether or not we should accept this amendment. Now, of course I am in favor of the bill anyway, so it doesn't make any difference to me whether we accept the amendment, because I am in favor of the bill. However, I think if I were opposing the bill and the bill does go through, I would like to have the bill watered down to the degree that the gentleman from Bangor, Mr. Tarbell's amendment waters down the bill. So if I were opposing the bill, I would be in favor of this amendment today rather than against the amendment.

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

Mr. KANE: Mr. Speaker, I would like to pose a question through the Chair to the sponsor of the amendment. I am just wondering how the average citizen, facing a stranger out in his yard or near his door, would be able to tell if it was a Class A or Class C crime under this amendment.

The SPEAKER: The gentleman from South Portland, Mr. Kane, has posed a question through the Chair to the gentleman from Bangor, Mr. Tarbell, and the Chair recognizes the gentleman.

Mr. TARBELL: The question was, how would a Maine citizen know if a crime were a Class C or Class B crime? Under the amendment, Class B and C is used with the theft in the nighttime. Our entire criminal code is set up on these classifications, and depending on what kind of class the crime fits in, then that also is what hinges on what kind of authority or what kind of action can be taken for self-defense or defense of property.

It would have to be known that a Class C offense is a felony, it is a crime that is serious enough that it is punishable up to five years in prison and, I believe, a \$5,000 fine or both, and it would require a \$1,000 theft, theft of at least \$1,000. So it would have to be something serious and something major.

I might point out that the other clause, aggravated criminal mischief in the nighttime, by definition, is Class C and means you are doing damage to property at least in the amount of \$1,000 or more worth of damage. So these distinctions are already on the criminal books and in our Criminal Code 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 Kane of South Portland has raised a legitimate and honest question, and those of us that are supporting the deadly force bill appreciate the question he raised. The amendment, or the suggestion of an amendment to the bill, in my opinion, does nothing but fool the people of the State of Maine. It waters the bill down so that the attitude of those in here who don't want to support the deadly force bill would probably support it and more than likely they are going to vote for the indefinite postponement and they are just going to be working themselves back, trying to work you and I, who supported the majority vote on this bill last week.

My hope is that the House would oppose the gentleman's motion to indefinitely postpone. Even though I know that my colleague from Bangor is working in good faith, it seems to be a complicated amendment and would add more confusion than anything else to the bill.

I spoke to the sponsor of the bill this morning, Representative Crowley, and I can appreciate his concern that perhaps the only thing we may be able to get, meaning support, if I could mention that other body over there,

which I won't, would be acceptance of the amendment which is later down the road because of a subsequent motion at the moment.

I wholeheartedly support the original bill that Mr. Crowley put in. I support the intent of what that bill was as it was put in. I would urge the House to oppose the indefinite postponement motion and am sad to say that I am going to oppose Mr. Tarbell's amendment when we get to it, simply because I am afraid that we are not going to be...do I understand correctly that the motion is to indefinitely postpone the bill?

The SPEAKER: The Chair would answer in the negative. The question is to indefinitely postpone the amendment offered by the gentleman from Bangor, Mr. Tarbell.

Mr. KELLEHER: I would hope that this House would remember its vote of last week if you want a bill that is understandable and clear.

Mr. Speaker, Maybe I misunderstood—I thought the gentlelady made a motion to indefinitely postpone everything? She didn't, she just made a motion to kill the amendment?

The SPEAKER: The Chair would answer in the affirmative.

Mr. KELLEHER: Well, you know, for once this morning, Representative Benoit, I am in agreement with you, but for different reasons.

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

Mr. HAYDEN: Mr. Speaker and Members of the House: I wasn't able to support the original bill of the gentleman from Stockton Springs although I have a great deal of respect for him, I have respect for what he is trying to do today in an effort to clarify what this bill is about and to try to make it more palatable to some of us who couldn't vote with him the first time. First, I don't think that is possible and, unfortunately, also, I fear that the amendment has been offered here does anything but water down or clear the issue.

As a point of clarification, I would like to direct all of your attention to the last serious crime which, under the amendment, would permit the use of deadly force, and that would be the aggravated criminal mischief.

The gentleman from Bangor, Representative Tarbell, has categorized aggravated criminal mischief as involving only the damage of property up to \$1,000. That is not exactly accurate, and I would like to cite from the statute itself so the House knows exactly what we are dealing with on this question.

It is true that aggravated criminal mischief relates to property valued in the sum of \$1,000; it also relates to a person who damages, destroys or tampers with property of another and thereby recklessly endangers human life. It also deals with the person who damages or destroys or tampers with property of a law enforcement agency, fire department, supplier of gas, electric, steam, water, transportation, sanitation or communication services to the public, having no reasonable grounds to believe that he has a right to do so.

Having read that, I question, are we watering down this bill, are we making it any clearer when we are making it a crime with this amendment to use deadly force against a vandal, a child, who is vandalizing a water supply, property of another, a gas supply, telephone system?

I think the problem is that the bill that was voted on last week set out the problem, and the problem is, how are we going to respond as a legislature to the crimes of property and to the use of deadly force? If anything, this bill, this amendment to the bill, makes the problem foggy, makes the instances in which force can be used even more severe.

I would suggest that we go along with the motion to indefinitely postpone this amendment.

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

Mr. McKEAN: Mr. Speaker, Ladies and Gentlemen of the House: If we do indefinitely postpone the amendment and we do send the bill upon its merry way, then, of course, we realize what we have done, we have killed it, so I think all the sponsor of the amendment is trying to do is make some small change to possibly make it more acceptable in the unmentionable body at the other end of the hall. So, the smokescreen that we need to kill the amendment to save the bill, I don't think it is going to save the bill, I am afraid it is going to kill it.

I was home this weekend and I spent a good amount of time talking to a lot of people in my town, and oddly enough, they didn't talk about the highway budget, they didn't talk about the labor bills that we have that are very, very important, they talked about this one. I remember very vividly one lady who I know well in town, she is 66 years old, her husband died here about five years ago, and she has gone through the trauma of having somebody enter her home at night to steal some jewelry and some money. She knows the fear that it presented. She also knows how to use a weapon but she is scared to have one in her house in case she would have to use it. It got me to thinking about a little problem that I ran into.

Most of you who were here when I first came to the Legislature, I owned a grocery store, a little Mom and Pop type store that sits on the corner of an access highway between Caribou and Limestone. I remember one night I had two fellows walk in the store, they went back into the cooler and they got two six-packs of beer. They walked out and they set them on the counter and I asked them for an ID card, as a good store owner would do, and they informed me that they didn't have an ID card but they had something just as good. I ask them what would be just as good as a state ID card and he showed me, and in my eyes it was certainly a good ID card, it was a knife about so long. I still have the scar right here on my arm. If anybody would care to see it, I would be glad to show it to you. He tried to convince me that I shouldn't do anything but let them walk out with two six-packs of beer. Now, isn't that ridiculous? I had a cash register there with probably three or four hundred dollars in it, but they wanted those two six-packs of beer. His parting comment was, if you walk out that door, we are going to kill you, and with that he reached over and split my arm with that knife and gashed it open. As I said, I have got the scar to show you.

I had a weapon in the store, had it underneath my counter. I wasn't close enough so I could reach it, but when he went out that door I could reach it, and I did. I went out the door, they got in their car and I was going to fire at them, but another car drove in and it kind of got between me and them and I didn't want to fire because I was afraid of hitting somebody else.

Well, when the police came along finally to investigate it, they told me that if I had fired that weapon and hit one of those crooks, I would have been the one going to jail—can you picture that? In my own yard, in my own store, I would have been the fellow going to jail. And all they wanted was two six-packs of beer, and they darn near cut my arm off to get them.

When I think back at what was said Monday night, one week ago tonight, when the sister of President Reagan was interviewed, she said—some things have got to change in this world. A lot has got to change, a lot has got to show this garbage on the streets that we mean business. That is exactly the term that she used, if you remember the interview, and it was just so classical because the next day this bill came out on the floor, if you remember, and we sent a message out to the people, those lights of ours sent a message, and the people in my town said it was one of the finest things we have ever done. Can you believe that? Of all the wonderful things this legislature has done, this is one of the finest, and I couldn't believe it. They weren't happy when the Senate killed it.

I don't want to be the one to kill this measure, and I think that if we indefinitely postpone this amendment, this is what we have done. So let's send that message out, let's sent it out loud and clear, so all these people who would think about going into somebody's home at night and terrorizing the woman or the man, whoever is in the house, send the message out to them that we are tired of it and something is going to be done, whether it be done today in this legislature or the next legislature, but we are getting tired of it.

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

Mr. DIAMOND: Mr. Speaker, I would like to pose a question through the Chair to the gentleman from Bangor, Mr. Tarbell. I was listening to the story just told to us by the gentleman from Limestone, Mr. McKean, and I would like to ask Mr. Tarbell whether or not the amendment we are dealing with would relieve the problems that he was outlining in that little story?

The SPEAKER: The gentleman from Bangor, Mr. Diamond, has posed a question through the Chair to the gentleman from Bangor, Mr. Tarbell, who may answer if he so desires, and the Chair recognizes that gentleman.

Mr. TARBELL: Mr. Speaker, I love these rhetorical questions. The story that was just outlined to you—I don't know which story you are referring to, he told several, the first or the second. The story about dwellings and apartments, we can cover that today with our Criminal Code. This bill would say that the tampering with property or damaging property has got to be damage up to \$1,000 or more for aggravated criminal mischief in the nighttime. The theft cases, to reach a Class C in which you could use such force, would have to be theft of property valued at \$1,000 or more. If it is less, bicycles, pumpkins or small items of property, inexpensive items of property, you now, under our Criminal Code, have the authority to use non-deadly force. But if at any time, for example with a robbery, a person puts your body or you in personal threat of bodily injury, then you can use deadly force under this bill.

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

Mr. LIVESAY: Mr. Speaker and Members of the House: Like Representative Hayden, I have a great deal of respect for Representative Tarbell, but like Representative Hayden, I also question the wisdom of this solution.

If this amendment were to pass into law, there would be no need for fear of life or body and there would be no need for an intruder to be attempting to break into a house or actually be within the house. As long as the property taken exceeded \$1,000 in value, the owner could shoot to kill. There is something insidious about a law that says if the price is right one can shoot, and there is something insidious about a law that puts a dollar value on human life.

One final observation, Mr. Speaker. Representative Tarbell's amendment takes much of the sting out of the bill, but it takes none of the sting out of the bullet.

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

Mr. HALL: Mr. Speaker and Members of the House: I would like to make it known now that what I hate more than one thief is two.

I would like to ask each of you a question, has there ever been a time in your life, and you think about this and answer it as truthfully as I could, I know how I would answer it—has there ever been a time in your lives when this might apply to you and you would get shot in the back of the head?

Now remember, there are none of us who want to clobber a thief; the law is already there for that, but what you are asking for is because you are getting mad. I know, I have been mad that way myself, I have been mad because I lost my batteries, my Christmas trees.

People have run over my trees with snowmobiles, but that does not give me the right to be above God and everyone else and take their life. There is a law for that. I haven't seen any hands go up or anyone saying they haven't but sometime in their life done something they hadn't ought to.

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

Mr. KANE: Mr. Speaker, I would like to pose another question to the sponsor of this amendment, and I promise to restrict my remarks to the amendment.

I was curious about this aggravated criminal mischief in the nighttime. I was wondering if someone was committing aggravated criminal mischief between dusk and sundown whether they would be liable to be legally shot?

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

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

Mr. TARBELL: Mr. Speaker, that distinction is in our laws and on our lawbooks that is a great area for night hunting crimes and it is on our books.

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

Mr. CROWLEY: Mr. Speaker, Ladies and Gentlemen of the House: I want to thank Representative Tarbell for being true to his word in the debate on the floor last Wednesday. With his expertise in criminal law, he has revised L.D. 169 to make it more palatable to our friends at the other end of the hall who I think are taking this legislation too lightly. Hopefully, it has made L.D. 169 palatable for the 59 members of the House who could not vote for it last Wednesday.

Last Thursday, a young man from the Lewiston—Auburn area visited here with me in the chamber and related an incident that illustrates the need for the use of force to protect property. Hoodlums tried to run he and his father down as they worked in their orchard. After years of frustration and years of being robbed, vandalized and victimized in his orchard, this young father of two, after talking with a judge and a policeman, went out days later and fired rocksalt like in the days of old at some young men. He did this and they sued him and he lost \$3,000 and the young father almost got a two to five years prison sentence for protecting his property, his commercial orchard, his livelihood, his family. The judge said—what, for stealing a few apples? The elderly father who had been running this orchard for years and years said, well if he went into the bank and stole just a little bit of money of course this would be a whole different ballgame.

A thousand people have signed this petition here in respect of these two farmers who were desperately trying to run an orchard. The support is evidenced by the signatures of people from Scarborough right up through almost to Bangor.

Last Thursday night, a 77-year-old woman called at my apartment and wished me Godspeed. She related an incident of hoodlums breaking in her front door, hooking a rope to her front porch and hauling it off. Her elderly neighbors came to her defense and the neighborhood was challenged by the judge. If they were to continue these vigilante ideas, they would wind up in jail. The elderly man replied to the judge, so what? At least I would be alive. The elderly lady is no ordinary old gal, she is a retired doctor.

There is now considerable evidence that crime is, for the most part, caused by persons who make very rational decisions and that criminals know full well that they have more to gain than lose by committing serious crimes. These realities require a dramatic reversal in

dealing with crime.

Chief Justice Warren Berger said in his address to the American Bar Association in February that too much concern for the rights of criminals may be nourishing America's growing crime rate. He said, the Nation's criminal justice system at every stage cries out for change.

Governor Edward J. King of the Commonwealth of Massachusetts said in a message to his people entitled, "A State in Pursuit of Justice," this was in February of 1981 "Crime has become so acceptable to all but its victims, Governor King said, so common a force in our lives, that we have begun to accept its consequences without realizing that we have allowed this force to strip us of peace and order, which are among our most basic rights. I believe peace and order are rights of all people, rights to which they are entitled from birth to death. Tranquility is the cornerstone of man's relationship with man, and when the earthquake of crime dislodges that foundation, it is time to quickly attack and set it firmly in place again."

Without question, that time has arrived. This legislation will be a deterrent, a potential criminal will know that the property owner has the right to meet force with equal or better force. The criminal will be less apt to victimize, rob or rape you or your loved ones in your own yard, your own store or your own garage.

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

Mr. MACOMBER: Mr. Speaker and Members of the House: I will be very brief. We have talked on this issue now, I think this is the third time. I respect all the opinions that have been given. I know that the people who are discussing this both pro and con feel very deeply that they are right, and I have voted for this bill for three times, but I want to leave one thought with you people that has never been mentioned yet. I want you to remember, and I speak from experience, that if you ever take a human life in time of war, in time of kill or be killed, you will never spend another day of your life that you don't remember that day.

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

Mr. CARRIER: Mr. Speaker and Members of the House: I respect Mr. Macomber's comments and I think he is right in the fact that you will remember it. And I think that some of us have been there before and I think that is the best experience in the world, but I wish to say a few words about the repeated saying that we are prizing property on top of human lives. Well, I suggest to you that the criminal that comes into your house or comes on your property armed, isn't he actually putting property ahead of human life? He is the one that is going to do the harm. If you want to do some harm, you get yourself armed and go there. Everybody in here can shake their heads, but let me tell you of an incident which happened not far from my house, and the Representatives from South Portland and Cape Elizabeth are familiar with it.

A few years ago, quite a few years ago, but the pain never leaves, somebody's boyfriend went into the parents' home and threatened the girl to come out with him and she did, and this is not property that we are talking about, we are talking about human lives, and whether they had guns or not, the guy still took the girl out with him and he killed her. The people are still walking around the House here, they are working in the State House, and they never forgot it. And if you people from down in that section will remember the situation, you think about it. You think about all the crime that goes on in South Portland compared to Westbrook; you think about that. You also think about the judges turning around and giving them a new trial and see what happens, and they live not far from you people.

Let's get this thing in a proper perspective.

Anybody in this House or anybody else with good common sense knows what is going to happen if he shoots somebody and you are not supposed to. This doesn't give you a blanket thing for shooting anybody. It isn't automatic; I said that the first day I spoke in favor of this bill. It has been mentioned that we don't support our courts; we do support them, we support them with the money and resources that we have. I don't think wages has anything to do with it. Most of the judges and law enforcement officers have a certain amount of dedication which will not stop them from being in that profession.

But let me say to you that you have to open your eyes and when the people come out here and say we don't support the courts — it wasn't us that didn't support the courts, in the last referendum the people out there voted down the \$4 million or whatever it was for the court system. Yet, ladies and gentlemen, you look at your LD's today and you keep them in there to circumvent the wishes of the people by having the courts start paying for their facilities. That is some of the LD's that you have.

As far as the bill is concerned, if a fellow would turn around and say shoot somebody because he is taking a battery or he is doing some property damage or something like that of low nature, I don't believe there is any lawyer in this House that would take such a case because they know that this fellow, one way or another, if he has used deadly force and if he has killed somebody, he is going to jail, and there is no reason for him not to go to jail because of the extent of his using deadly force.

I wish to restate some of the comments that were said on TV yesterday so ably by the Representative from Portland. No matter if this bill passes or not, this particular situation will stay with you. Some of the good bills that have been in the legislature before were killed and all of us were trying, but, on the other hand, it has created a better situation all around. If the people grab themselves by the bootstraps and they do what they are supposed to do, we will improve on what we have.

I truly hope that you remember that this can happen to you, to your families and everybody else. We don't pinpoint any criminals. A criminal is a criminal whether they are my kids or anybody else's. I hope that you vote against the indefinite postponement of this bill.

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

Mr. JACKSON: Mr. Speaker, Ladies and Gentlemen of the House: Sitting here next to the answerman, I find all the questions coming to this side are being answered very ably.

I was in support of the original legislation here. I didn't think it was going to go through unscathed; I didn't think it was going to be workable in its original form. I think what we were doing is sending a message out to the people of the state, and a message that particularly the rural people in this state want. They have problems with police protection, they don't feel secure in their homes, they are worried, they are concerned. The second message that came out very well the other day was, the gentleman in the back of the House spoke about his people, and I agree with him. We talk alot about killing, we talk about 14 year-old children, we talk about paperboys and this sort of thing, but the real problem is that if the threat is there, if people who are breaking into other people's property and are doing these things know that the threat is there and know that the owner may react, then I think they will think twice about doing it.

I am in support of this amendment because I think this bill might fly with this amendment; I don't think it will fly otherwise. Therefore, I urge you to vote against the indefinite postponement of this amendment and I ask for a roll call on it.

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

Mrs. KANY: Mr. Speaker and Members of the House: New information — I did call the Attorney General's Office and ask if shoplifting could be a Class C crime, and the answer is yes. It depends upon the value of the property stolen. So, shoplifting is just regular theft and it can be a Class E, Class D, a Class C or even a Class B crime. So anything shoplifted over a thousand dollars in value is definitely the same as a felony, at least a Class C crime. I just thought you should know that.

Also, it is very interesting that most of the discussion around here has been limited to using deadly force, kind of protecting one's own property, with the idea in mind that we are talking about one's own home and their yard. The committee amendment and the amendment being offered by Representative Tarbell does not limit this to one's home and the immediate vicinity. We are talking about a store, other property, and, indeed, if somebody were shoplifting a stereo or something like that, you could shoot them under this.

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

Mr. TARBELL: Mr. Speaker, a point of clarification for the members of the House. Shoplifting would ordinarily occur during the daytime, it is a theft. Under the draft in this amendment that we are offering and in the original bill, you could not use deadly force on theft in the daytime, so it would not be applicable. But at night, if somebody breaks into a store or they break into your shed or your garage or your barn, that is burglary, and you would use such force day or night for burglary to protect your property. But shoplifting is usually done during the day, with the exceptions of stores that are open at night, which I am sure the gentlewoman is going to raise, in that situation there would be probably also a robbery occurring, and under this bill, robbery in the daytime or nighttime would permit such force if you are taking valuable items of property, in excess of \$1,000.

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

Ms. BENOIT: Mr. Speaker, Men and Women of the House: I will be brief. I must respond to the remarks of Mr. Carrier. I hope he is listening. He was looking at me and saying I was shaking my head. I was shaking my head because the examples he gave were of people who were in their homes or, even if you are not inside your home, you can protect your own person, your children, your family, anyone else around you at any time. That is present law, that is in present statutes. Maybe no one hears this, because that is all I keep hearing throughout this debate is these horrendous, horrifying tales of actions that have taken place inside a home, inside a dwelling. That is covered.

The example that Mr. Carrier gave was horrible, of course it was, and it is unfortunate that it wasn't able to be prevented, but it was not because there was not a law on the books. It is no different than the elderly gentleman in Portland the other night who opened his door to find a teenager there brandishing a knife. He shot that teenager, but he had the right to shoot that teenager. Under the present law, he had the right to protect himself, to protect his wife in his own home.

But think about it. What if that same 14-year-old boy had been out in the backyard trying to commit imminent commission, you think that 14-year-old is going to steal your motorcycle, that must cost more than a thousand dollars, you think it, fine, kill him.

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

Mr. CARROLL: Mr. Speaker, Ladies and Gentlemen of the House: I am not a young whipper-snapper, I wasn't born 22 years ago. You can almost triple it, that is how long I have been around. When I was a young man, my dad used to take and go shopping once a month, and every time he drove to Sanford, he drove

around the county jail and he used to say — now, if you don't behave, if you don't obey the laws, you will come down here and you will go on bread and water and if you are able to work and are healthy enough, you will go out back and you will break rocks. Now, when they violate the law, they take them down and if you don't have room there, they hire a room at the Holiday Inn, they feed them steaks, they have done away with the rock pile, they give them everything to break the law for. You are rewarding crime, and anyone who tries to protect his property, he goes to jail, he is the criminal, he is a bad guy. The good guy is the criminal.

If these laws are so good that you keep telling me are on the books, why do we consistently have more crimes? We have more crime because you are rewarding your criminals. That is what you are doing.

I want this to pass because this is the equal rights amendment. It gives us equal rights to protect, equal rights, and that is what we are asking for. And when you young whippers get another 40 years on you, you will think different.

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 South Portland, Ms. Benoit, that House Amendment "B" to Committee Amendment "A" be indefinitely postponed. All those in favor will vote yes; those opposed will vote no.

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

Mr. BAKER: Mr. Speaker, I request permission to pair my vote with the gentleman from Lewiston, Mr. Jalbert. If Mr. Jalbert were present and voting, he would be voting nay; if I were voting, I would be voting yea.

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

Mr. POULIOT: Mr. Speaker, I would like to pair my vote with Mr. Hobbs of Saco. If he were here, he would be voting yea and I would be voting nay.

ROLL CALL

YEA — Beaulieu, Bell, Benoit, Brannigan, Brennerman, Brodeur, Chonko, Clark, Connolly, Cox, Davies, Diamond, G.W.; Diamond, J.N.; Fitzgerald, Foster, Gowen, Gwadosky, Hayden, Huber, Kane, Kany, Ketover, Livesay, Locke, Lund, MacEachern, Macomber, Masterton, Michael, Michaud, Mitchell, E.H.; Mitchell, J.; Murphy, Nadeau, Nelson, M.; O'Rourke, Paradis, P.; Pearson, Post, Prescott, Reeves, J.; Reeves, P.; Rolde, Smith, C.B.; Soulas, Soule, Strout, Thompson, Twit-chell.

NAY — Aloupis, Armstrong, Austin, Berube, Boisvert, Bordeaux, Boyce, Brown, A.; Brown, D.; Brown, K.L.; Cahill, Callahan, Carrier, Carroll, Carter, Conary, Connors, Crowley, Cunningham, Curtis, Damren, Davis, Day, Dexter, Dillenback, Drinkwater, Dudley, Erwin, Fowlie, Gavett, Gillis, Hall, Hanson, Hickey, Higgins, L.M.; Holloway, Hunter, Hutchings, Ingraham, Jackson, Jacques, Jordan, Joyce, Kelleher, Kiesman, Kilcoyne, Lancaster, LaPlante, Leighton, Lewis, MacBride, Mahany, Martin, A.; Martin, H. C.; Masterman, Matthews, McCollister, McGowan, McHenry, McKean, McPherson, McSweeney, Moholland, Nelson, A.; Norton, Paradis, E.; Paul, Perkins, Perry, Peterson, Racine, Randall, Richard, Ridley, Roberts, Salsbury, Sherburne, Small, Smith, C.W.; Stevenson, Stover, Studley, Swazey, Tarbell, Telow, Theriault, Treadwell, Tuttle, Vose, Walker, Webster. Wentworth, Weymouth.

ABSENT — Higgins, H.C.; Lisnik, Manning, The Speaker.

PAIRED — Baker-Jalbert; Hobbins-Pouliot. Yes, 49; No, 93; Absent, 4; Paired, 4.

The SPEAKER: Forty-nine having voted in the affirmative and ninety-three in the negative, with four being absent and four paired, the motion does not prevail.

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

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

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

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

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)

Tabled—April 3 by Representative Cox of Brewer.

Pending—Passage to be Engrossed.

Mr. Cox of Brewer moved that the Resolve be passed to be engrossed in concurrence.

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

Mr. CARROLL: Mr. Speaker, Ladies and Gentlemen of the House: We have here today a piece of legislation which gives a person the right to sue the State of Maine. We have what we call the Tort Claim laws, and these laws set up certain rules and certain ground rules for suing the State of Maine, but this particular piece of legislation is trying to circumvent these rules by getting a special resolve to give you the right to sue the State of Maine.

This person had this accident on a motorcycle, came down the highway and was involved in a collision and lost his life. I am sure nobody considers that a pleasant situation when we have this type of an accident, but we have to consider who designed the highway and whether a design is something you can sue for, because if you are going to pass this resolve, you are going to have resolves piled up six feet high around this House pretty soon. Every time you turn around, they are going to find something wrong with the highway and want to come in and have a civil suit against the State of Maine.

Now, a motorcycle is a dangerous weapon. People don't believe me. Years ago I had a good friend when we were in high school killed on a motorcycle; he lived with his uncle. When he got this motorcycle, everybody told his uncle it was dangerous and he shouldn't let him have it, he was going to get killed. Two days later he was dead. Motorcycles are dangerous. You have no protection. When you go down the highway, you must be very prudent in the operation of these particular vehicles.

The State of Maine will never be able to design a highway that is safe for everyone that rides a motorcycle, because, believe it or not, they do meet traffic coming the other way. Many of these people, even though they are very experienced and very capable, sometime or other they have a serious accident and it is just the love of God that many of them live.

I hope today that you will have this resolve laid to rest once and for all, because I don't think it is right to try to sue the State of Maine every time we have a defect in design in our highways. You can say that after the accident and after petitions they rebuilt this particular intersection. Well, I can show you highways all over the State of Maine where we will have to redesign and change them because we do have some poorly designed highways. Many of these roads were built by the communities, many of these roads were roads that the state took over from the communities. I urge you all to join with me today, and I now move that this Resolve and all its accompanying papers be indefinitely postponed.

The SPEAKER: The gentleman from Lime-

rick, Mr. Carroll, moves that his Resolve be indefinitely postponed in non-concurrence.

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

Mr. COX: Mr. Speaker, Ladies and Gentlemen of the House: I am sorry that we will have to take up your time to debate this bill today. This was a unanimous committee report and should have been on the Consent Calendar and gone along without people having to debate it. But apparently we have threatened a powerful interest in this case.

The point is made that we are trying to circumvent the Tort Claims Act. Let me read from the Tort Claims Act: "When a claimant or several claimants believe they may have a claim against the State in excess of the limit established in Subsection 1, or for a claim for which the State is immune, they may apply to the legislature for special authorization to proceed within another specified limit." So much for circumventing the Tort Claims Act.

The Legal Affairs Committee is charged with the responsibility of evaluating these requests for resolves. The problem that arises is that there are two extremes of thought in regard to these resolves. One extreme of thought believes that everyone deserves his day in court, that we should rubber stamp these. You heard this argument the other day in reference to another bill, that a person just asking for his day in court. We reject that position. We do not want the state subject to suit everytime someone is injured.

One the other hand, the other extreme says that no one should be allowed to sue the state. We also reject that extreme, and that is basically the point that is being raised today. The state cannot afford to be sued; there are too many things out there that they might have to fix. We reject that position in favor of the position that when there appears to be unusual negligence on the part of the state, that a person should, an innocent person should not be barred from any possibility of collecting damages.

Now, the Tort Claims Act itself is a compromise between these two positions. It gives the state immunity with certain exceptions. It allows the legislature to permit suits in the immune areas, such as highway maintenance and design.

The committee, after careful consideration of the statutes, the Supreme Judicial Court decisions and discussion with the Attorney General's Office over a general policy, we don't look at these things in isolation, and basically we reject the position that everyone should be able to sue the State. We also reject the position, as I have said before, that no matter how negligent the state or how serious the injury, a person should not be able to attempt to go to court.

In this case, we studied documentary evidence of the petitions that had been sent to the state, letters that had been sent to the state, letters that had come back from the engineers who examined this intersection, and, frankly, their argument was that, yes, there had been accidents at this intersection but there had not been enough accidents to justify rebuilding it.

Now, I prefer not to go into too much detail on this. I dislike having to try the case on the floor of the House, but in the unanimous opinion of the members of the Committee on Legal Affairs, both the seriousness of the injury and the facts presented, lead us to the conclusion that Mrs. Hodgdon deserves permission to sue the state for the death of her husband.

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

Mr. SOULAS: Mr. Speaker, Ladies and Gentlemen of the House: First, I ask for a division on the pending motion and I hope we will vote against the motion.

This is probably the one and only time you will see a report signed unanimously "Ought to Pass" by the Legal Affairs Committee allowing an individual the right to go to court against

the state.

Several members of the committee, including myself, drove to the actual site of the fatal accident and reported back to the full committee. And I must say, if you were there, a picture is worth a thousand words.

We noticed on our way to the site not one sign of abutting roads, yield, etc. In addition, the speed limit was 50 miles per hour and at no time was I able to drive over 40 miles an hour, and believe you me, I own a very big automobile, as you know, and I could never, never feel safe going over 40 miles an hour.

We slowed when we came to the intersection because it came upon us so quickly that we didn't even know where we were. The strangest thing is, on the way down, we all thought we were on the major highway, and this is the whole key to this argument, that we were not on the major highway; yet, each and every one of us thought we were on the major highway. I don't want to argue the case here, but this is where the accident occurred and the person who has been killed was on the major highway.

I just want to say at this time, have faith in this committee. This is the one and only time, as I say, that you will ever see a vote come out this way.

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

Mr. CARROLL: Mr. Speaker, Ladies and Gentlemen of the House: If you do not vote for indefinite postponement of this particular item, you have got two full paragraphs of findings of fact by the legislature all favorable to the plaintiff, and I want you to know now that we have cut back our winter maintenance, we have made cuts because of the lack of revenue and all you are doing is opening Pandora's Box. And I want to remind you again that the individual that paid with his life was riding on a two-wheel vehicle with no mudguards, no body around it, and he knew it was hazardous to go on a highway with such a vehicle.

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

Mr. GWADOSKY: Mr. Speaker, Ladies and Gentlemen of the House: Just to review very briefly once again the policy of the state when it comes to these resolves to sue the State of Maine. In 1977, we passed the Maine Tort Claims Act and basically said that the State of Maine was immune to suits unless the legislature gave its permission to sue the state. These resolves are really nothing new; last year we had, I think, the last two years, we had probably a dozen resolves to sue the State of Maine. This year we have had six or seven already. The most recent one, I think you might remember a couple of weeks ago, was the Potvin case dealing with the Maine State Lottery. That particular one was a divided report, unlike the report we have before us today which is a unanimous committee report.

I think it is worthy to check the history of this particular case very briefly. The Department of Transportation had received complaints from individuals in the Dresden area, and they had actually sent them possible solutions to correct the problems of this dangerous intersection as far back as the late 1960's. We have the documents in our committee room indicating these various proposals. Several times the engineering department suggested minor reconstruction was needed in this area, but because only four or five accidents had occurred at that time, prior to the fatal accident which is being addressed in this resolve, this particular area, this particular intersection, was still considered a low accident rate intersection and because it was a low accident rate intersection, department guidelines mandated there was really nothing that could be done to reconstruct this type of intersection and actually very little that could be done at all in the way of resigning the intersection.

After the fatal accident, Mrs. Hodgdon, the deceased's wife, hired an attorney who brought

a civil action and in that action her attorney named the other driver, the town of Dresden and the State of Maine to permit the jury to decide which party, if any of them, should contribute to Mrs. Hodgdon's compensation. It was the feeling of the committee that where the state obviously played a role in the failure to reconstruct the intersection, the State of Maine should waive sovereign immunity and permit itself to be an ordinary party in this action.

The jury will be considering the responsibility of Mrs. Hodgdon's late husband, the other driver and the town of Dresden, in any event, and it seems only fair to the other parties and to the jury that the state be considered on equal footing. It may be that the jury will decide that nothing should be awarded, but they should at least have the opportunity to consider the whole story and to assign the responsibility as they see it without one of the parties escaping its responsibility either now or later through sovereign immunity.

I think it is important to mention, and my House Chairman, the gentleman from Brewer, Mr. Cox, mentioned, it is difficult to give specifics because manytimes the information being provided by both sides in an issue like this is withheld or its best information is not always available because both sides are saving this information to use in the court case if we give permission for this to go to court, so we have to make our decision on the available information that we have at this time. Likewise, anything that is said here this morning could be used in a court trial.

Ladies and gentlemen, I think to decide this issue this morning, based on the amount of money that the state may have, is simply not a responsible thing for us to be doing. It is like saying that judge is telling the jury about a confessed murderer, we know he may have done it but there is not enough room in the jails right now.

I would hope that you would oppose the motion to indefinitely postpone this bill.

The SPEAKER: The Chair recognizes the gentleman from Old Orchard Beach, Mr. McSweeney.

Mr. McSWEENEY: Mr. Speaker and Members of the House: I had the dubious distinction of going out looking at the place where this accident transpired, and finally the people of Dresden had a petition, 1,100 signatures on it. I should imagine you could gather 1,100 signatures in any town where they didn't think something was drastically wrong. Finally, the state puts in a small island after the accident, so even with that island today, I would say it is not very good.

You will never see a committee report come out of Legal Affairs unanimous such as this. I believe that the people should have the privilege of going to court over the sovereign immunity of the state. I don't usually get up on very many bills, but I feel this way about this bill.

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

A vote of the House was taken.

21 having voted in the affirmative and 91 having voted in the negative, the motion did not prevail.

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

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

On motion of Representative Post of Owl's Head, the following Joint Order: (H. P. 1321)

ORDERED, the Senate concurring, that the Joint Standing Committee on Taxation report out a bill to the House to amend the tax law providing a one-time property tax exemption

for disabled veterans, World War I veterans and persons claiming from World War I veterans.

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

By unanimous consent, ordered sent forthwith to the Senate.

The Chair laid before the House the following matter:

Bill "An Act to Exempt Illegal Possession of Liquor from the Maine Juvenile Code" (H. P. 875) (L. D. 1044) which was tabled earlier in the day pending acceptance of either Report.

On motion of Mrs. Mitchell of Vassalboro, tabled pending acceptance of either report and tomorrow assigned.

The Chair laid before the House the following matter:

Bill "An Act to Increase the Surplus Account of the Kennebec Sanitary Treatment District" (H. P. 385) (L. D. 428) (C. "A" H-167) which was tabled earlier in the day pending adoption of Committee Amendment "A".

Mr. McHenry of Madawaska offered House Amendment "A" to Committee Amendment "A" and moved its adoption.

House Amendment "A" to Committee Amendment "A" (H-178) was read by the Clerk and adopted.

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

The Bill was assigned for second reading tomorrow.

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

Mr. McKEAN: Mr. Speaker, in respect to the first tabled and today assigned matter, L. D. 169, H. P. 143, Bill "An Act Concerning the Use of Force to Protect Property," I wish the House to reconsider its action whereby this Bill was passed to be engrossed and I would hope that you would all vote against me.

The SPEAKER: The gentleman from Limestone, Mr. McKean, moves that we reconsider our action whereby L. D. 169 was passed to be engrossed in non-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.

(Off Record Remarks)

On motion of Mr. Kelleher of Bangor, Adjourned until ten o'clock tomorrow morning.