

# MAINE STATE LEGISLATURE

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**LEGISLATIVE RECORD**

OF THE

***One Hundred and Tenth  
Legislature***

OF THE

STATE OF MAINE

**Volume I**

**FIRST REGULAR SESSION**

**December 3, 1980 to May 1, 1981**

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## HOUSE

Thursday, April 30, 1981

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

Prayer by the Reverend David Glendinning of St. Mark's Episcopal Church, Waterville.

The journal of yesterday was read and approved.

## Special Sentiment Calendar

In accordance with House Rule 56, the following item (Expression of Legislative Sentiment)

Recognizing: Michael J. Kogutek, of Lackawanna, New York, National Commander of the American Legion, upon an official visit to the State of Maine; (H.P. 1408) by Representative Erwin of Rumford. (Cosponsors: Representatives Hickey of Augusta and Kilcoyne of Gardiner)

There being no objections, this item was considered passed and sent up for concurrence.

## House Reports of Committees

## Leave to Withdraw

Representative Martin from the Committee of Labor on Bill "An Act to Clarify the Spousal-leaving Provision of the Employment Security Law" (H.P. 501) (L.D. 552) reporting "Leave to Withdraw"

Representative Foster from the Committee on Labor on Bill "An Act to Amend the Voluntary Quit Provision of the Employment Security Law" (H.P. 727) (L.D. 859) reporting "Leave to Withdraw"

Representative Mahany from the Committee on Agriculture on Bill "An Act to Provide for the Regulation and Licensure of Guard Dogs and their Trainers, Sellers and Handlers" (H.P. 468) (L.D. 537) reporting "Leave to Withdraw"

Representative Smith from the Committee on Appropriations and Financial Affairs on Bill "An Act Relating to the State Valuation of the Town of Easton" (Emergency) (H.P. 688) (L.D. 802) reporting "Leave to Withdraw"

Representative Brannigan from the Committee on Business Legislation on Bill "An Act to Recover Certain Refund Values Retained under the Beverage Container Law" (H.P. 1382) (L.D. 1561)

Representative Brannigan from the Committee on Business Legislation on Bill "An Act Concerning Certificates of Contribution under the Maine Insurance Code" (H.P. 1267) (L.D. 1482)

Reports were read and accepted and sent up for concurrence.

## Divided Report

Majority Report of the Committee on Fisheries and Wildlife reporting "Ought to Pass" as amended by Committee Amendment "A" (H. 269) on Bill "An Act to Require Persons Being Licensed to Hunt for the First Time to Have Completed a Gun Safety Course" (H.P. 871) (L.D. 1040)

Report was signed by the following members:

Senators:

USHER of Cumberland  
HICHENS of York  
REDMOND of Somerset

—of the Senate.

Representatives:

MacEACHERN of Lincoln  
GILLIS of Calais  
CLARK of Millinocket  
ERWIN of Rumford  
DAMREN of Belgrade  
CONNERS of Franklin  
JACQUES of Waterville

—of the House.

Reports were read.

The SPEAKER: The Chair recognizes the gentleman from Lincoln, Mr. MacEACHERN.

Mr. MacEACHERN: Mr. Speaker, I move

we accept the Majority "Ought to Pass" Report.

The SPEAKER: The Chair recognizes the gentleman from Island Falls, Mr. Smith.

Mr. SMITH: Mr. Speaker, Ladies and Gentlemen of the House: I must rise to oppose this bill and give my reasons for the opposition.

I represent a rural area, and I feel it would be a hardship on those who would apply for a license for the first time under this bill. Sixteen or sixty, it would make no difference what the age was of a person seeking a license for the first time. They would have to show proof of completing the safety course or proof of having held a license previously.

The department has trained 50 instructors to carry out wide-range area courses. Currently, they conduct 200 courses per year. There were 2,663 students certified in 1979. The department has estimated that 3,000 students will be graduating each year.

Cost in federally funded dollars in 1979-80 was \$88,000, or nearly \$30 per student. That is with volunteer instructors. Volunteer instructor time is used for credit to get the federally funded dollars. Volunteer time is worth \$5.55 per hour.

Usually when anything is mandated, the work which is volunteered disappears and they will want to be paid, and rightfully so.

In my area, we have seen the volunteer fire department go to a paid department; the volunteer ambulance service go to a paid department. These people will be paid, and they probably should be.

Who pays if the federal money stops. It won't stop, they say. I asked if they would no longer require the course if the money stopped, and the answer was no.

It was suggested that the course could be offered in the school, and I believe it could, at the taxpayers' expense. Would you want this?

The course being offered is 10 hours, which would require two days. A parent would have to drive their son or daughter to a town offering the course. Remember, only 200 courses are being offered per year, and there are nearly 500 cities and towns in the state. The cities would probably offer more than one course, so what happens to the other 300-plus towns? How far would you have to travel for a two-day course, and at what cost?

I am for safety and believe in safety courses, but let's not mandate it.

I asked for a compromise of giving the license a year early, at age 15, if one completed the safety course, but I failed.

Driver education is along these lines, not mandated. A young trapper is allowed to carry a gun without a license—why? Ask the department for the answer, or the sponsor of this bill; I do not have a reasonable answer.

You will hear there are 29 states that mandate this safety course; 13 of these have exceptions. By reading the fine print, Arizona, age 10 to 14 years hunting big game; Idaho, 12 to 14 years, Illinois, first-time under 16; Michigan, first-time license, 12 to 16; Minnesota, under 16; Nebraska, 12 to 15; Pennsylvania, under 16. I guess you get the idea.

You cannot legislate and you cannot mandate common sense. I hope you will vote against the motion.

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

Mr. DAY: Mr. Speaker, Ladies and Gentlemen of the House: I have been a hunter safety instructor for the last five or six years; therefore, I am fully in accord with idea of having hunting safety, but I have to somewhat echo the comments of the gentlemen from Island Falls in that this could be a real tough thing to do in the smaller communities.

In Westbrook, we have a staff of 10 people, employees mostly, that use the company training facilities with the audio-visual equipment, projectors, overheads, 16mm, desk chairs and all those things to put on a course, and most

kids in Westbrook could walk to the evening sessions that we put on, I do feel that mandating it is going to be pretty difficult for some youngsters up in the country to go miles to get to wherever the course is being held. I certainly don't believe that we should consider putting this into the school system and try to run it through the school system and ask them to take on another thing mandated by the legislature that they would eventually have to take on the duties of teaching hunting safety for a small minority of those people who decide to become hunters.

The SPEAKER: The Chair recognizes the gentleman from Waterville, Mr. Jacques.

Mr. JACQUES: Mr. Speaker and Members of the House: This is my bill, I sponsored this bill this year. Two years ago, I was against this particular bill when it was brought up, but my eyes have been opened a little bit since that time.

We have a serious problem in this state with youngsters hunting for the first time. When I first started to hunt, I was taught by my father and my grandfather, as most of us were, but we have young people today who want to hunt whose father doesn't hunt, whose grandfather doesn't hunt. They get out there and right from the very beginning they do things wrong, they handle their weapon wrong. They have no respect for other people's property. They have no respect for other people's livestock or other people's lives.

Every year we have more and more complaints about automobiles that were parked in the back field being shot up, road signs, weather vanes on people's barns, tractors, equipment. They keep telling us, you guys have to clean up your act. The hunters have to do something to take care of themselves. I think this will do that. If it helps two out of them all, it is going to help two more than are helped now, I will tell you that right now.

This is going to be effective January 1, 1983. Gary Anderson, who is in charge of our program, says that by that time he feels confident that there will be enough NRA instructors across the state, I don't care if they are in Presque Isle or Madawaska or Kittery, wherever they are, they will be able to have a license.

This is for somebody who gets a license for the first time. If this law passes, they know it is coming up in 1983, and if you want your son to get a license for the first time, or daughter, you can start right now finding a course, have him take that NRA course and then they have it.

Even if they didn't need it, they should have it. I first attended a class through Boy Scouts, I think I was 12 or 13 years old. Last year, I attended a class that we gave at the Waterville Elk's Lodge and I just sat there and listened. It is an excellent course. I know some people my age who should take that course because there are a few things they could learn.

I am not one for mandating very much, but in this case here, I think mandation is much better than what we have, and we don't have much, I'm afraid. The problems get worse and worse all the time.

These kids are taught the fundamentals of hunting, the fundamentals of handling that firearm, something that should be very important to all of us. That is why I sponsored this bill and that is why I support this bill, and I hope you do too.

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

Mr. PEARSON: Mr. Speaker, Ladies and Gentlemen of the House: I would like to pose a question through the Chair, if I could, to the Representative from Waterville, Mr. Jacques, two questions if I could. The first question is—I noticed while he was speaking he said he had been taught to hunt by his father and his grandfather, as most of us in here had, and that there were a number of people in Maine that might not have ever had that opportunity, his father didn't hunt, grandfather didn't hunt, one thing

or another, and they needed some instruction. If this particular bill passes, would those people who would normally be taught by their father and their grandfather still need to have this special course or only those boys or girls who didn't have a father or grandfather to teach them?

The second question is—it says that only the first time that you get a license would you have to take this instruction. Let's assume somebody is 30 years old, he decides for the first time he is going to hunt, buys himself a rifle and goes out hunting, how would you know this was the first time that he ever had secured a hunting license? Would there be adequate files in the Fisheries and Wildlife Department to go back over all of those years, since he was 15 or 16 years old, to know that this was his first time?

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

Mr. PARADIS: Mr. Speaker, Ladies and Gentlemen of the House: After serving 30-some-odd years in the Marine Corps, both commissioned and officer and enlisted, and been responsible for the training of people from all across this country, and Maine men were no exception when they entered the service, a considerable amount of effort and long hours of training are involved with the proper handling and care of weapons. I think that the issuance of a license by the state does not necessarily bring that type of expertise to any individual just because he has paid his fee for his license.

Some degree of demonstration of proficiency should be required before the issuance of a license. I would urge you to support the bill.

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

Mr. HALL: Mr. Speaker, Ladies and Gentlemen of the House: In partial answer to Representative Pearson's questions—it occurred to me that I started learning to drive a tractor when I was 4 years old. I learned to drive the truck when I was 5 and 6 by my father and grandfather. I learned to drive in the neighborhood when I was 9 to 11, but still I took a test which I felt was necessary. I probably didn't think it was necessary then, but I know it is now.

I would like to remind you people that it seems very unfair, if you want young people to hunt in the woods, that you don't ask them to have some requirements to learn how to handle a gun.

I would like to tell you a little story, if I might. Four years ago, I was cutting logs in the woods with one of my tractors and all of a sudden there was a barrage of about 19 bullets that came out of the woods all around me. I got off that tractor and hid at the end of the pile of logs. All of a sudden out came five or six young kids, and this is no lie, and my language wasn't the best and I won't repeat it here, but I was pretty mad. I said, what ails you, what were you shooting at? They said, we saw that red moving through the woods. I won't say anymore, but it just made me so angry.

Needless to say, I drove them off the land. I posted my land and all the neighbors posted their land for two reasons, because of the lack of knowledge that most of the young people have today on how to use a gun. Some of them I have seen don't even know which end of the gun to put up to your shoulder or to fire from. I hope you pass this piece of legislation.

The SPEAKER: The Chair recognizes the gentleman from Bucksport, Mr. Swazey.

Mr. SWAZEY: Mr. Speaker, I would like to pose a question. I think Representative Pearson's question has never really been answered. I have had a license for a number of years but I haven't had one in the last 21 years, but I hunted some 15 years before. I don't see the sponsor here, I was going to try to get him to directly answer the question of whether I would have to—it says 'individual' in here would take this examination, or would they

have on record somewhere that I have already hunted for 15 years and also been in the Navy and taken gun courses?

The SPEAKER: The gentlemen from Bucksport, Mr. Swazey, has posed a question through the Chair to anyone who may care to answer.

The Chair recognizes the gentleman from Waterville, Mr. Jacques.

Mr. JACQUES: Mr. Speaker, I would have been more than glad to answer Mr. Pearson's question, but I didn't get recognized first.

The Fish and Game Department has records going back to 1972. We posed that question on the committee, what would happen if somebody had hunted 20 years ago and then did not hunt and then wanted to hunt again? That would pose somewhat of a problem, but Mr. Anderson came up with the affidavit stating that if somebody signed the affidavit and swore to the fact that they did have a license prior to 1972, the city clerk could then issue the license.

In Waterville, we have had the same city clerk, she just retired, but I think she had been there about 50 years, so she remembered me when I bought my first license, she remembered when my father bought his first license, and probably remembered when my grandfather bought his first license. We don't have any problems there.

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

Mr. MCKEAN: Mr. Speaker, Ladies and Gentlemen of the House: Just about every speaker that has gotten up has alluded to the fact that this bill is for the youngsters. Well, I beg your pardon, the bill is not for the youngsters, the bill is for everybody.

I represent an area which has around 3,000 federal employees. Many of them come from outside the state. Many of them purchase a Maine hunting license after they get here and they have been here a few weeks, and the majority of these people are in the military service, they have had many, many weeks of weapon handling techniques, they are used to weapons. They don't have a certificate in their hand, they don't have a hunting license, a lot of them, to prove that they have had this training. But as everyone knows, if you have completed your basic military training, this is a portion of your basic training. I don't understand why somebody in this category is not exempt.

I also don't understand why somebody who has hunted maybe five or six years ago and just went out of state and came back and hasn't hunted since and goes back down for a license, he has got to prove that he either had the course or had a past hunting license.

I know a lot of us, in most cases, deer hunting is about all I do. I have no time for anything else, and after I am done hunting, I clean out my wallet and throw my license away, and now I have got to prove that I have had hunter safety training, and I have been hunting for I won't tell you how many years.

I think if the bill is supposed to allude to the younger people who are beginning hunting, then that is what it should do, and I believe it could be amended so. I think if it were amended so, possibly a lot of us would support it that can't support it now because there is no age requirement on it. That is where my hangup is. I think if we could get an amendment that would allude this to those young people you are talking about, a lot more of us would support it.

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

Mr. STROUT: Mr. Speaker I would like to pose two questions to the sponsor or any member of the committee. One is, as a town clerk, a citizen can move into a town and be a resident that particular day. I question that when you get down to the last week of hunting season, if a person moved into our community and I was to ask the question, could you show me proof of having a hunting license or try to get a notarized affidavit, can anyone on the

committee answer how you are going to do this so that that person could have his license to hunt that particular year, I doubt it.

My other question is, I would like to know how many accidents has the State of Maine had in recent years because of first-time license holders?

The SPEAKER: The gentlemen from Corinth, Mr. Strout, has posed a question through the Chair to anyone who may care to answer.

The Chair recognizes the gentleman from Island Falls, Mr. Smith.

Mr. SMITH: Mr. Speaker, I asked a part-time supervisor, he gets in 425 hours a year supervising these safety courses, how many accidents juniors were involved in, and there was one.

In answer to the other question, I believe if this person came in probably three days before the close of the season, he would be unable to get his license because you could not get an answer back that soon from the department.

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

Mr. MCHENRY: Mr. Speaker, Ladies and Gentlemen of the House: Representative Jacques alluded to the situation of our young people not having respect for other people's property. I honestly don't believe there is any course of safety that can teach respect to our kids.

Furthermore, I also allude to the fact that we have a course that teaches the people that have been caught driving under the influence, and that has proven to be a complete loss of money and time to the state. It is a bureaucracy, it is a waste of money, in my opinion, because we are in a worse situation than we have ever been in.

This would do zilch as far as I am concerned.

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

Mrs. MARTIN: Mr. Speaker, Ladies and Gentlemen of the House: I just want to tell the chairman of the committee that he has got my vote on this one.

Mr. Strout of Corinth requested a roll call vote.

The SPEAKER: For the Chair to order a roll call, it must have the expressed desire of one fifth of the members present and voting. All those desiring a roll call vote 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 gentlemen from Lincoln, Mr. MacEachern, that the Majority "Ought to Pass" Report be accepted. All those in favor will vote yes; those opposed will vote no.

#### ROLL CALL

YEA—Armstrong, Baker, Beaulieu, Bell, Benoit, Berube, Boisvert, Boyce, Brannigan, Brennerman, Brodeur, Callahan, Chonko, Clark, Conary, Connors, Connolly, Cunningham, Damren, Davies, Diamond, G.W.: Diamond, J.N.: Drinkwater, Erwin, Fitzgerald, Foster, Fowlie, Gowen, Hall, Hayden, Hickey, Higgins, H.C.: Higgins, L.M.: Hobbins, Holloway, Jacques, Jalbert, Kany, Kilcoyne, Lancaster, LaPlante, Laverriere, Livesay, Locke, Lund, MacEachern, Manning, Martin, A.: Masterman, Masterton, Matthews, McGowan, Michael, Mitchell, E.H.: Mitchell, J.: Moholland, Murphy, Nadeau, Nelson, A.: Norton, O'Rourke, Paradis, E.: Paradis, P.: Perry, Pouliot, Prescott, Racine, Randall, Richard, Rolde, Soule, Swazey, Telow, Thompson, Tuttle, Twitchell, Vose, Walker, Wentworth, Weymouth.

NAY—Aloupis, Austin, Bordeaux, Brown, A.: Brown, K.L.: Cahill, Carrier, Carter, Cox, Crowley, Curtis, Day, Dexter, Dillenback, Gavett, Gwadosky, Hanson, Huber, Hunter, Ingraham, Jackson, Jordan, Joyce, Kelleher, Ketter, Kiesman, Lewis, Lisnik, MacBride, Macomber, McHenry, McKean, McSweeney,

Michaud, Paul, Pearson, Perkins, Post, Reeves, J.; Ridley, Roberts, Salsbury, Sherburne, Small, Smith, C.B.; Smith, C.W.; Soulas, Stevenson, Stover, Strout, Studley, Tarbell, Theriault, Treadwell, Webster.

ABSENT—Brown, D.; Carroll, Davis, Dudley, Gillis, Hutchings, Kane, Leighton, Mahany, Martin, H.C.; McCollister, McPherson, Nelson, M.; Peterson, Reeves, P.

Yes, 80; No, 55; Absent, 15.

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

Thereupon, the Bill was read once. Committee Amendment "A" (H-269) was read by the Clerk and adopted and the bill assigned for second reading later in the day.

#### Divided Report Indefinitely Postponed

Majority Report of the Committee on Business Legislation reporting "Ought Not to Pass" on Bill "An Act to Repeal Continuing Education Requirements for Real Estate Brokers" (H.P. 449) (L.D. 496)

Report was signed by the following members:

Senators:

SEWALL of Lincoln  
CLARK of Cumberland

—of the Senate.

Representatives:

JACKSON of Yarmouth  
GAVETT of Orono  
BRANNIGAN of Portland  
FITZGERALD of Waterville  
PERKINS of Brooksville  
GWADOSKY of Fairfield  
POULIOT of Lewiston  
MARTIN of Van Buren

—of the House.

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

Report was signed by the following members:

Senator:

SUTTON of Oxford

—of the Senate.

Representatives:

TELOW of Lewiston  
RACINE of Biddeford

—of the House.

Reports were read.

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

Mr. BRANNIGAN: Mr. Speaker, I move that we accept the Majority "Ought Not to Pass" Report.

The SPEAKER: The Gentleman from Portland, Mr. Brannigan, moves that the House accept the Majority "Ought Not to Pass" Report.

The gentleman may proceed.

Mr. BRANNIGAN: Men and Women of the House: The requirement for real estate brokers and salesmen to receive continuing education was passed in this body in the last session. People have come back to us now and asked us to repeal that. This has been in existence less than two years, only a few months over a year. From all indications although a great deal of debate about whether it is effective or not effective, the major issue, I think, is that even if it were not effective, although it seemed to the majority of the committee that it was, that we must give the people involved, the Real Estate Commission and the commission dealing with continuing education, time to gear up and to make sure that this requirement is done well.

Over this short period of time, 123 courses have been offered. There were probably only three, four, five in the past offered to realtors before it was required, so this has given a great deal more opportunity for education.

Very few complaints have been received by the Real Estate Commission. Over 90 percent, it is my understanding, of all those who have taken courses, their responses have been favor-

able from those who have returned the sheets that you get after these kind of courses.

Now, we have heard, and you will hear that there were some courses that were not good, some courses that were very elementary for those who attended, and there will be a great deal of debate on this, and I am not going to belabor it all at this time. But, I know that in other areas that require continuing education, teachers and those of you who have gone to courses that were not the greatest courses in the world, and they have been able to prepare those over many years, those who have gone to college or to high school have had courses that weren't great either.

However, these courses are just beginning to be developed. They are being given over many different media, through correspondence courses, through television offered in many areas of the state. Therefore, it is my feeling and the feeling of the majority of the committee that things aren't going that badly and certainly this must be given at least more than 18 months or so to be in effect. Therefore, I urge you to support the majority "ought not to pass" report this morning.

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

Mrs. HUBER: Mr. Speaker, Ladies and Gentlemen of the House: Mr. Brannigan mentioned 90 percent favorable response to these courses. I guess I represent the other 10 percent, Mr. Brannigan, because I haven't heard one good word about them, and I have had probably more calls on this issue than virtually any other before us.

It seems to me that what sounded like a good idea is not being implemented in a very satisfactory manner, and, frankly, I guess I would feel that an 18 month to two year period is sufficient time to evaluate the value of these courses for real estate brokers. To a person, I have been told that they are not helpful, that they are certainly a waste of time, in the opinion of these people who are taking them, and, furthermore, that the cost of them does not bear out their value. I think it is wrong to continue to require something of a person which simply benefits the teaching group, and I would hope that we would vote against the pending motion and accept the "ought not to pass" report.

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

Mr. RACINE: Mr. Speaker, Ladies and Gentlemen of the House: At the public hearing, there were quite a few proponents, people that were in favor of discontinuing this education. The primary reason was that the courses that were being offered were very basic and in some cases the only thing that it requires is attendance of 12 clock hours. They don't test you. As a matter of fact, someone testified that they took the correspondence course from I believe it was the University of Maine, and on the correspondence course they had a multiple choice type questionnaire that they had to fill out, and the individual that took the course did not have the time to fill it in. So what he did, he went down A, B, C, D, submitted the thing back to the University of Maine and received a certificate of completion. This is what we are talking about.

The only ones that are actually benefiting from this are the instructors, people who give the instruction. Those were the people that testified, the majority that testified before the committee that we should continue continuing education. Why? Because they are making the money, they are the only ones.

The majority of these courses will run from \$25 to \$35. If it is a six-hour course, clock hours, you can go in in the morning, sign in, go out and do some shopping, come back during the last hour, sign your attendance slip and get your certificate. Is this meaningful education? I dare say it is not.

Last week, the Continuing Education at the

University of Southern Maine put out a continuing education on public TV. All you had to do was send in the sum of \$30 and you couldn't fail, it is right here in the flyer, you could not fail, even if your answers were incorrect, you could not fail. The question and answer format serves only as a means of monitoring your participation. Is this meaningful continuing education?

The people from the commission that testified at the public hearing were not aware that there was a problem. They felt that there were sufficient courses and the way that they approved these courses is, you submit a course outline. If it pertains to anything closely resembling a house or land, they approve the course. There are 123 of them out in the field, and out of the 123 there are probably not more than 15 of 20 that are worthwhile. This is what we are trying to repeal.

If a real estate broker has to improve his background information, he should be able to attend courses on his own, it should not be mandated, and this is what this bill does, it mandates continuing education, and the only ones that are actually benefiting from this are the instructors. The real estate salesman or the broker is not getting anything out of this.

I would like to quote a letter that was signed by a Mr. Richard Kilroy, who was a former chairman of the Maine Real Estate Commission. He sent this letter to Mr. Peterson, who is absent today. He said, "I am very pleased to learn that you are cosponsoring legislation to repeal the continuing education statute for real estate licensing that was enacted in 1979. As a former educator, a former chairman of the Maine Real Estate Commission, I personally feel that there is absolutely no need of continuing education requirements for licensing. Anyone who wishes to succeed in this business must keep up with the many changes and trends in order to be successful. I feel this legislation is a hardship and a financial burden to brokers in outlying areas who find it very difficult and expensive to attend these courses. We are over-regulated and it is absolutely unnecessary. If the legislature wishes to present additional education requirements, they should be at the initial licensing level, as has been adopted in many other states." These are facts.

I urge you to vote against the pending motion.

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

Mr. JACKSON: Mr. Speaker, Ladies and Gentlemen of the House: The average real estate commission in the state at this point is about \$3,000. That is what the broker or salesman is getting for selling a house.

Most of you, when you buy a house, it is the single largest purchase you ever make, and I think we ought to demand competency of the people who are selling the houses.

I got into this a couple of legislatures ago when the real estate sales people and brokers came in, and I am one, and they wanted to increase the requirements to get a license in the first place. In fact, they even had a bill that said you had to have a four credit college course in order to be licensed as a real estate salesman or broker, and I am absolutely opposed to this. I feel the entry should be made easy so that people can get into the profession, but I have no problems at all with continuing education.

This isn't an isolated area. The osteopaths have continuing education, the pharmacists, the optometrists, the speech pathologist, audiologists, substance abuse counselors, nursing home administrators, chiropractors, social workers, podiatrists, and the electricians are going to be in here pretty quick for a bill for it. It is a way to upgrade the profession, and in this case, the people of Maine are directly benefitted by it.

The average costs per hour, we are talking

about worked out across the state, is about \$5.33. Now, base that against the commission that you get for selling one house, approximately \$3,000, and it certainly isn't a burden.

Our basic concern with this bill was that the courses would be offered statewide, they would be easy to reach, and they would be given to people. We are talking 12 clock hours in two years.

Nineteen states require continuing education for real estate salespeople and brokers, and Maine is one of the easiest of any of the states. Many of them are 45 hours or more. We have one of the easiest programs. They are major states, they are big states that have a lot of business going on in them.

Criticism of the courses I can understand. There is no requirement that you take an exam at the end of the course; I don't think there should be. Maybe we are making an argument here that there should be. I think the old adage works here—you can lead a horse to water but you can't make it drink. If you want to send away for a correspondence course and you want to get the sheet back and you want to check off 10 A's and 10 B's and 10 C's and send it in again, you have taken the course, that is all the law requires. That is not a fault of the course. If you don't like that system, require them to take a test at the end of it. I won't vote for it, but you can do it if you want to.

I personally think this is a major thing. The consumers of Maine are affected by it. The laws in real estate and selling have changed radically in the last few years, they are changing all the time. There are a number of bills in this legislature, there were a number of bills in the last legislature. The liability requirements, the things that can happen if you don't do the job properly, and the extent that people can be hurt if these people aren't competent, I feel, require that continuing education be mandated by the State.

Therefore, I hope very much that you will go with the Majority Report of the Business Legislation Committee and vote against this bill. Let's not pass this bill, let's keep the continuing education in place at least until we know what the total effect of it is, and it isn't just one year, give it a full two years so we have the data and know what the effect is.

**THE SPEAKER:** The Chair recognizes the gentleman from Cumberland, Mr. Dillenback.

**MR. DILLENBACK:** Mr. Speaker, Ladies and Gentlemen of the House: I am not going to take any time. I am a licensed broker. I had to get my 12 points, which I have gotten, and it is a pain in the neck. It cost me \$60. I go to a hearing and they tell me — I have been in the building and construction business for 30 years and they explain to me how to tell whether there is insulation in the walls of a building.

I am not opposed to education, I think it is a good idea, but I think it should be voluntary. I think the little old lady that is going into the real estate business that doesn't know anything about construction perhaps should go to school, but she should do it on a voluntary basis.

I think the time is ill-spent, and what are you going to pick up in 12 hours over a period of two years?

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

**MR. HICKEY:** Mr. Speaker, Ladies and Gentlemen of the House: I feel that the people in my district are thinking a lot like Representative Brannigan. I have received a two and a half page list of dealers in my area who feel that the continuing program should be carried on and asked me to vote against doing away with it. It is their feeling that it has improved the quality of the dealers, and they hope that it will be a continuing program.

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

**MR. MCHENRY:** Mr. Speaker, Ladies and Gentlemen of the House: This is an ideal bill to explain to you what happens. Where does the

red tape come from? This is the ideal bill to tell you this, because these real estate brokers don't want any competition. They put in all sorts of laws so the real estate agents who will be coming in are going to have to go through these courses and course after course. Representative Jackson named a whole list of people, but they are all doctors, having to do with your health. I don't think your car dealers go through these courses, and they are selling you a big investment of your money. Why should the real estate brokers go through the course; it is a waste of money.

If you want to cut red tape, vote no on the "Ought to Pass."

**THE SPEAKER:** The Chair recognizes the gentleman from Dexter, Mr. Sherburne.

**MR. SHERBURNE:** Mr. Speaker and Members of the House: One day this winter, I got a call from a gentleman in my town asking if I would come up and talk with him. This man and his wife are over 90 years old but you would never know it to see them because he is still in the insurance and real estate business. He has been town treasurer for over 50 years in our town and just gave it up a year or so ago. He was a little upset about this course that he had to take. His license was running out in June. I told him I would see if there was any way for him to get out of it. When I came back, I called the department and asked them if there was a possibility of a waiver for this man. They said there was no possibility of it but the correspondence course that he could take was pretty simple and there was no doubt but what he could take them all right.

I went back and told him this, and he said, those correspondence courses come to about \$80 to \$90. He said, what makes me mad about these correspondence courses is that it doesn't matter how I answer. I have never taken a course in my life that I didn't pass and that I didn't earn.

He has been a member of the Maine Real Estate Brokers Association since 1934 or 1936. He was a charter member. He has a plaque in his office showing this. He has probably forgotten more than his teachers could teach him and this was pretty degrading to this man.

I told him, if there is anything I can do — can I take you to Augusta? He said, no, I can't stand that much time. To be perfectly frank, if I were to try to go down there and take that course, I would wet my pants.

This man, over 90 years old, who is still doing business, and when we say 90-years-old, we think they may be a little bit feeble, he may be a little bit feeble physically, but mentally he is as alert as he ever was and he still wants to be in the business. I think he is taking the courses to stay in, but he felt it was pretty degrading.

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

**MR. JOYCE:** Mr. Speaker, Ladies and Gentlemen of the House: I am really in the middle on this bill. That gentlelady from Falmouth claimed 10 percent of the brokers out there, and my good friend, the chairman of the committee, claims 90 percent.

There is a river that separates me from Mrs. Huber's district. There is two miles of cemetery that separates me from Representative Brannigan. I don't want anybody here today to think that when I rise I am speaking for just those laid out.

I am going to take a bite into that 90 percent because that is where I am getting the complaints. The brokers are calling to tell me, and they know that I am a broker, about what a farce this education setup has been.

Somebody is making money on it and they will continue to make money on it. A hundred and twenty-three courses — I get the literature on them, how you can buy the cassettes, listen to them at home. The condominiums, they are going to make you an expert on condominiums after two tapes. I am waiting for next month's mail. I suppose they will want to educate me on

how to sell nuclear plants. Honestly, it is becoming a farce.

Costs, they are really running high. They are not taking these \$40 courses. The University of Maine sent a four-page bulletin out of there about two months ago, and a page and a half was dedicated to their highly structured, educational valued real estate courses.

I had a graduate of Bowdoin College, a young boy that I knew, had gone up through the business world, he went off to take a two-day course out of state giving two hour credits. He told me, when I took my original course, they taught all that in the first two hours. He was utterly disappointed.

Yes, I was awfully glad to hear the gentleman read that letter from the son of Jane Kilroy. He is probably one of the outstanding realtors in the State of Maine and has done so much for the real estate industry. When he called me and asked to get up and say a few words, I said, yes, Richard, but only a few words.

I support this bill and I know the warm-hearted people of this House will think of the pocketbook of their constituents out there and not follow those highly priced ads that we read monthly now on how you can become a Wizard of IZ. It just isn't right. I urge that you support this bill.

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

**MR. MCHENRY:** Mr. Speaker, Ladies and Gentlemen of the House: I would like to correct myself. I hope that you vote no, if you want to cut the red tape, on the "ought not to pass," and pass this L. D.

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

**MR. CARRIER:** Mr. Speaker and Members of the House: For what it is worth, I have been a broker for over 30 years and I don't think I need any of these courses. As a matter of fact, let's first talk about the courses themselves, especially the ones that I had to take in order to renew my license recently. Let's talk about costs first.

It was mentioned the cost will be about five dollars and some odd cents per hour, and you require 12 hours, which would apparently make you believe that the whole thing will cost you \$60. My experience has not been that. If you have had the chance to look at the regular real estate bulletin, all the courses that are advertised, many of them are advertised for three credit hours for \$60. The fact of \$5 per hour is not really true. It hasn't been my experience. Most of the courses, if you want three hour credits, they are \$60, either \$50 or \$60, and there are some that run much higher than that, maybe they have better qualified teachers.

I was in a position where I took two courses of three hours each, I paid the fee, and I think it was \$60, and then I got short on time so I decided to take some correspondence courses from the University of Maine down in Portland near where I live. I didn't mind paying \$20 apiece for those courses, I really didn't mind that. At that time, the money didn't bother me too much but what did bother me was the fact that I would get a correspondence course today, I would go get it at the University of Maine, and I think the system there is still the same, they give me the course, which included an envelope and, of course, you take the easiest courses that you can, zoning, there isn't anything more boring than zoning, but there are many other courses which they offer. I gave them the \$20 and I had a choice of either writing out the course or taking it back and mailing it in. I mailed it in because they were supposed to correct it and give me some answers and tell me where I was wrong. I did mail it in, I got the reports back but I never got any answers whether I was right or wrong. I hate to assume that I was right but that is the way it went. I took quite a few of these courses just in order to beat the deadline to get the hours to renew my license.



Like I said, I spent all this money, and in the course of time, like many other brokers who have been in it for a long time, and I work for myself, I don't work for anybody else, the situation is different if you have brokers and salesmen under you, but the situation is this I took all these courses, which I think were useless, because in years past I have taken courses with the Society of Real Estate Appraisers because the more you know, the more you are going to survive in this business and most of them courses cost \$150 and up. There is no comparison between the \$20 course and the \$150 course.

My point is, how about the broker that has six or eight or ten people in his office? This is where the objection comes in a little bit. He is supposed to be a good guy and he is going to pay all this to have his real estate brokers or salesmen go take the courses to renew their licenses, and when they have renewed their licenses they leave them and it is a poor investment all around.

I am old enough, and some of you are too, that you know the importance of education and this is not what we are arguing about. I think it is important to do on your own if you want to survive in the real estate business. We know what the market is today. To survive in it you have to go out and get some education or at least keep up with what the mortgage situation is and everything else today. So, all in all, I don't think that these courses, I can't say that they are useless but I think the situation under which you have to take them is bad.

The figure of a \$3,000 commission has been used and maybe this is so because it comes from communities where there are expensive houses. Down my way, that would mean you would have to sell a house for roughly \$50,000. Down my way, houses don't sell for that price, some of them do but that is not the average market, so don't think it is a get rich scheme.

It has been proposed before in the past legislatures that in order to be a real estate broker you should have a two-year degree. I think it is one of the most foolish things to expect that much out of a real estate broker. You can take a person and train them and in three months time you can teach them how to be a good broker. You can't create initiative in them, but my suggestion has always been that if they want to control this, it is the old shut-out game. They want to control how many people are going to get into real estate business. I think it is the old shut-out game, I didn't like it then and I don't like it now. I am not in opposition to anybody getting into the real estate business, because if they want to make a living at it, like I do, they will have to go to work and that is the whole thing.

I don't think that you need any college courses. I don't think you need these particular courses that they are offering. If you want to take them, I think it is to your advantage, but I don't think that we should mandate. I was against the bill in the last session because I don't think it is a money situation, but it should be considered because many people can't afford this stuff either, but to be a condition for you to make a livelihood, to take courses, I don't believe in it and hope that you vote against the "Ought to Pass" Report.

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

Mr. GWADOSKY: Mr. Speaker, Ladies and Gentlemen of the House: I guess I agree with many of the speakers today. I really don't like this bill, so I will move now for the indefinite postponement of this bill and all its accompanying papers.

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

Mr. RACINE: Mr. Speaker, Ladies and Gentlemen of the House: I hope that the people realize what this motion does now. If this is indefinitely postponed, we will still retain continuing education, so be careful. You should

vote against the motion to indefinitely postpone.

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

Mr. DUDLEY: Mr. Speaker, Ladies and Gentlemen of the House: I don't think that we should retain this piece of legislation. I have many good reasons but there has been quite a lot been said on the bill already this morning.

I think to be good in any business, whether it be my business, or any other you have got to keep up with the business you are in. It was a must in my business. In the mechanical business, for instance, new things come out on automobiles every year and if you don't keep up with them, you are soon out of business. People won't bring their car to your place to get it fixed because you can't fix it. I think the insurance business would be no different.

If I was a broker, I would have to keep up with the current events, changes in mortgages and so forth, in order to keep in the business. Otherwise, my competitor would have me out of business.

I have had a lot of complaints about this continuing education for these people and if we start there, there is no end to where we would stop. I could say that even members of this House, including myself, could stand a little education on what to do here. You could pick out any walk of life, school teachers, for instance, and everybody, you could have them continue their education. I don't like this type of thing and I hope this bill passes. I hope that you pass this bill this morning and I am sure that you will be doing the right thing.

People in the real estate business, if they stay in business, are going to have to take these courses if they need to and if they have been in business for 50 years, they probably don't have to. But the new ones coming in will have to keep with the times without continuing education. So, I don't want to just throw away this bill, not to vote to indefinitely postpone it, I want to pass the bill and I would like to ask for a roll call.

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

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

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

Mr. BRANNIGAN: Mr. Speaker, Ladies and Gentlemen of the House: Just to clarify, we are not talking about degrees being needed, this has nothing to do with degrees, has nothing to do necessarily with college courses. We are talking about clock hours, not credit hours. So when we are talking about the cost of credit hours, if someone chooses to take those kind of courses, those, of course, would count, but we are not talking about credit hours, we are talking about 12 clock hours.

For those who are more sophisticated in real estate, they should choose courses that are more sophisticated. For those who are neophytes, they should choose those that are more elementary. I just wanted to touch some of those points that have been brought up.

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

Mr. KIESMAN: Mr. Speaker, Ladies and Gentlemen of the House: I didn't want to take up the time to speak on this bill, but there is one group of people in the State of Maine whose needs have not been addressed in all of the debate this morning. That is the people in Maine who are buying or selling a house, selling a piece of property, probably the single biggest investment they will ever make and the single biggest transaction they will ever make in their life.

Let me tell you, there has been some com-

plaints here that this is a poor program and is being poorly administered. The people running the real estate program in the state of Maine are real estate people, and if they are not doing a good job of it and have not done a good job of this continuing education, then maybe they had better get their act together.

The state of Maine—there is a little bit of difference between a real estate broker and a garage mechanic or a fuel oil salesman and so on. The state of Maine sprinkles holy water on these people when they give them a license and they hold them out to the people of Maine that when you are going to buy or sell a house, you have a licensed broker to do your transactions for you and he has some expertise. If this guy got his license 30, 40 or 50 years ago and has done nothing since except read the newspaper, maybe, to maintain his expertise, then I will tell you, when he takes a \$3,000 or \$4,000 fee from an individual for selling his house or buying a house for him, then he is not giving him very good service.

If these people are going to be licensed by the state of Maine and be held out as being experts, then they should be experts. I am not saying that they should be lawyers, finance lawyers, mortgage lawyers, etc., but there are a lot of changes taking place in real estate law in the last very few years. There have been some innovative finance programs come along that might make the difference between a man selling his property or not selling his property, or at least making a profit when he does sell his property or buys property.

There have been some very great changes in mortgage methods, and the man that is selling or buying property hires a realtor to work for him on this. He has a right to expert he knows what is going on in the current system. This is what this was designed to do, and if it is not working, it is the fault of the real estate system and not necessarily the fault with the law, and I urge you to vote to indefinitely postpone this bill.

The SPEAKER: The pending question before the House is on the motion of the gentleman from Fairfield, Mr. Gwadosky, that this bill and all its accompanying papers be indefinitely postponed.

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

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

The SPEAKER: The pending question is on the motion of the gentleman from Fairfield, Mr. Gwadosky, that L. D. 496 and all its accompanying papers be indefinitely postponed. Those in favor will vote yes; those opposed will vote no.

#### ROLL CALL

YEA — Aloupis, Baker, Bell, Benoit, Bordeaux, Brannigan, Brennerman, Brodeur, Chonko, Connors, Connolly, Cox, Crowley, Damren, Davies, Diamond, G.W.; Diamond, J.N.; Drinkwater, Erwin, Fitzgerald, Foster, Fowlie, Gavett, Gowen, Gwadosky, Hall, Hanson, Hayden, Hickey, Higgins, H.C.; Higgins, L.M.; Holloway, Jackson, Kane, Kany, Ketover, Kiesman, Kilcoyne, Lisnik, Livesay, Lund, MacBride, Macomber, Manning, Masterman, Masterton, McColister, McGowan, McKean, Michael, Michael, Mitchell, J.; Murphy, Nadeau, Norton, O'Rourke, Paradis, E.; Paul, Pearson, Perkins, Perry, Prescott, Randall, Reeves, P.; Richard, Rolde, Soulas, Soule, Strout, Tarbell, Thompson, Treadwell, Tuttle, Twitchell, Walker, Webster, Wentworth, Weymouth.

NAY — Armstrong, Austin, Beaulieu, Berube, Boisvert, Boyce, Brown, A.; Brown, K.L.; Cahill, Callahan, Carrier, Carter, Clark, Conary, Cunningham, Curtis, Day, Dexter, Dillenback, Dudley, Hobbins, Huber, Hunter, Ingraham, Jacques, Jalbert, Jordan, Joyce, Kelleher, Lancaster, LaPlante, Laverriere,

Lewis, Locke, MacEachern, Mahany, Martin, A.; Matthews, McHenry, McSweeney, Mitchell, E.H.; Moholland, Nelson, A.; Post, Racine, Reeves, J.; Ridley, Roberts, Salisbury, Sherburne, Small, Smith, C.B.; Smith, C.W.; Stevenson, Stover, Studley, Swazey, Telow, Theriault, Vose.

ABSENT — Brown, D.; Davis, Gillis, Hutchings, Leighton, Martin, H.C.; McPherson, Nelson, M.; Peterson, Pouliot.

PAIRED — Carroll-Paradis.

Yes, 78; No, 60; Absent 10; Paired, 2.

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

Sent up for concurrence.

### Consent Calendar

#### First Day

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

(H. P. 430) (L. D. 477) Bill "An Act to Increase the Minimum Base Salary for Executive, Administrative or Professional Employees"—Committee on Labor reporting "Ought to Pass"

On the objection of Mr. Strout of Corinth, was removed from the Consent Calendar.

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

Mr. STROUT: Mr. Speaker, I would pose a question to the Chair. Is there a need for a fiscal note on this bill?

The SPEAKER: The Chair would advise that he has been advised that no fiscal note is required.

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

(H. P. 950) (L. D. 1126) Bill "An Act Relating to the Clarification, Consistency and Improved Administration of the Employment Security Law"—Committee on Labor reporting "Ought to Pass"

(H. P. 1253) (L. D. 1477) Bill "An Act to Clarify that the Contract Bar Rule does not Apply to Unit Clarification Proceedings under the State Employee Labor Relations Act"—Committee on Labor reporting "Ought to Pass"

(H. P. 937) (L. D. 1107) Bill "An Act to Establish an Agricultural Exemption from Workers' Compensation for Certain Wood Lot Operations"—Committee on Labor reporting "Ought to Pass" as amended by Committee Amendment "A" (H-264)

(H. P. 1334) (L. D. 1530) Bill "An Act to Amend the Spruce Budworm Suppression Laws"—Committee on Appropriations and Financial Affairs reporting "Ought to Pass" as amended by Committee Amendment "A" (H-267)

No objections being noted, the above items were ordered to appear on the Consent Calendar later in today's session under listing of Second Day.

### Consent Calendar

#### Second Day

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

(H. P. 296) (L. D. 326) Bill "An Act to Eliminate the Length Restrictions in the Definition of Camper Trailer under the Tax Laws" (C. "A" H-261)

(S. P. 452) (L. D. 1298) Bill "An Act to Prohibit the Sale and Promotion of Halogenated Hydrocarbons as Septic Tank Cleaners"

(S. P. 453) (L. D. 1299) Bill "An Act to Appropriate Funds to the Maine Geological Survey for Ground Water Aquifer Mapping"

(S. P. 466) (L. D. 1322) Bill "An Act to Provide Final Offer Arbitration for Collective Bargaining in the Potato Industry" (C. "A" S-138)

(S. P. 308) (L. D. 864) Bill "An Act in Support

of Regional Library Systems" (C. "A" S-141)

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

(S. P. 522) (L. D. 1452) Bill "An Act to Increase the Number of Signatures Required to Initiate Rule-making Proceedings under the Maine Administrative Procedure Act" (C. "A" S-142)

On the objection of Mr. Connolly of Portland, was removed from the Consent Calendar.

Thereupon, the Report was accepted in concurrence and the Bill read once. Committee Amendment "A" (S-142) was read by the Clerk and adopted in concurrence and the Bill assigned for second reading later in the day.

### Passed to Be Enacted Emergency Measure

An Act to Establish the Open Season on Bear (S. P. 52) (L. D. 61) (C. "A" S-123)

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

Mr. MacEachern of Lincoln requested a roll call vote.

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

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

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

Mr. MACOMBER: Mr. Speaker, Ladies and Gentlemen of the House: I am not going to take up a lot of your time this morning with a long, impassioned speech about the subject that we are on. I think everybody is quite aware of what we are talking about. We are talking about a spring bear season.

I think it is regrettable that quite a few people in this House made commitments before they were really aware of what the bill was entirely about.

As I have said before, the title of the bill is deceptive. The title of the bill says one thing; inside the bill it says something altogether different. The title of the bill refers to fall bear hunting in November. Amendment "A" on the bill refers to a spring bear season starting in May.

I think one thing I would like to clarify, a lot of you people have been spoken to in the last few days and this morning, and you have been told that this is a one-shot deal, this is one year only. I would remind you of something that I am sure you are all aware of. This particular body cannot make any rule that the next body that comes after it cannot overturn. In other words, there is no way that this body can guarantee that this is for one season. The next body can very well come in, put in the same bill and have it pass.

As I have said, I am not going to go on. I just feel that my position is the same as it was when this all started the first of the week. I feel that the cubs and mother bear should be protected until the cubs are old enough to be on their own and have some chance of survival if the mother bear is killed. If this bill is passed in its present form, it allows the killing of mother bear starting tomorrow and the cubs are certainly not old enough to be on their own by that time. That is my position; I hope you will agree with me and vote against this bill.

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

Mrs. MARTIN: Mr. Speaker, ladies and Gentlemen of the House: I didn't think I would ever have to speak on a bear bill again.

This bill is obviously using the Constitution of

the State of Maine and the emergency clause to aid a private interest group, a small group, which our Fisheries and Wildlife Legislative Committee apparently supports.

This legislative committee, in its ongoing effort to satisfy a minority of businessmen and their bear hunting clients is now asking that we approve this bill and enact it under the emergency clause.

It is necessary, this committee says, that we now use this clause and approve this rebuilt piece of legislation so that the public peace, health and safety shall be preserved. Neither the committee nor this bill mentions anything favorable to the people's bear population.

Mr. Speaker, Ladies and gentlemen, members of this committee, I ask you, what could be more farfetched and more deserving of your scorn? Allow your reason and judgment to prevail. Why in the name of reason and judgment should this public peace, health and safety be threatened if this patched-up bill is defeated? The only threat here is the threat to the lives of the cubs and adult bear, whether they are female or male.

The Commissioner of Inland Fisheries and Wildlife is strongly opposed to this springtime open season on bear. It is he who has been charged with the professional responsibility to manage wildlife. It is he who must make a decision.

Our Committee on Fisheries and Wildlife gave its united support, approval and blessings to the commissioner at his public hearing, on his nomination to that office. The other body did likewise, as did the individual spokesmen and their leading sportsmen's organizations.

But now this bill suggests that the commissioner is irresponsible simply because he has carried out his duty, irresponsible because he has rightfully placed the welfare, peace and safety of adult bear and their young ahead of the private economic factor. The committee is insisting that the private economic factor takes priority. Hence, it is clear that the committee is now trying to manage our Department of Inland Fisheries and Wildlife. The committee is now trying to override the commissioner's decision. Obviously, the committee is ignoring professional judgment and advice.

This bill is asking this body to reject professional judgment and advice. Instead, this bill is asking that we place the management of our bear in the hands of nonprofessionals, laymen and a minority group of businessmen.

On the other hand, our Department of Inland Fisheries and Wildlife is represented by capable, dedicated, experienced and truly professional men and women. Consequently, I shall adhere to their judgment on this matter and I shall vote against this bill, and I urge that you do the same.

The SPEAKER: The Chair recognizes the gentleman from Waterville, Mr. Jacques.

Mr. JACQUES: Mr. Speaker, Ladies and Gentlemen of the House: I am not a bear hunter, I have never shot a bear, I will never shoot a bear. I am not a guide, I am not an outfitter, I am not running for high political office and I don't even know if I will be running for this office again. But there is one reason that I am supporting the bill, and one reason only.

We have a process down here which we operate by, a legislative process, and when I ran three years ago, I was not under the assumption that we were down here to intentionally put anybody out of business, I don't care what they do.

We have a process down here by which we can accomplish what some of these people would like to accomplish.

The good gentlelady from Sebec has sponsored an L. D. that we have pushed along its way in this very body that will be passed, that will be enacted and that will be signed by the Governor, and that L. D. will prohibit the spring hunting of bear.

I can't tell you what is going to happen in the



111th, the 112th, the 113th, but I can tell you this, that if I am back here in the 111th, I will continue to support that concept, because I don't believe in it personally.

The gentleness has been very patient with us. She has suffered a lot of abuse, there has been a lot of emotion here, but there has been emotion on both sides.

When we had public hearings on this bill, we had a guy that stood before us, one of these vicious, ugly, cruel bear hunters, 250 pounds of him, whose only concern was his family because he was facing bankruptcy.

It has been said that these people have greedy, selfish interests, but they were told one thing and then something else changed it around. This man was almost crying, and you can laugh at that, you can snicker at that, whatever you want, but his concern was his wife and his children, and I think every man should have that concern.

There has been a lot of things said on both sides of this issue, but I would like to tell you a few facts, ladies and gentlemen, and these are facts.

Originally, there were problems with the first bear season as it was, which went from the 1st of May to the last Saturday of November. So, the commissioner and his advisory council had public hearings on the bear bills. At the hearings, you have copies on your desks, there were going to be two different seasons addressed—a spring season of six weeks, which started the first of May and ended in the middle of June, the 15th of June, and then a season from September 15 to the end of November. The other alternative was a season from May 1 to the end of November, just like it was. Not one of us on the committee wanted to see the bear shot—that is a misstatement.

These two hearings were held in Houlton and Farmington. When the bear people left there, they were told that they would have one or the other of the seasons. They had no problem with that, they understood that.

Last fall, I was in Commissioner Manuel's office with a gentleman friend of mine from Waterville when the commissioner said, "There will be a spring season, go ahead and book your hunts."

Now, in all honesty, these people went out and spent \$165,000, give or take a few, to advertise a spring hunt, I would have no problem with that, and I don't think they would have any problem with that. But they advertised.

The spring bear hunt was given by a vote of the advisory council of 5 to 3. The next time the advisory council met, it was to iron out the rules and regulations of the spring hunt and the fall hunt. But lo and behold, we have a change of vote. It becomes a 4 to 3 vote, without the chairman voting. The chairman of the advisory council votes to make a tie, 4 to 4 against the spring bear hunt.

The commissioner then votes to break the tie. I have yet to be told by the commissioner why he did it, what the reasons were. He had not told me that it was to protect the resource, because every one of his wildlife biologists told him that closing the spring bear hunt was not the answer, and I will explain that to you in a few minutes, but he voted this way. One month before May 1st, these people were told, you have to send the money that you have accepted, the deposits, back.

We all want to be advocates of the small businessman here. We have been talking about it for the last couple of days. You all know that you have to have operating capital to do your work. Some of these guys have taken the money they had taken in advanced bookings and spent it on getting ready for tomorrow, what they believed was going to be opening day on the spring bear hunt season. Now they have to send the money back. For the second time in two years, their credibility is dashed.

The commissioner closed the bear season last September 13th and he did so for a good

reason, too many bear were being shot. We have no problem with that. Now these people are facing the task of sending the money back.

I was on a steering committee that was formed and I was chosen by Mr. Glenn Manuel to serve on that committee to overlook all the fish and game species in the state of Maine and come up with recommendations. Roy Hucie, who was in charge of our bear project, who spent \$300,000 or more of our dollars to find out what the story was with the bear, recommended that 1200 bear a year be shot. The steering committee disagreed; we said 1,000 bear a year was enough. The advisory council went with our recommendations, the commissioner, and the whole department. Last year, September 13th, they hit their 1,000; they closed the bear season off.

There has been a lot of talk about shooting cubs and mothers, the whole works. What you should know, if you shoot bear in the fall, especially female bear, what you are doing is shooting a bear with embryo inside her. Female bears are impregnated in the summer, then the embryo stops developing and doesn't start again until the fall, when the bear readies for hibernation. The bear are born sometime in winter, around February and then they stay with their mother until they come out of the den in the spring.

What you are going to be doing, and I am still opposed to spring hunting but I am going to make a prediction on the record here, a couple of years down the line, you are going to have more females shot than you do now. That, ladies and gentlemen, will be a fact.

Female bears move more in the fall than the male bears do because they are trying to get extra energy, extra fat, for hibernation. They will be more susceptible to hunters because they will be continuously moving. They will be out in the open. They will be shot and our own biologists predict on a 3 to 1 ratio to male bears. I am not very smart but I know one thing, if you don't have any female bears, you sure as heck are not going to have any baby bears. Okay? These are a few of the facts, ladies and gentlemen, of what happened here.

I don't owe the bear hunters a thing and they don't owe me a thing, but I felt that we had to get up and speak in their behalf. There are only about 50 of them, let's talk politically here, there are 50 of them. If there were 50,000 of these guys, we wouldn't have this problem but there are only 50, a very small, insignificant number when you look at the whole picture, but we are here. I don't defend hunting bear in the spring and like I said, I have no interest in shooting bear, but I am defending them the same way that I would defend anyone who this legislature would give their vote of approval on to put out of business. That includes the potato farmer, the chicken farmer, the forestry man or even the Christmas tree farmer.

I don't believe that this legislature is here to intentionally put anyone out of business. We have a process to accomplish what we would like to accomplish. I can excuse a bureaucrat or a bureaucracy for doing something like this, I can even understand it, but I certainly cannot understand it from a body such as this. That is why I went along with this, not because I am trying to run Fish and Game, not that they don't need any help, not that I am trying to run the wildlife of this state and not because I want to do anything special for bear hunters, the bear outfitters, anymore that I would anyone else. You just think about that a few minutes now.

We have a bill that is on its way, that will be passed, will be enacted, no games, no threats, but guarantee, no more spring bear hunting after this January 1, 1982, but if you want to put those guys out of business, and some of them will be out of business if they cannot make it, even if we pass this bill, and they can't make it after the spring bear hunt is over, they are going to sell their places. The ones that can go

into fishing or another type of guiding will be able to stay in business.

I agree, 45 or 50 isn't a big amount, it is not going to hurt any of us back home, probably, but I just want you to think about it. I still don't believe that the legislature is here to do that but maybe I am wrong, I have been wrong before.

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

Mrs. LOCKE: Mr. Speaker, Men and Women of the House: I feel that I should give you my point of view, as I have gathered information since last summer.

Last fall, the Fish and Wildlife Advisory Council made up of eight members of the public, some of which I know are hunters and fishermen or whatever, I am not sure of all of them, plus the Commissioner if there is a tie vote, held hearings and set a split season on bear, a short spring season and a short fall season. The decision was overturned because of a technicality by the then Attorney General Cohen after a complaint by the Sportsman's Alliance of Maine.

As I understand it, after speaking to one commercial hunter, some of the hunters were not satisfied and wanted a longer season. The advisory council held a second set of hearings, after which only a fall season, beginning on September 14th, was decided upon by a 4 to 4 vote, with the Commissioner breaking the tie, voting on the side of those preferring only a fall season.

If the commissioner did tell anyone that there would be a spring season on bear after the first vote was overturned, and he has stated repeatedly that he did not, he had to be guessing. He does not control the vote of the members of the council.

The council was given the decision-making authority in order to take it out of the hands of only one commissioner and put it in the hands of representatives of the public.

What would we be doing here today, this minute, if the vote had been 5 to 3 against the spring season and the commissioner did not have to break a tie? Would we be putting down those five members? There were four members of the council besides the commissioner who did vote against the spring season; yet, it seems as if only the commissioner is taking the heat.

This situation would be like our respective leadership being able to tell the public how we as individuals are going to vote on a matter instead of us telling the leadership how we plan to vote. I think this situation can be likened to someone taking money for services that they promise to render if the bill that would commit these services was passed in the legislature on the promise by the Governor that the bill is certain to pass.

The process of setting a hunting season is in place, and although I feel badly that some commercial hunters have taken deposits, spent some of the money, and, by the way, not all of them have spent the money, some have put it aside, they knew the process and they should have waited.

I want to just answer or clarify a few of the remarks made by Representative Jacques concerning the pregnancy of the bear. Bear mate in June. The fertilized egg doesn't move after it is fertilized, it stays wherever it is, does not implant. When the bear dens to hibernate, then it implants and grows very quickly, and when the cub is born, it is very, very small in comparison to the mother. Did you know that in the fall, when we are hunting deer, they are breeding? I am sure that if pregnancy is an issue, we are hunting and shooting doe that are just as pregnant as the bear—I don't think this is an issue.

The other point I would like to make, as far as I am concerned, I am not concerned with hunting of female bear versus the male bear, anymore than I am concerned with hunting doe versus bucks, I am concerned with allowing the

hunting and killing of mothers in the spring when they have their young. Cubs are usually not shot, because who would take a cub home as a trophy? They are left to starve; this is 1981 and I don't think we have to do this anymore.

I am not going to vote for this emergency measure because I don't want another spring season and, more importantly, neither do the overwhelming majority of my constituents.

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

Mr. HALL: Mr. Speaker, Ladies and Gentlemen of the House: The last few words that the previous speaker mentioned are as important to her as they are to me. It was mentioned that there are about 45 to 50 people in the state that get their living from it and I presume that is true, but I have a bigger constituency than that. I would like to take a few minutes of my time if you folks will bear with me—what is happening in Piscataquis County? At one time, in 1973, according to the biologists and the game wardens, there was one bear at that time for every six miles. Now there is one to every 12 to 14 miles. In a few years more, there isn't going to be a squeal left of a cub, particularly if you allow this to go through this spring.

The slaughter house across the road from me, a very good friend of mine, the Herring boys, tell me that they have never had such a big business in getting rid of the innards as they have in the past three or four weeks. One of the bear hunters that have three sets of camps up there have 67 of these baits out now. Each day they go in and take a stick and stir them off so when tomorrow comes and the hunters are there, they can say there has been a bear here. That is a pretty good way of starting in, but I will guarantee you, if what we figure, that there are 140 to 150 bear left, by the end of the month there isn't going to be 40 or 50 bear left. This, to my constituents, is very poor business to do.

There has been mention about the hardship of these 45 to 50 people and we have talked a lot about people being in business here. I submit to you a chance I took just a few years ago when I sold \$25,000 worth of potatoes on the board. That fall, I had plenty of potatoes but they were about the size of marbles because we had no rain. I came up \$7,000 short. I had to come up with that money myself and it took my wife and I over 10 years before we got that paid off, but I had to do it myself. I didn't have anyone here in the Legislature to even consider that. They shouldn't, that was my doing. I took the money ahead of time and I spent it. I didn't spend it on rum and women, I spent it on fertilizer and everything that you should have. But be that as it may, that's the facts of today.

The SPEAKER: The Chair recognizes the gentleman from Island Falls, Mr. Smith.

Mr. SMITH: Mr. Speaker, Ladies and Gentlemen of the House: You heard the gentleman before me say 50 people affected. That is not quite the whole truth. There are guides, cooks, maids, waitresses, businesses that sell the groceries that go into this hunt, so there are more than that.

Also, there is a limit of 500 that can be taken in the spring hunt, and if there is more than 500, it can be stopped. I think we should tell the whole truth in this matter.

The SPEAKER: The Chair recognizes the gentleman from Waterville, Mr. Jacques.

Mr. JACQUES: Mr. Speaker, Ladies and Gentlemen of the House: I apologize for getting up twice. In the 110th, I voted very strongly for the right-to-life, okay? In right-to-life, we argue about life from the moment of conception or whatever.

I personally shoot bucks and I have yet to find a buck that has a baby inside it. We are going to have a problem with the female bears still having, whether it is an egg or an embryo or whatever you want to argue, when they are shot in the Fall.

Representative Smith brought up a 500 limit;

that is true and if they shoot the 500 in the first two weeks of the season, it is all done. It is shut off. In the fall, if you have just a fall season, they are going to shoot 1,000 bear in that fall season. You are still going to shoot 1,000 bear either way, but if you go with just the fall, you are going to hurt those 50 people and, as Representative Smith said, and I didn't think about it, you are not talking just 50 people, you are talking about a lot of people.

One other point, Representative Hall brought up a very good point. The only thing is, the situation he put himself into, he put himself into. The situation these guys are in, they did not put themselves into. They were told that there would be a spring bear hunt and I was told that there would be a spring bear hunt. I am not a liar, I am not a cheat and when I leave here four years from now, I am still not going to be a liar. I have not lied to anybody in the three years I have served down here and I am proud of that. I was told that there would be a spring bear hunt and something happened in between time. I have yet to get an answer what. I would still like to get an answer to what happened.

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

#### ROLL CALL

YEA — Aloupis, Armstrong, Austin, Bell, Bordeaux, Boyce, Brannigan, Brennerman, Brown, K.L.; Cahill, Callahan, Carrier, Carter, Clark, Conary, Connors, Crowley, Cunningham, Curtis, Damren, Day, Dexter, Diamond, G.W.; Diamond, J.N.; Dillenback, Drinkwater, Dudley, Erwin, Foster, Fowle, Gavett, Gwadosky, Hanson, Hayden, Hickey, Higgins, H.C.; Higgins, L.M.; Hobbins, Ingraham, Jacques, Jalbert, Jordan, Joyce, Kany, Kelleher, Ketover, Kiesman, Kilcoyne, LaPlante, Laverriere, Lewis, Lisnik, Livesay, Lund, MacBride, MacEachern, Mahany, Manning, Masterton, Matthews, McColister, McHenry, McKean, McSweeney, Michael, Michaud, Mitchell, E.H.; Moholland, Nadeau, Nelson, A.; Norton, Paradis, E.; Paradis, P.; Paul, Perkins, Perry, Prescott, Racine, Randall, Reeves, P.; Richard, Ridley, Roberts, Salsbury, Sherburne, Small, Smith, C.B.; Smith, C.W.; Soule, Stevenson, Studley, Swazey, Tarbell, Telow, Treadwell, Tuttle, Twitcheell, Vose, Waker, Weymouth, The Speaker.

NAY — Baker, Beaulieu, Benoit, Berube, Boisvert, Brodeur, Brown, A.; Chonko, Connolly, Cox, Davies, Fitzgerald, Gowen, Hall, Holloway, Huber, Hunter, Jackson, Kane, Lancaster, Locke, Macomber, Martin, A.; Masterman, McGowan, Mitchell, J.; Murphy, O'Rourke, Pearson, Pouliot, Reeves, J.; Rolde, Stover, Strout, Theriault, Thompson, Webster, Wentworth.

ABSENT — Brown, D.; Carroll, Davis, Gillis, Hutchings, Leighton, Martin, H.C.; McPherson, Nelson, M.; Peterson, Post, Soulas. Yes, 101; No, 38; Absent, 12.

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

Signed by the Speaker and sent to the Senate.

#### Bill Held

JOINT RESOLUTION to Ratify an Amendment to the Federal Constitution to Provide for Representation of the District of Columbia in the Congress (S. P. 230) (L. D. 617) — In House, Resolution Adopted on April 29.

HELD at the request of Representative Higgins of Scarborough.

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

Mr. HIGGINS: Mr. Speaker, having voted on the prevailing side, I now move reconsideration and would ask for a roll call.

The SPEAKER: For the Chair to order a roll

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

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

The SPEAKER: The pending question is on the motion of the gentleman from Scarborough, Mr. Higgins, that the House reconsider its action whereby this Joint Resolution was adopted. All those in favor will vote yes; those opposed will vote no.

The Chair recognizes the gentlewoman from Lewiston, Mrs. Berube.

Mrs. BERUBE: Mr. Speaker, I would like to pair my vote with the gentleman from Eliot, Mr. McPherson. If he were here, he would be voting yea and I would be voting nay.

The SPEAKER: The Chair recognizes the gentlewoman from Augusta, Ms. Lund.

Ms. LUND: Mr. Speaker, I request permission to pair my vote with the gentlewoman from Lincolnville, Mrs. Hutchings. If she were here, she would be voting yea; if I were voting, I would be voting nay.

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

Mr. MACOMBER: Mr. Speaker, I would like to pair my vote with the gentleman from Calais, Mr. Gillis. If he were here, he would be voting yes; I would be voting no.

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

Mr. WEBSTER: Mr. Speaker, I ask to pair my vote with the gentlewoman from Van Buren, Mrs. Martin. If she were here, she would be voting no and I would be voting yes.

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

Mr. BOYCE: Mr. Speaker, I would like to request permission to pair my vote with Representative Nelson of Portland. If she were here she would be voting nay; I would be voting yes.

The SPEAKER: The Chair recognizes the gentleman from Waterville, Mr. Jacques.

Mr. JACQUES: Mr. Speaker, I ask leave of the House to pair my vote with the gentleman from Monmouth, Mr. Davis. If he were here he would be voting yea; if I were voting, I would be voting nay.

The SPEAKER: The Chair recognizes the gentlewoman from Bath, Ms. Small.

Ms. SMALL: Mr. Speaker, I request permission to pair my vote with the gentleman from Caribou, Representative Peterson. If he were here, he would be voting yea and I would be voting nay.

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

Mr. MICHAUD: Mr. Speaker, I request to pair my vote with the gentleman from Livermore Falls, Mr. Brown. If he were here, he would be voting yea; if I were voting, I would be voting nay.

The SPEAKER: The pending question is on the motion of the gentleman from Scarborough, Mr. Higgins, that the House reconsider its action whereby this Joint Resolution was adopted. All those in favor will vote yes; those opposed will vote no.

#### ROLL CALL

YEA — Aloupis, Armstrong, Austin, Bell, Bordeaux, Brown, K.L.; Cahill, Callahan, Carter, Conary, Connors, Cunningham, Curtis, Damren, Day, Dexter, Dillenback, Drinkwater, Dudley, Foster, Gavett, Hanson, Higgins, L.M.; Holloway, Hunter, Ingraham, Jackson, Jordan, Kiesman, Lancaster, Lewis, MacBride, Masterman, McColister, McHenry, Murphy, Nelson, A.; Norton, O'Rourke, Paradis, E.; Pearson, Perkins, Randall, Reeves, J.; Salsbury, Sherburne, Smith, C.W.; Stover, Strout, Studley, Tarbell, Treadwell, Wentworth.

NAY — Baker, Beaulieu, Benoit, Boisvert, Brannigan, Brenerman, Brodeur, Brown, A.; Chonko, Clark, Connolly, Cox, Crowley, Davies, Diamond, G.W. Diamond, J.N.; Erwin, Fitzgerald, Fowlie, Gowen, Gwadosky, Hall, Hayden, Hickey, Higgins, H.C.; Hobbins, Huber, Jalbert, Joyce, Kane, Kany, Kelleher, Ketover, Kilcoyne, LaPlante, Laverriere, Lisnik, Livesay, Locke, MacEachern, Mahany, Manning, Martin, A.; Matthews, McGowan, McKean, McSweeney, Michael, Mitchell, E.H.; Mitchell, J.; Moholland, Nadeau, Paradis, P.; Paul, Perry, Post, Pouliot, Prescott, Racine, Reeves P.; Richard, Ridley, Roberts, Rolde, Smith, C.B.; Soule, Stevenson, Swazey, Telow, Theriault, Thompson, Tuttle, Twitchell, Vose, Walker, The Speaker.

ABSENT — Carrier, Carroll, Leighton, Masterton, Soulas, Weymouth.

PAIRED — Berube-McPherson; Boyce-Nelson, M.; Davis-Jacques; Gillis-Macomber; Hutchings-Lund; Martin H.C.; Webster; Peterson-Small.

Yes, 53; No, 76; Absent, 6; Paired, 16.

The SPEAKER: Fifty-three having voted in the affirmative and seventy-six in the negative, with six being absent and sixteen paired, the motion did not prevail.

Sent to the Senate.

The following papers from the Senate appearing on Supplement No. 1 were taken up out of order by unanimous consent:

#### Ought Not to Pass

Report of the Committee on Aging, Retirement and Veterans reporting "Ought Not to Pass" on Bill "An Act to Provide Cost-of-living Adjustments to Retirement Allowances under the Maine State Retirement System to Parallel those Granted to Active State Employees" (S. P. 181) (L. D. 459)

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

#### Leave to Withdraw

Report of the Committee on Labor reporting "Leave to Withdraw" on Bill "An Act Relating to Employer Contribution to the Unemployment Compensation Fund" (S. P. 252) (L. D. 721)

Report of the Committee on Local and County Government reporting "Leave to Withdraw" on Bill "An Act to Increase the Salary of the Cumberland County Treasurer" (S. P. 44) (L. D. 45)

Report of the Committee on Local and County Government reporting "Leave to Withdraw" on Bill "An Act to Increase the Salary of the Cumberland County Register of Deeds" (S. P. 123) (L. D. 288)

Report of the Committee on Health and Institutional Services reporting "Leave to Withdraw" on Bill "An Act to Allow a Licensed Boarding Facility to Charge a Resident or Other Responsible Party the Difference Between the State Maximum Reimbursement Ceiling and the Audited Rate" (S. P. 458) (L. D. 1306)

Report of the Committee on Aging, Retirement and Veterans reporting "Leave to Withdraw" on Bill "An Act to Allow Maine State Retirement System Members a Cost-of-Living Increase" (S. P. 368) (L. D. 1087)

Report of the Committee on Business Legislation reporting "Leave to Withdraw" on Bill "An Act to Place Restrictions on Closing Costs Charged by Banks on Real Estate Transactions" (S. P. 398) (L. D. 1191) reporting "Leave to Withdraw."

Came from the Senate with the Reports read and accepted.

In the House, the Reports were read and accepted in concurrence.

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

The following Communication:  
**The Senate of Maine**  
Augusta

April 29, 1981

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

Dear Clerk Pert:

The Senate today voted to Adhere to its former action whereby Joint Order—Relative to the Committee on Fisheries and Wildlife reporting out a bill to establish the Open Season on Bear, (H. P. 1388) Failed of Passage.

Respectfully,

MAY M. ROSS,

Secretary of the Senate

The Communication was read and ordered placed on file.

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

#### Special Sentiment Calendar

Recognizing:

Maine citizens who voluntarily give of themselves for enrichment and services in support of residents of our mental and correctional institutions; (S. P. 588)

James D. Cassida of Troop No. 37 of Belfast, who received the high distinction of Eagle Scout on April 30, 1981; (S. P. 589)

No objections being noted, these items were considered passed in concurrence.

#### Orders of the Day

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

An Act to Permit the City of Bangor to Increase the Number of Members on the Bangor School Community (Emergency) (S. P. 366) (L. D. 1085) (C. "A" S-101).

Tabled—April 29 (Till Later Today) by Representative Kelleher of Bangor.

Pending—Passage to be Enacted.

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

A vote of the House was taken.

Whereupon, Mr. Kelleher of Bangor requested a roll call vote.

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

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

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

#### ROLL CALL

YEA — Alopis, Armstrong, Austin, Baker, Beaulieu, Bell, Benoit, Berube, Boisvert, Boyce, Brannigan, Brenerman, Brodeur, Brown, A.; Cahill, Carter, Chonko, Clark, Conary, Connors, Connolly, Cox, Crowley, Cunningham, Curtis, Damren, Davies, Day, Dexter, Diamond, G. W.; Diamond, J. N.; Dillenback, Drinkwater, Dudley, Erwin, Fitzgerald, Foster, Fowlie, Gowen, Gwadosky, Hall, Hanson, Hayden, Hickey, Higgins, H. C.; Hobbins, Holloway, Ingraham, Jackson, Jacques, Jalbert, Jordan, Joyce, Kane, Kany, Kelleher, Kiesman, Kilcoyne, Lancaster, LaPlante, Laverriere, Lewis, Lisnik, Livesay, Locke, Lund, MacBride, MacEachern, Mahany, Manning, Martin, A.; Masterman, Matthews, McCollister, McGowan, McHenry, McKean, McSweeney, Michael, Michaud, Mitchell, E. H.; Mitchell, J.; Moholland, Murphy, Nadeau, Nelson, A.; Norton, O'Rourke, Paradis, E.;

Paradis, P.; Paul, Pearson, Perkins, Perry, Post, Prescott, Racine, Reeves, J.; Reeves, P.; Richard, Ridley, Roberts, Rolde, Salsbury, Sherburne, Small, Smith, C. B.; Soule, Stover, Strout, Swazey, Telow, Theriault, Thompson, Tuttle, Twitchell, Vose, Webster, Wentworth, The Speaker.

NAY — Bordeaux, Brown, K. L.; Callahan, Gavett, Higgins, L. M.; Huber, Hunter, Masterton, Randall, Stevenson, Tarbell, Treadwell, Walker, Weymouth.

ABSENT — Carrier, Carroll, Davis, Gillis, Hutchings, Ketover, Leighton, Macomber, Martin, H. C.; McPherson, Nelson, M.; Peterson, Pouliot, Smith, C. W.; Soulas, Studley.

Yes, 120; No, 14; Absent, 17.

The SPEAKER: One hundred twenty having voted in the affirmative and fourteen in the negative, with seventeen being absent, the motion does prevail.

Signed by the Speaker and sent to the Senate.

(Off Record Remarks)

On motion of Mrs. Erwin of Rumford, the House reconsidered its action of earlier in the day whereby House Paper 1408, an Expression of Legislative Sentiment recognizing Michael J. Kogutak of Lackawanna, New York, received passage.

The Chair recognizes the gentlewoman from Rumford, Mrs. Erwin.

Mrs. ERWIN: Mr. Speaker, just a brief explanation why I wanted this matter reconsidered. When I put this in, I was not told there was an order already in recognizing the National Commander's visit to Maine. Since I plan to be in Sanford when he is honored, I wanted to be sure that this commander was recognized by this Legislature. I note that the date this was passed in the Senate was April 15, which, if you will recall, was income tax deadline and at that time I was a bit preoccupied.

Mr. Speaker, I move this Order be indefinitely postponed.

Thereupon, on motion of Mrs. Erwin of Rumford, the Order was indefinitely postponed.

On motion of Mrs. Erwin of Rumford, Recessed until four o'clock in the afternoon.

#### After Recess

4:00 p.m.

The House was called to order by the Speaker.

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

Bill, "An Act to Exempt Certain Signs from the Billboard Law" (S. P. 378) (L. D. 1136)

Tabled — April 28 by Representative Brannigan of Portland.

Pending — Adoption of Committee Amendment "A" (S - 119)

Mr. Brannigan of Portland moved that this be tabled for two legislative days.

Whereupon, Miss Brown of Bethel requested a vote.

The SPEAKER: The pending question is on the motion of the gentleman from Portland, Mr. Brannigan, that his matter be tabled pending adoption of Committee Amendment "A" (S - 119) and specially assigned for Monday, May 4. All those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

67 having voted in the affirmative and 18 having voted in the negative, the motion did prevail.

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

HOUSE DIVIDED REPORT — Majority (10) "Ought Not to Pass" — Minority (3) "Ought to Pass" — Committee on Taxation on Bill "An Act to Permit Municipalities to Levy a Sales Tax on Meals and Lodging" (H. P. 1073) (L. D. 1276)

Tabled — April 29 by Representative Post of Owl's Head.

Pending — Motion of the same gentlewoman to Accept the Majority "Ought Not to Pass" Report.

Thereupon, the Majority "Ought Not to Pass" Report was accepted.

On motion of Mr. Kane of South Portland, the House reconsidered its action whereby the Majority "Ought Not to Pass" Report was accepted.

The same gentleman requested a vote on acceptance of the Majority "Ought Not to Pass" Report.

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

Mrs. POST: Mr. Speaker, Men and Women of the House: I would hope that you would accept the Majority "Ought Not to Pass" Report and I will give you some basic, brief reasons, because I think there are quite a few people who intend to speak today.

One of my major concerns with this bill is that it gives some selected communities a major revenue raising mechanism without taking into consideration in all the ways that we share revenues with those communities, that they have that ability to raise money.

Granted, in some instances, such as the larger cities, the amount that they might be able to raise under this tax would not be large in proportion to the amount that they may be able to raise under the property tax. But in other instances, such as some of our smaller, more tourist oriented communities, that would not be the case.

We judge communities to be either wealthy or poor and therefore in need of state assistance through the state valuation, because that is the way that they are able to raise money, property taxes. Yet, when we give this new tax, which in some instances would make poor communities rich communities, we would not take that ability to raise money into consideration when we give them either revenue sharing funds, school funding or roads for towns and snowplowing assistance. It also would make no change in those instances where those communities come together to share costs, such as in school districts or in the sharing of the county budget. So the towns that might in fact be able to raise a great deal of revenue through the sales tax on meals and lodging, if they chose, would not have that reflected in the amount of county taxes that they would have to pay.

In addition, this ability to raise taxes mechanism would in no way be related to need. In some instances, it is true, particularly with the larger cities, these communities are in need of additional ways of raising money. The property tax presents a major problem for them, particularly in light of the large percentage of tax exempt property they may have within their boundaries, and yet the ability to raise that money is in no way related to the need, because you also have, for instance, Wiscasset, which would be able to make great use of this particular revenue raising mechanism, and I don't think any of us would consider the town of Wiscasset a poor community and that it needs to find another way to raise money.

It is a very easy tax for the citizens to impose, because what people would be doing is essentially, in large part, taxing somebody else. It is easy for a community to make a decision to impose a tax on meals and lodging because people outside the boundaries would by and large be the ones who would have to pay the bill.

I also have some concerns as far as how the money is going to be spent, and particularly some concerns on the tourism-related money. I think in the State of Maine our need is to attract people from out of state as far as tourism is concerned. What we do not need at this point in time is for individual communities to have a great deal of money which they can have available under this particular bill, to have the city of Bangor, for instance, compete against Norway in who is going to be able to spend the

most in tourism-related dollars from people who come eat in their restaurants or stay in their hotels. We don't need that fractionalized effort as far as spending money on tourism goes.

For those reasons and others that I am sure people are going to talk to you about, I hope you will accept the "ought not to pass" report.

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

Mr. BRANNIGAN: Mr. Speaker and Members of the House: This bill would allow those municipalities who wish, and it is an optional tax on meals and lodging, to charge 2 percent extra on the 5 percent that is now charged on those items. It would be a local option for each community to decide as they wish, whether they wish to impose this tax or not.

It would be at no cost to the state because it would be piggy-backed on the present sales tax and the money would go to the state. The state would be allowed to withdraw whatever amount was necessary to administer it, and then it would be returned to the community.

As amendments were offered, and we would be prepared to offer them at second reading, they were not put on by the committee, all that 20 percent of that money, at least 20 percent, would be dedicated to the promotion of tourism, the promotion of assistance and help to those who had collected this tax, those restaurants and those lodging places that had collected the tax, this very small tax, from their patrons.

I am the sponsor of this bill. I think that this way of moving away slightly, for some of us, from the property tax, and that is a major issue, there is no doubt that it is a major issue, as we work things out more and more, there always was a provision in this bill from its beginning to promote tourism and conventionism, but as we worked it out and as the amendments were presented, they became a stronger element, but no doubt, from the beginning it was a property tax relief issue, an alternative revenue raising issue.

Our towns and our cities are not allowed to raise monies except by the property tax on the whole, and that, in my town at least, is becoming oppressive, unbearable.

I believe that this particular piece of taxation is a neat piece of taxation, neat, as a teentopper would call it, a good one, but neat also because it is a very well tied together piece of legislation.

First of all, it is expected. Thirty states, I believe, have this kind of meals and lodging tax. Our neighboring New Hampshire has a 7 percent sales tax on meals and lodging. Much of Canada has it. People who travel expect it. It is not an unexpected tax, it is not a burdensome tax because it is very small, 2 percent is a very small amount on a meal or a night's stay.

People say there would be a big difference, one community would be fighting against another. I don't believe that—we have that situation right now and I don't believe it happens. I don't believe in Kittery and Portsmouth, when anybody makes a decision on where to eat between Portsmouth that has 7 percent and Kittery that has 5 percent, I do not believe people decide on that small basis, or Gorham, New Hampshire and Bethel, Maine. They don't make those decisions. It is not a burden, therefore, I submit, it is not a burden on those who will have to collect it.

Secondly, not only is it not a burden on the restaurants and the lodging places who have been fighting this tooth and nail, but it is a benefit to them. This is a real benefit package for many people, and some of those who would benefit are the restaurants and lodging places, because, first of all, if their community adopts it, it comes right back to their community and much of that will be applied to their own property tax.

Thirdly, at least 20 percent under the amendments proposed would be plowed right back

into promoting what makes their business tick, promotion of tourism, promotion of conventionism.

So, this is a very neat package, benefit package, and mainly it takes some emphasis off the property taxes in those communities that can benefit by it.

People who are very poor, people who are elderly, on fixed income, they have to pay their property taxes whether it is by paying for the house that they own or through their rent, they have to pay the burden of property taxes. They do not have to go out and eat and they do not have to stay in hotels and motels. That is fair, and this is a fair tax.

It is my understanding that there are going to be many people who are going to vote against this today and I don't understand that. I understand that they are going to vote against it, but I don't understand why.

If you are from a small community and you don't have any—but I understand that people from large cities, people from other municipalities—don't you have a property tax problem? I do. If Portland is the only place that has a property tax problem then, yes, this is a Portland bill and only a Portland bill. When I go door to door, and I have done it twice, you ask people what's the problem, any problems, I am here—you know, the pitch you give, you hear what they have to say. Most people are reluctant, but if they say anything, they say, "What can you do about taxes, what can you do about municipal problems? What can you do about the property tax? At least that is what I hear."

In my city, we have one of the highest property taxes, and we had no raise in property tax for three years, we cut and cut, and we are cutting again this year, we are having slight raises, but we are having a real property tax problem, and this is one of the few bills that is being introduced in this Legislature, this year, that would help relieve that.

I would like to talk politics for a minute. Politically, in the good sense, the best sense, politically is helping people and I think this helps people. It is Representatives going and helping people who are in need, and I think in the area of property tax there is a need.

But let's take politics in the other sense that people talk about, to go home and say that you voted against one of the only property tax reliefs, if you have a town with property tax problems, I don't understand that, and I sure as heck wouldn't want my opponent to be able to say that.

So, for all those reasons I don't understand why a few restaurant owners, in my estimation, and owners who I think will benefit, restaurant and the lodging industry, have been such an influence over people who are here to represent all the people, and all those people are property tax people.

Ladies and gentlemen of the House, I would urge you to consider this very carefully and to consider this as a property tax relief measure.

The SPEAKER: The Chair would ask the Sergeant-at-Arms to escort the gentleman from Fairfield, Mr. Gwadosky, to the rostrum for the purpose of acting as Speaker pro tem.

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

The SPEAKER Pro Tem: The Chair recognizes the gentleman from Gardiner, Mr. Kilcoyne.

Mr. KILCOYNE: Mr. Speaker, Ladies and Gentlemen of the House: I voted with the majority on the Taxation Committee that reported "ought not to pass" on this bill for the following reasons: It is a discriminatory bill and unfair. The bill definitely puts municipalities against restaurant owners, merchants and innkeepers. I arrived at that decision after listening to three hours of debate on the issue.

The intent of the bill is to relieve the property



taxpayers from some of their financial burden. Will this bill do that? I would say no. Don't forget that 20 percent for tourism that was recently plugged into the bill, that has become a central issue. Let us be straightforward and up-front with the property taxpayers of this State. If a tax is needed to help out our property taxpayers, then a tax should be levied that is equitable and have all the property taxpayers share in the distribution of that levy.

Please support the "ought not to pass" report.

The SPEAKER Pro Tem: The Chair recognizes the gentlewoman from Houlton, Mrs. Ingraham.

Mrs. INGRAHAM: Mr. Speaker, Ladies and Gentlemen of the House: I agree that it is a discriminatory tax. It does tax just two industries, two industries that are having trouble enough.

I live in a border town. For the people in New Brunswick to come over to Houlton to have dinner, they will pay a 5 percent sales tax, 15 percent gratuity, 20 percent exchange and 2 percent for this new discriminatory tax, which I call "insult to injury tax."

If it is left to the discretion of the towns, take a situation like Bangor and Brewer, just across the river. Maybe you think people wouldn't make that a deciding factor, but I think they would. I think they would resent the fact that this was tacked on and they would say, we don't need it, we will go elsewhere.

Another point that has been made is that it is a luxury tax, these are people traveling, they are traveling for fun, they can afford to pay 2 percent more. This isn't true. An awful lot of the travel is for business reasons. An awful lot of the eating out is also for business reasons, as most of us here in the House know right now.

In response to the gentleman from Portland, Mr. Brannigan, the dedication of 20 percent for promotion for tourism, it isn't going to help much if they aren't in business.

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

Mr. MURPHY: Mr. Speaker, Men and Women of the House: I guess it is appropriate that we tackle this bill at this time of year. If I was still teaching, we would be studying World War II and the subject that is probably the most fascinating to those high school history students are the Japanese kamikaze pilots. They always ask, why did they do it when they knew it meant sure death and very little glory? Well, today I feel like one of those kamikaze pilots. But I responded to the students, and I would respond to you, especially after hearing your comments after being heavily lobbied all this week, that we are doing it for the people back home and we feel that it is right, despite knowing the political consequences of angering the small but powerful vested interest group.

I think the editorial in the morning Press Herald hit the nail right on the head. They said, "The 10 to 3 vote represents a classic case of special interests triumphing over the public interest."

All of us connected with the 2 percent bill, despite what you have been told, are pro tourism. My background is a former general manager of a resort hotel and I now run a summer tourist newspaper. I will be very honest with you. Almost a hundred percent of my 220 advertisers are opposed to this bill. I have talked with them, we have debated the bill, we have a difference of opinion, but we respect each other's position.

But we are in a hundred percent agreement that tourism promotion is in trouble in the State of Maine. We have a problem. Each chamber of commerce protects its own turf. Many refuse to cooperate with other communities and chambers, and coming off the great summer of 1980 and looking forward to a banner summer, we have forgotten the disastrous summer of 1979.

My interest in this bill comes out of concern

for the small restaurants and motels who can't advertise in larger regional publications. They get the overflow from the larger businesses, and I feel that they deserve more than leftover crumbs.

Tourism is our second largest industry, our cleanest and probably the one with the greatest promise for the future if we invest in it. Open up Downeast Magazine, the magazine for Maine, and other mass market magazines and look at the full-page, full-color Canadian vacation ads. Where are ours? Where is the cooperative effort?

This bill would dedicate 20 percent of all dollars returned to the promotion of tourism. Based on 1979 figures, we are talking \$1,661,000 back to the local towns and cities to promote their business.

You have heard the value of the property tax relief in this bill. If voted in locally, for many of you it will mean a dollar to two dollars per thousand property tax reduction. Locally, we are getting squeezed by state trained assessors who are pushing our properties, especially commercial resort, ocean or lake waterfront properties, to full market value. Compounding that problem, Washington is shoving down more programs and costs, and we here in this chamber, these bodies, are talking about solving the state's revenue problems by transferring an additional tax load onto the local communities—block grant, roads, a decreasing share of education costs, welfare, DEP sewage and dump demands. Well, many of these municipalities have had their fill of it. We dump on them and then we expect them to meet these new obligations with the already strapped property tax.

How far can it go? In Massachusetts, it went as far as two and a half. Yesterday in Vermont, facing the same local and state tax pressures, the legislature voted to increase their 5 percent room and meals tax by another 1 percent.

The local elected municipal officers in many communities throughout the state have discussed and voted their support of this bill. They were willing to take a local stand, a stand of courage, despite the lobbying and the threats, and even the communities in which the lobbying efforts have been centered or directed from have had their municipal officers support this proposal.

The Advisory Board of the Maine Municipal Association, 55 out of 56 elected officials support this proposal. If every community enacts this local option, you will be giving them the opportunity to provide property tax relief to the tune of almost \$7 million, relief for residential property, inns, motels and restaurants.

I won't repeat the distortions that were made by the lobbyists against this bill. You know them because you have been answering your phone calls and opening your heavy mail this week, but we dismantled those distortions at the hearing. But there was a common theme in the lobby message—don't let it get back the municipal officers, don't let it get back to the people, and there is a fear of the people.

Unless I am mistaken, you are the representative of the people not representatives of a vested special interest. This is a local issue, it should be their decision. I think if you say no today, you have denied them local control.

Many of you have looked at this issue since last January. It has been heavily debated in the papers, editorials and letters to the editor. Some of you may have made up your minds last January.

While the editorials in the last four months have been heavily in favor of the bill, there were some exceptions, and some of those exceptions in the last week have changed their editorial stance.

There is growing support on the local level. Even though my resort community, businesses, are a hundred percent opposed, I am very sure if it went out to local referendum or town meeting, it would pass 2 to 1, 3 to 1, by the people.

people.

There has been one positive outcome of the lobbying effort. The associations have found that they can work together, and possibly that is a ray of hope for those in the tourist industry.

The 2 percent proposal will provide real local control for your community, it will promote tourism with the 20 percent dedicated funds, and most important, it provides local property tax relief.

That is the issue before you today, and that is the issue that the voters will remember. This is the only issue before you this session that will reduce property taxes, and let's make it clear to the people back home that here today we are voting yea or nay on property tax relief. They don't have lobbyists to call and write and pressure; they have only you, and like those World War II kamikaze pilots, the sponsors of this bill and the three members of the Taxation Committee have taken off, our fuel tanks are almost empty, and we are making the last major effort to try and reach the target—Property tax relief. Please join us.

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

Mr. DRINKWATER: Mr. Speaker and Members of the House: I just want to say a couple of words on why I am going to vote "ought not to pass" on this bill today.

This past winter we have had a tremendous unemployment problem in our area. The economy has been unbelievable. This past winter it was so bad that for the first time ever, since I can remember, we had four restaurants that had to close for the wintertime. It is not just closing four restaurants, but these places employed quite a few people. I believe it was something like 21 jobs. I did have a figure of 22, but I couldn't prove the 22nd one, but there were 21 jobs that it caused to fall by the wayside this past winter. Some of these restaurants now have reopened. I have not been asked by any of these people to vote against this, but I just took a look at the economy and I don't want it to happen another winter, and I am concerned that any tax we put on would be a hardship.

I am also concerned that if they don't stay open, they don't stay earning money, they are not going to be able to pay their taxes, and if they don't, somebody has got to pay it.

Therefore, briefly, as I said I would be, that is why I am going to vote "ought not to pass."

The SPEAKER Pro Tem: The Chair recognizes the gentlemen from Portland, Mr. Brennerman.

Mr. BRENNERMAN: Mr. Speaker and Members of the House: I have sat next to Representative Post for five years now, and I can't believe the reasons that she gave why she was opposed to this bill. I think she is really stretching it this time, and I hope that on other bills she will come around to my way of thinking.

When I was campaigning this past year, people didn't talk about workers' compensation. We have dealt a lot with that this session. They talked about the property tax. In Portland, the property tax, as Representative Brannigan said, is higher than any community in the state, and every two years we run to the legislature and we say, we are going to do something about the property tax this time. We come up here or down here, depending on where you are from, and we don't do a thing.

It seems to me that this is one of the few measures that we have that will address the high property taxes that some communities face. The property tax is an outmoded tax.

Someone talked about it being discriminatory, the tax that we are talking about, the 2 percent, being discriminatory against restaurants and hotels. Well, I will tell you that the property tax is discriminatory against low income and middle income people because it is not based on ability to pay. Every year towns and cities are increasing the property tax and forcing

ing people to pay more and more money that they can't afford to pay.

In the city of Portland, the property tax has been unable to keep up with the cost of inflation, the cost of municipal government. We have been told, well, if you have economic development, that would bring in more money and the city would be able to afford the cost of services. However, we found that we would have to rebuild the city of Portland a whole time, once more, to pay for the inflationary costs that we will be seeing in the next 5 years.

The legislature only allows the municipalities one kind of tax, and that is property tax, and it seems to me that unless we have an alternative revenue source, some municipalities will be cutting services so drastically or increasing property taxes so drastically that the citizens of those municipalities will have to go somewhere else.

Someone mentioned that this will cause competition among towns. I think that is a fallacious argument. In Portland, if we had a tax and say South Portland doesn't have a tax, or Westbrook or any community surrounding Portland, I don't think the people will not go to the restaurants in Portland, because the best restaurants are in Portland. I wasn't comparing it with the rest of the state, I just said the rest of the communities around it. People will go where the restaurants are that they like, and I don't think that 2 percent additional tax on a \$10 meal is going to matter.

As far as hotels are concerned, most of the people who use them are from out of town, many of them are from out of state, and they will stay where the best hotels are and I think that this tax will not bother them.

Finally, as far as the referendum is concerned and the local option is concerned, it seems to me that if some communities have a problem with restaurants going out of business, then the people in that community would vote not to put a 2 percent tax on the restaurants in the community.

But in my community, the property tax is a problem for the homeowners and also for the people who own the hotels and have to pay their property tax. It seems to me that we need an alternative revenue, and I ask that through this bill we be given the option to vote for that tax.

The SPEAKER Pro Tem: The Chair recognizes the gentleman from Westbrook, Mr. Day.

Mr. DAY: Mr. Speaker, Ladies and Gentlemen of the House: I would just like to report that the Westbrook City Council debated this on the floor and voted 7 to 0 against this tax.

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

Mr. DUDLEY: Mr. Speaker and Members of the House: I just want to make a small observation. My observation is that the city of Portland wants this, and if they do, I don't believe anyone else does, so the bill should be tabled and amended to include just the city of Portland.

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

Mr. KANE: Mr. Speaker and Members of the House: Representative Dudley is always a hard act to follow.

In response to Representative Ingraham and Representative Drinkwater, if the Houlton town council thought that it was not a good idea to enact such a tax, they wouldn't have to. What was done in some other part of the state, what was done in Canada may have some bearing on it. If in Bangor and Brewer the Bangor city council decided to enact a tax, Brewer decided not to because nobody would eat dinner in Bangor anymore, they would all go to Brewer, it is perfectly fair, that is the way the bill should read.

This has been called in the press and in conversations "bail out the cities bill." Myself, I don't like the ring of that phrase at all. It seems to me to imply that those of us from the larger

towns should worry about ourselves only. Those of us from the smaller towns should worry about our parochial interests. If you are on the coast, you worry about the coast and not western Maine. Westport Island has tree growth problems which we will try to address this session, and I think the big cities, and this is a big city bill, have a problem and we should try to address it this session.

The legislature, I think, has a responsibility to address this. We can either face it now or we can wait a few years, come back and face it a little later, because it will not go away.

As far as Representative Dudley, it is not only Portland. Off the top of my head, Bangor, Lewiston, Portland and South Portland, which is a separate city, all have city councils which unanimously endorse this proposal. If these elected officials are wrong, and they don't frequent the olympian heights which we occupy being local officials, but if these officials are wrong, the bill before you provides a referendum clause whereby the people of the municipality, not bureaucrats or the assessors or the treasurer, the people of that municipality will have the opportunity to say yes or no on the question.

I urge you to give them that opportunity and I urge you to defeat the "ought not to pass" report.

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

Mr. HALL: Mr. Speaker and Members of the House: I wouldn't care if it was a dog tax on cats or tax on my Christmas trees. If the people in the local area want something like this, through a referendum they ought to be the ones to decide.

Why are we always being two-faced and saying something like we want local control and all of a sudden when you have a chance to do something like this, you vote against it. To me that is being two-faced as you can be. I can't get through my head what in heck ails us all in voting that way.

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

Mrs. BEAULIEU: Mr. Speaker, Ladies and Gentlemen of the House: I have an obligation to serve my constituents in my city, too, and I guess I don't quite understand all the arguments and the red flags that are being raised on this issue. In my opinion, this does not become a tax until the local level votes it as such. You do what you wish in your community and my community does what it wishes, but it does not become a tax until it is voted for at the local level.

I campaigned and I deal with people not only in my district but all over my city and property taxes are a real issue with us. I have told my people and many people, if you don't want to pay the extra 2 percent to your \$20 restaurant bills, then don't go out to eat. But which do you want, to pay an extra few dollars on a \$20 restaurant bill or a \$5 increase or a \$7 increase or a reduction in your police force and your firefighter force and in your public servants to be added onto your community, which do you prefer?

My city right now is entertaining and will be voting very soon to lay off 170 people because we are trying to keep our property taxes down.

Call it a big city bill if you want to, but let me tell you something, ladies and gentlemen, if you do not have healthy cities, then you don't have very healthy suburbs and very healthy little towns that surround our big cities, because the majority of you work in the big cities to make your money to bring back to your little residential suburb communities.

We have a real crisis going in the larger communities of this state. My city has gone on record to try to have the opportunity and we must grant them the opportunity to do it, the only way that we felt might be acceptable.

So if you are going to shoot it down because it is a Portland bill, I think that is a darn shame. I wonder where this state would be if they did not get the taxes from Portland coming here or from Bangor or Lewiston or Auburn, where would your communities be if this state was not getting some bucks coming from those large communities? There won't be any dollars coming to the state from those communities if we fail.

The cities are in serious trouble. We have asked for a mechanism to try to raise an alternative source of money, and I don't know how many times I have told the restaurant people who were opposed and the other people who were very opposed to this legislation, your fight belongs at the local level, not at the state. All we are going to be dealing with is enabling legislation to allow any community in the state to make a judgment. If you want to fight to see that this tax doesn't happen, you fight it at home because that is where your fight belongs, but no, they chose to come to many of you to turn you against it.

I repeat, this does not become a tax until it is voted for or against at home. I think it is a darn shame to be listening in the halls even while the people are speaking on the floor here that this is a Portland issue. You want to amend it to make it a Portland bill, I'll buy it. My people need help.

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

Mr. KANE: Mr. Speaker, Ladies and Gentlemen of the House: I have already said my piece on this. I was a little alarmed because I think the gentlelady from Portland, Mrs. Beaulieu, said a dollar or two or \$20, this would be 40 cents on a \$20 meal.

The SPEAKER Pro Tem: The Chair recognizes the gentlewoman from Brunswick, Mrs. Martin.

Mrs. MARTIN: Mr. Speaker, Ladies and Gentlemen of the House: If Portland wants this bill, if Lewiston wants this bill, if Bangor wants this bill, let them have a referendum in their own town. They don't have to push it on the rest of us. My community doesn't want it. My manager told me not to vote for this bill and we have loads of restaurants but if they are dying of taxes, I am dying of taxes, but if my community doesn't want it, I am not going to vote for it. But if the big cities want it, let them fight it in their own cities, not here on the floor.

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

Mrs. BEAULIEU: Mr. Speaker, Ladies and Gentlemen of the House: I think there needs to be a correction made. Nobody says that Brunswick needs to have this or any other community. This bill does not force any community to even deal with this issue if they don't wish to.

The SPEAKER Pro Tem: The Chair recognizes the gentlewoman from Brunswick, Mrs. Martin.

Mrs. MARTIN: Mr. Speaker, Ladies and Gentlemen of the House: That is not what I am talking about, I am talking about this referendum. If they want a referendum, let them have a referendum. They don't have to push this referendum on the towns that don't want it.

The SPEAKER Pro Tem: The Chair recognizes the gentleman from Portland, Mr. Higgins.

Mr. HIGGINS: Mr. Speaker, Ladies and Gentlemen of the House: I guess an issue has finally come up where I have to get up and speak. This is one that hits right at home with me and I was one of the three in the minority who voted that this legislation should pass.

Just to start off, I think I ought to address the question of whether taxes can be implemented at the local level. This is enabling legislation. If Portland wanted to have a 2 percent meals and lodging tax at this time, they could not. All the power for taxation lies here in this body and the



body down the hall and this is why we are here asking for this today.

I think Mr. Murphy and a lot of the other people here have put it very succinctly and concisely today on the points that are important here. Many communities, Portland, South Portland, Rockland, there are many of them here today, who are facing terrible tax crunches. The mechanism that we have given them is not meeting the needs. We have given them the property tax as a means of raising revenues on the local level and it is not working. However, with the various exemptions and the removal of the inventory tax passed here in this body, we have caused this problem, and what we are asking is that you provide a means because this is a state responsibility. We need to provide an alternative means of financing local government. This is what we are asking for, this is what this bill will do, it will bring it to the local level. This is why I support this legislation.

**The SPEAKER Pro Tem:** The Chair recognizes the gentleman from Portland, Mr. Manning.

**Mr. MANNING:** Mr. Speaker, Ladies and Gentlemen of the House: As everybody knows, I have been away for awhile but I have been reading the papers. I was curious to find out that the executive director in the Innkeeper's Association, they have been opposing this bill since probably two years ago or four years ago when Representative Brannigan put it in, they interviewed her about her inn that she runs down on the coast. She indicated that she was 10 percent ahead on this year's reservations and she was going up 15 percent, up to \$66 a day for a person to stay in her inn, but she was opposed to that bill. You tell me that if anybody can pay \$66 a day can't afford the 2 percent? This is a local option.

I wish the people in this state and my colleagues in this body would get that through their heads, it is a local option. If Houlton doesn't want it, my goodness, I spent four years in Houlton going to college and if Houlton doesn't want it, they don't have to have it because the nearest town to go to a restaurant is 40 miles up the road or 40 miles down the road. If the people in Westbrook don't want it, they don't have to have it, but the people in Westbrook are hurting for money, read the papers. The administrative body down there said no, but they hadn't given the staff a raise of more than \$800 in the last two years; they are hurting for money. There are more towns in this state that are hurting for money and the people know it. I am saying, give us a chance for local option and for gosh sakes, if we don't get this, you are going to be barreling out the city of Portland, the city of Bangor, the city of Rockland and a lot of small towns in the next few years.

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

**Miss BROWN:** Mr. Speaker, Ladies and Gentlemen of the House: I will be brief, the hour is late. I sincerely recognize the need for property tax relief in the state for our communities, but I think it is totally unfair to single out one industry that is going to create a new tax, and this is going to give discriminatory relief to just a few communities. Think about it.

I have 15 communities; what is it going to do for my 15 communities?

We don't have an Old Port area, we don't have an Augusta Civic Center, we don't have the Bangor Holiday Inn, we don't have those things. When the education funding and the welfare funding and the revenue and other stuff that is figured in Augusta, they are not going to take into account that 2 percent of those people have made off that tax, that is discriminatory.

This is a local option but it is a discriminatory relief bill. I would like to point out to the people in Portland that the crisis is not only in the city of Portland and the crisis is not only in the state of Maine, it is the entire country that

has financial problems and it has only just begun.

I hope we all stay with the 10 to 3 report and kill this lousy bill.

**Mr. Murphy of Kennebunk** requested a roll call.

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

**Mr. MCCOLLISTER:** Mr. Speaker, Ladies and Gentlemen of the House: This is a welfare tax. People in my town, 700 of us, I almost believe that we have a national policy that you have to take your wife out to dinner. In order to do that, I am going to have to go to a larger city. That means that as a taxpayer in a small town, I am going to be paying taxes for the city, so it is a welfare tax that my constituents are going to be paying to all the large cities in the state. It is discriminatory.

**The SPEAKER Pro Tem:** The Chair recognizes the gentlewoman from South Portland, Mrs. Thompson.

**Mrs. THOMPSON:** Mr. Speaker, Men and Women of the House: It has been stated a few times in the debate that this is a big city bill. I would suggest that it is not a big city bill, I would suggest that it is a bill that reflects the needs as we see them in all municipalities in the state. The reason I say that is because in recent years we have seen several attempts by municipalities in Maine, both large and small, to impose a tax cap. Millinocket, a very small town, in the recent past, defeated a tax cap proposal. We understand that the motivation for initiating a tax cap referendum is because people are distressed at the burden of the increasing property tax.

Augusta recently went through the problem created by a tax cap referendum. Saco imposed a tax cap because they found their property taxes to be too great and then they found they had to repeal it because they didn't want to suffer the loss of services imposed by that tax cap. Bangor is looking at the option; South Portland is looking at that option next week. I think that illustrates that the burden of the property tax is oppressive and I think we as a legislative body would find it necessary to allow communities, who so choose, to raise funds for their municipalities.

I hope you will vote against the Majority "Ought Not to Pass" Report.

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

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

**The SPEAKER Pro Tem:** The pending question before the House is on acceptance of the Majority "Ought Not to Pass" Report. Those in favor will vote yes; those opposed will vote no.

#### ROLL CALL

**YEA** — Aloupis, Armstrong, Austin, Bell, Berube, Boisvert, Bordeaux, Boyce, Brodeur, Brown, A.; Brown, K.L.; Cahill, Callahan, Carrier, Carter, Clark, Conary, Connors, Crowley, Cunningham, Curtis, Damren, Day, Dexter, Diamond, G.W.; Dillenback, Drinkwater, Dudley, Erwin, Foster, Gavett, Gowen, Hanson, Hickey, Higgins, L.M.; Hobbins, Holloway, Hunter, Ingraham, Jackson, Jacques, Kany, Kiesman, Kilcoyne, LaPlante, Lewis, Lisnik, Livesay, MacBride, MacEachern, Mahany, Martin, A.; Masterman, Matthews, McCollister, McPherson, McSweeney, Michael, Michaud, Mitchell, E.H.; Nelson, A.; Norton, Paradis, E.; Paradis, P.; Paul, Perkins, Post, Pouliot, Prescott, Racine, Randall, Reeves, J.; Ridley, Roberts, Rolde, Salisbury, Sherburne, Small, Smith, C.W.; Soule, Stevenson, Strout, Studley, Swazey, Tarbell, Telow, Theriault, Treadwell, Twitchell, Webster,

Weymouth.

**NAY** — Baker, Beaulieu, Benoit, Brannigan, Brenerman, Connolly, Cox, Davies, Diamond, J.N.; Fitzgerald, Fowle, Hall, Hayden, Higgins, H.C.; Huber, Jordan, Joyce, Kane, Kelleher, Ketover, Lancaster, Locke, Lund, Macomber, Manning, Masterton, McGowan, McHenry, McKean, Mitchell, J.; Moholland, Murphy, Nadeau, O'Rourke, Pearson, Perry, Richard, Smith, C.B.; Soulas, Thompson, Tuttle, Vose, Walker, Wentworth.

**ABSENT** — Brown, D.; Carroll, Chonko, Davis, Gillis, Gwadosky, Hutchings, Jalbert, Laverriere, Leighton, Martin, H.C.; Nelson, M.; Peterson, Reeves, P.; Stover, The Speaker.

Yes, 91; No, 44; Absent, 16.

**The SPEAKER Pro Tem:** Ninety-one having voted in the affirmative and forty-four in the negative, with sixteen being absent, the motion does prevail. Sent up for concurrence.

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

#### Passed to Be Enacted Emergency Measure

An Act to Extend the Deadline for the Enactment of Legislation Concerning Education Allocation, Appropriations and Rates. (H.P. 1363) (L.D. 1548)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure and a two-thirds vote of all the members elected to the House being necessary, a total was taken. 128 voted in favor of same and none against, and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

By unanimous consent, ordered sent forthwith.

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

**HOUSE REPORT—"Ought to Pass"** as Amended by Committee Amendment "A" (H-262)—Committee on Agriculture on Bill, "An Act to Establish Truck Volume Labeling for Certain Wood By-Products" (H. P. 832) (L. D. 999)

Tabled—April 29 by Representative Mahany of Easton.

Pending—Acceptance of the Committee Report.

Thereupon, the Report was accepted and the Bill read once. Committee Amendment "A" (H-262) was read by the Clerk.

Mr. Mahany of Easton offered House Amendment "A" to Committee Amendment "A" and moved its adoption.

House Amendment "A" to Committee Amendment "A" (H-273) was read by the Clerk and adopted.

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

The Bill was assigned for second reading tomorrow.

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

**HOUSE DIVIDED REPORT—Majority (8) "Ought Not to Pass"—Minority (5) "Ought to Pass"**—Committee on Labor on Bill, "An Act to Repeal the Double Affirmation Rule under the Employment Security Law" (H. P. 411) (L. D. 450)

Tabled—April 29 by Representative Beaulieu of Portland.

Pending—Acceptance of either Report.

On motion of Mrs. Beaulieu of Portland, the Minority "Ought to Pass" report was accepted, the Bill read once and assigned for second reading tomorrow.

At this point, Speaker Martin returned to the rostrum.

**The SPEAKER:** The Chair would like to

thank the gentleman from Fairfield, Mr. Gwadodsky, for acting as Speaker pro tem.

Thereupon, Speaker Martin resumed the Chair and Mr. Gwadodsky returned to his seat on the floor.

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

#### Passed to Be Enacted

An Act to Provide for a Closed Season on Black Bear from the First Monday Following Thanksgiving to September 1st (H. P. 455) (L. D. 502) (C. "A" H-236)

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

By unanimous consent, ordered sent forthwith.

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

RESOLVE, to Authorize Expenditure of Certain Federal Funds for New or Expanded Programs (Emergency) (H.P. 1361) (L.D. 1546)

Tabled—April 29 by Representative Pearson of Old Town.

Pending—Passage to be Engrossed.

On motion of Mr. Pearson of Old Town, the Resolve was recommitted to the Committee on Appropriations and Financial Affairs, and sent up for concurrence.

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

RESOLVE, for Laying of the County Taxes and Authorizing Expenditures of Androscoggin County for the Year 1981 (Emergency) (H.P. 1358) (L.D. 1540)

Tabled—April 29 by Representative McHenry of Madawaska.

Pending—Motion of Representative Jalbert of Lewiston to Indefinitely Postpone House Amendment "A" (H-266) (Roll Call Ordered)

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

Miss LEWIS: Mr. Speaker, Ladies and Gentlemen of the House: The Androscoggin County delegation has not yet had a chance to meet on this matter, so I would ask that somebody table this for me two legislative days.

Thereupon, on motion of Mr. Higgins of Scarborough, tabled pending the motion of Mr. Jalbert of Lewiston that House Amendment "A" be indefinitely postponed and specially assigned for Monday, May 4.

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

#### Divided Report

##### Tabled and Assigned

Seven Members of the Committee on Health and Institutional Services on Bill "An Act to Remove Private Babysitting Arrangements from the Jurisdiction of the Department of Human Services" (H.P. 796) (L.D. 950) report in Report "A" that the same "Ought to Pass" as amended by Committee Amendment "A" (H-272)

Report was signed by the following members:

Senators:

GILLIS of Cumberland  
HICHENS of York

—of the Senate.

Representatives

RANDALL of East Machias  
MacBRIDE of Presque Isle  
BRODEUR of Auburn  
PRESCOTT of Hampden  
HOLLOWAY of Edgecomb

—of the House.

Five Members of the same Committee on same Bill report in Report "B" that the same "Ought Not to Pass".

Report was signed by the following mem-

bers:

Senator:

BUSTIN of Kennebec

—of the Senate.

Representatives:

RICHARD of Madison  
BOYCE of Auburn  
KETOVER of Portland  
MANNING of Portland

—of the House.

One Member of the same Committee on same Bill reports in Report "C" that the same "Ought to Pass"

Report was signed by the following member:

Representative:

McCOLLISTER of Canton

—of the House.

Reports were read.

Mrs. Prescott of Hampden moved that the "Ought to Pass" as amended Report A be accepted.

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

Mr. McCOLLISTER: Mr. Speaker, Ladies and Gentlemen of the House: It has been a practice that these divided reports be printed 24 hours before they come to the floor. Consequently, the material that I wanted to speak from on this bill is in Canton. I didn't go home this noon to get it. I wish someone would table this until Monday.

Thereupon, on motion of Miss Lewis of Auburn, tabled pending acceptance of Report A and specially assigned for Monday, May 4.

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

#### Consent Calendar

##### Second Day

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

(H.P. 1334) (L.D. 1530) Bill "An Act to Amend the Spruce Budworm Suppression Laws" (C. "A" H-267)

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

(H.P. 950) (L.D. 1126) Bill "An Act Relating to the Clarification, Consistency and Improved Administration of the Employment Security Law"

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

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

(H.P. 1253) (L.D. 1477) Bill "An Act to Clarify that the Contract Bar Rule does not Apply to Unit Clarification Proceedings under the State Employee Labor Relations Act."

(H.P. 937) (L.D. 1107) Bill "An Act to Establish an Agricultural Exemption from Workers' Compensation for Certain Wood Lot Operations" (C. "A" H-264)

No objections being noted at the end of the Second Day, the House Papers were passed to be engrossed and sent up for concurrence.

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

#### Passed to Be Engrossed

Bill "An Act to Increase the Minimum Base Salary for Executive, Administrative or Professional Employees" (H. P. 430) (L. D. 477)

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

#### Amended Bills

Bill "An Act to Require Persons Being Lic-

ensed to Hunt for the First Time to have Completed a Gun Safety Course" (H. P. 871) (L. D. 1040) (C. "A" H-269)

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

On motion of Mr. McKean of Limestone, the House reconsidered its action whereby Committee Amendment "A" was adopted.

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

House Amendment "A" to Committee Amendment "A" (H-277) was read by the Clerk and adopted.

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

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

#### Second Reader

##### Tabled and Assigned

Bill "An Act to Increase the Number of Signatures Required to Initiate Rule-making Proceedings under the Maine Administrative Procedure Act" (S.P. 522) (L.D. 1452) (C. "A" S-142)

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

On motion of Mr. Connolly of Portland, tabled pending passage to be engrossed in concurrence and specially assigned for Monday, May 4.

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

#### Emergency Measures

An Act to Conform the Maine Consumer Credit Code to the Federal Truth-in-Lending Simplification and Reform Act (S.P. 94) (L.D. 213) (C. "A" S-122 as amended by S. "A" S-124 an S. "A" S-128; and S. "A" S-129)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure and a two-thirds vote of all the members elected to the House being necessary, a total was taken. 121 voted in favor of same and none against, and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

An Act to Amend the Consumer Loan Agreement Law (S.P. 318) (L.D. 908) (C. "A" S-117)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure and a two-thirds vote of all the members elected to the House being necessary, a total was taken. 119 voted in favor of same and none against, and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

#### Passed to Be Enacted

An Act to Establish Minimum Standards for Medicare Supplement Insurance Policies (S.P. 175) (L.D. 455) (C. "A" S-120)

An Act Relating to Interest Rates upon Refinancing of Loans under the Maine Consumer Credit Code and Making other Clarifications of the Maine Consumer Credit Code (S. P. 228) (L. D. 615) (C. "A" S-118)

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.

#### Enactor

##### Tabled and Assigned

An Act to Amend Certain Aspects of Post-Conviction Review (S. P. 443) (L. D. 1281) (C. "A" S-126)

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

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

An Act to Include Health Education for the General Public as a Medical Education Program Conducted by the Board of Registration in Medicine (S.P. 484) (L.D. 1386)

An Act Concerning Approval of Graduate Educational Programs by the Board of Registration in Medicine (S.P. 487) (L.D. 1389)

An Act to Provide the Supreme Judicial Court with Rule-making Authority over Court Records and Certain Abandoned Property (S.P. 506) (L.D. 1433)

An Act Concerning the Investigative Authority of the Attorney General and Related Provision (S.P. 507) (L.D. 1434) (C. "A" S-127)

An Act to Require a Record of Sales to be Kept by Dealers in Used Merchandise (H.P. 423) (L.D. 470) H. "A" H-222 to C. "A" H-208

An Act to Provide Notice to Cosigners and Others Similarly Situated in Consumer Credit Transactions (H.P. 448) (L.D. 495) (C. "A" H-219)

An Act to Require Trucks Carrying Explosive Material to Come to a Complete Stop Before Crossing Railroad Tracks (H.P. 786) (L.D. 931) (S. "A" S-137 to C. "A" H-186)

An Act to Ensure that those Homes Receiving Fuel Assistance are Winterized (H.P. 1067) (L.D. 1270)

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.

By unanimous consent, the foregoing enactments were ordered sent forthwith to the Senate.

The following papers appearing on Supplement No. 10 were taken up out of order by unanimous consent:

Bill "An Act to Require Fire Detectors in All Multiapartment Dwellings and New Single-family Residences" (H.P. 1409) (Presented by Representative Beaulieu of Portland) (Cosponsors: Representative Tuttle of Sanford, Representative Soulas of Bangor, Senators Sutton of Oxford and Charette of Androscoggin) (Governor's Bill)

Was referred to the Committee on Legal Affairs, ordered printed and sent up for concurrence.

#### Consent Calendar

##### First Day

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

(H.P. 915) (L.D. 1081) Bill "An Act Relating to Unfair Wage Agreements under Employment Practices Law" Committee on Labor reporting "Ought to Pass" as amended by Committee Amendment "A" (H-274)

No objections being noted, the above item was ordered to appear on the Consent Calendar of May 1, under listing of Second Day.

The following Senate Papers appearing on Supplement No. 11 were taken up out of order by unanimous consent:

#### Leave to Withdraw

Report of the Committee on Business Legislation reporting "Leave to Withdraw" on Bill "An Act Requiring the Registration of Professional Counselors in Independent Practice and the Certification of Certain Such Professional Counselors" (S.P. 518) (L.D. 1468)

Came from the Senate with the Report read and accepted.

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

#### Non-Concurrent Matter

Bill "An Act to Appropriate Funds to Support Regional Ride Share Programs" (H.P. 1087) (L.D. 1296) which was passed to be engrossed as amended by Committee Amendment "A" (H-249) in the House on April 28, 1981.

Came from the Senate passed to be engrossed as amended by Committee Amendment "A" (H-249) and Senate Amendment "A"

(S-148) in non-concurrence.

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

#### Non-Concurrent Matter

Bill "An Act to Require Interagency Licensing of Residential Facilities and Programs for Children" (H.P. 232) (L.D. 269) which was passed to be engrossed as amended by Committee Amendment "A" (H-212) in the House on April 16, 1981.

Came from the Senate, passed to be engrossed as amended by Committee Amendment "A" (H-212) as amended by Senate Amendment "A" (S-151) thereto in non-concurrence.

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

#### Consent Calendar

##### First Day

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

(S.P. 321) (L.D. 911) Bill "An Act to Ensure Worker Access to Information Concerning Hazardous Substances in the Workplace" Committee on Labor reporting "Ought to Pass" as amended by Committee Amendment "A" (S-147)

(S.P. 543) (L.D. 1514) RESOLVE, to Reimburse John W. Churchill of Presque Isle for Property Loss Suffered by John W. Churchill Because of Acts by a Ward of the State Committee on Legal Affairs reporting "Ought to Pass" as amended by Committee Amendment "A" (S-140)

(H.P. 951) (L.D. 1127) Bill "An Act to Amend the Charter of the Kennebec Light and Power District" Committee on Public Utilities reporting "Ought to Pass"

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

The following Senate Paper appearing on Supplement No. 2 was taken up out of order by unanimous consent:

#### Divided Report

Majority Report of the Committee on Business Legislation reporting "Ought to Pass" as amended by Committee Amendment "A" (S-136) on Bill "An Act to Include Services Performed by Chiropractors Under all Health Insurance Policies and Health Care Contracts which Pay Benefits for Those Procedures if Performed by a Physicians" (S.P. 329) (L.D. 959)

Report was signed by the following members:

Senator:

CLARK of Cumberland

—of the Senate.

Representatives:

FITZGERALD of Waterville

GWADOSKY of Fairfield

MARTIN of Van Buren

RACINE of Biddeford

BRANNIGAN of Portland

GAVETT of Orono

POULIOT of Lewiston

PERKINS of Brooksville

TELOW of Lewiston

—of the House.

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

Report was signed by the following members:

Senators:

SUTTON of Oxford

SEWALL of Lincoln

—of the Senate.

Representative:

JACKSON of Yarmouth

—of the House.

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-136) as amended by Senate Amendment "A" (S-145) thereto.

In the House: Reports were read.

On motion of Mr. Brannigan of Portland, the Majority "Ought to Pass" Report was accepted and the Bill read once.

Committee Amendment "A" (S-136) was read by the Clerk.

Senate Amendment "A" (S-145) to Committee Amendment "A" (S-136) was read by the Clerk.

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

Mr. HIGGINS: Mr. Speaker, a parliamentary inquiry?

I intend to offer a House Amendment to Committee Amendment "A" and if it were adopted by the House would necessitate the elimination of Senate Amendment "A" since it is contained in my amendment as well.

Would we be wise to adopt Senate Amendment "A" at this point in time?

The SPEAKER: The Chair would advise the gentleman it depends if he thinks his House Amendment is going to be adopted or not.

Mr. HIGGINS: I understand that Mr. Speaker.

The SPEAKER: The Chair would suggest that he offer his amendment.

Mr. HIGGINS: I would like to do that now before you adopt Senate Amendment "A".

The SPEAKER: The pending question is adoption of Senate Amendment "A" to the Committee Amendment "A". The problem with the fact that you want to offer one which conflicts with Senate Amendment "A", the gentleman can take it from one of two directions. One would be to move indefinite postponement of Senate Amendment "A", which we would then decide, and if he were to prevail, then offer his amendment. Or he can let Senate Amendment "A" be adopted and offer his amendment and then if House Amendment "A" is adopted, move reconsideration of Senate Amendment "A" and then kill Senate Amendment "A".

Thereupon, Senate Amendment "A" to Committee Amendment "A" was adopted.

Mr. Higgins of Scarborough offered House Amendment "A" to Committee Amendment "A" (H-275) and moved its adoption.

House Amendment "A" to Committee Amendment "A" was read by the Clerk.

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

Mr. BRANNIGAN: Mr. Speaker, Ladies and Gentlemen of the House: I feel it necessary to explain the issue at this point so the people can make a decision on how they wish to vote.

What this bill does is, it deals with insurance coverage for chiropractors. In the last legislature, we mandated that insurance companies, and Blue Cross and Blue Shield, provide coverage for chiropractors to groups, to provide optional riders. This is what is known as a mandate option. We mandated that those be provided, that if someone wanted to purchase coverage for chiropractic services, it would be available to them. It was limited at that time to groups only and to groups of 50 or more.

What this bill does as presently presented to you, it would mean that that 50 or more would be dropped down to 10 or more, so it is a very small change in the law.

This was worked out by the committee, it was agreed upon by the committee after a great deal of discussion with representatives to chiropractors, representatives to Blue Cross and Blue Shield. Maybe Mr. Higgins would like to explain his amendment, but the amendment would drop it down to all groups, which is two or more.

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

Mr. HIGGINS: Mr. Speaker, Ladies and Gentlemen of the House: I thank the good gentleman from Portland, Mr. Brannigan, for his explanation of the bill, I think he has done an adequate job.

I cosponsored this piece of legislation. It was presented to the Committee on Business Legislation, and the bill that we presented eliminated from the law the 50 provision that he mentioned, and in addition to that it also eliminated the provision that said that it could not be offered to private subscribers. The committee, in its wisdom, decided not to deal with individual subscribers but deal solely with chiropractic coverage for groups. They did reach an agreement in committee that they would go along with groups of 10 or more, because in the past, state law has indicated that groups are groups of more than ten individuals. However, this session, as I understand it, we have passed legislation that calls a group of people of two or more. My feeling is that if the service is going to be offered to a group of 10 or more, it should be offered to all those individuals who are in a group.

First of all, I want to say that I am not trying to circumvent the intentions and the good will that the committee has established for itself by dealing with this issue. I, as a cosponsor, just happen to feel very strongly that if the bill is going to be presented to the House with the option of all groups being covered versus 10, groups of 10 or more somehow I can find a rationale for offering the service to a group of 10 or more and I happen to have a group in my operation, and perhaps you do, that are 9 individuals, and they are not going to be covered.

We are not talking about mandatory coverage here, we are talking about a mandatory option, if you can understand the difference, and that simply is, if you have a group of 20 individuals in your group policy, in your plan, and 12 of them vote, if you will, to go along with the coverage, then Blue Cross or the insurance company must offer that coverage to them and they pay for it. There is nothing here saying that they are getting anything for nothing, they pay for the coverage and all of the individuals in the group pay, not just the 12 perhaps who wanted it, but all 20 of them pay. It is not necessarily by a simply majority vote. If there were just three or four that really feel that they would utilize the coverage but the rest of the group was very wishy-washy about the whole thing, they can accept and go along with taking this coverage, but they would pay for it, and that is the key issue.

Whether or not groups of individuals of two to nine should be covered is strictly up to this House here today. Presently, under existing statute, not statute, but the way in which the Blue Cross handles it anyway, they have what they call a community rate. It is based on between two and nine individuals. There is a separate rate for two to nine, a separate rate for ten to forty-nine and other rates on up.

I just happen to feel that if we are going to offer it, the people from two to nine ought to be able to take advantage of the same situation as well, and they are going to pay for it. I think that is all we are saying here. Groups should be allowed to take it if they want, and if they want to take it, they should be allowed to and they will pay for it. I think that is only fair.

The SPEAKER: The Chair will order a vote. The pending question before the House is on adoption of House Amendment "A" to Committee Amendment "A". Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken. 83 having voted in the affirmative and 24 in the negative, House Amendment "A" to Committee Amendment "A" was adopted.

On motion of Mr. Higgins of Scarborough, the House reconsidered its action whereby Senate Amendment "A" to Committee Amendment "A" was adopted.

The SPEAKER: The Chair recognizes the

gentleman from Scarborough, Mr. Higgins.

Mr. HIGGINS: Mr. Speaker, I move the indefinite postponement of Senate Amendment "A" to Committee Amendment "A".

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

Mr. KELLEHER: Mr. Speaker, Ladies and Gentlemen of the House: You know the hour is late, so would the gentleman mind explaining what we are killing here? There is just a lot of stuff going back and forth. Maybe I am a little different from the rest of you and I am not absorbing it, but in two seconds, could you just tell us what you are doing? Other than that, maybe we ought to table this stuff.

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

Mr. HIGGINS: Mr. Speaker, Ladies and Gentlemen of the House: Briefly, the Senate Amendment that we are indefinitely postponing is contained in House Amendment "A", which, as I understand it, was a housekeeping measure to make the bill in conformance with some other parts of the statute. That is all.

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

Committee Amendment "A" as amended by House Amendment "A" thereto was adopted and the bill assigned for Second Reading tomorrow.

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

#### Divided Report

Majority Report of the Committee on Agriculture reporting "Ought Not to Pass" on Bill "An Act Relating to the Licensing of Stables where Horses are Maintained for Hire" (S.P. 26) (L.D. 23)

Report was signed by the following members:

Senators:

SHUTE of Waldo  
WOOD of York

—of the Senate.

Representatives:

LISNIK of Preque Isle  
CALLAHAN of Mechanic Falls  
SHERBURNE of Dexter  
LOCKE of Sebec  
CONARY of Oakland  
NELSON of New Sweden  
MAHANY of Easton  
SMITH of Island Falls  
MCCOLLISTER of Canton

—of the House.

Minority Report of the same Committee reporting "Ought to Pass" as amended by Committee Amendment "A" (S-146) on same Bill.

Report was signed by the following member:

Senator:

HICHENS of York

—of the Senate.

Representative:

MICHAEL of Auburn

—of the House—abstained.

Came from the Senate with the Majority "Ought Not to Pass" Report read and accepted.

In the House: Reports were read.

On motion of Mr. Mahany of Easton, the Majority "Ought Not to Pass" Report was accepted in concurrence.

#### Bill Held

RESOLUTION, Proposing an Amendment to the Constitution of Maine to Provide Counties, which have Adopted a Charter, with Home Rule Authority Regarding the Office of Sheriff (H.P. 357) (L.D. 405) (C. "A" H-260)

—In House, Bill and Accompanying Papers Indefinitely Postponed on April 29.

HELD at the request of Representative Austin of Bingham.

The SPEAKER: The Chair recognizes the gentleman from Bingham, Mr. Austin.

Mr. AUSTIN: Mr. Speaker, I move that the House reconsider its action whereby this Bill was indefinitely postponed yesterday and further move that it be tabled for one legislative day.

Mr. Webster of Farmington requested a division.

The SPEAKER: The Chair will order a vote. The pending question is on the motion of the gentleman from Bingham, Mr. Austin, that this bill be tabled for one legislative day pending his motion to reconsider. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

92 having voted in the affirmative and 10 in the negative, the motion did prevail.

Mr. Norton of Biddeford moved that the House reconsider its action of earlier in the day whereby Bill "An Act to Repeal Continuing Education Requirements for Real Estate Brokers" (H.P. 449) (L.D. 496) was indefinitely postponed.

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

Mr. RACINE: Mr. Speaker, I move that we table this for two legislative days.

Mr. Gwadosky of Fairfield requested a division.

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

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

The SPEAKER: The pending question is on the motion of the gentleman from Biddeford, Mr. Racine, that this bill be tabled for two legislative days pending his motion to reconsider. Those in favor will vote yes; those opposed will vote no.

#### ROLL CALL

YEA—Aloupis, Armstrong, Beaulieu, Berube, Boisvert, Brown, A.; Brown, K.L.; Cahill, Carrier, Carroll, Carter, Chonko, Clark, Conary, Connolly, Cox, Cunningham, Curtis, Davies, Dexter, Diamond, G.W.; Diamond, J.N.; Dillenback, Dudley, Erwin, Fowlie, Hall, Hanson, Higgins, H.C.; Hobbins, Huber, Jacques, Joyce, Kane, Kelleher, Ketover, Kilcoyne, Lancaster, Lewis, Lisnik, Locke, Macomber, Martin, A.; Matthews, McHenry, McKean, McSweeney, Michaud, Mitchell, E.H.; Nadeau, Paradis, P.; Pearson, Post, Pouliot, Racine, Reeves, J.; Ridley, Roberts, Salsbury, Small, Smith, C.B.; Smith, C.W.; Telow, Theriault, Tuttle, Vose, Webster, Wentworth.

NAY—Austin, Baker, Bell, Benoit, Bordeaux, Boyce, Brannigan, Brennerman, Brodeur, Callahan, Connors, Crowley, Damren, Day, Drinkwater, Fitzgerald, Foster, Gavett, Gowen, Gwadosky, Hayden, Hickey, Higgins, L.M.; Holloway, Hunter, Ingraham, Jackson, Jordan, Kany, Kiesman, LaPlante, Livesay, MacBride, MacEachern, Mahany, Manning, Masterman, Masterton, McCollister, McGowan, McPherson, Michael, Mitchell, J.; Moholland, Murphy, Nelson, A.; O'Rourke, Paradis, E.; Paul, Perkins, Perry, Prescott, Randall, Richard, Rolde, Sherburne, Soulas, Soule, Stevenson, Strout, Studley, Swazey, Tarbell, Thompson, Treadwell, Walker, Weymouth.

ABSENT—Brown, D.; Davis, Gillis, Hutchings, Jalbert, Laverriere, Leighton, Martin, H.C.; Nelson, M.; Norton, Peterson, Reeves, P.; Stover, Twitchell, Mr. Speaker.

Yes, 69; No, 68; Absent, 14.

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

Mrs. Masterton of Cape Elizabeth was granted unanimous consent to address the House.

Mrs. MASTERTON: Mr. Speaker and Members of the House: I am very embarrassed to report that on the reconsideration roll call this morning on the adoption of L.D. 617, Joint Resolution to Ratify an Amendment to the Federal Constitution to provide for Representation of the District of Columbia in the Congress, I am not recorded on the roll call vote. I was certainly sitting in my seat; as a matter of fact, I was sitting on the edge of it, being a cosponsor of that bill, and I would just ask to be on the record as having favored that bill but would have voted in the negative on the reconsideration. I think there was something wrong with my button.

The SPEAKER: The Chair would also make note that the gentlewoman from Cape Elizabeth congratulated me and other members who voted with her immediately after the vote this morning, so I know that the gentlewoman was present.

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(Off Record Remarks)

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On motion of Mr. Boisvert of Lewiston,  
Adjourned until eleven o'clock tomorrow morning.