

# MAINE STATE LEGISLATURE

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**LEGISLATIVE RECORD**

OF THE

***One Hundred and Tenth  
Legislature***

OF THE

STATE OF MAINE

***Volume II***

**FIRST REGULAR SESSION**

**MAY 4, 1981 to JUNE 19, 1981**

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**HOUSE**

Tuesday, May 5, 1981

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

Prayer by the Reverend Frederick Crandall of the Warren Baptist Church.

The journal of yesterday was read and approved.

**Orders**

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

ORDERED, that Representative John M. Michael of Auburn be excused May 5 for personal reasons.

AND BE IT FURTHER ORDERED, that Representative Paul J. Jacques of Waterville be excused May 7 and 8 for personal reasons.

**Special Sentiment Calendar**

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

Recognizing:

Scott Snively of Bangor, who won first place for boys in the Spear Speaking Contest held August 7, 1981, at the University of Maine at Augusta; (H. P. 1414) by Representative Diamond of Bangor.

Robert "Robby" MacDonald, Bangor High School swim coach, named corecipient of the 1981 "Coach of the Year" award by the Maine Interscholastic Swim League; (H. P. 1415) by Representative Diamond of Bangor.

Dianne Cormier of Bangor, who has been named to the 1981 Maine all-star girls' swim team; (H. P. 1417) by Representative Diamond of Bangor, (Cosponsors: Representatives Kelleher of Bangor and Soulas of Bangor)

Ann Dean of Bangor, who has been named to the 1981 Maine all-star girls' swim team; (H. P. 1418) by Representative Diamond of Bangor, (Cosponsors: Representatives Kelleher of Bangor and Soulas of Bangor)

Ann Farrington of Bangor, who has been named to the 1981 Maine all-star girls' swim team, 2nd team; (H. P. 1419) by Representative Diamond of Bangor, (Cosponsors: Representatives Kelleher of Bangor and Soulas of Bangor)

Deb England of Bangor, who has been named to the 1981 Maine all-star girls' swim team, 2nd team; (H. P. 1420) by Representative Diamond of Bangor, (Cosponsors: Representatives Kelleher of Bangor and Soulas of Bangor)

Danny Pelletier of Fort Kent Community High School, who received the John W. Pelletier Memorial Award as the Outstanding Wrestler at the 1981 Class A State Tournament; (H. P. 1421) by Representative Theriault of Fort Kent, (Cosponsor: Senator Violette of Aroostook)

In Memory of:

The Honorable Ralph W. Leavitt, Sr., of Old Town, member of the 90th - 95th Maine Legislatures and a pioneer in the labor movements; (H. P. 1416) by Representative Davies of Orono, (Cosponsors: Representatives Pearson of Old Town, Crowley of Stockton Springs and Paradis of Old Town)

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

**House Reports of Committees  
Leave to Withdraw**

Representative Martin from the Committee on Labor on Bill "An Act to Permit the Employment Security Commission Wider Discretion in Determining Eligibility for Unemployment Compensation Benefits" (H. P. 665) (L. D. 769) reporting "Leave to Withdraw"

Representative Davis from the Committee on Appropriations and Financial Affairs on Bill "An Act Appropriating Funds to the Soil and

Water Conservation Commission to Restore an Executive Budget Cut" (H. P. 541) (L. D. 602) reporting "Leave to Withdraw"

Representative Ridley from the Committee on Public Utilities on Bill "An Act to Provide for Imposition of Liens to Secure Payment of Water Rates of the Fort Fairfield Utilities District" (H. P. 963) (L. D. 1154) reporting "Leave to Withdraw"

Reports were read and accepted and 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. 236) (L. D. 250) Bill "An Act to Provide for the Termination of Cable Television Permits Issued Prior to July 1, 1965 without Fixed Termination Dates" Committee on Public Utilities reporting "Ought to Pass" as amended by Committee Amendment "A" (H-293)

(H. P. 1131) (L. D. 1348) Bill "An Act to Assist Homeowners in Peak Power Conservation"—Committee on Public Utilities reporting "Ought to Pass" as amended by Committee Amendment "A" (H-292)

No objections being noted, the above items were ordered to appear on the Consent Calendar later in today's session under the 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. 989) (L. D. 1177) Bill "An Act to Authorize the Refunding or Crediting of Fuel Taxes Paid on Worthless Accounts"

No objections being noted, the House Paper was passed to be engrossed and sent up for concurrence.

**Passed to Be Engrossed**

Bill, "An Act to Enable Continuation of the Highway Safety Defensive Driver Program through an Increase in Student Registration Fees," (H.P. 1353) (L.D. 1539)

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

**Second Reader  
Later Today Assigned**

Bill, "An Act to Permit Persons 15 Years of Age and Older to Work until 10 P.M." (H.P. 877) (L.D. 1046)

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

On motion of Mrs. Beaulieu of Portland, tabled pending passage to be engrossed and later today assigned.

**Second Reader  
Tabled and Assigned**

Bill, "An Act Providing Collective Bargaining Rights to Legislative Employees" (H.P. 323) (L.D. 384)

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

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

Mr. BAKER: Mr. Speaker, I am having an amendment prepared and I am told that it will not be ready until tomorrow, so I would like to have someone table this for one legislative day, please.

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

**Second Reader  
Tabled and Assigned**

Bill, "An Act to Provide for Municipal Development of Energy Resources" (H.P. 1150) (L.D. 1398) (C. "A" H-285)

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

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

Mrs. POST: Mr. Speaker, Men and Women of the House: This is one of the first bills where we are running into problems with property tax reimbursement under the constitutional amendment. We are working on an amendment and it will take some time, so I would ask that this be tabled for one legislative day.

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

RESOLUTION, Proposing an Amendment to the Constitution of Maine to Amend the Law and Constitutional Provisions Relating to Consolidating Initiative and Referendum Elections to Dates of the Next General Election. (H.P. 1112) (L.D. 1317) (C. "A" H-183)

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

**Passed to be Enacted**

An Act Authorizing the Town of Lincolnville to Employ a Superintendent of Schools and Supervising Principal. (H.P. 167) (L.D. 191) (C. "A" H-207)

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.

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

**Leave to Withdraw**

Report of the Committee on Taxation reporting "Leave to Withdraw" on Bill, "An Act to Increase the Benefits of the Elderly Tax and Rent Refund Act on a Sliding Scale According to Income." (S.P. 473) (L.D. 1329)

Report of the Committee on Local and County Government reporting "Leave to Withdraw" on Bill, "An Act to Permit Counties to Change their Fiscal Year." (S.P. 363) (L.D. 1062)

Came from the Senate with the Reports read and accepted.

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

**Special Sentiment Calendar**

Recognizing:

Catherine Agnes Murphy Conley of Portland on the 83rd anniversary of her birth. (S.P. 591)

No objections being noted, the above item was considered passed in concurrence.

The following papers from the Senate appearing on Supplement No. 2 were taken up out of order by unanimous consent:

**Consent Calendar  
First Day**

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

(S.P. 444) (L.D. 1282) Bill, "An Act to Amend the Criminal Code and Related Criminal Laws"—Committee on Judiciary reporting "Ought to Pass" as amended by Committee Amendment "A" (S-155)

(S.P. 427) (L.D. 1249) Bill, "An Act to Bring the Maine Traveler Information Services Act into Conformity with the United States Constitution" (Emergency)—Committee on Business Legislation reporting "Ought to Pass" as Amended by Committee Amendment "A" (S-121)

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

The following papers from the Senate appearing on Supplement No. 3 were taken up out of order by unanimous consent:

#### Non-Concurrent Matter

Bill, "An Act to Amend the Charter of the Kennebunk Light and Power District." (Emergency) (H.P. 951) (L.D. 1127) which was passed to be engrossed in the House on April 30, 1981.

Came from the Senate passed to be engrossed as amended by Senate Amendment "A" (S-160) in non-concurrence.

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

#### Non-Concurrent Matter

Bill, "An Act to Require Fire Detectors in All Multiapartment Dwellings and New single-family Residences" (H.P. 1409) (L.D. 1573) which was referred to the Committee on Legal Affairs in the House on April 30, 1981.

Came from the Senate referred to the Committee on Judiciary in non-concurrence.

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

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

#### Ought to Pass

##### Later Today Assigned

Report of the Committee on Agriculture reporting "Ought to Pass" on Bill, "An Act to Provide for Identifying Natural, Noninitiation Food Products Sold in the State." (S.P. 485) (L.D. 1387)

Came from the Senate Recommended to the Committee on Agriculture.

In the House, the Report was read.

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

Mrs. LOCKE: Mr. Speaker and Members of the House: My chairman isn't here and I am sorry that I was not prepared. Could somebody table this until later in today's session?

Whereupon, on motion of Mrs. Mitchell of Vassalboro, tabled pending acceptance of the Committee Report and later today assigned.

#### Non-Concurrent Matter

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) on which the Majority "Ought to Pass" as amended by Committee Amendment "A" (H-269) report of the Committee on Fisheries and Wildlife was read and accepted and the bill passed to be engrossed as amended by Committee Amendment "A" (H-269) as amended by House Amendment "A" (H-277) thereto in the House on April 30, 1981.

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

In the House:

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

Mr. MacEACHERN: Mr. Speaker, I move that we insist and ask for a Committee of Conference.

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

Mr. PAUL: Mr. Speaker, I move we recede and concur.

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

A vote of the House was taken.

Whereupon, Mr. Peterson of Caribou 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 presents having expressed a desire for a roll call, a roll call was ordered.

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

Mr. PAUL: Mr. Speaker and Members of the House: I don't think we need to spend an awful lot of time on this bill this morning, but I do wish you would consider approving the receding and concurring motion.

This is a bill that would mandate that in order for a person to obtain a hunting license, he would have to go to a safety course that would be administered by the Fish and Game Department.

Presently, the department is running a program and it is a good program. They are assisted by many of the fish and game clubs in various areas of the state, but this bill seeks to mandate this course, and a first problem I see with that in a rural state like the State of Maine is, we are going to have an awful lot of people traveling an awful long way to go to these courses which may be one or two nights a week. The safety officer from the Fish and Game Department has said that he didn't think a person traveling 30 miles would be unfair.

I think this is just one program, while we do accept the concept and we hope that we can encourage our young hunters to participate in these courses, I think this type of thing is best left at the local level, handled by the local fish and game clubs and not mandated and rammed down the throats of our people back home.

The SPEAKER: The Chair recognizes the gentleman from Calais, Mr. Gillis.

Mr. GILLIS: Mr. Speaker, Ladies and Gentlemen of the House: I rise this morning to defend this bill, and I would like to tell you of an experience I had with my grandson.

My son-in-law and I took my grandson out into the woods prior to hunting season. Supposedly, he knew all there was to know about handling a rifle. My son-in-law and I spent most of our time on the ground getting away from the gun which the young man was pointing hither and yon, all around. Fortunately, the gun wasn't loaded, but the cemetery is full of people shot with unloaded guns. Anyways, we hit the ground about 75 percent of the time we were out there.

We took him back, and I checked with the vocational school in the City of Calais to find out when they were going to put a hunter safety program on. Their program was starting the following week. We took my grandson down and entered him in the class. He was about 13½ at the time, or 14. He went to the course religiously, he studied and he listened to every word that was spoken. He came out of that course top marksman in his class and we took him out hunting for years and years. The knowledge he picked up on gun handling and so forth was tremendous.

The gentleman from Sanford states that the people would have to travel 30 or 40 miles to attend these classes. In most areas, your rod and gun clubs and so forth will handle the training on a volunteer basis. This is a very good course, and I believe that any youngster that is going hunting for the first time and handling a deadly weapon such as a rifle should have this course, merely to learn how to handle the rifle if nothing else.

I ask you to vote against the motion to recede and concur so the bill can pass here and we can have the committee of conference.

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

#### ROLL CALL

YEA — Austin, Bell, Boisvert, Boyce, Brown, D.; Brown, K.L.; Carrier, Carter, Conary, Conners, Crowley, Day, Dexter,

Hunter, Hutchings, Ingraham, Jordan, Joyce, Kane, Ketover, Kiesman, Lancaster, Lewis, Lisnik, MacBride, Macomber, McCollister, McHenry, McPherson, Michaud, Norton, Paul, Pearson, Perkins, Peterson, Reeves, J.; Ridley, Roberts, Salsbury, Sherburne, Smith, C.B.; Smith, C.W.; Stover, Strout, Studley, Therault, Treadwell, Webster.

NAY — Aloupis, Armstrong, Baker, Beaulieu, Benoit, Berube, Bordeaux, Brannigan, Brenerman, Brodeur, Brown, A.; Cahill, Callahan, Carroll, Chonko, Clark, Connolly, Cox, Cunningham, Curtis, Damren, Davies, Davis, Diamond, G.W.; Diamond, J.N.; Dillenback, Drinkwater, Dudley, Erwin, Fitzgerald, Foster, Fowlie, Gavett, Gillis, Gowen, Gwadnosky, Hall, Hanson, Hayden, Hickey, Higgins, H.C.; Higgins, L.M.; Hobbins, Holloway, Huber, Jackson, Jacques, Jalbert, Kany, Kelleher, Kilcoyne, LaPlante, Laverriere, Livey, Locke, MacEachern, Mahany, Manning, Martin, A.; Masterman, Masterton, Matthews, McGowan, McKean, McSweeney, Mitchell, E.H.; Mitchell, J.; Moholland, Murphy, Nadeau, Nelson, A.; Nelson, M.; O'Rourke, Paradis, E.; Paradis, P.; Perry, Post, Pouliot, Prescott, Racine, Randall, Reeves, P.; Richard, Rolde, Small, Soulas, Soule, Stevenson, Swazey, Tarbell, Telow, Thompson, Tuttle, Twitchell, Vose, Walker, Wentworth, Weymouth, The Speaker.

ABSENT — Leighton, Lund, Martin, H.C.; Michael.

Yes, 48; No, 99; Absent, 4.

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

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

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

#### Divided Report

##### Indefinitely Postponed

Majority Report of the Committee on Labor reporting "Ought Not to Pass" on Bill, "An Act Concerning Unemployment Compensation." (H. P. 925) (L. D. 1096)

Report was signed by the following members:

Senators:

SEWALL of Lincoln  
SUTTON of Oxford  
DUTREMBLE of York

— of the Senate.

Representatives:

MARTIN of Brunswick  
BAKER of Portland  
LEWIS of Auburn  
FOSTER of Ellsworth  
BEAULIEU of Portland  
LAVERRIERE of Biddeford

— of the House.

Minority Report of the same Committee reporting "Ought to Pass" as amended by Committee Amendment "A" (H-290) on same Bill.

Report was signed by the following members:

Representatives:

HAYDEN of Durham  
TUTTLE of Sanford  
McHENRY of Madawaska

— of the House.

Reports were read.

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

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

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

Mr. TUTTLE: Mr. Speaker and Members of the House: If you will notice, I was one of the three members that didn't sign the "ought not to pass" report. If you will all take a look at

L.D. 1096, the Statement of Fact, the bill limits, essentially, any percentage increase in the maximum weekly benefits amount paid under the unemployment law by 50 percent of the annual consumer price increase. It also increases the amount of wage under the unemployment compensation taxes as pay.

Essentially, the proposal is to amend Section 1043, Subsection 5, Paragraph A, by relating—increases in maximum weekly benefits amounts to increases in the consumer price index.

In addition, the proposal is to amend Section 1043, Subsection 19, as we can see from the bill.

Under present law, the maximum weekly benefit amount is effective for a 12-month period beginning on June 1 of each year and is equal to 52 percent of the annual average weekly wage paid in covered unemployment during the preceding calendar year. If the proposal were enacted, the annual percentage increase of the average wage used to determine would be limited to 50 percent of the average increases, or a savings to the fund in the area of \$4,100,000.

Essentially, the average weekly benefit amount of all weeks of employment is projected to be \$97.72 in 1982, and probably would remain the same. The proposal would result in savings, as I said before, to the fund of \$4,100,000.

Additional revenue would result from the proposal's increase in the taxable wage base, something that we have talked about for a number of years. It would also be, I think, in the area of \$14 million of benefit to the fund.

In closing, essentially what I liked about this bill when I first saw it at that public hearing, Associated Industries of Maine didn't like it and the AFL-CIO didn't like it, so from the beginning I questioned what the bill actually does.

What it does, it addresses the solution of providing an answer to the present deficit of the unemployment fund, and like always, on both sides of a partisan issue, either side would like to have the solution.

The total financial impact of this bill would be \$18,100,000 of benefits to the fund, which is presently millions of dollars in debt. This is a combination of a bill presented by Representative Swift Tarbell, and the ideas of the bill's sponsor, Representative Dana Swazey of Bucksport. Mr. Swazey has been both a member from labor side and management side, and I honestly feel that this bill addresses an equitable solution from both sides.

We are not talking about a state fund, or maximizing an already overburdened deficit. What we are addressing here today is an objective approach from a financially responsible point of view to a solution to the problems of the present unemployment fund. It is because of this that I hope that you will defeat the Majority "Ought Not to Pass" Report and support a motion after for the Minority "Ought to Pass" Report.

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

Mr. SWAZEY: Mr. Speaker and Members of the House: I submitted this bill to Legislative Research back on December 5, which is about two hours before I was sworn in, and it was presented on the floor of the House on March 3, and finally, almost the last hour of the last day, we had a hearing on it April 24.

Some of this comes about, of course, by the \$36.4 million deficit that the unemployment fund has, and to read from Maine's largest daily back in October, it was stated by the Manpower Affairs Commissioner that the advisory committee, composed of both industry and labor, decided it was preferable to pay off loans over three years, which is what this \$36.4 million deficit is now. This would increase the employer's tax three-tenths of one percent for the next three years at the rate of \$18, \$36 and \$54 a year. The Manpower Affairs Commission-

er also said that the legislature should revise the way the unemployment fund is financed; otherwise, he said, more money will have to be borrowed within several years.

This unemployment fund is not going away. As I say, we are in debt to it and the federal government is not going to forgive us, otherwise, every other state in the union would want to be forgiven. We have imposed these progressively escalating penalties upon the employers until this indebtedness is repaid.

Someone much more knowledgeable than I once said that politics is the art of compromise. I have tried to compromise with this bill, 1096. I took this bill to the lobbyists for labor and they weren't too enthused about it, and I took it to the business people and they weren't too enthused about it, I believe if either one of them had been, I would not have had a good bill because I would have been disappointed.

What this bill proposes to do, as Representative Tuttle has stated, is limit the average weekly increase of the unemployment fund to 50 percent of the consumer price index. And on the other realm of it, as far as the employer, it would be to increase the base to \$8,000.

I realize that L.D. 1560 was passed recently, the governor's bill, an emergency, which saves approximately \$6 million a year. Also, that was forced upon us by the federal government and not by this legislature's ability to go along with that.

The \$6,000 is what the federal government has now for a base, and if we went to \$8,000, it would be more than the federal government, is what some people have stated, but we are in much more trouble in this state in the unemployment fund than the federal government is.

Also, over the period of years when we started out, the unemployment fund and the social security fund were both a \$3,000 base, and the social security fund has now gone to a \$29,700 increase a year for a base, which is tenfold, and the workmen's compensation unemployment fund has gone only from \$3,000 to \$6,000 since 1940. I felt that although the increase is more because of the cost of the savings for the unemployed would be 4.9 percent, \$4 million, and the projected increase would be \$14 million, I felt that this was only right because the social security had increased so much more.

I think the state is in more trouble than the rest of the country; therefore, I believe that we should defeat the "ought not to pass" report and accept the minority report, and I would ask for a division on that, Mr. Speaker.

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

Mrs. BEAULIEU: Mr. Speaker, Ladies and Gentlemen of the House: I signed the "ought not to pass" report, not because I wanted to but I felt that at this point in time the bill that was brought to us is not exactly in order. I think it is an issue that we as a legislature certainly should be addressing. However, the major points that helped me to make my decision is that, one, it would put an absolute limit on unemployment compensation as we know it right now, and I think we have to remember that the maximum that can be collected by anybody right now is \$104 a week, and potential benefits for family members.

On the other side of the scale, we raised the maximum base from \$6,000 to \$8,000. Again, it hits the employers, and I think there is no doubt about it, business right now is not too happy and wants nothing else imposed upon them.

I think another major factor put us in a position of having a majority report of "ought not to pass" is that the Labor Committee this year has walked through this legislature at least three bills that will begin to try to address the unemployment fund problem. One of those was a waiting week period, and we would like to have an opportunity to see if indeed those measure that are purported by so many as being the answer to trying to get the fund out of

trouble are, indeed, going to work.

This bill and another one coming right behind it are attempts by some very conscientious people, especially Representative Swazey, to try to address the problem. I think we contend—let's take a chance on what we have done already, see if that works, and then maybe we can take another look at these kinds of proposals at another time.

The unemployment funding problems have been studied in the past at least three times. I was a participant in one of those study issues, and it was a dismal failure. I tried to encourage the committee to put out several of these bills, this particular one and the one coming behind it, to be studied again, but there was no unanimity and no interest on the committee's part, on the majority of the committee's part, to do that. So I think, unfortunate as it may be and as progressive as these goals and thoughts may be, we just cannot do it at this time.

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

A vote of the House was taken.

Whereupon, Mr. Tuttle of Sanford 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 Sanford, Mr. Tuttle.

Mr. TUTTLE: Mr. Speaker, Men and Women of the House: I have been here for three years, and I have been on the Labor Committee. We have tried to address an issue of this nature for a long time trying to find an equitable solution on both sides, the unemployment problem, workers' comp problem. I honestly feel this is an honest effort to do that.

I looked up on the board there, and as on most labor issues, I feel that most of the people in the House do not understand labor law, but I feel that this bill is an important step in solving a serious problem. Let's not just cast this off as being something that isn't going to mean anything, because it is.

As I said before, Mr. Swazey has worked hard, members of the committee who have been involved in labor all their life have looked at this bill, and this bill addresses an equitable solution from both sides, where both sides are going to give, and if we are ever going to find a solution to the workers' comp situation, the unemployment fund situation, it is going to have to be addressed from both sides. This bill is an attempt in that direction. I hope that you will vote no on the pending motion so we can address this issue so the 110th legislature will be remembered as the legislature that solved the problem instead of passing the buck like other legislatures have done.

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

Mr. SWAZEY: Mr. Speaker, I would just like to mention Representative Beaulieu's speech, that the \$36.4 million in the emergency bill that we passed, the Governor's bill, is \$6 million and that three of the last four years we have had a larger deficit than \$6 million, so that in itself is not going to correct the problem.

I would just hope that you would vote against the "ought not to pass".

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

Mr. BAKER: Mr. Speaker, Ladies and Gentlemen of the House: I realize that someone has called the question, but if you will permit me to say a few words now, I will spare you a

speech on the bill that is coming up afterwards.

Last session, I had placed a bill very similar to this that dealt with what is known as the taxable wage base, which is how the unemployment compensation system is funded, one of the ways. Of course, the bill was given a Leave to Withdraw, and I came in with similar legislation and before we started discussing the matter everyone turned to me and said, would you like to "leave to withdraw?" One of the other members of the committee sort of egged me on and said, oh, come on, sign it out. Why don't you explain this whole issue to the House and I said, no, I didn't want to explain it to the House because I just had some feelings that nobody was really that concerned.

But what I keep constantly hearing before the Labor Committee is that the fund is in trouble, the fund is in trouble because of laws that are too permissive, that our unemployment compensation laws are too liberal, that all we have to do is tighten up our unemployment compensation laws and we will restore solvency to the fund. And I constantly asked the industry lobbyists, how did we get in this mess to begin with. They go back to the 1974 recession. I think that is the key word that we are looking at here.

You can tighten the fund and you can get to a point where you actually have no fund, but you still are going to have unemployment and we are going to have to start dealing with that.

The National Commission on Unemployment Compensation that met last year, and I find it interesting that I am the only person that invokes the name of the National Commission on Unemployment Compensation, made several recommendations in the area of unemployment compensation insurance. One of the recommendations that this commission made was that states should be allowed to go above the limit of \$6,000 on the taxable wage base. Several states already have a taxable wage base that is above \$6,000.

The good gentleman from Bucksport, I think, came in with an honest attempt to address the situation. However, like last session and this session, people in industry basically said, no, we don't want to go above the federal limit of \$6,000 taxable wage base—no way. So that is where we stand.

I assume that sometime, maybe five or six years down the road, someone will finally raise the federal taxable wage base above \$6,000. By then it may be too late.

I think we have to look at the way this fund is funded, and if it is not funded adequately, then we should fund it adequately, but there is absolutely no hope for this bill and there is no hope for the bill that is following it. So I threw up my hands, and that is basically where we stand today.

I move the indefinite postponement of this bill and all its accompanying papers.

Thereupon, on motion of Mr. Baker of Portland, the Bill and all its accompanying papers were indefinitely postponed and sent up for concurrence.

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

#### Divided Report

Majority Report of the Committee on Labor reporting "Ought Not to Pass" on Bill, "An Act to Protect the Integrity of the Unemployment Compensation Fund." (H.P. 641) (L.D. 763)

Report was signed by the following members:

Senators:

SEWALL of Lincoln  
SUTTON of Oxford  
DUTREMBLE of York

— of the Senate.

Representatives:

HAYDEN of Durham  
MARTIN of Brunswick  
LEWIS of Auburn

BEAULIEU of Portland  
FOSTER of Ellsworth  
TUTTLE of Sanford  
LAVERRIERE of Biddeford

— of the House.

Minority Report of the same Committee reporting "Ought to Pass" as amended by committee Amendment "A" (H-291) on same Bill.

Report was signed by the following members:

Representatives:

McHENRY of Madawaska  
BAKER of Portland

— of the House.

Reports were read.

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

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

#### Divided Report

Majority Report of the Committee on Aging, Retirement and Veterans reporting "Ought to Pass" as amended by Committee Amendment "A" (H-289) on Bill, "An Act Concerning Appointed Chief Administrative Officers of Local Districts under the Maine State Retirement Laws" (H.P. 418) (L.D. 465)

Report was signed by the following members:

Senators:

TEAGUE of Somerset  
COLLINS of Knox  
BROWN of Washington

— of the Senate.

Representatives:

NELSON of Portland  
ARMSTRONG of Wilton  
PARADIS of Old Town  
PERRY of Mexico  
STEVENSON of Unity  
RICHARD of Madison  
HICKEY of Augusta  
THERIAULT of Fort Kent

— of the House.

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

Report was signed by the following members:

Representatives:

CROWLEY of Stockton Springs  
WALKER of Skowhegan

— of the House.

Reports were read.

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

Mrs. NELSON: Mr. Speaker, Men and Women of the House: I move that we accept the Majority "Ought to Pass" Report and I would like to speak to my motion.

Basically what this bill does, and the bill is principally that first section, is it gives the employee the option if the municipality wants the employer to have that option.

Okay, let me explain basically what happens now. Under current law, the chief administrative officers of local districts, as elected or appointed officials, may be treated in one of two ways depending upon their status. If they are elected or appointed for a fixed term, membership in the retirement system is optional. If they are not elected or appointed a fixed term, that is to say they are appointed until removed for cause, or serve at the pleasure of, their membership in the retirement system is mandatory.

Now, chief administrative officers may take their retirement credits with them if the new district will buy in the employer's share of the previous credit being transferred. However, if the new district offers to buy one member's prior service, they must buy everyone's prior service.

So, L.D. 465 as amended makes membership for all chief administrative officers optional. It does not affect other elected or appointed offi-

cials.

Maine's chief administrative officers are extremely mobile groups with an average tenure of five years. Thus, under the present law, the State of Maine retirement system, which requires 25 years for full funding, local administrators frequently find themselves with, say, five different retirement plans of five years each, and these five separate retirement plans, although all under the Maine State Retirement System, result in a substantially less retirement allowance than that received by an employer who has worked for a single local district or the state for 25 straight years.

Essentially, this bill is a local option provision whereby the local district must decide if it wishes to exempt its chief administrator from participating in the Maine State Retirement System. Presently, that administrator would negotiate with the selectmen, the council, or whoever, for a retirement system other than the Maine State Retirement System, and that could be transformed from one district to another without penalty.

Now, this law is not unusual, it has been enacted in several states. It allows administrators to move more freely interstate as well as intrastate, and more importantly, to give local districts an option of attracting top professional administrators who may not otherwise be interested if they are going to lose substantially on retirement benefits.

I urge you to vote for the Majority "Ought to Pass" Report.

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

Mr. WALKER: Mr. Speaker, Ladies and Gentlemen of the House: Representative Nelson has given you the background on this bill, except to say, and I am certain someone is going to bring it up, that the average length of tenure in this position is four years, and whether or not it is better for this administrator depends on the situation, because this administrator could have served that 25 years in a locality that offers only the old benefit of 1/70th compensation times years of service. So, he may actually profit by moving to a 1/50th times years of service.

I would like to give you two reasons why I believe you should oppose this bill, and Mr. Speaker, I ask for a division.

The basics of a good retirement system, first, that that system be fiscally sound, and that it not discriminate between individuals or classes of employees, that it particularly not discriminate in favor of higher paid employees. In this bill, we are being asked to violate the second principle for the mere convenience of a very few individuals statewide. In almost every instance, it is for the highest paid individual in the local district.

In my town alone, we have an administrative assistant for the assessors, our planning board has an administrative assistant, we have a community developer and a recreational director, besides a police chief and fire chief, all of these in addition to the selectmen's administrative assistant. This bill does not address their problems which, you may be sure, are as important to them as the chief administrative officer's are to him.

In addition to discrimination, there is another reason that you should vote "ought not to pass." The purpose of this bill is to provide a convenience and is not necessary to provide the remedy that is sought.

I quote from Section 1091, which Representative Nelson referred to. "Membership shall be optional in the case of any class of elected officials appointed for a fixed term." This remedy is available in the case of administrative officers who don't already have a fixed term contract, and many do. There is no time specified for the fixed term so that the town and the official should be able to set that so it is agreeable to both.

We have heard a lot about not mandating to

our municipalities. They ask us to keep 'hands-off'. I say, the 'hands-off' policy should work both ways. Not only should we not dictate to our municipalities, we should require that they handle that which they have the tools and the power to handle.

The SPEAKER: The Chair recognizes the gentleman from Orono, Mr. Davies.

Mr. DAVIES: Mr. Speaker, I would like to pose a question to any member of the committee. Could we have definition of what a chief administrative officer is and what local districts would fall under this? For instance, would this be a SAD, a water district, a sewer district, a sanitary district, any number of other districts?

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

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

Mr. WALKER: Mr. Speaker, no, this refers to the city manager, the town manager, the administrative assistant to the board of selectmen, or, in the case of the — it might be a first selectman who might be the chief administrative officer.

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

Mr. PARADIS: Mr. Speaker, Ladies and Gentlemen of the House: I believe this is a good bill and, as has been pointed out, it affects the manager and provides the town councils, selectmen with the local option as to dealing with the retirement plans for their managers and their chief administrators.

As has been mentioned here, the career pattern of these people, in that we have one usually in most of our towns, requires a great deal of mobility between towns, and this provides the option for dealing with their retirement plan in their fashion, which right now they have an obstacle.

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

Mr. HICKEY: Mr. Speaker, I do not want to belabor this point, but one issue is, most of the town managers belong to the National Association of Town Managers Retirement System. They come into Maine from different states, and in order to maintain a continuity in the program which they have been in for a number of years, we are hopeful that you will support this measure and vote favorably on its passage.

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

Mr. CROWLEY: Mr. Speaker, Ladies and Gentlemen of the House: I agree with Representative Walker in that this bill is discriminatory. The Maine Retirement System is a qualified system under the IRS, stating that the system will not discriminate.

L. D. 465 gives the chief administrative officer the option and power and the right to dictate his optional retirement plan to the town. In a sense, this a redundant bill in that this has already been done on occasions in the State of Maine where the chief administrative officer, by the town's election, not by the election of the chief administrative officer, this has been accomplished.

The other lower paid employees will not have this right. For example, a woman or man working as a clerk or truck driver earning \$150 a week will have to pay 13 percent, and they are doing this, of their salaries to social security or the Maine State Retirement System. That would leave them with about \$131 a week to take home.

The chief administrative officer, who would be earning about \$500, we are going to give him a privilege so he will only have to pay into one system and also be in this international organization, some such thing like that, of city managers.

If anybody is going to have the power to dictate individual plans, it should be the town, not

a special privileged administrative officer. If we do this, then next year the International Association of Police Chiefs, of Fire Chiefs, Assessors and everything else will be in here telling us that they want this same privilege.

This bill is discriminating in favor of the highest paid employer, and I urge you to vote against L. D. 965, to keep the retirement system just as it is for the working people, all the people.

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

Mrs. WENTWORTH: Mr. Speaker, under this bill, would this continue to allow elected selectmen who are only part-time people to be on retirement?

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

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

Mrs. NELSON: Mr. Speaker, Men and Women of the House: I do not believe they have that option now, and this bill will not give them that option.

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

Mr. WALKER: Mr. Speaker and Members of the House: The selectmen who are in there now, it is an option. The selectmen or the town may say they are not going to be in, but if the town lets them in, the selectmen may be in and they may still stay in with this bill or not; this bill has no bearing on that.

There is one instance that we have not envisioned here. This bill simply allows the chief administrative officer to withdraw from the state retirement plan. Now, in those instances where the town does not have social security, and there are those towns that have elected the state retirement system instead of social security, in those instances this means that the chief administrative officer would not be required to be in any plan.

The SPEAKER: The Chair recognizes the gentleman from Fort Kent, Mr. Theriault.

Mr. THERIAULT: Mr. Speaker, Ladies and Gentlemen of the House: I urge you to support the Majority "Ought to Pass" Report, and I would like to give you a reason why I feel this way.

All participating municipalities negotiate their own retirement system. They will come up with a plan that fits their need and also their desires. Consequently, we have as many different plans as we have municipalities that are participating, and this is a very important measure for a town manager or a city manager that is good at what that person is doing. You can understand that if that person is good, there will be demand for that service, and the retirement system is usually part of the total package that is considered in making such a decision.

Under the present law, as I understand it, it makes it very difficult for the local officials to negotiate anything different for that particular person unless they do it for all the participants. Consequently, the best qualified individual will turn down the offer just on that premise. This is why I urge you to support the Majority "Ought to Pass" Report.

The SPEAKER: The Chair recognizes the gentleman from Calais, Mr. Gillis.

Mr. GILLIS: Mr. Speaker, Ladies and Gentlemen of the House: Some of the remarks made by Representative Crowley, in that this bill is discriminatory and that the clerks and truck drivers and so forth were not included under it, the clerks and truck drivers are, in essence, steady employment, in one place, one location, whereas the city managers, town managers and so forth would, after a period of time, move from job to job.

I believe, as Mr. Crowley stated, the National Association of Chiefs of Police would be in next year or the year after asking for it and

other organizations would follow — not necessarily. All of these people are occupying positions of some permanence. One item, if the city manager came in from out-of-state and is under a retirement program, he comes into Maine and he is forced to go under the Maine State Retirement program, there are very few manager jobs in the State of Maine that would permit him to retain double costs, two programs. He could work out of state for a while, come into the state of Maine for a while and go back out of state for a while and end up with no retirement program after anywhere from 10 to 15 years of service.

I see no reason why the city manager should not be given the option of joining their own private retirement plan or come into the State of Maine retirement program.

I urge you to support the "ought to pass" report.

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

Mr. CROWLEY: Mr. Speaker, I would like to repeat the statement I made about this bill being redundant in that it has been done but not with the option of the chief administrative officer only, but the town has the option. I think we ought to leave the option with the townspeople to decide whether or not he would be under it or out of it. It can be done now, it has been done, and this legislation is truly redundant.

The SPEAKER: The Chair recognizes the gentleman from Madison, Mr. Richard.

Mr. RICHARD: Mr. Speaker, with the amendment to this bill, it is possible for communities to have the local option, plus it puts the communities in a better position to bargain to get themselves a new town manager. I hope that you go along with the "ought to pass."

The SPEAKER: The Chair will order a vote. The pending question is on the motion of the gentleman from Portland, Mrs. Nelson, that the Majority "Ought to Pass" Report be accepted. All those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

76 having voted in the affirmative and 25 having voted in the negative, the motion did prevail.

Thereupon, the Bill was read once. Committee Amendment "A" (H-289) was read by the Clerk and adopted and the Bill assigned for second reading later in the day.

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

#### Passed to Be Enacted Emergency Measure

An Act to Allow the Export of Wood from Public Lands under Certain Circumstance. (H.P. 1359) (L.D. 1544)

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. 76 voted in favor of same and 25 against, and accordingly the Bill was passed to be enacted, signed by the Speakers and sent to the Senate.

#### Passed to Be Enacted

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

An Act to Amend the Eligibility Age for Pre-school Handicapped Children (H.P. 453) (L.D. 500) (C. "A" H-256)

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

An Act Relating to the Used Car Information Act (H.P. 718) (L.D. 850) (C. "A" H-258)

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

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

Mr. HIGGINS: Mr. Speaker, Ladies and Gentlemen of the House: I don't really expect to go very far on this particular bill today. After having debated it at great length the other day and not accomplishing my original purpose, I kind of feel like Lin Palmer must have when he sat in the corner here my first term, because I sat there and Jock McKernan sat where Representative Tarbell is now, and Steve Perkins was sitting behind him and Olympia Snowe was next to him, and I can remember Representative Palmer turning to us on several votes that he was involved with and all five of us had voted against him, and he said, you people are here to help me and every time I turn around you are voting against me. That is kind of how I felt the other day with Mr. Tarbell and Miss Aloupis and Representative Jackson all in opposition to my position.

I do feel that I would just simply ask for a roll call on the final enactment of this bill. When I go home, I want to be able to tell my people that as far as I am concerned, when it comes to requiring additional paperwork for small business and people who are in this particular field, that I, at least, am not in favor of it and if the rest of the House is, that's fine, but I just don't think that posting information that is available now by simply asking for it is going to solve any problems, but will just create a big nightmare and a lot of paperwork for our small business community. Mr. Speaker, I would just ask for the yeas and nays on that.

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

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

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

Mr. BRANNIGAN: Mr. Speaker and Members of the House: I am pleased to have been able to sponsor and cosponsor this bill with Representative Tarbell and Representative Aloupis and to also be able to go home and tell my people that I have been able to take an ineffective law, the Used Car Information Act, and also I am pleased that this is a unanimous committee report from my committee on Business Legislation, to be able to go home and tell people that I have taken a law that was terribly ineffective, that the information that they probably didn't even know they were entitled to and was passed to them usually in a group of papers as their signed checks and made the final deal on a used car, that this has now been made somewhat workable and they know now that they have the information because it is on a sticker there, that makes the dealers responsible for providing the information that the law requires.

I would urge you to please vote "ought to pass" on this.

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

#### ROLL CALL

YEA—Aloupis, Baker, Beaulieu, Benoit, Berube, Boisvert, Brannigan, Brennerman, Brodeur, Cahill, Carrier, Carroll, Chonko, Clark, Connolly, Cox, Crowley, Davies, Diamond, G.W.; Diamond, J.N.; Drinkwater, Erwin, Fitzgerald, Fowlie, Gavett, Gowen, Gwadosky, Hall, Hayden, Higgins, H.C.; Hobbins, Ingraham, Jackson, Jalbert, Kane, Kany, Ketover, Kiesman, LaPlante, Lisnik, Livesay, Locke, MacBride, MacEachern, Macomber, Manning, Masterton, Matthews, McColister, McGowan, McKean, Michaud, Mitchell, E.H.; Mitchell J.; Moholland, Nadeau, Nelson, A.; Nelson, M.; Norton, Paradis, E.; Paradis, P.; Pearson,

Perkins, Perry, Post, Pouliot, Prescott, Racine, Randall, Reeves, P.; Richard, Rolde, Sherburne, Small, Smith, C.B.; Smith, C.W.; Soule, Swazey, Tarbell, Telow, Theriault, Thompson, Tuttle, Twitchell, Vose, Walker.

NAY—Armstrong, Austin, Bell, Bordeaux, Boyce, Brown, A.; Brown, D.; Brown, K.L.; Callahan, Carter, Conary, Conners, Cunningham, Curtis, Damren, Davis, Day, Dexter, Dillenback, Dudley, Foster, Gillis, Hanson, Hickey, Higgins, L.M.; Holloway, Hunter, Hutchings, Jacques, Jordan, Joyce, Kelleher, Kilcoyne, Lancaster, Laverriere, Lewis, Lund, Mahany, Martin, A.; Masterman, McHenry, McPherson, McSweeney, Murphy, O'Rourke, Paul, Peterson, Reeves, J.; Ridley, Roberts, Salsbury, Stevenson, Stover, Strout, Studley, Treadwell, Webster, Wentworth, Weymouth.

ABSENT—Huber, Martin, H.C.; Michael, Soulas, The Speaker.

Yes, 86; No, 59; Absent, 5; Vacant, 1.

The SPEAKER: Eighty-six having voted in the affirmative and fifty-nine in the negative, with five being absent and one vacant, the Bill is passed to be enacted.

Signed by the Speaker and sent up to the Senate.

An Act Concerning Gifted and Talented Education. (H.P. 837) (L.D. 1003)

RESOLVE, Authorizing Gerald Pelletier to Bring Civil Action Against the State of Maine (H.P. 286) (L.D. 333)

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

#### Orders of the Day

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

Bill, "An Act to Facilitate the Leasing of Existing Subsidized Housing Units" (H.P. 809) (L.D. 970)

Pending—Second Reading.

Thereupon, the Bill was read the second time.

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

Mr. KELLEHER: Mr. Speaker, would some kind member of the House table this until later in today's session? I have got an amendment I would like to have the House consider.

Thereupon, on motion of Mrs. Mitchell of Vassalboro, tabled pending passage to be engrossed and later today assigned.

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

SENATE DIVIDED REPORT—Majority (8) "Ought Not to Pass" — Minority (5) "Ought to Pass" — Committee on State Government on Bill "An Act to Reduce the Length of the Maine Legislative Session" (S.P. 436) (L.D. 1265) — In Senate, Passed to be Engrossed on April 30.

Tabled—May 1 by Representative Kany of Waterville.

Pending—Acceptance of either Report.

Mrs. Kany of Waterville moved that this be tabled for two legislative days.

Whereupon, Mr. Higgins of Scarborough requested a division.

The SPEAKER: The pending question is on the motion of the gentlewoman from Waterville, Mrs. Kany, that this matter be tabled pending acceptance of either report and specially assigned for Thursday, May 7. All those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

76 having voted in the affirmative and 65 having voted in the negative, the motion did prevail.

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

RESOLVE, Providing for Revision to the Land Use Regulation Commission's Land Use

Handbook, Section 6, Erosion Control on Logging Jobs" (H. P. 454) (L. D. 501)

— In House, Insisted on Passage to be Engrossed and asked for a Committee of Conference on April 27.

— In Senate, Adhered to Passage to be Engrossed as Amended by Committee Amendment "A" (H-198) in non-concurrence.

Tabled—May 1 by Representative Hall of Sangerville.

Pending—Further Consideration.

Mr. Hall of Sangerville moved that this matter be tabled for two legislative days.

Whereupon, Miss Brown of Bethel requested a division.

The SPEAKER: The pending question is on the motion of the gentleman from Sangerville, Mr. Hall, that this matter be tabled pending further consideration and specially assigned for Thursday, May 7. All 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 58 having voted in the negative, the motion did prevail.

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

HOUSE DIVIDED REPORT — Majority (7) "Ought to Pass" as Amended by Committee Amendment "A" (H-284) — Minority (6) "Ought Not to Pass" — Committee on State Government on Bill "An Act to Create a Maine Film Board" (H. P. 1209) (L. D. 1424)

Tabled—May 4 by Representative Diamond of Windham.

Pending—Motion of Representative Kany of Waterville to Accept Majority "Ought to Pass" Report (Roll Call Ordered)

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

Mrs. KANY: Mr. Speaker and Members of the House: This bill was tabled yesterday only because the sponsor did not have his materials here. We did that in order to accommodate him.

I thought you would like to know the contents of the bill. It is An Act to Create a Maine Film Board. Basically, it creates a board but no bureaucracy. It is a board of industry-related personnel to work to secure in-state locations for the filming of ads, television and motion picture films. And really, the more we got into this bill, the more interesting it is because there is no tax money involved here at all. It would be the film industry, which would raise its own money, to actually use the name of the State of Maine, and that is really the one advantage and why I hope that the legislature will adopt this board.

Basically, they can use the name of the State of Maine in going out and soliciting, as an economic development measure, really, to try and get some filming here in the State of Maine. We have lost out on several multi-million dollar films in the last few years, and a number of New England States do actively solicit the filming industry to come on location to their states.

I would like you to know that the committee did amend the bill and we amended it so that there would be a sunset provision on it, that it would die itself January 1, 1985, if it could not produce. We thought "nothing ventured, nothing gained." I hope you will go along with it. It is just a positive economic development measure, no cost to the state taxpayers, no bureaucracy. I hope you will give it a chance and send it on its way.

The SPEAKER: The Chair recognizes the gentlewoman from Bangor, Miss Aloupis.

Miss ALOUPIS: Mr. Speaker, Ladies and Gentlemen of the House: May I direct a question to the chairman, please? Is there a per diem cost to this or are expenses paid such as mileage? The reason I ask this, the last count I had looked through, we have 120 advisory boards, and I think we are a.riving at the point,

ladies and gentlemen, where we really cannot continue affording these.

The SPEAKER: The gentlewoman from Bangor, Miss Aloupis, has posed a question through the Chair to anyone who may care to answer.

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

Mrs. KANY: Mr. Speaker and Members of the House: The board members' expenses would be paid, but only if there has been money raised by the private film industry for those funds, so there would be no taxpayers' money used to pay anybody's expenses of any kind.

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

Miss BELL: Mr. Speaker, Ladies and Gentlemen of the House: I think the intent of this legislation is positive; however, I wonder what priority it has today in this body.

In the hearing and work sessions, we heard a similar outlook that this creates a new board, a 15-member board, 14 members from the film industry and one member of the legislature. There are two ex officio members from the Maine Publicity Bureau and the State Development Office. The board would not be answerable to either department or any department or agency in state government.

If this board were called the Maine Film Board, decisions as to types of films would be approved with the State of Maine title and answerable to no official body.

What controls would there be on this board in their decisions. The sponsor stated that this is not a function of the state taxpayer and authorizes the board to go out and seek funds. It is questionable in my mind where these funds would come from.

The Maine Innkeepers Association testified at the hearing and stated that it was not a priority in their mind and questioned if funds would be available. It did not seem to be a priority in any of the existing agencies, such as the State Development Office of the Maine Publicity Bureau.

I am opposed to this legislation.

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

Mr. DIAMOND: Mr. Speaker and Members of the House: To quickly respond to Representative Bell, we did amend the bill, as Representative Kany said, in committee, and there is no member of the legislature included now. All that would be involved is a board appointed by the Governor with specific representatives of industry involved. No per diem, no expenses would come from state funds whatsoever.

In response to Representative Bell, this does not differ from a number of boards already established by this state. The Potato Council, Tourism, all receive funds and raise funds on their own outside the state. All that they have going for them is the state's name. They use that for credibility and for other purposes as well, but in regard to this particular bill, the authorization of the State of Maine is all that we are giving them. This would enable them to go out and raise funds on their own, operate at the pleasure of the Governor, but with no state funds involved, and would not be setting any new policies.

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

Mr. DILLENBACK: Mr. Speaker, Ladies and Gentlemen of the House: I am one of the people on the committee that voted for this bill, and the reason I voted for it is because I think it is refreshing to have people come into the state and say they do not want to raise any money from the state, that they are going to secure their money by donations, they are going to the people who would be benefiting from such a board, the hotels and the public areas that we have within the state. It would create employment.

I think the important thing in a bill like this is that today, what does anybody do that wants to

come to the State of Maine to make a film? They contact the Maine Publicity Bureau. They go down to the Maine Publicity Bureau, they have nobody there, other than one gal who works part time to do this, who gives them folders and regular state information and possibly takes them out and shows them areas that they might be interested in.

Now, this board would put together — and of course the people on the board would also benefit because they are the type of people who are in the movie industry or the people who do advertising, other people who do photography — they would set up a folder and a package that they would have available for anybody who was interested in any specific area, whether it be the rockbound coast or the interior of Maine or some lake area.

Recently, you have heard about the films that have been made in New Hampshire and Vermont which could have come to Maine, and believe me, when they make a film, they spend a great deal of money in the state. I think anything we can do to help the industry or the economy of this state we should give due consideration to.

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

Mrs. MASTERTON: Mr. Speaker, Ladies and Gentlemen of the House: At the hearing, a representative of the Maine Innkeepers Association testified to the effect that the Innkeepers Association has numerous projects to raise money for that are of infinitely higher priority than trying to attract film makers into the state.

In addition, the limited experience that they have with the film maker is mostly catering sandwiches back and forth to the beach. There isn't a lot of money spent by those who have been in to film commercials at the water's edge.

The other point I wish to make is that we do have a State Development Office, we do have Maine Publicity Bureau. One of the young ladies from the Maine Publicity Bureau testified to the effect that she had run around the state herself with a film maker at one point, spent two weeks on the road with him. If she can do it once, she can do it again.

I do think that we have current departments of government that ought to be able to take care of this aspect of economic development.

Further, I think there is no mood in this legislature to create another board, so I would urge you to vote against this bill.

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

Mr. MURPHY: Mr. Speaker, Men and Women of the House: Just one commercial or one made-for-TV movie a year will more than pay the minimal costs of this board, those costs which will be borne by the industry.

The airlines polled visitors to Hawaii and found that for a high percentage of them, almost 40 percent, their decision to visit the Islands came as a result of viewing the program Hawaii Five-O, and I think there is the implication here for the expansion of our tourist industry.

Maine, in recent years, has provided the backdrop for the TV movies, Captain Courageous and the Christmas Homecoming. Many of us that live near the York area were disappointed that when that program was filmed in July, a Christmas program, which takes a little bit of producing skill, that Ed Asner or Lou Grant was not able to visit the York area, but they had killed him off in the previous sequel.

To promote tourism and to bring needed dollars, film industry dollars to the state, I would urge you to support this motion.

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

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

Would this mean that we could attract X-

rated films to Maine using the state's name?

The SPEAKER: The gentlewoman from Auburn, Miss Lewis, has posed a question through the Chair to anyone who may respond if they so desire.

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

Mr. BOYCE: Mr. Speaker, Ladies and Gentlemen of the House: I will ignore that question totally.

As a person who has been involved in the tourist industry and motion picture, TV-radio industry most of my life, I am rather appalled at times at the lack of publicity that the state of Maine does for tourism and living up to our title of Vacationland on our license plates.

I travel around the country a great deal making just the type of commercials and TV type of things that we are talking about here today, and strangely enough, I have yet to make one in my native state of Maine. One of the reasons is just because we are not actively out seeking this type of clean industry.

I know of at least one major full-length motion picture that was made last year that depicted, strangely enough, the North Atlantic and the seacoast of Maine—it was filmed on Lake Michigan because Michigan has just such a type of development board for this industry. TV commercials, there is one for beer that we see all the time showing Pemaquid Lighthouse and the restaurant. I don't know how many times I have gone across the country passing out my Maine potato pins and talking to people and they ask about that lighthouse and does it really look that good? Gee, I have got to get up there and see that myself and I want to see the rest of the Maine coast. Hey, this is all for free, this is private funds coming in and promoting Maine, something that, yes, we, ourselves, in the legislature do not have the funds to appropriate to do.

We have got a chance to have some private funding, the free enterprise market, if you want to call it that, to do this promotion for us, and as Representatives pointed out, there is a sunset provision on this so if it doesn't work out, what have we lost? Let's give it a shot.

I am in favor of this bill and I hope you will join me.

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

Ms. SMALL: Mr. Speaker, Ladies and Gentlemen of the House: I urge you to vote against the Majority "Ought to Pass" Report and support the six-member "Ought Not to Pass" Report.

The purpose of the film board is to promote Maine and its resources for movie locations. The chief method of this promotion is through a directory, which the film board would publish and distribute, showing the various scenic spots in Maine and, most importantly, listing the professionals available to work with and for the movie companies. I grant you that the concept is excellent. If the promotion is successful, there will be a substantial number of new dollars brought into Maine, but I do not feel that the state needs to create a new board to fulfill this promotion.

The 15 board members would not receive state funds. All capital used would involve private funds which were solicited by the board. The board members, it says in the bill, shall be appointed from among residents of the state who are involved in various phases of the film industry or who are affected by the film industry.

The board members will likely profit from any venture into the state by movie makers, and this should be the incentive to create the board without legislative approval and without state responsibilities.

To reiterate the oft spoken arguments of a ghost from the not too distant past, we have a free enterprise system, let's let it work. If there are profits to be made from the promotion of Maine's locations and of her profession-

al people in the film industry, then I believe it can be done without the state's assistance.

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

Mr. KELLEHER: Mr. Speaker, I would like to pose a question through the Chair. Where is this commission going to operate in state government?

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

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

Mrs. KANY: Mr. Speaker and Members of the House: It really won't even need an office, Representative Kelleher. Basically, the idea for the stamp is really the state stamp of approval in allowing this board, this volunteer board, which would raise its own funds, to be able to use the name of the State of Maine in going to procure the movies.

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

Mr. KELLEHER: Mr. Speaker, Ladies and Gentlemen of the House: I have heard that argument before in the past — if we would just create this board or commission (1) you won't need an office, staff, space or support from the State of Maine, and I suggest this morning that we support the gentlewoman from Cape Elizabeth, Mrs. Marterton's position, and not accept the report made by the gentlewoman from Waterville, Mrs. Kany, and we won't have to worry about an office. It is like "Gone with the Wind".

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

Mr. HIGGINS: Mr. Speaker, Ladies and Gentlemen of the House: I have been sitting here listening to the debate, and since it is my bill, I think perhaps I ought to offer a few comments here this morning.

Currently, the State of Maine is in the tourist promotion business. By virtue of a contract between the State Development Office and the Maine Publicity Bureau, a public-private partnership was formed to market Maine.

This legislation seeks to create economic development of an environmentally clean industry, the film industry.

The current contractual agreement requires the Publicity Bureau to deal with increase relating to film production. However, due to the various budget constraints and obligations to different priorities, they tend to provide a limited service at best.

This bill seeks to bring together a board of industry-related personnel to serve in a highly technical industry and would supply some of the much needed support services that the Maine Publicity Bureau needs.

Currently, Maine is at a competitive disadvantage. Over the past six years, 41 other states have enacted film boards. Among them are our New England neighbors, Massachusetts and New Hampshire.

Since its inception in May of 1980, approximately one year ago, the New Hampshire Film and Television Bureau has arranged for the production of three major motion picture films. Among them was, "On Golden Pond", a feature-length film Maine lost when New Hampshire formed their film bureau last Spring and actively courted the producers of the film. While the figures are still being computed, the presence of these three film cruises returned approximately five to six million dollars in new money to the state's economy. Money has generated by such services as hotel and restaurants in addition to the local labor force.

Perhaps the strongest argument in favor of this bill is the fiscal note, of which there is none. The Office of Legislative Finance has stated that it appears that the intent of this bill is that it be self-supporting. Having obtained a total tentative commitment of approximately \$5,000 in contributions, I believe this film board

can provide the support services needed to make Maine competitive in this industry.

To go one step further, I think that if private industry can't or won't support this public-private partnership sufficiently, there should be none. This three-year sunset amendment reflects this philosophy.

In closing, I believe that the criteria to measure the results of the film board is the economic benefit to the state, that is the jobs produced, the money generated here in Maine. While our total investment is merely this piece of legislation, I believe it is financially self-supporting and public-private partnership will provide a strong return on that commitment here today.

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

#### ROLL CALL

YEA — Baker, Beaulieu, Benoit, Boisvert, Boyce, Brannigan, Brennerman, Brodeur, Carrier, Carroll, Carter, Chonko, Clark, Connors, Connolly, Cox, Crowley, Cunningham, Davies, Davis, Diamond, G. W.; Diamond, J.N.; Dillenback, Dudley, Erwin, Fitzgerald, Fowlie, Gillis, Gowen, Gwadosky, Hall, Hanson, Hayden, Hickey, Higgins, H.C.; Hobbins, Ingraham, Jackson, Jacques, Jalbert, Joyce, Kane, Kany, Ketover, Kilcoyne, LaPlante, Laverriere, Lisnik, Locke, MacEachern, Macomber, Manning, Martin, A.; Matthews, McCollister, McGowan, McHenry, McKean, McSweeney, Michaud, Mitchell, E.H.; Mitchell, J.; Moholland, Murphy, Nadeau, Nelson, M.; Norton, Paradis, E.; Paradis, P.; Pearson, Perry, Post, Pouliot, Prescott, Racine, Reeves, P.; Richards, Rolde, Smith, C.B.; Soule, Stevenson, Stover, Telow, Theriault, Thompson, Tuttle, Twitchell, Vose, Walker, Wentworth

NAY — Aloupis, Armstrong, Austin, Bell, Berube, Bordeaux, Brown, A.; Brown, D.; Brown, K.L.; Cahill, Callahan, Conary, Curtis, Damren, Day, Dexter, Drinkwater, Foster, Gavett, Higgins, L.M.; Holloway, Huber, Hunter, Hutchings, Jordan, Kelleher, Kiesenman, Lancaster, Lewis, Livesay, Lund, Mahany, Masterman, Masterton, McPherson, Nelson, A.; O'Rourke, Paul, Perkins, Peterson, Randall, Reeves, J.; Ridley, Roberts, Salisbury, Sherburne, Small, Smith, C.W.; Strout, Studley, Swazey, Tarbell, Treadwell, Weymouth

ABSENT — MacBride, Martin, H.C.; Michael, Soulas, Webster, The Speaker

VACANT — Martin, J.

Yes, 90; No, 54; Absent, 6; Vacant, 1.

The SPEAKER: Ninety having voted in the affirmative and fifty-four in the negative, with six being absent and one vacant, the Majority "Ought to Pass" Report is accepted.

The Bill was read once. Committee Amendment "A" (H - 284) was read by the Clerk and adopted and the Bill assigned for second reading later in today's session.

The Chair laid before the House the fourth 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—May 4 by Representative Diamond of Windham.

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

On motion of Mr. LaPlante of Sabattus, retabulating pending the motion of Mr. Jalbert of Lewiston to indefinitely postpone House Amendment "A" and later today assigned.

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

HOUSE DIVIDED REPORT—Report "A"

(7) "Ought to Pass" as amended by Committee Amendment "A" (H-272)

Report "B" (5) "Ought Not to Pass"

Report "C" (1) "Ought to Pass"—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)

Tabled—May 4 by Representative Brannigan of Portland.

Pending—Motion of Representative Prescott of Hampden to accept Report "A" "Ought to Pass" as Amended by Committee Amendment "A" (H-272)

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

Mrs. PRESCOTT: Mr. Speaker, Ladies and Gentlemen of the House: This is the first time in my memory, as a member of the Health and Institutional Services Committee, that we have had three reports come out on a bill. We have Report A, Report B, and Report C. Everyone in the committee is not totally satisfied with the signing of their report. We tried desperately to compromise in the committee on this babysitting bill and it was a very difficult thing to do.

One thing that the committee did feel very strongly about was the fact that the bill itself "ought not to pass" as it was, that we did need to require some sort of minimum standards or safeguards, if you will, whenever a person takes care of children.

We worked very long and very hard on trying to accommodate the committee members and to work out a compromise and even in Report A some people are still not satisfied, mainly with the area of ratios. We looked at lots of present regulations now required for day care homes and day care centers and babysitters themselves, but in the area of ratios, we could not totally agree, so Committee Amendment "A" is a compromise that says that if you have six preschool children and six additional children, or up to 12, then you would need two providers to care for those children. The difference between that and what the present regulations state, the present regulations would require three persons, and the compromise was two persons.

Maine, I believe, has one of the highest ratios now in the nation and we felt that compromising at two provide was a fair and a reasonable compromise.

The thing that the committee was concerned about was the fact that when providers hold themselves out to be babysitters and take care of more than three children, they are in the business, and when they run a business, we must make sure there are safeguards to protect, and in this case, the children who are being cared for. If, for example, you were being charged as a parent \$35 a week for care for your child, and let's say that this provider is caring for six children, their salary for the year would be roughly \$10,000. That a business when you are caring for that many children, and when you are running a business like this, there must be some minimum standards. Report C, which would be the original bill, would wipe out any standards, there would be none. Probably some of you recall last summer the fact that the department was put on notice by many parents around the state and they were chastised for the regulations that they now have, and I think rightfully so. They had 19 pages of regulations that regulated licensing of day care centers. Through public hearings and through an open process, those departmental regulations were reduced to a mere six pages of regulations. During that compromise by the department, we agreed that there would be no more program standards required under licensure, that the ratios could be lowered, and that there could be more school age children taken care of by a provider that would be licensed.

Parents appeared to be quite satisfied with

that compromise that the department made on its regulations, but this legislative session we have a bill which would now take away all of those six pages of regulations and the committee felt that we should consider under Report A the fact that we don't want to take away all of the regulations but consider the fact that we would like to further reduce the regulations and, further, we would like those regulations to be in statute and not be departmental regulations. So that is what the Committee Amendment on Report A does do.

It gives a choice to the provider to be either licensed or registered by the department. They may choose to be licensed and follow the six pages of regulations, or they may choose to be registered and follow the statutes that we are proposing in Report A. They would have a choice.

I believe that Committee Report A has stipulated some very good safeguards. We have required that the provider be healthy, we have required that the water be safe, and we have also required a fire inspection on an annual basis. But that is not all that was required in this amendment, we went a bit further. We said that the department could investigate any complaints that a parent might have about the care that was being given by that care giver. We also said that the department may suspend a registration if there was any reason to be concerned about the welfare of the children being taken care of. We also provided for a violation, for a fine, if the provider was not complying. So, I think Report A is a reasonable compromise.

If you vote for Report A, you would be voting for the fact that we are going to say, yes, parents will have a choice to be either registered or licensed by the department. If they are licensed, they would be under the departmental authority. If they are registered, the legislature will decide what those minimum standards would be, and those minimum standards would be Report A.

If you vote for Report B this morning, you would be voting "Ought Not to Pass" on the whole bill, which means that only the regulations we now have would protect the children in a day care home.

If you vote for Report C this morning, you are voting for the original bill, and the original bill would wipe out all licensure standards under regulation and it would wipe out all regulations. The person could care for as many children as they chose in their homes, and I don't believe that that is what we want, and I hope you will support Report A.

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

**MR. MCCOLLISTER:** Mr. Speaker, Ladies and Gentlemen of the House: This L.D. frees an estimated 80,000 women with children 18-years-of-age and under from contributing to the violation of the law that now demands a \$500 fine or an 11 month jail sentence or both. Approximately 37,000 men and women in Maine could now be in violation of this law. The law requires that if you care for three or more children on a regular basis, you must be inspected and licensed by the state. The above estimates were furnished by the Research Division of the Department of Manpower Affairs.

Licensed day care centers in family homes number 599, caring for 7,200 children, which is approximately 4 percent of the children needing those services. So it would be assumed that there are approximately 180,000 children either being cared for privately, illegally or being left unattended.

According to the Department of Human Services, Day Care Licensing Division, one fine has been levied in their 16 year record and no one has been jailed. Either the Department of Human Services has found that the law is not enforceable or those in power within the department feel that the law is unfair; consequently, they have not enforced it.

However, there are a number of cases within a 15 mile radius of Augusta where some members of the department have tried to develop evidence through "gestapo methods" the maintaining of surveillance of private homes in automobiles registered to the department. The latest incidence occurred just a few weeks ago. Are we sent to Augusta to make laws that make criminals of honest men and women? Are we sent here to make laws that are not enforceable, or laws that the department may use in a discriminatory method? The L.D. before us, 950, "An Act to Remove Private Babysitting Arrangements from the Jurisdiction of the Department of Human Services," says in its statement of fact, "This bill allows day care operations which do not receive any state or any federal funds to be exempt from the rules promulgated by the Department of Human Services." In many cases, compliance with these rules is an unnecessary burden to both those providing and those purchasing the service.

Committee Amendment "A" is certainly acceptable as how the statement of fact on the back does not become part of the law. Why am I willing to accept the amendment? Because it removes the imprisonment requirements of the law. It further includes the same exemptions to persons not receiving federal or state funds.

Many of us have been convinced that a law is absolutely necessary and L.D. 950, without its accompanying committee amendment, could not be passed into law. I certainly hope that no one is callous and irresponsible, so unfeeling, as to move indefinite postponement of this bill. Many of those 80,000 some-odd working men and women could not be employed if inexpensive babysitting was not available from private babysitters, of which there are only 487 licensed in the state charging between \$25 and \$35 per week; whereas the federally funded and state funded day care centers, of which there are a 112, who, by the way, were a large majority of those opposed the bill in the hearing, charge between \$40 and \$60 a week, of which you and I as taxpayers help pay.

With the cuts that President Reagan is demanding, far more than the \$40 to \$60 a week charge, will either be funded by the state of Maine or they will lose their clientele to the public sector, so their opposition to the bill, one could reason, might be to defend present protective legislation. In other words, the working mother will either pay in many cases double what she is today or quit her job and draw welfare. Yes, she will have to draw welfare, for in many families in the state of Maine, forms of state and local assistance are available to a family even though the husband is working. We all know that those working just at or slightly above minimum wage cannot hardly support a family with children.

So far, we have not addressed the problem which will be faced by many women. Yes, some 37,000 of them, we estimate, have no marketable working skills but they make wonderful daytime substitute mothers. In many cases, they have the time, the experience, as well as the added income from pleasant, happy, clean, caring environment for the children. They are called, Auntie, Grandma, Nana, sometimes "my number two mother."

These, ladies and gentlemen, are people, they are just not numbers, but warmblooded, living taxpayers, people who this L.D. and its accompanying amendment seeks to defend, so I urge you to support the amendment and the bill.

**THE SPEAKER:** The Chair recognizes the gentleman from Portland, Mrs. Ketover.

**MRS. KETOVER:** Mr. Speaker, Ladies and Gentlemen of the House: Even though I hate to go against the committee majority report and our most esteemed chairperson, the gentleman, Representative Prescott, but I had to sign the bill "Ought Not to Pass" because of the concern on ratio. The committee couldn't agree on ratio and I couldn't agree on the com-

mittee amendment.

The genesis of this legislation is because there was a day care provider who for 30 years had taken over the limit of 12 children and a complaint was made and the department checked her out, and because of the personalities involved, the aggravation began to limit or do away any licensing altogether.

Many meetings and hearings were held last Spring in 1980, compromise licensing rules and regulations were submitted to the department and this reduced 19 pages to 6 pages. I feel that they have come a long way.

The committee worked very hard to come up with a self-certification registration bill, which could have meant that the department would have sent out the paper work and the babysitter could have sent it back with her safety codes all intact and that is all that would have happened. Then, if there was a complaint, then the department would have gone out.

There was a breakdown in the attempt to compromise. I personally feel that we have to try to work very hard to get the underground people out for self-certification.

This week along there have been three complaints to the department on babysitting. An example, in the Bangor News, I don't know if some of you have seen it, but there shows a woman with six infants walking down the street with the children in harnesses. Could she have saved all six of those children if a car came up on the sidewalk? No, she could not. She would have picked three only, because that is all she could have picked up. The car could have killed the three and then you would have come back and said, why did you choose those three, why didn't you choose my child? She needed to have a second person with her.

I was going to put an amendment in, but because it came out of committee with a three way report, I didn't want to confuse the issue any more than it is.

We discuss many issues here in this great body with great concern about killing of animals, which, if you are a hunter, it is okay, but this issue is about children's rights, I can't see regulating house mortgages, and, you know, it went up to 19 percent. I don't see why we have to have a driver's license. Why do we have to have a license to operate a restaurant?

This is becoming big business and I see this growing. If a child is under the age of two, that child cannot complain if someone is treating him badly. I know there are people out there who are your friends and you know that they're really great and they are wonderful people to have babysit. Yes, they may be a grandmother or nana type, but I don't think anyone would have killed President Kennedy or shot President Reagan if they were wonderful people, but there are people out there who are crazy and will do anything for whatever reason they do these terrible crimes.

There are many more working mothers and the need for babysitting is becoming more of a problem and people are more desperate for these services because they must work. We were told that parents can make their own decisions as to who should or who should not take care of these children. Example: a teacher called the babysitter and said she wanted to meet her before she hired her. Instead, the next day the woman came over and just dropped her children off and said she would be back later to pick them up without even checking the babysitter out. The babysitter was horrified at this.

There are many people who are running licensed babysitting homes that are doing a great job and we should respect their needs for their existing ratios.

We have heard about the pricing of the providers. There are providers out there who charge, yes, \$50 a week, for a child, and then there are some who take three of them for \$50. The providers themselves make that decision, how much they are going to charge.

Yes, they also work under the minimum wage; \$50 a week is certainly below the minimum wage if you are doing it 40 hours a week. They also have to pay out of that \$50 per child for their food, their toys, cribs. One lady called me and said she had to improve her home and she spent \$1500 getting her house ready to be a licensed provider.

This Amendment "A", if you have read it, is stricter than the original regulations that we have now. I hope that this body, with its great wisdom, will support me, "Ought Not to Pass", and will indefinitely postpone this bill and all its accompanying papers.

The SPEAKER: The gentlewoman from Portland, Mrs. Ketover, moves that the Bill and all its accompanying papers be indefinitely postponed.

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

Mr. MCCOLLISTER: Mr. Speaker, Ladies and Gentlemen of the House: If there was one thing that the voters told us most last fall, it was that government stop controlling their everyday lives and to stop interfering in their private affairs.

The indefinite postponement would leave, in effect, the present law, which calls for inspection and licensing of any person in his or her place of residence and the accompanying \$500 fine and 11 months in jail. With an estimated 37,000 present illegal babysitting arrangements, this would more than triple our present prison population. Now, if the Appropriation Committee members will plug their ears, this would bring in an estimated \$18½ million in fines—maybe we should have the Transportation Committee leave also.

Also, in order to ensure equal treatment under the law, the Department of Human Services would have to hire an army of investigators. Our court system would need to be expanded to handle this avalanche of prosecutions.

In closing, I can only state my opinion, that indefinite postponement is an act of irresponsibility by this legislature, and I beg of you, ladies and gentlemen, to vote no on the present motion.

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

Miss LEWIS: Mr. Speaker, Ladies and Gentlemen of the House: I am the prime sponsor of this measure, and as a prime sponsor, I would like to commend the Health and Institutional Services Committee on its fine job of compromise.

I originally submitted this piece of legislation because of complaints by both mothers and fathers and by babysitters themselves of the kinds of tactics that the Department of Human Services was using to enforce their rules and regulations. It then became clear to me during the work sessions and during the hearing that my bill, which would have removed all regulation, was probably not the appropriate thing for this legislature to do, and for that reason, I felt that I must support the gentlelady from Hampden and the majority of the committee on Health and Institutional Services on their amendment.

The real issue at stake is not babysitting. The real issue at stake is, who should make the rules and regulations? It is my understanding that this body has several bills before it which would require agency review of various rules and regulations. Rather than to have to hope that one of those bills will pass, why don't we put the rules and regulations that we want into statute. If we can put what we want into statute, we will not have to worry about the department irresponsibly behaving, and for that reason, I hope that you will put these rules into statute, that you will vote against the motion to indefinitely postpone this bill and that you will then proceed to move the majority report of the committee.

The SPEAKER: The Chair recognizes the

gentleman from Sanford, Mr. Tuttle.

Mr. TUTTLE: Mr. Speaker, Ladies and Gentlemen of the House: After talking to many local officials in my area, I would agree with Mrs. Ketover. It appears that there is little need and support of this legislation. In its original form, it is a bad bill, and I believe in its amended form, it clearly addresses a half-hearted attempt to salvage the original intent of the legislation. If this bill passes in any way, I feel that it would jeopardize the safety of young children in these programs throughout the state.

Therefore, I hope you will support the motion to indefinitely postpone. I feel that if there is anything irresponsible about this bill, the irresponsibility would be in supporting it, so I hope you will support the motion to indefinitely postpone.

The SPEAKER: The Chair recognizes the gentleman from East Machias, Mr. Randall.

Mr. RANDALL: Mr. Speaker, Ladies and Gentlemen of the House: I rise today to speak in support of Committee Amendment "A" to this babysitting bill, as it has been called. Committee Amendment "A" corrects a problem that now exists. In voting to further indefinitely postpone this bill, we postpone dealing with the problem that now exists, so my position today is that I would urge all of you members of the House to vote in favor of dealing with this problem, to vote in support of what some have called a compromise measure, some have called a half-hearted effort, but I can assure you that the members of the Health and Institutional Services Committee or the sponsors or the cosponsors of this bill, I myself am a cosponsor, certainly are not in support of half-hearted efforts. It is a full-hearted attempt to deal with the problem, it is a reasonable compromise, it is a good amendment to the original bill. I urge you to support Report A.

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

Mrs. THOMPSON: Mr. Speaker and Members of the House: I have a great deal of respect for committee members who spent a lot of time working out compromises. I know that we have to do that in Education a lot and I know it takes a lot of time and I feel somewhat uncomfortable in speaking against the committee amendment.

The original bill does away with all regulations. I see nothing in the original bill that says anything about protecting the health or safety of a child. The problem that I have with the amendment is that dealing with a very complex issue, the committee has come out with three reports. I feel there is no clear consensus from the committee as to what should be the road that we would take. I think that adds to the complications that we face in making a judgment about this.

I would like to speak a little bit about some of the specific problems I find with the amendment. First of all, in an effort to provide more flexibility, the amendment places into statute the standards that private babysitters must meet. Currently, they are having a state department set rules and regulations and a private babysitter who sets up her own business can appeal certain regulations. There is no latitude or discretion left to the department to judge the level of enforcement or take into consideration special hardship situations a babysitter may face.

The amendment requires no on-site inspection by the department, except in the case of complaints. No references are required. The amendment provides no provision to check whether the babysitter or other members of the family have alcohol or narcotic abuse problems. There is no provision to ascertain the appropriateness of other family members who may be around the children being cared for.

The most serious problem I find with the amendment that the current rules and regula-

tions address, however, is the fact that the number of children who would be allowed to be cared for without additional help. The amendment does not recognize, as the current rules and regulations do, that infants and children under two years of age, require a great deal more care for their health and safety than older preschoolers. There is the dangerous possibility that one provider who is caring for five infants or five one-year-olds could never safely remove all five children in the case of a fire, especially in a second-floor nursery.

I feel that the existing rules and regulations allow the Department of Human Services to check out these things when considering licensing. The effect of the amendment in attempting to set up self-registration process, which I applaud, however, significantly reduces the minimum standards by which children are protected. For those reasons, I have to support the indefinite postponement of the bill.

The SPEAKER: The Chair recognizes the gentleman from Presque Isle, Mrs. MacBride.

Mrs. MACBRIDE: Mr. Speaker, Ladies and Gentlemen of the House: I strongly support Committee Amendment "A" and feel that it is a good addition to our present law. I hope you, too, will support it today.

I do request that the Committee Report be read, please.

Thereupon, the Report was read by the Clerk.

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

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

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

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

The way that I read this, and the way an informal, I will say, attorney general's opinion, this bill, the way it is written right now under Committee Amendment "A", allows anybody who does not get federal or state funds to have absolutely no regulations, the way Committee Amendment "A" is read right now. Could anybody answer that question in this body?

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

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

Mrs. PRESCOTT: Mr. Speaker, Ladies and Gentlemen of the House: I will attempt to answer the gentleman's question. I do not think that in the amendment from the Committee Report A it is clear on the point that Representative Manning has made. That is why I have prepared an amendment, which is a technical amendment, which will address that very question. If we support Report A, I intend to introduce my amendment which would clarify that issue.

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

Mr. BRANNIGAN: Mr. Speaker, Men and Women of the House: I was moved by what Mr. McCollister said, and I was also very please that he is supporting the committee's report which deals with regulations.

The reason, however, I think I have to support the "ought not to pass," along with some of the ratio issues that have been brought up, but one of the reasons that I am going to support the indefinite postponement is that I have seen the regulation process work here. I see in our committee and dealing with government bureaucracy, when the regulation process works, I like to support that. That certainly happened last summer, that the department

was certainly overbearing as far as I could see, they certainly went too far and people cried out and made an appeal, and that appeal was heard and changes were made.

Now, if more changes need to be made, and I guess they do from listening to Mr. McCollister and others, then let's do it through that process. We don't want to put statutes on the books as long as things can be done by regulation. I would like to support the way the regulation process is drawn in this issue, and I would be delighted to support personally a further need for changes through the regulatory process. Therefore, I would like to do that and not go through the legislative process at this time.

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

Mr. McHENRY: Mr. Speaker, Ladies and Gentlemen of the House: I hope you all remember the fires that they had in California, two of them, the same people that were opposing regulation, saying let the government do their thing but keep your nose out of our business. Well, I think in the interest of the children, we should say, yes, they should be regulated. If you have the best interest of the children at heart, I say indefinitely postpone this bill.

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

Mr. McCOLLISTER: Mr. Speaker and Members of the House: The issue here is not regulation or no regulation. If we indefinitely postpone this bill, yes, we are going to have regulation and we are going to have an 11-month jail term. I don't believe it is the intent of this Legislature to say that we are going to take 37,000 women out of this state and put them into our court system and say some of you are going to serve 11 months.

The SPEAKER: A roll call has been ordered. The pending question is on the motion of the gentleman from Portland, Mrs. Ketover, that this bill and all its accompanying papers be indefinitely postponed. All those in favor will vote yes; those oppose will vote no.

#### ROLL CALL

YEA—Baker, Benoit, Brannigan, Brenerman, Carrier, Chonko, Connolly, Cox, Davies, Diamond, G. W., Diamond, J. N., Erwin, Fitzgerald, Gowen, Gwadosky, Hayden, Hickey, Jacques, Kany, Kelleher, Ketover, Kilcoyne, Laverriere, Lund, MacEachern, Manning, Martin, A., McGowan, McHenry, McKean, Michaud, Mitchell, J., Moholland, Murphy, Nadeau, Nelson, M., Paul, Pearson, Perry, Reeves, P., Richard, Rolde, Soule, Thompson, Tuttle, Vose.

NAY—Aloupis, Armstrong, Austin, Beaulieu, Bell, Berube, Boisvert, Bordeaux, Boyce, Brodeur, Brown, A., Brown, D., Brown, K. L., Cahill, Callahan, Carroll, Carter, Clark, Conary, Connors, Crowley, Cunningham, Curtis, Damren, Davis, Day, Dexter, Dillenback, Drinkwater, Foster, Fowle, Gavett, Gillis, Hall, Hanson, Higgins, H. C., Higgins, L. M., Hobbins, Holloway, Huber, Hunter, Hutchings, Ingraham, Jackson, Jalbert, Jordan, Joyce, Kane, Kiesman, Lancaster, LaPlante, Lewis, Lisnik, Livesay, Locke, MacBride, Mahany, Masterman, Masterton, Matthews, McCollister, McPherson, McSweeney, Mitchell, E. H., Nelson, A., Norton, O'Rourke, Paradis, E., Paradis, P., Perkins, Peterson, Post, Pouliot, Prescott, Racine, Randall, Reeves, J., Ridley, Roberts, Salsbury, Sherburne, Small, Smith, C. B., Smith, C. W., Soulas, Stevenson, Stover, Studley, Swazey, Tarbell, Telow, Theriault, Treadwell, Twitchell, Walker, Webster, Wentworth, Weymouth.

ABSENT—Dudley, Macomber, Martin, H. C., Michael, Strout, The Speaker.

Yes, 46; No, 98; Absent, 6; Vacant, 1.

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

Thereupon, Report A was accepted and the Bill read once. Committee Amendment "A"

(H-272) was read by the Clerk.

Mrs. Prescott of Hampden offered House Amendment "A" to Committee Amendment "A" and moved its adoption.

House Amendment "A" to Committee Amendment "A" (H-295) was read by the Clerk.

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

Mrs. PRESCOTT: Mr. Speaker, Ladies and Gentlemen of the House: This amendment is a technical amendment. It does not make any substantive changes. It addresses a concern that the gentleman from Portland made, Representative Manning. It clarifies the fact that the initial provider must be an 18-year-old and not a 14-year-old. That was the original intent of the committee. It also clarifies that fact that the water must be from an approved source, and in the committee amendment, it just simply says "bottled water or commercial water," which was not a clear definition, and it clarifies what child abuse really is.

I would hope that you would support the amendment.

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

Mr. McCOLLISTER: Mr. Speaker, Ladies and Gentlemen of the House: This amendment drastically changes Committee Amendment "A". The previous committee amendment applied only to those people who receive state and federal funding. If we choose to go with this new amendment, we are forcing anybody in the state who takes care of three or more children to be licensed by the state.

I have no recommendation to you, but I do not like it. I feel it is a tremendous invasion of the privacy of many homes, but if it is the only way we can change the 11-month jail term, then it is at least a step in the right direction.

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

Mr. KELLEHER: Mr. Speaker, Ladies and Gentlemen of the House: Mr. McCollister just raised a point here of interest to me at least. I am not at all concerned about an 11-month jail sentence for anybody that is brought in for abusing a child, and I don't think any member in this House should be concerned about an 11-month jail sentence for anyone that abuses a child. I am sure that those families down in Georgia, as well as the rest of the people across this country, would like to find the scoundrels that are really abusing children down there.

The amendment that the gentledady has just presented seems reasonable about having the proper water for youngsters or to guarantee that they are getting what we call clean water.

You know, I think we all just made a big mistake a few minutes ago by not killing this bill, because if there is anything that is of prime concern to each and every one of us in this state, it is the well-being and care of our children. We just made a major error by watering down existing laws on the books. Each one of us that is concerned about the kids in our own communities, the schools that we have in our communities, we just made a mistake, those of you who voted to accept that amendment and that bill out of the Health and Institutional Services Committee. I only hope that we get another crack at it tomorrow, because if we can't put people in jail who are abusing children, if it is 11 months or 11 years, Mr. McCollister, there is one fellow in Seat 121 that is going to do it. So, we will get another shot at this bill tomorrow, I hope, and we will give it its proper burial.

The SPEAKER: The Chair recognizes the gentleman from East Machias, Mr. Randall.

Mr. RANDALL: Mr. Speaker and Members of the House: I rise just to clarify a bit what my good colleague from the City of Bangor has interpreted to be the meaning of this bill. What I would like to clarify is his concern over the abuse of children. The committee amendment

certainly doesn't seek in any way to abuse children. It seeks to address a problem that is already existing, and that problem, I think, I might illustrate very simply by pointing out to the good gentleman from Bangor that one of the problems that the babysitters have is in this situation, if you will read the bill, about the water supply.

When I moved to East Machias from the good City of Bangor, I moved into a house which had a good drilled well. When I lived in Bangor, I lived on an approved city water supply. Some of the problems with this over-regulation that now exists in regard to day care is the fact that that good water that I drink in East Machias from my well doesn't have state approval because it is in my private home. The good water in the City of Bangor has the good graces and benediction and blessings of the state. We don't need this in child day care in our private homes. I think that is the essence of the bill. I hope that explains a little bit.

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

Mr. JALBERT: Mr. Speaker and Members of the House: Sometimes you spend too much time in one spot and you are not too well acquainted with legislation.

I just made a couple of inquiries, one in particular, and I got an affirmative answer. The person told me third-handed that we had better find out directly.

I voted to keep this bill alive. I understand that at the hearing testimony was given that one woman took care of 33 babies, 33 infants, most of them in cribs, and I would like to know if that is true?

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

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

Mr. BRODEUR: Mr. Speaker and Members of the House: In answer to the gentleman's question, I do not remember it and I was there at the whole hearing, at least for that day.

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

Mr. PARADIS: Mr. Speaker, Ladies and Gentlemen of the House: I have been listening to the debate this morning. While this bill did not come before my committee, and I don't pretend to know all of the angles of this particular legislation, I just want to share with you my thoughts on this.

I think that most of this is shadow, not substance. When we try to deal with the Department of Human Services and the enforcement of certain provisions, we are in day care homes, private homes, I don't really think, and I have seen this over and over again as a Representative, that the department really enforces or can enforce through all kinds of problems the laws that we give them. They come back to you with excuses that we don't have the manpower, that we don't have the time, we have court injunctions we have to be careful of, etc., etc. Have you ever reported a case of child abuse and it has taken them six months to get a preliminary study going where the children are being abused or something? I don't have any faith that they are going to be able to enforce this, or 10,000 other bills like this.

I am very reluctant to vote to give them extra power. It might be nice for us, we might be able to go to a citizen meeting and say that we voted to protect our children, but, in fact, we are not protecting anymore children. They are not going to enforce anything more than they are doing right now. They are doing very little. I really question as a Democrat and as a liberal whether we need to spend that much money on the department. We are employing a lot of people, but we could be doing it a lot better spending it in other areas.

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

Mr. COX: Mr. Speaker, I would pose a question through the Chair to any member of the committee that might answer. This amendment requires testing of water, but what happens if the water fails the test?

The SPEAKER: The gentleman from Brewer, Mr. Cox, has posed a question through the Chair to anyone who may care to answer. The Chair recognizes the gentlewoman from Hampden, Mrs. Prescott.

Mrs. PRESCOTT: Mr. Speaker, Ladies and Gentlemen of the House: If the water is not from an approved source, then the registration would not be allowed for that provider.

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

Mr. BOYCE: Mr. Speaker and Members of the House: As a member of the committee, I do recall some of the testimony, and some of it stood very vividly in my mind. Mr. Jalbert is correct when he said he was informed that one woman said she was babysitting for 33 infants, most of which were in cribs. I don't think we have to look too far or imagine what would happen in case of a natural disaster or fire or whatever.

We also had a woman who very proudly announced in front of our committee hearing just the other day that she has 21 in her house of varying ages. So, there is a problem in this whole situation, as has been alluded to many times, but I don't think it has been brought into proper chronology, began when the Human Services Department promulgated rules of about 19 pages.

Now, that illustrious other body, just last year, took it upon themselves, the leadership of the other body, both parties, got together with Human Services and weeded this whole thing down to a little set of regulations which you have right here. It has only been one year, for 12 months we have been operating under this. Let's give it a chance and go along with the existing regulations.

I agree with Mr. Kelleher. I voted "ought not to pass" on this bill originally. I still stand by that, I think we made a big mistake not moving in favor or the indefinite postponement.

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

Miss LEWIS: Mr. Speaker, Ladies and Gentlemen of the House: I would like to briefly respond to comments made by the Representative from Augusta and the Representative from Lewiston.

The SPEAKER: The Chair would advise the gentlewoman that she may, provided that it deals with the amendment and not the bill. Otherwise than that, she should defer in her comments.

Miss LEWIS: Then I do hope you will pass the amendment before us, which is a technical amendment and will clean up the bill, and that some of the people who have spoken on this bill have been in error in some of their comments.

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

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

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

Mr. KELLEHER: Mr. Speaker, I move that this bill and all its accompanying papers be indefinitely postponed, and I do it in the spirit that this House would be making a major mistake on behalf of the children of this state if we accepted this watered-down version that came out of the Health and Institutional Services Committee, and I request the yeas and nays on my motion.

The SPEAKER: The Chair would advise the gentleman that he will have to wait for his motion later this afternoon. The only pending motion now before us is assignment for second reading. I suppose you could prevent that second reading being put at this time by a division and then the Chair would entertain the motion to indefinitely postpone.

Mr. KELLEHER: Mr. Speaker, I think the matter is very important and I object to this going to second reading and I ask for a division.

The SPEAKER: The pending question is on assignment for second reading. If you are in favor of assigning this for second reading later today you will vote yes; if you are opposed, you will vote no.

A vote of the House was taken.

75 having voted in the affirmative and 59 having voted in the negative, the Bill was assigned for second reading later in the day.

By unanimous consent, unless previous notice was given to the Clerk of the House by some member of his of her intention to move reconsideration, the Clerk was authorized today to send to the Senate, thirty minutes after the House recessed for lunch and also thirty minutes after the House adjourned for the day, all matters passed to be engrossed in concurrence and all matters that required Senate concurrence; and that after such matters had been so sent to the Senate by the Clerk, no motion to reconsider would be allowed.

#### (Off Record Remarks)

On motion of Mrs. Prescott of Hampden, Recessed until five o'clock in the afternoon.

#### After Recess

The House was called to order by the Speaker.

The following papers appearing on Supplement No. 9 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. 236) (L.D. 250) Bill "An Act to Provide for the Termination of Cable Television Permits Prior to July 1, 1965 without Fixed Termination Dates" (C. "A" H-293)

(H.P. 1131) (L.D. 1348) Bill "An Act to Assist Homeowners in Peak Power Conservation" (C. "A" H-292)

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

(S.P. 427) (L.D. 1249) Bill "An Act to Bring the Maine Traveler Information Services Act into Conformity with the United States Constitution" (C. "A" S-121)

On the objection of Mr. Higgins of Scarborough, was removed from the Consent Calendar.

Thereupon, the Report was accepted and the Bill read once. Committee Amendment "A" (S-121) was read by the Clerk and Adopted and the Bill assigned for second reading tomorrow.

(S.P. 444) (L.D. 1282) Bill "An Act to Amend the Criminal Code and Related Criminal Laws" (C. "A" S-155)

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

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

#### Leave to Withdraw

Representative Kane from the Committee on Taxation Bill "An Act Concerning the Qualification of Persons and Firms in the Valuation of Property for Tax Purposes" (H.P. 1160) (L.D. 1392) reporting "Leave to Withdraw"

Representative Kane from the Committee on Taxation on Bill "An Act to Amend the Sales Tax Refund Law on Depreciable Machinery and Equipment used in Farming and Fishing"

(H.P. 437) (L.D. 484) reporting "Leave to Withdraw"

Representative Kane from the Committee on Taxation on Bill "An Act to Amend the Jobs and Investment Tax Credit Law" (H.P. 830) (L.D. 986) reporting "Leave to Withdraw"

Representative Theriault from the Committee on Education on Bill "An Act Relating to Special Education, Vocational Education, and Transportation Operating Allocations" (H.P. 653) (L.D. 759) reporting "Leave to Withdraw"

Representative Holloway from the Committee on Health and Institutional Services on Bill "An Act to Prohibit Smoking in Food Stores and Portions of Restaurants" (H.P. 457) (L.D. 509) reporting "Leave to Withdraw"

Representative Prescott from the Committee on Health and Institutional Services on Bill "An Act Concerning Clean Indoor Air" (H.P. 1038) (L.D. 1257) reporting "Leave to Withdraw" (Senator Bustin of Kennebec — abstained)

Reports were read and accepted and sent up for concurrence.

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

#### Passed to Be Engrossed Amended Bills

Bill "An Act to Create a Maine Film Board" (H.P. 1209) (L.D. 1424) (C. "A" H-284)

Bill "An Act Concerning Appointed Chief Administrative Officers of Local Districts under the Maine State Retirement Laws" (H.P. 418) (L.D. 465) (C. "A" H-289)

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

#### Second Reader

##### Later Today Assigned

Bill "An Act to Remove Private Babysitters Arrangements from the Jurisdiction of the Department of Human Services" (H.P. 796) (L.D. 950) (H. "A" H-295 to C. "A" H-272)

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

On motion of Mr. Kelleher of Bangor, tabled pending passage to be engrossed as amended and later today assigned.

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

Bill "An Act Increasing Indebtedness of the Limestone Water and Sewer District" (Emergency) (H.P. 1424) (Presented by Representative McKean of Limestone) (Approved for introduction by a Majority of the Legislative Council pursuant to Joint Rule 27)

Under suspension of the Rules, the Bill was read twice, passed to be engrossed without reference to any committee and sent up for concurrence.

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

#### Ought Not to Pass

Report of the Committee on Taxation reporting "Ought Not to Pass" on Bill "An Act to Index the Income Eligibility Levels Under the Elderly Household Tax and Rent Refund Program" (S.P. 75) (L.D. 112)

In accordance with Joint Rule 22, this matter was placed in the legislative files without further action in concurrence.

#### Leave to Withdraw

Report of the Committee on Taxation reporting "Leave to Withdraw" on Bill "An Act to Provide a Tax Exemption for Post-secondary Education Payments" (S.P. 442) (L.D. 1280)

Report of the Committee on Taxation reporting "Leave to Withdraw" on Bill "An Act to Provide an Income Tax Credit for Geothermal

Energy Systems" (S.P. 211) (L.D. 576)

Report of the Committee on Appropriations and Financial Affairs reporting "Leave to Withdraw" on Bill "An Act to Provide Arthritic Drugs to Low Income Elderly" (S.P. 419) (L.D. 1263)

Report of the Committee on Public Utilities reporting "Leave to Withdraw" on Bill "An Act to Protect Consumer Rights in the Acts and Practices of Public Utilities" (S.P. 219) (L.D. 606)

Came from the Senate with the Reports and read and accepted.

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

#### **Referred to the Committee on Local and County Government**

Report of the Committee on Taxation on Bill "An Act to Establish a Limit on County Government Taxation" (S.P. 468) (L.D. 1324) reporting that it be referred to the Committee on Local and County Government.

Came from the Senate with the report read and accepted and the Bill referred to the Committee on Local and County Government.

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

#### **Ought to Pass in New Draft Tabled and Assigned**

Report of the Committee on Agriculture on Bill "An Act to Reimburse Owners of Livestock, Poultry or Beehives which are Destroyed or Damaged by Dogs or Wild Animals" (S.P. 110) (L.D. 239) reporting "Ought to Pass" in New Draft (S.P. 582) (L.D. 1558)

Came from the Senate with the Report read and accepted and the New Draft passed to be engrossed as amended by Senate Amendment "A" (S-157)

On motion of Mr. Mahany of Easton, tabled pending acceptance of the Committee Report in concurrence and specially assigned for Thursday, May, 7.

The following paper appearing on Supplement No. 14 was taken up out of order by unanimous consent:

#### **Divided Report**

Majority Report of the Committee on Transportation reporting "Ought to Pass" on Bill "An Act to Provide a Right-of-way to Pedestrians Against Drivers Entering Private Ways" (S. P. 457) (L. D. 1305)

Report was signed by the following members:

Signed:

Senators:

USHER of Cumberland  
EMERSON of Penobscot  
O'LEARY of Oxford

—of the Senate.

Representatives:

REEVES of Pittston  
CARROLL of Limerick  
STROUT of Corinth  
MOHOLLAND of Princeton  
McPHERSON of Eliot  
HUTCHINGS of Lincolnville  
FOWLIE of Rockland

—of the House.

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

Report was signed by the following members:

Signed:

Representatives:

HUNTER of Benton  
MACOMBER of South Portland  
McKEAN of Limestone

—of the House.

Came from the Senate with the Majority "Ought to Pass" Report read and accepted and the Bill passed to be engrossed.

In the House: Reports were read.

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

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

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

Mr. McKEAN: Mr. Speaker, Ladies and Gentlemen of the House: Before we do accept that, if we do, I would like to perhaps tell you why I signed the report the other way.

We presently have a law on our books which says that when you back out of a driveway, you have to stop. We don't have a law on the books that says when you go into a driveway you have to stop for a pedestrian who may be crossing in a walk in front of your driveway, and I think there is a very good reason for that.

Picture yourself on the city streets of Portland or Bangor or any major busy street. You start to turn into your driveway, you see a pedestrian who has perfect control because he can see as he walks up the sidewalk where you are, but you may not see him because of trees, hedges, fences, garbage cans or whatever there may be, and as you come across that driveway or start to come off the street, you have to stop. You have a lot of traffic behind you, a lot of traffic on the street, and to me this would create a very dangerous situation with the back end of your car sitting out on the busy street. I think this is the reason why this law was not placed on the books earlier.

I also see another thing that could happen. As much as we hate to admit it, there are some people in the state who make it a life's profession to see what they can get out of insurance companies. I feel this would be a wonderful opportunity, because all you would have to do is walk across that driveway, see a guy is going to turn, go up and bump the side of his car and fall down in the street and say, oh, you got me, and sure as the devil that insurance company is going to have to pay off. You know it happens, and I think this is a pretty dangerous practice to follow.

I would hope that you would consider, when you ask for this Majority "Ought to Pass" Report, these little items, mainly the fact that you have an automobile sticking out on a busy street or having to stop on a busy street and the danger of a rear-end collision is very vivid.

Let's be careful how we vote on this.

The SPEAKER: The Chair will order a vote. The pending question is on the motion of the gentleman from Limerick, Mr. Carroll, that the Majority "Ought to Pass" Report be accepted in concurrence. All those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

70 having voted in the affirmative and 51 having voted in the negative, the motion did prevail.

Thereupon, the bill was read once and assigned for second reading tomorrow.

At this point, the rules were suspended to allow legislators to remove their jackets.

The following papers appearing on Supplement No. 15 were taken up out of order by unanimous consent:

#### **Non-Concurrent Matter**

Bill "An Act to Establish Truck Volume Labeling for Certain Wood By-Products" (H. P. 832) (L. D. 999) which was passed to be engrossed as amended by Committee Amendment "A" (H-262) as amended by House Amendment "A" (H-273) thereto in the House on May 1, 1981.

Came from the Senate passed to be engrossed as amended by Senate Amendment "A" (S-164) in non-concurrence.

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

#### **Non-Concurrent Matter**

Bill "An Act to Revise the State Personnel

System" (H. P. 1395) (L. D. 1566) which was passed to be engrossed as amended by House Amendment "B" (H-270) in the House on April 29, 1981.

Came from the Senate passed to be engrossed as amended by House Amendment "B" (H-270) and Senate Amendment "A" (S-161) in non-concurrence.

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

The following papers appearing on Supplement No. 16 were taken up out of order by unanimous consent:

#### **Non-Concurrent Matter**

Bill "An Act to Require Legislative Confirmation of Harness Racing Commission Members" (H. P. 734) (L. D. 872) on which the Majority "Ought Not to Pass" Report of the Committee on Agriculture was read and accepted in the House on May 4, 1981.

Came from the Senate with the Minority "Ought to Pass" Report of the Committee on Agriculture read and accepted and the Bill passed to be engrossed in non-concurrence.

In the House:

The SPEAKER: The Chair recognizes the gentleman from Easton, Mr. Mahany.

Mr. MAHANY: Mr. Speaker, I move that we adhere.

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

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

We did debate this bill somewhat yesterday, and I hesitate to prolong the debate, except that I would like to point out a couple of things that may have been overlooked in our debate yesterday.

During the debate, it was noted that during the work session the only person who appeared in favor of this bill was the sponsor, and that is true. There were several people who did appear and gave some, if there is such a word for it, lukewarm resistance to the legislation, but there was resistance to the passage of this bill and that is the reason that we did have a minority report, which I was urging for your consideration yesterday.

However, at the hearing, the bill was supported by the Maine Agricultural Fair Association and the committee did have a letter from the Maine Agricultural Fair Association indicating their support of this legislation.

Also during the debate yesterday, there were some references made to possible dissatisfactions, and it was noted that we cannot always satisfy everybody. I agree with that, but I want you to know, I want everybody in this body to know, that my motivation for presenting this legislation was not because I have any animosity toward current persons who are serving on the Harness Racing Commission; quite the contrary.

I gave you statistics yesterday indicating that the industry is enjoying a rapid growth at the present time and I tried to point out to you that because of this rapid growth and because of the importance of this industry, which is now in the \$60 million area in the State of Maine, we should be concerned and we should begin to know a little more about what is happening in that industry. That is the argument that I used in favor of passage of this legislation, we do have an important industry here, we do have considerations that all of the tracks be treated fairly in this important commission, because this industry is extremely sensitive to the decisions made by the Harness Racing Commission. It can be made or broken very quickly and very easily if some miscalculations are made. I am not saying that they have been.

I think we are growing now, but I think it is time, because of this growth, that we look in and see just how important it is and have some legislative oversight. I think this is only a small legislative oversight that I am proposing and

perhaps that is the reason that the bill might seem to be a little premature, but I don't think we should wait until something happens in the negative, until something happens that may be harmful to the industry, before we react. I think we should be on the spot now and I urge your acceptance of the motion to recede and concur.

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

Mr. KELLEHER: Mr. Speaker, Ladies and Gentlemen of the House: The \$60 million industry that Mr. Cunningham is talking about perhaps is a \$100 million industry or maybe a \$125 million industry if you take all the assets that are involved and all the factions that are involved that creates the Maine Harness industry in the State of Maine. But the amount of money wagered in this state is, and I am sure that he didn't mean or ever attempt to mislead anybody, approximately \$22 million to \$24 million a year that is wagered in the State of Maine.

He seems to be raising his arguments on the possibility of suspicion, that perhaps something may happen. I might say to this House that we have a healthy industry in this state. We have a healthy industry in this state not only because we have a commission that works and functions well, but we also have an interest in terms of the private sector that participates to create a healthy interest.

Mr. Higgins comes from an area in Maine where Scarborough Downs is located, which has created a very healthy environment for the harness racing in the state and, more importantly, the healthy environment of that particular raceway has ensured, to some degree, prosperity to Maine fairs, because of the amount of dollars that are wagered and the amount of money that is paid back.

Mr. Cunningham is concerned about checks and balances—my good friend, let me say that I think we have a reasonable check and balance system. The approval of the Racing Commission by a legislative committee is just a matter of judgment. It is important but I don't think it has reached the point in life where we have to have a special legislative committee look into it in terms of approving the appointments. Let me tell you, in the 25 years that I have been associated with this particular industry, we have had some excellent appointments from both political parties, both from the agricultural fairs themselves and from private industry that participates.

I disagree with the gentleman's argument. I would hope that we would not recede and concur and then we could follow the motion made by the gentleman from Easton, Mr. Mahany, and that is to adhere.

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

A vote of the House was taken.

Mr. Clark of Millinocket requested a roll call.

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

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

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

Mr. HIGGINS: Mr. Speaker, Ladies and Gentlemen of the House: Perhaps I should hesitate to rise since I was apparently on the prevailing side on that particular issue, and I don't like to push my luck, but I was involved in the debate yesterday on this bill and I guess I feel somewhat apprehensive in standing before you, as I said yesterday, that the track, the racing track

that is located in my town, has made out very well under the present system. They granted some 40 additional dates for harness racing, and Scarborough, it is my understanding, got all the extra dates.

I want to make it clear that this legislation in no way is going to say that the legislature is going to determine the racing dates that are authorized by the commission. I think the gentleman from New Gloucester, Mr. Cunningham, has made a pretty good point on the fact that the industry is growing, there has been some controversy about the allotment of racing dates, there has been some controversy over big tracks versus small tracks, and I think that is probably the key issue here. There is no one here trying to indicate to the House that there is any suspicion or anything like that going on.

My concern is that this industry, along with others, and the people who serve on these boards, should come under the scrutiny of this legislature. I don't think that is asking for a great deal.

I spoke to the general manager of Lewiston Raceway the other day about this particular piece of legislation, and he was not as concerned about this bill as he was with the other piece of legislation that is in that deals with the additional revenue to the track and to the horsemen. That is a bill that apparently everyone is in agreement on, but his concern on this bill, as he said to me, was that he felt he liked the bill because he felt that at that point in time the legislature might have some ability to get involved, not get involved, perhaps, but he was concerned with the areas of the state that are being represented.

Presently, there is a member from Bangor, one from Portland and one from Saco, and I guess he seems to feel that perhaps there ought to be someone from their area, perhaps there ought to be someone from northern Maine that is involved. This legislation isn't going to correct that necessarily, but it is going to make the legislature aware of what is going on in this important industry in the State of Maine.

It is going to be growing and there are going to be other bills to deal with this issue this session, the next session and the session after that, and I think the good gentleman from New Gloucester, Mr. Cunningham, has offered us an alternative that I see as a small step but one this is necessary and would be helpful to the industry.

I hope you would go along with the motion to recede and concur.

The SPEAKER: A roll call has been ordered. The pending question before the House is on the motion of the gentleman from New Gloucester, Mr. Cunningham, that the House recede and concur. Those in favor will vote yes; those opposed will vote no.

#### ROLL CALL

YEA—Aloupis, Armstrong, Austin, Bell, Berube, Bordeaux, Boyce, Brown, D., Brown, K. L., Cahill, Callahan, Conary, Connors, Cunningham, Curtis, Damren, Davis, Day, Dexter, Dillenback, Drinkwater, Gavett, Gillis, Gowen, Hanson, Higgins, L. M., Holloway, Huber, Hutchings, Ingraham, Jackson, Jordan, Kiesman, Lancaster, Lewis, Livesay, Lund, MacBride, Masterman, Masterton, McPherson, Michaud, Murphy, Nelson, A., O'Rourke, Perkins, Peterson, Randall, Reeves, J., Ridley, Salsbury, Sherburne, Smith, C. W., Stevenson, Stover, Studley, Tarbell, Telow, Treadwell, Walker, Wentworth, Weymouth.

NAY—Baker, Benoit, Boisvert, Brannigan, Brenerman, Brodeau, Carroll, Carter, Chonko, Clark, Connolly, Cox, Crowley, Davies, Diamond, G. W., Diamond, J. N., Dudley, Erwin, Fitzgerald, Fowlie, Gwadosky, Hall, Hayden, Hickey, Higgins, H. C., Hobbins, Jacques, Jalbert, Joyce, Kane, Kany, Kelleher, Ketover, Kilcoyne, Lisnik, Locke, MacEachern, Macomber, Mahany, Manning, Matthews, McColister, McGowan, McHenry, McKean, McSweeney, Mitchell, E. H., Mitchell, J., Mo-

holland, Nadeau, Nelson, M., Norton, Paradis, E., Paradis, P., Pearson, Perry, Post, Pouliot, Prescott, Racine, Reeves, P., Richard, Roberts, Rolde, Smith, C. B., Soulas, Soule, Swazey, Theriault, Thompson, Twitchell, Vose, Webster, The Speaker.

ABSENT—Beaulieu, Brown, A., Carrier, Foster, Hunter, LaPlante, Laverriere, Martin, A., Martin, H. C., Michael, Paul, Small, Strout, Tuttle.

Yes, 62; No, 74; Absent, 14; Vacant, 1.

The SPEAKER: Sixty-two having voted in the affirmative and seventy-four in the negative, with fourteen being absent, the motion to recede and concur does not prevail.

Thereupon, the House voted to adhere.

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

Mr. KELLEHER: Mr. Speaker, having voted on the prevailing side, I now move that the House reconsider its action and urge you all to vote against me.

The SPEAKER: The gentleman from Bangor, Mr. Kelleher, having voted on the prevailing side, now moves that the House reconsider its action whereby it voted to adhere. Those in favor will say yes; those opposed will say no.

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

#### Leave to Withdraw

Representative Diamond from the Committee on State Government on Bill "An Act Relating to the Powers of the Maine State Housing Authority" (H. P. 730) (L. D. 863) reporting "Leave to Withdraw".

Representative Small from the Committee on State Government on Bill "An Act to Increase Rental Unit Energy Conservation" (H. P. 1111) (L. D. 1316) reporting "Leave to Withdraw".

Reports were read and accepted and sent up for concurrence.

The following items appearing on Supplement No. 17 were taken up out of order by unanimous consent:

#### Consent Calendar

##### First Day

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

(S. P. 43) (L. D. 44) Bill "An Act to Abolish the Position of County Treasurer in Penobscot County and Replace it with a Full Time Finance Officer." Committee on Local and County Government reporting "Ought to Pass" as amended by Committee Amendment "C" (S-159).

(H. P. 767) (L. D. 903) Bill "An Act to Amend the Provisions for Election as Voter Member of a County Charter Commission." Committee on Local and County Government reporting "Ought to Pass" as amended by Committee Amendment "A" (H-294).

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

The following paper appearing on Supplement No. 18 was taken up out of order by unanimous consent:

Representative Erwin from the Committee on Fisheries and Wildlife on Bill "An Act Restricting a Section of the Union River in Ellsworth to Fly Fishing Only" (H. P. 842) (L. D. 1008) reporting "Leave to Withdraw".

On motion of Mr. MacEachern of Lincoln, the Bill was recommitted to the Committee on Fisheries and Wildlife and sent up for concurrence.

The following papers appearing on Supplement No. 19 were taken up out of order by unanimous consent:

### Leave to Withdraw

Representative Jacques from the Committee on Energy and Natural Resources on Bill "An Act to Clarify the Permit Requirements for Large Hydroelectric Projects and to Protect Environmental Values" (H. P. 1006) (L. D. 1202) reporting "Leave to Withdraw".

Report was read and accepted and 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. 840) (L. D. 1006) Bill "An Act to Provide Free Fishing Licenses to Mentally Retarded and Chronically Mentally Ill Persons." Committee on Fisheries and Wildlife reporting "Ought to Pass" as amended by Committee Amendment "A" (H-302).

(H. P. 976) (L. D. 1164) Bill "An Act to Establish Restrictive Covenants for Property Affected by Hazardous Waste." Committee on Energy and Natural Resources reporting "Ought to Pass" as amended by Committee Amendment "A" (H-301).

No objections being noted, the above items were ordered to appear on the Consent Calendar on May 6, under listing of Second Day.

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

Bill, "An Act to Repeal Continuing Education Requirements for Real Estate Brokers" (H. P. 449) (L. D. 496)

Tabled — May 4 by Representative Higgins of Scarborough.

Pending — Motion of Representative Norton of Biddeford to reconsider Indefinite Postponement.

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

Mr. BRANNIGAN: Mr. Speaker, Ladies and Gentlemen of the House: I would like to urge you not to reconsider this item this afternoon. This deals with the issue of continuing education for realtors which was passed by the legislature two years ago. It has only had about 18 months of experience among the realtors' community. It is just a developing program and it is the belief of the majority of our committee that this program, the continuing education for realtors, should be continued, developed.

There were many objections brought up, that some of the courses were poor, I don't want to go over all of the arguments again, although I am sure before we are done maybe all of them will be gone over again. For those who are advanced in real estate work, there are advanced courses, for those who are new, there are more elementary courses.

Realtors are holding themselves out as professional people, dealing with more and more of our money all the time, more and more complicated financing all the time. Therefore, there seems a need for them to keep contemporary with the problems of real estate business, real estate law, and especially real estate financing.

I would ask you to stay with the position this House took several days ago and not reconsider.

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

Mr. RACINE: Mr. Speaker, Ladies and Gentlemen of the House: The reason that I would like to convey to you why we should reconsider the motion where we indefinitely postponed this bill is simply because when that motion was made, it caused a lot of confusion on the floor. This was a parliamentary procedure initiated by my seatmate, who occasionally acts as the Speaker protem, and he is well versed in parliamentary procedure. And if you will recall, we were debating this bill and the consensus of opinion, I felt at the time, was to go ahead and repeal this bill. However, when my

seatmate got up, made a motion to indefinitely postpone and we voted on it, there was some confusion and people thought they were voting to indefinitely postpone or repeal continuing education. This is why I think we should vote to reconsider and then we can vote on whether or not we want to discontinue continuing education.

Let's review very briefly, and I don't want to go over what was said because we thoroughly debated the bill. The opponents claim that we need continuing education to improve the caliber of our real estate brokers. This is primarily the purpose of the bill.

It is to protect the consumer, because when you buy a home, it is the most important purchase that you make in your life.

They felt that we should not repeal continuing education on the basis that the program had been in effect for a period of only two years and that the committee on continuing education would get their act together and improve the quality of the courses that are being offered.

The proponents to repeal continuing education maintain that the courses that are being offered, and there are 123 of them, approximately 10 percent of those courses are germane to the issue. Incidentally, "germane" — I have learned that since I have been up here.

The second item that was brought up was the fact that the only requirement is to pay for a course and only be in attendance, you cannot fail any of the courses that are being offered. The other item was that the continuing education is primarily based on payment of the fee to be recertified, that is all it requires. You don't have to be in attendance. If you take a correspondence course, you can send it back without even filling the blanks, and the continuing education is a financial bonanza for the instructors that are giving the courses.

At our committee hearing, we were told that there were approximately 6,000 licensees. Some of these are inactive as well as active. The average cost of a course is \$30. Now, what we are talking about here is a financial bonanza of \$180,000.

I would like to give you just briefly some new information as to why I am totally opposed to continuing education, things that were not discussed previously.

In reference to the fact that the committee on continuing education is about to police their own act, let me read you a program objective of a course that was offered last week on public television where all you had to do was submit your fee of, I believe it was \$30, and the program objective was that this program was designed to provide viewers with a knowledge of Maine's residential energy consumption patterns, conservation methods and payback, new and emerging technologies and understanding of Maine's residential energy future. Will this course increase or improve the caliber of a real estate broker? This was just done recently. Is this an indication we are about to police and clean up our act? I don't believe it is, so this is why I would urge you to vote yes on reconsideration.

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

Mr. CARROLL: Mr. Speaker, Ladies and Gentlemen of the House: Why I feel that you should reconsider this legislation is that I was a cosponsor and Representative Peterson was another cosponsor. We were not present when it was debated, and it was understood that we would be extended the courtesy of having this tabled and taken up at a later date when we would be present, but you debated the issue in our absence. I feel that it is an unwritten courtesy in legislative circle to at least extend the sponsors of a bill, legislation, the courtesy of being present when the debate is held. I think that is only fair play, so I would ask you to vote for reconsideration.

The SPEAKER: The Chair recognizes the gentleman from Monmouth, Mr. Davis.

Mr. DAVIS: Mr. Speaker, Ladies and Gentlemen of the House: I have been in the real estate business since 1957, and believe it or not, I learn something every day that I am involved in a transaction. In the economy that we have today, more and more emphasis is put on the real estate broker's expertise. We know that many times we cannot go to the bank and get a transaction together because of the expense, of money in today's market. Therefore, the realtor must have a knowledge of the business which will be fair to the consumer in setting up some alternative financing plan. This can be done, and I think there is no one in any profession or any trade that we have, that we work at every day, that we certainly can't learn something about.

I would certainly hope that we would keep the continuing education, even though some people in our profession prefer not to attend. It is necessary for us to keep up to date no matter what we are working at, so I would hope, as I say, that we will not reconsider this action.

The SPEAKER: The Chair recognizes the gentleman from Caribou, Mr. Peterson.

Mr. PETERSON: Mr. Speaker, Ladies and Gentlemen of the House: I have been in the real estate business since 1956. I was President of the Maine Association in 1962, at which time we got the University of Maine to sponsor courses and come up with a good examination for licensure. It has worked very well; I believe that is where the emphasis would be. This payment of the fee to get a new license, I think it is kind of a rip off. I think the emphasis should be on education with the licensing examination. Then have the real estate commission do its job, which it should be doing, by giving seminars, at which they would be practically nothing, particularly for we, who live in rural areas, who have difficulty getting to these exams. The last time I had to go to beat heck when I got out of here to get qualified to get a new license, I think this is ridiculous.

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

Mr. PERKINS: Mr. Speaker, Ladies and Gentlemen of the House: You have heard some arguments about courses not being too good, the registration fee is high, and that you don't get these courses in rural areas. I just want to read something from our Weekly Packet down in Blue Hill, which is right in the middle of a rural area. "Three two-hour courses for real estate salesmen and brokers will be held at George Stevens Academy from seven to nine starting in early May. All three courses have been approved by the state for six recertification credits. The free courses being offered are: Finance, housing and banking, starting May 4th, designed to assist participants with a knowledge of how a bank would work in supplying financing to qualified purchasers. Brokers' contracts and responsibility starting May 5th. This is to bring students up to date on changes in the law, particularly if they relate to expanded liability exposure. Also, advice and warnings about the requirements of proper draftsmanship. Real estate taxation starting May 6th; students will be instructed about real estate law and assessment procedures in the state of Maine." These sound to me like they are pretty good courses. If I were a realtor, I think I would want to take them.

Mr. Kelleher of Bangor requested a roll call.

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

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

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

Mr. McHENRY: Mr. Speaker, Ladies and Gentlemen of the House: I wish that we would

reconsider this motion, vote yes, because I think the real estate people are putting stumbling blocks and red tape—we hear about red tape, well this is a lot of red tape. If you are against red tape, I think you should vote to reconsider and enact the bill that is presently before us.

The SPEAKER: The pending question before the House is on the motion of Mr. Norton of Biddeford to reconsider indefinite postponement.

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

Mr. KELLEHER: Mr. Speaker, I would like to pair my vote with the gentlewoman from Brunswick, 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 West Bath, Mr. Stover.

Mr. STOVER: Mr. Speaker, I would like to pair my vote with the gentlewoman from Bath, Ms. Small. If she were here, she would be voting no, and I would be voting yes.

The SPEAKER: The pending question before the House is on the motion of the gentleman from Biddeford, Mr. Norton, that the House reconsider indefinite postponement. Those in favor will vote yes; those opposed will vote no.

#### ROLL CALL

YEA — Armstrong, Brown, A.; Brown, D.; Brown, K. L.; Carroll, Carter, Conary, Connors, Dillenback, Erwin, Gwadosky, Hobbins, Huber, Ingraham, Jacques, Joyce, Macomber, Mahany, Matthews, McCollister, McGowan, McHenry, McSweeney, Michaud, Norton, Pearson, Perry, Peterson, Prescott, Racine, Reeves, J.; Richard, Roberts, Salsbury, Sherburne, Smith, C. B.; Smith, C. W.; Soulas, Studley, Swazey, Telow, Theriault, Vose, Webster.

NAY — Aloupis, Baker, Bell, Benoit, Berube, Boisvert, Bordeaux, Boyce, Brannigan, Brennerman, Brodeur, Cahill, Callahan, Chonko, Clark, Connolly, Cox, Crowley, Cunningham, Curtis, Damren, Davies, Davis, Day, Dexter, Diamond, G. W.; Diamond, J. N.; Drinkwater, Dudley, Fitzgerald, Fowlie, Gavett, Gillis, Gowen, Hall, Hanson, Hayden, Hickey, Higgins, H. C.; Holloway, Hutchings, Jackson, Jalbert, Jordan, Kane, Kany, Ketover, Kiesman, Kilcoyne, Lancaster, Lewis, Lisnik, Livesay, Locke, Lund, MacBride, MacEachern, Manning, Masterman, Masterton, McKean, McPherson, Mitchell, E. H.; Mitchell, J.; Moholland, Murphy, Nadeau, Nelson, A.; Nelson, M.; O'Rourke, Paradis, E.; Paradis, P.; Perkins, Post, Pouliot, Randall, Reeves, P.; Ridley, Rolde, Soule, Stevenson, Tarbell, Thompson, Treadwell, Twitchell, Walker, Wentworth, Weymouth.

ABSENT — Austin, Beaulieu, Carrier, Foster, Higgins, L. M.; Hunter, LaPlante, Laverriere, Martin, H. C.; Michael, Paul, Strout, Tuttle, Mr. Speaker.

PAIRED — Kelleher-Martin, A. Small-Stover.

Yes, 44; No, 88; Absent, 14; Paired, 4; Vacant, 1.

The SPEAKER: Forty-four having voted in the affirmative and eighty-eight in the negative, with fourteen being absent, four paired and one vacant, the motion does not prevail.

Sent up for concurrence.

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

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).

Tabled—May 4 by Representative Brannigan of Portland.

Pending—Motion of Representative Austin of Bingham to Reconsider Indefinite Postponement (Roll Call Requested).

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 pending question before the House is the motion of the gentleman from Bingham, Mr. Austin, that the House reconsider its action whereby this Resolution was indefinitely postponed.

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

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

The SPEAKER: The Chair recognizes the gentlewoman from Bangor, Miss Aloupis.

Miss ALOUPIS: Mr. Speaker, I would like to pair my vote with the gentlewoman from Brunswick, Mrs. Martin. If she were here, she would be voting no and I would be voting yes.

The SPEAKER: The pending question before the House is the motion of the gentleman from Bingham, Mr. Austin, that the House reconsider its action whereby this Resolution was indefinitely postponed. Those in favor will vote yes; those opposed will vote no.

#### ROLL CALL

YEA—Baker, Benoit, Berube, Brannigan, Brennerman, Brodeau, Brown, A., Brown, K. L., Carroll, Conary, Connors, Connolly, Crowley, Cunningham, Davies, Diamond, G. W., Diamond, J. N., Drinkwater, Fowlie, Gavett, Gowen, Gwadosky, Hall, Hayden, Higgins, H. C., Higgins, L. M., Hobbins, Huber, Hutchings, Jackson, Kane, Kany, Ketover, Kilcoyne, Lancaster, Lisnik, Lund, MacEachern, Macomber, Manning, Masterton, Matthews, McKean, McPherson, Mitchell, E. H., Mitchell, J., Moholland, Nadeau, Nelson, M., O'Rourke, Paradis, E., Paradis, P., Pearson, Perkins, Peterson, Post, Prescott, Reeves, P., Rolde, Salsbury, Soulas, Stevenson, Tarbell, Telow, Theriault, Thompson, Twitchell, Vose, Weymouth.

NAY—Armstrong, Bell, Boisvert, Bordeaux, Boyce, Brown, D., Cahill, Callahan, Carter, Chonko, Clark, Cox, Curtis, Damren, Davis, Day, Dexter, Dillenback, Dudley, Erwin, Fitzgerald, Gillis, Hanson, Hickey, Holloway, Ingraham, Jacques, Jalbert, Jordan, Joyce, Kelleher, Kiesman, Lewis, Livesay, Locke, MacBride, Mahany, Masterman, McCollister, McGowan, McHenry, McSweeney, Michael, Michaud, Murphy, Nelson, A., Norton, Perry, Pouliot, Racine, Randall, Reeves, J., Richard, Ridley, Roberts, Sherburne, Smith, C. B., Smith, C. W., Soule, Stover, Studley, Swazey, Treadwell, Webster, Wentworth.

ABSENT—Austin, Beaulieu, Carrier, Hunter, LaPlante, Laverriere, Martin, H. C., Paul, Small, Strout, Tuttle, The Speaker.

Yes, 69; No, 65; Absent, 12; Paired, 4; Vacant, 1.

PAIRED—Aloupis-Martin; Foster-Walker.

The SPEAKER: Sixty-nine having voted in the affirmative and sixty-five in the negative, with twelve being absent, four paired and one vacant, the motion does prevail.

The pending question is on indefinite postponement of this Bill and all its accompanying papers. All those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

64 having voted in the affirmative and 70 having voted in the negative, the motion did not prevail.

Thereupon, the Resolution was passed to be engrossed and sent up for concurrence.

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

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

Tabled—May 4 by Representative Higgins of

Scarborough.

Pending—Passage to be Enacted.

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

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

Bill "An Act to Provide a One Month Grace Period for Expired Motor Vehicle Registrations" (S. P. 356) (L. D. 1031)

—In House, Minority "Ought Not to Pass" Report Accepted on April 28.

—In Senate, Passed to be Engrossed as amended by Senate Amendment "A" (S-158) in non-concurrence.

Tabled—May 4 by Representative Diamond of Windham.

Pending—Motion of Representative Carroll of Limerick to Adhere.

Mr. Carroll of Limerick requested permission to withdraw his motion to adhere, which was granted.

On motion of Mr. Fowlie of Rockland, the House voted to recede from its action whereby the Minority "Ought Not to Pass" Report was accepted.

On motion of the same gentleman, the Majority "Ought to Pass" Report was accepted in concurrence and the Bill read once.

Committee Amendment "A" (S-130) was read by the Clerk, and on motion of Mr. Fowlie of Rockland, the Amendment was indefinitely postponed in concurrence.

Thereupon, under suspension of the rules, the Bill was read the second time.

Senate Amendment "A" (S-158) was read by the Clerk, and the Amendment was indefinitely postponed in non-concurrence.

Mr. Fowlie of Rockland offered House Amendment "A" and moved its adoption.

House Amendment "A" (H-298) was read by the Clerk.

The SPEAKER: The Chair recognizes the gentleman from Rockland, Mr. Fowlie.

Mr. FOWLIE: Mr. Speaker, Men and Women of the House: Maybe I can explain what we are doing.

This is an amendment that hopefully will be a compromise to a problem that has occurred. This amendment, like the bill, permits a person whose car registration has expired for less than 30 days to receive a warning only. The person will be permitted two business days to properly register his car. The renewed registration shall expire on the same month as the previous registration, and the registration fee will be for a year.

Presently, motorists with expired registrations receive citations, sometimes requiring court appearances in an already overburdened court system. Often the motorist is required to leave the vehicle where it is until it is reregistered.

This amendment handles a minor infraction in a more equitable and realistic manner. Also, this amendment removes the major objections to the bill, which was a \$10 fee that was paid. This also puts it in line with the inspection law which requires a 30-day grace period.

Also, I just happened to notice as I was walking through the parking lot during my lunch hour, I happened to see a member of this House whose car needs to be registered, so I think even people with good intentions sometimes forget to register their car at the proper time.

Thereupon, House Amendment "A" was adopted.

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

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

Bill "An Act Providing Collective Bargaining Rights to Judicial Employees" (H. P. 823) (L. D. 979)

—In House, Passed to be Engrossed on April

27.

—In Senate, Accepted Report "C" "Ought to Pass" as Amended by Committee Amendment "A" (H-214) and the Bill Passed to be En-grossed on May 1 in non-concurrence.

Tabled—May 4 by Representative Hobbins of Saco.

Pending—Further Consideration.

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

Mr. HAYDEN: Mr. Speaker, I move to insist.

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

Miss LEWIS: Mr. Speaker, I move that the House recede and concur.

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

Mr. HOBBS: Mr. Speaker, Men and Women of the House: I would hope this afternoon that the House would take the words of the good gentleman from Durham, Mr. Hayden, and insist.

The version, if we voted to recede and concur, would, in essence, cause more problems in the area of employee/employer relations than it would to solve the problem. For example, under that particular version of the bill, it would be possible for the good gentlelady from Auburn, Miss Lewis, to go into Lewiston District Court and decide to organize three individuals in a unit and then she would be able to bargain with the Justice of the Supreme Court and negotiate salaries.

However, it would still be possible for the good gentleman from Lewiston, Mr. Jalbert, to walk into Superior Court and decide that he wanted to organize three or four individuals in the Superior Court in Lewiston. Under version "C" of the bill, it would be appropriate for the good gentleman from Portland, Mr. Baker, to go down in District Court in Portland and organize three or four individuals, and if the good gentleman from Harrison, Mr. Leighton, was around, he could have gone to Bridgton and organized the District Court workers in Bridgton.

As you can see, you would have a problem. The problem would be that there would be no election process of what particular labor organization under collective bargaining those individuals would choose to have represent them in the process of dealing with the judiciary and management, if I may call it that. I think this particular process under Report C, which would be the motion if we accept the recede and concur motion, as presented by the good gentlelady, would cause a serious problem. It would cause a potential for an inconsistency of treatment of workers within the same office, for example. I don't think that this is good management/employee relationship.

Collective bargaining, if, in fact, the workers who are employed by a judiciary was enacted, would still call for legislative ratification on financial terms. If we accept the recede and concur motion, we have the potential of reviewing possibly a dozen contracts, 12 or 13, or whatever the number of groups representing a minute number of workers, a little over 200 workers who represent the third branch of government and who are dedicated workers and who do the same type of work of those individuals who are now organized who represent the executive branch of government in the State of Maine.

I would hope this afternoon that we would be consistent and defeat the motion made by the good gentlelady from Auburn, Miss Lewis, and insist on our former action.

The SPEAKER: The Chair will order a vote. The pending question is on the motion of the gentlewoman from Auburn, Miss Lewis, that the House recede and concur. All those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

Whereupon, Mr. Tarbell 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 yes; those opposed will vote no.

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

The SPEAKER: The pending question is on the motion of the gentlewoman from Auburn, Miss Lewis, that the House recede and concur. All those in favor will vote yes; those opposed will vote no.

#### ROLL CALL

YEA — Aloupis, Armstrong, Bell, Bordeaux, Brown, D.; Brown, K. L.; Cahill, Callahan, Conary, Connors, Cunningham, Curtis, Damren, Davis, Day, Dexter, Drinkwater, Gavett, Hanson, Higgins, L. M.; Holloway, Huber, Hutchings, Ingraham, Jackson, Jordan, Kiesman, Lancaster, Lewis, Livesay, Lund, Masterman, Masterton, McPherson, Murphy, Nelson, A.; O'Rourke, Paradis, E.; Perkins, Peterson, Randall, Salsbury, Sherburne, Stevenson, Stover, Studley, Tarbell, Treadwell, Twitchell, Walker, Wentworth, Weymouth.

NAY — Baker, Benoit, Berube, Boisvert, Boyce, Brannigan, Brennerman, Brodeur, Carroll, Carter, Chonko, Clark, Connolly, Cox, Crowley, Davies, Diamond, G. W.; Diamond, J. N.; Dillenback, Erwin, Fitzgerald, Fowlie, Gillis, Gowen, Gwadsky, Hall, Hayden, Hickey, Higgins, H. C.; Hobbins, Jacques, Jalbert, Joyce, Kane, Kany, Kelleher; Ketover, Kilcoyne, Lisnik, Locke, MacBride, MacEachern, Macomber, Mahany, Manning, Matthews, McCollister, McGowan, McHenry, McKean, McSweeney, Michael, Michaud, Mitchell, E. H.; Mitchell, J.; Moholland; Nadeau, Nelson, M.; Norton, Paradis, P.; Pearson, Perry, Post, Pouliot, Prescott, Racine, Reeves, J.; Reeves, P.; Richard, Ridley, Rolde, Smith, C. B.; Smith, C. W.; Soulas, Soule, Swazey, Telow, Theriault, Thompson, Vose, Webster, The Speaker.

ABSENT — Austin, Beaulieu, Brown, A.; Carrier, Dudley, Foster, Hunter, LaPlante, Laverriere, Leighton, Martin, A.; Martin, H. C.; Paul, Roberts, Small, Strout, Tuttle.

Yes, 52; No, 82; Absent, 16; Vacant, 1.

The SPEAKER: Fifty-two having voted in the affirmative and eighty-two in the negative, with sixteen being absent and one vacant, the motion does not prevail.

Thereupon, on motion of Mr. Hayden of Durham, the House voted to insist. (Later Reconsidered)

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

An Act to Create a Department of Corrections (S. P. 376) (L. D. 1134) (C. "A" S-115)

Tabled — May 4 by Representative Connolly of Portland.

Pending — Passage to be Enacted.

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

Mr. CONNOLLY: Mr. Speaker and Members of the House: The hour is late, but I understand that the Speaker prefers that we deal with this item at this point in time, even though there may be some debate involved.

This is the last time that this bill will be before us before it is enacted in the other body and becomes law. It hasn't been debated at all on the floor and I feel it merits some consideration.

I am opposed to this legislation that would split the Bureau of Corrections and the Bureau of Mental Health and Mental Retardation and in effect create two separate departments. I think it is a mistake, I thought it was a mistake when it was proposed during the second session of the 109th last year, and I have become even more convinced since last year that it is a mistake.

It is interesting to note that last year there was significant opposition to this split, signifi-

cant, in fact, to see that that proposal was defeated. The one single event that has occurred since that defeat last year was the lockdown of the State Prison last April, and now, presumably because of that event, solely because of the lockdown at the State Prison, everyone is convinced that the split as proposed in this legislation is the proper way to go.

The basis of my opposition to this bill is not the additional cost to the state, nor is it the increase in the state bureaucracy, two of the major reasons for last year's strong opposition to the bill. The basis of my opposition is the sensitivity, or rather the lack of sensitivity, the lack of basic respect for human beings by correctional officials in this state that I have witnessed period to, during and subsequent to the lockdown at the State Prison.

I think that the staff, and the philosophy, if you will, of the Bureau of Mental Health and Mental Retardation have had a mitigating influence, a positive influence to some small degree, on the Bureau of Corrections. And now, through this legislation, that influence will be completely removed, leaving a situation that has the potential, at least, to only make matters worse. There is a real danger that the Department of Corrections will become a Department of Punishment.

I think the current commissioner of Mental Health and Corrections is one of the best appointments that Governor Brennan has made during the first two years of his administration. I think it is an error to remove that sensitivity, that leadership, that concern for human beings from the Department of Corrections, and this split may leave Corrections completely void of any such sensitivity in the future.

In my opinion, the lockdown at the State Prison was not warranted. Certainly, there were serious problems at Thomaston. Witness the class action suit that was brought by prisoners against the state and correctional officials two years before the lockdown occurred and is pending this very moment before Judge Gignoux in Federal Court. The same reasons the prisoners used in that lawsuit were used by the state two years later to justify the lockdown at the State Prison. Yet, at the time the suit was filed by the prisoners at Thomaston, the state denied that any one of those conditions existed.

I believe that the lockdown at the State Prison was the brainchild of federal correctional consultants who came into the state, viewed the situation and convinced state correctional officials that the prison was out of control and was on the brink of violence. I think that both of those charges are utterly absurd.

But everyone became caught up in the excitement and the high drama of those recommendations, and the idea for the lockdown was accepted. It had a steamroller, snowball effect; it was dramatized without serious questioning in the press and in the media, and it was dramatized very, very effectively.

Once the lockdown began, there was extensive and, in many instances, intentional abuse of people's basic human rights and human dignity. I realize that it is difficult for many people in and outside of this body to accept the concept of human rights and human dignity when it comes to talking about inmates or prisoners, but I think that we have all got a responsibility, whatever an individual's situation, to respect each person's humanity and not treat them like an animal.

Let me give you a few examples of what I mean. As soon as the lockdown began, prison officials and state correctional officials began to make wide use of what is known as the strip search, particularly in instances when family members came to visit their family members at the prison. The reason that was given for the strip search was because we had to protect against the smuggling of drugs, when it is widely and privately accepted knowledge that most of the drugs that are smuggled into the State

Prison come in not through inmates but through the guard force. Strip searching is the most humiliating and the most degrading technique that is used by prison authorities against inmates, and the strip search is now commonly and repeatedly used at the State Prison without justification.

During the lockdown, for the better part of three months men were confined to their cells virtually on a 24-hour basis. Men were made to go for days at a time, and in some instances weeks, without access to a change of clothing and without access to showers. The Hole, that cell that is commonly referred to as the strip cell, was used in many instances as a disciplinary measure, that has been outlawed by the federal courts. And personal property, which was considered neither to be dangerous nor contraband, was lost, stolen, destroyed by correctional authorities. In more than one instance, inmates' family photographs and personal mementos were found in the toilet, put there by prison guards and state police when they searched the cells.

It is pointless to go on with these kinds of descriptions, I think that you get the idea. But it is my opinion that the attitudes and the mentality which allowed these things to exist, and in many cases condoned them, may very well become the prevailing attitude in the new Department of Corrections. It is like having the fox not only guard but let inside the chicken coop.

Many people, including members of the Independent Observer Team, appointed by Governor Brennan last year, made several positive recommendations that included things like expanding the job in vocational training programs at the institution, implementing the meaningful classification system, providing a full-time advocate, providing additional laundry facilities that everybody agreed were necessary, and providing confinement other than maximum security for young, non-violent offenders. All of those things cost money; yet, in this session of the legislature, because of the public and political atmosphere that has been created because of the lockdown, the Department of Mental Health and Corrections could have gotten anything it wanted from this legislature, but the only thing that it asked for was money for guards, money for security, nothing for any of these other programs. It is this mentality, this narrow belief that security can solve anything, this need to be repressive, that I am reacting against in this legislation.

Beyond these feelings, it is important to understand what else is in this bill. The legislation would establish a transitional committee to help the new department prepare several pieces of legislation for introduction before us next January. Among these there is to be a bill that would provide for commitment of all prisoners to the custody of the department. This means, if that bill were to pass, that people convicted by the courts will be sentenced to the department, allowing the department complete control over their fate. It would remove most sentencing responsibility and discretion from the judiciary and give it completely to a department of correctional bureaucrats.

I think that many of you who might not agree with what I have said before would agree that that can be extremely dangerous. The only saving grace in all of that is that it must come before this legislature and we will have to debate and ultimately vote upon it.

There is obviously no support to defeat this bill this time around; I wish there were. The bill has been referred to by some people as the Kevin Concannon Mental Relief Act, and to a certain extent it really is. I only hope that the new Commissioner of Corrections, whoever that person might be, will have the same sensitivity and concern for people as Mr. Concannon has shown in the last year and a half.

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

Mrs. PRESCOTT: Mr. Speaker, Ladies and Gentlemen of the House: I feel as though I should respond to some of the things that Representative Connolly has said, and I hope that I won't belabor the point, but I think this is an important piece of legislation and that there should be debate pro and con.

I hate to oppose the good gentleman from Portland, however, in this regard I must, because certainly the committee that came out with a unanimous committee report in support of a separate Department of Corrections deserves some consideration.

I disagree with the gentleman from Portland when he says that the reason for this legislation is based solely upon the lockdown that occurred at the Maine State Prison last April and that this legislation is really not much different from the legislation that was proposed last session. That isn't necessarily so. Last session, the bill would not have allowed for legislation to be brought back to this legislature, the 110th. During the second regular session, we will be addressing the very issues that will be involved in the separation of the department. We will decide whether we need a philosophy or whether or not the persons need to be referred directly to the department and then rereferred.

I do not believe that this bill makes matters worse. In my opinion and in the opinion of the committee, it certainly is a great improvement over the existing department that we have, which is now so unwieldy with Mental Health and Mental Retardation. It is so unwieldy that we have a situation where the philosophy has probably been a couch, a cage and cat-o-nine-tails, and we have got to address the fact that that is not a philosophy that the state should direct any self-interest in, that we have got to be concerned about punishment and about restitution and certainly about security.

If we don't separate the Department of Corrections from Mental Health and Mental Retardation, we are not going to be improving upon our corrections or our philosophy, or anything else. We are going to continue to pit the needs of the mentally ill and the mentally retarded against the needs of the criminals. With this legislation, we are simply going to be able to improve upon the administration, because we will have a full-time administrator who will be knowledgeable in the area of corrections. We will improve upon the programs and the planning, and we will improve upon the services.

You should remember that this is one of the only departments that we have that is concerned about the care and custody of residents, of inmates and of patients. We are talking about 850 inmates in the correction facilities.

The bill has a moderate price tag and the funding for it is in the Part II Budget, and the required details of the legislation are in the bill with perfect safeguards.

I think Representative Connolly is very convincing and it is always hard to get up and oppose him. I feel as though I should say something like my seatmate says when he gets up — that was an eloquent speech but. . . . But Mr. Connolly is wrong in this case, and I must say that his speech was eloquent and he did touch upon the points that were of a concern to him. But the lockdown was necessary, it was necessary in order for the state to regain control of its prison and its program.

Mr. Connolly, the Representative from Portland, opposed the lockdown. He also generally opposed the Charleston Correction Facility which would give us more flexibility in the area of minimum security. He certainly indicated that he did not like the amount in the budget for increased staff, and I get the indication that the reasons he objects are because these are security people.

A separate department is required and is necessary at this point.

I think Mr. Connolly is also concerned about the typical day that the inmates have when he

is in the cell. We have four hours of work, two hours of recreation, three meals a day and rest and recreation, and the rest of the time spent in the cells. That is exactly what a person is in prison for, and we are going to try to improve upon the areas that Representative Connolly has indicated.

Certainly, inmates are going to complain, they are not going to be satisfied with the rules and regulations and they are going to object to the strip searches, they are going to object to most anything that management asks, and that is normal.

I hope that you won't defeat this measure today, because it is very important that we address what legislation and what direction we are going to take for corrections in the next session.

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

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

Bill, "An Act to Make Changes in the Kennebec Water District Charter" (S. P. 207) (L. D. 572)

Tabled — May 4 by Representative Carter of Winslow.

Pending — Adoption of Committee Amendment "A" (S-153)

Mr. Carter of Winslow offered House Amendment "A" to Committee Amendment "A" and moved its adoption.

House Amendment "A" to Committee Amendment "A" (H-296) was read by the Clerk and adopted.

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

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

The Chair laid before the House the following matter:

Bill "An Act to Provide for Identifying Natural, Nonimitation Food Products Sold in the State" (S. P. 485) (L. D. 1387) which was tabled earlier in the day and later today assigned pending acceptance of the Committee Report.

On motion of Mr. Mahany of Easton, the Bill was recommitted to the Committee on Agriculture in concurrence.

The Chair laid before the House the following matter:

Bill "An Act to Facilitate the Leasing of Existing Subsidized Housing Units" (H. P. 809) (L. D. 970) which was tabled earlier in the day and later today assigned pending passage to be engrossed.

On motion of Mr. Kelleher of Bangor, tabled pending passage to be engrossed and tomorrow assigned.

The Chair laid before the House the following 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) which was tabled earlier in the day and later today assigned pending the motion of Mr. Jalbert of Lewiston to indefinitely postpone House Amendment "A" (H-266)

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

Mr. JALBERT: Mr. Speaker, I took your advise of last week and tried to put Androscoggin County and Lewiston in order. We had a meeting today, and at the meeting I made the motion that we pass my motion to indefinitely postpone House Amendment "A" and my motion did not prevail.

Thereupon, Mr. Jalbert of Lewiston requested permission to withdraw his motion to indefinitely postpone House Amendment "A", which was granted.

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

Mr. BROWN: Mr. Speaker, I would now move that we indefinitely postpone House Amendment "A" and further move that this be tabled for one legislative day.

Whereupon, Mr. Jalbert of Lewiston requested a division on the tabling motion.

The SPEAKER: The pending question is on the motion of the gentleman from Livermore Falls, Mr. Brown, that this matter be tabled pending his motion to indefinitely postpone House Amendment "A" and tomorrow assigned. All those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

75 having voted in the affirmative and 39 having voted in the negative, the motion did prevail.

The Chair laid before the House the following matter:

Bill "An Act to Remove Private Babysitting Amendments from the Jurisdiction of the Department of Human Services" (H. P. 796) (L. D. 950) (H. "A" H-295) to C. "A" H-272) which was tabled earlier in the day and later today assigned pending passage to be engrossed as amended.

Mr. Kelleher of Bangor moved that the Bill and all accompanying papers be indefinitely postponed.

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

Mr. MCCOLLISTER: Mr. Speaker, Ladies and Gentlemen of the House: Earlier the argument was used that if a babysitter was abusive to a child, he deserved an 11-month sentence, but does a person deserve an 11-month sentence for failing to file for a license with the state for babysitting?

If we have 37,000 unlicensed babysitters in the state and we only have 600 licensed babysitters, somebody hasn't done a very good job in telling the people that they are supposed to be licensed. So, if they can't tell the people they are supposed to be licensed, let's at least remove the jail term for not being licensed.

I ask you to defeat the motion on the floor.

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

A vote of the House was taken.

44 having voted in the affirmative and 67 having voted in the negative, the motion did not prevail.

Thereupon, the Bill was passed to be engrossed as amended and sent up for concurrence.

On motion of Mr. Hobbins of Saco, the House reconsidered its action of earlier in the day whereby the House voted to insist on its former action whereby Bill "An Act Providing Collective Bargaining Rights to Judicial Employees," House Paper 823, L. D. 979, was passed to be engrossed. (In Senate—passed to be engrossed as amended by Committee Amendment "A" (H-214).)

Mr. Hayden of Durham requested permission to withdraw his motion to insist, which was granted.

On motion of the same gentleman, the House voted to adhere.

(Off Record Remarks)

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

Miss LEWIS: Mr. Speaker, is the House in possession of L. D. 950?

The SPEAKER: The Chair would answer in the affirmative. Bill "An Act to Remove Private Babysitting Arrangements from the Jurisdiction of the Department of Human Services," House Paper 796, L. D. 950, is in the possession

of the House.

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

Whereupon, Mr. Kelleher of Bangor moved that this be tabled for one legislative day.

Mr. Higgins of Scarborough requested a vote.

The SPEAKER: The pending question is on the motion of the gentleman from Bangor, Mr. Kelleher, that this matter be tabled for one legislative day pending the motion of Miss Lewis of Auburn that the House reconsider its action whereby the Bill was passed to be engrossed as amended. 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 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 Bangor, Mr. Kelleher, that this matter be tabled for one legislative day pending the motion of Miss Lewis of Auburn to reconsider whereby the Bill was passed to be engrossed as amended. All those in favor will vote yes; those opposed will vote no.

#### ROLL CALL

YEA—Baker, Benoit, Berube, Boisvert, Brannigan, Brenerman, Brodeur, Carroll, Carter, Chonko, Clark, Connolly, Cox, Crowley, Davies, Diamond, G. W.; Diamond, J. N.; Fitzgerald, Gowen, Gwadosky, Hall, Hayden, Hickey, Higgins, H. C.; Hobbins, Huber, Jacques, Kane, Kany, Kelleher, Ketover, Killoyne, Lisnik, Locke, MacEachern, Macomber, Mahany, Manning, McGowan, McHenry, McKean, Michael, Michaud, Mitchell, E. H.; Mitchell, J.; Moholland, Murphy, Nadeau, Nelson, M.; Pearson, Perry, Post, Reeves, P.; Richard, Rolde, Soule, Thompson, Twitchell, Vose.

NAY—Aloupis, Armstrong, Bell, Bordeaux, Brown, D.; Brown, K. L.; Cahill, Callahan, Conary, Connors, Cunningham, Curtis, Damren, Davis, Day, Dexter, Dillenback, Drinkwater, Erwin, Fowlie, Gavett, Gillis, Hanson, Higgins, L. M.; Holloway, Hutchings, Ingraham, Jackson, Jordan, Kiesman, Lancaster, Lewis, Livesay, Lund, MacBride, Masterman, Masterton, Matthews, McCollister, McPherson, McSweeney, Nelson, A.; Norton, Paradis, E.; Paradis, P.; Perkins, Peterson, Pouliot, Prescott, Racine, Randall, Reeves, J.; Ridley, Salisbury, Sherburne, Smith, C. B.; Smith, C. W.; Stevenson, Stover, Studley, Swazey, Tarbell, Telow, Theriault, Treadwell, Walker, Webster, Wentworth, Weymouth.

ABSENT—Austin, Beaulieu, Boyce, Brown, A.; Carrier, Dudley, Foster, Hunter, Jalbert, Joyce, LaPlante, Laverriere, Martin, A.; Martin, H. C.; O'Rourke, Paul, Roberts, Small, Soulas, Strout, Tuttle, The Speaker.

Yes, 59; No, 69; Absent, 22; Vacant, 1.

The SPEAKER: Fifty-nine having voted in the affirmative and sixty-nine in the negative, with twenty-two being absent and one vacant, the motion did not prevail.

The pending question now before the House is on the motion of the gentlewoman from Auburn, Miss Lewis, that the House reconsider its action whereby the Bill was passed to be engrossed as amended. All those in favor will say yes; those opposed will say no.

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

On motion of Mrs. Kany of Waterville,

Adjourned until eight-thirty tomorrow morning.