

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

Wednesday, May 13, 1981

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

Prayer by the Reverend Thomas Farrar of St. Matthew's Episcopal Church, Hallowell.

The journal of yesterday was read and approved.

The following Communication:

State of Maine
DEPARTMENT OF AUDIT
Augusta, Maine 04333

May 12, 1981

TO GOVERNOR JOSEPH E. BRENNAN AND MEMBERS OF THE ONE HUNDRED AND TENTH LEGISLATURE.

In compliance with statutory requirements, I submit herewith the 61st Annual Report of the State Auditor for the fiscal year ended June 30, 1980.

We have made extensive examination of major pertinent transactions. We do not make detailed examination of all recorded transactions on the general books of the State for the year. We did, however, make a detailed examination of accounting records, procedures and internal controls, and verified financial transactions on a selective basis in our post audits of the activities of the various State Departments, Agencies, Boards, etc. during the year. The results of these audits, together with comments, observations and audit findings and recommendations are contained in our individual audit reports submitted to the respective State Departments, Agencies, Boards, etc.

Based on the scope of our examination, it is our opinion that, except for the exclusion of certain trust and operating fund transactions and balances recorded and controlled locally by State agencies and not reflected herein, the financial position and operating results of the various State Departments, Agencies, Boards, etc., of the State of Maine for the fiscal year ended June 30, 1980 has been fairly presented in conformity and with generally accepted accounting principles applied on a consistent basis.

Statements and schedules pertaining to the financial position of the various operating funds of the State of Maine at June 30, 1980 may be found in the Annual Report of the State Controller.

I would like to express my special appreciation to the Staff of the Department of Audit for their continued loyalty and devotion to duty and to the State Officials for their cooperation with this department.

Respectfully submitted,
S/GEORGE J. RAINVILLE
State Auditor

The Communication was read and with accompanying report ordered placed on file.

Special Sentiment Calendar

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

Recognizing:

Adele Conkin, who has been elected President of the Husson College Student Government; (H. P. 1457) by Representative Diamond of Bangor.

Jeffrey Burgoerfer, who has been elected Vice-President of the Husson College Student Government; (H. P. 1458) by Representative Diamond of Bangor.

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

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

Representative Gowen from the Committee on Education on Bill "An Act to Establish a Teacher Certification Board" (H. P. 897) (L. D. 1064) reporting "Ought Not to Pass"

Representative Murphy from the Committee on Education on Bill "An Act to Repeal the Teacher Certification Law" (H. P. 1001) (L. D. 1198) reporting "Ought Not to Pass"

Representative Murphy from the Committee on Education on Bill "An Act to Change the Probationary Period for Teachers from 2 Years to 3 Years" (H. P. 633) (L. D. 714) reporting "Ought Not to Pass"

Representative Murphy from the Committee on Education on Bill "An Act to Amend the Provisions Relating to the Maine School Management Association" (H. P. 1088) (L. D. 1307) reporting "Ought Not to Pass"

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

Leave to Withdraw

Representative Gwadosky from the Committee on Business Legislation on Bill "An Act to Require Minimum Safety Requirements in the Construction and Installation of Heating Apparatus" (H. P. 1000) (L. D. 1200) reporting "Leave to Withdraw"

Report was read.

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

Mr. BRANNIGAN: Mr. Speaker, Men and Women of the House: The committee wanted to make a reference to this bill, L. D. 1200 and giving it "leave to withdraw". It is the belief of the sponsors, the bureau people involved in this area, and the committee that is a very important area and something very vital needs to be done in the installation of chimneys, heating apparatus and so forth.

It was all agreed, though, that this L.D. was not the vehicle to care for it. We will be approaching those groups in state government who will be best able to prepare the necessary legislation, rules and regulations and so forth, we will be asking them between now and January to do that. We hope to have a vehicle in the next session which will take care of this very important and pressing problem.

Thereupon, the Report was accepted and sent up for concurrence.

Representative Pearson from the Committee on Appropriations and Financial Affairs on Bill, "An Act Relating to Boarding Home Reimbursements" (H.P. 1116) (L.D. 1333) reporting "Leave to Withdraw"

Representative Randall from the Committee on Health and Institutional Services on Bill, "An Act to Redefine Certain Long-Term Care Facilities" (H.P. 980) (L.D. 1171) reporting "Leave to Withdraw"

Representative Locke from the Committee on Education on Bill, "An Act to Encourage the University of Maine Law School to Offer Extension and Evening Programs for Part-time Students" (H.P. 38) (L.D. 47) reporting "Leave to Withdraw"

Representative Kane from the Committee on Taxation on Bill, "An Act to Remove Lakeville from the Maine Forestry District" (H.P. 784) (L.D. 929) reporting "Leave to Withdraw"

Representative Kane from the Committee on Taxation on Bill, "An Act to Remove the Town of Osborn from the Maine Forestry District" (H.P. 966) (L.D. 1157) reporting "Leave to Withdraw"

Reports were read and accepted and sent up for concurrence.

Ought to Pass in New Draft

Representative Perkins from the Committee on Business Legislation on Bill, "An Act to Update and Clarify Legislation Concerning Agencies within or Affiliated with the Department of Business Regulation" (H.P. 196) (L.D. 282) reporting "Ought to Pass" in New Draft (H.P. 1453) (L.D. 1597)

Report was read and accepted and the New Draft read once. Under suspension of the rules, the New Draft was read the second time,

passed to be engrossed and sent up for concurrence.

Divided Report**Later Today Assigned**

Majority Report of the Committee on Election Laws reporting "Ought Not to Pass" on Bill, "An Act to Prohibit Registration within 72 Hours of an Election" (H.P. 1003) (L.D. 1201)

Report was signed by the following members:

Senators:

PRAY of Penobscot
CARPENTER of Aroostook

— of the Senate.

Representatives:

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

— of the House.

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

Report was signed by the following members:

Senator:

PIERCE of Kennebec

— of the Senate.

Representatives:

BORDEAUX of Mount Desert
WENTWORTH of Wells
WEYMOUTH of West Gardiner
HANSON of Kennebunkport
CAHILL of Woolwich

— of the House.

Reports were read.

On motion of Mr. Diamond of Windham, tabled pending acceptance of either Report and later today assigned.

Divided Report**Later Today Assigned**

Majority Report of the Committee on Election Laws reporting "Ought to Pass" as amended by Committee Amendment "A" (H-363) on Bill, "An Act to Permit Appointment of Deputies for the Purpose of Registering Voters Under the Election Laws" (H.P. 135) (L.D. 162)

Report was signed by the following members:

Senators:

PRAY of Penobscot
CARPENTER of Aroostook

— of the Senate.

Representatives:

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

— of the House.

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

Report was signed by the following members:

Senator:

PIERCE of Kennebec

— of the Senate.

Representatives:

WENTWORTH of Wells
CAHILL of Woolwich
BORDEAUX of Mount Desert
HANSON of Kennebunkport
WEYMOUTH of West Gardiner

— of the House.

Reports were read.

On motion of Mrs. Diamond of Windham, tabled pending acceptance of either Report and later today assigned.

Divided Report

Majority Report of the Committee on Judiciary reporting "Ought to Pass" in New Draft (H. P. 1455) (L. D. 1596) on Bill "An Act Concerning Minimum Limits Required under the Financial Responsibility Law" (H. P. 745) (L.

D. 883)

Report was signed by the following members:

Senators:

DEVOE of Penobscot
CONLEY of Cumberland
KERRY of York

— of the Senate.

Representatives:

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

— 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:

REEVES of Newport
CARRIER of Westbrook

— of the House.

Reports were read.

On motion of Mr. Drinkwater of Belfast, the Majority "Ought to Pass" Report was accepted and the New Draft read once. Under suspension of the rules, the New Draft was read the second time, passed to be engrossed and sent up for concurrence.

Divided Report

Majority Report of the Committee on Legal Affairs reporting "Ought to Pass" as amended by Committee Amendment "A" (H-364) on Bill "An Act to Further Competition with New Hampshire in the Liquor Trade" (H. P. 382) (L. D. 425)

Report was signed by the following members:

Senators:

SHUTE of Waldo
VIOLETTE of Aroostook
CHARENTE of Androscoggin

— of the Senate.

Representatives:

COX of Brewer
STUDLEY of Berwick
SWAZEY of Bucksport
STOVER of Bangor
McSWEENEY of Old Orchard Beach
DUDLEY of Enfield

— of the House.

Minority Report of the same Committee reporting "Ought to Pass" as amended by Committee Amendment "B" (H-365) on same Bill.

Report was signed by the following member:

Representative:

GWADOSKY of Fairfield

— of the House.

Reports were read.

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

Mr. COX: Mr. Speaker, I move that the House accept the Majority "Ought to Pass" Report as amended by Committee Amendment "A".

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

Mr. ROLDE: Mr. Speaker, Ladies and Gentlemen of the House: I want to attempt to do several very difficult things this morning in regard to this bill — one is to get your attention; the other is to deal with a report which is a 12 to 1 report and which I am on the opposite side, because this is my bill. The third is to appeal to your reason rather than to your emotions.

You will notice the title of this bill is "An Act to Further Competition with New Hampshire in the Liquor Trade." The basic idea of the bill, when I sponsored it, was to close those gaps along the border that we have in competing with New Hampshire in the liquor trade, in other words, to establish several more cut-rate

discount liquor stores along the border similar to the one that was established in Kittery, which has proved its worth in shutting off Maine people going to New Hampshire to buy their liquor.

The original bill that established the Kittery liquor store did not specify any location, it just said there would be one store in the state that could sell liquor at the same rate as New Hampshire. My original bill would have called for adding three more stores of that type that would not have been an expense to the state.

The bill also called for a study of the idea that was rejected in this body several weeks ago of lowering the prices everywhere throughout the state, because we have tried that over the years and we have always run up against the barrier that it would cost too much money, but nobody has ever really studied what would happen if the prices were all lowered to the same prices that they have at Kittery.

The committee, I am happy to say, at least did buy the idea of a study finally, so that is Report A. Report B would have the same study, but it would allow for several more stores along the border to choke off trade that we are now currently losing to New Hampshire.

There were several editorials in a New Hampshire paper when this bill first went in very much opposed to it. New Hampshire is very concerned about continuing to finance their government through Maine people who are spending their money to buy liquor in New Hampshire.

So, I just ask for your consideration of these two approaches. If you do reject Report A, Report B will basically do the same thing, it will still have the study, but it will allow towns like Bethel — the gentlady from Bethel the other day spoke of the people in that area who go to New Hampshire and buy their liquor — to have a cut-rate liquor store.

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

Mr. COX: Mr. Speaker, Ladies and Gentlemen of the House: Briefly, I would like to explain why the majority of the committee voted this bill out in the form it is. We have left the study in the bill because we felt that this area of liquor pricing in the State of Maine does need further study, but we do not feel that we need further inequities, there was enough dissatisfaction with the present inequity caused by having one store in the state selling cheaper than the others. I trust you will vote for the majority report.

The SPEAKER: The Chair will order a vote. The pending question is on the motion of the gentleman from Brewer, Mr. Cox, 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.

85 having voted in the affirmative and 24 having voted in the negative, the motion did prevail.

Thereupon, the Bill was read once. Committee Amendment "A" (H-364) was read by the Clerk and adopted.

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

Divided Report

Majority Report of the Committee on Taxation reporting "Ought to Pass" in New Draft (H. P. 1459) (L. D. 1598) on Bill "An Act to Allow Municipalities the Option of Charging Reasonable Service Charges on Certain Tax Exempt Property" (H. P. 227) (L. D. 264)

Report was signed by the following members:

Senator:

WOOD of York

— of the Senate.

Representatives:

INGRAHAM of Houlton

POST of Owl's Head
HIGGINS of Portland
KANE of South Portland
KILCOYNE of Gardiner
TWITCHELL of Norway

— of the House.

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

Report was signed by the following members:

Senators:

TEAGUE of Somerset
EMERSON of Penobscot

— of the Senate.

Representatives:

BROWN of Bethel
MASTERMAN of Milo
DAY of Westbrook
HAYDEN of Durham

— of the House.

Reports were read.

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

Mrs. POST: Mr. Speaker, Men and Women of the House: I move we accept the Majority "Ought to Pass" Report.

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

Mr. JALBERT: Mr. Speaker, I move that this Bill, both Reports and accompanying papers and everything else that goes with it be indefinitely postponed and I ask for a roll call.

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

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

Mr. MURPHY: Mr. Speaker, Men and Women of the House: L. D. 264 is a local option bill. Our cities and towns must now bear the ever-increasing cost of fire and police protection and snow plowing for tax exempt properties. In many communities it has reached the breaking point. No one could have envisioned the future cost of those services. If we take this positive step today, our local communities will have the option to review those exemptions, analyze the cost of the services provided, and consider a user fee for actual services.

In a small town like Kennebunk, the selectmen would meet with representatives of the tax-exempt properties, review their contributions to the citizens of the town and state, and if the services have lagged behind the value of the exemptions, make suggestions as to how that organization could help the town with existing programs or initiate new services. We are talking about accountability, accountability to the people who pay the cost of the exemptions, the local property taxpayer.

The bill has bipartisan sponsorship, three of the four sponsors being Republicans. I would urge you today to take this positive step toward local controls.

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

Mrs. POST: Mr. Speaker, Men and Women of the House: Essentially what this bill does is to allow, as the gentleman before me said, people on the local level to decide whether or not they want to continue to pay for police protection, fire protection and snow and ice removal for certain categories of tax exempt property which the state has mandated. Local communities have no choice on tax exempt properties, we tell them, the state tells them which properties have to be tax exempt.

What we would like to do now is give people, through the referendum process in each community, a chance to make the decision on whether certain classifications of tax exempt property provide enough services to do that in an individual community so that they, through their own property taxes, are willing at the local level, and the issue is whether or not we as a state, as a legislative body, think that we have the right to make that decision on the

level of property taxation in communities or whether people in the individual towns have that right and responsibility themselves.

The classifications are limited. It does not include churches, since that rumor has been going around. It does not include veteran organizations for the primary reason that people feel that veteran organizations did not have to meet the service to the community test, that their exemption was service to the country.

It phases in the service charge so that there will not be any particular burden in one year — it phases in the service charge over a four-year period.

The referendum process can be initiated either by individual voters in the community or by the elected officials in a community, but any decisions that are going to be made on whether or not to levy service charges to these limited kinds of services will be made by individual people in their own community. The question is, do we have the right to take that decision-making process away from them? I think not, I would like to give them that control. That is why I would hope you would vote against the motion to indefinitely postpone.

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

Mr. KELLEHER: Mr. Speaker, Ladies and Gentlemen of the House: I took an opportunity to go down in 228 where the Taxation Committee was hearing this bill and I repeated a quote to that committee at that time and I would like to repeat it again to this House — Russell Long once said in the United States Senate, when he was fighting for jurisdiction of a piece of legislation that was going to a committee, he said "If it looks like a tax and if it smells like a tax and if it sounds like a tax, you can bet your sweet life it is a tax" and this is exactly what Mrs. Post and the sponsors of this bill are attempting to do today, attempting to put a piece of legislation before this House that is exactly that, a tax.

In Mrs. Post's comments this morning, she said that this is a rather watered down, weak piece of legislation that will really do no harm, that we are not going after the veterans' organizations and you know why? They couldn't stand the pressure. They have left the churches out, and you know why? They couldn't stand the pressure. But they have got the YMCA in there, they have got private schools in there, and let me tell you, this is just a foot in the door. If we support this legislation this morning, the whole body will be in it the next session of the legislature.

I was talking to the honorable city manager from Portland, Mr. Honey, prior to the hearing, and he was telling me, "If he had his way, he would tax every single bit of property in the City of Portland that is now tax exempt."

Let's go to my own community in the City of Bangor. About 50 percent of the nontaxable property is owned by the city itself, and then you take the University of Maine, and then you take the private clubs and you take the hospitals, this is just an attempt now to go after the hospitals in our communities. Everyone seems to think that they are great money producing institutions. Well, let me tell you, as far as I am concerned, they are an institution in my own particular city that provides a great deal of health service. And you know, Eastern Maine General Hospital isn't on a side street, it is on the main road to Orono or Old Town, so they are not going out of their way to plow it.

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

before — you give them a little and before long they are back for it all. I would urge that you support the good gentleman from Lewiston, Mr. Jalbert's motion to indefinitely postpone this item.

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

Mr. MURPHY: Mr. Speaker, Men and Women of the House: I would like to pose a

question through the Chair to the gentleman from Bangor, Mr. Kelleher. Since the gentleman from Bangor has brought in the attitude or opinion of a municipal officer from Portland, could we ask that gentleman if his city council from Bangor has taken a position on this legislation?

The SPEAKER: The gentleman from Kennebunk, Mr. Murphy, has posed a question through the Chair to the gentleman from Bangor, Mr. Kelleher, who may answer if he so desires.

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

Mr. KELLEHER: Mr. Speaker, I would be delighted to answer that question. Yes, they have, and let me tell you something about my city and the city of Portland and a few others — they have overspent themselves in a great many areas, and I am not about to vote here for the 1981 Tax Relief Act for Portland or Bangor. This is a cheap attempt to raise money for the cities. If this isn't a tax, why is it called a service fee charge, Mr. Murphy?

Believe me, ladies and gentlemen, this is a tax, and I am not about to take part in it this morning. I would hope you would support the gentleman from Lewiston's motion to indefinitely postpone.

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

Mr. JALBERT: Mr. Speaker and Members of the House: I am delighted that young man from Kennebunk, Mr. Murphy, posed a question to my good friend, Representative Kelleher from Bangor. I don't like to oppose the affable, brilliant chairman of the Taxation Committee, Representative Post from Owl's Head. As a matter of fact, this is the first time I have had to get up since she has been here to do so.

You know, since I have been in politics, I have never seen local government stick their noses in our business. They call me at 7:30 in the morning when we're supposed to meet here at 8:30. I called the mayor, who is a friend of mine, a neighbor who I supported, and I asked him what the meeting was about. It is always about something that they want us to do over here. In other words, we were not elected, apparently, to serve the people of Lewiston. We were very obviously elected to serve the city council in Lewiston.

I well remember the lady from Lewiston, Mrs. Berube, called a million dollar white elephant, a garage, that was built. We couldn't even get a referendum because the city clerk, who is the eighth member of the council, I guess, I decided it was too late to have a referendum. The garage is finished now and it houses about 30 to 40 people. It is right next to the Bowery, nobody would go near there, if they have a brain believe me, go down and look it over.

I got a letter this morning and I didn't even open it, it was from the administrator of the city of Lewiston, the city manager. If there is anything I dislike, it is a city manager. I took the letter and filed it without ever opening it. He writes me letter after letter, yet you try to reach him at home, he has got an unlisted number. I don't have an unlisted number. I got a call at quarter of one this morning. At two o'clock I was in Monmouth, at four o'clock this morning, I got back home and I was here at eight o'clock. I don't like to have some clown who is in a pickle in any capacity that you can't reach writing me letters to tell me to vote for things like this. This is the same guy who sponsored the deal to put the tax on hotels and motels and restaurants, 2 percent, and they gave us a gimmick there, a little of it will go back to the property taxpayer. In the meantime, and you don't go to a restaurant today with three or four people to entertain them, to eat, with your wife or friend or anyone you want, the tab of fifteen years ago is the tip you give 'o the waitress. So, I would save a few

bucks on my property tax, but it would cost me 15 times more with the 2 percent tax, and let's say that Auburn does not have that tax, and the good lady from Owl's Head was the first champion against this thing — one city has it, the other city hasn't got it, so there is your competition. There again we give business to New Hampshire. And I am amazed, frankly, that she is on this bill here.

I am here representing the people of the City of Lewiston, I am not representing the city council. I don't go to their meetings when they call them, I don't intend to. They don't call me when they are making up their budget and pushing up taxes, bond issues to take and pass. We here have got to send our bond issues by Constitution to the people, not the towns and cities. They can strap down those bond issues until Hell freezes over without any referendum, and of course the people pay for them. Little do they realize that the following year they have to pay the interest on the bond issue, which is now as much as the principal, and the payment on the principal.

This type of legislation here, I don't mind fees, I would vote for fees to help my good friend from Limerick, George Carroll, if he would only change the word 'fees' to tax. A tax is a tax is a tax. The latest one I heard was that 2 percent on hotels, motels and restaurants. They forgot fees on that, it became premiums, that is what it became. It wasn't a tax, it was a premium.

This is a horror show and I would ask for a roll call.

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

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

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

Mr. GILLIS: Mr. Speaker, Ladies and Gentlemen of the House: I rise this morning in support of this bill and I would like to make a reply to some of the comments made by my good friend from Bangor, Mr. Kelleher.

He says that the sponsors of this bill yielded to pressure from the various organizations, such as the veterans' organizations and hospitals and so forth — no, the sponsors did not yield to it. You heard the individuals speaking who yielded to the pressure. You have seen the letter come in time and time again from the hospitals and the veterans' organizations and so forth screaming bloody murder that they are being wronged by this so-called service charge. The sponsors of this bill did not yield.

Through the last two or three sessions, we have heard constant reminders that the property owners in the cities and towns throughout this state need relief from the property tax, the ever-increasing property tax. We have had this bill in now, I believe this is the third time. This is a vehicle in which the people, the property owners, can receive some relief from the property tax; regardless of the amount, it is still relief. But, all you heard from the opponents of this bill prior to this bill coming in is lip service — yes, they need relief; yes, they need relief. But when the vehicle comes along, where are they? They are in opposition to it — so much lip service you get.

You have heard the comment from my good friend from Bangor, Mr. Kelleher, that a tax is a tax is a tax. Well, I can rebut that with, a fee is a fee is a tax, regardless of how you dress it up. Regardless of how you dress it up, a fee is a tax. Maybe they believe they are fooling the people out in our districts, but they are not.

This is a vehicle that will give the people some property tax relief. Don't let these innuendos that are shooting out bind you to that

fact.

We should pass this bill to give the people the opportunity to decide who will be taxed and who will not be, who will receive the service charge and who will not. So I ask you to vote against the indefinite postponement.

The SPEAKER: The Chair recognizes the gentleman from Lewiston, Mrs. Berube.

Mrs. BERUBE: Mr. Speaker, Ladies and Gentlemen of the House: When Mrs. Berube is on the same side as the Titan of Lewiston politics and the Dean of the House, the issue must be very, very bad.

I have three concerns, one of which is on Page 2, Item 6, and there is a phrase that disturbs me. It says, "Municipalities shall use the revenues accrued from service charges to fund as much as possible the cost of the services." What does that mean — as much as possible?

My second concern is, and I agree that veterans' organizations should be exempt, but by the same token, we have not exempted the four parochial schools in my community or throughout the state, I don't know how many there are at this time. This would be the death of our parochial school system.

Veterans' organizations do earn some money through bingo games, through the sale of liquor, through dances, but our parochial schools have barely enough to survive, and I am very concerned over those issues, and that is why I shall oppose the bill.

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

Mrs. POST: Mr. Speaker, Men and Women of the House: I would like to answer a few questions that the gentleman before me has posed. One is in Item 6 where the phrase says "as much as possible". That was put in primarily to make it very clear to the municipalities that they don't necessarily have to set up dedicated accounts for these particular three areas, police protection, fire protection and snow and ice removal, since those are the only areas that we are dealing with. The services that any municipality chooses to levy on any of the classifications of property have to be set at such a level that it only reflects the services that they receive, and it can't be, for instance, to provide anything else, such as aid to education or welfare costs or recreation costs, it has to be set to fairly reflect the cost of the service that the institutions actually receive.

The full issue has been raised here twice today, it has not been raised at any of the work sessions, and I don't believe it had been raised at the hearing. I think that if you believe in the concept of the bill — actually there are two answers to that question — if you believe in the concept of the bill, one is when a local municipality decides whether or not they want to levy a service charge on any classification of property, they do that in separate classifications. It would be possible, for instance, for them to decide to levy a service charge on charitable and benevolent, which includes hospitals, and choose not to levy service charges on the literary and scientific, which includes schools, so that decision can be made at the local level because they don't have to levy service charges on all classifications of property.

If you don't think that that still provides safeguards, you don't believe that people ought to be able to make that choice at the local level but you think that at least in some classifications of tax exempt property that people ought to be able to levy a service charge, then what you need to do is vote against the indefinite postponement motion and present an amendment at a later time, at second reading, that will take out the literary and scientific classification property. We talked with the sponsors of the bill because this issue only came up last night and I believe that they would at least consider or look favorably on that amendment if you believe in the concept of the bill as a whole.

We heard the comment from the gentleman from Bangor that if it smells like a tax, looks

like a tax and tastes like a tax, it is a tax. The thing is, this particular bill doesn't feel like a tax. If you want to take a look, and I am not going to bore you with a lot of tax philosophy and the legal opinions which have come down ever since our country has been established, but a tax is defined as "a proportional contribution from persons and property levied by the state by virtue of its sovereignty for the support of government and all public needs." If we were going to levy a service charge on a particular class of property in a city that said it was going to be at the same rate as the tax rate and that money was going to go for education and it was going to go for welfare and it was going to go for recreation, that would be a tax, and you couldn't allow individual communities to do it or make choices on whether they did it, but it has been very clear with the opinions over the years, that it is perfectly reasonable for communities to levy service charges as long as they stay within constitutional guidelines, and regardless of what my good friend from Bangor and my very good friend from Lewiston, and I do appreciate the compliment so early in the morning, anybody knows, the worst thing I can think of is trying to debate service charges at 8:30 in the morning, so I do appreciate the compliment.

This is not a tax, it is letting the local people decide whether or not they want to levy service charges on some of the tax exempt property within their communities.

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

ROLL CALL

YEA — Armstrong, Bell, Berube, Boisvert, Boyce, Brown, D.; Brown, K.L.; Cahill, Callahan, Carroll, Carter, Clark, Conary, Curtis, Damren, Davis, Day, Dillenback, Gavett, Gowen, Hayden, Hickey, Hunter, Jackson, Jalbert, Jordan, Kany, Kelleher, Kiesman, Lewis, Livesay, Locke, Lund, MacBride, MacEachern, Mahany, Masterman, Matthews, McHenry, McPherson, McSweeney, Michaud, Norton, Paradis, P.; Paul, Perkins, Racine, Ridley, Roberts, Smith, C.B.; Smith, C.W.; Soulas, Strout, Treadwell, Weymouth, The Speaker.

NAY — Aloupis, Austin, Baker, Beaulieu, Benoit, Bordeaux, Brannigan, Brennerman, Brodeur, Brown, A.; Chonko, Conners, Connolly, Cox, Crowley, Davies, Dexter, Diamond, G.W.; Diamond, J.N.; Drinkwater, Dudley, Erwin, Fitzgerald, Foster, Fowlie, Gillis, Gwadosky, Hall, Hanson, Higgins, H.C.; Higgins, L.M.; Holloway, Huber, Hutchings, Ingraham, Joyce, Kane, Ketover, Kilcoyne, Lancaster, Lisnik, Macomber, Manning, Martin, A.; McCollister, McGowan, McKean, Michael, Mitchell, E.H.; Mitchell, J.; Moholland, Murphy, Nadeau, Nelson, A.; Nelson, M.; O'Rourke Pearson, Perry, Peterson, Post, Prescott, Randall, Reeves, J.; Reeves, P.; Richard, Rolde, Salisbury, Sherburne, Small, Soule, Stevenson, Swazey, Tarbell, Theriault, Thompson, Walker, Webster, Wentworth.

ABSENT — Carrier, Cunningham, Hobbins, Jacques, LaPlante, Laverriere, Martin, H. C.; Masterton, Pouliot, Stover, Studley, Telow, Tuttle, Twitchell, Vose.

Yes, 57; No, 78; Absent, 15; Vacant, 1.

The SPEAKER: Fifty-seven having voted in the affirmative and seventy-eight in the negative, with fifteen being absent, the motion does not prevail.

Thereupon, on motion of Mrs. Post of Owl's Head, the Majority "Ought to Pass" Report was accepted, the Bill read once, and assigned for second reading tomorrow.

Divided Report

Majority Report of the Committee on Business Legislation reporting "Ought to Pass" in

New Draft (H. P. 1460) (L. D. 1599) on Bill "An Act Concerning Illegal Fraudulent or Conscionable Conduct in Attempted Collection of Debts" (H. P. 545) (L. D. 621)

Report was signed by the following members:

Senators:

CLARK of Cumberland

SEWALL of Lincoln

— of the Senate.

Representatives:

FITZGERALD of Waterville

PERKINS of Brooksville

GWADOSKY of Fairfield

BRANNIGAN of Portland

POULIOT of Lewiston

TELOW of Lewiston

MARTIN of Van Buren

— of the House.

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

Report was signed by the following members:

Senator:

SUTTON of Oxford

— of the Senate.

Representatives:

JACKSON of Yarmouth

RACINE of Biddeford

GAVETT of Orono

— of the House.

Reports were read.

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

Mr. BRANNIGAN: Mr. Speaker, I move that the House accept the Majority "Ought to Pass" Report.

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

The gentleman may proceed.

Mr. BRANNIGAN: Mr. Speaker, Men and Women of the House: There has been for some time regulations on debt collection agencies dealing with how often they can call, what times of the day they can call people regarding debt collection, dealing with harassment mainly, harassment by calling a person's employer, by calling a person's relatives, calling a person's friends and so forth. So for a long time people have been protected by the regulation of debt collection agencies.

However, there are other large debt collection groups that have not been regulated, and those are the ones that come under this bill. This is anyone who extends credit. It is not the small grocery store or the place that has a credit card that is paid up in 30 days, it is a place that extends credit, where interest will be charged after a certain period of time, that group of people.

We have found and testimony bore out that there are especially large creditors, those who have staffs that do debt collection, that have been practicing harassment that has been prohibited to debt collection agencies. These are mainly large, and some of them I can't believe and I am not going to name them here although I would like to name some of them and maybe I will if things don't stop, one large national bank, I can't believe that but it is true, we have the testimony, large stores, national corporations with stores in Maine, we have tried in committee, and that is why it is coming late in the session, to get some voluntary promises to desist on this issue and that has been unsuccessful, so we are asking that we pass those things dealing with the number of calls, calls to neighbors, some restrictions on calls to employers, mainly harassment issues, that these debt collection groups for large stores, large lending institutions, that they have some of the same restrictions that debt collection agencies have. So I urge you to pass this Majority Report.

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

Mr. JACKSON: Mr. Speaker, Ladies and

Gentlemen of the House: I find myself on the other side of this issue. I would like to point out that we do regulate debt collection agencies. These are people that you pay to collect the debts. But we are going to step beyond that in this, what we are talking about is the business that wants to collect its own debts. You have heard our committee chairman speak to you about large businesses, but I would also point out to you that there are small businesses that give credit, and these people have to collect their debts too.

I think you should look at the bill, the bill only came onto your desks this morning, so it hasn't been around and had a chance to really be looked at too hard by the people in the House here. On the first page of the bill, they talk about the reasons that you can try and collect these and you can make phone calls. "Communicate or threaten to communicate with the debtor's employer concerning the existence of a debt," you can't do that unless the communication is made for the purpose of verifying the debtor's employment, locating the debtor, affecting garnishment only after judgment of the debtors' wages or in case of medical debt for the purpose of discovering the existence of medical insurance. In other words, you can't ask him to pay the debt, all you can do is try and find him.

I want you to think about what the typical phone call would be. You would call up and say, is Joe there, where can I locate Joe and I think you will find out very quickly that no one will know where Joe is and that your chances of finding him to try to even ask him to pay the debt is going to be hard.

I am not too sympathetic on some of the big stores and the big chain stores, but this doesn't just cover them, this goes right on down the line to anyone who is running a business where they are extending debt. If you look at the back page of it, under section four, it is pretty limiting, you can only make three phone calls a week, or in a seven-day period you can only make three, and then they talk about in a 30-day period, you are severely limited there on the number of calls you can make. I just wonder if we really want to get into this and if we really want to start limiting these things that far.

There are some abuses, but do we really want to do this to some of the small businesses in the state?

I would like a division on this bill and I hope you will vote against the Majority Report and accept the Minority Report on this particular piece of legislation.

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

Mr. GWADOSKY: Mr. Speaker, Ladies and Gentlemen of the House: I am the sponsor of this bill and I would like to begin by first emphasizing who we are actually talking about in this bill. We are talking about creditors who grant credit pursuant to the Maine Consumer Credit Code. Creditors are defined as businesses which incur a finance charge or interest for delayed payment or who businesses who accept payment in a written agreement for four or more installments, and either the Maine Consumer Credit Code or this bill will regulate the practices of businesses which do not extend credit, for example, those businesses which require payment in cash within 30 days of receipt the typical small business which allows for someone to pay within 30 days and does not intend to grant credit to the individual is not regulated by the Bureau of Consumer Protection or by the provisions of this bill.

The purpose of this bill is to clarify and revise certain prohibited debt collection practices of the Maine Consumer Credit Code.

First of all, the bill clarifies when contact with the debtor's employer is allowable. The creditor can contact the debtor's employer in order to verify employment, the location of the debtor, to effect garnishment in the case of a

court order or to discover the existence of medical insurance in the case of a medical debt.

Secondly, the L.D. would clarify when contacts with third parties by a creditor in a collection would be allowable. It is made very clearly in the bill that the creditor may contact persons other than the debtor or his spouse for the limited purpose of seeking location information. But it is also very clear that to contact a debtor or his spouse for the limited purpose of seeking location information. But it is also very clear that to contact a debtors neighbors, friends or nonresident relatives are not allowed for the purposes of collecting a debt or discussing the fact that a debt exists. The reason for this is because of the problems and documented cases were presented to us before the committee of creditors who would call your neighbors next door and would ask, have you seen John Jones today? This is such and such a bank, such and such a store, we have been looking for him because he owes us a lot of money and if he doesn't pay, we are going to put him in jail. That is the exact reason for this provision.

Clearly the bill establishes a maximum number of telephone calls that can be made to the debtor's residence. The bill is suggesting that no more than three phone calls a week can be made to the debtor's residence. There was a feeling from the committee from the creditors that we heard at the public hearing, the creditors did not feel that using more than three phone calls a week or twelve phone calls a month was actually used for a collection device in the first place.

Finally, the bill gives a debtor the right to cut off communication from the creditor concerning the debt at the debtor's place of employment. Many people don't have a work environment that allows them to take personal phone calls at their work. In addition, many employers restrict the kind of phone calls employees may engage in at their place of employment. I think it is only common sense that if a creditor is trying to collect money from an individual, causing that individual to lose his job is not in the best interest in any way or form of trying to collect the money.

To answer the question, is this bill really necessary? I would simply say that the committee heard of numerous problems in which creditors in the state of Maine have conducted in the same conduct which this bill is trying to prohibit. During the year of 1980, the bureau received 54 complaints dealing with debt collection practices of agencies. Most of these complaints, as my chairman, the gentleman from Portland, Mr. Brannigan, has mentioned, have risen from large credit grantors in the state, both merchants and banks. These are the type of people that have the specialized debt collection staff and the kind of people that engage in this debt collection practices more frequently, and often these are the practices that invade an individual's right to some sort of privacy in their financial dealings.

So, in summary, it is important to realize that we are regulating only creditors in the Maine Consumer Credit Code and not all small businesses. Secondly, none of the prohibitive practices outlined in this bill will prevent fair and honest debt collection practices. Thirdly, none of the practices proposed to be prohibited in this bill will allow a consumer to avoid payment. Creditors can still write as many letters as they see fit, creditors may make a reasonable amount of phone calls, creditors may engage the services of an attorney to sue for collection, creditors may seek collection of the debt themselves in the small claims court without incurring the expense of an attorney, creditors may contact anyone for the purpose of locating the debtor and find out where the debtor is employed, creditors may contact the debtor at his place of business or at home in person or by telephone. This bill is simply establishing common sense ground rules in attempted pro-

visions of collecting debts. Many of these and generally most of these practices are currently prohibited by debt collection agencies. It seems only fair that we should ask creditors to play by the same rules. It doesn't make any difference to the consumer who is trying to collect, but it makes a great deal of difference to the consumer if his neighbors and friends are being called to discuss the debt or if he is constantly being harassed concerning the debt at his place of employment.

I would urge you to support the Majority "Ought to Pass" Report.

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

Mr. JACKSON: Mr. Speaker, Ladies and Gentlemen of the House: Even assuming that we are willing to accept the concept of three calls per week at his residence or three calls per month at any location other than the residence, I would like to know how you are going to enforce that. Do we put a monitor on the telephone and anytime you do more than three things, a little buzzer rings or something like that? As soon as someone does, immediately the creditor can say, well, he called me four times a week and, therefore, you know, he is breaking the law. How do you prove it?

You also have a final paragraph in the bill which says that anytime the debtor here wants to, either by written or oral request, say don't call me at work, you can't call him at work. So, if I owed someone some money, the first thing I would do is tell them they couldn't call me at work, I would tell them orally because that would be a little harder to prove in court and I could of kind of play games with that if any one did. Then the first time they called me and maybe I might think they called me more than three times, and so I didn't think that was quite fair and would file a complaint, I am not sure how you could ever prove this one way of the other. It is going to be someone's word against someone else's because it is not written and it doesn't have to be, it could be oral. I think the enforcement of this is going to be practically impossible.

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

Mr. RACINE: Mr. Speaker, Ladies and Gentlemen of the House: I voted against this bill primarily because it is a bad bill. It protects only the deadbeat, and I would like to move at this time that we indefinitely postponed this bill and all its accompanying papers. I would ask for a division.

The SPEAKER: The pending question before the House is on the motion of the gentleman from Biddeford, Mr. Racine, that this bill and all its accompanying papers be indefinitely postponed. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

Mr. Brannigan of Portland requested a roll call.

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

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

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

Mr. BRANNIGAN: Mr. Speaker, Ladies and Gentlemen of the House: First of all, in relationship to enforcement, this is the same kind of legislation that has been in effect for a long time dealing with debt collection agencies, where many businesses place their debts.

Secondly, if you had seen the people who came before our committee, they were not deadbeats. Credit is given very liberally in our society. It used to be that if debts were not collected, people were put in jail, but in those days there was very little credit given. Now credit is

given irresponsibly at times. Credit is given all over the place. Credit is given by everyone. We all have it. We all could be in a position of having debts that we cannot pay off.

Some of these people who were paying, paying \$10 a week, had a sickness or an accident, told the company they could not pay, kept getting phone calls, phone calls at their neighbors, phone calls at their in-laws, phone calls to their employers. There are very serious abuses that this law addresses. It can be enforced just as well as the laws have been enforced with debt collection agencies. The people that came before us were people that I represent, people that I would associate with and not unreasonable people.

I am tempted to name some of the groups that are perpetrating this kind of harassment. I would hope that we would vote against indefinite postponement and then we would not have to name them, they would be out of business.

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

ROLL CALL

YEA — Alopis, Armstrong, Austin, Bell, Boyce, Brown, A.; Brown, D.; Brown, K.L.; Cahill, Callahan, Carter, Chonko, Conary, Connors, Crowley, Curtis, Damren, Davis, Day, Diamond, G.W.; Dillenback, Drinkwater, Dudley, Foster, Fowlie, Gavett, Hall, Hanson, Hickey, Higgins, L.M.; Holloway, Huber, Hunter, Hutchings, Ingraham, Jackson, Jordan, Joyce, Kelleher, Kiesman, Kilcoyne, Lancaster, Lewis, Lisnik, Livesay, Lund, MacBride, Mahany, Masterman, Matthews, McHenry, McPherson, McSweeney, Murphy, Norton, Paradis, E.; Paradis, P.; Pearson, Peterson, Racine, Randall, Reeves, J.; Ridley, Roberts, Salsbury, Sherburne, Small, Smith, C.W.; Stevenson, Strout, Swazey, Tarbell, Treadwell, Webster, Wentworth, Weymouth.

NAY — Baker, Beaulieu, Benoit, Berube, Boisvert, Bordeaux, Brannigan, Brenerman, Brodeur, Carroll, Clark, Connolly, Cox, Davies, Dexter, Diamond, J.N.; Erwin, Fitzgerald, Gowen, Gwadosky, Hayden, Higgins, H.C.; Jalbert, Kany, Ketover, Locke, MacEachern, Macomber, Manning, Martin, A.; McCollister, McGowan, McKean, Michael, Michaud, Mitchell, E.H.; Mitchell, J.; Moholland, Nadeau, Nelson, M.; O'Rourke, Paul, Perkins, Perry, Prescott, Reeves, P.; Richard, Rolde, Smith, C.B.; Soulas, Soule, Theriault, Thompson, Vose, Walker.

ABSENT — Carrier, Cunningham, Gillis, Hobbins, Jacques, Kane, LaPlante, Laverriere, Martin, H.C.; Masterton, Nelson, A.; Post, Pouliot, Stover, Studley, Telow, Tuttle, Twitchell, The Speaker.

Yes, 76; No, 55; Absent, 19; Vacant, 1.

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

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

Mr. RACINE: Mr. Speaker, having voted on the prevailing side, I now move that the House reconsider its action whereby this bill and all its accompanying papers were indefinitely postponed and I hope you vote against my motion.

The SPEAKER: The gentleman from Biddeford, Mr. Racine, moves that the House reconsider its action whereby this bill and all its accompanying papers were indefinitely postponed.

Mr. Gwadosky of Fairfield 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 Fairfield, Mr. Gwadosky.

Mr. GWADOSKY: Mr. Speaker, Ladies and Gentlemen of the House: I guess it won't come as much of a surprise to me what is going to happen this morning, but I feel that I have to stand because I feel that it is early in the morning and I made a presentation and I guess the things I said weren't taken very seriously or perhaps not understood as well as I would have liked to presented them.

But if the only argument of this bill is the number of phone calls, I would simply suggest that this bill could be passed. I have no problem with taking out the number of phone calls, we can amend that part of the bill.

I still think it is absolutely wrong for any creditor in the state of Maine to be able to call your neighbor and discuss your debts. I think it is also wrong for him to be able to call your boss at work and be able to say, we are trying to get in touch with him because he owes us a lot of money. I just think that these are wrong practices. If the only problem with this bill is those areas of the number of phone calls that they can make, then I would suggest that if you would allow us to reconsider, we will amend that portion out of the bill, but I would urge you at this time to vote yes to reconsider.

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

Mr. HALL: Mr. Speaker, Ladies and Gentlemen of the House: I probably have been in debt as far as anybody here in this House and I have had as many telephone calls, but I will tell you what you want to do with the telephone calls, if they start calling you more than once and you know that you can't pay, if you have my disposition, you tell them off in good plain language not to call you again or else. I think we are doing what we ought to do with this bill right now.

The SPEAKER: The pending question before the House is on the motion of the gentleman from Biddeford, Mr. Racine, that the House reconsider its action whereby this bill and all its accompanying papers were indefinitely postponed. Those in favor will vote yes; those opposed will vote no.

ROLL CALL

YEA — Austin, Baker, Beaulieu, Benoit, Boisvert, Brannigan, Brenerman, Brodeur, Carroll, Clark, Connolly, Cox, Davies, Dexter, Diamond, J.N.; Erwin, Fitzgerald, Gowen, Gwadosky, Hanson, Hayden, Higgins, H.C.; Jalbert, Kane, Kany, Ketover, Locke, Macomber, Manning, Martin, A.; McCollister, McGowan, McKean, Michael, Michaud, Mitchell, E.H.; Mitchell, J.; Moholland, Nadeau, Nelson, M.; O'Rourke, Perkins, Perry, Post, Prescott, Reeves, P.; Richard, Rolde, Salsbury, Smith, C.B.; Soulas, Soule, Theriault, Thompson, Tuttle, Vose, Walker, Wentworth.

NAY — Alopis, Armstrong, Bell, Berube, Bordeaux, Boyce, Brown, A.; Brown, D.; Brown, K.L.; Cahill, Callahan, Carter, Chonko, Conary, Connors, Crowley, Curtis, Damren, Davis, Day, Diamond, G.W.; Dillenback, Drinkwater, Dudley, Foster, Fowlie, Gavett, Hall, Higgins, L.M.; Holloway, Huber, Hunter, Hutchings, Ingraham, Jackson, Jordan, Joyce, Kelleher, Kiesman, Kilcoyne, Lancaster, Lewis, Lisnik, Livesay, Lund, MacBride, McEachern, Mahany, Masterman, Matthews, McHenry, McPherson, McSweeney, Murphy, Norton, Paradis, E.; Paradis, P.; Pearson, Peterson, Racine, Randall, Reeves, J.; Ridley, Roberts, Sherburne, Small, Smith, C.W.; Stevenson, Strout, Swazey, Tarbell, Treadwell, Webster, Weymouth.

ABSENT — Carrier, Cunningham, Gillis, Hickey, Hobbins, Jacques, LaPlante, Laverriere, Martin, H.C.; Masterton, Nelson, A.; Paul, Pouliot, Stover, Studley, Telow, Twit-

chell, The Speaker.

Yes, 58; No, 74; Absent, 18; Vacant, 1.

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

Consent Calendar

First Day

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

(H. P. 1120) (L. D. 1337) Bill "An Act to Require Periodic Reapportioning of Districts for Election of Representatives to Congress"—Committee on State Government reporting "Ought to Pass" as amended by Committee Amendment "A" (H-370)

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" (H-370) was read by the Clerk and adopted and the Bill assigned for second reading tomorrow.

(H. P. 631) (L. D. 712) Bill "An Act to Provide for the Limitations of Liability in Regard to Certain Insurance Inspections"—Committee on Business Legislation reporting "Ought to Pass" as amended by Committee Amendment "A" (H-369)

(H. P. 2) (L. D. 2) Bill "An Act to Adopt Federal Withholding Requirements for Payments to Certain Nonresident Alien Individuals, Foreign Corporations and Partnerships"—Committee on Taxation reporting "Ought to Pass" as amended by Committee Amendment "A" (H-368)

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

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

Bill, "An Act to Amend the Petroleum Liquids Transfer Vapor Recovery Law" (Emergency) (S. P. 602) (L. D. 1600)

Came from the Senate referred to the Committee on Energy and Natural Resources and ordered printed.

In the House, was referred to the Committee on Energy and Natural Resources in concurrence.

By unanimous consent, ordered sent forthwith.

Passed to Be Enacted Emergency Measure

An Act Making Appropriations and Allocations for the Expenditures of State Government and Changing Certain Provisions of the Law Necessary to the Proper Operation of State Government for the Fiscal Years Ending June 30, 1982, and June 30, 1983 (H. P. 1440) (L. D. 1583)

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 necessary, a total was taken. 128 voted in favor of same and 7 against, and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

By unanimous consent, ordered sent forthwith to the Senate.

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

Non-Concurrent Matter

Bill "An Act to Regulate Entrance Fees Charged by Mobile Home Parks" (H. P. 779) (L. D. 924) which was passed to be engrossed as amended by House Amendment "B" (H-361)

in the House on May 12, 1981.

Came from the Senate with that Body having adhered to its previous action whereby the Bill was passed to be engrossed as amended by Senate Amendment "A" (S-184) in non-concurrence.

In the House: On motion of Mr. Brannigan of Portland, the House voted to recede and concur.

Non-Concurrent Matter

Bill "An Act to Create a Department of Corrections" (S. P. 376) (L. D. 1134) (C. "A" S-115) which was passed to be Enacted in the House on May 5, 1981.

Came from the Senate Failing of Passage to be Enacted in non-concurrence.

The SPEAKER: The Chair would like to announce the reason why the bill is here in this fashion. The bill was enacted under the hammer in this body, and after it went to the other body, it was discovered that we had all missed the fact that we had created a new department that required confirmation. The gentlewoman from Waterville, Mrs. Kany, brought it to my attention yesterday or the day before. We instructed the Senate to return it to us in this fashion so that we could then enact it by the necessary requirements pursuant to the Constitution.

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

Mr. CONNOLLY: Mr. Speaker, Members of the House: The other day I spoke for several minutes in opposition to this bill and there is nothing that has occurred since then that has caused me to change my mind. I didn't think the other day that there was sufficient support in here to try to defeat this bill if all it required was a simple majority. Since it does require a two-thirds vote, I would just like to see if there is significant opposition to this bill.

For that reason, I would ask for a division and I would like to clarify one thing. The other day when I got up to speak, after I spoke, Representative Prescott got up and responded to my remarks and one of the things that she said, she said that I was opposed to various things within the Department of Corrections. She said I was opposed to the Charleston Center that was just established this year and, for the record, I would just like to clarify that, that I was never opposed to that type of thing. I think that is a progressive kind of thing from the Department of Mental Health and Corrections. So, I would ask for a division and hope that maybe enough of you would vote against this bill so we could defeat the measure.

The SPEAKER: The pending question is on the motion of the gentleman from Eagle Lake, Mr. Martin, that the House insist on its action whereby the Bill was passed to be enacted. Pursuant to the Constitution, this requires a two-thirds vote of all those present and voting. All those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

119 having voted in the affirmative and 17 having voted in the negative, the motion did prevail.

Sent to the Senate for concurrence.

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

The following Joint Order: (S. P. 600)

ORDERED, the House concurring, that the Joint Standing Committee on Health and Institutional Services report out a bill to the Senate to require the Department of Human Services to provide home based care as an alternative to nursing home care.

Came from the Senate read and passed.

In the House, the Order was read and passed in concurrence.

Leave to Withdraw

Report of the Committee on Judiciary re-

porting "Leave to Withdraw" on Bill "An Act to Increase the Maximum Civil Penalties under the Maine Human Rights Act" (S. P. 288) (L. D. 814)

Report of the Committee on Taxation reporting "Leave to Withdraw" on Bill "An Act to Establish an Income Tax Checkoff for the Arts" (S. P. 414) (L. D. 1218)

Came from the Senate with the Reports read and accepted.

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

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

Ought Not to Pass

Report of the Committee on Local and County Government reporting "Ought Not to Pass" on Bill "An Act to Establish a Limit on County Government Taxation" (S. P. 468) (L. D. 1324)

In the House, pursuant to Joint Rule 22, was placed in the Legislative Files without further action in concurrence.

Leave to Withdraw

Report of the Committee on Education reporting "Leave to Withdraw" on Bill "An Act to Authorize an Experimental Cost Sharing of New Vocational Programs at the Capitol Area Vocational Center" (S. P. 326) (L. D. 934)

Report of the Committee on Fisheries and Wildlife reporting "Leave to Withdraw" on Bill "An Act to Require Registration of Snowmobiles Operated in Maine by Nonresidents" (S. P. 493) (L. D. 1394)

Report of the Committee on Judiciary reporting "Leave to Withdraw" on Bill "An Act to Amend the Small Claims Law and Conform Related Laws" (S. P. 405) (L. D. 1210)

Report of the Committee on Judiciary reporting "Leave to Withdraw" on Bill "An Act to Establish a Small Claims Court" (S. P. 469) (L. D. 1325)

Came from the Senate with the reports read and accepted.

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

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

Divided Report

Report "A" of the Committee on Judiciary reporting "Ought to Pass" as amended by Committee Amendment "A" (S-193) on Bill "An Act to Clarify the Status of Certain Real Estate Easements in the State" (S. P. 224) (L. D. 611)

Report was signed by the following members:

Senators:

DEVOE of Penobscot

CONLEY of Cumberland

— of the Senate.

Representatives:

DRINKWATER of Belfast

REEVES of Newport

JOYCE of Portland

O'ROURKE of Camden

LUND of Augusta

LIVESAY of Brunswick

SOULE of Westbrook

— of the House.

Three Members of the same Committee report in Report "B" that the same "Ought to Pass" as amended by Committee Amendment "B" (S-194)

Report was signed by the following members:

Senator:

KERRY of York

— of the Senate.

Representatives:

BENOIT of South Portland

HOBBINS of Saco

— of the House.

One Member of the same Committee reports in Report "C" that the same "Ought Not to Pass"

Report was signed by the following member: Representative:

CARRIER of Westbrook

— of the House.

Came from the Senate with Report "A" "Ought to Pass" as amended read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (S-193)

In the House: Reports were read.

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

Mrs. MITCHELL: Mr. Speaker, Men and Women of the House: We have before us one of two bills dealing with a very complex legal issue. Because of that, we have posed certain questions to the Attorney General, and in order to await an answer for that, we are going to ask that this bill be tabled at this time.

On motion of Mr. Diamond of Windham, tabled unassigned pending acceptance of either Report.

The following paper appearing on Supplement No. 4 was taken up out of order by unanimous consent:

Divided Report

Report "A" of the Committee on Legal Affairs reporting "Ought to Pass" as amended by Committee Amendment "A" (S-190) on Bill "An Act to Prohibit the Dissemination of Obscene Material" (S. P. 243) (L. D. 698)

Report was signed by the following members:

Representatives:

SOULAS of Bangor

STOVER of West Bath

SWAZEY of Bucksport

STUDLEY of Berwick

TREADWELL of Veazie

DUDLEY of Enfield

— of the House.

Three Members of the same Committee report in Report "B" that the same "Ought to Pass" as amended by Committee Amendment "B" (S-191)

Report was signed by the following members:

Senator:

SHUTE of Waldo

— of the Senate.

Representatives:

PERRY of Mexico

McSWEENEY of Old Orchard Beach

— of the House.

Four Members of the same Committee report in Report "C" that the same "Ought Not to Pass"

Report was signed by the following members:

Senators:

CHARETTE of Androscoggin

VIOLETTE of Aroostook

— of the Senate.

Representatives:

GWADOSKY of Fairfield

COX of Brewer

— of the House.

Came from the Senate with Report "B" "Ought to Pass" as amended read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "B" (S-191)

In the House: Reports were read.

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

Mr. COX: Mr. Speaker, I move that the House accept Report C, "Ought Not to Pass."

As you can see, this is a three way divided report. I will try to explain the different reports.

Report A is essentially the original bill. The amendment on it simply makes an exception for libraries, museums and schools about the possession and dissemination of so-called ob-

scene material. The problem with that amendment is that while they can possess it, it would be a crime for anyone else to sell the material to them.

Report A is a far-reaching bill, but I would say that its grasp is rather uncertain in that it purports to make dissemination of obscene material a crime and it uses the Supreme Court's definition of obscene material. The problem is that that definition of the Supreme Court is not as clear as it would appear. I think the result of this report, if it were enacted into law, would be to provide for a considerable amount of harassment but probably very, very few convictions.

Report B, which is the report that comes to us as being accepted at the other end of the hall, removes everything except material that is visible from sidewalks or public ways. Actually, this doesn't make too much difference, because the present law says sexually explicit material should not be in the view of minors, and since minors are on the sidewalks and public ways, I think this part of it is simply a duplication. It does define obscene material slightly different from the present law in that it contains objects.

In addition, this Report B has a prohibition in it on live performances. The Statement of Fact on that amendment says that it prevents live sex shows. I think we don't have too much problem with objecting to live sex shows but what it says is "plays and performances," so you might have a small possibility under that report of people harassing plays that they thought were obscene, perhaps having some chilling effect on the production of plays.

I would urge you to cut through all of these confusions and simply accept the "Ought Not to Pass" Report.

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

Mr. SOULAS: Mr. Speaker, Ladies and Gentlemen of the House: The chairman made an excellent presentation, and I am sure that you now know how you want to vote on this bill. For that reason, I am going to ask for a division.

The SPEAKER: The Chair will order a vote. The pending question before the House is on the motion of the gentleman from Brewer, Mr. Cox, that the House accept Report C, "Ought Not to Pass." Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

Mr. Higgins of Scarborough 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 Fairfield, Mr. Gwadosky.

Mr. GWADOSKY: Mr. Speaker, Ladies and Gentlemen of the House: I hesitate to get up twice but it is just the nature of the way the bills come out of committee. I think with so many people out in the hall and everything, we should have a little bit of an explanation on what this bill is going to do before we vote on this.

We have had this bill in committee for a great deal of time. We have a good deal of information on it. I think we had some four or five hundred people at the public hearing and it became quite evident at the outset of the bill that there were a couple of overriding questions that we had to answer and the first question we had to answer was, does the nature of pornography warrant a suppression by an act of the Maine Legislature? Secondly, to what extent can we ban pornographic material without violating constitutional or legal doctrines of freedom of speech?

I think before we do anything, we have to be aware that to pass a law on a statewide basis dealing with pornography, we should know right up front that virtually any law that we pass on a statewide basis is subject to be challenged on First Amendment grounds. This is simply because pornography is a multi-billion dollar business and any attempts to ban any of its products is simply going to bring arguments up. Because of this, it was my feeling and the feelings of many members of the committee, that we would seek our solution to this problem through our local committees.

Towns already have the ability to adopt local ordinances and can do so. We feel that a local bill, locally discussed, and it is my understanding, that when an ordinance like this is presented, usually a public hearing is held, then the intent of the town can clearly be understood. Once a problem occurs in your town, then you can simply point to the local ordinance and use that to correct the situation.

I think the bill before us was a good-faith effort; however, even the amended versions contain several definitions which are simply too vague and may be unconstitutional.

The bill begins by repealing the present protection that we have dealing with juveniles and the dissemination of materials of juveniles. It repeats that and suggests that we treat juveniles and adults in the same fashion under one bill. And the definition of obscene—it says, "Material is obscene if considered as a whole, to the average person, when applying contemporary, community standards, its predominant appeal is to the prurient interest in sex." Even in the amended version they are still saying "community standards," and I would suggest that if we are going to be passing a state bill, we should be including state standards in a bill like this.

It doesn't define prurient—this has been one of the problems and they have had court cases in different counties and different states in the country, this lack of definitions has made this type of legislation simply too vague.

Just to give you a brief example, I know that it is late, how this bill works—let's say that a citizen in your community doesn't like a particular book. This may be a book at Bookland in Lewiston, may be a particular book at LaVerdiere's in Belfast, or let's say he doesn't like a particular magazine or doesn't like a particular movie at the Cinema Center in Waterville, he can contact his district attorney, and if the district attorney reasonably believes the material might be obscene, then they will have a preliminary hearing. This may or may not be a good idea.

What concerned me was the attitude of the people who testified at our public hearing and their difference of opinion of what obscene was. We had people who came before us and told us that they felt the health and hygiene pamphlets that the high schools pass out were obscene. We had people who came before us and told us and told us that many of the famous books in our libraries were obscene. People came before us and told us that several articles in issues of Sports Illustrated were obscene.

The bill does have an exemption, and it exempts non-commercial sale of material used purely for the educational purposes, which would seem to help our libraries and our public schools in this instance. However, it doesn't provide any protection for the bookstore owner nor does it provide any protection for the movie theater owner.

To pass a bill like this could open up the door for court cases. It is going to open up the door for harassing of businesses. Bookstore owners will have to become judges on every single book in their store of whether or not it is obscene. Movie theaters will have to change their entire rating system, they will have to decide now what is the difference between an X-rated movie, what is the difference between an R-rated movie, what is a G-rated movie.

Ladies and gentlemen this is a serious problem. I think the idea of pornography turns the stomach of many people, it bothered us in committee, but we feel that this could be addressed on the local level. Municipalities have the ability to enact local ordinances where a problem exists. I will concede that there are problems in certain areas of the state, but I cannot concede at this time that this is a statewide problem. A statewide bill is more subject to abuse and misuse to harassment, and this is simply because of the abstract language in a statewide bill will be applied by many people who do not understand fully its application. I think to pass a statewide bill is to raise false hopes and expectations.

A local ordinance can work. I have had the opportunity in the two months that we have had this in committee to come up with my own local ordinance for my town of Fairfield. I have had it reviewed, it is constitutionally sound. I would be happy to share this with my member here. I think we can solve this on the local level and there is no need at this time to pass this bill on a statewide basis.

I would urge you to continue with your original vote and support House Report "C," which was the "Ought Not to Pass" Report.

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

Mr. MURPHY: Mr. Speaker, Ladies and Gentlemen of the House: As an advocate of local control I firmly believe that our citizens back home are capable of perceiving a local problem and if they feel it is a local problem, address it on the local level.

The community in which this problem first occurred, that actually spawned this bill, has passed its own local ordinance to deal with this problem, and I feel it should be left at home.

As a newspaper editor, there is no way that I can condone or vote for any type of statewide censorship. I urge you to accept Report "C," the "Ought Not to Pass" Report.

The SPEAKER: The Chair recognizes the gentleman from Veazie, Mr. Treadwell.

Mr. TREADWELL: Mr. Speaker, Ladies and Gentlemen of the House: I hope you do not accept the Minority "Ought Not to Pass" Report motion that is before us. This bill covers an existing problem with regard to hardcore pornography, live sex shows and other public indecencies for commercial entertainment.

At the present time, we have no law to assist the municipalities with the problem of removing these negative influences from our communities. This bill will meet these needs and provide our law enforcement agencies and courts with the necessary tools to address the situation.

This bill does not address itself to magazine sales as currently allowed or permitted on our newsstands. Also, under the provisions of the juvenile statutes, libraries, art museums and other designated areas are exempted from this measure.

We gave this bill an exceptionally good public hearing at the civic center and had many intensive work sessions. At the public hearing there were over 400 present. We heard approximately four hours of testimony on this bill. All the testimony given at the hearing was in favor of this bill, with the exception of testimony relating to libraries, art galleries and book sellers. As I have mentioned, the committee amendment exempts these.

The committee was presented with petitions containing hundreds of signatures in support of this bill. Testimony was given by parents, members of the clergy, civic and fraternal organizations. As a member of this committee, I received many phone calls from various parts of this state in support.

Again, I hope you do not accept the Minority "Ought Not to Pass" motion, defeat the motion and then accept the Majority "Ought to Pass" Report as amended by Committee Amendment

"A".

The SPEAKER: A roll call has been ordered. The pending question is on the motion of the gentleman from Brewer, Mr. Cox, that the "Ought Not to Pass" Report C be accepted. All those in favor will vote yes; those opposed will vote no.

ROLL CALL

YEA — Aloupis, Armstrong, Austin, Baker, Beaulieu, Bell, Benoit, Berube, Boisvert, Bordeaux, Boyce, Brannigan, Brennerman, Brodeur, Brown, D.; Brown, K.L.; Cahill, Callahan, Carroll, Carter, Conners, Connolly, Cox, Curtis, Davies, Davis, Day, Diamond, G.W.; Diamond, J.N.; Erwin, Fitzgerald, Foster, Gillis, Gowen, Gwadosky, Hall, Hanson, Hickey, Higgins, H.C.; Holloway, Huber, Ingraham, Jackson, Jalbert, Kane, Kany, Kelleher, Ketover, Kiesman, Kilcoyne, Livesay, Lund, MacEachern, Macomber, Mahany, Matthews, McGowan, Michael, Michaud, Mitchell, E.H.; Mitchell, J.; Moholland, Murphy, Nadeau, Nelson, M.; Norton, Paul, Perkins, Perry, Peterson, Post, Racine, Reeves, P.; Richard, Roberts, Salsbury, Small, Soule, Thompson, Vose, Webster.

NAY — Brown, A.; Clark, Crowley, Damren, Dexter, Dillenback, Drinkwater, Dudley, Fowle, Gavett, Hayden, Higgins, L.M.; Hunter, Hutchings, Jacques, Jordan, Lancaster, Laverriere, Lewis, Lisnik, Locke, MacBride, Manning, Martin, A.; Masterman, McColister, McHenry, McKean, McPherson, McSweeney, Nelson, A.; O'Rourke, Paradis, E.; Paradis, P.; Pearson, Prescott, Randall, Reeves, J.; Ridley, Rolde, Sherburne, Smith, C.B.; Smith, C.W.; Soulas, Stevenson, Strout, Swazey, Tarbell, Telow, Theriault, Treadwell, Tuttle, Walker, Wentworth, Weymouth.

ABSENT — Carrier, Chonko, Conary, Cunningham, Hobbins, Joyce, LaPlante, Martin, H.C.; Masterton, Pouliot, Stover, Studley, Twitchell, Mr. Speaker.

VACANT — Leighton.

Yes, 81; No, 55; Absent, 14; Vacant, 1.

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

By unanimous consent, ordered sent forthwith to the Senate.

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

Consent Calendar

First Day

(S. P. 477) (L. D. 1360) Bill "An Act to Permit the Opportunity for Continuing Health Insurance" — Committee on Labor reporting "Ought to Pass" as amended by Committee Amendment "A" (S-188)

(S. P. 198) (L. D. 566) Bill "An Act to Forbid Payments for Signing or Distributing State Referendum Petitions or Absentee Ballots" — Committee on Election Laws reporting "Ought to Pass" as amended by Committee Amendment "A" (S-195)

(S. P. 352) (L. D. 995) Bill "An Act to Promote Tourism by Providing Directional Signs for Publicity Bureau Offices" — Committee on Transportation reporting "Ought to Pass" as amended by Committee Amendment "A" (S-186)

(S. P. 418) (L. D. 1241) Bill "An Act to Increase the Bonding Limit on Maine State Housing Authority Bonds Secured by the Housing Reserve Fund" — Committee on State Government reporting "Ought to Pass" as amended by Committee Amendment "A" (S-187)

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

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

imous consent:

Non-Concurrent Matter Tabled and Assigned

Bill "An Act to Reimburse Owners of Livestock, Poultry or Beehives which are Destroyed or Damaged by Dogs or Wild Animals" (S. P. 582) (L. D. 1558) which was passed to be engrossed as amended by Senate Amendment "A" (S-157) as amended by House Amendment "A" (H-323) thereto in the House on May 7, 1981.

Came from the Senate passed to be engrossed as amended by Senate Amendment "A" (S-157) as amended by Senate Amendment "A" (S-205) and House Amendment "A" (H-323) thereto in non-concurrence.

In the House: On motion of Mr. Mahany of Easton, tabled pending further consideration and specially assigned for Friday, May 15.

Non-Concurrent Matter Tabled and Assigned

Bill "An Act to Provide Reciprocal Fees and Charges for Trucks from other States" (Emergency) (H. P. 1439) (L. D. 1581) which was passed to be engrossed in the House on May 7, 1981.

Came from the Senate passed to be engrossed as amended by Senate Amendment "A" (S-203) in non-concurrence.

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

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

Non-Concurrent Matter

Bill, "An Act to Amend the Campaign Reporting Law" (H.P. 974) (L.D. 1162) which was passed to be engrossed as amended by Committee Amendment "A" (H-334) in the House on May 11, 1981.

Came from the Senate passed to be engrossed as amended by Committee Amendment "A" (H-334) as amended by Senate Amendment "A" (S-199) thereto in non-concurrence.

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

Non-Concurrent Matter Tabled and Assigned

Bill "An Act Relating to Bail Commissioners" (H.P. 1271) (L.D. 1486) on which the Bill and Accompanying Papers were Indefinitely Postponed in the House on May 8, 1981.

Came from the Senate passed to be engrossed as amended by Committee Amendment "A" (H-338) as amended by Senate Amendment "A" (S-200) thereto in non-concurrence.

In the House:

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

Mr. TARBELL: Mr. Speaker, Ladies and Gentlemen of the House: We debated this matter at length the other day. My principal objection to the bill was....

The SPEAKER: Would the gentleman care to make a motion before he continues.

Mr. TARBELL: Mr. Speaker, I move that the House adhere.

The SPEAKER: The gentleman from Bangor, Mr. Tarbell, moves that the House adhere.

The gentleman may proceed.

Mr. TARBELL: Mr. Speaker and Members of the House: The motion to adhere really doesn't take care of my objection, but I did need to make a motion, so I did move to adhere.

However, I have no problems with the bill except for the fact that if a person is arrested and they are not able to pay the bail commissioner's fee of \$15, which, by the way, we in the House have kept that fee down to \$15 over the last few years, because there have been bills

coming through this House to increase the bail commissioner's fee, but we have succeeded in keeping it at \$15 so that most people could afford that \$15 fee of the bail commissioner.

What this bill does, it goes one step further and says if the person doesn't have \$15 on him when he is arrested and it is the opinion of the law enforcement authorities that he or she should be released on his or her own personal recognizance, not held overnight in the local town jail or in the county jail, that that \$15 fee to pay the bail commissioner should come from the district court. This particular aspect of the bill you are asked to support because it is purported to be a cost savings, because that way you don't have to keep the prisoner or the accused who has been arrested overnight and therefore we are supposed to save money.

Well, the court systems are having a very rough time. We haven't passed and the citizens of Maine haven't passed a court facilities bill to help renovate some of the facilities throughout the state, we haven't given fair and adequate pay raises to the staffs of the courts. We are passing laws every day through this House and through the Senate that add more and more legal rights and legal obligations and duties on the citizens of Maine that are going to be tried in our judicial system, that backlog that dockets of our court, and all it does is pass the buck, it passes the buck from the local level and the county level down to the court level. I just don't think that is the proper way to address it.

The Senate Amendment that has been added in the other body puts a sunset provision on this bill, to try it out for a couple of years and see how it goes and then we can come back and review it. I just think that we ought to stand pat by our former action. Unless someone can come up with a more creative idea that is not going to pass this additional burden on to the courts, then I don't think we really should enact this measure and pass this along any further.

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

Ms. BENOIT: Mr. Speaker, I move that the House recede and concur.

The SPEAKER: The gentleman from South Portland, Ms. Benoit, moves that the House recede and concur.

The gentleman may proceed.

Ms. BENOIT: Mr. Speaker, Men and Women of the House: I will try to be brief. We discussed this quite thoroughly the other day, but I really find it hard to believe that there aren't enough people in this body that have compassion for a person that would have absolutely no money, a person who is arrested and doesn't have a penny, that cannot possibly come up with \$15 to pay the bail commissioner, and for that reason would have to spend the night in jail, perhaps even a weekend. It costs a whole lot more to keep a person in jail for a night or two than it would to pay \$15 to a bail commissioner.

In addition, in the future when the judge were to hold a hearing for whatever this person has been charged with, the judge can, at that time, make a further determination as to whether the person is truly indigent. If the bail commissioner has already been paid and the judge finds that the person really was not indigent, he can order the person to repay the \$15. I ask you, how many people do you believe in this state could not afford to pay that \$15? I doubt if it would be many, and I have talked to bail commissioners about this, and there are not very many people.

This is not going to cost very much. This is a bill that just helps a few people that are so poor that they would have to spend the night in jail without help. I would ask you to please move to recede and concur.

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

Ms. LUND: Mr. Speaker, Men and Women of the House: I believe that compassion belongs at the local level. Most of the bail commission-

ers said that if somebody really cannot afford the fee, that they, themselves, let the person out without charging any money—that is compassion.

I feel further that if the person does not have money or a friend, we would serve him better by allowing him to have a square meal and a good sleep in the jail.

I urge you to vote against this bill.

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

Mr. COX: Mr. Speaker and Members of the House: I have been listening to the debate on this a couple of times, and it seems to be that the present system of requiring a person to spend the night in jail if he does not have \$15 actually creates a crime, shall we say, that is not on the books, in that automatically this person is charged with the crime of being poor and punished by a night in jail.

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

Mr. HALL: Mr. Speaker, and Members of the House: The problem I find with this is, talking with my brother-in-law who is a sheriff in Piscataquis County, and frankly he isn't too much in love with me because I didn't do too much for this health when I cut his budget, but nevertheless, he tells me that keeping them in there overnight is costing the county up to \$27 a night. That is a little more than he put in his budget, but that is what he tells me anyway. He says you are not doing the county a favor by doing it that way.

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

Mr. HAYDEN: Mr. Speaker and Members of the House: In the debate earlier in the week, I guess it was, we heard a great deal about bleeding hearts and how poor people, particularly, that end up in jail, they belong in jail anyway. I can tell you, from my observations, that is simply not the case, that is not the way the system in this country works.

What this bill does is give a chance for a very few, very unfortunate people that have no great consistency here to get some justice in this country.

Now, the amendment on the bill answers some of the practical questions raised by its opponents. We had a question whether or not this really would save money, as the Sheriffs Association claims it does, and everybody else involved with the process as far as I can tell. The amendment puts a sunset of January 1, 1983 onto the bill.

Again, I would urge you to vote in favor of the motion to recede and concur.

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

Mr. TARBELL: Mr. Speaker, Ladies and Gentlemen of the House: I don't want you to misunderstand me. I don't have any major opposition to the trust of this bill. I just have an opposition to passing this additional cost on to the district courts.

This bill doesn't even have a fiscal note on it. It isn't even going to go into the Appropriations Table as it is currently structured in posture, sit on the Appropriations Table for us to decide what kind of funding, if any, needs to go on the bill so that we are going to provide some additional state funds to help the district court pay for it. That is where my principal objections are coming from. If somebody wants to clarify this and they have some creative thoughts of how to clean this up and improve it, then that is fine with me, but I just don't think it is fair and it is right to pass this one.

You know and I know on the floor of the House that once word gets out to the criminal community in our State, and we have continuing indigent defendants that come through the court system, they are cycled through over and over again. I know, I have represented many of these people, I represent them well, as a court appointed defense attorney in their behalf, but I stand up for their rights. I review their bail

with the bail commissioner and with the law enforcement authorities and with the district court judge and the superior court judge. But as soon as the word pervades throughout the State of Maine that all you have to do is go in and say you're indigent, you have no property, you have no dollars, you have no friends, you have no family, the district court will pick up the tab, they will do it and this measure will become a cost item and we don't even have a fiscal note on it.

I ask for you to adhere unless somebody can come up with an honest way of approaching this measure and put some honest dollars on it.

The SPEAKER: The Chair will order a vote. The pending question is on the motion of the gentleman from South Portland, Ms. Benoit, 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.

38 having voted in the affirmative and 76 having voted in the negative, the motion did not prevail.

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

Mr. TARBELL: Mr. Speaker, in the interest of fairness. I would like to withdraw my motion to adhere, move to insist and table for one legislative day.

Mr. McHenry of Madawaska requested a division.

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

A vote of the House was taken.

65 having voted in the affirmative and 48 having voted in the negative, the motion did prevail.

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

Non-Concurrent Matters

Bill "An Act to Simplify the Requirements for the Granting of Permission to Additional Institutions to Use Established Satellite Facilities" (Emergency) (H. P. 998) (L. D. 1221) which was passed to be engrossed as amended by Committee Amendment "A" (H-327) in the House on May 11, 1981.

Came from the Senate passed to be engrossed as amended by Committee Amendment "A" (H-327) and Senate Amendment "A" (S-201) in non-concurrence.

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

Bill "An Act to Provide a Special Muzzle-loading Hunting Season" (H. P. 218) (L. D. 255) which was passed to be engrossed as amended by Committee Amendment "A" (H-333) in the House on May 11, 1981.

Came from the Senate with the Bill and Accompanying Papers Indefinitely Postponed in non-concurrence.

In the House: On motion of Mr. MacEachern of Lincoln, the House voted to insist and ask for a Committee of Conference.

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

Ought to Pass as Amended

Report of the Committee on Energy and Natural Resources reporting "Ought to Pass" as amended by Committee Amendment "A" (S-183) on Bill "An Act Requiring Energy Efficiency in Buildings Financed with Public Funds" (S. P. 480) (L. D. 1363)

Came from the Senate with the Report read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (S-183) as amended by Senate Amendment "A" (S-211) thereto.

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

Committee Amendment "A" (S-183) was read by the Clerk. Senate Amendment "A" to Committee Amendment "A" (S-211) was read by the Clerk and adopted. Committee Amendment "A" as amended by Senate Amendment "A" thereto was adopted.

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

Leave to Withdraw

Representative Soule from the Committee on Judiciary on Bill "An Act to Clarify Requirements for Consent Under the Adoption Law" (H. P. 808) (L. D. 968) reporting "Leave to Withdraw"

Report was read and accepted and sent up for concurrence.

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

Passed to Be Enacted Emergency Measure

An Act to Provide for Municipal Development of Energy Resources (H. P. 1150) (L. D. 1398) (H. "A" H-326; C. "A" H-285)

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. 120 voted in favor of same and none against, and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

Finally Passed Emergency Measures

RESOLVE, Reimbursing Certain Municipalities on Account of Taxes Lost Due to Lands being Classified under the Tree Growth Tax Law" (H. P. 1387) (L. D. 1564)

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

RESOLVE, for Laying of the County Taxes and Authorizing Expenditures of Somerset County for the Year 1981 (H. P. 1435) (L. D. 1580)

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. 117 voted in favor of same and none against, and accordingly the Resolve was finally passed, signed by the Speaker and sent to the Senate.

Passed to Be Enacted

An Act to Protect Privacy in Divorce and Child Custody Actions (H. P. 864) (L. D. 1025) (C. "A" H-308)

An Act to Amend the Maine Consumer Credit Code with Respect to Consumer Credit Sales (S. P. 276) (L. D. 785) (C. "A" S-181)

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

An Act to Increase the Compensation Paid to Judges and Justices (S. P. 382) (L. D. 1140) (C. "A" S-176)

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

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

Mrs. MARTIN: Mr. Speaker and Members of the House: I am opposed to this bill. I gave you all my reasons last week and I still feel the same. I request a roll call so that I will be on record as opposing this bill.

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

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

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

ROLL CALL

YEA — Aloupis, Armstrong, Baker, Bell, Benoit, Boisvert, Bordeaux, Boyce, Brannigan, Brennerman, Brown, K.L.; Cahill, Carroll, Carter, Chonko, Conary, Connolly, Cox, Crowley, Davies, Davis, Day, Diamond, G.W.; Diamond, J.N.; Dillenback, Drinkwater, Erwin, Fitzgerald, Foster, Gavett, Gillis, Gowen, Gwadosky, Hanson, Hayden, Hickey, Higgins, L.M.; Hutchings, Ingraham, Jackson, Jalbert, Joyce, Kane, Kany, Kelleher, Ketover, Kiesman, Kilcoyne, Lancaster, Livesay, Lund, MacBride, Macomber, Mahany, Manning, McSweeney, Michael, Mitchell, E.H.; Mitchell, J.; Moholland, Murphy, Nadeau, Nelson, M.; O'Rourke, Paradis, E.; Paradis, P.; Pearson, Perkins, Perry, Peterson, Richard, Roberts, Rolde, Small, Smith, C.W.; Soulas, Soule, Tarbell, Telow, Thompson, Vose, Walker, The Speaker.

NAY — Austin, Beaulieu, Berube, Brodeur, Brown, A.; Brown, D.; Callahan, Clark, Conners, Curtis, Damren, Dexter, Dudley, Fowlie, Hall, Higgins, H. C.; Holloway, Huber, Hunter, Jacques, Jordan, LaPlante, Laverriere, Lewis, Lisnik, Locke, MacEachern, Martin, A.; Masterton, Matthews, McColister, McGowan, McHenry, McKean, McPherson, Michaud, Nelson, A.; Norton, Paul, Post, Prescott, Racine, Randall, Reeves, J.; Reeves, P.; Ridley, Salisbury, Sherburne, Smith, C.B.; Stevenson, Stover, Strout, Swazey, Theriault, Treadwell, Tuttle, Webster, Wentworth, Weymouth.

ABSENT — Carrier, Cunningham, Hobbins, Martin, H.C.; Masterton, Pouliot, Studley, Twitchell.

Yes, 83; No, 59; Absent, 8; Vacant, 1.

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

Signed by the Speaker and sent to the Senate.

An Act to Authorize Revenue Bond Financing for the Agricultural and Fishing Industries (S. P. 403) (L. D. 1208)

An Act to Amend the Definition of Home Improvement Note Set Forth in the Maine Housing Authorities Act (S. P. 481) (L. D. 1364) (C. "A" S-180)

An Act to Require that Coverage for Alcoholism Treatment be Offered as an Option in Group Health Insurance Policies (H. P. 591) (L. D. 669) (C. "A" H-315)

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

By unanimous consent, all preceding Enactors were ordered sent forthwith to the Senate.

The following paper was taken up out of order by unanimous consent:

Non-Concurrent Matter

Bill "An Act Relating to the Management of the Department of the Attorney General" (H. P. 1210) (L. D. 1425) on which the "Leave to Withdraw" Report of the Committee on State Government was read and accepted in the House on May 12, 1981.

Came from the Senate with the Bill and accompanying Papers Recommended to the Committee on State Government in non-concurrence.

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

Orders of the Day

The Chair laid before the House the first 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 11 by Representative Hall of Sangerville.

Pending—Further Consideration.

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

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

SENATE REPORT—"Ought to Pass" as Amended by Committee Amendment "A" (S-143) — Committee on Agriculture on Bill "An Act to Clarify the Definition of Commercial Applicator in the Maine Pesticides Control Act of 1975" (S. P. 373) (L. D. 1115)

—In Senate, Passed to be Engrossed as amended by Committee Amendment "A" (S-143) as amended by Senate Amendment "A" (S-172) thereto.

Tabled—May 11 by Representative Mahany of Easton.

Pending—Acceptance of the Committee Report.

On motion of Mr. Mahany of Easton, retabled pending acceptance of the Committee Report and tomorrow assigned.

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

SENATE DIVIDED REPORT—Majority (12) "Ought Not to Pass" — Minority (1) "Ought to Pass" — Committee on Fisheries and Wildlife on Bill "An Act to Prohibit Hunting of Bear with Bait" (S. P. 64) (L. D. 91)

—In Senate, Passed to be Engrossed on May 11, 1981.

Tabled—May 11 by Representative MacEachern of Lincoln.

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

On motion of Mr. MacEachern of Lincoln, retabled pending his motion to accept the Majority "Ought Not to Pass" Report and specially assigned for Friday, May 15.

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

SENATE REPORT—"Leave to Withdraw" — Committee on Agriculture on Bill "An Act to Promote the Maine Potato Industry" (S. P. 517) (L. D. 1439)

—In Senate, Recommended to the Committee on Agriculture on May 11, 1981.

Tabled—May 12 by Representative Mahany of Easton.

Pending—Acceptance of the Committee Report.

On motion of Mr. Mahany of Easton, recommended to the Committee on Agriculture in concurrence.

By unanimous consent, ordered forthwith to the Senate.

(Off Record Remarks)

On motion of Mr. Carroll of Limerick, Adjourned until eight-thirty tomorrow morning.