

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

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HOUSE

Thursday, June 11, 1981

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

Prayer by the Reverend Raymond Smith of St. Barnabus Episcopal Church, Augusta.

The journal of yesterday was read and approved.

Papers from the Senate Divided Report

Majority Report of the Committee on Election Laws reporting "Ought to Pass" on Bill "An Act Relating to Political Fundraising by State Employees" (S. P. 258) (L. D. 740)

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

BOISVERT of Lewiston

DIAMOND of Bangor

ROBERTS of Buxton

— of the House.

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

Report was signed by the following members:

Senator:

PIERCE of Kennebec

— of the Senate.

Representatives:

BORDEAUX of Mount Desert

WENTWORTH of Wells

HANSON of Kennebunkport

CAHILL of Woolwich

WEYMOUTH of West Gardiner

— of the House.

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

In the House: Reports were read.

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

Ms. BENOIT: Mr. Speaker, Men and Women of the House: L. D. 740 is a bill that would clarify the right of state employees to fully participate in political activity during their non-working hours and off state property and without the use of state facilities. This bill has been before this legislature many times. It would allow state employees to do exactly what everyone else can do, raise funds for political candidates and political parties. They can contribute funds now, but they cannot raise them, they cannot sell tickets to a bean supper, they cannot ask a neighbor for a donation, they cannot sell raffle tickets. This bill would allow them to do this.

It is interesting, this bill was obviously defeated in the other body. One of the cosponsors did not even vote for it. I hope this House will, once and for all, give state employees the right that the rest of us have and that you will accept the Majority "Ought to Pass" Report.

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

Mr. MASTERMAN: Mr. Speaker, I am a Republican. I was a cosponsor of this bill and I was a cosponsor of this bill because I believe that state employees are real people and should not be discriminated against. Our Minister this morning said in his prayer that we should practice equal justice, and I think that is what we are talking about this morning.

I would hope that you would go along with Ms. Benoit. She didn't ask for a roll call, but I will.

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

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

The SPEAKER: The pending question is on the motion of the gentleman from South Portland, Ms. Benoit, that the Majority "Ought to Pass" Report be accepted in non-concurrence. All those in favor will vote yes; those opposed will vote no.

ROLL CALL

YEA—Baker, Beaulieu, Benoit, Boisvert, Brannigan, Brennerman, Brodeur, Brown, A.; Carroll, Chonko, Clark, Connolly, Cox, Crowley, Cunningham, Dexter, Diamond, G.W.; Erwin, Fitzgerald, Fowlie, Gillis, Gowen, Gwadosky, Hall, Hayden, Hickey, Higgins, H.C.; Hobbins, Jacques, Joyce, Kany, Kelleher, Ketover, Kilcoyne, LaPlante, Laverriere, Lisnik, Locke, MacEachern, Macomber, Manning, Martin, A.; Martin, H.C.; Masterman, Matthews, McGowan, McHenry, McKean, McSweeney, Michaud, Mitchell, E.H.; Mitchell, J.; Moholland, Nadeau, Norton, Paradis, P.; Paul, Pearson, Perry, Pouliot, Reeves, P.; Richard, Roberts, Rolde, Smith, C.B.; Soulas, Soule, Strout, Theriault, Thompson, Tuttle, Twitchell, Vose, Webster, The Speaker.

NAY—Aloupis, Armstrong, Austin, Bell, Berube, Bordeaux, Brown, D.; Brown, K.L.; Cahill, Callahan, Carter, Conary, Connors, Curtis, Damren, Davis, Day, Dillenback, Drinkwater, Foster, Gavett, Hanson, Higgins, L.M.; Holloway, Huber, Hunter, Hutchings, Ingraham, Jackson, Jordan, Kiesman, Lancaster, Lewis, Livesay, Lund, MacBride, Masterton, McCollier, McPherson, Nelson, A.; Nelson, M.; O'Rourke, Paradis, E.; Perkins, Peterson, Racine, Randall, Reeves, J.; Ridley, Salisbury, Sherburne, Smith, C.W.; Stevenson, Stover, Studley, Tarbell, Telow, Treadwell, Walker, Wentworth.

ABSENT—Boyce, Carrier, Davies, Diamond, J.N.; Dudley, Jalbert, Kane, Mahany, Michael, Murphy, Post, Prescott, Small, Swaze, Weymouth.

Yes, 75; No, 60; Absent, 15; Vacant, 1.

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

Thereupon, the Bill was read once. Under suspension of the rules, the Bill was read the second time, passed to be engrossed in non-concurrence, and sent up for concurrence.

Passed to Be Enacted Emergency Measure

An Act to Establish Temporary Minimum Prices to be Paid to Milk Dealers and Retailers and to Facilitate Compliance of the Milk Commission with Recent Cases before the Maine Courts (H. P. 1660) (L. D. 1688) (S. "A" S-368)

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

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

Mr. KELLEHER: Mr. Speaker, Ladies and Gentlemen of the House: Due to the emergency situation, as some people believe it to be, this bill was introduced in a very normal fashion and proceeded through the House under suspension of the rules, which was agreed upon by all members of this body and the other, and in our haste in putting this bill through, I would like to raise a question to the Chair, if I may, under Title I, Section 302 of the State Statutes, which says "Actions and proceedings pending at the time of passage of repeal of an act or ordinance are hereby not affected thereby." What this statute is related to, the legislature, as I understand it, should not be in a position to enact a law or change a law when cases are pending before courts. Dealing with this milk situation, there is a hearing set before the Supreme Court of the State on the 17th day of July of this year, and would this House be in violation of existing laws if we allow this measure to proceed at this time, and I respectfully ask a

ruling from the Chair. I know that we swore in our oath to uphold the Constitution of this state, we would not want to violate any state law. Could we get a ruling on this, Mr. Speaker, to be sure that we are not in violation of Title I, Section 302 of the State Laws?

The SPEAKER: The Chair would advise the gentleman from Bangor, Mr. Kelleher, that the Speaker acting as Chair, and the Chair acting as parliamentarian, interprets the rules of the House and the Joint Rules adopted by both bodies. The Chair is not in a position to interpret the laws. The Chair would point out that he can make his own conclusions but would not be in a position to do so. That question would be properly addressed to the Attorney General or an advisory opinion to the Supreme Judicial Court of Maine.

Mr. KELLEHER: Mr. Speaker, due to the importance of this issue, I would respectfully ask that this House would not violate any law of this state which we swore to uphold, that this be tabled and we get an opinion, an advisory opinion, either from the Attorney General of this state or from the law court, because this is a very sensitive issue and I am sure we all want to do what is right.

So if some kind member would table this, I think we should absolutely get a ruling on this Title I, Section 302 of the State Statutes.

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

Mr. MCHENRY: Mr. Speaker, I don't know if I am correct, but I believe the gentleman said if there was a case pending — the case is no longer pending. A ruling has been made by the Supreme Court, I believe, am I correct?

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

Mr. KELLEHER: Mr. Speaker, there is a case pending before the Supreme Court of this State on the 17th day of July of this year. This is now June 11, so it is quite apparent that there is a case pending before the court.

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

Mr. JACKSON: Mr. Speaker, just supposing that the proposition that is being put in front of us here has some validity and that we were to pass this act, what would be the result of that? It seems to me that we should be addressing a problem. Is it really going to make the problem worse if we address it and then the court finds, referring back to the statutes or something, that we have a problem there, is that going to complicate things or should we just go ahead and address the problem as we see it?

The SPEAKER: The Chair would advise the gentleman that that question is more properly addressed to the Attorney General.

The Chair recognizes the gentleman from Sebec, Mrs. Locke.

Mrs. LOCKE: Mr. Speaker, Men and Women of the House: I understood yesterday that this question might arise, so I spoke with the Attorney General and I don't think it would take very long to get a ruling from the Attorney General, since the Attorney General did most of the writing of the bill. I think if somebody would like to table it, I think they are prepared to make a ruling fairly quickly.

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

Mr. KELLEHER: Mr. Speaker, because of the importance of this situation and because the opinion of the Attorney General or, for that matter, any assistant attorney general, is only an opinion, an advisory one, I would suggest that we prepare a question and send it to the law court, because the ultimate answer always has to be in the law court. So if some kind member of this House would table this bill until later today, I will see that a question is prepared if the House is willing to entertain an advisory opinion that has validity, and we will find out, hopefully, that this House will not be breaking the law as it exists today.

The SPEAKER: The Chair recognizes the

gentleman from Sanford, Mr. Paul.

Mr. PAUL: Mr. Speaker, I move this be tabled until later in today's session.

Whereupon, Mr. Racine of Biddeford requested a division.

Mr. Kelleher of Bangor requested a roll call vote.

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

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

The SPEAKER: The pending question is on the motion of the gentleman from Bangor, Mr. Kelleher, that this be tabled until later in today's session pending passage to be enacted. All those in favor of tabling will vote yes; those opposed will vote no.

ROLL CALL

YEA — Baker, Beaulieu, Benoit, Brannigan, Brenerman, Brodeur, Clark, Connolly, Erwin, Fitzgerald, Gwadosky, Hall, Higgins, H. C.; Hobbins, Joyce, Kelleher, Ketover, Kilcoyne, Laverriere, Macomber, Manning, McCollister, McHenry, McSweeney, Mitchell, J.; Nadeau, Paul, Perry, Richard, Soulas, Soule, Stover, Thompson, Tuttle.

NAY — Aloupis, Armstrong, Austin, Bell, Berube, Boisvert, Bordeaux, Boyce, Brown, A.; Brown, D.; Brown, K. L.; Cahill, Callahan, Carroll, Conary, Connors, Cox, Crowley, Cunningham, Curtis, Damren, Davis, Day, Dexter, Diamond, G. W.; Diamond, J. N.; Dillenback, Drinkwater, Foster, Fowlie, Gavett, Gillis, Gowen, Hanson, Hayden, Hickey, Higgins, L. M.; Holloway, Huber, Hunter, Hutchings, Ingraham, Jackson, Jacques, Jalbert, Jordan, Kane, Kany, Kiesman, Lancaster, LaPlante, Lewis, Lisnik, Livesay, Locke, Lund, MacBride, MacEachern, Mahany, Martin, A.; Martin, H. C.; Masterman, Masterton, Matthews, McGowan, McKean, McPherson, Michael, Michaud, Mitchell, E. H.; Moholland, Murphy, Nelson, A.; Nelson, M.; Norton, O'Rourke, Paradis, E.; Paradis, P.; Pearson, Perkins, Peterson, Post, Pouliot, Racine, Randall, Reeves, J.; Reeves, P.; Ridley, Roberts, Rolde, Salisbury, Sherburne, Smith, C. B.; Smith, C. W.; Stevenson, Strout, Studley, Tarbell, Telow, Theriault, Treadwell, Twitchell, Vose, Walker, Webster, Wentworth.

ABSENT — Carrier, Carter, Chonko, Davies, Dudley, Prescott, Small, Swazey, Weymouth, The Speaker.

Yes, 34; No, 106; Absent, 10; Vacant, 1.

The SPEAKER: Thirty-four having voted in the affirmative and one hundred six in the negative, with ten being absent, the motion does not prevail.

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

Mrs. KANY: Mr. Speaker and Members of the House: Following through from the earlier comments on the opinion from an Attorney General being just that, an opinion, that is absolutely true. But I would like to point out to the House something which I know Representative Kelleher is well aware of, and that is, an opinion of the Justices is also just that, an opinion of the Justices.

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

Mr. KELLEHER: Mr. Speaker, Ladies and Gentlemen of the House: In 1975, there was a bill in before this body to repeal the price fixing powers of the Maine Milk Commission. That bill had as much interesting debate as this one is going to have here this morning. I am sure.

The dairy industry of this state, the producers, the dairies themselves, were adamantly against any change in the price fixing powers of the Maine Milk Commission.

Through the efforts of the Maine Farm

Bureau and Maine Yankee, that particular milk bill in 1975 was watered down to give the powers to the Maine Milk Commission of what they have today. One of the leading opponents of that bill back in those days was the Honorable Richard Spencer of Standish, I believe he came from Standish, and he introduced an amendment that satisfied everybody. It satisfied the dairy farmers, it satisfied the dairies of this state. In picking out some of his remarks which were made on the 11th of June in 1975, he says, "What I have tried to do by virtue of this amendment is to protect the farmers from unfair competition and yet to put the dealers in a situation where the retail established by the commission is at the lowest price in which Maine milk can be processed, packaged and put into stores." That was accepted by members of the legislature, even by some of the very sponsors that are sponsoring the bill today. And because the Maine Milk Commission has failed since 1975 to do what we put into law, there is no telling the millions of dollars that went into the hands of the dairies of this state unfairly.

The law today says that milk shall be produced, packaged and put on the shelves for a reasonable price to the dairies in return, and the Maine Milk Commission has failed to do it. And because Cumberland Farms took it to court and the court ruled that they were unfairly overcharging people in this state, prices began to roll back, and we are here today, can you imagine this, to help the Maine Milk Commission to expend increased charges to the consumers of this state. That is what you people are doing right here today. The Commission did not do its job, Judge Perkins said they did not do their job; yet you people that are here today to support this bill are here to bump the public, the consumer, the person that we are always talking about, out of who knows how much money until it is resolved.

You know the dairies are using the farmers by saying that the poor little producers are going out of business. They said that in 1975 when I was here, they said it in 1969 when I was here, and I believe Mildred Wheeler from Portland had the bill, and it is ironic that this House is willing to support a measure that is going to be unfairly getting the consumer, and that is all Judge Perkins addressed his issue to.

We passed a law. Members of this House that are here today were here then, and it was called the watered down, powdered milk bill, as some of us thought it to be, but the Maine Farm Bureau was satisfied. They are out in the halls right now. Maine Yankee was satisfied, and let me tell you something, those people are very capable individuals, and they got just what the law says today and now they are in here wanting us to help the dairies bump the public because the Maine Milk Commission has failed to do their job to circumvent the actions of the court that is going to be in July.

You can do it, you can say that we are going to get poorer milk, well the consumers in this state know a good buy. I don't buy that argument. I buy the argument that they are getting unfairly priced, and I would hope that this House would fail to enact this bill. There is a great deal of pressure on everybody, but I think we have to do what is fair and right, and we shouldn't be stampeded into an issue by the cries that this person is going out or this farm is going out. That argument reminds me of the minimum wage in 1969 when you were going to put everybody out of business. I would hope this House would not enact it. I hope there is a hundred votes against it, but at least 51.

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

Mr. BRENERMAN: Mr. Speaker and Members of the House: As some of you know, I have opposed the Milk Commission in the past. However, the present situation caused me to look at this bill with a more objective eye than I normally would have. I have looked at this bill and

it really bothers me. There are several things that really bother me about passage of this bill today.

The first thing, as Mr. Kelleher has told you, what we are doing is interceding in court proceedings which are now occurring. There will be a hearing in July on whether the Milk Commission's last order was valid, and it seems to me that we are saying here, by passing this bill, that we don't care what the court says, we want to set the price of milk right here in the legislature.

This bill also says that we support the Milk Commission's order which violates the court order in 1977 which says that the Milk Commission should set the minimum price of milk. What we are doing with passage of this bill is saying that \$2.08, which is the order that this bill sets out as a minimum price of milk, is what we as legislators know to be the minimum price of milk.

That brings me to my third point about this bill, and that is that we don't know anything here about how to set the price of milk. There are very few experts, if any, here that can tell the public what the minimum price of milk should be. I don't think that \$2.08 is the minimum price of milk and I don't think anybody here knows what the minimum price of milk should be and therefore, I don't think that we should be setting it.

It is obvious from the prices that several dairies are now charging that they can afford to charge for the price of milk at a lower cost than \$2.20, which is what it was several weeks ago, \$2.08 as this bill now says we should charge as a minimum price.

We will hear arguments here today, if anybody on the other side gets up to argue this bill, that the dairies will buy milk from out-of-state producers, they will buy it at a cheaper price, I can't believe that. I can't believe that they can get it cheaper with the transportation costs from any out-of-state producer.

At the Supreme Court hearing, Justice Godfrey asked the attorneys for the dairies, why haven't you bought milk from out of state before if it is so much cheaper than what Maine producers get for their milk? They said, well, we want to keep our business in Maine. It seems ridiculous that if the dairies are in this business to make a buck, that they wouldn't have done this before, so it seems to me that they cannot get a reliable and good source of milk from anywhere else except from Maine farmers.

It seems to me that the great proponents of the free market system are saying, well, in this case, the free market shouldn't have to work. We want a special dispensation from the legislature for several months, we want the legislature to set the price of milk. We don't set potato prices here, we don't set apple prices, why should we set milk prices in the legislature?

Finally, I just want to make one more point, and that is, if you take the price that is in this bill of \$2.08 per gallon, compare it with some of the charges that are presently being charged for a gallon of milk, then the consumers will be paying about nine or ten million dollars more in the next few months for milk than they would pay if the price stayed as low as it has been.

The farmers will not be getting that nine or ten million dollars, they will be getting some of it, maybe a fifth, maybe a fourth of that, it is the dairies that will be getting the most of it, so what are we doing here today is not really helping the farmers; what we are doing is helping the dairies and obviously the Milk Commission has been doing that for years illegally. It seems to me that the legislature shouldn't be setting prices, not knowing what it is doing, for the next few months and I would ask that the members of the House vote against this bill.

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

Mr. DILLENBACK: Mr. Speaker, Ladies

and Gentlemen of the House: This debate may go for hours. I am not concerned about the price of a quart of milk for the consumer, whether they pay two cents more or whether they pay three cents more; to me that is not the important issue. The important issue here is retaining in the State of Maine an industry that is important to this state. The potato industry now has pretty well gone, big corporate outfits have bought the potato farms. We have been hearing about the chicken industry going down the drain, nothing left here for them, and now you want to do something to the dairy farmer.

I used to be a dairy farmer. I know what the problems are. It costs you more to raise milk in the State of Maine than it does anywhere else. We have an exceptional inspection service in the State of Maine, we have Grade A dairies and they do a good job. If you buy your milk, tank car out of New York State, out of Wisconsin, you may be getting Class 2 milk, you may be getting milk that is three days old, four days old, who knows what you are getting?

I have been fighting this battle for several years. The people in the grocery business and in the industry, the retail stores, have been fighting to lower the price of milk. They want to use it as a gimmick to get the people into the store. They do it with other products and they want to do it with milk. You can buy cheaper milk in New Hampshire. I don't think that is what we should do. I don't think the farmer should be the person to bear the brunt of this.

About a year ago, I visited the Locust Dairy Company and we had a long debate with some of the people and the officers of my company about whether there should be a Milk Commission or there shouldn't be a Milk Commission. The people at Locust Dairy told me, if the Milk Commission is eliminated, they would immediately lose 60 of their producers, small farms. I am not a great environmentalist, but one of the last things we have in this state is land that is fertile, land that is kept up. You have seen what has happened when you drive through the state, bushes growing up through the fields, you don't bring land back in a year or two. It takes years to build up fertile land and the only area that this is really being done in the state of Maine, other than the potato farmers, is the dairy farmer. The dairy farmer has the equipment, he has the tractors and if the day should come that we have to depend on our land in this state to produce our food and our vegetables, you would be very happy that you had some dairy farmers here.

I hope you support the dairy farmer.

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

Mr. JALBERT: Mr. Speaker, Members of the House: First, I would like to take up, as one of the cosponsors of this bill, proudly, with my friend a few feet away from me who sat here for six months when he was first here and we discussed liquids at times but I never heard him mention the word milk. Now he has become an expert in milk.

It might be surprising to some of you to see an individual from an urban area supporting such a measure. My reasons are many. There is no doubt in my mind that any organization can stand a little revision, a little going over, nothing is perfect in any time, that is why we are here.

My area, even though urban, has more milk producers and dealers than any other county in the state. Should this bill fail, many, many of them would be out of business.

I wonder how many of you know the life of a dairy farmer, seven days a week starting at four in the morning. I have one man in particular who has been of service to this state on the Environmental Commission, Mr. Ferland. The only time I can see him in Poland and have a conference with him is in his barn during the week, from Monday through Sunday. Sunday it is hard because none of his help wants to work, they want a day off. He can't have a day off. I

have had the same milk dealer since marriage, over 40 years ago, from father to son.

The delivery of milk reminds me a little bit of the work that I do outside of the legislature, railroading — rain, snow, sleet, fog, that freight car goes up the mountain, two, three, four or five engines but it goes up and it delivers. Rain, snow, sleet or fog, at five o'clock I hear the door open and my milk is delivered. I have been at my milk dealer's farm. The milking is done at night, it is processed and I get it the next morning. Up to the age of 12, the only beverages that I ever touched were water and milk. To this day, I have never drank a cup of tea or coffee in my life, I have never drank a root beer, a coca cola, any carbonated drinks. I graduate a little bit, sometimes I would get into the mash barrel. I like milk and I know milk and I know what I want to drink and I don't care what it costs.

We have a Cumberland Farms store in Lewiston, and I invite any of you — the good gentleman from Lewiston and I were discussing last night with a State Senator, we go by the store almost daily. I have been in that store 20 times to buy different things because there are other things they sell besides milk, and I have never seen one person from Lewiston come out of that store with a jug of milk. I am not going to go along and buy milk, price or no price, that comes out of a cow tonight, winds up in Boston, processed, jigs around, and some two or three weeks later, it winds up in your mouth, not me and not my people in Lewiston. That Cumberland Farms store sells more ice for public drinking in a half hour than they sell milk in one day. I know that. I have told the owner, who is a good fellow, and he has admitted it.

The Maine dealers, the Maine farmer, the money stays here. Nine-tenths of Cumberland Farms' money is out of the state, and I want no part of that. I know my dear friend can pick up a little record on me. I have been here a long time and I think probably yesterday I did it because I accuse myself of it, that is why I don't keep the record of the legislature, I shudder when I look at it, I go down to the library once in awhile to check on something and I read some of the stuff I said, I couldn't have done that. Last night, I think I made the best speech I ever made in my life and I told the truth. I got home, my wife caught it on the radio and she said, that is the best speech you ever made, and that includes you — the only one that enjoys a speech is the one that is making it.

I am not making a speech today, I am telling you facts. The Cumberland Farms industry in my area is a failure. It is a failure because it sells an outdated, outmoded, bad product.

My dairyman, your dairyman, delivers milk in a store or at your house and it is fresh milk, that is the big issue here. That is the number one big issue here. If there is something wrong with the Maine Milk Commission, I am sure that they can get together and straighten things out. In the meantime, let's keep things as they are. We are losing enough industry in the state without giving more to other states. We are feeding New Hampshire, we have for years. Let's start looking at the money ourselves. This whole situation reminds me of the national scene and I am not speaking of the present President or the former President, this and that. Sometimes I wonder if we might not be better off if we wouldn't mind our business like I want to mind my business here today by keeping this milk deal right here in Maine instead of messing around all over the world, to try and straighten out the world, which we can't do.

I am sincerely asking you to dig down, this is very important, and keep Maine industry in Maine, help Maine industry to progress. Just figure the poor man who is a dairy farmer, he has got to love it. I was talking to the Representative from Monmouth yesterday coming back from a place near his home that I love to eat at with my good wife and I stopped on Sunday about five-thirty and talked to seven

Maine producers. They had been at work since four o'clock in the morning on Sunday and they were going back to work, and Mr. Davies will attest to that because he saw them, back at work the next morning at four-thirty and they will be back at four-thirty tomorrow and the next day and the next day. There are no trips abroad — survival is what they need. We don't need Cumberland Farms around here grabbing our money, taking it away from Maine, when we have some good people here, hard working people, God fearing people, good Americans, good citizens, who are trying to help us. I certainly hope that there are 151 votes up there for this bill.

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

Mr. SHERBURNE: Mr. Speaker, Ladies and Gentlemen of the House: I don't know just how to follow that speech. I think Mr. Jalbert should have been the prime sponsor and me a cosponsor with him.

I came down here in the last session and I was pretty much in awe. I was a little old dairy farmer and we don't get out into crowds too much. As Mr. Jalbert said, we are up at four o'clock and are still in that barn at dark and we don't have much time to socialize. But when the question of the Milk Commission came up, almost everybody in this House said if we do away with the retail and wholesale price setting power of the commission, this would be our aim, we want to protect the dairy farmer. Well this is a pretty safe place for a dairy farmer, everybody wants to protect him. But at that time we said, I said, we can set the price that the dealer must pay the farmer if he buys the farmers' milk in Maine, but I also said that you can't legislate that that dealer has got to buy his milk from the Maine farmer. This has been brought up quite a lot, that dealers are going out of state to buy cheaper milk.

Yesterday, there were some dealers in this building, I don't know if they were twisting arms but they sure were filling ears with different information and different ways about things that were needed to straighten out this milk situation. I talked with a dealer in Bangor last Friday and he had a plan which would keep the milk industry strong, lower the price of milk to the consumers and his plan was that he should be able to buy milk from the Bangor area at the Boston price in the 23rd Zone. To get to what the 23rd Zone is — milk prices are set for this area from the Boston area, circles are made around the Boston area at different radiuses and each one of these is called a zone. I live in the Dexter and Newport area, which is the 21st Zone; Bangor is a little further out so it is the 23rd Zone; each one of those zones has a little lower price due to the transportation, due to the distance to Boston.

This dealer claimed that this bill was going to die, it didn't stand a chance, so the only thing that we could do was to change the pricing system so that he could compete and this would be by allowing him to buy his milk at the 23rd Zone price. When I say that, I was talking to the dealer, I shouldn't say that I was talking to the dealer, I shouldn't say that, I was talking to Feeney bent some ears here yesterday, especially with the Bangor delegation. What he told us was that if he could buy milk in this manner, it would be 56 cents per hundred weight less than the price he is paying now with a 90 percent class one and 10 percent class two blend. What Mr. Feeney didn't say was that he was not maintaining a 90 percent class one. At the present time, Grant's Dairy is at 77 percent class one, which would lower that price somewhat more than the 56 cents. If this were allowed, what would have to happen would be the power of the commission to set the prices to the farmer would have to be relaxed so that it would be based on the Boston price.

Other dairies in the state are located in other zones. Oakhurst Dairy in the Portland area would be in a higher price zone than the zone

that Grant's Dairy is in. Oakhurst Dairy has been trying to get into the Bangor market. If this were allowed, this pricing were allowed, it would give Grant's Dairy a 34 cent advantage over Oakhurst Dairy, so instead of Oakhurst Dairy threatening Bangor, Grant's Dairy would be threatening in the Portland area. I understand that one other dairy has had a meeting with the farmers and they would buy milk at Maine prices but there would have to be some kind of a kick back. It doesn't seem to me as though if we lose the retail price setting power of our commission, that there is any way that we can protect the dairy farmer.

There are three dairies in Bangor. One is quite a large one, Grant's Dairy; Footman's Dairy is somewhat smaller, and a small one which I sell my milk to, Pleasant Hill Dairy.

I have a letter here which I received from my dealer and this was right after the commission was ordered to set the prices back to \$2.08 and this is what the letter says: "Yesterday, the court ordered the Milk Commission to roll back milk prices to what they were nearly two years ago without lowering the price of the farm milk. This means that plastic gallon jugs will be lowered 12 cents a gallon. Pleasant Hill Dairy would be unable to do business very long with these new prices. I will have to ask all farmers to cut back on products. I will be purchasing your milk on a day-to-day basis until I go out of business." Pleasant Hill Dairy has a reputation second to none. Their biggest disadvantage is their size.

I showed this letter to Mr. Kelleher and Mr. Kelleher said, I know Carroll Picard, he is a fine gentleman. Ladies and gentlemen, I have sold milk to Pleasant Hill Dairy for 20 years. Most farmers in nearly any market have some gripes. In that 20 years, I have never had one gripe with this little dairy. Probably he has had some gripes from customers but I am assured and I think people can rest assured that any gripe that Mr. Picard ever had, he straightened out, he is that kind of man.

About a year ago, we had a big go around here about Agrimart, the farmers joining Agrimart. Well, I happen to be one of those fellows that joined Agrimart. I have been a member of a cooperative ever since I have been in the milk business, which is about 40 years. So if Mr. Picard tells me one day, a certain day is going to be your last pickup, I do have a market for my milk. My milk will go to Agrimart. I have paid the price over the years for that assurance, it is insurance, but it will be a different price. It will be a different price from what Pleasant Hill Dairy is paying me, roughly \$1.00 a hundred weight. This would mean \$20,000 a year in my business. I have never made \$20,000. My two boys are in business with me and we milk a little over 100 cows. Four families are dependent upon that farm. I do get a little help from what I get here in the legislature, maybe that will keep us going but I doubt it. Four families are dependent upon that farm. My great grandfather was on that farm and my grandchildren are on that farm.

When we speak about Maine market milk, the quality of it, the dairies in the State of Maine have a reputation for putting up good milk. I live 40 miles away from my dairy. There are farms between the dairy and my farm that do not sell on the Maine market. The Maine market has had the choice of the farms that they pick up. If farmers don't meet their standards, they don't sell on the Maine market. People will say that the quality is the same; well, you set the same specifications but sometimes the quality of the milk, the way the buildings are kept and so forth aren't the same.

I think Mr. Jalbert hit the nail right on the head when he said Maine milk is good milk.

Cumberland Farms has promised that they will buy any Maine milk from any Maine farmer who loses his market. I wonder if somebody in Aroostook County lost their market, if Cumberland Farms would send a truck to

Aroostook County to pick up a little milk. I doubt it. I don't think there is any legal way that we could make them. Cumberland Farms has been in Maine and has bought milk in Maine. Usually it is the time that the Milk Commission question is under debate here. A few years ago they came into Maine and started buying milk and when Mr. Jalbert spoke about quality, they bought milk from farms that weren't on the Maine market. I believe if a farmer lost his market, Cumberland Farms would be the last choice of a market that he would make.

When the question was settled, Cumberland Farms hadn't been successful in getting rid of the commission, Cumberland Farms pulled out of Maine, dropped their farmers and went out. They haven't bought milk in Maine to any extent since. Now they say that they will come back.

Ladies and gentlemen, you often hear about the price of Maine milk being high. It is my contention that Maine milk is one of the best buys in the store. At \$2.20 even, Maine milk is 24 cents a pound. It is a product that you can buy at 24 cents a pound, you can open the carton, you can consume it, no preparation whatsoever. I think you could go down one aisle of the supermarket and up another and I doubt that you could find another product in that supermarket that you could buy for 24 cents a pound that you could consume right out of the container.

I have an ad here that was given to me this morning. It is from a Denver, Colorado, paper. It is an ad for milk in a Seven-Eleven store, which I presume compares with our supermarkets. This milk is \$2.35 a gallon, and as I understand it, Colorado is a completely uncontrolled area, no controls whatsoever, milk is \$2.35 a gallon. Possibly with no controls in the state of Maine, we would have milk cheaper for a little while but possibly it would be \$2.35 before long.

If the Maine Milk Commission goes out, Maine will be a completely uncontrolled area, at least for a while. There would be, I am sure, requests to have a federal order come in, but the quickest possible time that a federal order could come in would be six months, it might take up to two or three years, so we can't go from a state control, a commission control, to a federal order control overnight. This is impossible.

I hope that you will see fit to give us this seven months' extension so that our commission can get their act in order and that we can still have a viable, strong dairy industry in the state of Maine.

Mr. Speaker, I would request a roll call.

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

Mr. TARBELL: Mr. Speaker, Ladies and Gentlemen of the House: Members of legislative leadership waited for a couple of weeks while our Attorney General pursued and exhausted all of the judicial remedies that were available to the commission and to the farmers and the dairies in the state. What the Attorney General was seeking was an injunction, injunctive relief. The courts, in the judicial process, in the third branch of government, have rejected judicial injunctive relief, and to that extent and for all practical measures, the judicial proceedings are over a separate branch of government. We as a legislative branch have this temporary bill, this temporary measure before us, and what it really is is a legislative injunction which would freeze the situation. Chaotic conditions in the market place will occur which may not be only detrimental to the long-term interests of our customers and our people of Maine but also to the agricultural industry of our state. The legislature is not setting prices so much as it is authorizing the commission, under injunctive relief, to float temporarily a price in the market place that can freeze the market place situation.

I have heard some complaints about legis-

lative involvement and meddling in the market place for prices that customers will actually pay as a result of this. I submit to you that it is no different than our meddling in the Public Utilities Commission and tampering with the charges that customers pay for electricity. That is price meddling in the market place as well.

Also, there are many dairies in the state, depending upon which portion of the state you come from, that may or may not actually be helped by this measure. It is really the farmer that will be; some dairies will be and some will not. Some are struggling now and will continue to struggle with or without this measure.

So, I think to place this bill in its proper perspective, it is a temporary legislative injunction. We, as a legislative branch, can set that public policy, that is what this bill would do. We will be back here in October, I am sure, and at the very least back in January, to deal with this question again to give the commission ample time to float a proper price and proper order and I would urge you to support it.

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

Mr. ROLDE: Mr. Speaker, Ladies and Gentlemen of the House: It is very difficult for me to support this bill today but I am going to support it. The reason it is difficult for me to support it is that I believe I have voted for every measure that we have ever had before us in the time that I have been in the legislature to do away with the price fixing powers of the Maine Milk Commission.

I don't have a single dairy or dairy farmer in my district. I do have a Cumberland Farms and, more importantly than that, the people in my district can see the difference in price between Maine and New Hampshire and always ask why Maine prices have to be higher.

Not only that, but I also introduced the only bill in this session that would have done away with the price fixing powers. Some of you may have remembered it because the title that I had on it was a bill to further free enterprise, to try to put the issue into perspective. I received some rather harsh words from some of the dairy interests because of that. But I later withdrew that bill and the reason why I withdrew that bill was partly because of the action taken down in Washington by the Reagan administration in stopping the proposed increase in subsidies to dairy farmers. I knew that that was going to have an impact on our farmers here in the state of Maine. Also proposed was that some of the subsidies would be done away with completely, which would have a further impact.

In talking to the Commissioner of Agriculture, he told me if my bill were to pass on top of these other actions, there could be complete chaos in the field here in Maine. So for that reason, because I didn't want to add to the burdens of Maine dairy farmers, I did withdraw my bill. I never envisioned the situation that was going to happen that has happened because of the law court, because of the technical problems that the commission did not follow in setting its prices.

I would point out that even if my bill had passed, if I had kept it in, the farmers would have had until October to adjust to the situation.

The gentlelady from Vassalboro the other day, yesterday, put an amendment on here that made it clear that this bill would give six months for the situation to be taken care of.

One other point that hasn't been mentioned is the fact that waiting in the wings is also a referendum on the question of price fixing powers. I know on election day last year, signatures were being gathered in my town and I understand that there are enough signatures to force a referendum.

I feel that this particular measure today, though it is very hard for me to support it, is a reasonable measure that will give time to our

farmers and small businessmen to adjust to the situation, so I hope that you will support this.

The SPEAKER: The Chair recognizes the gentleman from Shapleigh, Mr. Ridley.

Mr. RIDLEY: Mr. Speaker, Ladies and Gentlemen of the House: I would like to address a couple of statements that have been made here. There has been reference that there is court action against the Maine Milk Commission. The action against them is not that they have set prices too high or too low, the action against them is the procedure which they followed to come up with this price.

This bill here isn't directing and they are not asking us to vote today whether to keep the Maine Milk Commission or to do away with it. There seems to be a lot of discussion as to whether we should have it or we shouldn't have it. All we are asking you to do is to keep the price as it was at the last figure they came out with of \$2.08 and give them seven months for the Maine Milk Commission to get their act together and come up with a price that is in compliance with the rules that were set down to determine this price.

Another thing that I would like to point out is that I am all in favor of free enterprise, that is what made this country as great as it is. I don't like subsidies. I think it works against you rather than for you, but in this particular case here, you have subsidy on housing, you have subsidy on grain. If you want to take all the subsidies off everything, I would be tickled to death to let it run on its own. Subsidy is nothing more than false economy as far as I am concerned.

I am affiliated with a family farm, my oldest son has taken over the farm, and just let me explain to you the problems that he faces. We are not a big dairy outfit, we only produce about 300 gallons every other day, which does represent a considerable amount of money. We sell our milk to Oakhurst Dairy in the Portland area. They put the driver that hauls the milk from our farm into the Portland area where it is processed on a day-to-day basis, which means that he doesn't know really from one day to the next whether he is going to be picking up our milk or not. If they shut the truck down that is coming to pick that up, what are we going to do with 300 gallons of milk that is coming in every day? You milk the cows twice a day, the bulk tank is full, it has 300 gallons in it and you have approximately 350 gallons coming in there in the morning's milking, what are you going to do with it? If it was cord wood or something else that we were talking about, we could pile it out in back of the barn and sell it next fall. You have either got to dump that milk out onto the ground that is in that bulk tank or the new morning's milk would have to be dumped out on the ground. That gives you quite a sickening feeling when you have two generations tied up in a farm with all the money in equipment there.

The farmers aren't getting rich. I am not pleading poverty because it is a life that we chose ourselves and it is a good healthy life and we don't regret it for one minute, but we would like to be able to at least break even, and if you start dumping milk out on the ground because of the lack of a processor to take it, why it is a real sickening feeling.

You might say, why don't you sell it to someone else? There is nobody else in our area to sell it to. If you remember reading in the papers a while ago, there was Hood and Agway combined together and come up with a corporation by the name of Agrimart. If you join them, it would give you a guaranteed place for your milk on the market. We considered that but we had to come up with \$3,000 to \$4,000 front money to give them to get into this organization and I didn't feel that that was really right where you had to buy your way into an organization to have a market place for your milk.

If you just go along with this bill today, which

will give seven months for the Maine Milk Commission to get their act together, come up with the right figures, it will also give the small dairy farmers, at least I feel, as far as we are concerned, a chance to possibly find another source for our milk either through this Agrimart, you would have to look at it as an insurance policy, I suppose.

We are not asking you to keep the Maine Milk Commission, do away with the Maine Milk Commission, all we are asking you to do is just hold things as they are, let's not rock the boat, give us seven months and then we will take it from there. I hope you support this bill.

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

Mr. HALL: Mr. Speaker, Members of the House: I would like to pose a question through the Chair to the previous speaker. He is a very good friend of mine and he and I have had many discussions in this respect. Supposing in its deliberations that the Milk Commission, in its final resolution, comes up with a price structure that is vastly different? I think the squeeze will be on them tougher than it ever has been before. Suppose part of the decision that they come up with will squeeze the price down more, would you answer me this, after hearing you speak and knowing what you and I have discussed, would you be back in here again asking for more deliberations and more powers for the Commission? For five years we have waited. I was on the Agriculture Committee at that time and I voted for this. I think you will find in the record that I expressed my concerns then that this was not the answer. My dear friend, you answered part of it in one way too.

Never in the history of our country have I found that holding on by the seat of the britches has been the answer. I will give you a perfect example of that. Back in the 40's I never made so much money in my life as I did when I was taking subsidy on the potato business. What happened? When they pulled the rug out from underneath, yours truly went down the tube. I didn't go through bankruptcy because I was too mean for that, too ugly. But that dear wife of mine and I worked hard and we worked together and we paid the bills off.

Here is something else. Let me tell you about competition a little mite. You all know that I am in the Christmas tree business. This is a little bit different from the dairy business but I have worked in the dairy business as much as any of you. I milked 12 cows night and morning before I went to school when I was in high school, so I know all the answers.

My answer to you Mr. Jalbert, speaking about families not having any time off; of course we have time off. We are good people, we are normal people and we should have time off. I don't blame the farmers for wanting what they ask for. If they got \$3 a gallon, I could not care less, but get it in the free enterprise.

Now, to get back to what I wanted to say in the beginning — I happened to strike it lucky for awhile in the Christmas tree business. We are doing good, we have a good product, we have got some good customers, and we did it on our own. My wife and I went in the woods and pulled the trees and put them in because I didn't have the money to buy the trees with, but I did it. When I got in debt on the farm, I could have gone the easy road and gone through a wringer but I didn't. That is what the farmer has a right to do. But in the Christmas tree business, there is an industry already that has a million trees to go on the market this year and you know what they said to the National Christmas Tree Association in February? Don't any of you fellows get complacent and think you have it made, because we have 36 salesmen on the road that are going to compete with you. But you know how I think we will beat them? I have nobody holding me up by the seat of the britches, I have got to work out there and I am going to tend to my customers and they aren't going to be able to compete with me on

the product.

It is the same way in the dairy business, you have some darn good ones in there, I know them, I know them by heart. They don't like me perhaps because I take this stand, but I can't help that, because I represent all the people in my district, not a few. You have some good ones, you have some medium ones and you have some that ought not to be there. That is what the banks told me when I was in the potato business — you have no right being there. Mad, I was mad as a wet hen when I came out of the bank. I didn't get the message until they closed the shade down on the door and it said, "Closed for the day." Then my wife and I got the message.

That is the message that I want to bring to you. Don't continue to make rules and regulations to help support somebody that can't support themselves. This business is not going out the window. What makes you think everybody is going to stop drinking milk tomorrow or the next day? If they have people like me, they are going to drink it everyday.

Mr. Jalbert, to continue what I was going to say before, we are good people, truly we are, but don't spread the story about everybody working seven days a week. Of course we work seven days a week, but we also take vacations just like you do or anybody else. We are no different and we are not to be put on a pedestal or anything else. We are just common people and we ought to earn that the real way. We ought to put our shoulder to the wheel and fight like you should but not having a subsidy to be the answer for us. You remember that.

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

Mr. McHENRY: Mr. Speaker, Ladies and Gentlemen of the House: I will be supporting this measure but I am sure it is for a completely different reason from the majority of the people in this House. I know that the dairy farmers are a majority of republicans, they believe in the free enterprise and yet they want this, which is a controlled industry. I also know that there are a majority of people in here that say there are three different branches of government, that we shouldn't interfere with one another, and yet we are here to circumvent a possible ruling of the court. I also know that my reason for supporting it is because I know that milk is the best buy that you can get today. I only wish the Milk Commission would advertise on TV; instead of that white mustache, they would advertise the fact that — I remember when I was a kid, I used to buy soda pop for five cents a bottle and milk was 25 cents a quart. Today, that soda pop is 50 cents a bottle and that milk is 50 cents a quart. This is a heck of a good buy.

If this were to be decontrolled, if this order were not to pass, I know that down the road somewhere, it might be decontrolled. I know that we can buy milk in Madawaska, Maine, for the same price that we can buy it here in Augusta and in Portland, and that is my reason. I know that if we decontrol it, it would be just like the price of sugar. I can buy five pounds of sugar here in Augusta or anything else a lot cheaper. Five pounds of sugar here in Augusta is \$1.30 and up home it is \$2.89. You tell me that free enterprise is a good thing. I don't believe that free enterprise is a good thing. I don't believe that free enterprise is working. It isn't and never did. I honestly can't understand when you say that free enterprise is so great, we have a controlled system, you buy a postage stamp, you live in Madawaska, you live in Portland, you live in California, the stamp is the same price — why? Because you are mailing one letter and it shouldn't be more for one person because he lives in a certain place in the United States of America.

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

Mr. GILLIS: Mr. Speaker, Ladies and Gentlemen of the House: I speak this morning in

support of L.D. 1688. Yesterday morning we passed a bill through this House, through engrossment, L.D. 1428. I believe that number was, that will, if the people vote yea on it, authorize approximately \$29 million to assist several other industries in the state, one, the port facilities to help the fishing industry; the feed storage facility to help the poultry industry, and the potato storage facilities in Aroostook County to help the potato industry; also, airport money throughout the state to aid in economic development.

This bill, as I said, renders support for three separate industries and economic development throughout the state, and two of these industries, the potato industry and the poultry industry are in dire circumstances at the present time. Now we have another industry, the dairy industry here, facing a difficult time in their long and productive history. If this problem is not resolved, it could mean a very drastic reduction in the number of dairy farms in our state. It could mean the end of the industry in the state as we know it today.

The authority of the Maine Milk Commission has been challenged by a company from outside of the State of Maine, a company that has, for many years, been coveting the Maine milk market here in the State of Maine, and they will go to any lengths to secure a good foothold on that market.

The future of the dairy industry in Maine means very little to this company as long as they can obtain the major portion of the milk produced here in Maine. If they gain control in our state, they will, through their actions, drive a lot of the small dairy farmers out of business and therefore, out of the market, and they will have the larger producers at their mercy.

Right now, the minimum price here in Maine is established by the Maine people, by the Maine Milk Commission, which is composed of members that are their equals, the members of the Maine Milk Commission itself. We can assure the continuation of this practice by ensuring that L.D. 1688 is enacted here in this House today.

Another factor that we must consider revolves around the possibility of the Maine Milk Commission losing their authority altogether, and this is quite possible, as you have heard today. If this happens, what or who will ensure that adequate supplies of fresh milk will reach not our urban areas but our rural areas throughout the State of Maine on a daily basis in adequate supply?

Maine citizens consume more milk than any other state in the nation. I believe the last figure I saw was 174 quarts per capita per year. That is not whiskey, gin or beer, that is straight milk, 174 quarts per capita in Maine per year. Now do you realize why Cumberland Farms and other conglomerates want to come in and dominate the milk market?

Representative Kelleher states that we as supporters of this bill are just prolonging the life of the Maine Milk Commission; yes, we are, absolutely. But he also, by his opposition and in turn with his obvious attempts to delay action on this bill or to kill it, is aiding and abetting Cumberland Farms and other conglomerates to come into the State of Maine and capture the Maine milk market to the detriment of our local dairy farms.

Representative Brennerman, in his remarks, states that we would show little or no respect for the court system. I don't know about Representative Brennerman, but I respect the court system and the court system has their tasks to perform, we have ours, and I suggest that we both get on and proceed to accomplish our respective responsibilities. I ask you, ladies and gentlemen, to support L.D. 1688.

The SPEAKER: The Chair recognizes the gentleman from Mars Hill, Mr. Smith.

Mr. SMITH: Mr. Speaker, Ladies and Gentlemen of the House: I hope you will go along with this bill because if you don't, you not only

will be wiping out a lot of the small farmers but you will be wiping out a family heritage that has been passed on generation to generation throughout the State of Maine. Keep in mind that you are dealing with a very highly perishable product and time is of an essence at this time. We don't have that much time to wait three or four months to have the courts make a decision. Some of the farmers could be wiped before then.

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

Mr. CARROLL: Mr. Speaker, Ladies and Gentlemen of the House: Today I address you as George Carroll, formerly the owner of Alderwood Farms. I turned it over to my son. I took over this property 36 years ago. The house had been burned and I returned from the war a disabled war veteran. I wore a steel brace for seven years and I toiled the soil, tried to build up a dairy farm. I would like to tell you that we are proud of Alderwood Farms and what we have, and my grandchildren are proud of it.

Sunday I go home and I put on my old clothes and that is my day to take on the duties of being a dairyman so the others can have a day off. My grandchildren come down to the barn, I am busy but they walk over and say, grandpa, which one of these heifers is my Four-H heifer? Which one am I going to take to the fair? You have moved her. Where is she tonight?

Farming is a way of life. If you have a troubled child or a troubled person, send him out to toil in the soil, put his hand in the soil and he is nearer to God than any man on the face of the earth. Send him down to the barn to see a cow in labor giving birth to a calf, participate in the delivery of a calf, you have seen nature, you have taught a young person nature.

I want to tell you something about Cumberland Farms now because I think it is time I talked about Cumberland Farms — and told you a little something that perhaps you should know. They started down towards the Connecticut area and they have moved up across the New England seaboard and they have raised havoc and destroyed more milk markets and done more damage to the dairy industry than any hundreds of other farmers in the New England states. They have purchased hay, carloads of it, then weighed it up and caught one load short a few hundred pounds and took the poor man they did business with and sued him and practically dismantled him and put him out of business.

They bought a dairy business, a dairy farm, equipped it and there is a man named Ironsides, who represented a past farm machinery company and he equipped this farm, got it ready and when it came time to pay, they wouldn't pay him. He called me up and I bought his barn cleaner. He took it out of that barn and delivered it to my farm.

People seem to think that Cumberland Farms is a farm that is an honorable profession, that these people are men of great honor. I want to tell you something about it. I think they are a pretty low, unethical group. They have moved across the New England seaboard. I sold milk on the New Hampshire market getting as much as \$200 or more than you people were getting in Maine, and when they moved in there and destroyed the marketing order in New Hampshire, I was getting 50 cents a hundred under the Boston market for my milk.

Everywhere that Cumberland Farms goes and does business, they are bad news. They are not interested in the people of Maine, they are interested in a fast buck. They became a fat cat because they have played the game according to their own rules. They have gone into the courts continuously, they keep a staff of lawyers, they are paying them anyway and it doesn't cost them anything to keep taking us into court and fighting with us.

You know, folks, I hope and pray that you and I will join hands here today, that we will join hands as brothers of the soil and brothers of

Maine and sisters of Maine and we will preserve the Maine farmer, because I have 40 producers, I was notified this morning that by Sunday morning there will be no market for their milk. Don't tell me that Cumberland Farms doesn't care about us people, they have shown that.

Their record, you know if you are going to bet on a horse, you want to bet on one that has a good running record, and when they mention Cumberland Farms, I have to hold my nose because there is a peculiar odor to the Cumberland Farms, because their record, as they have moved across the eastern seaboard, has not been one of honor, not been one of good faith and honest business. They came into Maine, they bought milk and then they walked out of Maine and left them flat on their backs. They didn't care whether that milk soured, whether you poured it down the drain, what did they care? They were counting the dollars.

I am convinced that the people of Maine are good people, and I think they are honest people, and I think they want to keep good, honest to God Maine dairy farmers in business and they don't want this unethical business being promoted in the state of Maine.

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

Mr. BOYCE: Mr. Speaker, Ladies and Gentlemen of the House: If we noticed and we can recall so many hours ago the vote for the tabling motion on this today, I think the yeas and nays would have shown a division dealing with city and rural voters. On the surface, this is pretty much what this would appear to be.

If I can indulge you for just a moment with my district, which is kind of a unique microcosm of Maine, I start in the inner city of Auburn and the tenements with the mill workers and the home-stitchers for the moccasin factories and come right on out to the doctors and lawyers and dentists and even a Congresswoman, and out to where I live where the rest of the blue collar people are, out where the industrial plants are, out near the airport — this particular bill affects every one of us.

I have been a city man most of my life. My mother was a 13th child in a farm family. I spent the happiest days of my life doing exactly what Representative Carroll said summers with my uncle on the old family farm. I know what it means to work those long hours, I know what it means to have the few vacations that yes, Mr. Hall, you are able to handle and you are right, they are good people, they are hard working people. It is an industry and a way of life all unto itself and it is very uniquely Maine, especially our dairy industry. Why? Because of our unique geographical location, as Mr. Shernburne so well laid out for us if we were all paying attention, the milk market works on a zonal system coming out from the Boston market, and like so many other commodities we have to deal with here in Maine, we are at the end of that transportation line; therefore, we are at the butt end of it when it comes for any maneuver to sock it to us from the market standpoint.

I have been following this for several years. I know many milk truckers, some of them truck as far away as Central New York and they can truck in the milk from New Hampshire, from New York state and beat our prices here in northern Maine, so where does that leave us without some form of, yes I will say the word, subsidy.

As Representative Gillis said, we pass some subsidies for the potato industry, for Portland shipping and fishing industry, for Searsport industry and, yes, we asked for some help yesterday for industrial development for Androscoggin County and the corridor along the interstate or the turnpike as well. So why do we have to neglect our dairymen and our milk producers?

I know of at least two dairies that have folded up in the last few years in the city of Auburn.

We are talking about 26 to 30 cents difference on a six months' trial basis? I have talked to a lot of my inner city mill workers and moccasin stitchers and they have seen the impact that happened when Hillcrest closed down. Everybody said, well, that is only 200 or 400 jobs, so what? That so what, by the time we were through in the twin cities, were several thousands of people, because you had the truckers, you had the grain industry as well.

Please vote for this motion today, let's give the commission what they need, a good rap in the teeth to get their act together for six months, and take it from there.

The SPEAKER: The Chair recognizes the gentleman from West Bath, Mr. Stover.

Mr. STOVER: Mr. Speaker, Ladies and Gentlemen of the House: I was a dairy farmer for 30-odd years. I was called a producer and distributor. I had a little family farm, 25 or 30 cows, and we got up in the morning and milked the cows, processed the milk and then we went out and delivered it to the houses. We were in the business even before the Milk Commission was ever formed.

I have heard them belaboring Cumberland Farms and I have no use for Cumberland Farms either. I don't buy their milk, I don't go near the store, but I remember when Oakhurst Dairy first came into the Bath area and we all felt the same way about Oakhurst Dairy, us little farmers, and there were about 29 or 30 of us, that everybody now seems to feel about Cumberland Farms because we were being threatened and we had good reason to feel threatened.

They moved in, they came into the Bath area in 1928, and I remember back in those days if we wanted to regulate the price, we got together at the grange hall. Somebody would bring some oysters or something and we would have an oyster stew and we got together and we decided to raise the price of milk from 12 to 13 cents a quart or something like that. I remember the man from Oakhurst Dairy, he decided to come to some of our meetings and he said, you aren't getting money enough. I said, oh yes we are. He said, no, you don't realize the problems that we have, we have this plant down here we built and got all this overhead, we need more money. So they found a way to get it. They went to the legislature and they got the Maine Milk Commission formed and they set a minimum price that none of us could go below. We could go above that but I notice that nobody ever does, but we couldn't go below it.

All of a sudden, some of the fellows went to the store that they had always been selling milk to and they said, gee, we can't buy your milk anymore. Why not? We are going to buy from Oakhurst. Why are you going to buy from Oakhurst? Are they selling milk any cheaper? Oh no, but we needed a new display cabinet for our store and Oakhurst said they have a couple that they aren't using and would be glad to put one in our store, won't cost us a nickel, use it as long as we want to, free of charge as long as we buy their milk. And sooner or later, that 28 or 29 small family type farms in the Bath area — kind of reminds me of the poem of Flanders Field, poppies blowing between the crosses along the row that mark our place — they are all gone, all those little family farms, they went down the drain, although the Maine Milk Commission, when it was formed, was supposed to keep the small farms together because then nobody could cut the price, and they are all gone.

Now, what has happened is exactly what I felt would happen right along, and we have a court decision to back it up, the Maine Milk Commission has acted entirely for the dealer. It kind of reminds me of a movie that I saw one time when I was a kid, the rustlers were out getting the cattle and one of the rustlers said to the other one, what are we paying the sheriff for? He isn't doing anything. Anyway, apparently the Maine Milk Commission hasn't been

doing too much for the last few years except that they have been taking the word of the milk dealer and passed it on to the consumer.

It seems to me kind of odd that so many people are so concerned about the poor consumer's electricity, and the PUC has been taking an awful rap during this session because they haven't been protecting them from all the things we want to do to protect them. Well, you can get along without electricity. I remember working on the farm when I was a boy out in east Brunswick, had 30 head of cattle and four horses, we didn't have any electricity, we had a lantern in the barn, a lamp in the house and we pumped the water with a gasoline engine, got along without it. Very convenient and I think they should go back to doing that now, but we can't get along without milk. Kids need milk, old people need milk, everybody needs milk. We have to have it. But nobody seems to be worried about the consumer here. We are all worried about this poor dealer who somehow or other is threatened because now he has got to go into this free enterprise system and compete with somebody else.

I just can't go along with this particular bill and I am not going to support it.

The SPEAKER: The Chair recognizes the gentleman from Mechanic Falls, Mr. Callahan.

Mr. CALLAHAN: Mr. Speaker, Ladies and Gentlemen of the House: Very briefly, I don't want to rehash any of this that has been said but I would like to emphasize what Representative Gillis has mentioned about the drastic reduction in small farms, not only small farms, I know because my district is the largest dairy district in at least Androscoggin County, and in Turner there are many large farms that have been taken over by the younger generation, and with the high interest rates, those are the ones that are going to be hurting the worst and hit the hardest.

The small farmer and some farms that are really established maybe can brace their feet and get through this for a while, but these that are buying farms definitely will be hurt and hurt hard.

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

Mr. KELLEHER: Mr. Speaker, I ask for a quorum call.

The SPEAKER: The Chair would declare that there is a quorum present.

The gentleman may proceed.

Mr. KELLEHER: Mr. Speaker, Ladies and Gentlemen of the House: Mr. Gillis, in his remarks, said that we should pass this particular bill to give the commission an opportunity to do its job. Mr. Boyce from Auburn said that this bill raps the commission in the teeth. All it does is rap the consuming public in the teeth. The lower court of this state and the Superior Court of this state, in its ruling, said that the Maine Milk Commission did not do its job and prices dropped from \$2.20 a gallon to, I believe, \$1.79 this morning — artificial prices. In the opinion of the lower court, the commission, in failing to do its job, millions of dollars have been artificially taken away from the consuming public of this state because they did not adhere to a law that was passed in 1975 which the Maine Farm Bureau, the Maine Yankee insisted on us passing that said that milk prices would be set fairly. It is amazing to me to be standing here this morning, or sitting here this morning, listening to members that I served with in this House who applauded that bill in 1975 and now are taking a second look at a position that they took, a position that they accepted because the Maine Farm Bureau and Maine Yankee and the dealers felt that a fair, honest and equitable price would be set, and now they want to blindfold themselves to that, that really amazes me.

Mr. Rolde, who in the past has been a strong supporter of doing away with the Maine Milk Commission and the price setting levels, has bailed out — why? Because the truth of the

matter is before him this morning, a supporter of this issue in the past, and now the issue has hit him straight in the face and where is he? He is ducking the issue.

I am not voting for this bill because the commission is wrong and we are just helping the commission if we postpone it for six months. They are afraid of what the court is doing, and I am not going to help them rob the consumer.

Now the poor little farmer in this state, the fellow that milks that 20 head or 40 head or 80 head or 150 head, they were in support of the present law in 1975, and the dealers, again, are pushing them against the wall with innuendoes and charges, with possibilities of what is going to happen, and the same arguments we heard today that we heard in 1975, or I heard the first time that I came into this House in 1969, and I am sure that Representative Jalbert and Representative Dudley and John Martin, who were here in 1965 when Dana Childs had the milk commission bill as we all know it, we heard the same arguments then.

If you want to go hand in hand against the court's observation of what the law is and help them artificially drive this price back up again, then you do it, but you do it with the full understanding that each of us appreciate what we have read the law to be and understand what the English word is — you can't have it both ways. You can't hide behind the family farm or the family farmer. You can't say that the dairies are putting them out, because the law has ruled against the dairies in this state, an outside dairy, Cumberland Farms or whatever it is, I don't know who they are, I don't want to know who they are, all I am interested in, and I thought the rest of you were interested in, what is the law all about. We learned it not only in the fourth grade but in every grade in grammar school and high school, what the Constitution is about and what fairness is about.

If you support this issue today, you didn't listen to that school teacher that taught you the fundamental rules of what law is about. You would be going hand in hand artificially supporting prices that were deemed unfair because they were not properly set by the Maine Milk Commission of this state. This bill is a ruse and I am not going to vote for it, and I am surprised that you people are willing to listen to all the outbursts of the dangers of what is going to happen and buy that argument knowing full well how the courts reacted to this particular item.

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

Mr. JACQUES: Mr. Speaker and Members of the House: A lot of people have asked me why my name is on this particular L.D., and it probably seems funny since I am one of those city slickers that the good gentleman from Lime- rick, Mr. Carroll, speaks about, probably even worse than that, I am one of those whipper-snappers he likes to speak of once in a while also.

I wasn't here in the 104th or 105th, but I am here now, and I haven't changed my tune much in the last three years down here. My number one, primary and only concern is the 6,000-odd people that I represent in District 52-3, and today those are the only people that I care about.

We have been told that the Maine Milk Commission has not done their job and getting rid of them is going to be good for the consumer. Well, anybody who can say that for sure is a better man than I am, because I don't see how you can say that for sure.

Mr. Kelleher has spoken about education. Well, I will tell you, the best education I ever got was when I bought a store a year ago and I thought I was pretty smart when I was 25 years old, but I have learned a heck of a lot since that time and I probably will learn a lot more.

My number one concern is, and because I have always liked to speak for the little guy, in this case I will say the little fish, because I

have seen a lot of little fish in my time get eaten up by big fish, that is just a way of life, my concern is when all the little fishes are gone, who do you have left to contend with — the big fish. And one thing about big fish, I can guarantee you, they don't care much about anything that is around them to fix them or has anything to do with them except gobble them up and spit them out. That is a way of nature too.

We have been told that this is going to make milk cheaper for the consumer now, and I won't argue that, but what about later, ladies and gentlemen of this House, what about six months down the road or ten months down the road or a year down the road? That is what I care about.

I agree with Mr. Hall; people are still going to drink milk, they are drinking more everyday. We should drink milk, it is good for us, I drink a quart and a half of milk a day. It made me the big, strong boy that I am today. But I do have a concern, not for the little farmer so much, not for Cumberland Farms so much, but for the people that I represent, and I become even more concerned when I see a friend of mine, who is a very capable lawyer, intelligent, well thought of, all of a sudden is lobbying for, lo and behold, Cumberland Farms.

Then I hear another gentleman whom I have grown to respect, although I don't know but I have heard plenty about him, he is down here for Cumberland Farms, they are lobbying against this bill. If anybody can convince me that Cumberland Farms is doing so with the full intent of giving the people in the State of Maine better milk cheaper, then I will admit to you that I am wrong, but I don't think anybody is going to do that, because one thing I have learned down here, and I am just a dumb French boy from Waterville, is that when you have got lobbyists down here working on something hard, they are not working on it for me or you, they are working on it for somebody that is going to pay the bill. And when somebody pays the bill, they do it because they are going to get something back, we know that.

I will admit that the Milk Commission has not done their job. We have a lot of commissions in this state that have not done their job as far as I am concerned and as far as people in my district are concerned, but we haven't booted them out. We have given them a second chance, maybe we have given them a third chance, but one thing I can tell you about this thing here, one thing that is different than it ever has been before, if this bill passes and they have seven months to straighten out their act, there is a difference, there are 184 people elected to this legislature watching, listening and being sure of what is going on. And one thing I have come to do is respect every single one of those 184 people in here, disagree or not, because they can be down right mean and ugly when you cross their people. I really don't believe that in this seven months' time these 184 people are going to sit back and let somebody come back and say, well, we still haven't straightened out our act, we still want an extension, we still want some help — I don't believe it.

I think the Maine Milk Commission is in the 15th round, the last 30 seconds of the fight, they have been staggered twice and they have a chance to either come up and go to the bell or go down for the count. That is why this city slicker and this young whipper-snapper is going to vote to give them seven more months, and that is all I am giving them. And they had better start being responsible to the people of the State of Maine and, number one, the people in my district, because if they don't, I am coming back here next year, God willing, and I am going to be one of those mean cusses that comes down here and I am going to ask some questions and they had better have the answers, but I am going to give them that chance. I am going to give the dealers that chance and I

am going to give the small farmers that chance, but most of all, I am going to give my people a chance.

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

Mrs. KANY: Mr. Speaker and Members of the House: Here is another city slicker from Waterville getting up on this bill to basically just say why I have changed my mind. I voted against the Maine Milk Commission in the past, against its very existence. I voted against retail pricing, and this time I plan to vote for this bill, and why? Because times change and times have really changed. We always knew before that if we had no regulation on milk pricing either at the farm level or at the retail level, that we could depend on a federal order coming into the State of Maine. Well now, today, we certainly cannot depend upon a federal order coming into the State of Maine at all, not at all. In addition, twice a year the Secretary of Agriculture, the U.S. Secretary of Agriculture, relooks and rethinks price supports federally, so we know of the great interest in the new federal administration in moving toward free enterprise and away from supports of any kind, and because of that, I just don't feel any certainty at all that we can have any price support if we don't take care of our farms here at the state level.

I just simply wanted to rise and give my reasons for changing my vote.

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

Mrs. MITCHELL: Mr. Speaker, Men and Women of the House: Most of the debate I have heard today has centered around whether or not we should have a Maine Milk Commission. This bill has nothing to do with that. No matter how you vote on this bill, you will have a Maine Milk Commission. What you will have is a period of chaos until they have time to comply with the court's order, but that is really not why I got up.

About two hours ago a question was raised on the floor of this House about the constitutionality of this question, and as the people used instant coffee, instamatic and instant replays, I am pleased to present an instant Attorney General's opinion.

"Dear Representative Mitchell: Pursuant to today's request relative to any potential legal defect existing in L.D. 1688, you and members of the 110th legislature can feel assured that while in the process of assisting in the drafting of this legislation, my office was mindful of other relevant statutory and constitutional limitations. It is the opinion of this office that no such defects are contained in this legislation. Specifically, it is the opinion of this office that 1 MRSA Section 302, concerning repeal of existing legislation is of no relevance to L.D. 1688. Moreover, even if 1 MRSA, Section 302, were relevant, this legislature would have the full power to enact new legislation inconsistent with it.

"This office stands ready to assist you and any member of either the legislative or executive branch on this matter.

So, we do not have a problem with the Constitution, we do not have a problem with whether or not we are going to keep the Milk Commission, because that is not in our hands at the moment, but we do have an opportunity to avoid some immediate chaos in an industry important to our state.

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

Mr. KELLEHER: Mr. Speaker, I would say thank you to the gentlelady from Vassalboro for getting that opinion from the AG, but you might remember earlier in the debate this morning, seeing how the AG had assisted in drafting this bill, I was more enthused to go to the law court simply because that is where it would have ended up anyway, and then there wouldn't be any cloud or question of where the opinions were coming from.

I do appreciate the good gentleman's observation, but I question that it would be as technical as this would have put; it would have been only properly answered before the courts anyway.

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

Mr. MANNING: Mr. Speaker, Ladies and Gentlemen of the House: Earlier Mr. Sherburne of Dexter mentioned the Seven-Eleven stores, and that was in Colorado. Well, I have a Seven-Eleven store about 150 yards from my house and they are probably selling it at that same price, Mr. Sherburne. Just because they are in Colorado and they don't have any price fixing or anything else, it doesn't mean that they can't sell it at that price here in Maine, because they do sell it at that price in Maine.

I have heard so much of Cumberland Farms, Cumberland Farms and Cumberland Farms. Well, Oakhurst Dairy, not Oakhurst Dairy but Old Tavern Farms, the second largest dairy in the Portland area, in the last two years has consistently said that they would lower their prices. They said it in the paper the other day, if this bill does not go through, they will lower their prices, not Cumberland Farms but Old Tavern Farms, a dairy that has been around long enough so that my father delivered for Old Tavern Farms many, many, many years ago. So it isn't a dairy coming from the southern shores of Connecticut, it is a dairy coming from the southern shores of Danforth Street in Portland, Maine. It just seems to me that if we are going to help people, we can help people right here in the State of Maine, we can help another dairy grow.

Cumberland Farms is not taking up a big part of the Portland market. Since Old Tavern Farms has announced that they would go and lower their prices, this was two years ago, and they agreed to go on the band wagon for the abolishment of the Maine Milk Commission. Shaw's Supermarkets haven't been able to keep their milk in the bin, so that should tell somebody something.

We have changed our minds up here on a few other things too. Mr. Jacques from Waterville indicated that we shouldn't change the minds of the Milk Commission, but we all changed our minds for the Fish and Game Committee when we wanted a spring bear season and they declared we shouldn't have a spring bear season, so I think we can change the minds of the Maine Milk Commission.

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 Sanford, Mr. Paul.

Mr. PAUL: Mr. Speaker and Members of the House: I guess I would like for a moment to share with you a situation in my district. My district happens to be very close to the New Hampshire border and we have some very unique problems down there and I would like to tell you how this type of a bill is going to affect my district.

Presently, and I realize many of you are aware, the State of New Hampshire is competing very seriously with our local district and the businesses in that district because it offers many things and better conditions as opposed to what is offered in our own community. More specifically, in the way of shopping, in the way of sales tax, it is hard for my people down there who want to buy things in the State of Maine and want to buy them in the local district to do so when they have to pay top dollar for everything. It is much more attractive for them to go 10 miles across the border where there is no

sales tax, where the liquor is cheaper, where almost anything is cheaper, most particularly the milk. My people want milk at its lowest price and the best quality available, and I feel that this type of a bill will be quite contrary to their best interest.

Inflation, we know, is the biggest problem facing all of our people, and there is really very little that any of us here can do to change that direction, that has to come from Washington. But I do think a bill like this, voting down a bill like this, can help our people, because it is going to make a difference to my people in terms of the price they pay for milk by approximately a quarter or so, and that helps their buying power, and that is what they need. When they go to the grocery store, when they have a certain amount of dollars to spend, they have to be economical, they have to utilize those dollars the best they can. It is unfortunate that the State of New Hampshire is feeding the people of my district a much better product at lower rates, whether it is shoes, cigarettes, go right down the line, my people — I think we are all good patriots, we love the State of Maine, but I think it is about time that the State of Maine made some effort to serve the people of my district and the people of the State of Maine with competitive pricing. When is that going to come?

My information has been, as an example, some of the paper we have right here on our desks is paper that is not even produced in the State of Maine. Come on, we have got good products here, we need better marketing; this type of bill is not going to do that.

A lot of lip service is paid from time to time to the free enterprise, free market, but the irony of the thing is, many of the same people who argue those principles from time to time are the same people that are going to be supporting this bill. Where is the consistency there?

We all believe in the free enterprise system; let's feed that pill that is necessary to this particular group by defeating this bill and letting the free market system take its course.

The bottom line, and I don't think it is any different in Sanford than it is in Presque Isle, is when the people buy goods, they look for goods at the lowest possible price, because inflation has wracked holy havoc with the dollar. We want lower milk prices. The people are speaking, there are petitions out there, they are telling us that they want lower milk prices and I think it is about time that this legislature acts, and if we don't, they will have their day, they will do it.

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

ROLL CALL

YEA—Aloupis, Armstrong, Austin, Baker, Bell, Berube, Boisvert, Bordeaux, Boyce, Brodeur, Brown, A.; Brown, D.; Brown, K.L.; Cahill, Callahan, Carroll, Chonko, Clark, Conary, Cox, Crowley, Cunningham, Curtis, Damren, Davis, Day, Dexter, Diamond, G.W.; Diamond, J.N.; Dillenback, Drinkwater, Dudley, Erwin, Fitzgerald, Foster, Fowlie, Gavett, Gillis, Gowen, Gwadosky, Hanson, Hayden, Hickey, Higgins, L.M.; Holloway, Huber, Hunter, Hutchings, Ingraham, Jackson, Jacques, Jalbert, Jordan, Kany, Ketover, Kiesman, Lancaster, LaPlante, Lewis, Lisnik, Livesay, Locke, Lund, MacBride, Mahany, Martin, H.C.; Masterman, Masterton, Matthews, McCollister, McGowan, McHenry, McKean, McPherson, Michael, Michaud, Mitchell, E.H.; Mitchell, J.; Moholland, Nadeau, Nelson, A.; Nelson, M.; O'Rourke, Paradis, E.; Pearson, Perkins, Perry, Peterson, Pouliot, Randall, Reeves, J.; Reeves, P.;

Richard, Ridley, Roberts, Rolde, Salsbury, Sherburne, Small, Smith, C.B.; Smith, C.W.; Soulas, Stevenson, Strout, Studley, Tarbell, Telow, Theriault, Treadwell, Twitchell, Vose, Walker, Webster, Wentworth, The Speaker.

NAY—Beaulieu, Benoit, Brannigan, Breneman, Connolly, Hall, Higgins, H.C.; Hobbins, Joyce, Kane, Kelleher, Kilcoyne, Laverriere, MacEachern, Macomber, Manning, Martin, A.; McSweeney, Murphy, Norton, Paradis, P.; Paul, Post, Racine, Soule, Stover, Thompson, Tuttle.

ABSENT—Carrier, Carter, Conners, Davies, Prescott, Swazey, Weymouth.

Yes, 115; No, 28; Absent, 7; Vacant, 1.

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

Signed by the Speaker and sent to the Senate.

On motion of Mr. Kelleher of Bangor, ordered sent forthwith to the Senate.

(Off Record Remarks)

Passed to Be Enacted

An Act to Create an Appellate Division of the Workers' Compensation Commission, to Require the Commission to Conduct a Data Systems Study and to Expedite the Filing of Medical Reports (H. P. 1252) (L. D. 1476) (S. "A" S-326 to H. "A" H-514; and S. "B" S-366)

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

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

An Act to Remove the Customer Charge from Electric Utility Rate Structures (S. P. 654) (L. D. 1679) (S. "B" S-367)

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

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

Non-Concurrent Matter

Bill "An Act to Establish a Direct Payment System under the Workers Compensation Law" (S. P. 218) (L. D. 605) on which the Bill and Accompanying Papers were Indefinitely Postponed in the House on June 10, 1981.

Came from the Senate with that body having Adhered to its previous action whereby Report "B" "Ought to Pass" in New Draft (S. P. 622) (L. D. 1627) Report of the Committee on Labor was read and accepted and the New Draft passed to be engrossed in non-concurrence.

In the House: The House voted to adhere.

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

The following Communication:

THE SENATE OF MAINE

Augusta

June 11, 1981

The Honorable Edwin H. Pert

Clerk of the House
110th Maine Legislature
State House

Augusta, Maine 04333

Dear Clerk Pert:

The Senate today voted to Adhere to its former action whereby it Indefinitely Postponed Bill. An Act to Add a Class Size Adjustment to the School Finance Act. (H. P. 1176) (L. D. 1400)

Respectfully,

S/MAY M. ROSS

Secretary of the Senate

The Communication was read and ordered placed on file.

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

Passed to Be Enacted

An Act to Authorize the Public Utilities Commission to Allow Undisputed Portions of a Rate Change to Take Effect During the Pendency of a Rate Proceeding (H. P. 781) (L. D. 926) (C. "A" H-471)

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

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

Mr. McKEAN: Mr. Speaker, Ladies and Gentlemen of the House: First of all, I would ask for a roll call on this one.

I would like everyone to know exactly what we are authorizing here. We are authorizing the Public Utilities Commission to allow the public utilities to gather in monies through the rates on rate cases where they say they may be undisputed. I have two problems with that. One, what is going to be undisputed and what is not going to be undisputed? Who is going to make the decision? And if a decision is rendered, then who is going to say that the decision is not going to be undisputed? I can see problems in that particular area.

The other problem that I see is, if the Public Utilities Commission decides that a portion that they allow as a disputed portion later on, then how much of a problem is it going to be to gather the money back and give it to the ratepayers? So I have a problem there.

The other problem that I have is, why shouldn't the ratepayer keep the money in his bank account to draw what little interest there may be rather than the utilities? Therefore, I would ask for a roll call.

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

Mr. CONNOLLY: Mr. Speaker, I move the indefinite postponement of this bill and all its accompanying papers.

The SPEAKER: The Chair recognizes the gentleman from Eastport, Mr. Vose.

Mr. VOSE: Mr. Speaker, Ladies and Gentlemen of the House: I hope that you don't indefinitely postpone this bill. We had a long work session on this in committee and the commissioners were down testifying on behalf of this bill. It is a fair bill as far as undisputed rates. Let me explain exactly what happened.

When they go into a rate case, there are certain portions of that rate that they know they are going to give regardless of the rate case. For example, let's say they go in and ask for 15 cents, they know 10 of it they are going to give anyway. Therefore, what they are saying, rather than a possibility of them having to borrow money, they could possibly have to do this and lose money in the long run and therefore cost the ratepayers, they say, all right, we will give you the 10 cents now, which we know you have to have, and then the rest of it, the 5 cents, we will argue about. You may get one, you may get two and so on, and that is the reason why most of us voted for this bill.

As far as who determines the undisputed rates, well the commissioners themselves determine that. They have been doing it anyway, so there is no reason now. They have to wait nine months, not necessarily, but they have nine months in which to give them a rate increase. It does, in fact, on occasion, cause the companies to perhaps go behind, they have no way of recovering that. That is why we voted for this bill, and I hope you will vote against the indefinite postponement of this bill.

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

Mr. CUNNINGHAM: Mr. Speaker, Ladies and Gentlemen of the House: This bill really should not have generated as much controversy as seems to be cropping up at the last moment, and I don't want to take a lot of time but I

would like to just go through what the bill does, why it was put in and perhaps then you will see that it is a fair bill and it is a bill that we can pass on very quickly.

The commission could probably, at the present time, allow undisputed portions of a rate case to go through, but they are unsure of whether or not they should do this. So they came to the Public Utilities Committee early in the session and asked if a bill could be printed that would clarify this, so actually all we are trying to do is clarify the ability of the commission to go ahead and allow an undisputed portion of the rate case to go through while the hearing is still pending.

Sometimes the rate cases take, as the gentleman from Eastport explained, several months, but in the meantime, the company, and it might be a relatively small company, this bill probably would be more advantageous to small companies, the company could have a portion of its rate increase during the time when they need it. For example, there may have been a labor negotiations agreement arrived at which necessitated the rate increase request in the first place, so in order to meet the payroll and to pay the workers, the commission could allow that portion of the rate to go through and then while they are investigating other things such as purchasing of equipment or whatever might be the other portion of the rate increase, they could then investigate that and determine the validity of the entire rate increase.

It just seems that this little sort of a housekeeping measure, this little measure to facilitate the work of the commission, has generated an undue amount of concern. I wish that you would not vote for the pending motion to indefinitely postpone, but that you vote to pass this legislation at this time.

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

Mr. MCKEAN: Mr. Speaker, Ladies and Gentlemen of the House: I get a little worried sometimes about some of these little housekeeping bills that you see. I worry that you may find a little housekeeping measure that might move the State House to Limestone in one of them. So the little housekeeping bit just doesn't seem to hold water.

I think the thing that I do worry about is, of the last four major rate cases that the Public Utilities Commission has had, three of them have ended up in the court. If there is an undisputed portion paid back or an undisputed portion that is paid by the ratepayer to the utility and if it does go to court and the court does decide that the utility is in arrears, then what happens?

On the other hand, if the Utilities Commission allows them to correct this undisputed rate portion, then who receives the benefit of that money? To the smart guy that is paying the rates, it doesn't seem like much, pennies, nickels or dimes, but to a major public utility who is collecting a half a million dollars in undisputed rates, this is a major investment which is going to gather a major amount of interest. Who is that going to? Is that going back into the ratepayers' pockets or is that going into the investors' pockets? It is pretty obvious which way that money is going to go.

When I look especially at your major utilities, the amount of profit that they make, and I look at the investor's money, then I think it is time that the ratepayer gets a break. Right now the system is working fairly well. They haven't had too many problems with it and I think by plugging this in, this little housekeeping measure, I think we are talking big money to the utility.

The SPEAKER: The Chair recognizes the gentleman from Eastport, Mr. Vose.

Mr. VOSE: Mr. Speaker, Ladies and Gentlemen of the House: This bill is not geared for Central Maine Power or any of the larger companies. It was my understanding during the

hearings, it was strictly for the small municipal companies that are existing, for example, in my hometown of Eastport or other small power companies that need immediate money to keep them running. They operate on a very low budget. Generally, it is a non-profit organization and admittedly a profit organization too.

At the hearing, as a matter of fact, I don't think Central Maine power or their representative even testified one way or the other on this bill, probably could care less. However, the representatives of the smaller companies did testify and the commissioners also supported their testimony. So I hope, once again, that you will defeat the motion to indefinitely postpone.

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

Mr. CONNOLLY: Mr. Speaker, I would like to pose a question through the Chair to Representative Vose or any other member of the committee.

It is my understanding that Central Maine Power is about to soon request a rate increase in the vicinity of \$50 million. They currently have pending a \$38 million rate request increase. That is about an \$88 million increase in the rates to the consumer of Central Maine Power. If this bill were to pass, would it apply to either one of those rate cases that Central Maine Power has pending or will soon have pending if part of the case becomes disputed and goes into court? This bill, although it may not be intended to affect Central Maine Power, the question is, would it, in effect, affect Central Maine Power?

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

The Chair recognizes the gentleman from Eastport, Mr. Vose.

Mr. VOSE: Mr. Speaker, Ladies and Gentlemen of the House: I, frankly, can't answer that, I don't know. I wish I could. To my knowledge, I don't think it is going to have any effect. At least that was my understanding when I voted for this bill. It was strictly the smaller companies that would be involved with this thing, and whether or not the commissioner can, in fact, determine the larger rate cases as what portion was undisputed or not, I simply, I don't know. I am sorry.

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

Mr. CONNOLLY: Mr. Speaker, Ladies and Gentlemen of the House: It is my understanding of the bill that it would, in fact, apply to Central Maine Power, but since that question is not clear, I would appreciate it if someone might table this until later today.

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

Mr. CUNNINGHAM: Mr. Speaker, Ladies and Gentlemen of the House: The point is not whether or not this applies. I think at the present time, the Public Utilities Commission would be within the law if they allowed any company, at the present time the Public Utilities Commission would be within the law. There is a gray area which they are not so sure about, so that is the reason that they came to us with the bill. They want to be able to do it, and whether or not they decide to do it, it is up to the Commission to decide. I think the final answer to your question would be, yes, the Commission would have this authority to allow a portion of a rate increase to go through if that portion were undisputed, and that is the whole question.

Any disputed portion that goes to court, you are going to worry about that anyway, but we are talking about something that is undisputed, something that everybody agrees upon, the Commission and all the intervenors and so forth.

We are really not adding anything to the power of the Commission at the present time,

we are just clarifying that so the Commission could go ahead, and the idea was that the Commission would be allowed to go ahead, especially in these instances where these low budgets, small companies, needed immediate relief but the case would take a few months of investigation. A lot of that investigation has to be delayed for these small companies because there are such big, horrendous cases coming up all the time.

I think the bigger companies can afford the time lag a lot easier than the smaller companies. Right now, we are a little bit concerned about the time lag for the smaller companies.

Mr. Vose of Eastport 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 and having expressed a desire for a roll call, a roll call was ordered.

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

ROLL CALL

YEA—Baker, Brodeur, Brown, A.; Brown, K.L.; Carter, Connolly, Crowley, Diamond, G.W.; Diamond, J.N.; Fitzgerald, Hall, Hobbs, Jalbert, Kane, Kany, Kelleher, Laverriere, Mahany, Martin, McCollister, McGowan, McHenry, McKean, Michael, Mitchell, E.H.; Mitchell, J.; Nadeau, Pearson, Racine, Reeves, J.; Reeves, P.; Studley, Thompson, Tuttle, The Speaker.

NAY—Aloupis, Armstrong, Beaulieu, Bell, Benoit, Berube, Boisvert, Bordeaux, Boyce, Brannigan, Brennerman, Brown, D.; Cahill, Callahan, Carroll, Chonko, Clark, Conary, Cox, Cunningham, Curtis, Damren, Davis, Day, Dexter, Dillenback, Drinkwater, Dudley, Erwin, Foster, Fowlie, Gavett, Gillis, Gowen, Gwadosky, Hanson, Hayden, Hickey, Higgins, H.C.; Higgins, L.M.; Holloway, Huber, Hunter, Hutchings, Ingraham, Jackson, Jacques, Jordan, Joyce, Ketover, Kiesman, Kilcoyne, Lancaster, LaPlante, Lewis, Lisnik, Livesay, Locke, Lund, MacBride, MacEachern, Macomber, Manning, Martin, H.C.; Masterman, Masterton, Matthews, McPherson, McSweeney, Michaud, Moholland, Murphy, Nelson, A.; Nelson, M.; Norton, O'Rourke, Paradis, E.; Paradis, P.; Paul, Perkins, Perry, Peterson, Post, Pouliot, Randall, Richard, Ridley, Roberts, Salisbury, Sherburne, Small, Smith, C.B.; Smith, C.W.; Soulas, Soule, Stevenson, Stover, Strout, Tarbell, Telow, Theriault, Treadwell, Twitchell, Vose, Walker, Webster, Wentworth.

ABSENT—Carrier, Connors, Davies, Prescott, Rolde, Swazey, Weymouth.

Yes, 35; No, 108; Absent, 7; Vacant, 1.

The SPEAKER: Thirty-five having voted in the affirmative and one hundred eight in the negative, with seven being absent, the motion does not prevail.

Mr. McKean of Limestone requested a roll call on enactment.

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 Limestone, Mr. McKean.

Mr. MCKEAN: Mr. Speaker, Ladies and Gentlemen of the House: I hate to prolong this thing, but just a couple of points and I think my good friend Representative Cunningham made

both of them.

One, the bill is structured for the small utilities to help them, then why is it not amended to do just that? You could do it through an amendment using the capital investment and it would structure for the small utilities.

Two, he also said they can do it anyway, and if they can, what are we doing with this bill?

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

ROLL CALL

YEA—Aloupis, Armstrong, Austin, Beaulieu, Bell, Benoit, Berube, Boisvert, Bordeaux, Boyce, Brown, D.; Cahill, Callahan, Chonko, Clark, Conary, Cunningham, Curtis, Damren, Davis, Day, Dexter, Dillenback, Drinkwater, Dudley, Erwin, Foster, Fowlie, Gavett, Gillis, Gwadosky, Hayden, Hickey, Higgins, L.M.; Holloway, Huber, Hunter, Hutchings, Ingraham, Jackson, Jacques, Jordan, Joyce, Ketover, Kiesman, Kilcoyne, Lancaster, LaPlante, Lewis, Lisnik, Livesay, Locke, Lund, MacBride, MacEachern, Macomber, Martin, H.C.; Masterman, Masterton, Matthews, McPherson, McSweeney, Michaud, Moholland, Nelson, A.; Nelson, M.; Norton, O'Rourke, Paradis, E.; Paul, Perkins, Perry, Peterson, Post, Pouliot, Randall, Richard, Ridley, Salisbury, Sherburne, Small, Smith, C.W.; Soulas, Soule, Stevenson, Stover, Tarbell, Telow, Theriault, Treadwell, Twitchell, Vose, Walker, Webster, Wentworth.

NAY—Baker, Brannigan, Brenerman, Brodeur, Brown, A.; Brown, K.L.; Carroll, Carter, Connolly, Cox, Crowley, Diamond, G.W.; Diamond, J.N.; Fitzgerald, Gowen, Hall, Hanson, Higgins, H.C.; Hobbins, Jalbert, Kane, Kany, Kelleher, Laverriere, Mahany, Manning, Martin, A.; McCollister, McGowan, McHenry, McKean, Michael, Mitchell, E.H.; Mitchell, J.; Murphy, Nadeau, Paradis, P.; Pearson, Racine, Reeves, J.; Reeves, P.; Roberts, Smith, C.B.; Strout, Studley, Thompson, Tuttle, The Speaker.

Yes, 95; No, 48; Absent, 7; Vacant, 1.

The SPEAKER: Ninety-five having voted in the affirmative and forty-eight in the negative, with seven being absent, the Bill is passed to be enacted.

Signed by the Speaker and sent to the Senate.

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

Bill "An Act to Amend the Workers' Compensation Law" (H. P. 685) (L. D. 799)

— In House, Passed to be Engrossed as Amended by House Amendment "A" (H-516) on June 2.

— In Senate, Passed to be Engrossed as Amended by House Amendment "A" (H-516) as Amended by Senate Amendment "A" (S-328) thereto in non-concurrence.

Tabled—June 10 (Till Later Today) by Representative Conary of Oakland.

Pending—Motion of the same gentleman to Recede and Concur.

The SPEAKER: The Chair recognizes the gentleman from Oakland, Mr. Conary.

Mr. CONARY: Mr. Speaker, Ladies and Gentlemen of the House: I ask leave of the House to withdraw my motion.

The SPEAKER: The gentleman from Oakland, Mr. Conary, withdraws his motion to recede and concur.

Thereupon, on motion of the gentleman from Oakland, Mr. Conary, the House voted to adhere.

By unanimous consent, ordered sent forthwith to the Senate.

By unanimous consent, all matters acted upon were ordered sent forthwith to the Senate.

(Off Record Remarks)

On motion of Mr. Peterson of Caribou,
Recessed until two-thirty in the afternoon.

After Recess 2:30 p.m.

The House was called to order by the Speaker.

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

The following Joint Order: (S. P. 692)

ORDERED, the House concurring, that notwithstanding Joint Rule 21, the following bills may be retained by the committees to which they have been referred during the course of the interim between the first and second regular sessions of this Legislature and may be considered by those committees during that time under the supervision of the Legislative Council and shall be reported to the appropriate House in accordance with the Joint Rules at the second regular session:

Committee on Taxation (H. P. 1496, L. D. 1621, AN ACT to Create an Excise Tax on Mining Companies and to Amend the Statutes on Mining on State Lands)

Committee on Marine Resources (H. P. 1443, L. D. 1585, AN ACT to Create a Maine Groundfish Association)

Committee on Public Utilities (H. P. 866, L. D. 1027 AN ACT to Require Certain Public Utilities to Submit a Plan to the Public Utilities Commission to Provide Financing to Customers for Energy Conservation and Renewable Resource Measures.)

Committee on Appropriations and Financial Affairs (H. P. 1249, L. D. 1473 AN ACT Incorporating Federal Funds Directly into the State Budgeting Process.)

Committee on Education (S. P. 561, L. D. 1554 AN ACT to Revise the Education Law.)

Committee on Judiciary (H. P. 1543, L. D. 1660 AN ACT Relating to Informed Consent and Determination of Best Interest for those Unable to Give Informed Consent for Sterilization.)

(S. P. 515, L. D. 1437 AN ACT to Curtail the Practice of Plea Bargaining.)

Came from the Senate read and passed.

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

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

Non-Concurrent Matter

Bill "An Act to Remove the Customer Charge from Electric Utility Rate Structures" (S. P. 654) (L. D. 1679) (S. "B;" S-367) which was passed to be Enacted in the House on June 11, 1981.

Came from the Senate passed to be engrossed as amended by Senate Amendment "C" (S-369) in non-concurrence.

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

By unanimous consent, ordered sent forthwith to Engrossing.

Special Sentiment Calendar

Recognizing:

John Bshara III, of Troop 345, upon attaining the high rank and distinction of Eagle Scout; (S. P. 696)

There being no objections, the above item was passed in concurrence.

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

The following Communication:

THE SENATE OF MAINE

Augusta

June 11, 1981

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

Dear Clerk Pert:

The Senate today voted to Adhere to its former action whereby it accepted the Minority Ought Not to Pass report on Bill, An Act Relating to Political Fundraising by State Employees (S. P. 258) (L. D. 740)

Respectfully,

S/MAY M. ROSS

Secretary of the Senate

The Communication was read and ordered placed on file.

Orders of the Day

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

Bill "An Act to Control the Cost of Workers' Compensation Rates to Maine Employers" (H. P. 1291) (L. D. 1504)

— In House, Majority "Ought to Pass" in New Draft (H. P. 1483) (L. D. 1611) Report Accepted and Bill Passed to be Engrossed as Amended by House Amendment "A" (H-453) on May 22.

— In Senate, Minority "Ought Not to Pass" Report Accepted in non-concurrence.

Tabled—May 29 (Till Later Today) by Representative Brannigan of Portland.

Pending—Further Consideration.

On motion of Mr. Brannigan of Portland, the House voted to recede from its action whereby the New Draft was passed to be engrossed as amended by House Amendment "A".

The same gentleman offered House Amendment "B" and moved its adoption.

House Amendment "B" (H-572) was read by the Clerk.

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

Mr. BRANNIGAN: Mr. Speaker and Members of the House: You don't have House Amendment "B" on your desks yet, but you have the exact copy of it under Senate Amendment 324, Senator Sewall's amendment which is exactly the same as House Amendment "B". What it does, in the state fund it says that if the state were ever to join the fund as a member, it would be treated like any other member and have to pay all of its assessments, as any other member. It changes the composition of the board of directors which, in the original bill, required that there be employers and employees and a public member, it would change it all to employers.

Lastly, it would have the state fund pay no premium tax.

Thereupon, House Amendment "B" was adopted.

Mr. Higgins of Scarborough requested a roll call on passage to be engrossed.

The SPEAKER: All those in favor of 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 engrossed as amended by House Amendments "A" and "B" in non-concurrence. All those in favor will vote yes; those opposed will vote no.

ROLL CALL

YEA—Baker, Beaulieu, Benoit, Berube, Boisvert, Brannigan, Brenerman, Brodeur, Carrier, Carroll, Chonko, Clark, Connolly, Cox, Crowley, Davies, Diamond, G.W.; Diamond, J.N.; Erwin, Fitzgerald, Fowlie, Gwadosky, Hall, Hayden, Hickey, Higgins, H.C.; Hobbins, Jacques, Jalbert, Joyce, Kane, Kany, Kelleher, Ketover, Kilcoyne, LaPlante, Lisnik, Locke, MacEachern, Macomber, Mahany, Manning, Martin, H.C.; McCollister, McGowan, McHenry, McKean, McSweeney, Michaud, Mitchell, E.H.; Mitchell, J.; Moholland, Nadeau, Nelson, M.; Norton, Paradis, P.; Pearson, Perkins, Perry, Post, Pouliot, Prescott, Racine, Richard, Ridley, Roberts, Smith, C.B.; Soule, Telow, Theriault, Thompson,

Tuttle, Vose, Walker. The Speaker.

NAY—Aloupis, Armstrong, Austin, Bell, Bordeaux, Boyce, Brown, A.; Brown, D.; Brown, K.L.; Cahill, Callahan, Conary, Cunningham, Curtis, Damren, Davis, Dexter, Dillenback, Drinkwater, Dudley, Foster, Gavett, Gillis, Gowen, Hanson, Higgins, L.M.; Holloway, Huber, Hunter, Hutchings, Ingraham, Jackson, Jordan, Kiesman, Lancaster, Lewis, Livesay, Lund, MacBride, Masterman, Masterton, Matthews, McPherson, Murphy, Nelson, A.; O'Rourke, Paradis, E.; Paul, Peterson, Randall, Reeves, J.; Salsbury, Sherburne, Small, Smith, C.W.; Soulas, Stevenson, Stover, Strout, Studley, Tarbell, Treadwell, Twitchell, Webster, Wentworth.

ABSENT—Carter, Connors, Day, Laverriere, Martin, A.; Michael, Reeves, P.; Rolde, Swazey, Weymouth.

Yes, 75; No, 65; Absent, 10; Vacant, 1.

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

By unanimous consent, ordered sent forthwith to the Senate.

At this point, the rules were suspended for the purpose of allowing members to remove their jackets for the remainder of the session.

(Off Record Remarks)

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

Special Sentiment Calendar

Recognizing:

The Scarborough Police and Fire Departments, and the Old Orchard Beach Fire and Rescue Departments, for their efforts in the rescue of 5 individuals from the frigid waters off Pine Point on May 30, 1981; (S. P. 687)

Howard Cutler, Richard Rice, David Gogins, Robert Mitchell, Michael Dickson and Joe Lothrop for their heroic efforts in assisting in the rescue of 5 individuals from the frigid waters off Pine Point on May 30, 1981; (S. P. 688)

T.J. Willett, of Auburn, who has reached the high rank and distinction of Eagle Scout; (S. P. 689)

Mrs. Robert A. Austin of Auburn, upon her retirement after 23 years of dedicated service to the Y.W.C.A.; (S. P. 690)

The Minute Men of Stearns High School, Eastern Maine Class B Basketball Champions for 1981; (S. P. 691)

The Brunswick High School Baseball Team, 1981 Southern Kennebec Valley Athletic Conference Champions; (S. P. 693)

Cathy Curtis of Freeport, winner of the 1981 DAR Good Citizenship Award at Freeport High School; (S. P. 694)

The Gorham High School Rams, coached by Vern Plummer, who won the 1981 State Class B Girls' Softball Championship; (S. P. 695)

There being no objections, the above items received passage in concurrence.

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

Special Sentiment Calendar

Recognizing:

Emmett Stevens of East Millinocket, upon his retirement after 23 years of dedicated service to the community as a teacher at Schenck High School; (H. P. 1679) by Representative Michaud of East Millinocket. (Cosponsor: Senator Pray of Penobscot)

The heroic efforts of Marty Jo Shaw of Mars Hill, who swam a mile to summon help for a family involved in a boating mishap in the frigid waters off Pine Point; (H. P. 1680) by Representative Smith of Mars Hill. (Cosponsors: Senator Dutremble of York, Representatives Higgins of Scarborough and McSweeney

of Old Orchard Beach)

The East Branch Snow Rover Club of East Millinocket which has been named the number one snowmobile club in the State by the Maine State Snowmobile Association; (H. P. 1681) by Representative Michaud of East Millinocket. (Cosponsors: Senator Pray of Penobscot and Representative Clark of Millinocket)

Senator John Kerry, of Old Orchard, his children Natasha and Meghan, and Linwood and Cecil Boutet for their efforts in assisting in rescuing 5 individuals from the frigid waters off Pine Point; (H. P. 1682) by Representative Smith of Mars Hill. (Cosponsors: Senator Dutremble of York, Representatives Higgins of Scarborough and McSweeney of Old Orchard Beach)

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

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

Special Sentiment Calendar

Recognizing:

The Engrossing Staff of the Maine Legislature for their dedicated service engrossing legislation for the 110th Maine Legislature; (S. P. 697)

Hon. Glen W. Torrey of Auburn, upon his appointment to represent Maine on the USDA Stabilization and Conservation Commission; (H. P. 1685) by Representative Callahan of Mechanic Falls. (Cosponsors: Representatives Sherburne of Dexter and Hunter of Benton)

In memory of:

Lyman J. Kane, Sr., of Bar Harbor, Chief of Police of that community for 31 years; (H. P. 1683) by Representative Salsbury of Bar Harbor.

Mary Brown Dickinson, a very special teacher who captured for all time, the love and respect of the Lisbon and Sabattus Communities; (H. P. 1684) by Representative LaPlante of Sabattus. (Cosponsor: Representative Hayden of Durham)

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

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

An Act Authorizing Reasonable Fees for Nonresident Users of Public Libraries (H. P. 548) (L. D. 624) (C. "A" H-415)

— In House, Passed to be Enacted on May 22.

— In Senate, Bill and Accompanying Papers Indefinitely Postponed in non-concurrence.

Tabled — June 10 (Till Later Today) by Representative Connolly of Portland.

Pending — Motion of the same gentleman to Adhere.

Thereupon, the House voted to adhere.

By unanimous consent, ordered sent forthwith to the Senate.

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

An Act to Stabilize the Maximum Weekly Benefits under the Workers' Compensation Act (Emergency) (S. P. 225) (L. D. 613) (H. "A" H-512)

Tabled—June 9 (Till Later Today) by Representative Beaulieu of Portland.

Pending—Passage to be Enacted.

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

Mr. MICHAUD: Mr. Speaker, Ladies and Gentlemen of the House: There is a problem with this bill that to the best of my knowledge has not been addressed by the Labor Committee, simply stated, that the bill is ambiguous when it comes to application and literally invites litigation.

This House should realize and clearly understand that this bill will affect only persons in-

jured after its enactment. People who have been injured since 1975, when the maximum benefits were enacted, will not be subject to repeal of the 200 percent maximum.

As recently as last week, June 3, the law court held that the legislature has no right to impose retroactive legislation that interferes with a person's vested rights that were acquired prior to enactment of the legislation. Ladies and gentlemen, I am not an attorney, but I am confident that what I have just said is correct. The case I have referred to is Merrill versus Eastland Woolen Mills, Inc. and American Universal Insurance Company, which is a workers' comp case of June 3, 1981. I would like to read a quote from that decision. "The legislature has no constitutional authority to enact retroactive legislation if its implementation impairs vested rights or imposes liabilities that would result from the conduct predating the legislation." The decision then quotes eight present cases to substantiate this finding.

Clearly, this bill will foster volumes of litigation unless the bill is amended to make its application clear, to make it clear that the repeal of the 200 percent provision will not affect only people injured after the bill takes effect.

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

Mr. TARBELL: Mr. Speaker and Members of the House: I have anticipated this problem and reviewed it, and I really don't think the so-called legal problems that the gentleman is floating on the floor of the House are a problem at all.

The fact of the matter is, back in 1975 the legislature set up a schedule that would take effect over a series of years of increasing this cap. It started at 100 percent of the state average weekly wage, and it went to 133 percent and it went to 166 2/3, where we are now, and July 1 of this summer it will go to 200 percent of the state average weekly wage.

This is emergency legislation. If we enact it today, before the 200 percent ever takes effect, which is a few weeks down the road, no one in this state will have ever been affected by the 200 percent measure; it would stay at 166 2/3. No employee would ever receive it, no employer would ever pay it. It is not a vested right simply because it is sitting on the book and some future date it might take effect. So if we repeal a law that was passed back in 1975, six years ago, that hasn't even taken effect yet, doesn't take effect until July 1, the problems that the good gentleman has expressed really do not exist.

Having cleared that out of the way, I know there are others that wish to debate this issue on its actual merits and not on legal technicalities and problems, and I open the floor for them to respond.

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

Mr. JALBERT: Mr. Speaker, I move indefinite postponement of this Bill and all its accompanying papers and request a roll call. That is my debate.

The SPEAKER: The gentleman from Lewiston, Mr. Jalbert, moves that this bill and all its accompanying papers be indefinitely postponed in non-concurrence.

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

Mr. TUTTLE: Mr. Speaker, Ladies and Gentlemen of the House: I would hope that you would not support the motion to indefinitely postpone. I am a cosponsor of the bill. I understand Mr. Michaud's objection, but after much consultation with many people and many questions as to the legal aspects of this bill, I feel that in the best interest of this legislation, it is best that we pass it as is.

This bill received a unanimous committee report from the Labor Committee. Essentially, the bill incorporates recommendations from the Blaine House Conference on Small Busi-

ness. As Mr. Tarbell says, the maximum weekly workers' compensation benefit in Maine is presently at 166 2/3 percent of the state average weekly wage, or about \$200. At this level, Maine's maximum exceeds the maximum payable in all but three other states. Maine's maximum, moreover, is scheduled to increase to 200 percent.

I guess I could say I would love to give the employees of the state an increase from 166 2/3 to 200 percent, but can we afford it? I am sure that all of us are aware of the present situation of the workmen's compensation fund after all the debate we have gone through this session. Unfortunately, it seems that there will be an unsuccessful attempt in solving the problem in other areas. I feel that unless something drastic is done, there will not be any workers' comp fund to drain from anymore.

It may be considered token and symbolic to some, I feel from a fiscal point of view, it is a positive step in attempting to eliminate the inflationary cost of workers' compensation.

I am a working man, I have been injured on the job. I am a former fire fighter, I have been laid up at times for an extended period of time, but I recognize as a legislator, unless something is done to put the workers' compensation fund on more sound footing, there will be no funds left for those legitimate workers to claim during periods of injury. I am sorry that this may affect some areas of the state that pay substantially high wages, but unfortunately, where I come from we don't have to worry about that.

I hope that we will support this bill as is, as we have before, and I hope you give it your vote and I hope you defeat the pending motion to indefinitely postpone.

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

Mrs. KANY: Mr. Speaker, Ladies and Gentlemen of the House: I hadn't given this topic much thought at all until Representative Michaud brought it up and I am wondering what the effect would be on any existing union contracts. Would there be references to that higher cap within any of the contracts and if so, what would the status be of those? I would like to ask Representative Tarbell particularly, or any other labor lawyer present.

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

Mrs. BEAULIEU: Mr. Speaker, Ladies and Gentlemen of the House: I am by no means a labor lawyer, but I believe that it would not distress any contracts.

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

Mr. McHENRY: Mr. Speaker, Ladies and Gentlemen of the House: I would like to ask a question through the Chair to the gentleman from Sanford, Representative Tuttle.

I am wondering just how many people are going to be affected by this if we were to pass it, and how much of a saving in premiums would it mean to the employer of the state? Who is it that we are affecting? Is it the lazy guy that doesn't want to work or is it the guy that really wants to work and puts in his 16 hours? If he so happens to have an injury, you know you are saying, you son of a gun, you were earning good wages, you have a big mortgage to meet but we can't give you two-thirds of your wages.

The SPEAKER: The gentleman from Madawaska, Mr. McHenry, has posed a question through the Chair to the gentleman from Sanford, Mr. Tuttle, who may respond if he so desires.

The Chair recognizes that gentleman.

Mr. TUTTLE: Mr. Speaker, Ladies and Gentlemen of the House: I think what we are trying to do here is, we are trying to approach it from a point of view of what we can afford. It is nice to say that we want to help those legitimate workers who are injured, but in my opinion, if something isn't done from a financial point of

view, there won't be any money left. From that point of view, I think this bill addresses that point. It puts a definite limit, it sets it at what we can afford and it gives us a chance to find out where we are at presently. That makes good sense in my opinion.

I hope that answers your question.

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

Mr. JALBERT: Mr. Speaker, Ladies and Gentlemen of the House: The gentleman from Sanford, Mr. Tuttle, as I understood it, said this was a unanimous committee report. Would the Clerk please read the report of the committee?

The SPEAKER: The Chair would advise the gentleman that the Committee Report is 6 to 6.

Mr. JALBERT: What affect will this have on a mill city, paper companies and other areas?

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

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

Mrs. BEAULIEU: Mr. Speaker, Ladies and Gentlemen of the House: What it will do, because most of these workers tend to be in higher income brackets, is that it will freeze them and disenfranchise them from any further raises.

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

Mr. JALBERT: Mr. Speaker, I would like to pose another question through the Chair to anyone who may wish to answer.

Was there a deal made on this within the committee?

The SPEAKER: The gentleman from Lewiston, Mr. Jalbert, has posed another question through the Chair to anyone who may respond if they so desire.

The Chair recognizes the gentleman from Windham, Mr. Diamond.

Mr. DIAMOND: Mr. Speaker, Men and Women of the House: The answer to that is no. I am not on the committee, there was no deal made. The workers' comp issues were discussed widely and, as you know, we had several bills, 28 or so, and some we agreed on and some we disagreed on. This is one of those that we agreed on. The bargaining, I think, was done in good faith on all the bills, including this one. The gentleman from Scarborough, Mr. Higgins, was very forthright and sincere, as were the other people involved, so the connotation of any deal, I think, would not be appropriate and the answer would be definitely no on that.

The other thing is, this has been explained to you very well. It deals with people who are earning \$30,000 or more and are going to be harmed by this, and I can assure you that people who represent areas like Millinocket and other areas would be concerned about this and be opposed to it and I can understand that. It just seemed to me and the majority of the rest of us that this type of individual who earns \$30,000 or more, who would be affected if this stayed at 166 2/3, was a minority. We are looking at the big picture and I think I, for one, and many others felt that this is one area that we might be able to make an effect on the rates, which is why we supported it.

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

Mr. JALBERT: Mr. Speaker, this is an emergency measure, right?

The SPEAKER: The Chair would answer in the affirmative.

Mr. JALBERT: With a 6 to 6 report, not a unanimous report?

The SPEAKER: The Chair would answer in the affirmative.

Mr. JALBERT: I would like to make a comment in withdrawing my motion. I certainly would not talk about our splendid leadership making deals, possibly the word agreement might be better. I will withdraw my motion.

The SPEAKER: The gentleman from Lewiston, Mr. Jalbert, withdraws his motion to indefinitely postpone.

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

Mrs. MITCHELL: Mr. Speaker, Members of the House: To give a little historical perspective to how some of us came to supporting the 166-2/3 position, as you will recall, there was a great deal of legislation introduced this session. Many of the pieces would have a disastrous effect on the benefits given to Maine workers. When we looked at that array of legislation, I, for one, was looking for some compromises that could be made, from my point of view, which would harm the worker the least. This seemed to be one of those areas that I could settle on.

As you recall, when we had a press conference, for heaven's sake, way back in February, we said this was one of the pieces that we thought could go into a democratic package. The package idea never developed. This came as a second piece of legislation with an emergency on it because if this is not enacted by July 1, the cap or the top level goes to 200 percent. I think this is probably one of the least harmful ways to deal with the escalating cost. It is not perfect for the workers but it is much less damaging than many of the other bills that were before us.

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

Mr. PERKINS: Mr. Speaker, Ladies and Gentlemen of the House: You all know of the 25 percent rate increase that the companies made here a couple of months ago. You should also know that the reserves that they have been using have doubled this last year and you can just bet that in making that rate increase, they assumed that this 200 percent was going into effect. If we don't pass this bill, you just bet, in my opinion, that you are going to see another rate increase this Summer, so anything we can do to keep that down, I think at the present time we definitely should.

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

Mr. MICHAUD: Mr. Speaker, Ladies and Gentlemen of the House: L. D. 613 is one of the biggest shams of this entire session. I have been promoted as a cost-saving measure to help control workers' compensation premiums. But even the opponents of the workers' compensation concede that the savings results in the passage of this bill would be small.

What this bill does is penalize some of the hard working people of this state. The only argument that I have heard in favor of this bill is that the papermakers and trades make enough money now, they don't need two-thirds of their wages, up to 200 percent of the average weekly wage, which is \$220. I might also add that papermakers and trades are also skilled workers. Frankly, I am not going to sit here quietly and let that argument prevail.

We should not punish the people for getting ahead in life. This bill does not deserve to pass. The House should not pass laws based on that kind of logic. The House should not penalize people who work hard because they make too much money. If a person is willing to work 16 hours a day or 60 to 80 hours a week, they should be justly compensated according to their past willingness to work. These workers pay more than their fair share of taxes to the fund.

The programs that we enact down here by this legislature, we all have to pay for, and because of the people in East Millinocket and Millinocket and other mill towns who work hard to earn a good living, this bill would penalize them. If you feel that this bill is going to help the small businessmen, don't kid yourself. It is not going to do that. The small businessmen will have to pay their employees roughly \$17,000 a year in order for this bill to affect them.

Now tell me, how many small businessmen pay that amount of wages?

It may be politically expedient for you to support this bill, but I urge you to act out of fairness instead. I urge you to do what is right and not to discriminate against the people who are willing to work hard. That is what we want, people to work hard. Just because the people earn good wages, you want to penalize them. A person who works for a small business, he gets hurt, he can come out and collect his two-thirds pay; yet, if someone works in the mill and earns a good wage, he is not going to be able to get his pay because of the cap.

Mr. Speaker, I would urge the indefinite postponement of this bill and all its accompanying papers.

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

Mr. BAKER: Mr. Speaker, Ladies and Gentlemen of the House: I am breaking my silence today as I find it very hard to remain silent after listening to the debates on workers' compensation in the past three weeks. I have remained in my seat on a number of issues and while I know that the Speaker probably doesn't want me to speak, I am going to anyway.

We are basically about to cast a vote which, in my opinion, is more symbolic than substantive and we are going to freeze the workers' compensation benefits at 166-2/3 of the average weekly wage, and that is a maximum. But the ironic thing I find about this bill is, I talked to an industrial lobbyist friend of mine earlier in the session and I told him that the leadership had hammered out in a package that they would include 166-2/3 freeze and his reply to me was, big deal, that doesn't do anything. So you see, we are really voting on symbolism, but I suppose we can all cast a vote for this, or we can congratulate ourselves that we have passed one of the recommendations of the Blaine House Conference on Small Business, but I don't really believe in symbolism.

I spent a bit of time reading a report that was written by a former committee aide of ours in the 109th Legislature. The report was a report on the direct pay system, a comparison of the Wisconsin system to our system. In the report, he dealt with some factors involved in rising premiums. One of the things that he had mentioned in the report that has not been brought out yet in the debates was that rising medical costs have contributed greatly to rising premiums, and while rising medical costs are probably beyond some of our scope, I can't help but think that a National Health Insurance Program of cost controls might go a long way to correct some of those problems.

There is something else that he pointed out, too. He made basically three points in the report and I have a copy of it somewhere here if anyone would like to read it when we are done with the session. The Maine workers' compensation laws are not substantially different from those in most other states. That comes as a surprise when I say that, but, according to U.S. Chamber of Commerce data, it shows that in terms of workers covered and benefits provided, Maine's law is similar to that of most other states.

The reason for Maine's higher premiums are the result primarily of Maine's dependence upon higher risk industries. Four of Maine's big six industries have above average rates of injury and illness on a national basis and five of the six have higher rates in Maine than the national average.

The other point that he made, and I bear in mind that the report was issued in the 109th Legislature and things might have changed somewhat, but Maine's higher premium costs constitute only a minute portion of total compensation adding 1.7 percent to Maine's average hourly wage in manufacturing, what amounts to only eight cents per hour, still leaving Maine's average labor costs well below the national average.

Since workers' compensation premiums are based on large experiences, these rates could be lowered by improved safety programs. Now, while these costs clearly do represent an absolute increase and thus a disincentive to further investment, they are probably not sufficient enough to offset Maine's relatively lower labor costs.

We have had two bills before our body, I am not sure what the fate of one of them is right now, that really, I think, would have made a difference, the state fund and the direct payment. I don't know what the fate of that bill is going to be because there are a lot of us here who object to government intervention in the insurance business, although we do concede it is all right in the dairy industry, and that the direct payment system would have cost some \$400,000 and that would have meant we would have had to spend money, and we all know what happens to spenders in elections, they get baited. So this brings us right back to where we are, voting on symbolism.

I have sat through those hearings, I heard testimony from people, from the paper industries, I heard people tell me that factory workers don't have the mentality to be trained for other jobs. I have heard people representing the textile industry tell me they were small businesses, even though they employed more than 100 people. I have heard people from the insurance industry tell us how we can achieve full employment while maiming half of our work force at the same time.

Last Friday, I met a constituent of mine on the street and she was telling me that her factory has just closed for two weeks, and as a result of legislation we passed here, we had no choice, we had to pass, this one week waiting period for unemployment compensation, that the workers were going to go without income for one week.

So you see, the actions we take here do have a tremendous effect on people's lives. I guess what is bothering me the most in all the debates that we have had is that we have tended to treat people's lives as if we were dealing with an expense account ledger, adding up our savings and our losses and never once thinking about what impact this is going to have on the working people in this state. I just felt that I had to rise and make those comments. I suppose you can do what you wish; I know what I am going to do on this bill.

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

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

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

Mr. HIGGINS: Mr. Speaker, Ladies and Gentlemen of the House: I think it is important to remember that this was part of the package that was presented some time ago. I notice another thing that was asked was, it was a report out of the Committee on Labor and maybe some of you feel reluctant because it was a partisan split 6 to 6, but since that time, members of both parties on sides of the aisle and differing philosophies within each party have sat down and we did agree that this was one bill that we intended to pass. It is my understanding that the only reason that it was not included in the package approach that we used on the other six or seven bills that we agreed on was that it simply needed a two-thirds majority, we needed to make it an emergency piece of legislation and on the others that was not necessary to do.

What I want to remind the House is very simply this—that there is actual freezing of benefits. You are freezing the percentage but you are not freezing the actual benefits. Those

are going to continue to rise. The 166-2/3 percent of the average weekly wage will rise as the average weekly wage rises. For example, if the average weekly wage is \$200 a week, that means that the maximum benefits allowed under the current workers' comp policies are \$340 a week. Now, as time progresses and the people get more and more raises and whatever, we all know that the average weekly wage rises. If it goes to \$240, the maximum benefit allowed will be \$400, so there is no freezing involved in this. You are freezing the percentage but you are not freezing the actual benefit allowed.

Right now, the employers are getting a double whammy, if you will, not only do they have to pay 166-2/3 percent on a certain amount, but next time they have to pay more than 166-2/3 percent on another further increase in the wage, so they are getting hit twice. Not only does the base rise but the percentage rises, and that is all this bill says, that the percentage will stabilize and remain at 166-2/3 percent. As the average weekly wage rises, so will the benefits to all the working people in this state that are injured on the job. There doesn't seem to be anything, as far as I am concerned, really terribly bad with that and I would hope that you would go along with this bill this evening and pass it to be enacted.

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

Mr. HOBBS: Mr. Speaker, Men and Women of the House: There is one issue that I think should be addressed, and that is the issue of retroactivity versus prospective legislation. There are some individuals in this legislature who are of the belief that with passage of this legislation anyone who is presently collecting workers' compensation benefits would be frozen, who qualify for the 200 percent provision would be frozen at 166-2/3 percent of the average weekly wage.

Case law is distinct on this point, in *Bernard versus Cives*, the law court said it should be prospective in nature when enacting legislation involving benefits. The legislature in the case that just came down as the good gentleman mentioned, on June 3rd, *Merrill versus Eastern Woolen Mills*, again, although the case dealt with a separate issue, in your citations and your footnotes, the court said that the legislature has no constitutional authority to enact retroactive legislation if its implementation impairs vested rights or imposes liabilities that would result from conduct predating the legislation.

I suppose, with mixed emotions, I would reluctantly support legislation that would not be retroactive in nature if, in fact, we could, as a legislature, do that, but reluctantly I somewhat sympathize with the arguments that possibly those individuals who are injured from the date of the legislation on, that these benefits possibly should be frozen at 166-2/3 percent. I think that issue should be made clear because I know what is going to happen.

If this legislation passes, on July 1, those individuals who will qualify for the 200 percent payment, I know what is going to happen, the insurance company is not going to give the money, they are not going to issue the increase, and then we are going to go through a year and a half of litigation. I think when all the dust clears a year and a half from now, what I say today and what was said in the case of *Bernard versus Cives*, and what was reiterated in the case of *Merrill versus Eastern Woolen Mills* will be the decision of the court.

I hope that this doesn't happen and I hope that the companies involved will look at this legislation with the consistency of the court cases and will make a good-faith effort to comply with prospective legislation and not retroactive legislation.

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

Mr. TARBELL: Mr. Speaker, Ladies and Gentlemen of the House: I thought I had taken

care of the legal technicalities that have been raised now two times on the floor of the House. I am going to read something into the record and if you want to ask me some questions, you can, but I am going to make it clear on the record that I don't think there are any legal problems involved in applying a benefit cap to individuals who are presently receiving compensation.

The excerpt that was referred to involving the Cives case completely applies it out of context. The question before the law court in that case was basically one of the legislature's intent in enacting the automatic escalations in maximum benefits. That law, as I told you, became effective in 1975.

More specifically, the court, the law court in that case, was confronted with a question of whether an individual who was injured in 1976, when the maximum benefit was 100 percent of the average weekly wage, was entitled to the next scheduled increase in 1977 to 130 percent of the average weekly wage. It was on the question that the court ruled simply that it was the legislature's intent to allow individuals who were injured after the effective day of the statutory change to receive periodic benefit evaluations. That was the only question before the court, the intent of the legislature enacting the escalations.

Here, there is no question as to the legislature's intent. This bill repeals the next scheduled escalation of benefits to 200 percent of the average weekly wage. It is emergency legislation, it will become effective immediately. The 200 percent change, however, is not even scheduled to become effective until July 1.

As an emergency measure, this bill negates the next escalation before it even becomes effective law. It is as if the 200 percent escalation never existed if we pass this bill. The 200 percent maximum, therefore, will never become effective if we pass this bill, no employer will be required to pay benefits at that level either to employees now receiving benefits or to employees injured after the effective date of this bill. That is the clear intention of this legislation and I am certain that the courts will recognize this legislative intent.

I just want to go one step further. If we were to let the 200 percent measure become effective on July 1, and then we tried to repeal it and take away benefits that people were getting after July 1 at the 200 percent level, then there would be some serious problems because you would be taking away something that they would already be enjoying after July 1, but that is not the case. We are repealing the July 1 200 percent level measure today in emergency legislation if we enact this before anybody has ever gotten it. So you are not taking away something that they already have because they haven't gotten it yet, until July 1.

I just wanted to take care of those aspersions and clouds that have been cast over this debate on its merits. I think we ought to support it because I think it will be helpful.

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

Mr. MICHAUD: Mr. Speaker, I would like to pose a question through the Chair to the good gentleman from Bangor, Mr. Tarbell.

Do you have the figures on how much savings this would be if this passed?

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

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

Mr. TARBELL: Mr. Speaker, Ladies and Gentlemen of the House: I think we are acting on this measure as though it were the first bill on the first day of the legislature. We have got a lot of work to do. That issue has been debated, the gentleman from East Millinocket has talked about it already.

The SPEAKER: The Chair would suggest that the question posed was, how much money would be saved to the fund.

The Chair recognizes the gentlewoman from Auburn, Miss Lewis.

Miss LEWIS: Mr. Speaker, Ladies and Gentlemen of the House: The answer to that question is approximately one percent, or perhaps less.

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

Mr. MCHENRY: Mr. Speaker, I finally got an answer to the question but, ladies and gentlemen of the House, I believe that the insurance industry has already received their increase in the premiums, they have already charged the employer with that 200 percent. As you know, this is going into effect in July. Do you honestly believe that the insurance companies are now going to give the employers the money that they have charged, that 200 percent? If it is one percent, I certainly hope that if this were to be enacted, the insurance industry would return to every employer in the state of Maine one percent of their premiums, which I don't believe they will and I honestly don't believe that anybody here believes that.

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

ROLL CALL

YEA — Alopis, Armstrong, Austin, Beaulieu, Bell, Benoit, Berube, Bordeaux, Boyce, Brannigan, Brennerman, Brodeur, Brown, A.; Brown, K.L.; Cahill, Callahan, Carroll, Conary, Cox, Crowley, Cunningham, Curtis, Damren, Davis, Dexter, Diamond, G.W.; Diamond, J.N.; Dillenback, Drinkwater, Dudley, Foster, Fowlie, Gavett, Gillis, Gowen, Gwadnosky, Hanson, Hayden, Hickey, Higgins, H.C.; Higgins, L.M.; Holloway, Huber, Hunter, Hutchings, Ingraham, Jackson, Jacques, Jordan, Joyce, Kane, Kany, Ketover, Kiesman, Lancaster, LaPlante, Lewis, Lisnik, Livesay, Locke, Lund, MacBride, MacEachern, Macomber, Mahany, Manning, Martin, H.C.; Masterman, Masterton, Matthews, McCollister, McGowan, McKean, McPherson, McSweeney, Mitchell, E.H.; Moholland, Murphy, Nelson, A.; Nelson, M.; Norton, O'Rourke, Paradis, E.; Paul, Perkins, Peterson, Post, Pouliot, Prescott, Racine, Randall, Reeves, J.; Richard, Ridley, Roberts, Salsbury, Sherburne, Small, Smith, C.B.; Smith, C.W.; Soulas, Soule, Stevenson, Stover, Strout, Studley, Tarbell, Telow, Theriault, Thompson, Treadwell, Tuttle, Twitchell, Vose, Walker, Webster, Wentworth, The Speaker.

NAY — Baker, Boisvert, Carrier, Chonko, Clark, Connolly, Davies, Erwin, Fitzgerald, Hall, Hobbins, Jalbert, Kelleher, Kilcoyne, McHenry, Michaud, Mitchell, J.; Nadeau, Paradis, P.; Pearson, Perry, Reeves, P.;

ABSENT — Brown, D.; Carter, Connors, Day, Laverriere, Martin, A.; Michael, Rolde, Swazey, Weymouth.

Yes, 118; No, 22; Absent, 10; Vacant, 1.

The SPEAKER: One hundred eighteen having voted in the affirmative and twenty-two in the negative, with ten being absent, the Bill is passed to be enacted.

Signed by the speaker and sent to the Senate.

By unanimous consent, ordered sent forthwith to the Senate.

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

An Act Authorizing a Bond Issue in the Amount of \$29,300,000 for the Purposes of Fostering Agricultural and Economic Development in the State of Maine (Bond Issue) (S. P. 488) (L. D. 1428)

— In House, Passed to be Enacted on June 3 (Having previously been Passed to be Engrossed as Amended by Committee Amend-

ment "A" (S-297) as Amended by House Amendment "A" (H-508) thereto)

— In Senate, Passed to be Engrossed as Amended by Committee Amendment "A" (S-297) as Amended by Senate Amendment "A" (S-365) thereto in non-concurrence.

Tabled—June 10 (Till Later Today) by Representative Pearson of Old Town.

Pending—Further Consideration.

On motion of Mr. Pearson of Old Town, the House voted to recede.

Thereupon, Senate Amendment "A" to Committee Amendment "A" was read by the Clerk.

On motion of Mr. Pearson of Old Town, Senate Amendment "A" to Committee Amendment "A" was indefinitely postponed.

On motion of the same gentleman, House Amendment "A" to Committee Amendment "A" was indefinitely postponed.

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

House Amendment "B" to Committee Amendment "A" (H-571) was read by the Clerk and adopted.

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

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

Mr. PEARSON: Mr. Speaker, Ladies and Gentlemen of the House: What I am attempting to do is to amend the bond issue on potato marketing improvement. The amendment that I have replaced and am attempting to have enacted here would up the amount from \$4 million in the bond issue to \$5 million in the bond issue.

Originally, the bond issue called for \$6 million. It was amended downward in the other body to \$4 million, and I am amending it back up to \$5 million, and the reason for that is that we have agreed, leadership has agreed and the Governor has suggested, most everybody agrees, that we ought to float only 90 percent of the bonds that we retire. So, in an attempt to do that, there had to be some modifications made on the numbers of dollars that we were going to put out in bond issues. It has been agreed by leadership, and hopefully by this House, that this would be one of the adjustments that was necessary in order to reach that 90 percent figure, which we feel is a responsible way of funding bonds.

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

By unanimous consent, ordered sent forthwith to the Senate.

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

HOUSE DIVIDED REPORT — Majority (8) "Ought to Pass" as Amended by Committee Amendment "A" (H-546) — Minority (5) "Ought to Pass" as Amended by Committee Amendment "B" (H-547) — Committee on Taxation on Bill "An Act to Amend the Maine Tree Growth Tax Law" (H. P. 801) (L. D. 955)

Tabled — June 9 (Till Later Today) by Representative Post of Owl's Head.

Pending — Acceptance of Either Report.

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

Mrs. POST: Mr. Speaker, I move that the House accept the Minority "Ought to Pass" Report.

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

Miss BROWN: Mr. Speaker, I would like a division on the motion.

The item before us is L. D. 955, "An Act to Amend the Maine Tree Growth Tax Law." This is a very important piece of legislation to a lot of your districts.

The difference between Committee Report A and Committee Report B is that the Minority Report, Committee Report B, continues with the antiquated, unfair, terrible formula that is

on the books presently. Committee Report A helps adjust that formula and creates a situation where the communities and the municipalities who are most severely hurt are the ones that will be receiving the equitable reimbursement from the state.

I asked for a division on this and I hope that you support me so I can move the acceptance of the Majority Report, Committee Report A.

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

Mrs. POST: Mr. Speaker, Men and Women of the House: It is true, as the gentlelady said, that the primary difference in the two reports is the mechanism that is used for reimbursement for the tax loss due to tree growth. I think I would differ greatly from the gentlelady in saying exactly what is fair, and what is antiquated and what is unfair. Under the reimbursement fee that is in Report A, which is the Majority Report, which I am not moving, all the counties because of the system that has been set up, all the counties, Knox, Lincoln, Waldo, Sagadahoc, Androscoggin, Cumberland, York and Kennebec counties will not get one red cent of reimbursement. No towns in any of those counties gets any reimbursement at all, that is Knox, Lincoln, Waldo, Sagadahoc, Androscoggin, Cumberland, York and Kennebec, and it is very unlikely under that system that any town in any of those counties will "ever" get any reimbursement. So if you live in those counties and you have land in tree growth and you are concerned about the tax loss, then just know that unless you vote for Committee Report B, your towns are very likely to never ever get reimbursement.

In addition to that, there are a lot of towns who will lose more than \$1,000 unless we go for Committee Report B, and those are towns like Durham, Ashland, Dyer Brook, St. Francis, Wallagrass, Freeport, Harpswell, Haynesville, Masardis, New Canada, Castine, Deer Isle, Ellsworth, Hancock, Lamoine, Mt. Desert, Otis, Cushing, Hope, Rockport, Alna, Jefferson, Newcastle, Waterford, Woodstock, Brewer, Clinton, Edinburg, Garland, I am reading some of them, Brownville, Bowdoin, Arrowsic, Burnham, Wesley, Whiting, Arundel, Cornish, Kennebunkport, Lebanon, Limington, that is half of the computer printout. All those towns will lose more than \$1,000 apiece unless you vote for Committee Report B.

Essentially the situation that is set up presently is that you can either get reimbursement through assistance which is in effect, that measured your tax loss when tree growth went into effect, or you can get reimbursement at the rate of 11 cents an acre. The system that has been set up sets up a way of judging what your tax loss might be according to the difference between the tree growth value and the undeveloped acreage value that is used in state valuation. Unfortunately, that is not a true measure of tax loss in most of the communities in this state.

There is a lot that is unfair about tree growth. Unless we accept Committee Report B, it is going to be even more unfair particularly to just about any town in the entire first district.

We have worked on this and we have come up with a proposed amendment which Representative Hall will present, if we do accept Committee Report B, in which we will say the towns will no longer be able to get more than their tax loss and yet, at the same time —

The SPEAKER: The Chair recognizes the gentleman from Bethel, Miss Brown, and inquires for what purpose she rises?

Miss BROWN: A point of inquiry, Mr. Speaker?

The SPEAKER: The gentleman may state her inquiry.

Miss BROWN: I don't believe Amendment A to Committee Report B is before us and I don't think it is up for debate at this time.

The SPEAKER: The Chair would advise the

gentlewoman that she is stating her position. The gentleman from Owl's Head, Mrs. Post, may continue.

Mrs. POST: Thank you, Mr. Speaker. Unless we do, in fact, adopt Committee Report B, an amendment which will allow reimbursement to go to 15 cents an acre, which will mean that most of these towns will get even more, instead of the reimbursement being 11 cents an acre will go up to 15 cents an acre, Representative Hall will not have a chance to present that particular amendment and it is on your desks if you would like to read it.

I do want to point out that also in the amendment what we are talking about is a system where there are some towns, because they are getting more now than what was defined as their tax loss, any tax loss, they may get a reduction in what they are getting presently, but unless we accept Committee Report B—they won't get anything. Again, I would just like to read off the towns, unless we accept Committee Report B or counties rather, won't get any reimbursement at all and are very unlikely to in the future — that is, Knox, Lincoln, Waldo, Sagadahoc, Androscoggin, Cumberland, York and Kennebec.

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

Mr. MASTERMAN: Mr. Speaker, Ladies and Gentlemen of the House: I am rather amused this afternoon at what is transpiring. This particular L.D. 955, the prime sponsor of this bill is Mr. Hall, the cosponsor is Mr. Twitchell from Norway, Mr. Smith from Island Falls and myself, and I thought that all four of us, because of our concerns for our particular towns and the towns across the state, because these towns weren't having fair and equitable treatment, that we should attempt to do something for them. We have tried. This afternoon there is some surprise maneuvering going on and I don't see how anyone can argue that the 3 percent threshold approach is not the correct method.

Miss Brown is absolutely correct when she says that we are reverting to the antiquated method that we have been using.

I did all that I could since I have been here to help correct the tax situation regarding tree growth. I believe in tree growth, the concept, but because the law was made in 1972, I believe it was, and because of the change in valuation, it no longer does the job that we expected it to do.

Representative Post mentioned Brownville — that happens to be one of my towns and I have checked that too, and under the 3 percent threshold, we will be, I don't have the figures in front of me, I believe we were going to be \$2,000 better off. I don't think there is any way that you are going to, under any method, insure that you have corrected every single inequity. I don't think it is possible because the towns haven't lived up to their commitment and I think it is about time the Tax Division did something about it. The towns are not up to the level of valuation that they should be and that is where some of the problem lies.

Committee Amendment B, which is on the floor at the present time, and I want to tell you the differences between A and B. First, I am going to tell you where they compare. Both amendments, A and B, eliminate the provision requiring parcels over 500 acres to be in tree growth. Both A and B require annual setting of stumpage values rather than the present biennial approach. A and B both allow tree growth values to be set by region or by counties. A and B both provide for the first time eligibility criteria in terms of how the land is managed. Both A and B require municipalities to report penalties incurred. A and B differ on setting the discount factor and on reimbursement, and the big issue is reimbursement.

The Majority Report, which is not before us at the moment but I hope we defeat the Report B so we can then get to Report A, the Majority

Report, and the Majority Report reimburses those towns whose tax losses exceed 3 percent of their tax commitment. This approach sends the available money to the towns that are hurt the worst and treats all towns equally.

I am surprised that Mr. Hall didn't mention this because Shirley is one of his towns and under Report A, if we can get to it, suppose the town of Shirley raises \$100,000 in property taxes, Shirley would be reimbursed for tax losses which would exceed 3 percent of \$100,000, or \$3,000. If Shirley's loss is \$5,000, they would be reimbursed \$2,000.

The Minority Report leaves the reimbursement procedure the way it is presently in the law. This procedure is bad for three reasons: it wastes money on towns that have no significant loss to tree growth; surprisingly enough like South Portland, which has only 35 acres in tree growth. The current procedure perpetuates the inequity and when we move to the 17 cents proposed in Report B, you have the same situation, 11 cents an acre, while some towns, due to a quirk in the law, did you know this — some town would get as much as \$8 per acre and that certainly is not fair because they should go beyond that point of their actual tax loss.

The most sparsely populated towns in Maine are bearing the burden of this current tax law. The Majority Report, which I am on, helps most towns which carry the heaviest burden and I think if you agree with me you will vote to defeat Committee Report B.

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

Mr. HALL: Mr. Speaker and Members of the House: It is unfortunate that you only have \$600,000 to take the place of \$2 million, but that is what you are talking about. What you are trying to do is take a stick and stir it up to give what you can back to each town.

Another thing that is unfortunate is that tree growth hurts every town that has some tree growth in it, regardless. As I looked over Amendment "A", I was very much in favor of it at first because I looked at Piscataquis County which is going to get back 8 percent of the money involved. Miss Brown, she gets back 10 percent; yet, when I look at Somerset County, which half of my district is in, they get zero. This isn't fair. The entire assessment of the tree growth has been unfair from the beginning. You have heard me speak about this, some of you old timers have, about how I have been adamant about the inequities in tree growth anyway.

Mr. Masterman's town of Greenville would get nothing, but under my amendment, they would get \$2,000. I am very surprised that he would want to go with Amendment "A" and having some towns in his district get nothing.

I would hope you would adopt Amendment "B" so I can put my amendment on it.

The SPEAKER: The Chair recognizes the gentleman from Bethel, Miss Brown.

Miss BROWN: Mr. Speaker, Ladies and Gentlemen of the House: Just for the record, I would like to correct a few things.

First of all, out of all the wonderful towns that my chairman read into the record, that's great, that's impressive, but the fact is that those towns do not receive more or in excess of a 3 percent tax shift. The thing that I am concerned about are the towns that do receive in excess of a 3 percent tax shift. When I went down to look over how many acres some people in this House had in their districts, I can see why the Speaker of the House and some people are very concerned about it, but I will tell you why I am concerned about it, because I have 211,000 acres of tree growth in my district, there are only 260,000 in Oxford County in tree growth, the majority is in my district. They are little towns that are severely hurt because of this.

For Mr. Hall's information, it is "Miss" Brown, and I get less than 10 percent of the reimbursement for my district. That figure of 10

percent was thrown around in the hallway and it is not accurate.

Something else I would like to point out to you is that the Maine Municipal Association and the Maine Forest Products went around this state this fall in a lot of districts all over the state and they held forums. Your constituents and mine went to those forums and they expressed their concerns about tree growth. The Committee Amendment "A" is a compromise that was endorsed by the people that went to those forums. I am talking about Maine Municipal Association, selectmen, environmentalists and landowners. Those are the people that endorsed Committee Report "A". This is the first time since I have been here in five years working on tree growth that we have gotten that group together to endorse one proposal. I would urge you to support Committee Amendment "A".

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

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

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

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

The SPEAKER: The Chair recognizes the gentleman from Eastport, Mr. Vose.

Mr. VOSE: Mr. Speaker, I have listened to the gentlelady in the other corner about what it would do to some of the towns, so I would like to read off what Committee Amendment "A" would do to my towns in my district. In Dennysville, where they would normally get \$503, they would get nothing; in Whiting, where they would normally get \$1742, they would get \$241; in Lubec, \$80 to nothing, in Cutler, \$1406 to nothing; in Northfield, \$2304 to \$255; and Wesley, \$2256 to \$1504. Under the amendment that Mrs. Post is going to present, I will remain the same. Therefore, I urge you to support this motion.

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

Mrs. POST: Mr. Speaker and Members of the House: I would like to respond to a couple of things here. Representative Masterman mentioned that there are some towns that are actually getting \$8 an acre, which is much more than their tax loss, and that is true, and under the amendment that will be presented by Representative Hall, if we ever get around to accepting Committee Report "B", that issue will be taken care of and towns will, in fact, not be able to get more money than what they have actually lost because of a tax loss.

I got a note from the gentleman from Androscoggin County asking me about Minot, and I am afraid it might not get back to you since the Speaker is particularly interested in getting \$1240, and under Report A, they will get absolutely nothing, as will any other town in Androscoggin County.

In terms of the tax shift, the 3 percent tax shift, the difficulty is that the way the tax shift is measured, when you start talking about that threshold, you compare apples and oranges, you compare the tree growth value to the state value for undeveloped land when in fact much, particularly the grown up areas of our state, the real tax loss, the tree growth value which may be \$120 versus what would be \$100 an acre for road frontage, so that the reimbursement formula with the threshold, under Committee Report A does not really reflect the actual tax loss to the more urban areas, suburban areas of our state, and that is where the heavy development pressures are, and let me tell you, they feel that tax loss just as much as some of the less organized areas.

I would also like to say that the agreement

we have reached late this afternoon has the endorsement of MMA, although I can't say that it has the endorsement of the Maine Forest Products Council, and as far as I am concerned, that makes it all the better.

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

Mr. MASTERMAN: Mr. Speaker, Men and Women of the House: The town of Greenville was mentioned. This is one of the towns that hasn't been kicking on the tree growth for the simple reason that some of these towns make out very well under the tree growth concept in education subsidy.

The other thing that I wanted to say, the amount we keep throwing around, there is a part in that amendment that I like that no town could receive more than their actual tax loss. That amendment could be put on either one of these reports, if we could get to it.

The SPEAKER: A roll call has been ordered. The pending question is on the motion of the gentleman from Owl's Head, Mrs. Post, that the Minority "Ought to Pass" Report be accepted. All those in favor will vote yes; those opposed will vote no.

ROLL CALL

YEA — Baker, Beaulieu, Benoit, Berube, Boisvert, Bordeaux, Boyce, Brannigan, Brennerman, Brodeur, Brown, A.; Cahill, Callahan, Carrier, Carroll, Chonko, Clark, Connolly, Crowley, Cunningham, Curtis, Davies, Diamond, G. W.; Diamond, J. N.; Drinkwater, Fitzgerald, Foster, Fowlie, Gavett, Gillis, Gowen, Gwadosky, Hall, Hanson, Hayden, Hickey, Higgins, H. C.; Hobbins, Holloway, Hutchings, Jackson, Jacques, Jalbert, Joyce, Kane, Kelleher, Ketover, Kilcoyne, LaPlante, Lewis, Lisnik, Livesay, Locke, MacEachern, Macomber, Mahany, Manning, Martin, H. C.; Matthews, McGowan, McHenry, McKean, McSweeney, Michaud, Mitchell, E. H.; Mitchell, J.; Moholland, Murphy, Nadeau, Nelson, M.; Norton, Paradis, P.; Paul, Pearson, Perkins, Peterson, Post, Pouliot, Racine, Randall, Reeves, P.; Richard, Ridley, Salsbury, Small, Smith, C. B.; Smith, C. W.; Soulas, Soule, Stevenson, Stover, Strout, Telow, Theriault, Thompson, Tuttle, Vose, Walker, Webster, Wentworth, Mr. Speaker.

NAY — Aloupis, Armstrong, Austin, Bell, Brown, K. L.; Carter, Conary, Cox, Damren, Davis, Dexter, Dillenback, Erwin, Hunter, Ingraham, Jordan, Kany, Kiesman, Lancaster, Lund, MacBride, Masterman, Masterton, McCollister, McPherson, Nelson, A.; O'Rourke, Paradis, E.; Perry, Prescott, Reeves, J.; Roberts, Sherburne, Studley, Tarbell, Treadwell, Twitchell.

ABSENT — Brown, D.; Connors, Day, Dudley, Higgins, L. M.; Huber, Laverriere, Martin, A.; Michael, Rolde, Swazey, Weymouth.

Yes, 101; No, 37; Absent, 12; Vacant, 1.

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

Thereupon, the Bill was read once. Committee Amendment "B" (H-527) was read by the Clerk.

Mr. Hall of Sangerville offered House Amendment "A" to Committee Amendment "B" and moved its adoption.

House Amendment "A" to Committee Amendment "B" (H-569) was read by the Clerk and adopted.

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

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

By unanimous consent, ordered sent forthwith to the Senate.

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

Special Sentiment Calendar

Recognizing:

Kenneth F. Baily of Harpswell, for distinguished service to the Legislature and the people of the State of Maine; (H. P. 1686) by Representative Mitchell of Vassalboro. (Cosponsors: Representatives Diamond of Windham and Martin of Eagle Lake)

JoAnne M. D'Arcangelo of Augusta, for distinguished service to the Legislature and the people of the State of Maine; (H. P. 1687) by Representative Mitchell of Vassalboro. (Cosponsors: Representatives Diamond of Windham and Martin of Eagle Lake)

Dorothy Hall, of Sangerville, for distinguished service to the Legislature and the people of the State of Maine; (H. P. 1688) by Representative Mitchell of Vassalboro. (Cosponsors: Representatives Diamond of Windham and Martin of Eagle Lake)

Kathleen Watson Goodwin, of Bath, for distinguished service to the Legislature and the people of the State of Maine; (H. P. 1689) by Representative Mitchell of Vassalboro. (Cosponsors: Representatives Diamond of Windham and Martin of Eagle Lake)

Kenneth Allen, of Sidney, for distinguished service to the Legislature and the people of the State of Maine; (H. P. 1690) by Representative Mitchell of Vassalboro. (Cosponsors: Representatives Diamond of Windham and Martin of Eagle Lake)

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

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

Special Sentiment Calendar

Recognizing:

Phyllis Stafford of Augusta, for distinguished service to the Legislature and the people of the State of Maine; (H. P. 1691) by Representative Mitchell of Vassalboro. (Cosponsors: Representatives Diamond of Windham and Martin of Eagle Lake)

Pamela E. Lovley, of Whitefield, for distinguished service to the Legislature and the people of the State of Maine; (H. P. 1692) by Representative Mitchell of Vassalboro. (Cosponsors: Representatives Diamond of Windham and Martin of Eagle Lake)

The K. J. Printing Company, a Division of the Guy Gannett Publishing Company for their dedicated service printing documents for the 110th Maine Legislature; (S. P. 698)

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

The following papers appearing on Supplement No. 27 was taken up out of order by unanimous consent:

Passed to Be Enacted

An Act to Amend the Workers' Compensation Law (H. P. 685) (L. D. 799) (H. "A" H-516)

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

By unanimous consent, ordered sent forthwith to the Senate.

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

Non-Concurrent Matters

An Act Establishing the Women's Training and Employment Program (H. P. 568) (L. D. 644) which was Passed to be Enacted in the House on May 26, 1981. (Having previously been Passed to be Engrossed as amended by House Amendment "A" (H-443))

Came from the Senate passed to be engrossed as amended by House Amendment "A" (H-443) as amended by Senate Amendment "A" (S-370) thereto in non-concurrence.

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

An Act to Authorize a General Fund Bond Issue in the Amount of \$2,500,000 to Assist Municipalities with Resource Recovery of Solid Waste (Bond Issue) (H. P. 1538) (L. D. 1641) which was passed to be Enacted in the House on June 3, 1981. (Having previously been passed to be Engrossed as amended by Senate Amendment "A" (S-289)

Came from the Senate passed to be engrossed as amended by Senate Amendment "A" (S-289) and "B" (S-371) in non-concurrence.

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

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

Non-Concurrent Matters

An Act to Require the State to Pay its Share of School Funding on the 15th Day of Each Month (H. P. 55) (L. D. 68) which was Passed to be Enacted in the House on May 20, 1981. (Having previously been Passed to be Engrossed as amended by Committee Amendment "A" (H-387)

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

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

An Act Relating to the Special Administrative Expense Fund and Errors in Benefit Payments under the Employment Security Law (S. P. 62) (L. D. 89) which was Passed to be Enacted in the House on February 13, 1981.

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

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

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

Non-Concurrent Matters

An Act Concerning the Uniform Processing of Employer Contributions into the Retirement System (S. P. 101) (L. D. 210) which was Passed to be Enacted in the House on February 13, 1981.

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

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

An Act to Amend Special Education Statutes to Provide for the Computation of Board and Care and to Authorize Rate Approval by the Commissioner (H. P. 268) (L. D. 302) which was Passed to be Enacted in the House on May 28, 1981. (Having previously been Passed to be Engrossed as amended by Committee Amendment "A" (H-470)

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

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

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

Non-Concurrent Matters

An Act Relating to the Per Diem and Case Assignments for the State Board of Arbitration and Conciliation (H. P. 280) (L. D. 310) which was Passed to be Enacted in the House on April 7, 1981. (Having previously been Passed to be Engrossed as amended by Committee Amendment "A" (H-135)

Came from the Senate with the Bill and Accompanying Papers Indefinitely Postponed in

non-concurrence.

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

An Act to Phase out County Payments for the Support of the Judiciary (H. P. 352) (L. D. 400) which was Passed to be Enacted in the House on February 25, 1981. (Having previously been Passed to be Engrossed as amended by Committee Amendment "A" (H-33)

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

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

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

Non-Concurrent Matters

An Act to Amend the Fee Schedule for the Payment of Appointed Forest Fire Wardens (H. P. 506) (L. D. 557) which was Passed to be Enacted in the House on May 11, 1981. (Having previously been Passed to be Engrossed as amended by Senate Amendment "A" (S-168) and Committee Amendment "A" (H-282)

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

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

An Act to Increase Eligibility Levels for the Elderly Householders Tax and Rent Refund Act (H. P. 626) (L. D. 709) which was Passed to be Enacted in the House on June 2, 1981. (Having previously been Passed to be Engrossed as amended by Committee Amendment "A" (H-495)

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

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

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

Non-Concurrence Matters

An Act Relating to State Participation in Local Leeway under the School Finance Act (S. P. 265) (L. D. 747) which was Passed to be Enacted in the House on May 26, 1981. (Having previously been Passed to be Engrossed as amended by Committee Amendment "A" (S-251)

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

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

An Act to Increase the Compensation for Substitute Teachers (H. P. 655) (L. D. 758) which was Passed to be Enacted in the House on March 20, 1981. (Having previously been Passed to be Engrossed as amended by Committee Amendment "A" (H-80) as amended by House Amendment "A" (H-94) thereto)

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

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

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

Non-Concurrent Matters

An Act to Amend the Group Life Insurance Program for State Employees and Teachers (S. P. 301) (L. D. 845) which was Passed to be Enacted in the House on March 30, 1981.

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

In the House: The House voted to recede and

concur.

An Act to Authorize County Commissioners to Charge Rent for Space Furnished to Other Governmental Entities in County Court Houses and other County-owned Facilities (H. P. 753) (L. D. 890) which was Passed to be Enacted in the House on April 14, 1981. (Having previously been Passed to be Engrossed as amended by Committee Amendment "A" (H-171)

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

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

The following papers appearing on Supplement No. 20 were taken up out of order by unanimous consent:

Non-Concurrent Matters

An Act to Adjust Annually Individual Income Tax Laws to Eliminate Inflation Induced Increases in Individual State Income Taxes (H. P. 907) (L. D. 1074) which was Passed to be Enacted in the House on May 26, 1981. (Having previously been Passed to be Engrossed as amended by Committee Amendment "A" (H-431) as amended by Senate Amendment "A" (S-264) thereto)

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

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

An Act Concerning the Payment of Burial Expenses for Certain State Wards (H. P. 1008) (L. D. 1204) which was Passed to be Enacted in the House on May 1, 1981. (Having previously been Passed to be Engrossed as amended by Committee Amendment "A" (H-240)

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

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

The following papers appearing on Supplement No. 21 were taken up out of order by unanimous consent:

Non-Concurrent Matters

An Act to Appropriate Funds to the Maine Geological Survey for Ground Water Aquifer Mapping (S. P. 453) (L. D. 1299) which was Passed to be Engrossed in the House on May 5, 1981.

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

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

An Act to Provide Sales Tax Exempt Status for Nonprofit Family Crisis Service Agencies (H. P. 1113) (L. D. 1318) which was Passed to be Enacted in the House on May 27, 1981. (Having previously been Passed to be Engrossed as amended by Committee Amendment "A" (H-465)

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

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

The following papers appearing on Supplement No. 22 were taken up out of order by unanimous consent:

Non-Concurrent Matters

An Act to Separate the Funding of Old System Teachers in the Maine State Retirement System (H. P. 1145) (L. D. 1367) which was Passed to be Enacted in the House on May 4, 1981.

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

In the House: The House voted to recede and

concur.

An Act Relating to the Transport of State Prisoners in Knox County (H. P. 1152) (L. D. 1373) which was Passed to be Enacted in the House on May 1, 1981. (Having previously been Passed to be Engrossed as amended by Committee Amendment "A" (H-239))

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

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

The following papers appearing on Supplement No. 23 were taken up out of order by unanimous consent:

Non-Concurrent Matters

An Act to Establish an Energy Conservation Program for Commercial and Light Industrial Buildings (H. P. 1180) (L. D. 1404) which was Passed to be Enacted in the House on May 20, 1981. (Having previously been Passed to be Engrossed as amended by Committee Amendment "A" (H-391))

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

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

An Act to Establish a Limited Tax Credit to Aid Businesses Providing Day Care Services to their Employees (H. P. 1240) (L. D. 1465) which was Passed to be Enacted in the House on May 28, 1981. (Having previously been Passed to be Engrossed as amended by Committee Amendment "A" (H-466))

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

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

The following papers appearing on Supplement No. 24 were taken up out of order by unanimous consent:

Non-Concurrent Matters

An Act to License Community and Home Health Agencies (S. P. 618) (L. D. 1624) which was passed to be Enacted in the House on June 2, 1981. (Having previously been passed to be engrossed as amended by Senate Amendment "A" (S-304).)

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

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

An Act to Define Eligibility for School Purposes and to Determine Financial Responsibility for the Education of State Wards and Students who are not State Wards (Emergency) (H. P. 1559) (L. D. 1669) which was passed to be Enacted in the House on June 2, 1981.

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

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

The following paper appearing on Supplement No. 25 was taken up out of order by unanimous consent:

Non-Concurrent Matter

An Act to Authorize and Encourage Risk Capital Funds (H. P. 1581) (L. D. 1675) which was Passed to be Enacted in the House on June 10, 1981. (Having previously been passed to be engrossed as amended by House Amendment "A" (H-541))

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

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

The following paper appearing on Supplement No. 26 was taken up out of order by unanimous consent:

On Motion of Representative Fowlie of Rockland, the following Joint Order (H. P. 1693) (Cosponsors: Representatives Cahill of Woolwich, Vose of Eastport and Senator Shute of Waldo)

WHEREAS, following 10 years of intensive efforts to clean up our waterways and to restore native fisheries, the Atlantic salmon is returning to Maine rivers; and

WHEREAS, the restoration of this majestic fish has created great interest and consequent fishing pressure on the resources; and

WHEREAS, there are few controls on taking Atlantic salmon in coastal waters, and without some controls fishing pressure may endanger the restoration effort; and

WHEREAS, the Legislature has enacted an emergency measure to establish interim controls on taking Atlantic salmon in coastal waters, but this interim measure will be repealed on December 31, 1981; and

WHEREAS, careful study of the restoration efforts, fishing measure, legal jurisdiction and enforcement of management alternatives is necessary before enacting long-term controls on the Atlantic salmon fishing; now, therefore be it

ORDERED, the Senate concurring, subject to the Legislature Council's review and determinations hereinafter provided, that the Joint Standing Committee on Marine Resources shall study the Atlantic salmon fishery and determine whether legislation should be introduced which would establish addition controls on this resource; and be it further

ORDERED, that the committee report its findings and recommendations, together with all necessary implementing legislation in accordance with the Joint Rules, to the Legislative Council for submission in final form at the Second Regular Session of the 110th Legislature; and be it further

ORDERED, that the Legislative Council, before implementing this study and determining an appropriate level of funding, shall first ensure that this directive can be accomplished within the limits of available resources, that it is combined with other initiatives similar in scope to avoid duplication and that its purpose is within the best interests of the State; and be it further

ORDERED, upon passage in concurrence, that a suitable copy of this Order shall be forwarded to members of the committee.

The order was received out of order by unanimous consent, read and passed and sent up for concurrence.

The following papers appearing on Supplement No. 28 were taken up out of order by unanimous consent:

Non-Concurrent Matters

An Act Concerning Gifted and Talented Education (H. P. 837) (L. D. 1003) which was Passed to be Enacted in the House on May 5, 1981.

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

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

Later Today Assigned

An Act Establishing a Voluntary Income Protection Program for Shellfish Harvesters (H. P. 1450) (L. D. 1590) which was Passed to be Enacted in the House on June 9, 1981. (Having previously been passed to be engrossed as amended by Committee Amendment "A" (H-510))

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

In the House: On motion of Mr. Fowlie of Rockland, tabled pending further consideration

and later today assigned.

The following paper appearing on Supplement No. 29 was taken up out of order by unanimous consent:

Non-Concurrent Matter

Bill, "An Act to Authorize Bond Issues up to the Amount of \$5,100,000 for Energy Conservation Improvements for State-owned Buildings, Completion of State of Maine Park Facilities and Equipment Replacement for the Maine Public Broadcasting Network in the State of Maine" (H. P. 155) (L. D. 1663) which was Passed to be Enacted in the House on June 10, 1981. (Having previously been passed to be Engrossed as amended by House Amendment "A" (H-528) and Senate Amendment "A" (S-364) in non-concurrence.

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

By unanimous consent, all preceding matters were ordered sent forthwith.

House at Ease

Called to order by the Speaker.

(Off Record Remarks)

The following paper appearing on Supplement No. 32 was taken up out of order by unanimous consent:

On motion of Representative Mitchell of Vassalboro, the following Joint Order (H. P. 1695)

ORDERED, the Senate concurring, that in accordance with emergency authority granted under Title 3, Section 2 of the Maine Revised Statutes, the First Regular Session of the 110th Legislature shall be extended by 2 additional legislative days to be held on June 12, 1981 and June 19, 1981.

The Order was received out of order by unanimous consent and read.

The SPEAKER: Pursuant to Title 3, Section of the Maine Revised Statutes, this Order requires a two-thirds vote all those present and voting to receive passage. All those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

108 having voted in the affirmative and 30 having voted in the negative, the Order received passage and was sent up for concurrence.

By unanimous consent, sent forthwith to the Senate.

(Off Record Remarks)

The following papers appearing on Supplement No. 30 were taken up out of order by unanimous consent:

Passed to Be Enacted Bond Issue

An Act to Authorize Bond Issues up to the Amount of \$4,100,000 for Energy Conservation Improvements for State-owned Buildings, Completion of State of Maine Park Facilities and Equipment Replacement for the Maine Public Broadcasting Network in the State of Maine (H. P. 1550) (L. D. 1663) (H. "A" H-528; S. "A" S-364)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. In accordance with the provisions of Section 14 of Article IX of the Constitution, a two-thirds vote of the House being necessary, a total was taken. 109 voted in favor of same and 12 against, and accordingly the Bond Issue was passed to be enacted, signed by the Speaker and sent to the Senate.

Passed to Be Enacted

An Act to Remove the Customer Charge from Electric Utility Rate Structures (S. P. 654) (L. D. 1679) (S. "C" S-369)

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

sent to the Senate.

The following paper appearing on Supplement No. 31 was taken up out of order by unanimous consent:

On Motion of Representative Hobbins of Saco, the following Joint Order (H. P. 1694) (Cosponsor: representative Livesay of Brunswick)

WHEREAS, Legislative Document 1594, Bill, "An Act to Clarify the Status of Certain Real Estate Title in the State" has been introduced before the Legislature; and

WHEREAS, passage of the Bill is intended to clarify the ownership, location and alienability of coastal lands that were or may have been created on or before October 1, 1975 by the filling of submerged or intertidal lands; and

WHEREAS, in order to avoid future problems and to protect the interest of owners or purchasers of coastal land and the State, a mechanism is needed to determine which lands are covered by the provisions of this are covered by the provisions of the Act, and whether or not particular pieces, about which questions may arise in the future, are covered by the provisions of this Act; and

WHEREAS, careful study of this problem is necessary in order to develop such a mechanism; now, therefore, be it

ORDERED, The Senate concurring, subject to the Legislative Council's review and determinations hereinafter provided, that the Joint Standing Committee on Judiciary shall study the provisions of Legislative Document 1594 and shall develop a procedure which may be used to determine what lands or parts of lands are covered by the provision of that Bill and which will protect owners of such lands, future purchasers of such lands, title attorneys and the State by making it possible to determine if particular lands are covered by that Bill; and be it further

ORDERED, that the committee report its findings and recommendations, together with all necessary implementing legislation in accordance with the Joint Rules, to the Legislative Council for submission in final form at the Second Regular Session of the 110th Legislature; and be it further

ORDERED, that the Legislative Council, before implementing this study and determining an appropriate level of funding, shall first ensure that this directive can be accomplished within the limits of available resources, that it is combined with other initiatives similar in scope to avoid duplication and that its purpose is within the best interests of the State; and be it further

ORDERED, upon passage in concurrence, that a suitable copy of this Order shall be forwarded to members of the committee.

The Order was received out of order by unanimous consent, read and passed and sent up for concurrence.

By unanimous consent, all preceding matters acted upon were ordered and sent forthwith to the Senate.

At this point, House Rule 22 was suspended for the purpose of conducting business after 9:00 p.m.

The following paper appearing on Supplement No. 33 was taken up out of order by unanimous consent:

Passed to be Enacted Emergency Measure

An Act Establishing the Women's Training and Employment Program (H. P. 568) (L. D. 644) (S. "A" S-370 to H. "A" H-443)

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

Mr. Webster of Farmington requested a roll call vote.

The SPEAKER: For the Chair to order a roll call, it must have the expressed desire of one

fifth of the members present and voting. All those desiring a roll call vote will vote yes; those opposed will vote no.

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

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

ROLL CALL

YEA — Baker, Beaulieu, Bell, Benoit, Boisvert, Bordeaux, Boyce, Brannigan, Brennerman, Brodeur, Brown, A.; Carter, Clark, Connolly, Cox, Crowley, Cunningham, Curtis, Davies, Diamond, G.W.; Diamond, J.N.; Drinkwater, Erwin, Fitzgerald, Foster, Gillis, Gowen, Gwadosky, Hall, Hanson, Hickey, Higgins, H.C.; Hobbins, Jacques, Joyce, Kelleher, Ketover, Kilcoyne, Lisnik, Livesay, Locke, Lund, MacEachern, Macomber, Mahany, Manning, Martin, H.C.; Masterton, Matthews, McCollister, McGowan, McHenry, McKean, McSweeney, Mitchell, E.H.; Mitchell, J.; Moholland, Murphy, Nadeau, Nelson, M.; Paradis, P.; Pearson, Perry, Peterson, Pouliot, Prescott, Randall, Richard, Roberts, Smith, C.B.; Soulas, Soule, Stevenson, Tarbell, Telow, Theriault, Thompson, Tuttle, Twitchell, Vose, Wentworth, Mr. Speaker.

NAY — Aloupis, Armstrong, Austin, Brown, D.; Brown, K.L.; Cahill, Callahan, Carrier, Carroll, Conary, Damren, Davis, Dexter, Dillenback, Dudley, Gavett, Holloway, Hutchings, Ingraham, Jordan, Kiesman, Lancaster, LaPlante, Lewis, MacBride, Masterman, McPherson, Michaud, Nelson, A.; Norton, O'Rourke, Paradis, E.; Paul, Perkins, Racine, Reeves, J.; Ridley, Salsbury, Sherburne, Small, Smith, C.W.; Stover, Strout, Studley, Treadwell, Walker, Webster.

ABSENT — Berube, Chonko, Connors, Day, Fowlie, Hayden, Higgins, L.M.; Huber, Hunter, Jackson, Jalbert, Kane, Kany, Laverriere, Martin, A.; Michael, Post, Reeves, P.; Rolde, Swazey, Weymouth.

Yes 82; No 47; Absent, 21; Vacant, 1.

The SPEAKER: Eighty-two having voted in the affirmative and forty-seven in the negative, with twenty-one being absent, the bill is passed to be enacted.

Signed by the Speaker and sent to the Senate.

The following paper appearing on Supplement No. 34 was taken up out of order by unanimous consent:

The Following Communication: The Senate of Maine Augusta

June 11, 1981

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

The Senate today voted to Adhere to its former action whereby it Indefinitely Postponed Bill, An Act Authorizing Reasonable Fees for Nonresident Users of Public Libraries, (H. P. 548) (L. D. 624).

Respectfully,
MAY M. ROSS,

Secretary of the Senate

The Communication was read and placed on file.

The following paper appearing on Supplement No. 36 was taken up out of order by unanimous consent:

Passed to be Enacted Bond Issue

An Act to Authorize a General Fund Bond Issue in the Amount of \$1,500,000 to Assist Municipalities with Resource Recovery of Solid Waste (H. P. 1528) (L. D. 1641) (S. "A" S-289; S. "B" S-371)

Was reported by the Committee on En-

grossed Bills as truly and strictly engrossed. In accordance with the provisions of Section 14 of Article IX of the Constitution, a two-thirds vote of the House being necessary, a total was taken. 116 voted in favor of same and 4 against, and accordingly the Bond Issue was passed to be enacted signed by the Speaker and sent to the Senate.

By unanimous consent, all matters acted upon were ordered sent forthwith to the Senate.

(Off Record Remarks)

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

Bill, "An Act Establishing the Bonding and Excess Insurance Requirements for Self-Insuring Workers' Compensation Employers" (H. P. 834) (L. D. 1001)

— In House, Passed to be Engrossed as Amended by Committee Amendment "A" (H-388) on May 14.

— In Senate, Passed to be Engrossed as Amended by Senate Amendment "A" (S-339) in non-concurrence.

Tabled—June 10 (Till Later Today) by Representative Mitchell of Vassalboro.

Pending—Further Consideration.

Thereupon, the House voted to recede.

Senate Amendment "A" (S-339) was read by the Clerk.

On motion of Mr. Brannigan of Portland, Senate Amendment "A" was indefinitely Postponed in non-concurrence.

Thereupon, Committee Amendment "A" was indefinitely Postponed.

Mr. Brannigan of Portland offered House Amendment "A" and moved its adoption.

House Amendment "A" (H-562) was read by the Clerk.

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

Mr. HIGGINS: Mr. Speaker, Ladies and Gentlemen of the House: I know that the hour is late but I do wish we could get an explanation of what this amendment does. There has been a lot of controversy surrounding the bill, or at least some concern to kill the Committee Amendment or Senate Amendment. If we could just get an explanation as to what this does, I would appreciate it.

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

Mr. BRANNIGAN: Mr. Speaker, Men and Women of the House: The House Amendment "A" which I have just offered incorporates all of the elements of this bill that has been before us before, the elements that we have been working on over the past several weeks dealing with workers' compensation self-insurance.

We passed L.D. 1001, which is a bill here to deal with self-insurance regulations for municipalities and large public bodies such as the State University of Maine, large municipalities. That has come back to us with an amendment dealing with the private sector.

I am offering an amendment which deals with the public bodies and with private sectors, both group self-insurers and private individual self-insurers. It is an effort to place under all self-insurers a safety net which will make sure that if anyone were ever to go into bankruptcy, such as Hillcrest has or other self-insurers, that the different companies would be protected and all of the workers would be protected. So there is what I believe is a very fine assessment fund or guarantee fund, or solvency fund, whatever name you want to place on it, which all of these self-insurers, individuals, there are about 60 of them, from Scott Paper, the large ones down to a very small ones, anyone with a net worth of over \$10 million will be covered under this particular Bill. It will place a net under them where they will together be prepared to cover each others insolvency were there ever to come into effect.

Because of that security, we have been able

to get the Bureau of Insurance to reduce a lot of the rather difficult regulations that they have placed upon self-insurance almost to make it uneconomical. The attempt that I have made and my committee has made in behalf of public bodies and members of the Labor Committee have made on behalf of private bodies, our attempt has been to make it economical to self-insurers, yet safe. That is a fine line, and we have worked and we have worked and many people have worked, and we feel that this is the vehicle in both the reductions in bonding requirements and the putting of this safety net.

I feel very pleased and very happy about being able to have worked on this and I am pleased to present it to you this night. I hope you will pass it.

The SPEAKER: The Chair recognizes the gentlewoman from Ellsworth, Mrs. Foster.

Mrs. FOSTER: Mr. Speaker, Ladies and Gentlemen of the House: The present requirements that groups participate in the Insurance Guarantee Association was the result of a compromise reached in the 109th Legislature. You who were here in the 109th know exactly what happened. I was back in Ellsworth, Maine, on a municipal level. You agreed to let self-insurance form their own groups. MMA formed and they have 225 cities and towns in their group, their self-insurance group. They are part of the Insurance Guarantee Association.

To address the concerns of the insurance industry that there was inadequate protection against insolvency, a study committee, including representatives from the Bureau of Insurance, representatives of labor, representatives of industry, several legislators, and all the insurance industry recommended that group insurers be included in the Maine Insurance Guarantee Association. They are in that group. I do not believe that MMA should be included in this individual Self-Insurance Guarantee Association that this amendment is putting them in. MMA is doing well. I see no reason to group them with individual self-insurance association. Self-insurers of Maine already participate in a guarantee association with insurance companies, the Maine Insurance Guarantee Association.

If any group insurer or insurance company becomes insolvent, the remaining groups and the insurance companies are assessed proportionately to cover the cost of any unpaid workers compensation benefits. Maine workers, therefore, are already protected from insolvencies of group self-insurers as well as the insolvencies of the insurance companies.

I would ask that we recede and concur.

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

Mr. BRANNIGAN: Mr. Speaker, Members of the House: It is true that two years ago self-insurers used to be regulated by the Commission, the Workers' Comp Commission, which do very little or nothing about regulatory processes and didn't want to have this responsibility. As you can see with what has happened with Hillcrest, they just weren't prepared to regulate. So it is true that this body two years ago moved self-insurers into the regulatory process of the insurance commissioner, the superintendent of insurance. He didn't want the job because they are not really insurers but he said that he would regulate them very tough if they did come and he did. One of the things that he demanded was that they have some safety net, that they be in a guarantee fund and there was no guarantee fund to put them in except with insurance companies, which was certainly a strange place to put them because they are competitors with the insurance companies. For the safety of at least the groups, he felt that it was absolutely necessary that they be somewhere, and so he insisted. He twisted some arms in the insurance industry and, anyway, we put them there whether they wanted it or not.

Now we are forming a guarantee fund, an as-

essment fund, an insolvency fund, for self-insurers, so now is the time to move them where they belong and that is with all self-insurers. I feel very strongly about that and I would hope very much that you would go along with this move to put all self-insurers together in what I believe is an economical, yet safe package.

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

Miss LEWIS: Mr. Speaker, ladies and Gentlemen of the House: The reason for providing self-insurance in the first place was to provide competition with the private insurance companies without risking the state's bonding rating or whatever. The whole idea was to allow self-insurers to be able to get insurance at a lower rate than they could get it with private insurance companies. Since all of the other rate lowering measures that we have tried to pass this session we have not been successful in passing, perhaps this one way we can help those companies that are not going to risk anything. This bill would not jeopardize workers in any way.

Protection in the bill is already established by the bonding requirements and also the excess insurance requirements. A situation such as that of Hillcrest, which Representative Brannigan mentioned, would never happen under this bill, and there is a guarantee association in the bill, 1001, to protect against any default.

It seems to me that the simple situation is this — if you want to be in the insurance company's pocket to try to keep those rates up for self-insurance so the self-insurance rates are not going to be competitively lower, then you vote for Representative Brannigan's amendment. If you want to keep self-insurance rates low and you want to be sure that injured workers are protected, you will vote against this amendment so that we then could make the motion to concur.

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

Mr. PERKINS: Mr. Speaker, Ladies and Gentlemen of the House: For once, I am going to be on the insurance company's side. I think it is the first time in this House that I have been on their side, at least that is what they say.

An insurance company is much different than a self-insurer and one reason is basically that you don't have an insurance company in this state who hasn't got a couple of million dollars of assets. They have to have it in order to get into the state. That is not true of a self-insurer.

The insurance companies don't want self-insurers mixed in with themselves, and I don't blame them.

You talk about Maine Municipal, there are some other groups which are a lot smaller than Maine Municipal and I would hate to see those thrown in with the insurance companies. I see no reason for it when they have large assets and can well take care of their own.

Self-insurers do it only because they think they can get a lower rate and do it at a lower price. I think maybe they can. However, they had better be well protected, and the protection should be in the private sector and not with insurance companies.

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

Mr. JACKSON: Mr. Speaker, Ladies and Gentlemen of the House: It is 11:30 at night and here we have got another complicated bill before you like the ones we fought on the percentage solution and things like that.

This bill originally started out being just the public sector, which would be cities and other public bodies. The amendment, as I am following all this, and I am a little foggy at this point, but if I am following it right, the amendment that was put on combined this with another bill which I believe is still sitting on the unassigned table here that tried to bring the private and public sector together into one bill, which probably should have been done in the first place.

The whole argument that I think we are coming down to here is the question of the guarantee fund, whether it should be under the insurance companies or whether a separate guarantee fund should be set up.

Satellite arguments have come up about group insurance, whether it should be included or not. I think if you would cut through all the smoke and haze and everything, you would come down to where the guarantee fund should be.

The argument, as has been put forward and will be put forward, is that guarantee funds should stay with the insurance companies, because that is where it was put in the last legislature. I completely agree that when it was set up in the last legislature, it was in experimental form, that there was a lot we didn't know about how it was going to work and where all the pieces were going to go, and I think there was also a lot of pressure to put it in that particular place with the insurance companies.

I personally believe that it should be a separate fund for the self-insured. I believe in self-insurance. I think it is a good idea, I think it should be encouraged in the state, and I hope that we will go with this amendment that is being offered which will allow the self-insurance fund to be set up rather than mixing it in with the private companies. They have got their own problems, let them have their own fund and let's set this off to its side so that it can be handled separately. This amendment would do that, and I would hope you would support this amendment.

The SPEAKER: A vote has been requested. The pending question is on the adoption of House Amendment "A". All those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

96 having voted in the affirmative and 28 having voted in the negative, the motion did prevail.

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

By unanimous consent, ordered sent forthwith to the Senate.

On motion of Ms. Small of Bath.

Adjourned until nine o'clock tomorrow morning.