

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

One Hundred and Tenth

Legislature

OF THE

STATE OF MAINE

SECOND REGULAR SESSION

January 6, 1982 to April 13, 1982

INDEX

FOURTH SPECIAL SESSION

April 28, 1982 and April 29, 1982

INDEX

FIFTH SPECIAL SESSION

May 13, 1982

INDEX

SECOND CONFIRMATION SESSION

July 16, 1982

INDEX

HOUSE

Monday, March 1, 1982

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

Prayer by the Reverend Bruce Hudson of the United Methodist Church, Gardiner.

The members stood for the Pledge of Allegiance.

The journal of the previous session was read and approved.

The SPEAKER: The Chair would ask the gentleman from Auburn, Mr. Boyce, to please come to the rostrum for the purpose of acting as Speaker pro tem.

Thereupon, Mr. Boyce of Auburn assumed the Chair as Speaker pro tem and Speaker Martin occupied his seat on the floor.

**Papers from the Senate
Reports of Committees
Leave to Withdraw**

Report of the Committee on Labor reporting "Leave to Withdraw" on Bill "An Act Concerning Municipal Employees under the Employment Practices Act." (S. P. 789) (L. D. 1853)

Came from the Senate with the Report read and accepted.

In the House, the Report was read.

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

Mr. MURPHY: Mr. Speaker, Men and Women of the House: On L. D. 1853, there was a great deal of lobbying directly to your school board members who in turn communicated with us. The hearing showed that if enacted, L. D. 1853 would have had substantial costs for our communities. That is why hearings are held, and because of that cost, we have requested withdrawal of the bill.

But during those hearings and the discussion following, with the identification of that cost was the public realization of the current cost borne by teachers. Because they defer their pay, one third each paycheck, your communities benefit. The schools, in turn, can earn high interest rates on that deferred pay, an estimated \$600 per teacher, which is used to lower school costs and the property tax, because the teacher who completes the work in one fiscal year defers 18 percent of the pay into another fiscal year where state dollars can be used rather than local tax dollars, again reducing the cost to the taxpayers.

I couldn't let this L. D. complete its last death grasp without clarifying to you the type of contribution your teachers are making back in your home communities in their efforts deferring their pay and reducing property tax.

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

Miss LEWIS: Mr. Speaker, Ladies and Gentlemen of the House: Some members of the Labor Committee were delighted to grant this bill "leave to withdraw" because we felt it was an appropriate item for collective bargaining at the local level.

Thereupon, the Report was accepted in concurrence.

Messages and Documents

The following Communication: (H. P. 2120)

State of Maine

Department of State

Division of Public Administration

February 26, 1982

To the Honorable 110th Legislature of the State of Maine

Attention: House of Representatives, Clerk Pert

I have the honor to transmit herewith an initiated bill, "AN ACT to Repeal the Control of Milk Prices at the Wholesale and Retail Levels," and the results of the examination by this office of the initiative petitions relative to

it.

The minimum number of valid signatures required to initiate this legislation is 37,026. On January 28, 1982, our office received 274 petitions said to contain 44,003 signatures. After extensive review we have determined the number of valid signatures to be 43,761.

This represents 653 fewer signatures than that indicated on our communication of February 2, 1982. All represent signatures on petitions in which the circulator was not known to be a voter as required. All but 53 signatures were rejected based on information, attested to by registrars of voters, which was not known at the time of the original certification but was supplied by those challenging the validity of the petitions.

Other challenges to the petitions' validity were made but rejected, based on our own analysis and with the advice of the Attorney General's Office.

In view of the foregoing determination, I hereby certify that these petitions have met the constitutional requirements of the minimum of 37,026 valid signatures. Since the petitions have previously satisfied the constitutional requirements in all other respects, under the provision of Article IV, Part Third, Section 18, of the Constitution of Maine, I do hereby declare this initiative petition to be valid.

In the event the Legislature rejects this initiative proposal, a referendum election will be called for November, 1982.

Respectfully,

S/JAMES S. HENDERSON

The Communication was read and ordered placed on file and sent up for concurrence, and the accompanying Bill, I.B. 3 (L. D. 1935) Bill "An Act to Repeal the Control of Milk Prices at the Wholesale and Retail Levels"

On Motion of Representative Diamond of Windham, Referred to the Committee on Agriculture and sent up for concurrence.

**Petitions, Bills and Resolves
Requiring Reference**

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

Election Laws

Bill "An Act Relating to the Collection of Signatures at Polling Places" (H. P. 2118) (Presented by Representative Diamond of Bangor) (Cosponsors: Representatives Murphy of Kennebunk, Rolde of York and Brown of Livermore Falls) (Approved for introduction by the Legislative Council pursuant to Joint Rule 26) (Ordered Printed)

Sent up for concurrence.

Public Utilities

Bill "An Act to Amend the Charter of the Lincoln Water District" (H. P. 2119) (Presented by Representative MacEachern of Lincoln) (Approved for introduction by a Majority of the Legislative Council pursuant to Joint Rule 27) (Ordered Printed)

Sent up for concurrence.

Orders

On motion of Representative Martin of Eagle Lake, the following Joint Order: (H. P. 2124)

ORDERED, the Senate concurring, that when the House and Senate adjourns on March 2, 1982, it adjourns to Monday, April 5, 1982, at 10 o'clock in the morning.

The Order was read.

The SPEAKER Pro Tem: The Chair recognizes the gentleman from Eagle Lake, Mr. Martin.

Mr. MARTIN: Mr. Speaker, Ladies and Gentlemen of the House: This order which I have before you is not a frivolous order. It is an attempt to try to be cooperative with the Minority Floor Leader and members of the minority caucus.

I read with interest in the Portland Press

Herald, in Saturday's paper, apparently the result of a Republican caucus held sometime on Friday, and the result of a press release which was issued by the Minority Leader's Office, indicating that the caucus of this House of which he heads had made a decision that none of the Governor's bills were to be acted upon until collective bargaining was terminated by the state.

I have discussed this matter with members of the press to whom this was delivered and found that this was a fairly accurate representation of what the Minority Leader decided ought to take place.

I would like to quote — he says, "It is hard for us legislators to budget the unknown. It is incomprehensible that we should try to expand state government until we are sure of the amount agreed upon by the union and the state."

I must first congratulate the gentleman from Scarborough for finally coming over to the side of labor for all of the years that he has served as a member of this body. But I would also raise the question as to whether or not maybe this does not make sense — then what?

The collective bargaining report under the factfinding is due this Wednesday. Nothing is to be done until factfinding is terminated, the contract settled. Under the law under which we operate, each party has 30 days for that report to be private, for each party to review it, and to make recommendations from point of view. If nothing is to take place until the time that factfinding is completed and the 30 days are over, what, may I ask, is the sense of our being here with the minority party blocking every single proposal that the Governor has made in his program? Because there is no other proposal but the Governor's, we do not have a minority program, we have only the program of the Administration to deal with, and if there is no other program, then what for 35 days? Then what, simply stare at one another from one end of the caucus across the hall to one another and throw punches? That, to me, makes absolutely no sense at all.

Collective bargaining has always been and should be a process, and by law the legislature is not to get involved in that process until such time as the proposal is before this body. That apparently is going to be changed. So I see no other choice but to make this recommendation.

I would ask a series of questions to the Minority Floor Leader and ask him to respond, and if they are accurate, we should recess or we should pass the order and go home.

First, I would like to pose to the gentleman from Scarborough, Mr. Higgins, does this represent an adequate representation, what was carried in the newspaper, as being the position of a Republican caucus?

Second, if so, what proposal should we deal with until such time as collective bargaining is completed?

Third, is that to say that the Republican caucus is also taking a position against the new state troopers, for example, in the Governor's budget? Is that to be postponed until that is terminated?

Are we also to postpone the 2 cent excise tax on jet fuel for international flights in the City of Bangor?

Are we also to postpone the Charleston Correctional Facility recommendations of the Governor?

Are we to postpone reimbursement for tree growth and veterans' organizations?

I think that the members of this caucus, his own and mine, and the citizens of Maine deserve to have question answered.

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

Mr. HIGGINS: Mr. Speaker, Ladies and Gentlemen of the House: I do believe we have touched upon a sore spot.

The gentleman from Eagle Lake has posed a

series of questions, and I guess I would simply respond by saying, yes, I do believe that the accounts that he referred to you were accurate. He certainly has a copy of the press release, as anybody else who is interested in this issue. I would hasten to add that perhaps some of the comments I understand that were attributed to John Oliver from the MSEA which appeared in that story were not as accurate. But, nevertheless, my position is adequately portrayed in that press release.

I think looking at the situation the facts are clear. The state employees of this state have not had a raise for almost two years. They have been in the process of bargaining for over 15 months, and we have not seen any adequate results from that.

I would hasten to add that it is not my intent to cause this to be done in an arbitrary and capricious manner as far as the resolution of the contract, but it is my sincere belief, conviction, and I think that of the minority party in this House, that it is unconscionable to talk about expanding new programs in this state until we have a resolution to that contract. We don't know if it is going to cost \$10 million, \$12 million, \$14 million, \$18 million. Who knows how much it is going to cost, and how can we possibly budget that sort of a recommendation until we know—finally budget for it until we know the actual cost?

It would be unfortunate, at best, to expand state government in additional areas and then find out six months from now or a year from now, when the contract is finally settled, that we don't have enough money for it in the budget. Where do we cut then? I say let's get the cart behind the horse and settle one thing first and move on to others.

I think in saying what we said on Friday is that we have a priority, we have a list of priorities, and we feel that the resolution of that contract should be the number one priority and it should not be done—and I will say it again—in an arbitrary manner. But I think my feeling is anyway that the bills and some of the expanded programs that we are talking about, there are two alternatives; one, we set them aside and deal with them once we have an accurate assessment of what that is going to cost, or, number two, we make darn sure that we've got more than enough money set aside in the budget to handle that cost. If someone can assure me how much money that is, I will go along with it, but I'm not sure you can say that \$12 million is an adequate amount because the unions haven't agreed to that yet and I'm not sure that they will.

This was done without any intent to enter into any agreement with the unions. They were not aware that we were involved in this until I called Mr. Oliver after the statement had been issued. He was not aware of it, obviously the Governor's Office was not aware of it and, you know, frankly, with the little coverage that it got in the weekend news, I guess I would have just kind of let it lie and hoped that it went away.

I think the good gentleman from Eagle Lake has introduced an order here, whether he agrees with it or not, I kind of wish that I had a chance to look at it ahead of time but I'm sure that that was done with some malice of forethought and there were other reasons why we didn't have an idea what was coming across our desks, but I think it is a rather ridiculous order and if the gentleman wants to pass it and the other body wants to go along with it, then fine, that's the way it will be, but I still feel very strongly that we have a lot of money kicking around out there that we're not aware of what it is going to cost.

By his own admission, the Governor has indicated he wants to spend over \$4 million on a housing plan, almost \$8 million in a DOT shift from General Fund to highways, then we have commissioners running around out there of the administration saying that we are going to be

short \$40 million of federal money, and where is all that rhetoric about federal money coming back to the state, or lack of it, when we start budgeting? Don't we need a cushion there? I say yes, we do, and we have not allowed for a cushion, not allowed for one at all.

We haven't addressed the issue of conforming our tax laws with the federal laws forever. We have done it for one year, but we haven't done anymore than that. That is an additional cost of \$5 million or \$9 million that no one has even addressed yet. There are a lot of unknowns in this situation, and I think we need to eliminate one of them before we start setting down some of the other new and expanded programs.

Perhaps I have talked long enough. It kind of reminds me of the old story that Abbott and Costello used to do of who's on first. In this case, I guess I would ask who's on the second floor, and I think it would depend on who's on the second floor perhaps which party was doing the grumbling about the MSEA contract. I can't help believe that if there were a Republican governor, or a governor of a different party besides the Democratic Party sitting on the second floor, we might have seen even some more devious action by another party in this House to set the record straight on the MSEA contract.

So with that I would close. I would hope you would vote against the motion. I think it is a little ridiculous. If the other body wants to go along with it, I am sure there are members here who would like to take some time off, but that does not detract from my sincere belief that the state employees, who have not settled this contract, deserve some recognition. They deserve this to be done in a timely fashion and if it can't be done in a timely fashion, so be it. If it can't be resolved, if the Governor can't resolve it and the unions can't resolve it, so be it, but let's set aside some of the new and expanded programs until that is done and over with.

I think for those of you who haven't read it, I will read the last sentence of the release because I think it really describes the way we felt in the caucus. "We do not intend to blame either management or labor in this issue. Our only wish is to highlight the lack of a resolution and be responsible legislators in determining budgetary priorities during this session."

The SPEAKER Pro Tem: The Chair recognizes the gentleman from Eagle Lake, Mr. Martin.

Mr. MARTIN: Mr. Speaker, Ladies and Gentlemen of the House: My order has generated exactly what I thought it would, a demonstration that this press release on Friday was not at all what it sounded like, not at all, but merely an attempt to use state employees one more time as a pawn. As the gentleman from Scarborough indicated, he wished it would go away. Maybe he wished the statement he made on Friday would go away, but it won't.

The unfortunate part of all of this, ladies and gentlemen of the House, is that this legislature, of which some of us still sit as members, introduced collective bargaining. And I know that history is short, memories sometimes are shorter, but I would ask all of you to go back and read about collective bargaining, its purposes, its reasons why the legislature adopted collective bargaining for state employees. It was to protect state employees from us, the members who sit in this body who want to use state employees on a partisan basis as pawns in the process of salary increases and benefits. I find, ladies and gentlemen, that we are about to re-enter, apparently, on that process one more time.

I guess what we have to do is sort of reinvent the wheel every six years or so because of the turnover that occurs in legislative bodies, and that is unfortunate.

But the bottom line, if you listened carefully to the gentleman from Scarborough, was whether or not we should have new programs—

that was the key; that's the message. I am willing to debate on that question by itself. I think every member of this legislature ought to debate those questions—should we have a housing program to stimulate the housing industry in the United States or in Maine? Should we have additional state troopers to protect Maine people? Should we remove the two-cent excise tax for the City of Bangor on jet fuel? Should we add additional correctional officers at Charleston? Those issues I am willing to debate; I have no problems with that at all. But let us not get caught in a make believe fight as to whether or not state employees are going to have their money, as to whether or not state employees have sufficient capability to negotiate, because as the gentleman pointed out, what happens if they go to arbitration? What happens if it is not settled this year? I don't know that answer and neither does he, unless he happens to be part of the managing team for MSEA or the state, and since I am privy to neither, I know neither.

We cannot, as members of a legislative body, interfere in the collective bargaining process until legally we are in a position to do so. To do otherwise is unconscionable, a violation of the oath under which we operate as members of the legislature, a violation of that trust that we have with the people of Maine.

And if in fact it is the position of the caucus, the Republican caucus, to do something, which I am now convinced that maybe that is not quite accurate, that the press release in fact was not accurate, but in fact what the caucus really wants is a fight as to whether or not we have new programs or no new programs. That issue I can deal with because it is a legitimate issue for members of this legislature to fight about and to debate, to decide whether or not we want to add these programs. And in light of those comments made by the gentleman from Scarborough, Mr. Speaker, I withdraw my order.

Thereupon, the order was withdrawn.

Special Sentiment Calendar

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

Billy Howes, of Katahdin High School, who has been named to the Eastern Maine All Tournament Boys' Class C Basketball Team for 1982; (H. P. 2116) by Representative Michaud of East Millinocket. (Cosponsors: Senator Pray of Penobscot and Representative Smith of Island Falls)

Stephen Craig, of Katahdin High School, who has been named to the Eastern Maine All Tournament Boys' Class C Basketball Team for 1982; (H. P. 2115) by Representative Michaud of East Millinocket. (Cosponsors: Senator Pray of Penobscot and Representative Smith of Island Falls)

Regina O'Brien, who lives in Ellsworth, and who has celebrated the 100th anniversary of her birth; (H. P. 2117) by Representative Foster of Ellsworth. (Cosponsors: Representative Hobbins of Saco and Senator Perkins of Hancock)

Albert L. Godfrey, Sr., of Winthrop, who has been selected by the Institute of Transportation Engineers as the recipient of the New England Transportation Engineer of the Year Award for 1982; (S. P. 895)

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

House Reports of Committees Leave to Withdraw

Representative Tuttle from the Committee on Labor on Bill "An Act to Change the Time Limitations for Filing a Claim for Compensation of Occupational Disease" (H. P. 1848) (L. D. 1829) reporting "Leave to Withdraw"

Representative McHenry from the Committee on Labor on Bill "An Act to Create a De-

fense of Employee Noncompliance with Safety Procedures under the Workers' Compensation Act" (H. P. 1906) (L. D. 1881) reporting "Leave to Withdraw"

Representative Davies from the Committee on Public Utilities on Bill "An Act to Amend the Law Enabling the Supply of Water to the City of Bangor" (H. P. 1815) (L. D. 1800) reporting "Leave to Withdraw"

Reports were read and accepted and sent up for concurrence.

Divided Report

Majority Report of the Committee on Public Utilities reporting "Ought to Pass" as amended by Committee Amendment "A" (H-615) on Bill "An Act to Establish the Position of Director of Engineering Within the Public Utilities Commission" (H. P. 1789) (L. D. 1779)

Report was signed by the following members:

Senators:

TROTZKY of Penobscot
TRAFTON of Androscoggin
DEVOE of Penobscot

— of the Senate.

Representatives:

DAVIES of Orono
BENOIT of South Portland
KANY of Waterville
VOSE of Eastport
McGOWAN of Pittsfield
RIDLEY of Shapleigh
CONNOLLY of Portland
BORDEAUX of Mt. Desert
WEYMOUTH of West Gardiner

— of the House.

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

Report was signed by the following member:

Representative:
CUNNINGHAM of New Gloucester

— of the House.

Reports were read.

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

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

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

Mr. CUNNINGHAM: Mr. Speaker, Ladies and Gentlemen of the House: I don't want to cause an extended debate on this particular issue, except that I would like to give some reasons why I feel that at this time we do not need to hire or change positions in the Public Utilities Commission to the expense that this would add to the Commission.

We had a bill in the first session of this 110th Legislature last year which reduced the regulation that the commission would have to be involved in with regard to water companies and also with regard to sewerage companies. We have embarked upon a lack of regulation by the Public Utilities Commission in regard to transportation. And in light of the fact that the commission has reduced responsibilities, in light of the fact that we did add a position last year to the Public Utilities Commission, the position of public advocate, the commission has already been expanded, I felt that I could not yet be sold on this new position and the additional cost that this position would require.

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

Mr. DAVIES: Mr. Speaker and Members of the House: I would like to clarify what this bill does so that you're not confused by it.

Currently in the Public Utilities Commission, there are several sections, one dealing with telecommunications, one dealing with water, another dealing with electricity. There were others that existed until this last year when we did away with the transportation department. Each of these sections has an engineer and part of his responsibilities are administrative, and

because of the nature of regulation in these sections, oftentimes they only have two engineers, one of whom acts as an advisor to the commissioners; the second person acts as an advocate for a point of view, and because of that and because of the administrative procedures act that we have on the books in the state, those individuals, the engineer who is acting as an advocate and the engineer who is acting as an advisor to the commissioners, are prohibited by law from talking with one another even on matters that are not necessarily directly related to the case on which they are serving as either advocate or advisor.

By making this change, we are going to put all the engineers from these three sections together into one office of engineering. We are not creating any positions. There is going to be the same number of people in the engineering section when we get done with this bill as there currently are working for the Public Utilities Commission, but only one instead of three is going to have administrative responsibilities. The director of engineering is going to handle all of the Administrative work and, in addition to that, he is going to provide engineering services to the commission. That frees up the other two people who are doing at least part of the work as administrators to work full time as engineers for the commission. It means that you are going to be able to direct a greater portion of your manpower and time into the actual conduct of engineering studies, reviews of utility cases, the sort of work that we rely on the commission to do.

So, without creating any new positions, we are going to tighten up the administration, we are going to eliminate the problem that they have of having only two engineers in a section, neither of whom can talk to the other one. By grouping all seven of the engineers that the commission has into one office, if you have two people, one who is acting as an advocate and another who is acting as an advisor, you still have five other engineers who are going to be able to talk about the matter, are going to be able to provide information to either side, as appropriate, and you are not going to tie down the function of the engineering section.

It is extremely difficult right now at the pay levels that we're paying to the engineers of the Public Utilities Commission to get the kind of competent, qualified engineers that we would like to get. By making this transition, we are going to pay the director of engineering a high enough salary so we can attract the kind of top quality engineer that we need for that office. We are going to be able to not only utilize him for administrative purposes but also for engineering purposes, and we're going to better utilize the time of the remaining six engineers for carrying out the business that we charge the Public Utilities Commission with, checking the utilities and to make sure that the commission has adequate and top-of-the-line information for rendering the decisions that they are required by law to make. This proposal accomplishes that, and it is the virtually unanimous report of the Public Utilities Committee that it ought to be done.

I urge you to support the majority "Ought to Pass" Report.

The SPEAKER Pro Tem: A vote has been requested. The pending question is on the motion of the gentleman from Orono, Mr. Davies, that the Majority "Ought to Pass" Report be accepted. All those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

87 having voted in the affirmative and 15 having voted in the negative, the motion did prevail.

Thereupon, the Bill was read once. Committee Amendment "A" (H-615) was read by the Clerk and adopted and the Bill assigned for second reading tomorrow.

Divided Report

Majority Report of the Committee on Legal Affairs reporting "Ought Not to Pass" on Bill "An Act to Prohibit Public Drinking on School Premises Without Requiring Prior Warning by a Law Enforcement Officer" (H. P. 1929) (L. D. 1912)

Report was signed by the following members:

Senators:

SHUTE of Waldo
VIOLETTE of Aroostook
CHARETTE of Androscoggin

— of the Senate.

Representatives:

STOVER of West Bath
TREADWELL of Veazie
COX of Brewer
BOISVERT of Lewiston
STUDLEY of Berwick
McSWEENEY of Old Orchard Beach
PERRY of Mexico
SOULAS of Bangor
DUDLEY of Enfield

— of the House.

Minority Report of the same Committee reporting "Ought to Pass" as amended by Committee Amendment "A" (H-616) on same Bill.

Report was signed by the following member:

Representative:
SWAZEY of Bucksport

— of the House.

Reports were read.

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

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

The SPEAKER Pro Tem: The Chair recognizes the gentleman from Presque Isle, Mr. Lisnik.

Mr. LISNIK: Mr. Speaker, Ladies and Gentlemen of the House: I would urge you to oppose the Majority "Ought Not to Pass" Report.

I am the sponsor of L. D. 1912, which is an amendment to our current public drinking law. I want to say from the onset that this does not refer to the University system or to the VTI's.

Last session, due to problems that occurred in Old Orchard Beach, we changed the law and made public drinking a criminal offense rather than a civil offense. This new public drinking law which requires a warning before arrest can be made also applies to public schools. In other words, an individual can take a 6-pack into his local basketball game or school play or dance and drink with relative immunity until he has been warned. This is a problem that has arisen a couple of times already in our school in Presque Isle.

It should be emphasized that public drinking is against the law and is a criminal offense whether you drink on a beach, in a park or at school. But to my knowledge this is the only law on the books where one gets two warnings. The first warning is the law itself, and that applies to everybody, every law, when we pass it here, that is the initial warning. Ignorance of that law, obviously, is no defense. But with public drinking, a person gets a second personal warning. This bill says that if you drink in a public school, you will not get that second additional personal warning.

This bill does not interfere with the original intent of the law. Individuals will still be allowed to drink at beaches or at parks without fear of harassment, but this bill will address the potential problem that exists in schools.

The typical offender or troublemaker in school is not the adult who comes to enjoy the basketball game. As a teacher, I have chaperoned games and dances and school plays, and inevitably the individual that is a problem is the recent graduate who had a tough time in school, who is now 20 years old, who is back flexing his muscle, showing off his new-found independence and inevitably this is the individual that creates a problem, and this is the very

case at Presque Isle.

I think the real question is whether we feel public schools should be treated the same as parks and beaches. I feel that there is a definite distinction, and I feel that schools hold a unique place in our society, and I believe that we should preserve the uniqueness of our public schools.

To add alcohol to the electricity that high school rivalries generate constitutes a real potential problem. It is our duty not only to deal with present dangers but also potential dangers. Let us not take the chance of turning healthy rivalries into something ugly.

In 1977, this body moved to raise the drinking age from 18 to 20. Your overriding concern was for the health and welfare of students. This was an effort to keep alcohol out of the schools. In the same year, this body introduced Temperance Day, whereby teachers would set aside a block of time and teach proper values surrounding alcohol, and I believe this is where we should be teaching the proper values, in the classroom and not at a basketball game in the bleachers.

It is all too obvious to me that past legislatures have been concerned with this very issue, and we have a chance to resolve it once and for all today.

I don't believe that it is asking too much of adults to set an example for children. Given the uniqueness of our public schools, I feel this exception is appropriate.

I would ask for a roll call.

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

Mr. MCCOLLISTER: Mr. Speaker, Ladies and Gentlemen of the House: In 1931, Frederick Neil Dow wrote of seven distilleries in Portland alone. So much money was invested that the drinking man was regarded by some, claiming to be intelligent, as helping the business of the state, and those who abstained from liquors altogether as obstructors towards prosperity. Are we to cause these words to echo in these chambers again — and I quote—"There can be no doubt that the greatest single factor that we can control in the interest of public health of the nation would be the elimination of an alcoholic drink"—I think not.

No, we do not need to subject our society to the extremes of Prohibition unless we fail to use reason in control of public drinking. However, I do find that our permissive enforcement of drinking in the schools of Maine is downright folly. So I say, do we prohibit the drinking of alcoholic beverages on school property today through the bill before us, or are we displaying the attitudes that will justify the return of Prohibition? I say to vote to defeat the "ought not to pass" report so that we can address the issue.

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

Mr. COX: Mr. Speaker, Ladies and Gentlemen of the House: This was originally a unanimous "Ought Not to Pass" report but there has been a change of one signature on the report. I guess the real question here is whether or not this bill is necessary.

The committee had no quarrel with protecting the schools from alcohol, but I repeat, the real question was whether this bill was necessary.

I would ask, what is the purpose of this bill? Is it to prevent drinking in the schools or is it to put people in jail? If we want to prevent drinking in the schools, all the officer has to do under the existing public drinking law is, if he sees someone with a bottle of beer or alcohol, warn him that if he drinks that he is in violation of the law and will be arrested. Remember that the law, in its present state, defines drinking as having a bottle that is open. You don't have to wait until he starts guzzling the liquor.

If the schools don't want drinking on their property, they have only to post a sign outside

the gym saying that no beverages will be taken into the gym or onto the school property, whichever part they want to prevent beverages from being taken. Then, if someone is seen taking beverages in, he can be told that you can't go in there with that beverage. If he wants to go in, he will have to leave his beverage behind.

If he is seen in the stands with a beverage after this warning is posted outside, he and his beverage can either be separated or removed.

It seems that the genesis of this bill has been—I think we were told at the hearing one incident in Presque Isle, and now it seems that it has become two incidents in Presque Isle, and what happened was that an officer spotted someone drinking. Apparently they don't have a sign up there telling people they can't take beverages into the gym, or if they do, they did not enforce action under this. What happened was, the officer apparently spotted someone drinking, went right up into the stands and immediately arrested the person. It would seem that the officer and the school officials in Presque Isle do not completely understand the public drinking law or do not understand the recourses that are open to them under the trespass laws.

It seems to us that it is unnecessary to make this change in the law when we feel it is unnecessary, that there are adequate provisions in the law now to use to prevent drinking in school.

I would only repeat the good-faith offer that I made to the sponsor of this bill, which was that if there are people up there who don't quite understand what recourse they have, we would be glad, and I said this in good faith, that we would be glad to advise them of what recourse they have under the existing law.

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

Mrs. MACBRIDE: Mr. Speaker, Ladies and Gentlemen of the House: I am a cosponsor of this bill and am a strong supporter of it.

First, I would like to answer Representative Cox's statement and questions. The purpose of this bill is to prevent drinking in the schools, there is no doubt about that. We have a very big problem in the schools, as we all know, and the incidents have occurred in Presque Isle at the basketball games, and the problem is really the warning section of the bill.

Last year I supported the public drinking bill and I feel it is a good law. I think in practically all cases there should be a warning given, but in this particular case, drinking at school functions, I feel no warning is necessary.

The police tell us that the problems come if they often don't see people carrying a six-pack into the ballgame and don't realize they have carried in a six-pack, or until they are already in the stands and are perhaps drinking. Then the police try to thread their way through the stands. By that time, the people have seen them coming, have put the bottle away, so when the police get there, they really have no evidence. They go back outside and in a few minutes the person is drinking again, so that warning is a problem.

I think signs should be posted. I think there is no doubt about that. I think at all the schools you should really have the signs.

I really don't feel there should be drinking at all at school functions at the elementary and secondary level because there is such a very big problem, alcoholic problem, in our schools. I also don't feel that we as adults can tell our children to do one thing and then turn around and do something else ourselves. Consequently, I don't feel we set very good examples when we carry a six-pack of beer, a bottle of wine or a flask of liquor to a school function.

This amendment makes sure that only elementary and secondary schools are involved and that this law would not be superseded by the laws of local municipalities.

Let us keep our schools, our ballgames, our graduations, our concerts as they are meant to be, fun and enjoyable for all.

I hope you will vote against the Majority Report on this bill.

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

Mr. GILLIS: Mr. Speaker, Ladies and Gentlemen of the House: I have listened to the debate here so far and I can truthfully say to you that I support the efforts of Representative Lisnik and Representative MacBride.

Through the years we have tried to raise our children and teach them the dangers of alcohol and drugs, and here we have a bill that will prevent the consumption of any alcoholic beverage on the school grounds. This I am in favor of, and this I will support.

I have seen incidences where liquor has been brought into the gyms, onto the baseball fields, the soccer field, all of your high school programs, and I keep hearing the words repeated that if Presque Isle wants this done or wants that done, what they are saying is that the problem belongs in Presque Isle. The problem does not belong in Presque Isle, it is statewide. You have seen it in your own schools if you open your eyes. You could see it in the Bangor Auditorium over the past weekend during your high school tournament games—it's there, it was there. Those cans were not Coca Cola they were drinking, or Pepsi Cola or whatever you want to call it. The beer concession made a killing somewhere along the line.

Violations of this sort will continue, and regardless of what you teach your children, if they can see it in the gymnasiums, if they can see it on the school grounds, all your efforts are going to go for naught, because if they can see it in front of them, they are going to try it and the first thing you know, your child is going to be hooked on it.

I ask you to defeat the present motion so that the "ought to pass" report can be presented.

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

Mr. PEARSON: Mr. Speaker, Ladies and Gentlemen of the House: I am in support of Representative Lisnik's position on this particular bill. I was listening with a good deal of interest to Representative Cox from Brewer when he said that you have the option right now of separating the individual from the liquor that he is consuming or asking him to leave the dance or the game or whatever the social occasion was at the high school that he was attending. It seems to me that that creates a ridiculous situation, an awkward situation, a humiliating situation for the person who is going around, say it's a teacher in your community, who is going around collecting bottles of beer from people who have come to the dance to serve as their first warning.

Mr. Smith, who teaches chemistry, who is good enough to go to the dance to chaperone a dance, is then given the responsibility of going up to the student who is violating this law and saying, "I want that bottle of beer; this is your first warning." At the end of the night, he has got a box of beer that he has collected, different bottles, that is a pretty awkward, silly situation, I think, to put a teacher in or a policeman in, for that matter.

I think it ought to be clear to every student in this state, and I'm sure it is, that when they go to the high school dance, they are not supposed to be there drinking. When they go to the high school game, they are not supposed to be there drinking, and you don't have to give them any first warning or second warning or third warning or anything else.

Mr. Lisnik's bill clears up that particular ambiguity in the law regarding schools, and I hope that you will support him.

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

Mr. SOULAS: Mr. Speaker, Ladies and Gen-

tleman of the House: I really stand here today thinking that last legislature, the regular session, created a problem.

Before we passed the drinking law in the last session, a policeman could do one thing—he could walk up to you if you were drinking in public and tell you to stop drinking, and you would turn around and tell the policeman in so many words what he could do, and the only alternative the policeman had then was to issue you a civil summons. In such case, you could write your name Mickey Mouse or John Jones, whatever you felt like doing and absolutely nothing was ever done to you. So the last legislature, seeing this problem in public areas, decided to pass a law which we thought was workable and accepted by all the policemen who asked for the law. Now you are saying we created a problem in schools because there was an incident that came to our committee, a person was in Presque Isle and the policeman went up to arrest him and he said, "Well, you didn't warn me so consequently, you can't do anything about it."

I am sorry that I can't get onto the amendment because we are not talking about the amendment, but let me tell you exactly what the original bill states, and this is why the Legal Affairs Committee voted almost unanimously "ought not to pass."

It says, "2-a: Public drinking on school premises. Crime, a person is guilty of public drinking on school premises if he drinks liquor on the premises of a public school knowing that he is not licensed or privileged to do so, unless he has been given permission to do so by the superintendent with the approval of the school board."

In other words, what we are saying is, we don't want anybody to drink at a basketball game or whatever it is, but as long as you're an adult and we are going to have a big party later on, it's okay to come and drink. What are we doing here? We are making it very easy for you and I to go and have a big party, it's still on school premises, and this is the reason we voted against this bill. There is nothing that's going to change. If you want to go back to the old way of doing it, have someone come up, a policeman, and say, look, you can't drink, and you can turn around and tell that policeman to go to you know, then you vote against the majority of the committee who says "ought not to pass."

The SPEAKER Pro Tem: A roll call has been requested. For the Chair to order a roll call, it must have the expressed desire of one fifth of the members present and voting. 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 Pro Tem: The Chair recognizes the gentleman from Cumberland, Mr. Dillenback.

Mr. DILLENBACK: Mr. Speaker, Ladies and Gentlemen of the House: This law that has been talked about recently here, about last year, the law we passed and so forth, it was a good law. I have no objection to that. I have no objection to people drinking in their homes or in their privacy or wherever they may be. I have built liquor stores and I have done many of those things, and I also will take a drink, but I want to tell you today that I don't think there should be a challenge thrown forth to the students in the school that if you can get into the stands, you can drink until somebody comes up and tells you you can't drink.

I didn't plan to speak on this, but that is a ridiculous law. They shouldn't be drinking in the school or on the school grounds, and if Mr. Lisnik has a good point, I am sure going to vote for him and I hope you do too.

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

Stover.

Mr. STOVER: Mr. Speaker, Ladies and Gentlemen of the House: I have polled quite a few people in my community. I have talked to teachers. I have talked to assistant superintendents, talked to parents, didn't talk to any of the students, but they all say that they don't think this law is needed. Let's give these kids one break. After all, I like a break. If I park in the wrong place and somebody comes along and says, look, you're in the wrong place, I say, look, I appreciate your warning me this time. I'm smart enough, I won't do it again, and I don't know why we should treat these kids any different than anybody else.

In my business, I have a lot to do with a lot of children. Kids don't give me any problem. I've had a lot of problems with dogs and things like that, but I don't have any problem with kids, and let's not make these kids criminals. The minute you go up, bang, they are going to illegalize drinking and you are arrested and you are immediately charged with a Class E crime—I don't know, I just couldn't go along with that.

Nobody's any drier than I am, you know that, and I am in favor of not having any drinking in the schools, the stands. Incidentally, Morse High School, my alma mater is number one in southwestern Maine. We expect them to go on and win the Maine State Championship. I have gone to many of the basketball games this year. They are all sold out most of the time. I have been to Brunswick and I have seen no problems in this regard at all and I just wonder why we are trying to kill something with an overdose of what we really need. I am going to go along with the "ought not to pass" report.

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

Mr. RICHARD: Mr. Speaker, Ladies and Gentlemen of the House: Having spent 30 years in secondary education in various capacities, with the last 19 of those years as administrator, I have to say that I think actually my good friend Mr. Cox is being an idealist. If everyone did as he was supposed to, we wouldn't have a need for laws.

Over the last few years that I was in secondary school work, I saw a gradual erosion of the authority of school officials to be able to do much. At the same time, we heard the hue and cry about discipline in the schools has gone to pot, why don't they do something about it.

Here today we have an opportunity to help to encourage people to do as they should and for the adults not to be drinking on school premises.

The SPEAKER Pro Tem: The Chair recognizes the gentleman from Saco, Mr. Hobbins. Mr. HOBBS: Mr. Speaker, Men and Women of the House: I, too, am very sympathetic with the problems we have in our high schools. In fact, I have a sister who graduated from high school last year and now is in college, so I am fully aware of the peer pressure involved with alcoholic beverages.

Under our present laws, anyone who is in possession of an alcoholic beverage under the age of 20 years old, the possession alone is a crime. It is like marijuana, it's contraband; it is against the law to possess alcoholic beverages if you are under the age of 20 years old.

I know the arguments raised are valid arguments, but we do have on our books the authority to bring someone in and fine that individual for possession of alcoholic beverages. My suggestion is, why don't we enforce the law which is on the books instead of putting something else on the books which is going to cloud the issue.

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

Mr. PARADIS: Mr. Speaker, Ladies and Gentlemen of the House: I have two superintendents and one high school principal who

have written to me on this bill and requested that we pass the bill. They feel a need for it, that it will assist them in enforcement at these events in the schools.

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

ROLL CALL

YEA—Armstrong, Baker, Boisvert, Brenerman, Brown, A.; Connolly, Cox, Gowen, Hanson, Hobbins, Jalbert, Kany, McSweeney, Michaud, Murphy, Perry, Soulas, Soule, Stover, Studley, Vose, Wentworth.

NAY—Aloupis, Austin, Beaulieu, Bell, Benoit, Berube, Bordeaux, Boyce, Brannigan, Brodeur, Brown, D.; Brown, K.L.; Cahill, Callahan, Carrier, Carroll, Carter, Chonko, Clark, Conary, Connors, Crowley, Cunningham, Curtis, Damren, Davies, Davis, Day, Diamond, G.W.; Diamond, J.N.; Dillenback, Drinkwater, Dudley, Erwin, Fitzgerald, Foster, Gavett, Gillis, Gwadosky, Hall, Hayden, Hickey, Higgins, L.M.; Holloway, Huber, Hunter, Hutchings, Ingraham, Jackson, P.T.; Jackson, P.C.; Jacques, Jordan, Joyce, Kelleher, Ketover, Kiesman, Kilcoyne, Lancaster, LaPlante, Lewis, Lisnik, Livesay, Locke, Lund, MacBride, MacEachern, Macomber, Mahany, Manning, Martin, H.C.; Masterman, Masterton, Matthews, McColister, McGowan, McHenry, McPherson, Michael, Mitchell, E.H.; Mitchell, J.; Moholland, Nadeau, Nelson, A.; Nelson, M.; Norton, O'Rourke, Paradis, E.; Paradis, P.; Paul, Pearson, Perkins, Peterson, Pines, Post, Pouliot, Racine, Randall, Reeves, J.; Reeves, P.; Richard, Ridley, Rolde, Salisbury, Sherburne, Small, Smith, C.B.; Smith, C.W.; Stevenson, Strout, Swazey, Tarbell, Telow, Theriault, Thompson, Treadwell, Tuttle, Twitchell, Walker, Webster, Weymouth, Willey.

ABSENT—Dexter, Fowlie, Higgins, H.C.; Kane, Laverriere, Martin, A.; Willey, Roberts, The Speaker.

Yes, 22; No, 120; Absent 9.

The SPEAKER Pro Tem: Twenty-two having voted in the affirmative and one hundred twenty in the negative, with nine being absent, the motion does not prevail.

Thereupon, the Minority "Ought to Pass" Report was accepted and the Bill read once. Committee Amendment "A" (H-616) was read by the Clerk and adopted and the Bill assigned for second reading tomorrow.

Consent Calendar

First Day

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

(H. P. 1916) (L. D. 1893) Bill "An Act to Establish Voluntary Certification for Building Energy Auditors"—Committee on Energy and Natural Resources reporting "Ought to Pass"

On the objection of Mr. Hall of Sangerville, was removed from the Consent Calendar.

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

(H. P. 2006) (L. D. 1977) Bill "An Act to Reduce Burdensome Fees for Businesses Incorporating or Expanding with No Par Value Stock"—Committee on Business Legislation reporting "Ought to Pass"

No objections being noted, the above item was ordered to appear on the Consent Calendar of March 2, under the listing of the Second Day.

Consent Calendar

Second Day

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

(H. P. 1809) (L. D. 1794) Bill "An Act to

Adjust Fees for Licenses Issued by the Real Estate Commission" (C. "A" H-612)

On the objection of Miss Aloupis of Bangor, was removed from the Consent Calendar.

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

Miss ALOUPIS: Mr. Speaker, I would pose a question through the Chair. May I ask a member of the Committee to please respond. I am looking at a two-year active license increasing by 70 percent, from \$40 to \$70 for a two-year license, and supposedly the projections of all the increases amount to \$101,000 annually, would someone from the committee please advise us as to how they reached this conclusion and the justification?

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

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

Mr. BRANNIGAN: Mr. Speaker, Men and Women of the House: This bill deals with the increase in fees for real estate licenses in several categories. The Committee dealt with this at great length and others will deal with the gentlelady's question in a technical way.

The Real Estate Commission has authority to have eight people on its staff. It has had seven people. It has had to lay off two to four people in the last few weeks and will not be able to continue as a real estate commission.

The Department of Business Regulation has several bureaus, many, many boards, but this is a commission, which is somewhere between a board and a bureau. It has certain powers of licensing almost 7,000 licensees; it has to oversee those licensees and to handle complaints regarding real estate. As you know, real estate is in a turmoil at this time and there is a great deal of difficulty in selling. A great many people have dropped from the real estate rolls — income — this is dedicated revenue that runs this commission.

One of the things that our committee was faced with was whether or not the Real Estate Commission should continue or not, or whether it should continue at the level which it has been working at or not. It was decided, after many plans, the original bill, several other alternatives were presented to us by the Commissioner of Business Regulation and eventually one of our own members sponsored a bill and presented another set of alternatives to increase the fees sufficiently to pay the salaries, to pay the commissioners, to pay the state cap, which each board and commission has to pay for printing, for the computers, for rent, heat, lights, etc. All of these have been going up and the commission is not able to run any longer with the present fees.

What we have done is this: we have presented to you a series of increases that will allow the commission to run at a reduced level, reduced from seven to five people. We are prepared to propose unanimously requesting the legislative council that in the next year we be given the opportunity to study the working of the commission. So a decision has to be made. Does the commission continue? If it does, it has to be funded. As we stand now, it has to be funded with dedicated revenue, the money that is generated by the licenses and fees proposed. If it is not to continue, then it has to be done away with and it will be regulated mainly by a board with the Attorney General doing the prosecution, investigation, etc. That will come out of the General Fund, I suppose.

This needs to be looked at, so between now and next January we are asking that it be run at a reduced level and at that time, that we be able to come back with a comprehensive decision about its continuance as it now stands as a commission.

The real estate people themselves, people

from this body, people from outside—one of the most difficult things I have found in dealing with this issue in this session was that we got little or no direction, everybody was divided. Realtors wanted the commission to continue but they had no unanimity as to how it was to continue, whether they wanted to pay or not pay. We are raising the fees but these fees, for some people, considering the amount of work they do, if it gives them a right and only those who hold this license a right to do this very important work, we think that it is not terribly exorbitant, and so we have proposed the increased fees that the gentlelady from Bangor has mentioned and the other increases that are in this bill.

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

Mr. CARROLL: Mr. Speaker, Ladies and Gentlemen of the House: I could stand here and tell you, "I told you so". This is what they made it for, to drive the little guy out. They have driven him out. Education requirements, obstacle courses, that is what I call it, the obstacle course of the real estate bureaucrats with the big wheels in the cities saying we have to take courses. So the result is, they have driven out all the elderly and the people that were part-timers and they made it big business and big business can't even support the commission composed of five people without coming in and telling you they have got to have exorbitant license rates. That is what it is.

I told you so, you never listen. That is what has happened. You don't have to put your hearing aid on to hear them, do you? That is exactly what they wanted to do. They made it big business, they formed associations, conglomerates, some call them, big industry. You have got to belong to a big wheel and outfit now to sell real estate. They would like to set it up pretty soon so nobody can be in it except those that are in it now. Drive out the little fellow. They don't want him around. Send him home to the roost.

Ladies and gentlemen, they don't deserve a penny. You ought to repeal that law you passed last year that I was against. That law was supposed to have been held up until I could have debated the issue but I didn't get that chance. They wouldn't give me the right time of day because they knew they were wrong and they are wrong today. They will be wrong tomorrow and the day after, because all they have developed is an obstacle course so the people in the rural areas have got to do business with the city slickers. That is exactly what it is. They have a five man commission, they need a one man commission. You don't need anybody to run a business that doesn't exist, do you? Well, that is just about what the real estate business is today.

I can take you through my community and show you more houses with signs "for sale" with no buyers — what does that tell you? There is no business out there, folks. Only the fat cats are going to survive. The little fellow is going down the drain and you are going to help shove him down the drain today. I say they don't deserve one red cent. They built the empire, let the empire crumble.

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

Mr. RACINE: Mr. Speaker, Ladies and Gentlemen of the House: Sitting in the back row, it is very difficult to understand the comments that were made by the fellow legislator from Limerick. He screams a little bit, but I believe that he alluded that this bill is a direct result of the continuing education bill that was passed at the last session. If you recall, I was one of those individuals that fought real hard to eliminate the requirement of continuing education. As a matter of fact, I tried, I even tried some par-

liamentary procedures whereby we could kill it but I failed.

The reason that I am mentioning this is because I support the fee increase as is being presented to this body tonight. The reasons that I do — like the chairman, Representative Brannigan, stated, we studied very thoroughly and we came to the conclusion that there is a purpose for establishing a real estate board and/or commission. I am not quite sure which is more appropriate, the commission or the board, and this is the reason why a study order will be presented to the Legislative Council.

Under the current Manning document—I would like to make a correction—the real estate commission has authorized nine individuals rather than eight. They have been operating with seven on board, and with the proposed fee increases, that would reduce their staff to five individuals. What they propose to do, the reduction of two individuals would eliminate the current program of regular brokerage office audits and eliminate the clerk typist II position, so they will be operating at a reduced strength.

The commission, as far as we can determine from where we sit, was established to protect the consumer. This is their primary function. Now, whether or not we want that board or that commission to perform that task is something that the study committee will have to determine, so I would urge that you vote with the Majority "Ought to Pass" Report.

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

Mr. CARRIER: Mr. Speaker, Ladies and Gentlemen of the House: I have been a real estate broker for 30-odd years and I truly believe that the change in the real estate laws in the last few years is going the wrong way. I was against the bill the last time for continuing education. I think if anybody is interested in making money in any profession, it is up to him to take the initiative and without any mandatory laws to go out and get the education that he needs to keep up with the type of financing or any other thing that you can use in selling, any other deeds that would help the people.

This particular thing, one of the questions that bothered me is the fact that nobody said to us—how far behind are they right now. Nobody gave us an account as to where this loss came about. I want to know and I would almost bet whatever I got, that the reason they are behind now is the fact that they went to this continuing education. I am not against education. I have taken it on my own for many years, even recently, and the cost is prohibitive. Most of these courses will cost you anywhere from \$60 to \$100 or more and some of these people who have four, five or six agents in their outfit, they pay for their courses, as a rule they do, and that is an additional burden on them.

The business is not that good and for those of you who want efficiency, efficiency in this particular field was just as efficient 20 years ago, or 5 years ago when we had three commissioners as they are right now. They have been sold an idea that everybody will come up with claims and this is not true. I am sure that their claim is very limited and they should be able to take care of it. If they can't, let's get new commissioners up there or whatever you want to call them.

I submit to you that this bill is not good. I didn't see it the last time it came around on the Consent Calendar, and I move for the indefinite postponement of this bill and all its accompanying papers.

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

Mr. JACKSON: Mr. Speaker, Ladies and Gentlemen of the House: Whatever we are

going to do with this bill, let's do with it what the bill says, not what something else is—we are talking about something else. This is not talking about continuing education. We are talking strictly about fees to run the Real Estate Commission within the state. We may not like the Commission, but I think the majority of the people who hold licenses in the state, both inactive and active, want to see the commission continued not only as a body to arbitrate problems that they have but to represent the consumers of the state and give them some other place they can go other than having to go to the courts or to the Attorney General.

If you don't fund the Commission, it is going to drop back to about two and a half people, three people, something like that. All the complaints will run through the Attorney General's Office and it will take a long time to get them handled and things won't go as smoothly.

If you want to fund it, this is not as much as we were originally giving them. I believe this is around \$260,000; they wanted \$300,000, something in that order. It means they are going to have to cut back their operation.

The question is very fairly asked, why did they get themselves in this hole in the first place? I have my own opinions on this and that is why I think the committee wants a study and I think a study should be done of this. Some of their operating procedures I personally question, but this will give them the money to continue along, to continue in operation, the complaints won't have to go through the Attorney General's Office.

The raise for the brokers is from \$40 to \$70. The majority of the burden of this is placed on the schools that want to teach courses. They have to pay a fee in order to be certified by the board to teach the course. In other words, they have to show that they are capable of teaching the course. This is a fee that they pay in order to be certified by the state. Agreed, that will probably be passed along to the people taking the courses, but the amount that will be passed along will be very slight when you think of the number of people taking the courses. The people who are actually certifying the courses and working for the state do it for free. They don't receive pay for this or anything else, so we are not raising the money that they are going to get or anything like that.

So basically the question you are asking yourselves here is, do you want to continue the Real Estate Commission or not, and if you want to continue it fine, you vote for the bill; if you want to see it dropped back to one or two people, and have all the complaints and things run through the Attorney General's Office and not have any regulation on this, you can do that.

I will tell you, from what we have seen, the majority of the people involved in real estate in this state want to see a continuation of the Real Estate Commission, and it is often hard to find out what they want because they are independent contractors, they work for themselves and this whole thing is rather like dealing with a Maine lobsterman — he is an independent person, free thinker, what have you, they want to do their own thing, but they do, generally, across the state, recognize the fact that the Commission is valuable and does perform a service both to them and to the consumers.

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

Mr. JALBERT: Mr. Speaker, I would like to pose a question through the Chair to Representative Brannigan or Representative Jackson or whoever on the committee that could answer. What does the Maine State Real Estate Commission have in the special revenue account presently?

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

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

Mr. RACINE: Mr. Speaker, Ladies and Gentlemen of the House: If I am correct, the question was, what was the ending balance of 1981? If it was, the ending balance in 1981, December, was \$70,323. The revenues were \$168,000 and the expenditures were \$213,000 which makes a net difference, a minus of \$44,000, so they ended up in December, 1981—the other figure was 1979, I am sorry — a balance of \$25,714. The 1982 projection, if we do not approve the fee increase, they will end up with a deficit of \$29,986. If we do not pass this L. D., to project this further, for the year 1983, the deficit will be \$75,000. I hope that answers the question because that is the way I understood it.

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

Mr. JALBERT: Mr. Speaker, Ladies and Gentlemen of the House: I am not going to take the time now to talk to the gentleman from Biddeford about this but I will talk to him later.

I must say to him, however, that I heard the gentleman from Limerick, Mr. Carroll, my dear friend George, very clearly when he said, "I told you so" because that is exactly what he told us before. He said it today and he can say it tomorrow.

The situation is this—if we keep going along the way we are going now, the real estate agency you have in this state will be what you have now. Now we have a group of real estate people who could very well control this place. I have been offered four times to put my house up for sale by a real estate agent. The fellow who lives across the street couldn't sell his house and I told the real estate agent about it. He came over and in two days there was a sign "for sale." He bought the house and sold it for a very, very neat profit.

If they are going to keep raising, raising and raising, why then have examinations, why make them spend night in and night out trying to become real estate brokers — why have them take an examination, which is getting harder and harder all the time, and then control the Real Estate Commission, and I know that because I have had plenty of rhubarbs with them. I have seen them go up and up and up to a point now where they don't want anymore people in the real estate business. That's the whole story. They don't want any more brokers. They don't want me coming from Lewiston, go over to Mr. Carroll's in Limerick, they want me to stay home, but I can't stay home because there are so many real estate brokers at home that can afford to go over and buy a house from an individual and then sell it. I think that is wrong.

I will go along with the study, I would support it wholeheartedly. There is something wrong there. Later on, Mr. Racine, we will go over those figures and I think you will see just where we stand.

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

Mr. DILLENBACK: Mr. Speaker, Ladies and Gentlemen of the House: I went down to the hearing on this bill and opposed it. One of the reasons I opposed it is because I have been a real estate broker for years. I want to commend the committee for coming up with a revision of the bill and suggesting a study. I think they are doing the right thing, because the way the bill was originally written, they would have had a tremendous surplus at the end of two years. They used to handwrite all those licenses, you know, when I started in; now they have a computer that does it. They handled 170 some complaints. It seems to me in all the real estate business that I have done on a commercial basis, I had a lawyer on my side if I had a complaint. I don't know why they have to be involved with so many of these things, but that is beside the point. I think they have come up with

a good compromise, I think we should have a study that would be important to us.

My constituents, who have raised the devil with me about this bill, whom I was supporting at the hearing, called me back later and said when they went to the meetings they had with the brokers, that all the brokers were in favor of the bill because that would eliminate all the small dealers around, people who are trying to sell real estate, so they had changed their opinion. I am going to vote for this bill.

The SPEAKER Pro Tem: The Chair recognizes the gentleman from Harrison, Mr. Jackson.

Mr. JACKSON: Mr. Speaker, Ladies and Gentlemen of the House: I am not a real estate broker. I do deal in real estate on occasions. I observed here this evening in the debate on three different occasions, possibly four occasions, the speakers have alluded to the fact or possibility of the Joint Standing Committee on Business Regulation doing a study of the Maine Real Estate Commission. It seems to me that that would be the adequate position to take. We should be putting the horse in front of the cart instead of the cart in front of the horse in regards to the fee increase.

My concerns are that I represent rural communities, as well as many of you do, and the fact is that out there in the hinterlands of Maine, we don't have quite the same economic circumstances that some of you people have in the larger metropolitan areas. It is a little more difficult to sell our wares in the wilds, and sell our real estate. It seems like a good compromise, I believe, of the members of this body to support the motion of the gentleman from Westbrook, Representative Carrier, in defeating this proposal and in turn, when the gentleman from Portland, the House Chairman of Business Regulation Committee presents his Joint Study Order, that we pass that and then address this appropriately.

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

Mr. KELLEHER: Mr. Speaker, Ladies and Gentlemen of the House: If I understood correctly some of the previous speakers, the Commission now is operating at a deficit? Is that correct? They have a deficit?

I guess I would like to pose a question through the Chair to any member of the committee or any of the previous speakers, under Title V, we are not allowed to have deficits in government, we can't pass a budget in this state unless there is money to fund it. I would like to know on whose authorization the Maine Real Estate Commission or, for that matter, any other board or commission, would have the moxie to operate with a deficit?

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

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

Mr. BRANNIGAN: Mr. Speaker, Ladies and Gentlemen of the House: I think we are talking about operating at a deficit figuratively. True, they have laid off people, state employees have been laid off in order to keep from getting into that kind of position, Representative Kelleher. People are now on leave status.

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

Mr. KELLEHER: Mr. Speaker, Ladies and Gentlemen of the House: I would like to restate that question. At the moment, is the Maine State Real Estate Commission operating with a deficit? If they are, under whose authorization?

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

The Chair recognizes the gentleman from

Yarmouth, Mr. Jackson.

Mr. JACKSON: Mr. Speaker and Members of the House: Yes, the Commissioner; yes, they are.

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

Mr. KELLEHER: Mr. Speaker and Members of the House: Then I suggest that we get someone down here from the AG's office and find out why, because we know there are many bills that come before the Appropriations Committee asking for money because they anticipate specific departments that could operate at a deficit if they operate at the current level, and this legislature in its wisdom makes those adjustments. For the life of me, I don't know what the explanation is that a state agency would have the moxie to operate with a deficit or know what their projected revenues are going to be and continue to carry on the same type of services at the same level that they experienced before with insufficient funds to meet those needs. There is no reason why they can't come before the legislature and ask for additional funds, but I don't like to be an accessory after the fact and I don't think this legislature does either, nor do I believe that the people of Maine appreciate that point.

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

Mr. JOYCE: Mr. Speaker, Ladies and Gentlemen of the House: I rise for a few minutes to support my good and dear friend, J. Robert Carrier. He hit that nail right on the head. But I can't neglect the dear friend of us all, Representative George Carroll. Representative Carroll was right and he was right last year.

Oh, but I wish I had that answer for Representative Louis Jalbert. I went down to try to study some of the old records of that Real Estate Commission and I think I will jog your memory, my good gentlemen, when I was looking at the books down there and it was the year that our reports were signed by Kilroy-Kilroy was here. I heard that some place before, that is why it caught my eye.

You know, about five weeks ago, I got a call from a man who had just had a slight heart attack and was recuperating down in Florida. He called me here in this body and he said Mr. Joyce, I am Kilroy. I was glad to meet Kilroy, the former committee man, I understand a very close friend of the gentleman from Lewiston. He said, what are they doing to that Real Estate Commission? He said, we had one person working for us and we had a balance of \$80,000 that last year. They have four people now, I don't know what they do, but they are getting paid executive wages. I said, that is interesting. He said, no wonder they are in debt.

I think this bill is on the right track with that indefinite postponement, and I am going to support the study but no way could I support this bill.

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

Mr. JALBERT: Mr. Speaker, Ladies and Gentlemen of the House: I can well recall the gentleman's remarks, my dear friend from Portland, Mr. Joyce, because the Kilroy in question that was here was Representative Jane Kilroy, as lovely a lady as I have ever met among all of you lovelies in this House, and believe me, she was no pushover. Of course, I remember, as Mr. Joyce said, the young man that was on the commission because it happened to be his son and he was chairman of the commission for a few years, he owned the commission.

But seriously, I will support Mr. Brannigan's order wholeheartedly and if there is a chance to co-sponsor it, if he wants me, he can have my name on the deal. I will do that right now and I think he will have Representative Carroll.

What I am trying to tell you is that about five

years ago I succeeded in allowing the special revenue accounts in this state to be tapped. I could have told the gentleman from Portland the answer as to where we stood, but I can't find it in the budget book. You can't find the Maine Real Estate account, at least I couldn't find it, I perused through this afternoon and I couldn't find it. I know that I encourage Mr. Carroll because I love him and I like to see him get going on an afternoon like this—you know, if you have a little time to lose, I mean you have to sit down and enjoy yourself. I enjoy Mr. Carroll, I love him, as a matter of fact. He may not love me in a few days, but who knows?

In any event, I succeeded in passing this bill and you take a look at the monies that these departments have got in that special revenue account in the budget book and it will stagger you. It is enough to wind up any kind of financial problems we have in this state.

The gentleman from Harrison, Mr. Jackson, hit the nail right on the head when he said, let's not put the cart before the horse. The horse comes first, then the cart. The first thing we should do here is knock this baby down and then come up with a study tomorrow morning, we will pass it wholeheartedly and we will do it right, because the position of the Maine Real Estate Commission today is within a small group. That is just exactly where it is. I stand by it, I know who they are, I know what they want. If they had their way, there would be darn few real estate brokers holding licenses in this state. That is my major reason for going against this thing, because we are not being thoroughly up to par, as I see it, with what we have done. What has happened to that fund all at once? Why did it disappear? Why isn't it listed as other accounts in the special revenue account. If it is, is it hidden? I can't find it and I should be able to read a budget book if I can't do anything else.

I think the motion of the gentleman from Westbrook is in perfect order. I would request a roll call.

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

Mr. PERKINS: Mr. Speaker, Ladies and Gentlemen of the House: Before we make a shambles of the Real Estate Commission, I think you ought to remember that we have legislation already on the books; we have a statute. Whether we like that statute or not, it is there, and until such time as it can be changed, it has to be administered. You will make a shambles of it if you don't go along with this bill. I don't know who actually will be responsible for handling the statute which we know find on the books.

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

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

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

Mrs. FOSTER: Mr. Speaker, Ladies and Gentlemen of the House: I attended the hearing on the real estate bill and did not know at the time that the deficit was about \$30,000, and would someone at this time tell me and members of the House where the Commission got the money to keep on going?

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

Mr. RACINE: Mr. Speaker, Ladies and Gentlemen of the House: I will respond to that question; however, I would also like to clarify a point which may have been misleading when the Representative from Bangor asked me if

they were operating at a deficit and I nodded my head. As you probably realize, the fees are generated from licenses and the licenses become due during the month of July, so this is when the revenues for the current year are picked up. What they do in the meantime is, the Real Estate Commission borrowed \$30,000 from the contingency fund to continue their operation until the license fees will be generated in the month of July. I hope that answers your question.

The SPEAKER Pro Tem: The Chair recognizes the gentleman from Fairfield, Mr. Gwadnosky.

Mr. GWADOSKY: Mr. Speaker, Ladies and Gentlemen of the House: This has been quite a different evening so far tonight. It is always a lot of fun to be able to kick around an occupational group, especially when it is a fee increase. I get a real kick out of a lot of people who have been opposing this bill who never turned up at the public hearing or the workshops. I wouldn't think of questioning something that came out of the Transportation Committee after the end of two or three months of working, I would be the last person to stand up and question that particular bill if I never bothered to go down and show my face to do a little work on that.

Let's talk about a few things. What are we talking about today? My seatmate just happened to remind me that there is something like 20 legislators here who are involved in real estate, either in the House or the other body. The thought just crossed my mind that if we don't fund this bill today and we kill the commission, I guess we could probably all end up being realtors and maybe that would be a start right there for us all. It would help out our summer employment.

Let's talk about something really serious for a minute. Whenever an occupational group comes before the Committee on Business Legislation, an occupational group that is licensed under the Department of Business Regulation, when it comes before our committee for the purposes of relicensing, raising fees, or continuing education, we always take a very hard look at those committees to find out what the functions of those committees are of that particular board or agency, what activities they do. We ask them directly, is this an attempt to close the door in your profession? It is quite a red herring to stand up here and say that they are just trying to close the door and keep everybody out of their profession. We asked this at the public hearing, we are conscious of this. We have different occupational groups involved here. There is no one on our committee that wants to see a group of people monopolizing a profession.

We have somewhat of a different situation this year. Normally, when there is a fee increase, usually there is a majority of the members of their occupation who will support it, so here we are at our public hearing and when it came time for the association of realtors, which doesn't represent all the realtors but it represents 1700 of the some 7000, they took no position. On the committee we are scratching our heads and saying, what we going to give them a fee increase for if they don't even care if they get it or not. So we asked them in workshops, we asked them again and again, you aren't taking any position on this, so why should we care? Sooner or later, they began to hit us on the head as it became clearer and clearer. It has been a lousy two years for real estate, people aren't making any money and a lot of the realtors came up to us and said, well, we want a commission there but we don't think we can spend this much money for fees. It is just too much money, we just don't feel right about it, but they still wouldn't oppose it because there is some stigma, I guess, about opposing your real estate commission. I don't understand what that is but for some reason they wouldn't oppose it.

So my seatmate, Representative Racine, came up with a proposal that would knock \$70,000 off their request. It would reduce the number of employees from 7 to 5 in the commission on the basis that if real estate is so bad, they don't have enough stuff to do, well, now there is fewer of them to do that work. Later on, if real estate does do better, if interest rates do go down and they need more employees, they can hire them. They would have the ability but they would have to get the money first.

So we still find ourselves with, why should we care? Even after he presented this amended version, the Association of Realtors came up to us and said, we take no position on this bill. So there was serious consideration in the committee, let's let the commission go to pieces, let's just let it dissolve, and if we don't approve this fee increase bill, that is what it will do.

I can't speak for other members of the committee. I don't care how anybody votes on this bill, but the only reason I am voting for this bill is because if the commission is dissolved, there would be no enforcing and everybody could be a realtor and I am a little concerned about that.

I have some neighbors at home that are great neighbors and super friends but I don't want them selling me a house, nor would they like to purchase a house from me. I suspect.

If we want to put the cart before the horse, whatever you want to do is fine with me. I am going to support this bill because I think there should be some enforcement in there and I think if the commission is dissolved, there would be no sense in having a study anyway, there would be nothing to study. So if we are going to give them interim funding until next January and have a study, I think that is the thing to do. I think to indefinitely postpone this bill is really inappropriate at this time.

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

Mr. KELLEHER: Mr. Speaker, Ladies and Gentlemen of the House: Just for general information, I always thought that this body was an extension of any of the committees that exist between the House and the other body dealing with any business that comes before them concerning the people of Maine. If my good friend from Fairfield doesn't understand that, then he has got a lesson in government, I am sure, that he will soon learn because all we are as individuals is extensions of every other committee that exists in this government.

I think that we, in terms of improving the process, raise questions legitimately on the floor of this House or in the other body whether we are pro or con on an issue.

I would like to see a statute in this state that says you can borrow from one biennium to another.

The Real Estate Commission obviously has some financial problems and there is no question that the dust will not be settled here tonight, although I don't think there is any doubt in my mind what the results will be on this bill. I think the legislature as a whole will be putting that commission on notice, or any other board or commission, that they are dissatisfied with that type of arrogance in running any board or commission of this state.

I wholeheartedly support Mr. Joyce's position and Mr. Carrier's, whether they agree with the reasons from the good gentleman from Fairfield or not, and I would urge this House to do just that. We will be sending a message out this evening that a great many people won't be forgetting in the future.

The SPEAKER Pro Tem: The Chair recognizes the gentleman from Lewiston, Mr. Jalburt.

Mr. JALBERT: Mr. Speaker and Members of the House: I am sorry that I had the audacity to stick my nose into a piece of legislation that concerns this body and my people at home, and I assure you that I shall continue to do so al-

though I strive, particularly on something like this, not to do so because of the fact that the money bills are coming up.

I heard another reason by the young man from Fairfield as to why they needed some money. In answer to your question, there is no way that I could see whereby they could get this money outside of getting it out of the special revenue account. I don't want to eliminate the Real Estate Commission, and I am sure the commission will show that it is needed, and certainly will show somewhere along the line where the special revenue money went to, it went somewhere. It just didn't fall out of the air somewhere.

I would suggest to my good friend from Fairfield that he has learned how to be a Speaker pro tem very very well. Now he had better start on some other lessons, and if he needs some of those, just drop over here and I will give him an education for free and I'll give him one he will never forget.

I hope that you support Mr. Carrier because he is right. I do not want to harm the Maine Real Estate Commission, but they have been running their own show the way they have wanted to run it. They have been setting up their own rules. I have been asked by people who were studying to get real estate commissions to go to a meeting and fight their instructor and I had two members of the Real Estate Commission who met with me that night and they voted overwhelmingly in my favor. I talked about a study then, Mr. Brannigan: it has been long coming. I don't want to eliminate the commission at all. If they need some money, I would like to see them get it right, the way Mr. Carroll suggests.

I would like to ask any member of the Appropriations Committee or leadership if they ever saw a transfer of money from the Liquor Commission. They get copies of those orders because they act on them, and I am sure the answer would be no.

There has been more reasons given in the last three quarters of an hour as to why we should support the position of Mr. Carrier than I have seen given here since any bill was started. And I don't get up too often on legislation but I fully intended to go to work on this little baby. I thought that people wanted to go home this afternoon, but apparently we are going to have our good evening meal here and it is perfectly all right with me. I am ready now; I have gone beyond starvation, so I would like to vote, but I am against this bill and I am going to stand fast.

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

Mr. BRANNIGAN: Mr. Speaker Men and Women of the House: I would just like to put a couple things very succinctly at least on the record if for no other reason and that is that, first of all, dedicated revenue, must be run on dedicated revenue and it comes in, as has been said, only once a year, most of it, and so when you don't have a lot of money ahead, as has happened, and I will try to get to that in a minute, then there has been borrowing from the contingency fund, which I believe is up to our Governor to use, to keep this commission going.

Now, should it go or shouldn't it go, I don't know, but as Mr. Perkins said, the commissioner feels he has the responsibility to run the commission as the statutes require, to do the work that it requires. It was his judgment that it should continue at the level that it has been going. In order to do that, he had to do a small amount of borrowing against future revenue, then he had to lay off. There were four people, if my understanding is correct, now laid off, are on leave, and they will continue to be if we go the way things seem to be going here tonight. The commission will practically be out of business.

It is the decision and the judgment of our

committee at this time that that commission should continue to carry out its statutory obligations. And to do that, we have to have at least this increase in order that we could maintain it at five people.

The study has been discussed; that would come in the future. But we believe that we should keep it, it is our responsibility to take care of our statutory requirements, but, fortunately, it is not totally up to us. It will be up to this body and the other body and the two bodies together to make that decision. I just wanted to make that clear.

Lastly, why have they gotten into this projected deficit position. That is, as I understand it, because, as Mr. Carroll has said, many have dropped out. How much because of education, I don't know.

I would just remind you that the bill last year was to continue continuing education for a couple more years, or not to abolish it when it had only been started for one year.

Each one of those commissions, boards, bureaus has to pay the increased cost of salaries for their people, has to pay the increased cost of heat. This is what is called so-called state cap—use of the computer, it is my understanding that that is the reason that they have been in this projected deficit position. Therefore, I would ask you, it is the position of the committee, at this point to keep this group funded at this low rate until we are able to look and either do away with it or continue it and fund it this way or some other way.

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

Mr. CARROLL: Mr. Speaker, Ladies and Gentlemen of the House: It seems every time I rise in this House to speak, I have to apologize for what I say afterwards, but I am not going to apologize right now. I would like to point out to you that in 1978 personnel services cost \$78,263. In 1982, it cost \$145,000. I am going to let my remarks stand.

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

Mr. RACINE: Mr. Speaker, Ladies and Gentlemen of the House: There has been much debate here, and before we vote on this, I want to make sure that we know where we stand, and if you vote for indefinite postponement, what you are doing is you are abolishing the Real Estate Commission.

The Real Estate Commission is serving a useful purpose. It is protecting the consumer from unethical sales. It is also protecting the buyers and the sellers—these are the words I was trying to get at. In 1981, 78 percent of the complaints that were processed by the Real Estate Commission pertained to complaints received from buyers and sellers. In 1980, 88 percent of the complaints came from the buyers and the sellers. Some of these complaints that were received resulted in the real estate agents reimbursing the seller on the basis that the broker had misrepresented some of the aspects pertaining to a particular sale. One of the sellers was reimbursed in the amount of a particular sale. One of the sellers was reimbursed in the amount of \$6,300 for insulation—that's not peanuts.

A complaint from the Cape Elizabeth area was received in April of 1981, and the result was a reimbursement estimated at \$9,000. This complaint was on the basis that the real estate broker had misrepresented the size of the lot by 16 percent.

If you vote for the motion that is on the floor to indefinitely postpone, you are abolishing an agency that was set up to protect the consumer. If this is what you want, even though I sponsored the bill, I will live by it, but that is what you will be doing. You will be killing the Real Estate Commission, because the real estate study that we are requesting will be too late.

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

Mr. CARRIER: Mr. Speaker and Members of the House: I expect everybody to stick to the truth, and I think whatever statement is made here is made truthfully, but they can be erroneous.

If you vote to kill this bill, you are not killing the Real Estate Commission. If that was so, I would not suggest that we indefinitely postpone the bill. I think we do need the commission, I think we need a new kind of thinking there. I think we need an explanation as to why they have got themselves in this situation.

Most people say, where does the money come from? Well, if the money doesn't come from anywhere else, the present money that they are in the hole for, if they are, then they can go down to the Governor's Office and hit that contingency fund and the slush funds that he has down there, and I will go along with them and help them to get to the fund if they want me to.

I respect the good intentions of the members of the committees and all the others that disagree with us on this because I think in general all of us want to do what is best. I think that we do need a commission. The number, that's another thing, but we do need an efficient commission. I am not saying they are not efficient, but there is something somewhere that we don't know and we are not given the facts here. I just want to say to you that a study of this thing, a very fast study, if there is an emergency, the leadership always has ways somehow or other to maneuver something from some place, underneath and over, so we can get the money for them.

I submit to you that this is not a good bill as is and that we should kill it right now and kill it for good.

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

ROLL CALL

YEA—Austin, Berube, Boisvert, Brown, D.; Brown, K.L.; Carrier, Carroll, Carter, Conary, Conners, Crowley, Cunningham, Curtis, Damren, Davis, Drinkwater, Dudley, Gillis, Hunter, Jackson, P.C.; Jacques, Jalbert, Joyce, Kelleher, Lancaster, LaPlante, Lewis, Lisnik, Locke, Mahany, Masterman, McGowan, McHenry, McSweeney, Michael, Michaud, Nelson, A.; O'Rourke, Paradis, E.; Paul, Perry, Peterson, Pines, Post, Randall, Reeves, J.; Ridley, Salsbury, Smith, C.B.; Smith, C.W.; Stevenson, Studley, Swazey, Tarbell, Treadwell, Tuttle.

NAY—Aloupis, Baker, Beaulieu, Bell, Benoit, Bordeaux, Boyce, Brannigan, Brennerman, Brodeur, Cahill, Callahan, Chonko, Clark, Connolly, Cox, Davies, Day, Diamond, G.W.; Diamond, J.N.; Dillenback, Erwin, Fitzgerald, Foster, Gavett, Gowen, Gwadosky, Hall, Hanson, Hayden, Hickey, Higgins, L.M.; Hobins, Holloway, Ingraham, Jackson, P.T.; Jordan, Kany, Ketover, Kiesman, Kilcoyne, Livesay, Lund, MacBride, MacEachern, Manning, Martin, H.C.; Masterton, Matthews, McCollier, McPherson, Mitchell, E.H.; Moholland, Murphy, Nadeau, Nelson, M.; Norton, Paradis, P.; Pearson, Perkins, Pouliot, Racine, Reeves, P.; Richard, Rolde, Sherburne, Small, Soulas, Soule, Stover, Strout, Telow, Theriault, Thompson, Twitchell, Vose, Walker, Webster, Wentworth, Weymouth.

ABSENT—Armstrong, Brown, A.; Dexter, Fowlie, Higgins, H.C.; Huber, Hutchings, Kane, Laverriere, Macomber, Martin, A.; Mitchell, J.; Roberts, Willey, The Speaker.

Yes, 56; No, 80; Absent, 15.

The SPEAKER Pro Tem: Fifty-six having voted in the affirmative and eighty in the negative, with fifteen being absent, the motion does not prevail.

Thereupon, the Report was accepted and the Bill read once. Committee Amendment "A" (H-612) was read by the Clerk and adopted and the Bill assigned for second reading tomorrow.

At this point, Speaker Martin returned to the rostrum.

The SPEAKER: The Chair thanks the gentleman from Auburn, Mr. Boyce, for acting as Speaker Pro Tem.

Thereupon, Speaker Martin resumed the Chair and Representative Boyce returned to his seat on the floor.

Passed to be Engrossed Amended Bill

Bill "An Act Amending the Charter of the Boothbay-Boothbay Harbor Community School District" (Emergency) (H. P. 1902) (L. D. 1887) (C. "A" H-611)

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

On motion of Mrs. Holloway of Edgecomb, the House reconsidered its action whereby Committee Amendment "A" (H-611) was adopted.

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

House Amendment "A" to Committee Amendment "A" (H-618) was read by the clerk and adopted.

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

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

Second Reader Tabled and Assigned

Bill "An Act to Require the Towing of Unauthorized Vehicles from Parking Areas Designated for Handicapped Persons' Vehicles" (H. P. 1819) (L. D. 1804) (C. "A" H-613)

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

On motion of Mr. Carroll of Limerick, tabled pending passage to be engrossed as amended and specially assigned for Wednesday, March 3.

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

Petitions, Bills and Resolves Requiring Reference

Bill "An Act to Eliminate Discrimination in Cases of Prostitution" (H. P. 2121) (Presented by Representative Baker of Portland) (Approved for introduction by a Majority of the Legislative Council pursuant to Joint Rule 27)

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

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

Passed to be Enacted Emergency Measure

An Act to Amend the Maine Traveler Information Services Act (H. P. 1907) (L. D. 1882) (C. "A" H-598)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure and two-thirds vote of all the members elected to the House being necessary, a total was taken. 111 voted in favor of the same and none against, and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

Passed to be Enacted

An Act to Adjust the Fees for Licenses Issued by the Arborist Examining Board (S. P. 739) (L. D. 1724) (C. "A" S-388)

An Act to Establish Directional Signs at Exit 8 of the Maine Turnpike for St. Joseph's College, the University of Southern Maine and Westbrook College (S. P. 771) (L. D. 1821) (C.

"A" S-389)

An Act Relating to the Terms of the Public Utilities Commissioners (S. P. 812) (L. D. 1908)

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

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

Passed to be Enacted

An Act Relating to Control of Nuisance Wildlife (H. P. 1722) (L. D. 1707)

An Act to Define Open Firearm Season on Deer (H. P. 1723) (L. D. 1708)

An Act to Protect Maine Milk Producers from Abrupt Loss of Markets (H. P. 1726) (L. D. 1711) (C. "A" H-601)

An Act to Amend Certain Provisions of the Elevator Laws (H. P. 1732) (L. D. 1717) (C. "A" H-602)

An Act to Provide for Withdrawal of Certain Lands from the Spruce Budworm Suppression Program (H. P. 1750) (L. D. 1740) (C. "A" H-604)

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

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

Passed to be Enacted

An Act to Establish a Uniform Hunting Season for Raccoons (H. P. 1775) (L. D. 1765)

An Act Concerning the Preservation of Archaeological Sites (H. P. 1840) (L. D. 1854) (C. "A" H-603)

An Act to Remove the Interstate Business Exemption from the Unfair Trade Practices Act (H. P. 1920) (L. D. 1902)

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

Bill Held

Bill, "An Act Amending the Code of Fair Practices and Affirmative Action" (S. P. 886) (L. D. 2032)

—In House, Referred to the Committee on State Government in concurrence on February 26.

HELD at the request of Representative Kany of Waterville.

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

Mrs. KANY: Mr. Speaker, I move that we reconsider whereby this Bill was referred to the Committee on State Government.

The SPEAKER: The gentlewoman from Waterville, Mrs. Kany, moves that we reconsider our action whereby this Bill was referred to the Committee on State Government.

The gentlewoman may proceed.

Mrs. KANY: Mr. Speaker, I wish to pose a question to the Chair. There is an appropriation on this bill, and I would like to know if it is the policy of this body to send appropriation bills to the Appropriations Committee?

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

Mr. KELLEHER: Mr. Speaker, Ladies and Gentlemen of the House: I think the obvious answer to that question is no, because a great many bills go to a great many committees in here that have price tags on them and as we all know, if we understand the process at all, they generally end up on the appropriations table until the final determination is made on what we have available for funds.

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

Mr. DIAMOND: Mr. Speaker and Members of the House: Rarely do I disagree with my good friend from Waterville, Mrs. Kany, and

rarely do I side with the Appropriations Committee. Rarely do the majority of the members of the State Government Committee and the majority of the Appropriations Committee agree on anything, but on this particular issue, we do.

My good friend Mrs. Kany has a point that she is trying to make dealing with the reference of bills to committee. I think we are all aware of that and respect the point she is trying to make. However, this particular bill very clearly deals with the State Government Committee's responsibilities and it is something that members of the Appropriations Committee and members of the State Government Committee have discussed in full. A majority of both committees feel that the State Government Committee should retain this bill, should deal with the policy issues involved, which are basically affirmative action policies of the state, and as a result, both agreed that any motion dealing with reconsideration should be defeated.

I would ask you to vote against the motion of the gentlewoman from Waterville, Mrs. Kany, join with the majority of both committees, and for once let's have a united front on this.

I would ask for a division on this, Mr. Speaker.

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

Mrs. KANY: Mr. Speaker, may I pose a question through the Chair to any member of the Appropriations Committee? Would you like this bill?

The SPEAKER: The gentlewoman from Waterville, Mrs. Kany, has posed a question through the Chair to any member of the Appropriations Committee who may care to answer.

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

Mr. JALBERT: Mr. Speaker and Members of the House: On several occasions in the past year, I have congratulated the hard work that the gentlewoman from Waterville has been doing. She spends almost five days a week here every week, never has put in for a dime for any work that she has done here. On this issue, however, I know exactly what she is trying to do, and as one member of the Appropriations Committee, I think in fairly good standing, I can see her coming from to heck and back.

If you lose something, you lose gracefully, Mrs. Kany, but don't try to put a trig in the wheels after that loss has been incurred.

Everybody in this House knows exactly what the situation is on this thing here. This involves some policy. If it involved a straight appropriations act, I am sure the chairman of this committee would be on his feet, table it, and he would put it where it belongs, right with the Appropriations Committee.

I agree that this bill involves policy. This bill should go to the State Government Committee, and I agree with my young friend from Bangor, Mr. Diamond.

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

Mrs. POST: Mr. Speaker, I move the previous question.

The SPEAKER: For the Chair to entertain a motion for the previous question, it must have the expressed desire of one third of the members present and voting. All those in favor of the previous question will vote yes; those opposed will vote no.

A vote of the House was taken, and more than one third of the members present having voted for the previous question, the question now before the House is, shall the main question be put now.

All those in favor of the main question being put now will vote yes; those opposed will vote no. This is debatable for five minutes by any one member.

A vote of the House was taken.

73 having voted in the affirmative and 25 having voted in the negative, the main question

was ordered.

Thereupon, Mrs. Kany of Waterville requested permission to withdraw her motion to reconsider, which was granted.

(Off Record Remarks)

On motion of Mr. Jalbert of Lewiston,
Adjourned until nine-thirty tomorrow morning.