

# 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 29, 1982

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

Prayer by Sister Pauline Fournier, S.C.I.M., Holy Cross Parish, Lewiston.

The members stood during the playing of the National Anthem by the Mt. View High School Band. Thorndike.

The journal of the previous session was read and approved.

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

Report of the Committee on Judiciary reporting "Leave to Withdraw" on Bill "An Act Clarifying the Laws Governing Bail in Murder Cases" (S. P. 791) (L. D. 1867)

Came from the Senate with the Report read and accepted.

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

### Ought to Pass with Committee Amendment

Report of the Committee on Agriculture reporting "Ought to Pass" as amended by Committee Amendment "A" (S-424) on Bill "An Act Relating to Harness Racing at Agricultural Fairs, the State Stipend and Pari-mutuel Pools" (Emergency) (S. P. 864) (L. D. 2006)

Came from the Senate with the Report read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (S-424)

In the House, the Report was read and accepted in concurrence and the Bill read once. Committee Amendment "A" (S-424) was read by the Clerk.

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

Mrs. POST: Mr. Speaker, I would ask if Committee Amendment "A" is germane?

The SPEAKER: This matter will be tabled pending a ruling of the Chair.

### Non-Concurrent Matter

Bill "An Act to Amend the Child Support Laws" (H. P. 2184) (L. D. 2070) which was passed to be engrossed as amended by House Amendment "A" (H-671) in the House on March 25, 1982.

Came from the Senate passed to be engrossed in non-concurrence.

In the House: The House voted to recede and concur. (Later Reconsidered)

### Messages and Documents

The following Communication:

#### Committee on Fisheries and Wildlife

March 25, 1982

The Honorable John L. Martin

Speaker of the House

State House

Augusta, Maine 04333

Dear Speaker Martin:

The Committee on Fisheries and Wildlife is pleased to report that it has completed all business placed before it by the second regular session of the 110th Legislature.

Total number of bills received	11
Unanimous reports	10
Ought to Pass	3
Ought Not to Pass	1
Leave to Withdraw	2
Ought to Pass as Amended	3
Ought to Pass as Amended	
New Title/New Draft	1
Divided Report	1

Respectfully submitted,  
S/ANDREW J. REDMOND

Senate Chairman

S/ROBERT A. MacEACHERN

House Chairman

The Communication was read and ordered placed on file.

### Special Sentiment Calendar

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

The East Auburn Lakers: Dave Burgess; Bill Saucier; Verne Paradie; Norm Gove; Dave Carlmark; Glen Burgess; Hop Faunce; and Arnie Burgess, winners of the Mens' "A" Volleyball Championship; (S. P. 952)

Staci Burgess, of Edward Little High School, Auburn, winner of the All-Around Individual Championship for Women in State Gymnastics; (S. P. 953)

June M. Prosser, daughter of Richard E. and Melinda G. Prosser, of Cundy's Harbor, who placed first in the Maine Voice of Democracy Competition sponsored by the Veterans' of Foreign Wars; (S. P. 954)

Clarence W. Collins, of Freeport, for his outstanding dedication and commitment for over 60 years to the "Collins Campaign for Highway Safety" in Maine and across the Nation; (S. P. 955)

Ed Genther, of Clare's Thirsty Dolphin in Brunswick, who has been named the "Ugliest Bartender in Maine" by the Maine Chapter of the National Multiple Sclerosis Society for 1982; (S. P. 956)

The JNB, for winning the South Portland Open League Basketball Championship for 1981-82; (S. P. 959)

Curt Lovill, of Gardiner, the only Lion in New England ever to be installed as President of Lions International; (S. P. 968)

There being no objections, these items were considered passed in concurrence.

### House Reports of Committees

#### Ought to Pass in New Draft/New Title

Representative CARTER from the Committee on Appropriations and Financial Affairs on Bill "An Act Enabling the State Planning Office to Administer the Community Development Block Grant Program" (Emergency) (H. P. 2085) (L. D. 2027) reporting "Ought to Pass" in New Draft under New Title Bill "An Act Making Appropriations, Authorizations and Allocations Enabling the State Planning Office to Administer the Small Cities Program Community Development Block Grant (Emergency) (H. P. 2263) (L. D. 2027)

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

### Consent Calendar First Day

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

(H. P. 1821) (L. D. 1806) Bill "An Act Relative to the Theft of Utility Services" — Committee on Judiciary reporting "Ought to Pass" as amended by Committee Amendment "A" (H-692)

No objections having been noted, under suspension of the rules, the above item was given Consent Calendar Second Day notification.

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

Thereupon, the Report was accepted and the Bill read once. Committee Amendment "A" (H-692) was read by the Clerk.

On motion of Mr. McHenry of Madawaska, tabled pending adoption of Committee Amendment "A" and later today assigned.

### Second Reader

#### Later Today Assigned

Bill "An Act Relating to Periodic Justification of Departments and Agencies of State Government under the Maine Sunset Law" (Emergency) (H. P. 2239) (L. D. 2098)

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

On motion of Mrs. Berube of Lewiston,

tabled pending passage to be engrossed and later today assigned.

### Passed to Be Enacted Emergency Measure

An Act to Impelment the Single Trial Law (S. P. 814) (L. D. 1910) (C. "A" S-428)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure and a two-thirds vote of all the members elected to the House being necessary, a total was taken, 137 voted in favor of same and none against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

### Emergency Measures Tabled Unassigned

RESOLVE for Laying of the County Taxes and Authorizing Expenditures of Penobscot County for the Year 1982 (H. P. 2231) (L. D. 2090)

Was reported by the Committee of Engrossed bills as truly and strictly engrossed.

On motion of Mrs. Mitchell of Vassalboro, tabled unassigned pending final passage.

### Tabled Unassigned

RESOLVE, for Laying of the County Taxes and Authorizing Expenditures of Hancock County for the Year 1982 (H. P. 2230) (L. D. 2088)

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

On motion of Mrs. Mitchell of Vassalboro, tabled unassigned pending final passage.

### Tabled Unassigned

RESOLVE, for Laying of the County Taxes and Authorizing Expenditures of Knox County for the Year 1982 (H. P. 2229) (L. D. 2087)

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

On motion of Mrs. Mitchell of Vassalboro, tabled unassigned pending final passage.

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

Thereupon, Representative Gwadosky assumed the Chair as Speaker pro tem and Speaker Martin retired from the hall.

### Passed to Be Enacted

An Act to Require Reporting of Abuse of Elderly or Incapacitated Adults (S. P. 779) (L. D. 1847) (S. "A" S-433 to C. "A" S-414)

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

The SPEAKER pro tem: The Chair recognizes the gentlewoman from Portland, Mrs. Nelson.

Mrs. NELSON: Mr. Speaker, Men and Women of the House: There was some minor, not really debate, discussion about this bill earlier and there was some confusion as to what the bill really does, and because it is so important and because it was ultimately a unanimous decision of the committee, I thought it best to simply put down on the record exactly what this bill does do.

It requires that professionals, while acting in their professional capacity, report suspected cases of abuse, neglect or exploitation of incapacitated adults to the Department of Human Services, Adult Protective Services.

Incapacitated adult means any adult who is impaired by reason of mental illness, mental deficiency, physical illness or disability to the extent that he lacks sufficient understanding or capacity to make or communicate responsible decisions concerning his person, or to the extent that the adult cannot effectively manage or apply his estate to necessary ends.

It provides for optional reporting by any person, including professionals, who knows or has reasonable cause to suspect that an incapa-

citated or dependent adult has been abused, neglected or exploited.

It provides immunity for liability to both the professionals who are mandated to report and anyone who reports suspected abused, neglect or exploitation if the report was made in good faith. It requires that a professional who fails to report while acting in a professional capacity will, in addition to being fined \$500, be reported by the court to the appropriate professional licensing registration board, accrediting unit, or facility for appropriate action.

The bill focuses on a vulnerable segment of the population incapacitated or dependent elderly and adults. This group needs protection by the state if suspected abuse is occurring.

We are not encouraging interference with healthy elderly lives. This bill extends protection to incapacitated, elderly and adults now provided to children and this is sound public policy.

This bill requires that the Department of Human Services to inform professional groups and boards of their responsibilities. It also requires the department to conduct a public information campaign on the purposes of the bill upon enactment.

This was a unanimous report ultimately, and I thank you for its passage.

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

An Act Authorizing Husson College to Confer a Degree of Bachelor Science in Nursing (S. P. 786) (L. D. 1851) (C. "A" S-410)

An Act to Provide State Funding for Literacy Volunteers (S. P. 847) (L. D. 1982) (C. "A" S-434)

An Act to Authorize Municipalities to Establish and Maintain Employment Offices (S. P. 860) (L. D. 1993) (C. "A" S-431)

An Act to Allow the Chairman of the Public Utilities Commission to Make Sure that a Commission Member is Present at Certain Hearings (H. P. 1755) (L. D. 1745) (C. "A" H-673)

An Act Concerning the On-site Storage of Spent Nuclear Fuel (H. P. 1928) (L. D. 1911)

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.

On motion by Mr. Dillenback of Cumberland, the House reconsidered its action whereby An Act Concerning the On-site Storage of Spent Nuclear Fuel, House Paper 1928, L. D. 1911, was passed to be enacted.

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

Mr. DILLENBACK: Mr. Speaker, Ladies and Gentlemen of the House: I will probably be the lone voice in this House today to object to a bill concerning on-site storage of spent nuclear fuel rods.

The purpose of this bill is to pressure the federal government to make a timely and diligent effort to establish a permanent waste disposal site. I think this is one of the most ridiculous bills that I have ever seen, and it is true that I have only been here on my first term, but we are such a busy body, we have so much important work to do, that we have a bill come into this body that takes 10 years to become effective.

These spent rods which are stored there, we are going to force the federal government to do something about it within 10 years. I have more faith in the federal government; I think the federal government will do something within 10 years.

The low level radiation we have coming from our hospitals and other forms are being shipped presently down to North Carolina where they are buried in the ground for 300 years and then they are supposed to dissipate. After 1986, you

will no longer be able to do that and you will then have to store your wastes either in a group of states in our local area or within the state of Maine. I wonder what is going to happen when we do this.

This bill was put out perhaps to appease some people or make them feel a little better about us. This is an election year, and I think it is unfortunate that we prostitute our position for a few votes because some people are upset with storage of nuclear rods at Wiscasset. I wonder how the people in Limestone feel—there are probably nuclear bombs stored up there.

This is a bill that was let into this legislature by leadership. I am more upset with leadership to allow a bill like this to come in. It doesn't do anything for us and I doubt that it will help those who are voting on this.

I didn't want this bill to go through under the mallet. Can you imagine out of this whole group of 151 people that not one voice was raised in regard to a bill such as this? I am not going to ask for a vote but I just wanted it on record that I think this is a terrible, ridiculous bill for the people of Maine to vote on.

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

Mrs. KANY: Mr. Speaker, Ladies and Gentlemen of the House: I also am not planning on making a motion either way on this bill but wanted to put something on the record and it is simply this that if the Maine Legislature chooses to pass this bill, that it would not indicate to Congress that we support legislation pending before Congress at this time which would call for off-site temporary storage facilities. I certainly would hope that Congress does not enact such legislation because it merely hinders that important search for permanent storage facilities off site.

The SPEAKER Pro Tem: The Chair recognizes the gentleman from Brunswick, Mr. Livesay.

Mr. LIVESAY: Mr. Speaker, Ladies and Gentlemen of the House: I am not really sure where to begin. Generally speaking, I find Representative Dillenback's statements informative if not enlightening, but on this occasion, I sort of wish that Mr. Dillenback would go jump in a spent fuel rod pool.

There are certain concerns and issues that create problems of a national scope and occasionally these types of problems lend themselves to solutions fashioned at the federal level. The construction maintenance and operation of nuclear generating facilities and the disposal of high-level radioactive wastes that these facilities generate are such problems and, quite logically, the federal government has determined that it exclusively will fashion the guidelines and the regulations that pertain to the nuclear generating industry. In other words, the federal government has pre-empted this field. Whenever the government pre-empt a field such as this, along with that pre-emption, I think, goes additional obligations and duties, and it is the federal government's failure to meet these obligations that they have taken upon themselves that has prompted this legislation.

This bill, in effect, serves as a prod. Basically, it gives the federal government 10 years to fashion the solution to the permanent disposal of high-level radioactive waste. This 10 year time frame, I have been told, is a reasonable period of time. I obtained this information from Peter Bradford, recently resigned Commissioner of the NRC.

Representative Dillenback suggests that this bill really does nothing. Well, members of this House, no one that I am aware of questions that spent fuel rods pose as health and welfare problem for the citizens of our state, and as elected Representatives, we are obligated to address such issues. The failure to do so, to be silent, would be to acquiesce in a negligent federal

policy. To do nothing, I believe, would be to lose by default.

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

Mr. DAVIES: Mr. Speaker, Ladies and Gentlemen of the House: I think this issue is of extreme importance. The issue of nuclear power has become widely discussed in the State of Maine. I think our constituents are entitled to know how we feel on this matter; therefore, I request a roll call.

The SPEAKER Pro Tem: The Chair recognizes the gentleman from Auburn, Mr. Michael.

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

Mr. Racine of Biddeford requested a division.

The SPEAKER Pro Tem: The Chair recognizes the gentleman from Auburn, Mr. Michael.

Mr. MICHAEL: Mr. Speaker, with the information that the roll call machine is now working, I now withdraw my motion to table this item until later in today's session.

The SPEAKER Pro Tem: The gentleman from Auburn, Mr. Michael, has withdrawn his motion to table.

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

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

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

#### ROLL CALL

YEA—Aloupis, Armstrong, Baker, Beaulieu, Bell, Benoit, Berube, Boisvert, Bordeaux, Brannigan, Brennerman, Brodeur, Brown, A.; Brown, K.L.; Cahill, Carroll, Chonko, Clark, Conary, Conners, Connolly, Cox, Crowley, Curtis, Damren, Davies, Davis, Diamond, G.W.; Diamond, J.N.; Drinkwater, Erwin, Fitzgerald, Foster, Fowlie, Gavett, Gowen, Gwadosky, Hall, Hanson, Hickey, Higgins, H.C.; Higgins, L.M.; Hobbins, Holloway, Huber, Ingraham, Jackson, P.T.; Jacques, Jalburt, Jordan, Joyce Kane, Kany, Kelleher, Ketover, Kilcoyne, LaPlante, Laverriere, Lewis, Lisnik, Livesay, Locke, Lund, MacBride, MacEachern, Macomber, Mahany, Manning, Martin, A.; Martin, H.C.; Masterman, Master-ton, Matthews, McColister, McGowan, McHenry, McPherson, McSweeney, Michael, Mitchell, E.H.; Mitchell, J.; Moholland, Murphy, Nadeau, Nelson, M.; Norton, O'Rourke, Paradis, E.; Paradis, P.; Paul, Pearson, Perry, Pines, Post, Pouliot, Randall, Reeves, P.; Richard, Ridley, Roberts, Rolde, Salsbury, Small, Smith, C.B.; Soule, Stevenson, Stover, Strout, Swazey, Tarbell, Telow, Theriault, Thompson, Treadwell, Vose, Walker, Webster, Weymouth.

NAY—Austin, Brown, D.; Callahan, Carrier, Carter, Cunningham, Day, Dillenback, Dudley, Gillis, Hunter, Hutchings, Jackson, P.C.; Kiesenman, Lancaster, McPherson, Michaud, Nelson, A.; Perkins, Peterson, Racine, Reeves, J.; Sherburne, Smith, C.W.; Studley, Twitchell, Wentworth, Willey.

ABSENT—Boyce, Dexter, Hayden, Soulas, Tuttle, The Speaker.

Yes, 117; No, 28; Absent, 6.

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

Signed by the Speaker, and sent to the Senate.

An Act to Revise the Greater Portland

Public Development Commission (H. P. 1970) (L. D. 1945) (C. "A" H-676)

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

#### Later Today Assigned

An Act to Create a State Set-aside System for Petroleum Products (H. P. 2088) (L. D. 2022) (H. "A" H-674)

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

#### Later Today Assigned

An Act to Create a State Set-aside System for Petroleum Products (H. P. 2088) (L. D. 2022) (H. "A" H-674)

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

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

Mr. DAVIES: Mr. Speaker, Ladies and Gentlemen of the House: I view this bill as a bill wherein government is inching itself back into controlling of petroleum products, and I understand in talking with some committee members that their reasoning for promoting such a bill is that they feel some of our folks out in the hinterlands might be left without products during a time of shortage. However, I feel that when we start pushing government back into the act, we are making a big mistake and it could lead to further proliferation of government activities in our free enterprise system.

As we drive down Western Avenue to the State House lately, I think we can see, as a result of the gasoline signs, the fuel oil signs, that we are doing much better price-wise by leaving them alone. I just feel that this could be the start of some interference that we really don't need.

I do oppose this bill and I would ask for a roll call.

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

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

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

#### ROLL CALL

YEA—Baker, Beaulieu, Benoit, Boisvert, Boyce, Brannigan, Brennerman, Brodeur, Carroll, Carter, Chonko, Connolly, Cox, Crowley, Davies, Diamond, G.W.; Diamond, J.N.; Erwin, Fitzgerald, Fowlie, Gillis, Gowen, Hayden, Hickey, Higgins, H.C.; Hobbins, Huber, Jacques, Joyce, Kane, Kany, Kelleher, Ketover, Kiesman, Kilcoyne, LaPlante, Lisnik, Locke, Manning, Martin, A.; Martin, H.C.; McCollister, McHenry, McSweeney, Michael, Michaud, Mitchell, E.H.; Mitchell, J.; Murphy, Nadeau, Nelson, M.; Paradis, P.; Pearson, Perry, Pines, Post, Pouliot, Racine, Reeves, P.; Richard, Roberts, Rolde, Smith, C.B.; Soulas, Soule, Swazey, Telow, Thompson.

NAY—Aloupis, Armstrong, Austin, Bell, Berube, Bordeaux, Brown, A.; Brown, D.; Brown, K.L.; Cahill, Callahan, Carrier, Clark, Conary, Connors, Cunningham, Curtis, Damren, Davis, Day, Dillenback, Drinkwater, Dudley, Foster, Gavett, Hall, Hanson, Higgins, L.M.; Holloway, Hunter, Hutchings, Ingraham, Jackson, P.T.; Jackson, P.C.; Jalbert, Jordan, Lancaster, Laverriere, Lewis, Live-say, Lund, MacBride, MacEachern, Macomber, Mahany, Masterman, Masterton, Matthews, McGowan, McPherson, Moholland,

Nelson, A.; Norton, O'Rourke, Paradis, E.; Paul, Perkins, Peterson, Randall, Reeves, J.; Ridley, Salsubry, Sherburne, Small, Smith, C.W.; Stevenson, Stover, Strout, Studley, Tarbell, Theriault, Treadwell, Twitchell, Vose, Walker, Webster, Wentworth, Weymouth, Willey.

ABSENT—Dexter, Gwadosky, Tuttle, The Speaker.

Yes, 68; No, 79; Absent, 4.

The SPEAKER Pro Tem: Sixty-eight having voted in the affirmative and seventy-nine in the negative, with four being absent, the Bill failed of enactment.

Mr. Hall of Sangerville moved that the House reconsider its action whereby the Bill failed of enactment.

On motion of the same gentleman, tabled pending his motion to reconsider and later today assigned.

An Act to Clarify and Make Corrections in the Inland Fisheries and Wildlife Laws (H. P. 2200) (L. D. 2079) (H. "A" H-670)

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

An Act to Amend the Banking Code Regarding the Investment and Lending Powers of Thrift Institutions and Regarding Service Corporations (S. P. 942) (L. D. 2083)

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

The SPEAKER Pro Tem: The Chair recognizes the gentleman from Auburn, Mr. Brodeur.

Mr. BRODEUR: Mr. Speaker, I would like to pose a question through the Chair. Could somebody explain this bill and tell us why it should be passed?

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

Mr. JACKSON: Mr. Speaker, Ladies and Gentlemen of the House: The bill is in a redraft form; actually, it is a brand new bill that came out of the committee. The changes between the original bill and the new bill are very small.

I see two particular areas. It allows the cash limitation, the loan limitation, it raises it from 30 percent to 40 percent that can be put into non-home loans for savings banks. The second thing is that it allows banks to invest more into real estate and shopping centers and this type of thing, where before when a mortgage went bad or something, they might take over this and they now can go out and actually purchase into it. This deals strictly with savings, savings and loans, that type of thing, those are the two areas. It has nothing to do with the banking bill that is coming along.

It is a response, basically, to the problems that the savings banks are having in competing in the market and their struggle to stay alive at this point. I feel that it is a good piece of legislation.

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

An Act to Amend the Certification Process for Admission into Public Mental Retardation Institutions and to Clarify the Jurisdiction of the District Court (H. P. 2228) (L. D. 2086)

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

#### Orders of the Day

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

An Act to Revise the Education Laws (Emergency) (S. P. 897) (L. D. 2042)

Tabled—March 26 by Representative Diamond of Windham.

Pending—Motion of Representative Connolly

of Portland to Reconsider Failing of Passage to be Enacted.

Thereupon, the House reconsidered its action whereby the Bill failed of passage to be enacted.

On motion of Mr. Connolly of Portland, the Bill was recommitted to the Committee on Education in non-concurrence and sent up for concurrence.

By unanimous consent, ordered sent forthwith to the Senate.

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

An Act Relating to the Compensation of Public Utilities' Commissioners (H. P. 1921) (L. D. 1903) (C. "A" H-626)

—In House, Failed of Passage to be Enacted on March 11.

—In Senate, Passed to be Enacted in non-concurrence.

Tabled—March 26 by Representative Davies of Orono.

Pending—Further Consideration.

The SPEAKER Pro Tem: The Chair recognizes the gentlewoman from Pittston, Mrs. Reeves.

Mrs. REEVES: Mr. Speaker, I move that the House Adhere.

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

Mr. DAVIES: Mr. Speaker, I move that the House insist and ask for a Committee of Conference.

The SPEAKER Pro Tem: The Chair recognizes the gentlewoman from Pittston, Mrs. Reeves.

Mrs. REEVES: Mr. Speaker, Ladies and Gentlemen of the House: I hope that you will vote against the motion to insist. The House has already voted decisively to kill this bill twice. We believe that a raise for the PUC Commissioners is not appropriate at this time. The State Government Committee has admitted that they made a mistake when they put out this bill attaching PUC Commissioners' salaries to judges without realizing that we had passed a bill at the same time raising judges' salaries.

The administrative problem of PUC salaries and other problems with the PUC can be properly addressed in the next legislature, and I would like us to vote against insisting in order to adhere and kill this bill.

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

Mr. DAVIES: Mr. Speaker and Members of the House: The reason why I asked for the motion to insist and ask for a Committee of Conference is so that we may have some consideration of the point that Mrs. Reeves has just raised about tying the salary increases to that of judges. I think that is not a good idea and I think most of the people in the House would agree that that is not a good idea.

However, if we are going to do anything about that, the appropriate place to do that right now would be in a Committee of Conference. Those of you who understand the rules on Committees of Conference, the people who will be named on the part of the House will not be myself, will not be members of the State Government Committee that reported this out, but in fact those people who were on the prevailing side of the motion, which was the failure of passage, that will be the side of Mrs. Reeves, Mr. Connolly, Miss Lewis, so the Representatives of the House will have been those people who have taken the position against the bill in its current form. I would assume that they will carry out their responsibilities in a Committee of Conference in such a way that they will lay out to the members of the other body their feelings and their concerns and I certainly would trust them to do a reasonable and responsible job.

I would ask the members of the House to go along with this motion to allow those people

who oppose this bill in its current form to have an opportunity to meet with members of the other body and try and resolve some kind of compromise and if, in fact, they can't, the bill will die.

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

Miss LEWIS: Mr. Speaker, Ladies and Gentlemen of the House: The only reason to vote for a Committee of Conference today would be to give the PUC Commissioners a pay raise, and I think the members of this body have shown on several occasions that we do not believe a pay raise for these commissioners is appropriate at this time.

I would like to review for you briefly some of the reasons why we should not give the PUC Commissioners a pay raise in this legislature. First of all, working people in this State of Maine, including state employees, are going without pay raises and have done so for several years. Why should we give high salaried people in the \$20,000 and \$30,000 a year bracket pay raises when ordinary working people aren't getting those pay raises?

Secondly, I would like to remind you all that we did give the PUC Commissioners a pay raise last year. Do we really need to give these people a pay raise every single year or is one pay raise every two years appropriate? That seems to be what working people in this state are doing.

I would also like to remind you that there is a great deal of dissatisfaction with the present PUC Commissioners. This morning in this body we enacted a bill to force PUC Commissioners to attend hearings. They weren't attending those hearings. I think that they should be attending those hearings not because there is a law telling them to but because it is their job.

There is a great deal of dissatisfaction with the PUC Commissioners in my district and I suppose there is in your districts as well. There was a referendum on this issue, and although the people rejected the idea of an elected PUC to solve the problems of the PUC, the people certainly made it clear that they were upset with the current PUC.

For example, the gentleman from Mechanic Falls can tell you about a telephone problem that has been going on for ten or so years. The PUC is refusing to deal with that problem because it is only affecting a few people in a small town in Oxford County. Other people can tell you about situations in which a bus company suggested its fares be a certain rate that they think the people can afford and yet the PUC told them they have to make the bus fares ten cents more than that and the bus company knows that this will hurt working people in our state.

The PUC seems to be getting into management problems that they shouldn't be getting into. Perhaps we will get some new commissioners. In fact, the only argument that anybody has given me that seems to be a decent argument in order to pass a pay raise is in order to get better people. But I would like to point out to you, ladies and gentlemen of the House, that all of us are working for \$7,000 for two years and I hope that that doesn't mean that is all we are worth. In other words, you can get good people no matter what you pay because good people are interested in public service.

For all of these reasons, I hope you vote against the motion to insist and ask for a Committee of Conference so that we can adhere to our former position, and I would ask for a roll call.

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

Mrs. KANY: Mr. Speaker, Members of the House: There are many of us in the House who do not even like to see this bill before us. Probably Representative Davies and I feel the strongest about that. The only reason we are in-

terested in pursuing this at all is because we feel it is the responsible thing to do.

I would like to point out that the original bill, which was submitted by the administration, actually all it basically did was to remove a step from the law. I think it is the result of the action taken by this legislature which is directly opposed to how we usually treat our major policymakers.

We have, with our regular major policymakers throughout government, our commissioners and other people with great responsibility, we put them in separate sections of the law and we put them in a specific range according to their responsibilities. There are steps within those ranges. However, the Public Utility Commissioners are the only major policymakers in state government where we have actually written not only what range into that portion of the law but also the step. I just thought I would point that out to you.

It is totally up to you what you do on this, but I thought you should know what the existing law is and I do think that Representative Davies, who is the House Chairman of the Public Utilities Committee, make a good point when he pointed out that those of us who have voted for a bill will not be on any Committee of Conference, so those of you who have had problems will be able to address those there.

I urge you to go along with Representative Davies' motion.

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

Mr. CONNOLLY: Mr. Speaker, Members of the House: I have not debated this bill up to this point but since my name was mentioned this morning as one of the potential members of this supposed Committee of Conference, I would just like to tell you how I feel about it.

I have seen the compromise version that would be presented were this bill ever to make it to the Committee of Conference and that, to me, is no more acceptable than the bill when it was originally presented and or the bill as it came out of committee. I think we ought to do this bill justice and kill it now, once and for all.

I would hope that you would vote against the motion and then vote to adhere.

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

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

The SPEAKER Pro Tem: The pending question before the House is on the motion of the gentleman from Orono, Mr. Davies, that the House insist and ask for a Committee of Conference. Those in favor will vote yes; those opposed will vote no.

#### ROLL CALL

YEA—Beaulieu, Bell, Benoit, Bordeaux, Brannigan, Brennerman, Conary, Cox, Davies, Diamond, G.W.; Diamond, J.N.; Dillenback, Fowlie, Gillis, Hall, Hayden, Hickey, Hobbins, Huber, Kane, Kany, Kiesman, Kilcoyne, LaPlante, Livesay, Lund, Manning, Martin, H.C.; Masterton, McGowan; Mitchell, E.H.; Mitchell, J.; Nadeau, Nelson, M.; Norton, O'Rourke, Paradis, E.; Paradis, P.; Paul, Pearson, Post, Richard, Ridley, Roberts, Rolde, Soule, Swazey, Vose, Weymouth.

NAY—Aloupis, Armstrong, Austin, Baker, Berube, Boisvert, Boyce, Brodeur, Brown, A.; Brown, D.; Brown, K.L.; Cahill, Callahan, Carrier, Carroll, Carter, Chonko, Clark, Connors, Connolly, Crowley, Cunningham, Curtis, Damren, Davis, Day, Drinkwater, Dudley, Erwin, Fitzgerald, Foster, Gavett, Gowen, Hanson, Higgins, H.C.; Higgins, L.M.; Holloway, Hunter, Hutchings, Ingraham, Jackson, P.T.; Jackson, P.C.; Jacques, Jalbert, Jordan,

Joyce, Ketover, Lancaster, Laverriere, Lewis, Lisnik, Locke, MacBride, MacEachern, Macomber, Mahany, Martin, A.; Masterman, Matthews, McCollister, McHenry, McPherson, McSweeney, Michael, Michaud, Moholland, Murphy, Nelson, A.; Perkins, Perry, Peterson, Pines, Pouliot, Racine, Randall, Reeves, J.; Reeves, P.; Salsbury, Sherburne, Small, Smith, C.B.; Smith, C.W.; Soulas, Stevenson, Stover, Strout, Studley, Tarbell, Telow, Theriault, Thompson, Treadwell, Twitchell, Walker, Wentworth, Willey.

ABSENT—Dexter, Gwadosky, Kelleher, Tuttle, Webster, The Speaker.

Yes, 49; No, 96; Absent, 6.

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

Thereupon, the House voted to adhere.

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

SENATE DIVIDED REPORT—Report "A" (10) "Ought to Pass" as amended by Committee Amendment "A" (S-426) — Report "B" (2) "Ought Not to Pass" — Report "C" (1) "Ought to Pass" as amended by Committee Amendment "B" (S-427) — Committee on Judiciary on Bill, "An Act to Establish a Small Claims Court" (S. P. 743) (L. D. 1746) — In Senate, Report "A" read and accepted and the Bill Passed to be Engrossed as amended by Committee Amendment "A" (S-426) as amended by Senate Amendment "A" (S-435) thereto.

Tabled—March 26 by Representative Benoit of South Portland.

Pending—Motion of the same gentlewoman to Accept Report "A".

The SPEAKER Pro Tem: The Chair recognizes the gentlewoman from South Portland, Ms. Benoit.

Ms. BENOIT: Mr. Speaker, Men and Women of the House: There was some sort of a mixup in committee on this bill. Some of us feel that, for whatever reason, we signed the wrong report and there were errors made on the part of several of us. Now I would like to withdraw my motion to accept Report A and then move that we accept the "Ought to Pass" Report C. I believe another member of the committee will explain the report.

The SPEAKER Pro Tem: The gentlewoman from South Portland, Ms. Benoit withdraws her motion to accept Report A.

The Chair recognizes the gentleman from Brunswick, Mr. Livesay.

Mr. LIVESAY: Mr. Speaker, Ladies and Gentlemen of the House: The confusion that existed last week I think occurred as a result of the committee having available Report A and Report C for signing when Report B wasn't available. Report C differs very little from Report A. The only difference was that Report C contained four words "where the transaction occurred." Those four words relate to venue, which means that the court in which a plaintiff could bring an action, by including where the transaction occurred in the bill, that would enable a plaintiff to bring his small claims action in the district where in fact the contract was entered into. So by way of example, if I bought an automobile from Representative Drinkwater up in his district court area and I had failed to make payments on that purchase, he could bring action in the court where he resides as opposed to having to chase me in the Brunswick district court.

It is my feeling and I think the feeling of others on the committee that when you are dealing with small claims, you are dealing with small amounts of money. If you make it too inconvenient for that plaintiff, who has a just debt owed, he may very well just shrug his shoulders and give up. Our feeling was that small businessmen and individuals shouldn't have to chase debtors all around the state in order to collect their money, so I would urge

you to go with the motion and adopt Report C.

The SPEAKER pro tem: The chair recognizes the gentlewoman from Vassalboro, Mrs. Mitchell.

Mrs. MITCHELL: Mr. Speaker, I would like to pose a question through the Chair to the gentleman from Brunswick, Mr. Livesay. In posing this question, I would like to reflect for a minute on trying to understand this bill. The words that Mr. Livesay has described, there were only four little words, are extremely important "where the transaction occurs." It is my understanding that approximately 80 to 85 percent of the claims brought in small claims court are not who you would think, they are not small individual people but rather they are businesses doing collection work. It is true that if you can't bring the case where the transaction occurred, that the business, for example, does have another recourse, they do not have to use small claims court. It is my understanding that they can use another court as well, so they are not really denied access.

How do you address a credit card issue? If the credit card is issued in Augusta and the individual lives in Aroostook County for example, where does the transaction occur? How does that fit into the scenario of where this person may bring his action or where the individual may do the collection?

The SPEAKER Pro Tem: The gentlewoman from Vassalboro, Mrs. Mitchell, has posed a series of question to the gentleman from Brunswick, Mr. Livesay, who may respond if he so desires.

The Chair recognizes the gentleman.

Mr. LIVESAY: Availability of courts hinges on a couple of things, one, proximity — convenience in terms of travel, but availability also hinges on amounts of money involved. The alternative that Representative Mitchell has suggested was Superior Court, I believe, and Superior Court almost always and almost invariably involves representation by an attorney. That costs money, and if you are dealing with small claims, amounts of less than \$1,000 and quite often \$100 or \$200, those sorts of claims make no sense to engage an attorney. In fact, I think you would have a hard time finding an attorney that would be willing to take on that sort of a case. It is not just a question of geography in terms of availability, it is the question of money amounts involved. Small claims is the logical way for an individual to proceed when he doesn't have a great deal at stake but nonetheless has some monies owed him.

The present small claims statute has language in it which says that the plaintiff can bring an action in the district where the cause of action accrues. I have some reservations with that and that is the reason that I opted for this "where the transaction occurred." Those reservations, I think, deal in large part with the predicament that Representative Mitchell was describing.

Another example that I think is somewhat along the lines of the credit card would involve the large commercial banks that process the bulk of its loans into a central location which may be far removed from the branch bank where the loan originally originated. By changing the wording from "where the cause of action accrued" to "where the transaction occurred," we are creating the scenario where that bank, instead of asserting its claim in the district court in Bangor as opposed to in Lincoln, where actually the branch bank originated the loan, we are creating a situation where that bank would have to process that claim in the district court in the Lincoln area, so we are protecting that small debtor from having, in fact, to chase himself around to the large creditor that isn't so seriously inconvenienced by having to do a little footwork on his own.

In a sense, it is a compromise between the present law and a law that would be totally defendant oriented.

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

Mr. CARRIER: Mr. Speaker, Ladies and Gentlemen of the House: I wish to take a minute to explain what has happened here. Much to my surprise, I didn't even know that we had a Committee Report C.

As you can see by the report, Report B, "Ought Not to Pass" where people signed it and that was Mr. Livesay and myself and the reason was because Mr. Livesay wanted to put that section that he just talked about and of course I have an amendment to put on too. In the meantime, I had an amendment drawn to Committee Amendment A, which the other body has accepted. So as it is, if we accept Report C, which I am in favor of, that is okay, but I want to mention to the Speaker that I don't want a second reading on this right now because I have to change the amendment from Report A to Report C, if we do accept that.

Thereupon, Report C was accepted and the Bill read once. Committee Amendment "B" (S-427) was read by the Clerk and adopted and the Bill assigned for Second Reading later in today's session.

#### Bill Held

Bill, "An Act Concerning the Regulation of Atlantic Salmon" (Emergency) (H. P. 2256) (L. D. 2104)

— In House, Passed to be Engrossed on March 26.

Held at the request of Representative Peterson of Caribou.

On motion of Mr. Peterson of Caribou, the House reconsidered its action whereby the Bill was passed to be engrossed.

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

House Amendment "A" (H-694) was read by the Clerk.

Mr. PETERSON: Mr. Speaker, Ladies and Gentlemen of the House: This is a very short amendment. It raises the permit fee for residents from \$4 to \$10. This is on the Atlantic Salmon Bill. The Statement of Fact on the amendment, which is H-649 - this amendment increases the fee for an Atlantic Salmon permit from \$4 to \$10. This increase in funds better provides for wardens and other services related to the activity. I realize that this is an emergency bill and I know that we may have some fun with it down in the other body, but if they don't accept this amendment, we can always recede and concur.

I would ask for a division.

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

Mr. FOWLIE: Mr. Speaker, Ladies and Gentlemen of the House: I move indefinite postponement of House Amendment "A".

The SPEAKER Pro Tem: The gentleman from Rockland, Mr. Fowlie, moves that House Amendment "A" be indefinitely postponed.

Mr. FOWLIE: Mr. Speaker, Men and Women of the House: This bill was reported out of Committee on Marine Resources with a unanimous report. The proposed amendment presented by Mr. Peterson was discussed thoroughly within the committee.

The committee felt an increase in the fee for an Atlantic Salmon permit from \$1 to \$4 was sufficient and, again, the committee felt that going from \$1 to \$10 was too much of a jump in one year.

I hope the House will indefinitely postpone the amendment.

The SPEAKER Pro Tem: The Chair recognizes the gentlewoman from Woolwich, Mrs. Cahill.

Mrs. CAHILL: Mr. Speaker, Men and Women of the House: I would go along with Representative Fowlie and ask you to support the indefinite postponement of this amend-

ment.

As you may or may not know, the Committee on Marine Resources tries very hard to put all their bills out unanimous. This bill, the Atlantic Salmon bill, represented a lot of hard work on the committee. We studied this last September and through the fall months and this, we feel, is the best possible legislation.

We have increased the fees from \$1 to \$4. We feel that that is an adequate increase, and I would ask the House to go along with the indefinite postponement of this amendment.

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

Mr. PETERSON: Mr. Speaker and Members of the House: I am not fighting that committee's work, I appreciate what they are trying to do. I know that anybody who fishes Atlantic salmon will not object to a permit fee of \$10. If you have got to go elsewhere to fish, you would pay \$25 a day for the same thing.

The SPEAKER Pro Tem: The pending question is on the motion of the gentleman from Rockland, Mr. Fowlie, that House Amendment "A" be indefinitely postponed. All those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

Whereupon, Mr. Peterson of Caribou requested a roll call vote.

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

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

The SPEAKER: The pending question is on the motion of the gentleman from Rockland, Mr. Fowlie, that House Amendment "A" (H-694) be indefinitely postponed. All those in favor will vote yes; those opposed will vote no.

#### ROLL CALL

YEA—Aloupis, Armstrong, Baker, Beaulieu, Bell, Benoit, Berube, Boisvert, Bordeaux, Boyce, Brannigan, Brenerman, Brodeur, Brown, A.; Brown, D.; Cahill, Carrier, Carroll, Chonko, Clark, Conary, Connors, Cox, Crowley, Curtis, Davies, Day, Dexter, Diamond, G.W.; Diamond, J.N.; Dillenback, Drinkwater, Dudley, Erwin, Fitzgerald, Foster, Fowlie, Gavett, Gowen, Hanson, Hickey, Higgins, H.C.; Higgins, L.M.; Hobbins, Holloway, Huber, Hunter, Hutchings, Jackson, P.T.; Jackson, P.C.; Jacques, Jalbert, Jordan, Joyce, Kane, Kany, Ketover, Kilcoyne, Lancaster, LaPlante, Lewis, Lisnik, Livesay, Locke, Lund, Macomber, Mahany, Manning, Masterman, Masterton, McHenry, McPherson, McSweeney, Michaud, Mitchell, E.H.; Mitchell, J.; Murphy, Nadeau, Nelson, M.; Norton, O'Rourke, Paradis, E.; Paradis, P.; Paul, Perkins, Perry, Post, Pouliot, Racine, Randall, Reeves, J.; Reeves, P.; Richard, Ridley, Roberts, Rolde, Salsbury, Small, Smith, C.B.; Stevenson, Stover, Strout, Studley, Swazey, Telow, Theriault, Thompson, Treadwell, Twitchell, Vose, Webster, Wentworth, Willey.

NAY—Austin, Brown, K.L.; Callahan, Carter, Connolly, Cunningham, Damren, Davis, Gillis, Hall, Ingraham, Kelleher, Kiesman, MacBride, MacEachern, Martin, A.; Martin, H.C.; Matthews, McCollister, McGowan, Michael, Moholland, Nelson, A.; Pearson, Peterson, Pines, Sherburne, Smith, C.W.; Soulas, Soule, Tarbell, Walker, Weymouth.

ABSENT—Gwadodsky, Hayden, Laverriere, Tuttle, The Speaker.

Yes, 113; No, 33; Absent, 5.

The SPEAKER Pro Tem: One hundred thirteen having voted in the affirmative and thirty-three in the negative, with five being absent, the motion does prevail.

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



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

Mr. CARRIER: Mr. Speaker, on L.D. 2070, this was passed rather fast under the hammer and I got caught in the middle.

I move that we reconsider our action whereby we voted to recede and concur.

The SPEAKER Pro Tem: The gentleman from Westbrook, Mr. Carrier, moves that the House reconsider its action of earlier in the day whereby it voted to recede and concur on bill "An Act to Amend the Child Support Laws," House Paper 2184 (L. D. 2070)

The gentleman may proceed.

Mr. CARRIER: Mr. Speaker, Ladies and Gentlemen of the House: This bill was before us last week. The bill has some merit. I put in an amendment last week, H-671, and what the department is trying to do and yet I am told it is not so, but the fact is that the bill shows different and last week I put in the amendment which said that they should serve notice, all notices, by registered mail or certified mail.

The other body had already accepted Senate Amendment "A" and that was all right, but mine was added on about registered mail and certified mail. I believe the people of this state are entitled to that. I think whether you are the defendant or the plaintiff, you are entitled to proper notice, and I don't buy the suggestion that it is so expensive that the courts cannot afford it, or any other department. As a matter of fact, ladies and gentlemen, if you do go and there is a charge, and I would think that the judge, if it goes that far, at his own discretion has the right to either charge the plaintiff or defendant, so I don't see where the department has anything to do with actually wondering what we are going to do with the thousand dollars or so they say.

I do believe that as a matter of proper notice, we should have certified and registered mail to the defendant or to the plaintiff on all notices.

They say that this is in the bill; it is not in the bill, and actually there is nothing said about it. I do wish to say to you, if you do look at the bill, the statement of fact, section 10, the last section in the bill itself, and just to show you how errors pop up, actually the bill has no section 10, but under the statement of fact it clearly says that the Department of Human Services shall mail notices of administrative review by regular mail rather than registered or certified mail. I don't think that this is proper. I don't think that anybody should lose their rights, which can be by default or any other way, because the department doesn't want to spend an extra 75 cents to send it certified mail.

Last week, I presented an amendment which said that all notices would have to be mailed by registered or certified mail. This House voted in favor of that, it went to the other body and they rejected it and stuck with their version of the thing. This is why I have moved to reconsider our action whereby we receded and concurred, and I hope that you will support my motion.

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

Mr. HICKEY: Mr. Speaker and Members of the House: I would like to rise in support of Representative Carrier's motion. Ordinary mail can often be misdelivered. If it is a registered or certified piece of mail, it has to be signed for by the individual receiving it, and that is a proper record to return to the court.

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

Mr. HOBBS: Mr. Speaker, Men and Women of the House: When this amendment was put on the bill, many members of the committee did not object when the good gentleman offered this amendment. My concern is that a comprehensive review of the child support enforcement laws could find itself in severe trouble if it gets caught in between the bodies in

non-concurrence.

I will go along with reconsideration if the good gentleman would allow me to make the motion to insist and ask for a committee of conference. That way, we can put the bill in a posture of deciding what the best route would be and hopefully both parties can agree.

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 hope that we would support Mr. Carrier's motion and heed the remarks of Mr. Hickey this morning. I don't think we should inject in debate here deals about what this House will do with the other body. I totally disagree with that type of debate, have ever since I have been here and never attempted myself to use that kind of pressure on this House.

I think the amendment that was presented by Mr. Carrier last week was clearly understood by this body, and what this house or the other house may do will have to come after we reconsider, if the House is willing to do that.

I would hope that we would hold firm this morning on the action that we took here last week and reconsider our action at the request of the good gentleman from Westbrook, Mr. Carrier.

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

Ms. BENOIT: Mr. Speaker, Men and Women of the House: I don't want to belabor this because I am not sure that it is all that important, but it is my understanding, and I would like to be corrected if I am wrong but I was told this by the department, this particular section in which some people would like to have registered or certified mail is in response to a request that had been made by a member of the public. A member of the public has come to the department and has asked for a hearing. It would seem to me that if I had gone to any department or anywhere and asked for a hearing, I would expect to receive something in the mail and would be looking for it. Therefore, I guess I don't understand the need for certified or registered mail. If I didn't receive an answer within a certain amount of time, I think that I would call the department or anyone else and say - where's the response? That is my understanding of what this refers to, and if that is correct, I just don't see the need for registered or certified mail. It will save \$800 to \$1000. I suppose this is not a lot of money, but anything saved is better than nothing. I stand to be corrected.

The SPEAKER Pro Tem: The Chair recognizes the gentleman from Windham, Mr. Diamond.

Mr. DIAMOND: Mr. Speaker, Men and Women of the House: The gentleman from Augusta, Mr. Hickey, has made a very good point. Being a mailman, he knows some of the problems that the mail does have. I know if you have a post office box in a post office that you can walk to and pick up the mail, that is one thing, but if you have to rely on five or six different changes of hands, from one person to the next, until it finally gets into someone's mailbox, I think we are talking about a serious issue here and I think the gentleman from Westbrook, Mr. Carrier, has pointed it out quite well. And as the gentleman from Bangor, Mr. Kelleher, has said, we certainly did make our point known last week and I would hope we would stick with that.

The SPEAKER Pro Tem: The Chair will order a vote. The pending question is on the motion of the gentleman from Westbrook, Mr. Carrier, that the House reconsider its action whereby it voted to recede and concur. All those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

92 having voted in the affirmative and 8 having voted in the negative, the motion to re-

consider did prevail.

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

Mr. KELLEHER: Mr. Speaker and Members of the House: I would urge you to vote against the motion to recede and concur.

The SPEAKER Pro Tem: The pending question is on the motion to recede and concur. All those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

12 having voted in the affirmative and 90 having voted in the negative, the motion did not prevail.

Thereupon, on motion of Mr. Carrier of Westbrook, the House voted to adhere.

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

#### Emergency Measure Later Today Assigned

An Act to Clarify the Procedure for Budget Meetings (H. P. 1730) (L. D. 1715) (C. "A" H-686)

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

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

#### Passed to Be Enacted Emergency Measure

An Act Relating to Emergency Closure of contaminated Shellfish Areas (H. P. 1734) (L. D. 1719) (C. "A" H-680)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure and a two-thirds vote of all the members elected to the House being necessary, a total was taken. 127 voted in favor of same and none against, and accordingly the Bill was passed to be enacted signed by the Speaker and sent to the Senate.

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

#### Passed to Be Enacted Emergency Measures

An Act Relating to State Entitlement of Certain School Administrative Districts (H. P. 1984) (L. D. 1956) (C. "A" H-685)

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

An Act Relating to the Closing of State Liquor Stores in Communities with One Store (H. P. 1996) (L. D. 1972) (C. "A" H-641)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure and a two-thirds vote of all the members elected to the House being necessary, a total was taken. 122 voted in favor of same and 9 against, and accordingly the Bill was passed to be enacted signed by the Speaker and sent to the Senate. (Later Reconsidered)

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

#### Passed to Be Enacted

An Act Concerning Need Under the School Lunch Program (H. P. 1774) (L. D. 1764) (C. "A" H-684)

An Act to Provide Retired Teachers, State Employees and Beneficiaries with a Cost-of-living Increase (H. P. 1891) (L. D. 1877) (C. "A" H-679)

An Act to Promote Local Control of Hazard-



ous Waste Facilities (H. P. 2014) (L. D. 1984) (H. "A" H-677)

An Act to Revise the Military Laws of the State (H. P. 2072) (L. D. 2020) (C. "A" H-678)

An Act to Indentify Freshwater Wetlands (H. P. 2236) (L. D. 2094)

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.

#### Later Today Assigned

An Act to Provide for the Direct Election of Community School District School Committees (H. P. 2237) (L. D. 2095)

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

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

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

The following Communication:

**State of Maine  
Department of Audit  
State House Station 66  
Augusta, Maine 04333**

March 22, 1982

To Governor Joseph E. Brennan and members of the one hundred and tenth legislature

In compliance with statutory requirements, I submit herewith the 62nd Annual Report of the State Auditor for the fiscal year ended June 30, 1981.

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

Based on the scope of our examination, it is our opinion that, except for the exclusion of certain trust and operating fund transactions and balances recorded and controlled locally by State agencies and not reflected herein, the financial position and operating results of the various State Departments, Agencies, Boards, etc., of the State of Maine for the fiscal year ended June 30, 1981 has been fairly presented in conformity and with generally accepted accounting principles applied on a consistent basis.

Statements and schedules pertaining to the financial position of the various operating funds of the State of Maine at June 30, 1981 may be found in the Annual Report of the State Controller.

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

Respectfully submitted,  
S/GEORGE J. RAINVILLE  
State Auditor

The Communication was read and ordered placed on file.

By unanimous consent, unless previous notice was given to the Clerk of the House by some member of his or her intention to move reconsideration, the Clerk was authorized today to send to the Senate, thirty minutes after the House recessed for lunch and also thirty minutes after the House adjourned for the day, all matters passed to be engrossed in concurrence and all matters that required

Senate concurrence; and that after such matters had been so sent to the Senate by the Clerk, no motion to reconsider would be allowed.

The SPEAKER Pro Tem: The Chair recognizes the gentleman from Winslow, Mr. Carter.

Mr. CARTER: Mr. Speaker, I move that we reconsider our action of earlier in the day whereby An Act Relating to the Closing of State Liquor Stores in Communities with One Store, House Paper 1996, L. D. 1972, was passed to be enacted.

On motion of the same gentleman, tabled pending his motion to reconsider and later today assigned.

#### (Off Record Remarks)

On motion of Mr. Pouliot of Lewiston,  
Recessed until three o'clock in the afternoon.

#### After Recess 3:00 p.m.

The House was called to order by the Speaker.

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

#### Divided Report

Majority Report of the Committee on Education on Bill "An Act to Provide an In-State Practice Option as a Loan Forgiveness Factor of the Osteopathic Student Loan Program" (H. P. 1749) (L. D. 1739) reporting "Ought to Pass" as amended by Committee Amendment "A" (H-693)

Report was signed by the following members:

Senators:

TROTZKY of Penobscot

PIERCE of Kennebec

—of the Senate.

Representatives:

MURPHY of Kennebec

GOWEN of Standish

LOCKE of Sebec

THERIAULT of Fort Kent

ROLDE of York

—of the House.

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

Report was signed by the following members:

Senator:

CLARK of Cumberland

—of the Senate.

Representatives

THOMPSON of South Portland

MATTHEWS of Caribou

CONNOLLY of Portland

BROWN of Gorham

BROWN of Livermore Falls

—of the House.

Reports were read.

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

Mr. CONNOLLY: Mr. Speaker, I move acceptance of the Minority "Ought Not to Pass" Report.

The SPEAKER: The gentleman from Portland, Mr. Connolly, moves that the Minority "Ought Not to Pass" Report be accepted.

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

Mrs. KANY: Mr. Speaker, Ladies and Gentlemen of the House: Could we have the "ought to pass" report explained to us, please? And I would ask for a division on the pending motion.

The SPEAKER: The gentlewoman from Waterville, Mrs. Kany, has posed a question through the Chair to anyone who may care to answer.

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

Mr. CONNOLLY: Mr. Speaker and Members of the House: This legislation deals with what is called a forgiveness factor in the state's tuition loan program for osteopathic students.

tion loan program for osteopathic students.

Right now, there is a tuition loan program for those residents of the State of Maine who choose to pursue a career or a study of osteopathic medicine and attend college in Biddeford at the New England college of Osteopathic Medicine. If this bill were to pass, it would say that those students who, after they have completed their studies, were to return to the State of Maine and serve, as the committee amendment suggests, in an underserved area, that the money they have borrowed would be forgiven them. The position of several members of the committee was that that concept should not be incorporated into this particular program.

At the time of the hearing, there were several former students now osteopathic doctors who came and testified in support of the bill, but when they were asked by members of the committee whether or not forgiveness of their loans made any difference as to whether or not they would practice in the State of Maine, they said no, that regardless of whether their loans were forgiven or not, the decision for them to stay in Maine and practice had no bearing on the forgiveness feature.

I would also point out that there was a measure similar to this but much more comprehensive that was before the Appropriations Committee earlier this session, and as I understand the position of the Appropriations Committee, there were additional monies provided so that more people could take advantage of the loan program, but they also felt that the forgiveness feature is something that should not be incorporated into the osteopathic program. I would just suspect that if this bill were ever to make its way to the Appropriations Table, knowing the sentiment of the Appropriations Committee, that it would probably die there, but maybe you want to debate it.

The SPEAKER: The Chair recognizes the gentlewoman from South Portland, Ms. Thompson.

Ms. THOMPSON: Mr. Speaker, Men and Women of the House: I would just like to explain briefly why I signed the "ought not to pass" report.

I feel the decision is premature at this point to decide on whether forgiveness shall be allowed for tuition loans.

We currently have a committee that is composed of legislators, higher education personnel and State Department of Education people who are exploring procedures by which tuition loans will be set up in the absence of federal funds. Along with that legislation, next year we will be presented a bill that will deal with other professional shortage areas in the state.

I think it would be premature at this time to identify osteopathic students as those who should receive forgiveness for tuition loans. We should look at the broad picture of other professional shortage areas as well.

Also, during the testimony asking for tuition loan money, the 12 first-year students at the College of Osteopathic Medicine all testified saying that they would be very willing and very eager to obtain the tuition loan money and serve in underserved areas in the state while paying back the full cost of their tuition. What they need and asked for is access. They are not asking for forgiveness.

I would urge you to support the Minority "Ought Not to Pass" Report.

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

Mrs. BEAULIEU: Mr. Speaker, Ladies and Gentlemen of the House: When I agreed to sponsor the bill, it had a very simple and direct purpose and really what it was for was to restore what had been a proved successful program as an incentive for Maine residents studying osteopathic medicine to return to the state. Of the 53 Maine residents who had obtained loans for their professional education through the osteopathic student loan program, many of them were returning to the state, but

one of the reasons they were returning to the state was that there was a forgiveness factor and they were willing to serve in underserved areas.

That forgiveness factor activity was eliminated basically because they felt, well, we now have a school in the state and therefore it is probably not that needed, and it was to have been eliminated for everybody.

I understand some of the positions of the Education Committee on the issue, but I still feel that there was and has continued to be a proven record of responsibility and participation specifically by those students who were participating in the osteopathic program.

I guess I have two concerns, two questions, that I am not sure why the Education Committee did not choose to deal with. I found myself in the position this afternoon of going to ask for a fiscal note to be added to this bill, which is something that I think should have been done by the committee and put forward by them.

I am also confused, I would like to know if the compact students are offered a forgiveness factor as part of their program? I have an amendment before me and I have tried to trace it back and can't find whether that amendment that did provide the forgiveness factor was ever adopted by this body or if it was amended out of another program. So I would ask the chairman of the Education Committee or the Appropriations Committee to please respond to that.

I think it is a shame. The forgiveness factor most certainly has been an enormous addition to helping us get our students to serve in the State of Maine. The osteopathic loan program has been a successful program, a proven program, one that the students have been proud of. And yes, it is true, the students find themselves in the position today of having to opt to try to get the dollars to keep on going to school. That is their top priority and I don't blame them for making the choice of trying to get the money to continue their education as opposed to the forgiveness factor. But as far as I am concerned, when they get out of school and they are to be placed in an underserved area, they are going to need as much help at that point in time to stay in those areas as opposed to going to Portland, where they can make more money, and I feel that the forgiveness factor was not inappropriate.

I would like anybody to tell me where else they can buy the services of a fully qualified physician for potentially less than \$5,000 a year.

The SPEAKER: The gentlewoman from Portland, Mrs. Beaulieu, has posed a series of questions through the Chair to anyone who may care to answer.

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

Mr. PEARSON: Mr. Speaker, Ladies and Gentlemen of the House: This is a situation where we have two committees that had similar bills. In the Committee on Appropriations, we dealt with a measure dealing with forgiveness in the fields of veterinary medicine, dentistry and allopathic medicine—that is usually called M.D.'s.

We provided forgiveness for those particular areas, provided that they would come back in underserved areas. It is true, we did, and the reason we did it is because we have found historically that if we are going to get those doctors and dentists and veterinarians back to this state from colleges outside of this state, in New York or Pennsylvania or Massachusetts or wherever they may be, we have to find some kind of an inducement to get them back. So far, we have felt that that was a good financial investment to get a return on our dollar.

Almost any expert in the field will tell you that where a person does his residency or where he does the first part of his medical practice is usually where they will stay. If you take a person from a college in Maine and you

send them to the University of Vermont and they do their residency somewhere else, they often don't come back, and those are slot students. We buy a slot for them. However, when you are dealing with osteopathic medicine in a university here in Maine, in Biddeford, as a matter of fact, you are dealing with a whole new commodity. That person said to our committee, said to Education, told me repeatedly privately, those students from there, we don't want forgiveness, what we need is money. We need money in order for us to complete our studies here.

So what we did in our committee is, we doubled the amount of money that we had been providing them. We went from \$30,000 to \$60,000 for scholarships. We didn't deal with forgiveness because we found, at least most of us felt, that it wasn't necessary to deal with forgiveness because they do their education here in Maine, they are from Maine and it is not likely that they will want to go anywhere else anyway, and they told us they didn't want forgiveness.

I support the position of the chairman of the Education Committee that this "ought not to pass."

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

Mr. ROLDE: Mr. Speaker, I would like to pose a question through the Chair to the chairman of the Appropriations Committee. The question is, I may have misunderstood, I thought that the chairman of our committee had said that the Appropriations Committee had killed the forgiveness bills that were before it. I just understood the chairman of the Appropriations Committee to say something differently, and I would just like that point clarified.

The SPEAKER: The gentleman from York, Mr. Rolde, has posed a question through the Chair to the gentleman from Old Town, Mr. Pearson, and the Chair recognizes that gentleman.

Mr. PEARSON: Mr. Speaker, I think that maybe I am the inappropriate person to ask, but I did happen to be geographically located close to the Education chairman and he doesn't recollect saying that, so maybe it is just a misunderstanding.

Again, I would say that what we did in our committee was, we attempted to do exactly what the osteopathic students asked us to do the most, and that was to provide money and not forgiveness. I don't think you can do much more than do what they ask you to do.

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

Mrs. BEAULIEU: Mr. Speaker and Members of the House: Thank you to Representative Pearson for responding to the question that I raised over the forgiveness factor.

In my opinion, I think it is absolutely discriminatory not to offer the same provisions to the osteopathic medical student. First of all, the student that is in a compact is getting his training out of state, it is costing the state a heck of a lot more than the osteopathic student that is training in-state. I feel that if forgiveness can be offered to one group, it certainly should be offered to the other group, especially when we can document that the osteopathic student is the student who does return to the state, is the student that will locate in the areas, and I would challenge anybody to show me where the allopathic graduate and the veterinarians and what no, I would like to see that kind of documentation presented to me about their unusual willingness to serve in the underserved areas of our state. At least I am able to provide the documentation of what our osteopathic students have done traditionally.

And again I repeat—yes, the students have opted to try to gain the dollars to continue their education, and I don't blame them, that is critically important to them and they are willing to forfeit the other end of it. But I have been on

the Education Committee, I have been involved in education for many years and I say to you that if we really are concerned about holding on to our students, those who have proven their ability to participate with this state, that we need to consider both.

I, for one, am concerned about medical education for all students, and grateful that the Appropriations Committee has chosen to add \$30,000 to the loan program but, believe me, \$30,000 isn't going to go very far and certainly is not going to do a thing for them when they graduate and they have to start setting up their practices and their offices and repaying not only the state loan but the other loans these students have had to put together in order to continue going to school.

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

Miss ALOUPIS: Mr. Speaker, Ladies and Gentlemen of the House: I would just like to clarify a point. There is no discrimination as far as the forgiveness. That is for the slot, the slots that we buy for our children in out-of-state schools because we cannot provide the medical school for them within the State of Maine.

We are not forgiving them their tuition. They pay tuition every year. The only way that they will be forgiven is if they come back to the state, 20 percent per year for five years, but, just remember, they are not being forgiven their tuition. So, basically these two issues don't relate to each other as far as forgiveness.

What this bill is doing is saying 'forgiving tuition.' The other bill is not forgiving tuition. So if we are to treat all our children equally, we would not vote for this bill.

The SPEAKER: A vote has been requested. The pending question is on the motion of the gentleman from Portland, Mr. Connolly, that the Minority "Ought Not to Pass" Report be accepted. All those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

88 having voted in the affirmative and 12 having voted in the negative, the motion did prevail.

Sent up for concurrence.

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

#### Divided Report

Majority Report of the Committee on Education on Bill "An Act to Provide Flexibility with Respect to the School Entrance Age" (H. P. 1878) (L. D. 1871) reporting "Ought to Pass" as amended by Committee Amendment "A" (H-691)

Report was signed by the following members:

Senator

CLARK of Cumberland

—of the Senate.

Representatives:

MURPHY of Kennebunk  
GOWEN of Standish  
THERIAULT of Fort Kent  
LOCKE of Sebec  
ROLDE of York  
CONNOLLY of Portland

—of the House.

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

Report was signed by the following members:

Senators:

TROTZKY of Penobscot  
PIERCE of Kennebec

—of the Senate.

Representatives:

MATTHEWS of Caribou  
BROWN of Livermore Falls  
BROWN of Gorham  
THOMPSON of South Portland

—of the House.

Reports were read.

The SPEAKER: The Chair recognizes the

gentleman from Portland, Mr. Connolly.

Mr. CONNOLLY: Mr. Speaker, I move acceptance of the Majority "Ought to Pass" Report.

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

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

Mr. BROWN: Mr. Speaker, I would like to ask the Chair for a ruling as to the germaneness of Committee Amendment "A" to the bill.

The SPEAKER: The Chair would advise the gentleman that Committee Amendment "A" is not yet before us and therefore the Chair is not in a position to make a germaneness ruling.

The Chair recognizes the gentlewoman from South Portland, Ms. Thompson.

Ms. THOMPSON: Mr. Speaker, Men and Women of the House: I would like to speak against the Majority "Ought to Pass" Report and I would like to ask for your attention. I would like to explain the reasons why I voted against this amended report. I think they are very important if you consider the kids in your school systems.

First of all, the amendment to the bill says that for any community that has a kindergarten, the school and the parents will be allowed to decide that a kindergarten child shall be able to skip kindergarten. That has the effect of putting a child who should be in kindergarten into first grade rather than in kindergarten.

There is no reason, I believe, for the legislature to pass a bill that hurries along the already hurried child. The testimony before our committee was overwhelmingly against the bill and continues against the amended version.

Teachers, the association, the MTA, the MSMA, representing superintendents, principals, school board members, stated that there are no good reasons to hurry a child along, to force-feed a child into entering a school too early. The overwhelming concern is that children are hurried along too soon as it is.

Tests used to determine readiness for school entrance are not as valid for the very young child as they are for the older child. Intellectual maturity can be assessed accurately, but tests are not as valid in diagnosing emotional and social maturity. So for the child who by this bill will be allowed to skip kindergarten and enter first grade because he or she is smart enough, it is not always clear if that child is actually emotionally or socially mature enough.

Parents cannot assess what will be the case in the future, so here is where the teacher's testimony is very important.

We were told by teachers at the junior and senior high level that they see the problems when a child gets to junior and senior high, they see the problems that arise for that child who at an early age skipped a grade. The child who skips a grade very often, once they get to junior and senior high school, may be intellectually equal with their peers but they are not socially, emotionally and physically on a par. Therefore, the child who is pushed ahead in kindergarten, as this amended bill will allow, will suffer negative effects several years later.

The answer is in flexible programs in kindergarten to let the child perform at his or her own level without causing him or her to have to skip kindergarten. Legislative endorsement allowing a child to skip kindergarten will put a wider age disparity in the first grade. We are talking about 25 and 30 kids in a classroom now, that is a hard enough job for a teacher to do a good job, but then when that teacher has to consider taking care of a 5 year old next to a 7 year old, that adds to the problem. It is not good for the child who skipped a grade; it also is not good for the rest of the class.

The overwhelming consensus by teachers, who in their careers have dealt with as many as 1,000 children each over several years of teaching, agree that they have not met a child who should skip a grade. The overwhelming consensus

is that the very young child is much better off remaining at home an extra year before entering school. There was certainly no convincing testimony to have the child skip kindergarten.

Another reason to vote against this bill — there is a lot of pressure now by parents who find that with the two-parent working family it is much easier to have a child in school full time than in kindergarten half a day. It is a financial break to the parent to have that child in first grade. It is going to cause parents to want to urge their children along, to look at a bright 5 year old and say, look, I won't have to pay for child care if my 5 year old is in first grade for a full day rather than in kindergarten for a half day.

This bill, if passed, would put more pressure on the schools to have kids skip kindergarten. It means more testing; the cost would be borne by the schools. It would cause a wider discrepancy in ages in first grade, 5 year olds sitting next to 7 year olds.

The MTA, the MSMA, the superintendents, the principals, the school board members, the State Department of Education, hundreds of teachers have expressed their opinions against the bill. There is no need to rush a child along.

I believe very strongly that we as a legislature should not give our approval to a bill that puts undue pressure on the 5-year-old child, a bill that hurries along the already hurried child.

I urge you to vote against the motion.

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

Mr. THERIAULT: Mr. Speaker, do I understand that we cannot discuss the amendment at this time?

The SPEAKER: The Chair would advise the gentleman that we may discuss the committee report, which does include the amendment. The question that was posed earlier was on the germaneness of the amendment, which will come only at the time of adoption.

Mr. THERIAULT: Mr. Speaker, Men and Women of the House: I feel compelled to explain to you the law as it presently stands on our books. In school administrative units that do not have kindergartens, the local school officials, in conjunction with the parents, now have the authority to accelerate the promotion of a 6 year old that begins school. In other words, after a determination is made, they can take that child and place it in the second grade. They can do this legally because the law allows that.

In school administrative units that do have kindergarten, the law does not allow the same flexibility. In other words, they cannot accelerate the promotion to the first grade legally.

What this amendment will do, it will allow the same flexibility to the local school officials to promote a child in kindergarten to the first grade.

I understand from some officials from the Department of Education that this is being done in certain areas and it is being done illegally and nothing is being done about it. What this would do, it would allow the local officials to go ahead and do this.

Another thing I would like to mention to you is, I sent out about 700 copies of a questionnaire a short while ago and I had about 100 of them returned. On my questionnaire was this question — would you support a bill allowing flexibility in the school entrance age if a child shows readiness to start school even if his 6th birthday falls after the current October 15 deadline? The response was — 82 percent would support it; 15 percent would oppose it.

Now, the measure in front of us at this time is a diluted version of the bill, but I feel that the local school officials should have the flexibility with the 5 year old that they now have with the 6 year old.

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

Mr. BAKER: Mr. Speaker, Ladies and Gentlemen of the House: I am going to have a very tough time rebutting the statements of the gentlewoman from South Portland, Ms. Thompson, because I think she has done some very good work in analyzing her point of view on the bill. However, I think we do have a disagreement and I will go into a few of those with the bill.

First of all, as a matter of record, it is my understanding that the Maine Teachers Association has backed off its opposition to the amended version of the bill.

Back in 1966, a study was done on the desirability of a flexible school age, and the study's conclusion was that it was desirable. However, they did not recommend the legislature take any action because they felt that testing would be somewhat costly.

I picked up the local paper over the weekend and found a very interesting article in it. I won't read the entire article, but I will highlight it because it has some relevance, I feel, on the issue that is before us. It talked about a new kindergarten program is to do pre-screening to determine whether the child was ready for school. Now, according to this particular idea that is being put forward by the assistant superintendent of schools in the city of Portland, research done through the Gesell Institute at Yale, which maintains that a child should be placed in school according to his or her developmental age, the age the child has developed physically, intellectually and socially in order to succeed in school, it is also called the child's maturity age or behavioral age, what they are going to do in Portland is to run two different kinds of Kindergarten programs, because what they are basically saying is that the child really develops later, not earlier.

What I would like to pose here is a question — I see a little bit of confusion in the lower right-hand corner and I will try to straighten that out.

We have here a research institute that says that it is not the chronological age of the child that determines whether or not they are ready for school but what they call here the developmental age. My question is this — in many cases it could very well be that a child should wait before they enter the first grade. But what happens when you have a child that is developmentally ready before the age which we have determined and fixed in stone in the law?

We had at the hearing testimony about a child born October 16, one day after this arbitrary cut-off date which allows a child to enter school, an arbitrary cut-off date, I should add, that falls in the middle of a semester, makes no sense to me at all why it is October 15, but there it is — October 16, and they are saying the child is not ready to enter school, not as emotionally or developmentally ready as a child born October 15, and the parent of that child has absolutely no recourse whatsoever, no appeals process to deal with the department.

Ladies and gentlemen of the House, that is all we are really trying to do here, just allow a little bit of flexibility.

I am not going to say that I think all children should enter the first grade at an earlier age. In fact, I would say that the number of children whose developmental age would probably reach the right age before the chronological age is probably very small, a very small segment of the students, but do you hold those students back or do you allow them a chance? That is all we are really asking, a chance to have the method of testing, it is right here, it can be done, so I would ask you to vote to keep this bill going for a while.

The SPEAKER: The Chair recognizes the gentlewoman from South Portland, Ms. Thompson.

Ms. THOMPSON: Mr. Speaker, Ladies and Gentlemen of the House: The question was raised, do we hold the child back who may be ready to enter first grade and skip kindergar-

ten. For the child who would have been in kindergarten had he been 5 years old by October 15, but because he is 5 years old on October 16, he stays home for another year, do we hold that child back? Yes, that makes sense. That child is better off entering school a little older, better off than probably his or her classmates if we hold the child back.

We should not give legislative endorsement to a bill that will hurry along children who are already hurried along as we know it anyways.

Again, the teachers I cited have had as many as a thousand children under their care over several years of teaching. They have never met with a child who should have skipped kindergarten, and that is what this bill will do.

Flexible age, that's okay, but if we are not going to put an appropriation on the bill and pay for the additional resources needed in the first grade when the teacher is dealing with a 7 year old next to a 5 year old, then we are not looking at the whole issue here.

The tests that were cited by Representative Baker, saying that a child's developmental age can be determined, those tests can be disputed by other statistics. Professional testers and educators will tell us that a child's social and emotional maturity cannot adequately be measured when that child is as young as the 5-year-old child. Their intellectual maturity can be measure, but not their social and emotional maturity.

It is the negative effects of that social and emotional immaturity that we see later on when that child who has been pushed along is in junior high and senior high and does not feel in tune with his or her classmates.

Again, I urge you to vote against the motion, to vote not to hurry children along more than they are already hurried along.

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

Whereupon, Mr. Connolly of Portland requested a roll call vote.

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

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

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

Mr. CONNOLLY: Mr. Speaker and Members of the House: I don't want to take a lot of time debating this bill, but I think that you have to understand a couple of things about the issue because I think it has been somewhat confusing.

When the bill was originally presented to the Education Committee, it dealt solely with the question of a child entering school when that child was 5 years old, and it attempted to allow for a process whereby either a local superintendent, the school board or the State Department of Education could look at an individual student and based on the merits of the situation say that that October 15 date for entrance could be waived. Because of the strong opposition based primarily on the arguments that Representative Thompson has clearly presented to you today, the committee sought some way to address the issue without presenting added cost to local school districts and trying to deal with the individuality of each student's education program.

We heard testimony from one parent who was supporting the original legislation in the committee who explained that her son, who had been reading—this is an exceptional case, granted—her son, who had been reading and

writing since the age of two years old, had been attending Montessori schools since the time he was two years old, was not able to enter the kindergarten program because his birthday came after October 15.

The following year, that child was put into the kindergarten program, and once the child was there in school, everybody, the parents, the teachers and the principal agreed that the kindergarten program was not the appropriate place for that child to be and said, we think the child should be in the first grade. However, we have a law on the books that prohibits that, because you have to be six to get into the first grade. So we will tell you what we will do, they said, we will allow your child to come into the first grade for half a day, but your son has to go home for the afternoon.

This legislation would allow some flexibility in those instances where it makes sense for a child to be in the first grade rather than kindergarten. It isn't going to mean that all parents in the state who want to use the schools as babysitters will be able to use the schools as babysitters. It doesn't require any additional cost, and it respects the individuality of the child.

I hope that you will support the motion of "ought to pass."

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

Mr. DIAMOND: Mr. Speaker, Men and Women of the House: Speaking solely as a representative from the town of Windham, I would like to point out a couple of things. Number one, teachers and principals and superintendents, if you have talked to yours back home, I think they like to pride themselves in being leaders and educators who deal primarily with students and like to think of themselves as being those who guide the individualized instruction, open concept, let the child be where he should be.

I know there are many schools around this state that have 7 year olds sitting with 9 year olds, 12 year olds sitting with 14 year olds, because that is the nature of the game. Students project themselves in different ways, they advance in different way. Everyone knows who has been in education that boys usually develop slower than girls, and this shows up clearly in the first two or three years of education. But for us to think for a minute that all 7 year olds and they all should learn one part of math and that 9 year olds should all learn about two-digit subtraction and multiplication, I think we are just fooling ourselves.

I was concerned about this bill as it was written and it was first presented, but it appears to me that this amendment makes a great deal of sense.

My daughter, who was born on October 17, had to wait another whole year, which I suppose in one way of thinking that is not terribly bad, except when she got in kindergarten, that year she had to wait she did other kinds of things and that year in kindergarten tended to be, some of it at least, somewhat of a waste. It would seem to me that if we are allowing in this amendment to this bill some flexibility, just some flexibility for these teachers, who are professionals, these principals who are professionals, and these superintendents who are professionals and will all say, and I have heard them because I have been there, all say they think children should progress at their own rate of speed, that is what individualization is all about, then it would seem to me that we should let them do that. We are not opening up a big door here, we are simply saying—take a look at it, examine and take a child from where he is and let him progress.

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

Mr. BROWN: Mr. Speaker, Ladies and Gentlemen of the House: I think that earlier Ms. Thompson from South Portland very eloquently described to you why this bill should be defeated, and I guess that in light of the previous

statement by the gentleman from Windham, Mr. Diamond, I would simply state that the bill should be defeated for another reason.

The amendment does look at a particular kind of situation, as described by Mr. Connolly. However, the amendment deals with flexibility but only flexibility in those schools which have kindergartens. So right of the bat I think we have an issue of discrimination that has crept into this bill, and for that reason and the other reasons alluded to earlier, I think that the bill ought to be killed.

On perhaps a lighter note, if you are looking for perhaps an even better reason to kill the bill, I was one of those kids that was moved along, so if that gives you any assistance, go ahead and vote no and I won't object a bit.

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

Mr. BRODEUR: Mr. Speaker and Members of the House: I heard the remarks of the gentlelady from South Portland, Ms. Thompson, and I think she was rightly scared about the fact that people might be moved along too fast. But I think there is an equal danger here, the fact that there are some children who are very gifted, who are very emotionally mature, and I am very scared that those children aren't going to be moved along at the pace that they ought to go. I think gifted children have as difficult time adjusting to people who are going too slow as people who have a difficult time when things are going too fast.

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

Mrs. NELSON: Mr. Speaker, Men and Women of the House: I will be very brief. I don't think this is a very good bill. I was not moved along quickly but I had some children who had the option and did. I think if you are going to err, you ought to err on the side of the child.

You are talking about a kindergarten now and you are talking about a child who may not advance into kindergarten fast enough, and if you hold a child back in kindergarten, he could be one of the tallest, certainly one of the brightest and ablest as he moves along. And we are talking about kindergarten; we are not talking about any other grade. You put a kid in kindergarten before they are physically—now remember, along with emotionally—and physically able, they are always going to be the kid that is not going to be chosen for the softball team and the kid is not going to be chosen for other physical activities because he might be a little bit smaller. And if you are bright and you are held back, at least when entering kindergarten, you are only that much brighter and that much more sure of yourself and that much more able for success, only brief success, in school. So I think if you are going to err, you ought to err on the side of the child and allow them that latitude and not be pushed ahead so fast and give the kid a chance to enjoy kindergarten; it can be fun, let him enjoy it.

The SPEAKER: A roll call has been ordered. The pending question is on the motion of the gentleman from Portland, Mr. Connolly, that the Majority "Ought to Pass" Report be accepted. All those in favor will vote yes; those opposed will vote no.

#### ROLL CALL

YEA—Baker, Boisvert, Brodeur, Connolly, Cox, Davies, Diamond, G.W.; Diamond, J.N.; Dillenback, Erwin, Fitzgerald, Gowen, Gwadnosky, Hall, Hanson, Higgins, H.C.; Hobbins, Kane, Kany, Kelleher, Lisnik, Locke, Mahany, McHenry, Michael, Mitchell, E.H.; Mitchell, J.; Murphy, Nadeau, Paradis, P.; Paul, Perry, Reeves, P.; Richard, Rolde, Soulas, Soule, Strout, Studley, Theriault, Twitchell.

NAY—Aloupis, Armstrong, Austin, Beaulieu, Bell, Berube, Bordeaux, Boyce, Brannigan, Brennerman, Brown, A.; Brown, D.; Brown, K.L.; Cahill, Carrier, Carroll, Carter, Chonko, Clark, Conary, Connors, Crowley, Curtis, Damren, Davis, Day, Dexter, Drinkwater,

Dudley, Foster, Hayden, Hickey, Higgins, L.M.; Holloway, Huber, Hunter, Hutchings, Ingraham, Jackson, P.T.; Jackson, P.C.; Jacques, Jordan, Joyce, Ketover, Kiesman, Kilcoyne, Lancaster, Lewis, Livesay, Lund, MacBride, MacEacher, Macomber, Manning, Martin, A.; Martin, H.C.; Masterman, Master-ton, Matthews, McCollister, McGowan, McPherson, McSweeney, Michaud, Moholland, Nelson, A.; Nelson, M.; Norton, O'Rourke, Paradis, E.; Perkins, Peterson, Pines, Pouliot, Racine, Randall, Reeves, J.; Ridley, Roberts, Salsbury, Sherburne, Small, Smith, C.B.; Smith, C.W.; Stevenson, Stover, Swazey, Tarbell, Telow, Thompson, Treadwell, Walker, Wentworth, Weymouth, Willey.

ABSENT—Benoit, Callahan, Cunningham, Fowlie, Gavett, Gillis, Jalbert, LaPlante, Laverriere, Pearson, Post, Tuttle, Vose, The Speaker.

Yes, 41; No, 96; Absent, 14.

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

Thereupon, the Minority "Ought Not to Pass" Report was accepted and sent up for concurrence.

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

#### Passed to Be Engrossed

Bill "An Act Making Appropriations, Authorizations and Allocations Enabling the State Planning Office to Administer the Small Cities Program Community Development Block Grant" (Emergency) (H. P. 2263) (L. D. 2108)

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

#### Amended Bill

Bill "An Act to Establish a Small Claims Court" (S. P. 743) (L. D. 1746) (C. "B" S-427)

Was reported by the Committee on Bills in the Second Reading, read the second time and passed to be engrossed as amended in concurrence. (Later Reconsidered)

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

The following Communication:

**Committee on Audit and Program Review**  
March 29, 1982

The Honorable John Martin

Speaker of the House

State House

Augusta, Maine 04333

Dear Speaker Martin:

The Committee on Audit and Program Review is pleased to report that it has completed all business placed before it by the second regular session of the 110th Legislature.

Total number of bills received 1

New Draft 2

Divided Report 1

Respectfully submitted,

S/GEORGETTE B. BERUBE

House Chairman

The Communication was read and ordered placed on file.

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

#### Leave to Withdraw

Report of the Committee on Education reporting "Leave to Withdraw" on Bill "An Act Recodifying the Law Regarding Exceptional Students in Residential Placements" (S. P. 861) (L. D. 1990)

Came from the Senate with the Report read and accepted.

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

#### Ought to Pass in New Draft

Report of the Committee on Business Legislation on Bill "An Act to Revise the State Take-over Bid Law" (S. P. 840) (L. D. 1963) reporting "Ought to Pass" in New Draft (S. P. 957) (L. D. 2103)

Came from the Senate with the Report read and accepted and the New Draft passed to be engrossed as amended by Senate Amendment "A" (S-440)

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

Senate Amendment "A" (S-440) was read by the Clerk and adopted in concurrence.

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

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

#### Consent Calendar

##### First Day

(H. P. 2185) (L. D. 2071) Bill "An Act to Clarify and Make Corrections in the Motor Vehicle Laws" — Committee on Transportation reporting "Ought to Pass" as amended by Committee Amendment "A" (H-698)

(S. P. 749) (L. D. 1752) Bill "An Act Concerning Payment of School Committee Debts" — Committee on Education reporting "Ought to Pass" as amended by Committee Amendment "A" (S-437)

There being no objections, under suspension of the rules, the above items were given Consent Calendar Second Day notification and passed to be engrossed as amended in concurrence or sent up for concurrence.

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

#### Special Sentiment Calendar

The following item: Recognizing:

Stuart R. Dexter, of Orono, recipient of the Maine Recreation and Park Association's 1982 "Citizen Award," for his years of volunteer service to Orono youth; (S. P. 962)

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

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

#### Consent Calendar

##### First Day

(H. P. 1969) (L. D. 1944) Bill "An Act to Clarify the Criminal Restraint by Parent Law" — Committee on Judiciary reporting "Ought to Pass" as amended by Committee Amendment "A" (H-700) (Later Reconsidered)

(H. P. 2127) (L. D. 2045) Bill "An Act Amending the Electricians' Licensing Law" — Committee on Business Legislation reporting "Ought to Pass" as amended by Committee Amendment "A" (H-699)

There being no objections, under suspension of the rules, the above items were given Consent Calendar Second Day notification, passed to be engrossed as amended and sent up for concurrence.

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

#### Emergency Measure Tabled and Assigned

An Act Creating the Housing Opportunities for Maine (HOME) Program and Governing Program Funds Appropriated by this Act to the Maine State Housing Authority (H. P. 2071) (L. D. 2012) (H. "D" H-683)

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

On motion of Mrs. Mitchell of Vassalboro, tabled pending passage to be enacted and to-

morrow assigned.

#### Tabled Unassigned

RESOLVE, for Laying of the County Taxes and Authorizing Expenditures of Aroostook County for the Year 1982 (H. P. 2235) (L. D. 2093)

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

On motion of Mrs. Mitchell of Vassalboro, tabled unassigned pending passage to be enacted.

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

Mr. CARRIER: Mr. Speaker, I move that we reconsider our action of earlier in the day whereby Bill "An Act to Establish a Small Claims Court" Senate Paper 743, L.D. 1746, was passed to be engrossed as amended by Senate Amendment "B" (S-427) in concurrence.

On motion of the same gentleman, tabled pending his motion to reconsider and tomorrow assigned.

The SPEAKER: The Chair recognizes the gentleman from Wilton, Mr. Armstrong.

Mr. ARMSTRONG: Mr. Speaker, I move we reconsider our action of earlier whereby Bill "An Act Making Appropriations, Authorizations and Allocations Enabling the State Planning Office to Administer the Small Cities Program Community Development Block Grant," House Paper 2263, L. D. 2108, was passed to be engrossed.

On motion of the same gentleman, tabled pending his motion to reconsider and tomorrow assigned.

On motion of Mr. Tarbell of Bangor, the House reconsidered its action of earlier in the day whereby Bill "An Act to Clarify the Criminal Restraint by Parent Law," House Paper 1969, L.D. 1944, was passed to be engrossed as amended by Committee Amendment "A" (H-700) pursuant to Consent Calendar rules.

Thereupon, on the objection of the same gentleman, was removed from the Consent Calendar.

The Report was accepted and the Bill read once. Committee Amendment "A" (H-700) was read by the Clerk.

On motion of Mr. Tarbell of Bangor, tabled pending adoption of Committee Amendment "A" and tomorrow assigned.

The Chair laid before the House the following matter:

Bill "An Act Relative to the Theft of Utility Services" (H. P. 1821) (L. D. 1806) which was tabled earlier in the day and later today assigned pending adoption of Committee Amendment "A" (H-692)

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

Mr. KIESMAN: Mr. Speaker, I wonder if someone on the committee or the sponsor could explain just what this does, how it proposes to function?

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

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

Mr. HOBBS: Mr. Speaker, Men and Women of the House: This bill was presented to the Judiciary Committee by the good gentleman from Oakland, Mr. Conary. It appeared in the testimony at the hearing that there has been a problem with the theft of services in relationship to the enforceability of the present statutes under Title 17-A, which is under our Criminal Code. It was thought that a separate provision was needed to address the problem of individuals who tamper with or in some way interfere with the proper function in order to use



— interfere with either a telephone service or some type of public utility service.

Presently under our Criminal Code, the enforcement of these provisions are taken care of and, unfortunately, not so well by theft of services, which is a misdemeanor. It was thought that a separate section would ensure the enforcement of this particular problem that has arisen.

There was testimony before the Judiciary Committee in regard to theft of services concerning telephone service, electrical service, gas service and, believe it or not, sometimes sewerage service and water service.

The amendment before us, if you would take your amendment out under filing number H-692, you will see that there is a presumption included here which does not exist in the present law. If you look at Section 3 of the bill, you will notice, "proof that utility services have been improperly diverted or that the devices belonging to the utility and installed for the delivery, regulation or measurement of the utility services has been interfered with, constitutes prima facie evidence that the person to whom the utility service is thereby being delivered or diverted knowingly created or caused to be created the condition so proved." This is an attempt to put a presumption in the law.

Now, as a rebuttable presumption, you will notice that this presumption does not apply unless the condition which forms the basis of the presumption has existed for one meter reading period for which a bill has been sent. So, you can see there is that safeguard in this particular bill.

This particular bill out lines civil liability for damages to meters, which seems to not have been able to be addressed under our present Criminal Code in regards to some of the particular sections. This particular bill will provide for a civil liability which will include the cost of the utility services wrongfully used, the cost of the equipment repair or replacement, if that is necessary, and other costs, all other reasonable costs to the utility, including attorney fees and costs of undertaking and completing the investigation resulting in a determination of liability.

I think this committee report, in fact I know, was a unanimous committee report — Mr. Clerk, if you could check that.

The SPEAKER: The Chair would answer in the affirmative.

Mr. HOBBS: It was a unanimous committee report. It has been looked at very closely by the Judiciary Committee. It is an area where it appears that the present statute dealing with theft of services and dealing with criminal mischief has not been enough to guard against the unauthorized use or the tempering of utility services.

It should be noted that all of us who are consumers and utilizers of these utilities will pay extra and have paid extra because of the irresponsibility of many individuals in the procuring of services without due compensation.

I realize that the good gentleman from Fryeburg, Mr. Kiesman, will raise to you a problem, but I submit that weighing the public interest versus a minute problem that could occur, the overall public interest of those who pay the utilities should be premiere.

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

Mr. KIESMAN: Mr. Speaker, and Members of the House: I do have a concern about that paragraph 3. What that says, as I interpret it and it has been interpreted for me is that if an individual to whom an electrical service or a phone service or any other utility service has been provided receives any of the services by means of the meter having been tampered with, the presumption is that he, himself, the one to whom the services is contracted, is guilty of the criminal act. It is a presumption that he is a criminal to start with.

We have a lot of summer residences, season-

al residences, around the state where it is not uncommon to have the meter disconnected or have service disconnected, and it also is not uncommon for somebody to break into these residences, these seasonal residences, and hook things back up for themselves and maybe stay in them over a weekend and utilize the services and leave them turned on, and the owner of that property is guilty, under this amendment he is guilty of a crime if this happens and he hasn't found it and reported it to the electric company. I questioned a representative of one of the utility companies and he said to me, well, you should be checking your meter regularly to see that nothing has happened to it. And I said, well, your meter reader checks it on a monthly basis and I think you have a responsibility because you own the meter. He said, well, the homeowner should check it more carefully and more frequently than our hired employees. I submit that is a rather bad thing to take that attitude and I request a division on this.

The SPEAKER: The pending question is on adoption of Committee Amendment "A". All those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

Whereupon, Mr. Hobbins of Saco requested a roll call vote.

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

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

The SPEAKER: The pending question is on the adoption of Committee Amendment "A". All those in favor will vote yes; those opposed will vote no.

#### ROLL CALL

YEA—Baker, Beaulieu, Berube, Boisvert, Brannigan, Brennerman, Brodeur, Brown, A.; Carroll, Carter, Chonko, Conary, Connolly, Cox, Crowley, Damren, Davies, Diamond, G.W.; Diamond, J.N.; Drinkwater, Dudley, Fitzgerald, Gowen, Gwadosky, Hall, Hayden, Hickey, Higgins, H.C.; Hobbins, Holloway, Ingraham, Jacques, Joyce, Kane, Kany, Kelleher, Ketover, Kilcoyne, Lisnik, Livesay, Locke, Lund, Macomber, Mahany, Manning, McGowan, McSweeney, Mitchell, E.H.; Murphy, Nadeau, Nelson, A.; Nelson, M.; O'Rourke, Paradis, E.; Paradis, P.; Racine, Randall, Reeves, J.; Reeves, P.; Richard, Ridley, Rolde, Soulas, Soule, Studley, Swazey, Tarbell, Theriault, Thompson, Weymouth.

NAY—Aloups, Armstrong, Austin, Bell, Bordeaux, Boyce, Brown, D.; Brown, K.L.; Cahill, Clark, Connors, Curtis, Davis, Day, Dexter, Dillenback, Erwin, Foster, Hanson, Higgins, L.M.; Huber, Hunter, Hutchings, Jackson, P.T.; Jackson, P.C.; Jalbert, Jordan, Kiesman, Lancaster, Lewis, MacBride, MacEachern, Martin, H.C.; Masterman, Master-ton, Matthews, McCollister, McHenry, McPherson, Michael, Michaud, Mitchell, J.; Moholland, Norton, Paul, Perkins, Perry, Peterson, Pines, Roberts, Salsbury, Sherburne, Small, Smith, C.B.; Smith, C.W.; Stevenson, Stover, Strout, Telow, Treadwell, Twitchell, Walker, Webster, Wentworth, Willey.

ABSENT—Benoit, Callahan, Carrier, Cunningham, Fowlie, Gavett, Gillis, LaPlante, Laverriere, Martin, A.; Pearson, Post, Pouliot, Tuttle, Vose, The Speaker.

Yes, 70; No, 65; Absent, 16.

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

Under suspension of the rules, the Bill was read the second time, passed to be engrossed as amended by Committee Amendment "A" (H-692) and sent up for concurrence.

The Chair laid before the House the following matter:

Bill "An Act Relating to Periodic Justification of Departments and Agencies of State Government under the Maine Sunset Law" (H. P. 2239) (L. D. 2098) which was tabled and later today assigned pending passage to be engrossed.

Mr. McHenry of Madawaska offered House Amendment "B" and moved its adoption.

House Amendment "B" (H-696) was read by the Clerk and adopted.

Mr. Nadeau of Lewiston offered House Amendment "A" and moved its adoption.

House Amendment "A" (H-695) was read by the Clerk.

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

Mr. NADEAU: Mr. Speaker and Members of the House: The proposed amendment reinstates funding for developmental day care services to pre-school handicapped children. This is a critical program because it helps handicapped children in their earlier, most formative years.

Everything we know about how children grow and develop tells us that specialized services such as speech therapy, physical therapy, training and the use of physical aids and instruction in personal care is most effective when begun at the earliest age possible. Although disabilities can't be cured, they can be overcome with individuals living useful and productive lives.

Currently, over 250 pre-school children are in need of and not receiving these services, services which can help make the difference between a person forever dependent on the state, an individual able to take care of himself, to give and receive.

L.D. 2098, in general, reflects an excellent scrutiny of departmental programs, in my opinion. I urge you to accept this amendment as a truly cost effective measure, an opportunity to invest in our children's independence.

As a side note, ladies and gentlemen, the gentlewoman from Lewiston, Mrs. Berube, I understand, is going to propose a further amendment that will insure that these funds are dedicated for direct services only in fiscal year '83, so it is absolutely clear what our intent is.

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

Mrs. HUBER: Mr. Speaker and Members of the House: I rise today to bring several points to the members' attention before we vote on this; I think you should be aware of them.

First of all, this appropriation was in the Minority "Ought to Pass" Report which was defeated the other day. Frankly, I don't know whether you gave it much scrutiny, but that was one of the major differences between the two bills.

The second point is that while this funding was provided by this body in a bill passed three years ago that was sponsored by the Representative from Lewiston, Representative Berube, the reason we recommended deleting the funding was because we found that it was not being used for the purpose that this legislature had intended. In fact, it was being used not to fund those children whose incomes were too high to permit them to be helped under the bill, but it was being used for a variety of other purposes.

I guess I would ask the gentleman from Lewiston if he would explain to me, because I am not quite clear, when we look at the funding which will be put in this fiscal year, which we are talking about, we are not talking about fiscal '83, we are talking about fiscal '82, I have a memo from Mr. Wilson in the department which shows these funds being spread out on a county-by-county fairly equally and very desirably but not to necessarily eliminate the fees for these children who are over income, if you will, which is the express legislative purpose in



statute and for which Mrs. Berube worked so hard several years ago. If he could help me out on that, I see things like part-time teachers, teacher's space and equipment, services, equipment — granted, these are spread throughout the state and perhaps they are desirable, but I think we ought to know whether or not these funds will be used to help those children who are over income now attend these developmentally disabled programs or whether in fact they are going to be used for purposes not intended by the legislature under the existing statutes?

The SPEAKER: The gentlewoman from Falmouth, Mrs. Huber, has posed a question through the Chair to anyone who may care to answer.

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

Mr. ROLDE: Mr. Speaker, Ladies and Gentlemen of the House: I will try to answer the gentlelady's question if I can.

To give you a little bit of background, the gentlelady was correct in saying that the funds originally were not used by the department in the way that they were intended by the legislature. I should amplify on that and say it was the Department of Human Services that did not use these funds exactly in the way that they were stated. Those funds have since been transferred away from the Department of Human Services to the Department of Mental Health and Retardation.

The memorandum from Mr. Wilson of that department that she was speaking about did distribute these funds in a way that the department was led to believe by the Attorney General that they could expend. I have a memorandum from the Attorney General which stated is the key sentence, "Insofar as the Bureau of Mental Retardation is to have responsibility for administering the PL 509 funds, it may do so using its own policies, practices and guidelines." That explains the memorandum that she received from Mr. Wilson.

It is now my understanding that the gentlewoman from Lewiston, as the gentleman from Lewiston has said, will offer an amendment to his amendment which will be very specific about the way these funds can be used.

My feeling is, this program sort of became a victim to the argument that we had in the committee over the food stamp program, and there were attempts in the committee to fund the food stamp program for half a year and have the cuts that we made balance that out. I think that was one of the reasons that this became involved in that. We had the fight on that yesterday, or the other day. The majority report was accepted and the minority report which had these developmentally disabled funds in it, plus some funds for eye care, was defeated. While my feelings on the food stamp thing are the Appropriations Committee will probably take care of it, I do not want to see that done at the expense of the retarded children.

I hope you will go along with the amendment of the gentleman from Lewiston, Mr. Nadeau, and then we can accept the amendment that the gentlewoman from Lewiston, Mrs. Berube, is going to offer.

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

Mr. JALBERT: Mr. Speaker, I would ask a question of anyone who wants to answer it. Was the price tag for fiscal year 1982 and fiscal year 1983 on this?

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

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

Mr. BRODEUR: Mr. Speaker and Members of the House: The section that it is amending is fiscal year 1982-83, so it is fiscal year '83.

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

Mr. JALBERT: Mr. Speaker, I know the

hour is late, but, number one, how much; number two, that doesn't jive with the remarks of the gentlelady from Falmouth, Mrs. Huber, who says there is a fiscal year '82 price tag and fiscal year '83 price tag, and I think she is right. I don't want to argue with anybody, but I want to know at least what I am voting on.

The SPEAKER: The gentleman from Lewiston, Mr. Jalbert, has posed another question to anyone who may care to answer.

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

Mr. ROLDE: Mr. Speaker, in answer to the sum, my understanding is the sum is \$49,000.

The SPEAKER: The pending question is on adoption of House Amendment "A" (H-695). All those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

92 having voted in the affirmative and 22 having voted in the negative, the amendment was adopted.

On motion of Mrs. Berube of Lewiston, the House reconsidered its action whereby House Amendment "A" was adopted.

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

House Amendment "A" to House Amendment "A" (H-702) was read by the Clerk.

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

Mrs. BERUBE: Mr. Speaker and Members of the House: The amendment would simply restore the language in the law whereby these monies that you have just adopted with the previous amendment would be dedicated to those children who come from families above the 80 percent median income. There would obviously also be a sliding fee scale. As you know, that was the original intent of the law which was passed some two or three years ago, I guess it was, and never implemented to its fullest by the department, so this would simply restore the language and dedicate the money to that account.

Thereupon, House Amendment "A" to House Amendment "A" (H-702) was adopted.

House Amendment "A" as amended by House Amendment "A" thereto (H-695) was adopted.

On motion of Mr. Norton of Biddeford, tabled pending passage to be engrossed and tomorrow assigned.

The Chair laid before the House the following matter:

An Act to Create a State Set-aside System for Petroleum Products (H. P. 2088) (L. D. 2022) (H. "A" H-674) which was tabled and later today assigned pending passage to be enacted.

Mr. Higgins of Scarborough request a roll call vote on passage to be enacted.

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

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

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

Mr. DAVIS: Mr. Speaker, Ladies and Gentlemen of the House: I would hope that you would go along with me, as you did this morning, in defeating this bill. As I stated before, I just feel it is something that is not necessary, something that could hinder as we go down the pike the free enterprise system, which is well taken care of, the petroleum situation, and one which I think will continue to do so.

I would hope you would vote against this bill.

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

Mr. HALL: Mr. Speaker and Members of the House: First of all, I want to apologize for the

committee getting into this situation. I thought the last time that this was discussed that my good friend Representative Kiesman had done an excellent job telling what this bill was about.

If I may have your indulgence just for a second or two, what this set-aside bill is, it is in case of emergency and I know it is hard time to realize that there is an emergency now, but 15 or 20 minutes more you might have one — it could be that soon or it could be a lot longer than that.

Mr. Davis responded this morning that you could go down Main Street and see oil has dropped — true, but how about this fall or some other time when the hospital up my way might be hard up for oil and not able to have any unless we get a set-aside system where there would be up to 5 percent of the oil set aside in case of an emergency.

This is only on the books for 180 days before it would have to come back to the legislature to be changed. That is the only way it could be enforced.

The committee was unanimous in its decision on this bill, nobody spoke against it, so I would hope you would go along and pass this bill.

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

Mr. PARADIS: Mr. Speaker, Ladies and Gentlemen of the House: I would just like to second the comments of the good gentleman from Sangerville, Mr. Hall. Perhaps in an era of oil glut that we are experiencing right now and perhaps will experience for the next few months, there is not one economist that I have read and there is not one oil forecaster that I have listened to who has said that this is going to last indefinitely.

It may be easy for us who live south of Bangor and along the coast to think that we are going to have an indefinite supply of oil because we live next to the oil depots of Portland and Boston and New York and New Jersey. Those of you who live away from the coast, if you are perhaps a hundred miles inland, those of you who live above Bangor, in Aroostook County, ought to look at this bill as a saving measure for your people. When you vote, I would vote to enact this bill, thinking along down a few months from now, perhaps even a year from now, thinking if we have this bill we will have a mechanism and won't have to come back here and pass an emergency bill, that we are doing our duty right now, even though there is something of an oil glut in the country.

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

Mr. DUDLEY: Mr. Speaker and Members of the House: There is absolutely no need for this bill. All it does is make a few more people a job in state government.

When we had the oil crisis before, I couldn't see a mite of good they did. I was there in the office on quite a few occasions. I never could see anything they did except answer the telephone and make a lot of promises they couldn't support. Most oil companies look after such people as the schools and the fire departments and the hospitals, the same as they always did. They came first then and I am sure if we have another crisis, they will then. They don't need interference from state government and, above all, now.

If you have got somebody you want to give a job, or a ward healer in your election division, you might want to pass it because you might find them a job, but other than that, there is no need for it.

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

Mr. MICHAEL: Mr. Speaker, I would ask that the Clerk read the Committee Report, please.

Thereupon, the Report was read by the Clerk.

The SPEAKER: A roll call has been ordered. The pending question is on the motion of the

gentleman from Sangerville, Mr. Hall, that the House reconsider its action of earlier in the day whereby this Bill failed of passage to be enacted. All those in favor of reconsideration will vote yes; those opposed will vote no.

#### ROLL CALL

YEA—Baker, Beaulieu, Berube, Boisvert, Boyce, Brannigan, Brennerman, Brodeur, Carroll, Carter, Chonko, Clark, Connolly, Cox, Crowley, Davies, Dexter, Diamond, G.W.; Diamond, J.N.; Erwin, Fitzgerald, Gowen, Gwadnosky, Hall, Hayden, Hickey, Higgins, H.C.; Hobbins, Huber, Jacques, Jalbert, Joyce, Kane, Kany, Ketover, Kiesman, Kilcoyne, Lisnik, Locke, MacEachern, Macomber, Mahany, Manning, Martin, H.C.; Masterton, McCollister, McGowan, McHenry, McSweeney, Michael, Michaud, Mitchell, E.H.; Mitchell, J.; Moholland, Nadeau, Nelson, M.; Paradis, P.; Perry, Pines, Post, Pouliot, Racine, Reeves, P.; Richard, Ridley, Roberts, Smith, C.B.; Soule, Strout, Swazey, Tarbell, Theriault, Thompson, Vose, The Speaker.

NAY—Aloupis, Armstrong, Austin, Bell, Bordeaux, Brown, A.; Brown, D.; Brown, K.L.; Cahill, Conary, Connors, Curtis, Damren, Davis, Day, Dillenback, Drinkwater, Dudley, Foster, Hanson, Higgins, L.M.; Holloway, Hunter, Hutchings, Ingraham, Jackson, P.T.; Jackson, P.C.; Jordan, Kelleher, Lancaster, Lewis, Livesay, Lund, MacBride, Masterman, Matthews, McPherson, Murphy, Nelson, A.; Norton, O'Rourke, Paradis, E.; Paul, Perkins, Peterson, Randall, Reeves, J.; Salsbury, Sherburne, Small, Smith, C.W.; Soulas, Stevenson, Stover, Studley, Telow, Treadwell, Twitcheil, Walker, Webster, Wentworth, Weymouth, Willey.

ABSENT—Benoit, Callahan, Carrier, Cunningham, Fowlie, Gavett, Gillis, LaPlante, Laverriere, Martin, A.; Pearson, Rolde, Tuttle.

Yes, 75; No, 63; Absent, 13.

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

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

By unanimous consent, ordered sent forthwith.

The Chair laid before the House the following matter:

An Act to Clarify the Procedure for Budget Meetings (H. P. 1730) (L. D. 1715) (C. "A" H-686) which was tabled and later today assigned pending passage to be enacted.

The SPEAKER: This being an emergency measure, it requires a two-thirds vote of all the members elected to the House. All those in favor of this bill being passed to be enacted as an emergency measure will vote yes; those opposed will vote no.

A vote of the House was taken.

129 having voted in favor of same and nine against, the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

The Chair laid before the House the following matter:

An Act to Provide for the Direct Election of Community School District School Committees (H. P. 2237) (L. D. 2095) which was tabled and later today assigned pending passage to be enacted.

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

The Chair laid before the House the following matter:

An Act Relating to the Closing of State Liquor Stores in Communities with One Store (H. P. 1996) (L. D. 1972) (C. "A" H-641) which was tabled and later today assigned pending the motion whereby bill was passed to be enacted.

acted.

Thereupon, the House voted to reconsider its action whereby the Bill was passed to be enacted.

On motion of Mr. Carter of Winslow, the House voted to reconsider its action whereby it voted to recede and concur.

On motion of the same gentleman, the House reconsidered its action whereby the Bill was passed to be engrossed.

Mr. Carter of Winslow offered House Amendment "A" and moved its adoption House Amendment "A" (H-711) was read by the Clerk.

The SPEAKER: The Chair recognizes the gentleman from Winslow, Mr. Carter.

Mr. CARTER: Mr. Speaker, Ladies and Gentlemen of the House: It is obvious by the contents on this amendment that I am now being parochial in my aims. I would like to ask you to vote with me because this amendment deals only with my community.

I have told you before that the town council in my community has indicated that they did not want to lose their outlet and it mattered not if it was an agency store or a state store. And based upon my visitation with the director of Alcohol Beverages last Wednesday, I told you on last Friday that facilities could be available; however, they would be below standards for a community of 8,000 people.

Furthermore, I would like to remind this House that a community of 8,000 has been used as whipping boys because of an apparent misunderstanding between the director of Alcohol Beverages and the Committee on Legal Affairs, and this has been going on for over a year, and only through the good graces of the landlord do we still have our liquor store.

I would hope that none of you would ever have to go through the frustration that I have experienced in the past year, and I would hope that you would go along with me and adopt this amendment.

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

Mr. COX: Mr. Speaker, Ladies and Gentlemen of the House: I do have to oppose this amendment, number one, on the grounds that it does encourage the closing of a state liquor store and replacing it with an agency store. Number two, that it is really unnecessary, that is the closing of this liquor store and replacing it with an agency store.

There is a difference of opinion between the majority members of the Legal Affairs Committee and the director of the Bureau of Alcoholic Beverages over whether this action is necessary or not. The majority believes that the store that is available is perfectly adequate and that it can be operated at a considerably better profit than the existing store.

I might add that the motion that had been previously accepted does make it possible to replace the present liquor store in Winslow with another liquor store should during the negotiations the present liquor store has to be closed. By accepting this amendment, we are taking the risk that the bill will die between houses and there will be no recourse to Winslow.

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

Mr. DILLENBACK: Mr. Speaker, Ladies and Gentlemen of the House: I apologize for getting up at this late hour, but I happen to have had a call from the town of Winslow — I don't represent the town of Winslow but I think now I understand the situation and the problem there. This is a particular and peculiar situation, and what has happened, the liquor store that is there now is definitely going to be closed. The lease has been purchased by a drug store. However, there is a large grocery store adjacent to it which would like to take on the liquor in that store, and I think probably would serve the community better than moving it to another smaller location.

So, I am going to change my vote and support the gentleman from Winslow.

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

Mr. SOULAS: Mr. Speaker, Ladies and Gentlemen of the House: I think this is a fair amendment and I will be supporting it.

Thereupon, House Amendment "A" was adopted.

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

#### (Off Record Remarks)

On motion of Mr. Hall of Sangerville, Adjourned until nine o'clock tomorrow morning.