

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

***One Hundred and Eleventh
Legislature***

OF THE

STATE OF MAINE

Volume I

FIRST REGULAR SESSION

December 1, 1982 to May 13, 1983

HOUSE

Thursday, January 13, 1983

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

Prayer by Father Valmont Gilbert of St. Augustine's Catholic Church, Augusta.

The journal of yesterday was read and approved.

**Papers from the Senate
Non-Concurrent Matters**

Bill "An Act Concerning the Provisions of Services to Families with Runaway Juveniles" (S. P. 40) (L. D. 98)

In Senate, referred to the Committee on Health and Institutional Services on January 10, 1983.

In House, referred to the Committee on Appropriations and Financial Affairs on January 11, 1983 in non-concurrence.

Came from the Senate with that body having receded from its previous action whereby the bill was referred to the Committee on Health and Institutional Services and subsequently referred to the Committee on Judiciary in non-concurrence.

In the House: On motion of Mr. Carter of Winslow, the House voted to adhere.

Bill "An Act to Require Notification to Abutting Landowners upon Correction or Alteration of a Prior Survey" (S. P. 42) (L. D. 100)

In Senate, referred to the Committee on Energy and Natural Resources on January 10, 1983.

In House, referred to the Committee on Business Legislation on January 11, 1983 in non-concurrence.

Came from the Senate with that body having receded from its previous action whereby the bill was referred to the Committee on Energy and Natural Resources and subsequently referred to the Committee on Legal Affairs in non-concurrence.

In the House: On motion of Mr. Brannigan of Portland, the House voted to adhere.

The following Communication: (S. P. 66)

The Senate of Maine
Augusta

January 11, 1983

Honorable Paul Violette
Honorable Dan Gwadosky

Chairs

Joint Standing Committee on State
Government

State House
Augusta, ME 04333

Dear Chair Violette and Gwadosky:

Please be advised that Governor Joseph E. Brennan is nominating Leo M. Loiselle of East Holden for appointment to the Maine Guarantee Authority.

Pursuant to Title 10 MRSA, Section 751, this nomination will require review by the Joint Standing Committee on State Government and confirmation by the Senate.

Sincerely,

S/GERARD P. CONLEY
President of the Senate

S/JOHN L. MARTIN

Speaker of the House

Came from the Senate read and referred to the Committee on State Government.

In the House, was read and referred to the Committee on State Government in concurrence.

**Petitions, Bills and Resolves
Requiring Reference**

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

Business Legislation

Bill "An Act to Amend the Maine Statutes to Provide for the Sale of Kerosene or Similar Il-

luminating or Fuel Oils which Flash under 100° Fahrenheit, Open Cup Test" (H. P. 154) (Presented by Representative Hickey of Augusta)

Bill "An Act to Amend the Banking Code Regarding Minimum Amount Entitled to Interest" (H. P. 155) (Presented by Representative Dillenback of Cumberland)

(Ordered Printed)

Sent up for concurrence.

Fisheries and Wildlife

Bill "An Act Concerning the Marking of Wild Birds" (H. P. 156) (Presented by Representative Erwin of Rumford)

(Ordered Printed)

Sent up for concurrence.

Health and Institutional Services

Bill "An Act to Require the Use of Generic Drugs in the Low-cost Drug Program for the Elderly" (H. P. 157) (Presented by Representative Smith of Island Falls) (Cosponsors: Senator Carpenter of Aroostook, Representatives Michaud of East Millinocket and Melendy of Rockland)

(Ordered Printed)

Sent up for concurrence.

Marine Resources

Bill "An Act to Increase the Sardine Inspection Tax" (H. P. 158) (Presented by Representative Salsbury of Bar Harbor)

(Ordered Printed)

Sent up for concurrence.

Orders

On motion of Representative McHenry of Madawaska, the following Joint Order (H. P. 159)

Ordered, the Senate concurring, that the joint standing committee of the Legislature having jurisdiction over local and county government report out such legislation to the House as they see fit to revise the salaries of county officers and lay the county taxes for the year 1983.

The Order was read and passed and sent up for concurrence.

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

Bill "An Act Relating to the Regulation of Septage Disposal" (S. P. 50) (L. D. 143)

Bill "An Act to Extinguish Obsolete Mineral and Mining Rights" (S. P. 53) (L. D. 145)

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

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

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

Bill "An Act to Prohibit Harassment of Hunters, Trappers and Fishermen" (S. P. 63) (L. D. 169)

Bill "An Act to Prohibit the Trapping of Bear with the Leg Hold Steel Jaw Bear Trap" (S. P. 55) (L. D. 162)

Came from the Senate referred to the Committee on Fisheries and Wildlife and ordered printed.

In the House, the Bills were referred to the Committee on Fisheries and Wildlife in concurrence.

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

Bill "An Act to Allow the District Court to Grant Restitution in Cases of Unfair Trade Practices" (S. P. 54) (L. D. 146)

Bill "An Act to Include Interpreters for the Hearing Impaired Within the Evidentiary Communications Privilege" (S. P. 60) (L. D.

171)

Came from the Senate referred to the Committee on Judiciary and ordered printed.

In the House, the Bills were referred to the Committee on Judiciary in concurrence.

RESOLVE, Authorizing Gerald Pelletier to Bring Civil Action Against the State of Maine (S. P. 51) (L. D. 144)

Came from the Senate referred to the Committee on Legal Affairs and ordered printed.

In the House, the Bill was referred to the Committee on Legal Affairs in concurrence.

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

Bill "An Act Relating to Common Recreational Facilities for the Residents of Frye Island" (S. P. 56) (L. D. 163)

Bill "An Act Relating to a Fund for Ferry Replacement at Frye Island" (S. P. 57) (L. D. 164)

Bill "An Act Relating to Minimum Payment to Frye Island Municipal Services Corporation" (S. P. 58) (L. D. 165)

Bill "An Act to Set Off Part of Township A, Range 7 W.E.L.S. and Township 1, Range 7 W.E.L.S. in the County of Penobscot, and Annex the Same to the Town of Millinocket" (Emergency) (S. P. 59) (L. D. 166)

Bill "An Act to Prohibit Residency Requirements for Municipal Employees" (S. P. 61) (L. D. 167)

Came from the Senate referred to the Committee on Local and County Government and ordered printed.

In the House, the Bills were referred to the Committee on Local and County Government in concurrence.

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

Bill "An Act to Defray the Costs of Law Enforcement and Corrections Officer Training" (S. P. 64) (L. D. 170)

Bill "An Act Regarding Training Requirements for Law Enforcement Officers" (S. P. 65) (L. D. 172)

Bill "An Act Granting State Employees Full Political Rights" (S. P. 67) (L. D. 173)

Bill "An Act to Amend the Maine Guarantee Authority Act to Allow for More Expansive Development in the State" (Emergency) (S. P. 72)

RESOLUTION, Proposing an Amendment to the Constitution of Maine to Provide that Senators shall Serve Four-Year Terms Commencing in 1986 (S. P. 62) (L. D. 168)

Came from the Senate referred to the Committee on State Government and ordered printed.

In the House, the Bills and Resolution were referred to the Committee on State Government in concurrence.

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
January 11, 1983

Hon. John L. Martin
Speaker of the House
House of Representatives
State House
Augusta, Maine 04333
Dear John:

The Audit and Program Review Committee has organized with the intention of completing our tasks in a useful, productive and enlightening manner. We are very excited and impressed with the quality of the legislators and staff who have been appointed to serve on and work with our Committee and we look forward to working with you during the next two years.

The recommendations of last year's Audit Committee have been printed and will be distributed after you and other legislators have

first received your copy. Our new Committee will be studying this report and making our own committee recommendations as to the direction we feel the Legislature should take on all of these matters.

We invite your opinions and suggestions and, again, we look forward to working with you these next two years.

Sincerely,
S/ REP. NEIL ROLDE
House Chairman
S/ SEN. G. WILLIAM DIAMOND
Senate Chairman

The Communication was read and ordered placed on file.

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

The following Communication: (S. P. 73)
The Senate of Maine
Augusta

January 13, 1983

Honorable Charles G. Dow
Honorable Daniel B. Hickey
Chairmen
Joint Standing Committee on
Aging, Retirement and Veterans
State House

Augusta, Maine 04333

Dear Chairmen Dow and Hickey:

Please be advised that Governor Joseph E. Brennan is nominating Patricia M. McDonough of South Portland for reappointment to the Maine State Retirement System Board of Trustees.

Pursuant to Title 5 MRSA Section 1031, this nomination will require review by the Joint Standing Committee on Aging, Retirement and Veterans and confirmation by the Senate.

Sincerely,
S/GERARD P. CONLEY,
President of the Senate
S/JOHN L. MARTIN
Speaker of the House

Came from the Senate read and referred to the Committee on Aging, Retirement and Veterans.

In the House, the Communication was read and referred to the Committee on Aging, Retirement and Veterans in concurrence.

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

**Emergency Measure
Failed of Enactment**

An Act to Remove the Retroactive Provisions of the Income Tax Indexing Law (S. P. 34) (L. D. 96)

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

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

Mr. HIGGINS: Mr. Speaker, Ladies and Gentlemen of the House: The bill before us now to set the effective date of the tax indexing law at January 1, 1983, has the support of the majority of the members of the Committee on Taxation, the majority of the Legislative Council, and the great majority of the other body of this Legislature. These are good arguments for this proposal, but it would not have all these endorsements without strong basis and fact, and I believe this bill has that strong basis and fact.

Setting the effective date as of January of this year will mean that the state does not have to face up to severely reduced services, does not have to make huge and unacceptable cuts in a budget which has been in existence for two years now.

Setting the effective date as of January of this year will mean that in the coming biennium we will not have to face up to a possible shortfall in expected funds amounting to some \$79 million.

No, this doesn't mean that we are never going to have to raise additional revenues for the

state, nor does it mean that we are going to have to go against the will of the people.

Indexing is an idea whose time has come, and it's an idea that we have to implement to the best of our abilities as members of both parties, but we have also got an obligation as well to the financial well-being and good health of this state. We cannot meet that obligation using a process which would deprive this body of the ability to set budgets, design tax structures and levels to fund those budgets, and then find some 18 months later that those budgets have no more permanence than a June snow.

I ask you to join with me in supporting this measure, a fair measure, one that allows us to proceed in an orderly manner to take up the work before us and one which allows us to honestly face our constituents and know we have been true to our responsibilities.

We have now reached the point, where we must make a decision. Since the election, many legislators, both Republicans and Democrats alike, have tried various solutions to the problem that we are now facing. There has been no lack of effort from this body or the other body, no lack of ideas and no lack of sincerity.

All the ideas presented had some good points and they all had some bad points. None, excepting repeal, attracted even close to a majority of support among this and the other body.

Now is the time for us as legislators to provide the necessary leadership to those who are most affected by the problems facing us. Let's not delay; let's act now.

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

Mr. HIGGINS: Mr. Speaker, Ladies and Gentlemen of the House: It is always a rather difficult task to stand before the body when you know you are in a minority position and yet you feel you have the commitment of yourself and the commitment of your inner self, if you will, and you can't betray that.

It is difficult also to stand up and try to persuade or to allay the fears of those who for some reason feel that if we do not repeal retroactivity they are going to be unduly harmed. That is simply not the case. The repeal of retroactivity is not the only way to solve, the legislature did not propose the cuts that we have before us; in fact, I bet we couldn't get one vote on the board for the cuts that the Governor himself has made.

Now, I have gone on record as saying that I believe the Governor himself has created a crisis in state government by proposing such cuts that run at the heart of the people who can least afford it in this state.

This legislature has not been consulted as to where they would make cuts. We had a hearing and the committee met for 10 minutes afterwards. We have not been consulted on that. I, as a member of leadership, have not been consulted as to where those proposed cuts would come, if they were necessary, and I think we all here could come up with some other ideas on where money could be saved so that if we had to make cuts, they could be made in a way that did not hurt those people who could least afford it. I'm convinced of that and I know you are deep down in your hearts.

I, for one, do not believe that we have been fair with the people out there who are receiving state services. We have used them in a scenario that is trying to prove that tax indexing, because the Governor was opposed to it, in a scenario that is trying to make his position a self-fulfilling prophecy; I do not like that. That is number one.

Number two, the philosophy behind tax indexing is that if this legislature and the Governor, if state government needs extra money, they stand up and vote for it. When the people of this state voted for tax indexing, they didn't say they wanted cuts in state services, neces-

sarily. Some of them may, but I'll guarantee you that if they wanted cuts in state services, it wouldn't be where the Governor has proposed them, you can rest assured of that. But what they did say, however, was that if you are going to take money out of my back pocket, we want you to vote for it, pure and simple.

Now, the Republican Party in this House has provided an alternative which the majority party does not care for—that's part of the political process. Our object is to provide an alternative that is fair and a reasonable resolution to a critical problem. We have provided that.

If you want to go along with what the gentleman from Portland has said about a majority of this legislature, a majority of the Legislative Council, a majority of the other body is in favor of, that is terrific, but you have to understand, ladies and gentlemen of the House, that when you have 92 in the House and 23 in the Senate, of course you are going to have a majority, that's what you were elected for. I don't have any problems with that, but as I said yesterday, it is hard to convince me that that makes you more right than it does the minority party.

The people of the State of Maine, when they voted for indexing, said, we want integrity and accountability in government, those two issues—integrity and accountability. They don't want a back-door approach at raising taxes. They don't want you to take money out of their pocket without having to say "we needed extra money."

It is no secret to most of you out there, I'm not considered the most conservative member of my caucus, so I can say to you in all honesty that I feel that if additional money is necessary for programs, I have not been afraid to stand up and be counted and I would continue to do that if I thought there were no other alternatives.

Certainly the idea of repealing retroactivity desires another alternative, because if it were the choice just between repeal and cut services, you would have a point, I would have to support that, but we have other alternatives. And when the people said they wanted integrity and accountability, they didn't want us to come back here on January 13 and repeal something just because it's convenient, and that is what it is, we are talking about convenience. It is a lot easier to vote for a repealing measure than it is to stand up and say, I think we ought to vote for more taxes or I think we ought to cut some state services. It's convenient, it's a back-door approach, and that is why we have trouble keeping people interested and involved in politics.

We run around the state as we are campaigning and say, gee, you have got to go out and vote, we want you to go out and vote, and then when you do, we come up here and the first thing we are attempting to do is to subterfuge what they just voted on. I find that difficult. Is it any wonder why they say to us, what's the bother in voting, you guys are just going to turn around and do what you want anyway? This is the perfect example, a perfect example.

The attitude I have about state government is a lot different, I guess, than the attitude that is being shown here today. State government is supposed to be working with the people to provide them services. We are not elected here to implement a law in an arrogant sort of way. We were elected to implement the law in a responsible manner that takes into account the services that the people of this state need and want and definitely should have, and, number two, the wishes of those people who voted for an important piece of legislation.

I will back up a minute and say that we had this piece of legislation two years ago and we killed it, we had it last year and we killed it, and I submit to you that had we been responsible legislators then, we should have set some money aside for it as a contingency. I'll take part of the blame for that because I was a member of lead-

ership then as I am now, but at the same time, we all have to take that blame, that is a foregone conclusion. We have to work with the system rather than from without.

Perhaps I have said enough for the first time through, but I want to leave you with one comment, and that is that no one in this body, I don't think, I haven't found any member in my caucus anyway, is in favor of cutting the state services.

The people out there believe that repeal is the only way to go, and it is not the only way to go. It flies in the face of the initiative process to repeal something that the people have just voted on. If the nuclear referendum had passed, no matter how you feel about it individually, if the nuclear referendum had passed, would we be so excited about coming in here and changing the date from five years to seven, or to three or four and a half? Wouldn't we be crucified for an action like that? I submit to you, yes, we would, and rightfully so. This isn't any different from that.

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

Mrs. MITCHELL: Mr. Speaker, Men and Women of the House: "The first time through." The gentleman in the opposite corner says "That's enough for the first time through." It is ten after three on January 13 and 400 state workers are standing out there with pink slips and he talks about "the first time through." This is not only the first time through but it should be the last time through, because this legislature has the responsibility as an institution to stand up and to do its job on time.

Now, I have looked with this gentleman and with members of his party, with members of my own party, for all those alternatives that are out there. Where are they? Where are those alternatives? Don't talk about the one that did not have the support of the people yesterday because we are talking about a credit rating problem and whether we think it is important that our credit rating be lowered because of a certain approach of deferring debts. It seems to me that is the position of my opponent's party, not mine, but I must tell you that the Democratic Party is very concerned about having to spend more money to finance our bonded indebtedness.

Let's talk again about the executive department's decision. I don't believe that you or anybody in this room could find \$33 million worth of cuts in a budget that is almost completed without causing pain and suffering. Yes, you might find up to three, maybe five million, not \$33 million. Cuts that were very painful had to come because in the area of human services labor is intensive. They don't make bedsprings, they don't make shoes, they have people who service people, so to save money you cut jobs. Let's be very realistic.

We talked yesterday about standing up and being counted—repeal does the same thing. We are voting to say that we cannot afford \$32 million worth of cuts in programs which are vital to the State of Maine.

I want to talk about the clock again because I think it is extremely important, because I have heard it said in the halls among some people, gee, I'd like to vote with you but I'll wait, we have got until midnight on Friday. Here are the facts—this is from the Director of Planning and Operations, George Viles, concerning layoffs.

"This is to confirm that layoffs become effective Friday, the 14th of January, for most of those employees with a regular work week of Monday through Friday. Within the Department of Mental Health and Retardation, institutional employees with layoff notices will report for first and second shifts on Saturday but will not report to the third shift beginning Saturday evening.

"The Department of Mental Health and Retardation has contingency plans for unit closings at Pineland, that is Benda hospital, for your information, and Freeport, Freeport

Times Square, homes for the mentally retarded, and/or the use of emergency overtime at premium rates—that is the decision that those people are going to be making now. Do they move those people out or do they wait until Monday, hoping that we'll act, and take the chance of having to use premium overtime pay to accomplish what they will have to do if we fail to address this problem?

Approximately 60 direct care workers are affected on the third shift Saturday or the first shift Sunday.

The Department of Corrections has a small number of corrections officers who would start the third shift Saturday would end it at midnight. No funds are available for premium overtime.

Three juvenile intake workers and six probation and parole officers will be laid off and no longer on call after midnight Saturday, and there is a communication problem in informing these and other workers of their status. These particular workers are on non-standard work weeks. Their assignments and caseloads would have to be transferred during the day Saturday to assure coverage.

In the Department of Public Safety, 18 cadet troopers will no longer be on call or working with regular troopers at the end of their shift on Friday. Some of these cadets would normally be working on Saturday.

I am asking you, as responsible men and women of both parties, this has not been a partisan issue, clearly, I have certainly understood what the other party has been trying to say and it has been a concern of mine too, but it is time to put that aside. We have a serious problem. There is only one viable solution out there that any of us have seen and I am suggesting that the time is now, not midnight on Friday. We must act as responsible legislators.

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

Mr. ROLDE: Mr. Speaker, Ladies and Gentlemen of the House: It's no secret that I am going to vote for repeal of the retroactive feature of the tax indexing bill that was passed in referendum in November. There are a number of reasons why I am going to do this, not the least of which is that this has been the overwhelming response of the people in my district, a conservative Republican district, I might add, to my publicly posed question of "what do you think we should do?"

The major argument against repeal is that we will be breaking faith with the will of the people. Since my predilection for history is well known, I would like to examine this argument in its historical context.

It was on September 3, 1980, that Charles Cragin and Hattie Bickmore, who was then the Republican State Chairman, announced plans to launch Project Index. At a subsequent news conference a month later, Mr. Cragin presented a finished bill which he said would be the basis of a petition. At no time during either of these conference was the subject of retroactivity mentioned.

The Bangor Daily News, in an editorial on September 8, 1980, spoke of the estimated nine million dollars that would wind up back in the pockets of Maine taxpayers as a result of Project Index—\$9 million.

The deadline for collecting the approximately 37,000 signatures was January 22, 1981. By that date, Mr. Cragin had amassed about 35,000, some 2,000 short of what he needed. Let us examine this fact for a moment.

First of all, 35,000 of the signers of the petition signed to present a bill in which there was absolutely no retroactive feature. They were signing for an indexing measure that would go into effect prospectively with an effective date of January 1, 1981. Therefore, it occurs to me to ask—if the bulk of the voters who signed the petition that placed this measure on the ballot were not signing for retroactive indexing, where did retroactive indexing come from? It

came about as the result of the following circumstances. Failing to reach his 37,000 signatures by January 22, Mr. Cragin then received an opinion from Attorney General Richard Cohen that the signatures he had already collected could be carried over and that he would not have to start from scratch to put his indexing measure on the ballot in November 1982. Of course, he had to use the same petitions with the exact same wording and the exact same effective date; otherwise, he would have had to scrap the 35,000 signatures he already had.

Now, there are some people who have insinuated that Mr. Cragin deliberately withheld several thousand signatures so that he could have the referendum on the ballot during the gubernatorial election in November of 1982. I don't believe that for a minute myself. I believe that Mr. Cragin made an honest mistake by putting an effective date on his petitions and that he was stuck with it. Being human, he didn't want to rip up his 35,000 names and start all over again, so he forged on ahead and in July 1982 he began his campaign again. It must be mentioned that once more there was no more mention of retroactivity in any of Mr. Cragin's public pronouncements at the time that he launched his second effort. But like the diseased cells of a malignant cancer, the germs of trouble were there and they grew like a tumor with every passing day. They grew quietly and unseen until they suddenly erupted into view and became an issue once the Cragin measure was presented to the legislature and put through the mechanism of sending it to the people.

It is interesting to note what was said during the campaign. The cost of retroactive indexing was immediately raised by opponents of indexing. Those who favored indexing claimed that this was a red herring and a scare tactic. Mr. Cragin, at one point, on September 14, 1982, in the Lewiston Daily Sun, even said that the legislature had stuck retroactivity into the referendum "because it would be a good way to kill it." The Portland Press Herald, on October 27, 1982, before the referendum vote, quoted House Minority Leader Linwood Higgins as arguing for repeal. The quote in full is as follows:

"The retroactivity clause could be dropped or restricted to 1982 taxes," Higgins said. "Although the legislature might be reluctant to do so, it is a distinct alternative. Higgins argued that amending the retroactivity clause of the proposed law would not be overriding the will of the people. They would be voting for the concept of indexing rather than for a specific date," he said. The reason the bill uses January 1, 1981, as an effective date, he added, is that Project Index signature collecting got under way in 1981. Changing the effective date this year would have required starting the whole process over again.

"As precedent for the amendment option, Higgins noted that the legislature took remedial action after the referendum repeal of the uniform property tax."

Mr. Higgins was roundly taken to task in a Portland Press Herald editorial the next day. Senate Majority Leader Samuel Collins was quoted before the vote several times as arguing that repeal was possible, at least repeal of the first year, and to quote him, "the legislature would be acting in perfectly good faith."

On September 19, 1982, the Bangor Daily News said, and this was also before the referendum vote, "Cragin conceded the legislature could wipe away the retroactive section when it convenes in January. In fact, that possibility was suggested during debate on the indexing proposal last spring. The tax cuts then would apply only to future years."

In three separate editorials in October 1982, on the 11th, the 15th and the 26th, the Bangor Daily News, urging passage of indexing, stated that the retroactivity figure could be repealed. Here is a passage from one of those editorials.

"When the people pass indexing in November

and the legislature looks the situation over, the lawmakers have only to act to scrap the retroactive clause if they consider it to be financially onerous to the state."

I'm sure I could find quotes on the other side of people who said that retroactivity could not be repealed in order to scare voters into turning down all of indexing and who have now changed their minds, just as the repealers of yesteryear, like the gentleman from Scarborough, Mr. Higgins, are taking a different tact now that indexing has passed.

Recriminations at this date really don't mean much. Their problem is what to do about a massive cancer that has grown in the body politic, unintentionally, through a combination of circumstances, hidden from public view for a very long time but now bulging forth in all its malignancy. On my part, I feel that surgery is the only answer, cut it out, repeal it.

From a \$9 million predicted cost in 1980, this monstrous growth has burgeoned to over \$100 million in this biennium. It is simply too much to pay for one man's mistake, no matter how honest it was.

If a major goal of tax indexing was to force legislators to vote in the open for tax increases, I don't feel that a vote for repeal today is inconsistent with that goal. Tax indexing alone, without retroactivity, along with other economic factors, may well force us to vote for a tax increase later on. I, for one, will do so, and do it openly and not duck behind the smokescreen of retroactivity. Repeal of retroactivity gives us a clean slate to start with, as the overwhelming majority of Maine people I have talked to say, in the best Maine tradition it just makes sense.

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

Mr. TUTTLE: Mr. Speaker, Men and Women of the House: I don't mean to belabor this issue, but I had sponsored a bill on repealing the retroactivity and I feel very strongly about this issue.

I just had an interesting conversation with a fellow selectman in my home town of Sanford who was an active proponent of tax indexing. It was his opinion that if indexing did pass, the retroactive repeal was the next proper course of action. He said that the referendum sponsor also repeated this many times at meetings, in the press and to him personally.

He also mentioned that because there was not a thing about retroactivity on the referendum, he felt it would be an unwise thing for his party to pursue, insisting that retroactivity remain.

In response to some of the questions on this issue, the legislature, in past years, has repealed voter enacted measures when they have deemed them necessary and appropriate before. Some of these measures are "An Act to Create a Direct Primary" in 1911, "An Act to Prevent Diversion of the Highway Fund and Monies related to" in 1936, elimination of the big box ballot in 1972 and a ban on slot machines in 1980. Also, since the indexing referendum passed in November, I have found some interesting results from letters, I imagine as many of you have, telephone conversations and discussions with people in my legislative district.

First, the vast majority of the people I talked to were unaware of the retroactive provision before they voted. Secondly, almost all the people in my district who were aware of the retroactivity before they voted against indexing. Finally, the majority of people I talked to over the past few weeks feel that the only responsible thing for the Maine Legislature to do is to repeal the retroactive provision.

I received a letter, as many of you have, but this letter sort of stands out in my mind, something that I really think needs to be addressed today. It is something that I think we can't run away from. It says: "Dear Representative Tuttle: I am a shut-in, a widow, 81 years

old, who lives alone. I use a wheelchair, a walker and a cane. I have a homemaker who gets my groceries and cleans my apartment. They are not going to be able to come to the houses as the money is running out, and if the retroactive indexing goes through as is, it will be hard for us to rely on their help."

I feel this is what Mrs. Mitchell said, it is what many people, I think, in a bipartisan manner are trying to say today—the State of Maine has to act today, we have to do something. There will be no tomorrow unless we act today.

It is my conclusion that the people of Maine are presently being burdened with something they have voted for but never really asked for.

In light of the suffering about to be caused by job layoffs, cutbacks to education, the elderly, and such areas as economic development and our bond rating in an effort to finance indexing, I feel we would do well to disregard political rhetoric and look at what really happened in November and repeal the retroactivity.

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

Mrs. MITCHELL: Mr. Speaker, I request 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 Kennebunk, Mr. Murphy.

Mr. MURPHY: Mr. Speaker, Men and Women of the House: I think there is a need to respond to some of the points that have been made from the other side of the aisle. Mr. Tuttle, the gentleman from Sanford, refers to the many letters and calls that he has received. Every member of this chamber has received those calls; every member has received those letters.

I think the members who served in the 110th are very aware of my record in terms of the needs of Maine people and my willingness to support with my vote, with my tax dollars, meeting those needs. I have voted for those programs already. Those were before us in the 110th. I am willing here today, or tomorrow, or Saturday, to vote again for a tax increase so that those cuts will not take place.

The gentlelady from Vassalboro talks about the pressure of the clock, and it is very real, the pressure is there, but the people spoke on election day, more than 60 days ago. The first reaction of the executive branch, instead of stepping back, saying yes, I was opposed to this but the people have spoken, the reaction was to have it invalidated by the court and the court refused.

November passed, December passed, no special session. Several weeks ago, the pink slips, the threatened cuts, cuts to our most neediest people went out.

We have been here five or six days in the last week or week and a half—the gentlelady talks about the pressure of the clock. Our average session has been 20, 30 minutes long; Tuesday, 15 minutes long. Yes, there is pressure, possibly intentional.

Throughout this state, people are literally scared to death. A crisis has been created, a very real crisis, and we here in Augusta meet for 30 minutes, 15 minutes, we put it off to the very end.

On the other side of the aisle there is a very good story teller and I have a great deal of respect for him, the gentleman from Bangor, Mr. Diamond. He told us a story yesterday about a cracked foundation. I am one of those people who commute, and on the way home I started doing some thinking—occasionally on this side of the aisle we do that—and I began thinking about the tactics that had been used during the last week, two weeks, and I hope the direc-

tor of the Maine Film Commission is listening, because I think it would make for a very good late night movie. If I could ask you to imagine an old time wagon train moving across Maine and within that train, or seeking shelter and protection in those wagons, are Maine's neediest, her handicapped, her very young, her elderly, the most defenseless among us, and pulling those wagons are draft horses. Some of those horses are from out of the municipal stables, some are out of the state stables. For many of us it seems that in the last few years the number of municipal horses has been growing while the state horses have been falling by the side.

Suddenly the wagon train is attacked, several weeks ago, the wagons circle in self-defense. The people within that wagon train are desperate and they are willing to hold out until the last bullet, until the last drink of water, until the last bit of food. And that moment is ahead, it's within a few days, but suddenly in the distance there is a bugle and coming into sight is the U.S. Calvary and the Calvary saves the day. The people are overjoyed, they have been saved. It's hallelujah day and they welcome the Calvary and celebration occurs. But it is not until later that they realize that the attackers and the U.S. Calvary were wearing the same yellow repeal buttons.

Many of you have come up in the last few days and said, "What's with you Republicans? Why do you feel so strongly on this initiative? It may surprise some of you to know that progressive Republicans fought in the early Twentieth Century for the initiative in the referendum and they were successful.

I spent the morning reading the 1905, the 1907 House Horseblanket, and I read in there that the issue, the bill, bringing the referendum and the initiative before the Maine people came before these hallowed chambers primarily because of the activity of the Maine labor unions. Twenty-five thousand signatures were delivered in 1905 of Maine's working people represented by the unions, and in the last few days what organizations have been handing out those yellow repeal buttons? The very same organizations that brought that initiative upon the scene are asking us to repeal or void large sections of that.

I suggest, if you have an opportunity, read that horseblanket. A Republican by the name of Lincoln is quoted quite often, not only of the people and by the people and for the people, but his trust of the people, and if I can read to you from 1905 when the initiative and the referendum failed, a gentleman by the name of Mr. Merrill from Skowhegan, and if I could read the comments because I've heard the attitude in the last few days over the phone and from fellow members of this chamber the same type of attitude that he is responding to.

"Some gentlemen have said in conversation with me, why are we sent here by our constituents to pass laws and we know better than they do what they want? There was a wise saying of Abraham Lincoln which has been so often quoted, that if the good plain people of this land are safe to rule it, do you, Mr. Speaker and gentlemen," (in 1905 there were no gentleladies here, the right, the franchise had not been given yet) "Mr. Speaker and gentlemen, propose to say to the people of the State of Maine that you know better what they want than they themselves know? Do you propose to say by your vote here that the people of the good old State of Maine do not know what kind of laws they want to live under? Do you assume yourselves to be superior to the men who sent you here? I say that the people of the State of Maine are able and capable of judging for themselves what kind of laws they want to live under."

Each morning when I cross that last hill and I see before us this building, this capitol, I can't describe in words, I guess maybe pride, an overwhelming sense of privilege to come here and represent the people.

For whatever reason, Tuesday, November 2nd, when people entered that polling booth, they did so as citizens of this state. On November 2nd, I voted against the index. As the gentleman from Bangor said the other night on television, the Governor spent more time during his re-election talking about retroactivity than he did his own election. And I listened to the arguments and I agreed with the Governor and I voted against it, but the people voted. They have no vested groups, they have no lobbies out here in the hall, they have only us, 151 Representatives of the people, and a quarter of a million of them spoke on November 2nd. I ask you to meet that obligation and truly be representatives of the people.

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

Mr. JOYCE: Mr. Speaker, Ladies and Gentlemen of the House: I sat patiently here while my brother from the gold coast of York told those Captain Kangaroo stories about the horses over the plains and the covered wagons. This is not what we are talking about here today.

I am young to politics. For the first 50 years of my life I stayed free of it. I was not permitted by my employment to get involved in politics.

What is the real issue here today? The real issue is the issue that I first heard in York County. As a young candidate I drove a candidate who was seeking the governor's office, which he did not win, I took him through many of those small towns and many a hot afternoon in August I heard him say, "We have got to put warm blood back in government" and that is what the issue is today. Yes, I remember in that small York town that first afternoon when I heard "put warm blood back in government." I remember it so well because I recall now it was the first day that I ever replied—you tell 'em Joe.

Now, tonight many of my elderly, and as a member of the Maine Committee on Aging I practically live with them through days and nights—please, I implore upon you, don't make this a party issue, don't let those elderly go to sleep tonight thinking of the fears that lurk behind the horizon. This is the time we must take the vote. This is the time we must answer, "should there be warm blood in government."

Yes, I listened from my right and from my left, both friends of mine, although we're from opposite parties, they told us of their studies and reports and I must remind some of the freshmen here that I am one of the believers that there are too many studies done, too many studies done in this legislature, and the Speaker and members of the body who have been here before know that I am very critical of those studies. In my many years up here I say there has been only one valid study, and that is the time they studied why did the chicken cross the street. You know, after they studied that chicken they found that the chicken never ever crossed the street—she only walked out to the middle of the road so she could lay it on the line, and that is what the thing is here today—let's show the people of this great state that there is warm blood in this legislature.

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

Mr. HIGGINS: Mr. Speaker, Ladies and Gentlemen of the House: It is always difficult to follow the gentleman from Portland, and I think perhaps he and I have been here too long because I have heard that story before, but it is just as funny the second time when he tells it.

I rise simply because I can't let his remarks of warm blood in state government go unanswered, and I can't let the remarks of the gentleman from York, Mr. Rolde, go unanswered about a cancer in this government, and I submit to you, ladies and gentlemen, if there is a cancer here, it is self-induced.

We have created the problem ourselves. We are creating the action by inaction and it can be resolved, but we can't stand back and say,

why don't you compromise and do it my way. That is not going to solve the problems.

I really can't let the remarks of the gentlelady from Vassalboro go unanswered on one specific point, and that is the credit rating of the state. We have talked about this and talked about it and I am going to say it one more time—three of us from state government, myself and the treasurer of the state and his deputy listened to the head person at Standard and Poor's tell us that there was no problem with the State's credit rating if we adopted tax credits implemented in July of 1983. It can't be any clearer than that. We have letters to say that and you can hire all the experts you want or try to find someone else who has a divergent opinion to say that—he is the expert, at least he was on Thursday night when Mr. Shapiro told me that tax credits were no good. Since then, apparently, he has been demoted to something less than an expert. But at one time anyway, in the eyes of Mr. Shapiro, he was the key person.

The other thing I think I have to respond to the gentlelady from Vassalboro is, have we really put our shoulders to the wheel? I don't think we have. You can say it all you want because perception sometimes is 99 percent of what goes on around here. But since Monday night there has been no talk about a consensus, none whatsoever, and we as a party have gone on record numerous times of willing to compromise, to reach a consensus on an opinion, and yet the idea, it seems to me, is why don't you compromise and do it my way?

The Appropriations Committee has not met for more than 10 minutes to discuss potential cuts of whatever magnitude, anywhere from \$100,000 to \$200 million, they have not met to discuss any potential cuts whatsoever in state services.

The Taxation Committee has not been given any directives to come out with a bill other than the ones we have had. Perhaps haphazardly they have, but they have not been given the direction and the green light that they need, and that is because of this atmosphere of if we wait long enough, if we push hard enough, if we try to back everybody into a corner, they are going to have to vote for repeal because it is the only answer then.

I said it two weeks ago, I have said it last week and I am saying it again today—it's not the right answer, it's a spit in the face to the people that elected you and I and voted for the referendum.

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

Mr. DUDLEY: Mr. Speaker and Members of the House: I have been here a while in this seat in the back row and I enjoy it, and I hope some of my new colleagues in this House enjoy their stay here also, but I would be the first to recommend to them that if they think they would enjoy this House, they first must serve the people that they represent.

In regard to this item, I spoke all over my district in opposition to this piece of legislation but it seems to have fallen on deaf ears because they voted in large numbers in my district, in very large numbers in the whole state of Maine, large enough so there was no need of a recount, and they pointed out to us very clearly that this is what they wanted.

They also don't want us to come down here as intelligent people, at least they sent us here thinking we were, some of us might have fooled them a little, but they don't want a meat-axe approach to these subjects, taking away from the poor, take the pension away from the blind or any of these things. They are intelligent people today. I can see a big difference in 30 years, from when I first came here. There were a lot of people in the country where I come from that weren't as intelligent as they are today but they are very sharp people today. They know we have got too much government for the people in the State of Maine. They know that we

have got the biggest police force, a bigger police force than any state in the union per capita. We have got more state services than any state in the union per capita—they know that, they're intelligent. A lot of you maybe didn't know that, but you can look it up and find out it is a fact.

What they want taken away is the frills, whether you start on education or highways or where. They don't want to take it away from the poor people. I don't want anybody hungry and they don't either. They don't want to take it away from the blind, but there are people around these halls here that would have you believe that we have got to take it away from the poor, we have got to create suffering on the streets to scare people. Well, they don't scare me. I represent the people and the reason for my tenure here I feel is because I am against the concept of the bill, but I'm here to represent the majority of the people, I believe in majority government.

Too many times minorities have ruled in this House, but they are not going to rule my vote today or any other day. I hope you feel the same, I hope you enjoy your seat, that it's comfortable, and I hope that you feel you would like to have a little tenure here too. I want to sharpen you up a little. If you want to come back, you better mind what the people that sent you here intended for you to do. I'm going to, and I'm going to do it because that is their wishes, not mine. I don't think this is a good piece of legislation.

I will be the first one, after it is proven to me that I can prove to them that this can exist, maybe we can go along and say the best we can get is one year instead of two, or we cut everywhere we could without hurting the blind and the poor and the suffering. But there are a lot of frills in everything. We'll start in on any department you want to, Education. There's too many frills because they are not getting educated. I have plenty of people come to my place and pass me their checkbook to write a check and I'll sign it. They graduated from high school and can't write a check, don't know anything about economics, but they got points enough to go through by taking art and music and baseball and basketball, they got points enough to graduate from a school. Now, these kinds of frills we don't need in education. When it comes to needing money, my people would like to see some of these things taken away, if it comes to a choice of that or someone being hungry on the street or some kid not having clothing or food.

Take the highways, it's the same way. There are plenty of things that they can see that we could get along without. Sure, they're nice, but if we have to cut, we can cut all along the line where it won't make people hungry. We have got a police force, a very outstanding one, very capable people, but we have got more of them than any state in the union. Do we need them, per capita? This is a fact. These are the things that the intelligent people that I represent want corrected. They want less government. I have been telling you that here for five or six years. Everywhere I go, all I hear is less government. They don't need people there to tell them how to plant potatoes, they don't need anyone around to tell them how to milk a cow, they already know that, and they don't need to have them teach them about sex, most of them know that back in the country, and these kind of subjects can just as well be dropped. These are the things that they want to cut. They don't want you to take it away from the poor, and this is what I want.

They wouldn't let me serve on Appropriations, I have been here too long and I know too much about it, so I won't get a chance to sit down and put the knife where it belongs but I'll be right here to tell you where it belongs.

I just want to say once more in closing, I'm not going to waste your time because you people have got your minds made up anyway, but if some of you people like your seat and would like to come back, you better support the peo-

ple who sent you here.

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

Mr. KELLEHER: Mr. Speaker, Ladies and Gentlemen of the House: There isn't any one of us here that isn't familiar with the vote that was taken in November on the tax indexing issue. Each of us here are an extension of the districts which we represent. Each of us here in this body come here and put in legislation not always of our own choosing but those of the people from whence we come.

When Mr. Higgins and others here today say that we shouldn't be tampering with it, I don't want them to think that it is as casual as he would like you to believe it to be for those of us who are asking for repeal. I don't take this position very casually at all.

I spoke to a legislator today and he thought it was an awful easy position, and I thought he had an awful lot of nerve to even insinuate it was an easy position.

This state is in a very difficult financial position, as we all know. Mr. Higgins, a few moments ago, said that the Appropriations Committee met for 10 minutes after the hearing and then it was all over. Well, that is not the case with the Democrats that were on that committee, and I would like to think that it wasn't the case of the Republican members either. After we listened to the testimony that was given to us that day, there wasn't any easy answers, and Mr. Higgins knows that as well as I do, he has served on that committee before, as well as the other minority floor leader.

My position on repeal is not only my own personal position at the moment, it is the position of a great many people in my district. A great many people like myself voted for it in my district, but we are not completely unreasonable, we are not trying to be political. We don't think it is an easy answer because we know down the road there are serious financial problems in the state, not just what we are dealing with here today.

It is easy to be critical, like my good friend over there that was trying to give an honest illustration of how Ward Bond led the wagon train, my old friend the wagon master, Mr. Murphy.

As Mr. Joyce says, there are a great many people outside the halls today that are worried, and they should be.

The opposition to the repeal has said that we have got some viable, honest proposals, that we have not seriously looked at potential cuts—I say, where are they? Where have they been? You talk about a delay, if there was a delay, and where we are today—where were you and what you thought might be an honest, viable answer in regards to programs that may or may not be cut?

We have a very serious problem. We are well within solving it, within a very few votes of solving it. And believe me when I say that the two thirds that we are almost at today, we are only expressing the viewpoints of not only the calls that we have had, the letters that we have had, but the personal contacts that we have had, and the people are saying, our only answer is you, you as an individual, you as 151, that it is up to you to correct what we honestly felt was right and in the long term, when you look at the problem here today, we were wrong.

Preserve the body of the indexing, but do away with the repeal.

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

Mr. JALBERT: Mr. Speaker and Members of the House: The good gentleman from Scarborough, Mr. Higgins, has often heard Judge Edward Kelleher say—drivers up.

I cannot resist commenting on the manner in which the debate was conducted yesterday. I went to the good gentleman from Scarborough, Mr. Higgins, shook hands with him and commended him for the forthright and statesman-like manner in which he presented

his position, and he lost. He says, just because we are in the majority doesn't mean that we own the world. I agree with you. I have been in the minority several times. I have been in the minority when we couldn't even get a member on the Appropriations Committee, the Judiciary Committee, the Taxation Committee, the Legal Affairs Committee. I was a member of the legislature when we didn't even very often get unanimous consent to address the House. I know what it is to be in the minority.

I can buy some of these things, my good friend, Mr. Higgins, but I will tell you one thing, I cannot buy the comment that the Appropriations Committee has done nothing. I don't know about the other members, I know about several Democrats.

I also know this, I also know that I went to the gentleman from Scarborough, Mr. Higgins, in his office yesterday to tell him that I had a package, I told him one or two words and that is as far as I got. I also know that when I was still working on my package with the Finance Office, for the simple reason that I made the motion in Room 228 the day of the hearing that the department heads give us, department by department, priority lists of what programs they could do without, what monies we could save, that was given to us at the time the committee met to parcel out the priority list. I was unable to be present because of a previous work commitment on St. John St. in Portland, and that is somewhat important to me too, it's my livelihood. I had to work for 10 days through that department, our office, of which Mr. Higgins is very familiar, and he knows what a fine Finance Office we have, and there has got to be a little levity to everything. I didn't have to take a post graduate course in brains, which I couldn't pass anyway, it didn't take me too long yesterday afternoon when a very dear friend of his and mine on the Appropriations Committee presently came up and asked us very casually, have we got anything along the line of cuts? It didn't take me long to figure out just where that messenger man had come from. It didn't take me long to bounce out of my seat when he left the office and follow and tell you exactly where he went, and I won't bother doing that because Mr. Higgins can tell me where he went.

There is one thing I want clearly understood—facts—that is what I want, facts. I am not up here to change a vote here and a vote there. You have the votes. Don't tell us we are in the majority today, we are not, we are in the minority. You have the votes. We can't get them unless you help us, 101 votes. And the time is right upon us that if we don't get these 101 votes, I am admitting to you that a great many of these cuts are very serious and might not have to be done.

The gentlelady from Vassalboro is right, we must look at the clock, and as the clock goes around, it doesn't go around just for state employees, it goes around about \$30,000 a day that we spend here.

We have heard it today, the good gentleman from Kennebunk, Mr. Murphy, has spelled it out for us, or some other member, we met here for 14 minutes one day, 13 minutes another day, 12 minutes another day, that is what I have been harping about for two months, that we go home for a while, the committee members meet and do some work and then come back here and finish up and go home. Time is of the essence now, it is time.

If the gentleman from Scarborough, Mr. Higgins, wants us to go down, here is what he can actually do, very simple, let us have the votes. I have had at least 15 Republicans in this body tell me personally that they wanted to jump. Let us have the votes, you can laugh at us and we'll take the blame. That is a fair shuffle, that is a compromise, and I will give you the other side of the compromise—don't let us have the votes, knock us down and see what happens the next four or five months.

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

Mr. CARTER: Mr. Speaker, Ladies and Gentlemen of the House: I can no longer sit in my seat and remain quiet. The Appropriations Committee has been mentioned several times as being a do nothing committee. I resent it.

The good gentleman from Scarborough, Mr. Higgins, knows very well that before any committee can act, they must have a piece of legislation before it. We did not have a bill or any document to work on.

What the Appropriations Committee did was try to inform itself on how deep and how harmful the proposed cuts might be. This is what we gained by having a hearing.

I was one in the beginning that thought that we might be able to find a way that we could cut and find a compromise. Yes, we could cut four or five million, but after I saw the revenue figures for December, I lost my enthusiasm. The revenues as of December 31 were four and a half million behind estimates. If we cut at this point, we are just postponing a tax increase, it's inevitable.

I think the proper thing to do is to accept what is before us, and that is repeal the retroactivity, and go on about our work.

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

ROLL CALL

YEA—Ainsworth, Allen, Anderson, Andrews, Baker, Beaulieu, Benoit, Bost, Bott, Brannigan, Brodeur, Brown, A.K.; Carroll, D.P.; Carroll, G.A.; Carter, Cashman, Chonko, Clark, Connolly, Cooper, Cote, Cox, Crouse, Crowley, Daggett, Diamond, Erwin, Gauvreau, Gwadnosky, Hall, Handy, Hayden, Hickey, Higgins, H.C.; Hobbins, Ingraham, Jacques, Jalburt, Joseph, Joyce, Kane, Kelleher, Kelly, Ketover, Kilcoyne, LaPlante, Lehoux, Lisnik, Locke, MacEachern, Macomber, Mahany, Manning, Martin, A.C.; Martin, H.C.; Matthews, K.L.; Matthews, Z.E.; Mayo, McCollister, McGowan, McHenry, McSweeney, Melendy, Michael, Michaud, Mitchell, E.H.; Mitchell, J.; Moholland, Murray, Nadeau, Norton, Paradis, P.E.; Paul, Perry, Pouliot, Racine, Reeves P.; Richard, Ridley, Roberts, Rolde Rotondi, Smith, C.B.; Soucy, Soule, Stevens, Swazey, Tammara, Telow, Theriault, Thompson, Tuttle, Vose, Mr. Speaker.

NAY—Armstrong, Bell, Bonney, Brown, D.N.; Brown, K.L.; Cahill, Callahan, Carrier, Conary, Connors, Curtis, Davis, Day, Dexter, Dillenback, Drinkwater, Dudley, Foster, Greenlaw, Higgins, L.M.; Holloway, Jackson, Kiesman, Lebowitz, Lewis, Livesay, MacBride, Masterman, Masterston, Maybury, McPherson, Murphy, Paradis, E.J.; Parent, Perkins, Pines, Randall, Reeves, J.W.; Roderick, Salsbury, Scarpino, Seavey, Small, Smith, C.W.; Sproul, Stevenson, Stover, Strout Studley, Walker, Webster, Wentworth, Weymouth, Willey, Zirkilton.

ABSENT—Nelson, Sherburne.

Yes, 94; No, 55; Absent, 2.

The SPEAKER: Ninety-four having voted in the affirmative and fifty-five in the negative, with two being absent, the Bill fails of passage to be enacted.

By unanimous consent, ordered sent forthwith to the Senate.

House at Ease

Called to order by the Speaker.

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

Bill "An Act to Prohibit Smoking in Food Stores and Portions of Restaurants" (S. P. 68)

Came from the Senate referred to the Committee on Health and Institutional Services and Ordered Printed.

In the House, the Bill was referred to the

Committee on Health and Institutional Services in concurrence.

Bill "An Act Relating to the Laying Out, Altering, Discontinuing, Maintaining and Repairing of Roads and Bridges in Unorganized Territories" (S. P. 70)

Came from the Senate referred to the Committee on Local and Country Government and Ordered Printed.

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

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

Bill "An Act Relating to the Use of Artificial Lights in Herring Fishing" (S. P. 71)

Came from the Senate referred to the Committee on Marine Resources and Ordered Printed.

In the House, the Bill was referred to the Committee on Marine Resources in concurrence.

Bill "An Act Relating to Exemptions on Property of Institutions and Organizations under the Property Tax Law" (S. P. 69)

Came from the Senate referred to the Committee on Taxation and Ordered Printed.

In the House, the Bill was referred to the Committee on Taxation in concurrence.

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

House at Ease

Called to order by the Speaker.

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

Non-Concurrent Matter

Bill "An Act to Remove the Retroactive Provisions of the Income Tax Indexing Law" (Emergency) (S. P. 34) (L. D. 96) which failed of Passage to be Enacted in the House on January 13, 1983.

Came from the Senate, Passed to be Enacted in non-concurrence.

In the House:

The SPEAKER: The pending question is to recede and concur. All those in favor of receding and concurring will vote yes; those opposed will vote no.

A vote of the House was taken.

Whereupon, Mrs. Mitchell of Vassalboro 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 to recede and concur with the Senate. All those in favor will vote yes; those opposed will vote no.

ROLL CALL

YEA—Ainsworth, Allen, Anderson, Andrews, Baker, Beaulieu, Benoit, Bost, Brannigan, Brodeur, Brown, A.K.; Carroll, D.P.; Carroll, G.A.; Carter, Cashman, Chonko, Clark, Connolly, Cooper, Cote, Cox, Crouse, Crowley, Daggett, Diamond, Erwin, Gauvreau, Gwadosky, Hall, Handy, Hayden, Hickey, Higgins, H.C.; Hobbins, Ingraham, Jacques, Jalbert, Joseph, Joyce, Kane, Kelleher, Kelly, Ketover, Kilcoyne, LaPlante, Lehoux, Lisnik, Locke, MacEachern, Macomber, Mahany, Manning, Martin, A.C.; Martin, H.C.; Matthews, K.L.; Matthews, Z.E.; Mayo, McCollister, McGowan, McHenry, McSweeney, Melendy, Michael, Michaud, Mitchell, J.; Moholland, Murray, Nadeau, Nelson, Norton, Paradis, P.E.; Paul, Perry, Pouliot, Racine,

Reeves, P.; Richard, Ridley, Roberts, Rolde, Rotondi, Seavey, Smith, C.B.; Soucy, Soule, Stevens, Swazey, Tamarro, Telow, Theriault, Thompson, Tuttle, Vose, Mr. Speaker.

NEA—Armstrong, Bell, Bonney, Bott, Brown, D.N.; Brown, K.L.; Cahill, Callahan, Carrier, Conary, Conners, Curtis, Davis, Day, Dexter, Dillenback, Drinkwater, Dudley, Foster, Greenlaw, Higgins, L.M.; Holloway, Jackson, Kiesman, LeBowitz, Lewis, Livesay, MacBride, Masterman, Masterton, Maybury, McPherson, Mitchell, E.H.; Murphy, Paradis, E. J.; Parent, Perkins, Pines, Randall, Reeves, J.W.; Roderick, Salsbury, Scarpino, Small, Smith, C.W.; Sproul, Stevenson, Stover, Strout, Studley, Walker, Webster, Wentworth, Weymouth, Willey, Zirkilton.

ABSENT—Sherburne.

Yes, 94; No, 56; Absent, 1.

The SPEAKER: The Chair would like to recognize in the back of the hall of the House a lady who has been seriously ill, after two operations, the gentlewoman from Portland, Mrs. Nelson, and the Chair welcomes her back to this body.

The Chair will announce the vote. Ninety-four having voted in the affirmative and fifty-six in the negative, with one being absent, the motion to recede and concur does not prevail.

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

Mrs. MITCHELL: Mr. Speaker, having voted on the prevailing side, I now move reconsideration.

The SPEAKER: The gentlewoman from Vassalboro, Mrs. Mitchell, moves that we reconsider our action whereby we failed to recede and concur.

The gentlewoman may proceed.

Mrs. MITCHELL: Mr. Speaker, Men and Women of the House: I won't keep you here long but I think that it is very important that I impress upon you, especially new members of this House—I'm sure have been told all day, don't worry, there will be many more votes. But let me lay something out to you parliamentary, that the motion to reconsider whereby we failed to agree with the Senate, if this motion fails, this bill is dead, it cannot come back from the Senate, it is dead.

We're in a game, I suppose, and I am sorry to call it that, of brinksmanship. It is clearly very important that we move forward and to set the tone of this session as one who can work without waiting for a crisis. Let's not let it be said of us that we have to wait until midnight, the last minute, to resolve a problem.

Ninety-five men and women have said that this is a reasonable solution. The Representative from Portland has waited all day to vote; it is important. It is not a vote that this is a reasonable solution. The Representative from Portland has waited all day to vote; it is important. It is not a vote that needs to be put off. I hope you will consider reconsideration and understand the finality with which I speak.

Whereupon, on motion of Mr. Diamond of Bangor, tabled pending the motion of Mrs. Mitchell of Vassalboro to reconsider whereby the House failed to recede and concur and tomorrow assigned.

On motion of Mrs. Nelson of Portland,
Adjourned until ten o'clock tomorrow morning.