

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

Monday, March 7, 1983

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

Prayer by Reverend Richard Beal, Pastor of the First Universalist Church, Sanguenville.

The members stood at attention during the playing of the National Anthem by the Lewiston High School Band.

The journal of the previous session was read and approved.

Papers from the Senate

Bill "An Act to Undedicate Funds Received from Public Reserved Lands" (S. P. 297) (L. D. 951)

(Later Reconsidered)

Bill "An Act Appropriating Funds for Independent Living Services for the Disabled" (S. P. 316) (L. D. 952)

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

In the House, was referred to the Committee on Appropriations and Financial Affairs in concurrence.

Bill "An Act to Decrease Exemptions in Child Support and Alimony Cases" (S. P. 317) (L. D. 953)

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

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

Bill "An Act to Amend the Provisions for Telecommunication Services to the Hearing Impaired" (S. P. 318) (L. D. 954)

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

In the House, was referred to the Committee on Public Utilities in concurrence.

Reports of Committees**Unanimous Leave to Withdraw**

Report of the Committee on Public Utilities reporting "Leave to Withdraw" on Bill "An Act to Prohibit Public Utilities from Including Uncompleted Construction Work Costs in Their Rates" (S. P. 191) (L. D. 614)

Was placed in the Legislative Files without further action pursuant to Joint Rule 15 in concurrence.

Refer to the Committee on Business Legislation Tabled and Assigned

Report of the Committee on Legal Affairs on Bill "An Act to Provide for the Use of Major Credit Cards at Selected State Liquor Stores" (S. P. 160) (L. D. 448) reporting that it be referred to the Committee on Business Legislation.

Came from the Senate with the Report read and accepted and the Bill referred to the Committee on Business Legislation.

In the House, the Report was read.

On motion of Mrs. Mitchell of Vassalboro, tabled pending acceptance of the Committee Report and tomorrow assigned.

Non-Concurrent Matter

Bill "An Act to Revise the Mexico Water District Charter" (H. P. 422) (L. D. 505) which was passed to be engrossed as amended by Committee Amendment "A" (H-28) and House Amendment "A" (H-35) in the House on March 2, 1983.

Came from the Senate with the Bill and Accompanying Papers recommitted to the Committee on Public Utilities in non-concurrence.

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

Messages and Documents

The following Communication: (S. P. 354)
The Senate of Maine

Augusta

March 3, 1983

Honorable Edgar E. Erwin
Honorable Luman P. Mahany
Chairmen

Joint Standing Committee on Agriculture
State House

Augusta, Maine 04333

Dear Chairmen Erwin and Mahany:

Please be advised that Governor Joseph E. Brennan today nominated Vaughn Holyoke of Brewer for appointment as the University of Maine at Orono Representative of the Pesticides Control Board.

Pursuant to Title 22 MRSA Section 1471-B, this nomination will require review by the Joint Standing Committee on Agriculture 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 Agriculture.

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

The following Communication: (S. P. 353)

The Senate of Maine

Augusta

March 3, 1983

Honorable Edgar E. Erwin
Honorable Luman P. Mahany
Chairmen

Joint Standing Committee on Agriculture
State House

Augusta, Maine 04333

Dear Chairmen Erwin and Mahany:

Please be advised that Governor Joseph E. Brennan today nominated Frank Lawrence of Yarmouth for reappointment as the Medical Community Representative of the Pesticides Control Board.

Pursuant to Title 22 MRSA Section 1471-B, this nomination will require review by the Joint Standing Committee on Agriculture 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 Agriculture.

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

Petitions, Bills and Resolves Requiring Reference

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

Business Legislation

Bill "An Act to Override the Federal Preemption of State Authority to Regulate Alternative Mortgage Transactions" (Emergency) (H. P. 790) (Presented by Representative Brannigan of Portland) (Cosponsors: Representatives Racine of Biddeford, Stevens of Bangor, and Martin of Van Buren) (Submitted by the Department of Business Regulation pursuant to Joint Rule 24)

Bill "An Act to Amend Provisions of the Maine Insurance Code Relating to Tender Offers and to Unfair Trade Practices" (H. P. 838) (Presented by Representative Racine of Biddeford) (Cosponsors: Representatives Pouliot of Lewiston, Stevens of Bangor, and Murray of Bangor) (Submitted by the Department of Business Regulation pursuant to Joint Rule 24)

Bill "An Act to Amend the Licensing Provisions of the Maine Insurance Code and to Require Filing Fees for Fraternal Benefit Organizations" (H. P. 839) (Presented by Representative Pouliot of Lewiston) (Cosponsors: Representa-

tatives Racine of Biddeford, Perkins of Brooksville, and Stevens of Bangor) (Submitted by the Department of Business Regulation pursuant to Joint Rule 24)

Bill "An Act to Set Limits on Deposits of Returnable Containers" (H. P. 840) (Presented by Representative Reeves of Newport) (Cosponsors: Representative Carrier of Westbrook and Senator Carpenter of Arroostook)

(Ordered Printed)

Sent up for concurrence.

Education

Bill "An Act to Insure State Enforcement of Equal Opportunity in State-supported Educational Programs" (H. P. 841) (Presented by Representative Benoit of South Portland)

(Ordered Printed)

Sent up for concurrence.

Energy and Natural Resources

Bill "An Act to Encourage Public Access to Shoreland" (H. P. 842) (Presented by Representative Mitchell of Freeport)

(Ordered Printed)

Sent up for concurrence.

Judiciary

Bill "An Act to Allow Independent Psychologists to Conduct Mental Examinations of Persons Accused of Crime" (H. P. 843) (Presented by Representative Brannigan of Portland) (Cosponsors: Representatives Murray of Bangor, Stevens of Bangor, and Benoit of South Portland) (Submitted by the Department of Mental Health and Mental Retardation pursuant to Joint Rule 24)

Bill "An Act to Amend Certain Aspects of Post-conviction Review" (H. P. 844) (Presented by Representative Carroll of Gray) (Cosponsor: Representative Cashman of Old Town)

Bill "An Act to Amend the Interception of Wire and Oral Communications Law" (H. P. 845) (Presented by Representative Carroll of Gray) (Cosponsor: Representative Cashman of Old Town)

(Ordered Printed)

Sent up for concurrence.

Labor

Bill "An Act Regarding Benefits under the Workers' Compensation Law" (H. P. 846) (Presented by Representative Beaulieu of Portland)

(Ordered Printed)

Sent up for concurrence.

State Government

Bill "An Act Eliminating the Responsibility of the State Planning Office to Prepare an Annual Housing Report" (H. P. 847) (Presented by Representative Paradis of Augusta) (Cosponsors: Representatives Ketover of Portland, LaPlante of Sabattus, and Lebowitz of Bangor) (Submitted by the State Planning Office pursuant to Joint Rule 24)

Bill "An Act to Clarify Determination of Membership on the Board of Trustees of the Maine State Retirement System" (H. P. 848) (Presented by Representative Crowley of Stockton Springs) (Cosponsors: Representatives Allen of Washington, Kilcoyne of Gardiner, and Kelleher of Bangor)

RESOLUTION, Proposing an Amendment to the Constitution of Maine to Restrict the Period of Retroactivity of Taxation Legislation to no more than One Year (H. P. 849) (Presented by Representative Mitchell of Vassalboro) (Cosponsors: Representative Rolde of York and Senator Wood of York)

(Ordered Printed)

Sent up for concurrence.

Transportation

Bill "An Act Concerning Right-of-way for Emergency Vehicles" (H. P. 850) (Presented by Representative Theriault of Fort Kent) (Cosponsor: Representative Moholland of Prince-

ton) (Submitted by the Department of Public Safety pursuant to Joint Rule 24)

(Ordered Printed)

Sent up for concurrence.

Orders

On motion of Representative McSweeney of Old Orchard Beach, it was

ORDERED, that Representative Donald A. Strout of Corinth be excused March 2nd and 3rd due to illness.

House Reports of Committees Unanimous Leave to Withdraw

Representative Allen from the Committee on Audit and Program Review on Bill "An Act to Delineate Community Services in Maine" (H. P. 292) (L. D. 351) reporting "Leave to Withdraw"

Representative Tuttle from the Committee on Labor on Bill "An Act to Require Workers' Compensation Commissioners to Explain Fully the Reasons for Their Decision" (H. P. 336) (L. D. 395) reporting "Leave to Withdraw"

Representative Norton from the Committee on Labor on Bill "An Act Relating to Skiers and Tramway Passengers' Responsibilities" (H. P. 523) (L. D. 648) reporting "Leave to Withdraw"

Representative Gwadosky from the Committee on State Government on Bill "An Act Concerning Notice of Department of Marine Resources' Rule-making and Adjudicatory Hearings" (H. P. 525) (L. D. 650) reporting "Leave to Withdraw"

Representative Gwadosky from the Committee on State Government on RESOLUTION, Proposing an Amendment to the Constitution of Maine Reducing the Size of the House of Representatives to 99 Members (H. P. 637) (L. D. 788) reporting "Leave to Withdraw"

Were placed in the Legislative Files without further action pursuant to Joint Rule 15, and sent up for concurrence.

Consent Calendar

First Day

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

(H. P. 524) (L. D. 649) Bill "An Act to Prohibit Skiing in Out-of-bounds Areas"—Committee on Legal Affairs reporting "Ought to Pass" as amended by Committee Amendment "A" (H-45)

(H. P. 439) (L. D. 532) Bill "An Act Relating to the State Harness Racing Commission"—Committee on Agriculture reporting "Ought to Pass"

No objections being noted, the above items were ordered to appear on the Consent Calendar of March 8, under the listing of Second Day.

Consent Calendar

Second Day

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

(H. P. 370) (L. D. 453) Bill "An Act to Amend the Definition of Earnable Compensation" (C. "A" H-42)

No objections having been noted at the end of the Second Legislative Day, the House Paper was passed to be engrossed as amended and sent up for concurrence.

Later Today Assigned

(H. P. 568) (L. D. 663) Bill "An Act to Adjust the Service Fee and Allocations of the Low-Level Waste Siting Fund, and to Adjust the Membership of the Low-Level Waste Siting Commission" (Emergency) (C. "A" H-41)

On the request of Mrs. Ketover of Portland, was removed from the Consent Calendar.

Thereupon, the Report was accepted and the Bill read once. Committee Amendment "A" (H-41) was read by the Clerk.

On motion of Mrs. Ketover of Portland,

tabled pending adoption of Committee Amendment "A" and later today assigned.

(H. P. 519) (L. D. 644) Bill "An Act to Allow the Commissioner of Educational and Cultural Services to Charge a Fee for Private Industrial Fire Brigade Training" (C. "A" H-43)

No objections having been noted at the end of the Second Legislative Day, the House Paper was passed to be engrossed as amended and sent up for concurrence.

Passed to Be Engrossed

Bill "An Act to Restrict the Open Season on Partridge" (H. P. 765) (L. D. 965)

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

Passed to Be Enacted

An Act to Expand the Territorial Limits of Van Buren Light and Power District (S. P. 44) (L. D. 103) (C. "A" S-9)

An Act to Provide All Municipalities with the Option to Establish a Local Board of Assessment Review" (S. P. 172) (L. D. 527)

An Act Relating to Wholesaler's and Taste-testing Activities under the Liquor Laws (S. P. 283) (L. D. 840)

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.

Enactor

Tabled Unassigned

An Act Regarding Premium Discounts for Workers' Compensation Insurance of Small Businesses (H. P. 110) (L. D. 117) (C. "A" H-26)

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.

An Act to Amend the Banking Code Regarding Minimum Amount Entitled to Interest (H. P. 155) (L. D. 180) (C. "A" H-25)

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

The SPEAKER: The Chair recognizes the gentleman from Farmington, Mr. Webster.

Mr. WEBSTER: Mr. Speaker, Ladies and Gentlemen of the House: Would someone on the committee please explain this bill so I can vote on this?

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

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

Mr. BRANNIGAN: Mr. Speaker, Men and Women of the House: This is part of the work that the Business Legislation Committee has been doing for several terms, especially this year, in bringing to some degree thrift institutions, savings and loans and the savings banks, into line with the work of trust banks or commercial banks.

Trust banks and commercial banks have never had any restriction on what they could pay interest on, what they had to pay interest on. They could make those decisions themselves.

Trust companies were required to always pay interest on anything over \$25.

The original bill asked us to take the limit off completely; we decided not to make them, in other words, a parody with all other banks. It was our decisions, up to \$100 for regular accounts and \$25 for accounts that belong to minors. So we have loosened the requirements, equated the requirements a bit, but have not made them the same for the two kinds of banks as yet.

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

Senate.

Enactor

Tabled Unassigned

An Act to End Discrimination Against Chiropractic Services under the Workers' Compensation Law (H. P. 268) (L. D. 328)

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.

An Act to Ratify Dedication of Fort Sumner Park in the City of Portland (H. P. 274) (L. D. 334)

An Act to Prohibit Possession of Lobsters by Scallop Boats (H. P. 276) (L. D. 336)

An Act to Clarify the Application of Ordinary Death Benefits to Participating Local Districts (H. P. 371) (L. D. 454)

An Act to Clarify the Law Relating to Employees of Local Districts Who may Withdraw from the Maine State Retirement System (H. P. 372) (L. D. 455)

An Act to Amend the Biannual Meetings Between County and Municipal Law Enforcement Officers (H. P. 487) (L. D. 584)

An Act Relating to Ownership of Stock in Maine Financial Institutions (H. P. 682) (L. D. 838)

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.

Enactor

Later Today Assigned

An Act to Amend the Banking Code Regarding Loans to Directors of Financial Institutions (H. P. 683) (L. D. 839)

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

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

An Act to Require Printed or Typewritten Names to Accompany Signatures on Documents Filed in the Registry of Deeds (H. P. 692) (L. D. 863)

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.

Finally Passed

RESOLVE, to Authorize the Commissioners of Cumberland County to Reimburse the Town of Standish \$4,620.21 Unexpended Retirement Funds (S. P. 162) (L. D. 450)

RESOLVE, to Name the Brook and Pond Located on the West Poland Road in Oxford County and on the West Shore of Thompson Lake in Honor of the Perkins Family (S. P. 171) (L. D. 526)

Were reported by the Committee on Engrossed Bills as truly and strictly engrossed, finally passed, 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:

Bill "An Act to Promote the Training of Psychologists through the Cooperative Education Support Program" (H. P. 792) (Committee on Health and Institutional Services suggested)

Tabled—March 4, 1983 by Representative Nelson of Portland.

Pending—Reference.

On motion of Mrs. Nelson of Portland, the Bill was referred to the Committee on Education, ordered printed and sent up for concurrence.

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

Bill "An Act to Amend the Adult Protective

Services Act" (H. P. 826) (Committee on Health and Institutional Services suggested)

Tabled—March 4, 1983 by Representative Nelson of Portland.

Pending—Reference.

On motion of Mrs. Nelson of Portland, the Bill was referred to the Committee on Judiciary, ordered printed and sent up for concurrence.

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

Bill "An Act to Amend the Child and Family Services and Child Protection Act" (H. P. 827) (Committee on Health and Institutional Services suggested)

Tabled—March 4, 1983 by Representative Nelson of Portland.

Pending—Reference.

On motion of Mrs. Nelson of Portland, the Bill was referred to the Committee on Judiciary, ordered printed and sent up for concurrence.

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

HOUSE DIVIDED REPORT—Majority (9) "Ought Not to Pass"—Minority (4) "Ought to Pass" as amended by Committee Amendment "A" (H-40)—Committee on Legal Affairs on Bill "An Act to Require Liquor Price Equity at Certain Border Area Liquor Stores" (H. P. 271) (L. D. 331)

Tabled—March 4, 1983 by Representative Kelleher of Bangor.

Pending—Motion of Representative Cox of Brewer to accept the Majority "Ought Not to Pass" Report

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

Mr. TUTTLE: Mr. Speaker, Ladies and Gentlemen of the House: I will be very brief this morning. I wasn't here the other day to essentially explain what this bill does. The purpose of this bill is to establish discount liquor stores in Sanford and Fryeburg as well as in Kittery—that presently already exists.

Both my community of Sanford and Fryeburg are border towns with New Hampshire, as is Kittery, and both communities enjoy substantial tourist traffic during the summer. Also, by placing discount liquor prices and stores in these communities, Maine residents in these areas will be less inclined to travel into New Hampshire to purchase their liquor.

There is also a committee amendment that includes the community of Rumford, which is also experiencing the same situation.

I am the sponsor of this bill, and I am sure that many of you who have been here before, many of you who have not, are aware of the situation of present liquor prices as they pertain to competition with the State of New Hampshire, particularly in border communities like my own of Sanford and Fryeburg as well as Rumford.

The purpose of the bill is to establish these discount prices. As I have said before, both Sanford and Fryeburg are border communities, and it would also keep the present Kittery Liquor Store.

I think this is an important bill, it is something that I think we have tried to address in the legislature many years before. We are really in a competitive war where I am, in a border community like Sanford. We are losing a lot of business, we are losing a lot of revenue to the State. I think it is appropriate to be competitive as far as from a business point of view for our state and have the prices in those border communities the same as they are in Kittery. I think not to do that is irresponsible. I think that this bill attempts to address that problem by making the prices similar in Sanford and Fryeburg.

I would hope that the body today would see fit to defeat the present motion of the Majority "Ought Not to Pass" Report so that we could

support the Minority "Ought to Pass" Report.

At this time, Mr. Speaker, I would request a division.

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

Mr. DILLENBACK: Mr. Speaker, Ladies and Gentlemen of the House: The vote was 9 to 4 against this bill in the committee. You can't set aside certain communities to have a liquor store with a discount price. If you have Rumford, if you have Fryeburg, what about Standish, Cornish, some of these other towns up through there?

The problem is, the people on the border go to New Hampshire to buy their groceries as well. While they are over there, they are going to buy their liquor. If you want to have a discount store for the people in the State of Maine, you probably should put it here in Augusta, which is the center of the state.

You can't begin to open stores all along the border because there is no way you can overcome this problem. We have a discount store there. The Governor is talking about doing away with the liquor stores, which I am opposed to, but we certainly aren't going to open up any more stores, and I think this bill should go down the drain.

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

Mr. KELLEHER: Mr. Speaker, Ladies and Gentlemen of the House: I would hope that you would support Mr. Tuttle's motion this morning. I was in the legislature when we created this single store down in Kittery to accommodate at that time the southern part of the state and to try to create some competition with New Hampshire. I opposed it in 1969 and I oppose it today. If we want to have fair and equitable prices in the state, we should have them in Houlton and Bangor and Washington County and everywhere else in the state, not just to accommodate what we would like to do in terms of recovering any dollars that are going into New Hampshire.

I think that the dollars that are spent here in the state and by the citizens of state should be dealt with fairly. It has been an unfair situation since 1969. I wouldn't mind supporting Mr. Tuttle's position in putting some prices in his stores along the border of New Hampshire, but I should think that in the same light we would want to give the same fair and equal opportunity to the citizens in my community and in Ellsworth and in Augusta and everywhere else.

I would oppose the motion of the Majority Report and let us at least make it, at this session, equitable for everyone in this state. For years and years in the past the legislature has been ignoring what should be fair and equitable for all its citizens, and not just for a few in southern Maine because of the almighty dollar in competing with New Hampshire.

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

Mr. KIESMAN: Mr. Speaker, Ladies and Gentlemen of the House: Every time this issue comes up, we get a little lecture on fairness. I would like to address that just a little bit if I could.

Anyone who does not live along the New Hampshire border or has no association with that should think a little bit about the competitive influence that takes place over there. You know, it is a well accepted fact that New Hampshire feeds on the business that they entice across the border from the adjoining states. If we ever were to close the borders with New Hampshire, they would starve to death in a month, and that is an accepted fact.

If you have been listening to the radio or the TV lately, you have heard that they have just opened another major mall in the Newington area. If any of you have been over to the Newington Mall, you know what that is, and they have just opened another one, I think it's called Fox Run. They have been advertising it very heavily here in Maine, and part of their adver-

tising is that they have a liquor store there.

Well, they just built a mall across the line from Fryeburg, I don't know if it is as a direct result but it would seem to indicate that a great result of that is the fact that we have had an auto supply store in Fryeburg close, we have had two grocery stores close, a five and ten cent store close and a clothing store close. It is a fact that all the tourists that come into Maine, when they head back towards Massachusetts, New Jersey, Connecticut or wherever, if they are coming out through Fryeburg, they go right on into New Hampshire and when they get up there to the liquor store and mall, they open up their trunks to see how much space they have got left and then they fill that up, and they might just as well be doing that in the State of Maine.

The neighboring town to Fryeburg, Lovell, has a wintertime population of 600 and in the summertime we have about 3,000. That gives you some idea of that out-of-state population increase that buys their booze in New Hampshire when they go across the line.

So strictly from a standpoint of business, it doesn't make much sense to allow that to continue and not compete for it.

We talk about the fairness aspect of it, that the people of Fryeburg or Sanford or Kittery can buy their liquor cheaper as a result of a cut-rate store. Well, don't kid yourself. If they want to buy their liquor at a cut-rate price, they will just go across the border into New Hampshire, so it doesn't affect the residents a great deal, but it does have a great effect on the non-resident traffic.

You talk about the fairness aspect—let me remind you that when we had a bond issue here to put Bath Iron Works into Portland, the people of my district voted for it because they knew that the people of Portland needed some assistance in the way of jobs. They also voted for a bond issue that provided some port facilities at Searsport and Eastport. They also voted for a bond issue that would allow for grain storage elevators in the Lewiston-Auburn area, that seemed to be the area that it was supposed to be.

This is a situation where you can do some good for those border towns that are faced with a peculiar circumstance by a quirk of geography. It doesn't cost the state a nickel; in fact, we would make money out of the deal. From a business standpoint, it doesn't make sense that we deny competing with the New Hampshire traffic.

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

Mr. MCCOLLISTER: Mr. Speaker, Ladies and Gentlemen of the House: I have to oppose this bill because of its amendment. Rumford is some 40 or 50 miles from New Hampshire but it is only 16 miles from the center of my district. If we give this bill to Rumford, it is going to deny the businesses in my district, the grocery business, the clothing business, the gas business, it is going to hurt businesses in my district, so I must oppose this bill.

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

Mr. COX: Mr. Speaker, Ladies and Gentlemen of the House: I think I should say a few words about this bill and the Majority "Ought Not to Pass" Report.

I think from the debate that has taken place here this morning, the House can see some of the problems. As soon as you grant a few more stores, then you have got a ripple effect. The people a little farther inland, 40 or 50 miles, start being discriminated against, and at the present time, not only those people but everyone, practically everyone, in the state is discriminated against in the price of liquor. For this reason, the reason that there is so much resentment against the different price in the Kittery store now, the majority of the committee simply does not see that we should grant more inequities in more stores along the

border.

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

A vote of the House was taken.

78 having voted in the affirmative and 37 having voted in the negative, the motion did prevail.

Sent up for concurrence.

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

HOUSE DIVIDED REPORT—Majority (10) "Ought Not to Pass" — Minority (3) "Ought to Pass" in New Draft (H. P. 742) (L. D. 929) Committee on Judiciary on Bill "An Act to Require Mandatory Jail Sentences for Trafficking or Furnishing Drugs" (H. P. 122) (L. D. 130)

Tabled—March 4, 1983 by Representative Hayden of Durham.

Pending—Motion of Representative Soule of Westport to accept the Majority "Ought Not to Pass" Report. (Roll Call Requested)

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

Mrs. BEAULIEU: Mr. Speaker, Ladies and Gentlemen of the House: I would ask you to defeat the pending motion so that we might have an opportunity to offer an amendment to the bill.

The SPEAKER: A roll call has been requested. For the Chair to order a roll call, it must have the expressed desire of one fifth of the members present and voting. 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 Westport, Mr. Soule, that the Majority "Ought Not to Pass" Report be accepted. All those in favor will vote yes; those opposed will vote no.

ROLL CALL

YEA—Baker, Benoit, Bott, Brannigan, Brodeur, Carrier, Connolly, Cote, Cox, Foster, Gauvreau, Hickey, Hobbins, Ingraham, Joseph, Kilcoyne, Livesay, Macomber, Manning, Reeves, P. Soule, Sproul, Stevens, Swazey, Walker, Webster, Willey.

NAY—Ainsworth, Allen, Anderson, Andrews, Armstrong, Beaulieu, Bell, Bonney, Bost, Brown, A.K.; Brown, D.N.; Brown, K.L.; Cahill, Callahan, Carroll, D.P.; Carroll, G.A.; Cashman, Chonko, Clark, Conary, Conners, Cooper, Crouse, Crowley, Curtis, Daggett, Davis, Day, Dexter, Diamond, Dillenback, Drinkwater, Dudley, Erwin, Greenlaw, Gwadodsky, Hall, Handy, Hayden, Higgins, H.C.; Higgins, L.M.; Holloway, Jackson, Jacques, Joyce, Kelleher, Kelly, Ketover, Kiesman, LaPlante, Lebowitz, Lehoux, Lewis, Lisnik, MacBride, MacEachern, Martin, A.C.; Martin, H.C.; Masterman, Masterton, Matthews, K.L.; Matthews, Z.E.; Maybury, Mayo, McCollier, McGowan, McHenry, McPherson, McSweeney, Melendy, Michaud, Mitchell, E.H.; Mitchell, J.; Moholland, Murphy, Murray, Nadeau, Norton, Paradis, E.J.; Paradis, P.E.; Parent, Paul, Perkins, Perry, Pines, Pouliot, Racine, Randall, Reeves, J.W.; Ridley, Rolde, Rotondi, Salsbury, Scarpino, Seavey, Small, Smith, C.B.; Smith, C.W.; Soucy, Stover, Strout, Tammaro, Telow, Theriault, Tuttle, Vose, Wentworth, Weymouth, Zirkilton, The Speaker.

ABSENT—Carter, Jalbert, Kane, Locke, Mahany, Michael, Nelson, Richard, Roberts, Roderick, Sherburne, Stevenson, Studley, Thompson.

Yes, 27; No, 110; Absent, 14.

The SPEAKER: Twenty-seven having voted in the affirmative and one hundred ten in the negative, with fourteen being absent, the mo-

tion does not prevail.

Thereupon, the Minority "Ought to Pass" Report was accepted, the New Draft read once and assigned for second reading later in the day.

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

Bill "An Act to Amend the Requirements and Adjust the Fees for the Licensing, Inspection and Permitting of Fireworks Displays and the Storage and Transportation of Explosives and Flammable Liquids" (H. P. 832) (Committee on Legal Affairs suggested)

Tabled—March 4, 1983 by Representative Cox of Brewer.

Pending—Reference.

On motion of Mr. Cox of Brewer, the Bill was referred to the Committee on Legal Affairs, ordered printed and sent up for concurrence.

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

Bill "An Act to Permit the Use of State Funds for Rail Rehabilitation Projects and Townway Crossing Improvements" (H. P. 835) (Committee on Transportation suggested)

Tabled—March 4, 1983 by Representative Carter of Winslow.

Pending—Reference.

Thereupon, the Bill was referred to the Committee on Transportation, ordered printed and sent up for concurrence.

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

Mr. GAUVREAU: Mr. Speaker, is the House in possession of L. D. 489?

The SPEAKER: The Chair would answer in the affirmative. Bill "An Act Relating to the Minimum Wage for Waiters and Waitresses," House Paper 406, L. D. 489, is in the possession of the House, having been held at the request of the gentleman from Lewiston, Mr. Gauvreau. (Majority "Ought Not to Pass" Report accepted)

Mr. GAUVREAU: Mr. Speaker, having voted on the prevailing side, I would now move reconsideration and ask that the matter be tabled for one legislative day.

Thereupon, on motion of Mr. Gauvreau of Lewiston, tabled pending his motion to reconsider whereby the Majority "Ought Not to Pass" Report was accepted and tomorrow assigned.

The Chair laid before the House the following matter:

Bill "An Act to Adjust the Service Fee and Allocations of the Low-Level Waste Siting Fund, and to Adjust the Membership of the Low-Level Waste Siting Commission" (Emergency) (H. P. 568) (L. D. 663) (C. "A" H-41)

Mrs. Ketover of Portland offered House Amendment "A" to Committee Amendment "A" (H-48) and moved its adoption.

House Amendment "A" to Committee Amendment "A" (H-48) was read by the Clerk and adopted.

Committee Amendment "A" as amended by House Amendment "A" thereto (H-41) was adopted.

The Bill was assigned for second reading tomorrow.

The Chair laid before the House the following matter:

An Act to Amend the Banking Code Regarding Loans to Directors of Financial Institutions (H. P. 683) (L. D. 839) 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.

Passed to Be Engrossed Amended Bill

Bill "An Act to Require Mandatory Jail Sent-

ences for Trafficking or Furnishing Drugs" (H. P. 742) (L. D. 929).

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

Mrs. Beaulieu of Portland offered House Amendment "B" and moved its adoption.

House Amendment "B" (H-47) was read by the Clerk.

Mr. Webster of Farmington requested a vote.

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

Mr. GWADOSKY: Mr. Speaker, I wonder if someone would be so kind to explain House Amendment "B".

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

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

Mr. HAYDEN: Mr. Speaker, Ladies and Gentlemen of the House: House Amendment "B" to L. D. 929 is the amendment that was discussed briefly when this bill first came to the floor on Friday and, as you may remember, in its initial form what this bill provided was for a mandatory 10 day jail sentence for those people found guilty of trafficking and furnishing scheduled or illegal drugs.

What this amendment does is three things. It provides that there will be a mandatory minimum jail sentence but only in the cases of drug trafficking. What the amendment does in that phase is answer the question that was raised by some of the opponents to this bill, that in the instance where a sale of drugs, the sale of marijuana, for example, or transfer of marijuana, a gift from one person to another, would not be subject to a mandatory minimum jail sentence. The penalties in the present law would still prevail but the mandatory minimum, the exceptional penalty that we as a legislature are considering, would just apply in the case of trafficking. It would also just apply with this amendment in the case of second offenses, and the thinking behind the sponsors of the amendment is, again, that this is a very unusual step. I think we should be reluctant to go forward with mandatory sentences under any circumstances.

I think this is a serious problem. I think it is justified in having it just come into play in the case of second offenses, just in the case where somebody is trafficking or essentially making a business out of the selling of drugs.

Again, the thinking of having a mandatory sentence in any of these circumstances is simply this—that if you are in the business, the fact that you are being fined, if that is the case, if that is the penalty that a person convicted of trafficking is finding himself in, it amounts to little more than a slap on the wrist. It is potentially a big money business and dollars is not a penalty that is going to talk sense to a person that is trafficking. A mandatory jail sentence on the second offense singles out the people who I think we want to particularly point the finger at, people that we particularly want to be blame-worthy for this type of activity. That is the focus of the amendment, that is what House Amendment "B" does. It essentially modifies the bill to make it apply just in the case of second offenses and just in the case of traffickers rather than traffickers and furnishers.

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

Mr. LIVESAY: Mr. Speaker, I would like to pose a question through the Chair to anyone who would care to answer. Does anybody have any idea what sort of sentences are being meted out by judges in the instance where somebody has been convicted a second time of trafficking in drugs?

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

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

Mr. HOBBS: Mr. Speaker, Men and Women of the House: I have had limited experience in second offenses, but I can tell you that it is more than 10 days for a minimum sentence.

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

Mr. LIVESAY: Mr. Speaker, Ladies and Gentlemen of the House: That is my point. I suspect that this bill really accomplishes nothing, that anybody who has been convicted a second time of trafficking is going to get significantly more than 10 days.

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

Mr. HAYDEN: Mr. Speaker, Ladies and Gentlemen of the House: I, too, have limited experience in this area but I don't think that is the case, that in every situation we can be certain that there will be a jail sentence given out. If proper sentence is being given out, then what this bill is doing is putting in to our black letter of the law what we as a legislature feel should absolutely be the case. I venture to say and I know of several experiences where that is not the case, where circumstances have been found where for one reason or another an individual has been convicted of trafficking has not found himself in a 10 day jail sentence. Let's face it, in a situation where we have considerable variation among philosophies, among sentencing strategies among judges in various courts, we cannot be sure that is always the case.

I think one of the important points in this kind of legislation and, believe me, I am no fan of mandatory sentences, but one of the reasons why this is a sensible approach in this case is to get the message out to all those across the state that the state of Maine takes a particular stance, takes a particular reaction to the trafficking of drugs.

Now, if we are talking about the trafficking of serious drugs or a large business, obviously we are talking of much more than a 10 day sentence, but to say that this step in this bill will not change the law, I think is a mistake, because what we are talking about are people that are in the business, and if they know there is no way around that mandatory minimum we have given out a message very similar to the kind of message, in my mind, that we gave out when we passed the drunk driving law, and it is a message that those involved are going to hear, and it is a message that they are going to respond to. That is why I think this is an important step and in many ways a unique step that is worthy of us to take.

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

Mr. THERIAULT: Mr. Speaker, I would like to pose a question through the Chair. Under a certain situation, is it possible under this amendment to get a mandatory jail sentence for a misdemeanor?

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

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

Mr. HAYDEN: Mr. Speaker, Ladies and Gentlemen of the House: The Criminal Code doesn't make distinctions between misdemeanors and felonies the way many of us think of it, but I think the question Mr. Theriault is asking is this situation. In the case of selling a small amount of marijuana from one individual to another, is it possible in the second offense for there to be a mandatory jail sentence where that person is an adult? The answer is yes, it is. That is the strong part of this bill that remains in effect. In talking with the other people that are interested in this bill, it is my feeling that that is an essential part of what we are talking about in this piece of legislation. To be for this amendment is to say that we are for

giving that message and we are giving that message in that situation where in the case of a second offense, somebody has sold marijuana for gain from one person to another—the situation that is taken out is the situation where a gift is made from one person to another but where there is no gain involved. That situation is not under the penalty but in that situation, which I think many would call a misdemeanor now, in the case of the sale of a small amount of marijuana from one individual to another, that would be under the penalties of this law.

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

Mr. MCHENRY: Mr. Speaker, I would like to pose a question through the Chair. I would ask, what would happen to a person that has a few tons of marijuana and it is his first offense with the bill as compared to with the amendment?

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

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

Mr. HAYDEN: Mr. Speaker, Members of the House: If I understand the question as it has been asked, what is the difference with the bill and with the amendment in the case of a first offense in the sale of a small amount of marijuana—with the bill, in its present form, that small amount of marijuana, whether it is a gift or whether it is a sale, would be subject immediately to a mandatory minimum. With the amendment, there would have to be a sale and it would have to be the second offense before this unusual step of ordering a mandatory minimum would come into effect.

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

Mr. MCHENRY: Mr. Speaker, I wasn't talking a small amount, I was talking about tons.

The SPEAKER: The gentleman from Madawaska, Mr. McHenry, has restated his question.

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

Mr. HAYDEN: Mr. Speaker, in the case of tons, somebody is going to jail for a heck of a lot longer than 10 days with or without this bill. That is not the problem we are talking about.

The focus of this bill and the focus of the sponsors and the focus of the people who are interested in it is the situation where we are dealing, whether it is in schools, whether it is in our communities where there is a great deal of selling going on, a great deal of trafficking going on, and there is no assurance of uniform sentencing and there is no guarantee that perhaps the responsible sentencing that Representative Livesay's questions might have referred to are going to occur, so we are not talking about the big business man but in some sense we are talking about the person who is in the business and the person for which a fine just doesn't make that much difference.

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

Mr. RACINE: Mr. Speaker, I would like to pose a question through the Chair. What is the definition of a small amount?

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

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

Mrs. FOSTER: Mr. Speaker, Ladies and Gentlemen of the House: Under a Class B crime, if the drug is a scheduled W drug or if it is marijuana in a quantity of 1,000 pounds or more, a Class B crime, the courts shall set a definite period not to exceed 10 years. A Class C crime, if the drug is a scheduled X drug or is marijuana in a quantity of more than two pounds, a class C crime, the courts shall set a definite period not to exceed five years.

Mr. Speaker, ladies and gentlemen of the House, mandatory sentencing is a serious sub-

ject and bears investigation on the part of each one of us. An inquiry to any member of the judiciary is a revealing experience because they do not want to see a person found guilty of a crime go unpunished.

Now, the problem arises—we do have overcrowded prisons and jails, and someone guilty of a Class A crime is the first to be incarcerated, Class B, C, D, E, down the line, and the judge, in his infinite wisdom, has the ability to decide who goes to jail. I think provided more jail space and maybe more prison space, you find more people in jail.

I see the problem with the mandatory sentence of 10 days of people pleading guilty and asking for a minimum sentence of 10 days and fear that the minimum may become the maximum. If you do have any problems with something like this, I implore you to do a little investigation on your own part. The judges need to be able to make good decisions and I ask you to look into it very seriously.

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

Mr. DILLENBACK: Mr. Speaker, Ladies and Gentlemen of the House: I guess I have a different point of view, I don't have the legal problem that these people have on what a judge should do or shouldn't do. All I hear on the TV programs and from the area of my school district is the problem of 5th and 6th grade children having problems with marijuana. The only reason they have problems is because of people distributing it to them, telling them to take it. I would have voted for the first bill without any trouble. What we are saying now is, let them distribute and let them sell until they get caught, then we will slap them on the wrists and then maybe next time if we catch them, we will give them a 10 day sentence. As I understand it, many of these people can leave with just a fine.

If you want to curb this problem, if you want to do something about it, you had better start with this law right now. Maybe next year we can go to a year and maybe the following term, we might go to five years, but you are never going to stop the problem by allowing people to distribute marijuana, sell it walk around the streets with an ounce and a half in their pockets—how are you going to control the problem? The only way you are going to do it is by taking a stand, and I think this legislature is neglect in not taking a stand, you are giving an announcement to the people, the public who you represent, that you condone it and you cannot condone it if you don't put a law in effect.

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

Ms. BENOIT: Mr. Speaker, Ladies and Gentlemen of the House: That is a lot of malarkey. The members of the committee do not condone pushing drugs or trafficking in drugs. Members of the committee, the ones that voted "Ought Not to Pass" I believe are opposed to mandatory sentences. I have a problem with mandatory sentences; I don't think this legislature ought to be in the business of setting mandatory sentences unless there is a real proven need.

I asked that question at the hearing. I asked if the person who presented the bill or any of the cosponsors or anyone had any statistical information to prove to me that judges are not imposing stiff sentences on those that traffic drugs and the answer was no. There was no information provided and there was apparently no such information available. That is the reason why I voted this bill "Ought Not to Pass."

The SPEAKER: The Chair recognizes the gentleman from Island Falls, Mr. Smith.

Mr. SMITH: Mr. Speaker, Ladies and Gentlemen of the House: One argument put forth is overcrowded jails. Well, I don't think that is any reason for not enforcing laws, because of overcrowded jails, I think we could make room. We all know that all judges do not hand

out the same sentences; you read that in the paper every day.

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

Mr. HOBBS: Mr. Speaker, Men and Women of the House: I think there has been a lot of misunderstanding about what our drug laws are at the present time. Under present Maine law, if a person traffics or furnishes a scheduled drug to a child and we will say it is marijuana, who is under 16 years of age, that person is subject, under Maine law, to a Class C crime, which is imprisonment up to five years—that is the present Maine law.

I have yet to know of one instance where people are getting off for furnishing or trafficking marijuana, or whether it is any type of barbituates, sleeping pills, you name it, some of the stuff that is brought forth in our society, I have yet to see any case where a person gets off when he furnishes a drug to a minor—that is the intent of what we are doing in proposing these laws.

I am reluctant to support this amendment and I am reluctant, as the committee report will reflect, to support the bill. It is not because I want to see people get off who distribute drugs to minors or whatever, but I think if you look at the legislation and the redraft, you will find that we could be creating a serious problem. We are not just talking about marijuana, we are talking about a mandatory jail sentence in the original bill for anyone who distributes a Class Z drug, a ten day minimum sentence. We are not just talking about marijuana, we are talking about other aspects of our drug laws. It could be, for example, a Class Z. "A class scheduled Z drug is all prescription drugs other than those included in the other sections."

We could be talking about imposing a mandatory jail sentence on someone for furnishing a substance not to just a minor child but to one of your friends. I will give you an example. If you were taking medication or you were taking sleeping pills and they were prescription and let's say that you weren't sleeping well at night and this person says, gee, I have got these sleeping pills, why don't I give you one of them, under the law, ladies and gentlemen, that is furnishing because that is a prescription drug and that is defined as a schedule Z drug.

I think you have to be very careful when you are dealing in this whole area. No one wants people with drug offenses to get off, that is not the intent at all.

I reluctantly oppose the present amendment which is presented because I don't think that will get at the root of the problem. Those who give drugs to minors, especially in a second offense, I can tell you, ladies and gentlemen, if you go to the courts and you look, you are not going to get off with a 10 day jail sentence, it would be much more severe than that.

It is my hope that we will reluctantly defeat this amendment but also defeat the bill when a motion is made before this body.

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

Mrs. BEAULIEU: Mr. Speaker, Ladies and Gentlemen of the House: What you have just heard from Representative Hobbins concerning furnishing is one of the reasons why this amendment addresses trafficking only, because of the concern as to what could happen under furnishing. And Representative Hobbins is right when he says nobody gets off. The problem is, they don't get off, they wind up being fined as opposed to having a stiffer penalty on a second offense.

I happen to come from an area where drug trafficking is pretty well on its way and it has been for some time. Unfortunately, I know some of the young people who are involved in it and they may be arrested one night and then they are out on the streets because all they got for a sentence was a fine.

A bill was brought in here that said that there would be a mandatory jail sentence right

away, on the first offense, and I bought the argument of some of the people who said it does not allow for any discretion on the part of the courts on the first offense, so I chose to go after the second offense, because I feel if they didn't learn from the first experience, they should get it all given to them the second time and the third time around. There has got to be a point in time where you have to put the brakes on. I could not support the original bill, so I tried to find an alternative. I think the alternative is reasonable and I am hoping that you will support it. If you don't, I just go back home and watch what is happening in my district and in my city, feeling like my hands are tied and unable to do anything about it.

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

Mr. JOYCE: Mr. Speaker, Ladies and Gentlemen of the House: As a member of the Judiciary Committee, I feel I had to rise this morning because so many of my fellow members have gotten up and told you about the malarkey, told you other things about the bill. My proud chairman stood, held that law book, read from it, talked about everything except what this bill is about.

You know, Mr. Speaker, these are times that I wish the rules of this House would permit me when I talk to my Speaker to say "my son." But I realize that our rules are rules and I will not give that speech, but, believe me, my good friends here, I have never stood to advise you wrong. Believe me, this bill reaches into the schools, into the neighborhood, groups, the pool halls, the pac-man parlors, down to the pier in Old Orchard, to Funtown in Saco and to the sad and tragedy stricken places where these drugs, or the drug of marijuana is dealt to those 8 and 9 year olds, those 12 and 13 year olds.

We are going to have a roll call on this bill today, and this truly will be a vote of conscience. You must vote the way you feel so when you go back home you can't duck away from the vote you cast here this morning. You have been through the elections before — why is it that this question always comes up?

Yes, I listened to many of them, that marijuana is that harmless herb of the field, it is mentioned in the Bible and all this; I don't think it is harmless, I don't want to raise this generation on it.

Yes, perhaps today my wish would be that when I address this House I could have said "my sons and my daughters." I tell them no different message than I tell you on this bill.

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

Mrs. MARTIN: Mr. Speaker, Ladies and Gentlemen of the House: I don't have but a few words to say, but what I am going to say some of you are not going to like.

I wish this House would stop the bleeding hearts for people who hurt our children. I also wish that some of you would think seriously about what is happening to our youngsters, and I for one will vote for this. I think it is time that we take the bull by the horn and do something about it. I think we have made Maine a paradise for the pushers.

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

Mr. GAUVREAU: Mr. Speaker, Ladies and Gentlemen of the House: Conspicuous by the debate this morning has been the absence, I think of any discussion on trafficking in the high schools, and as a practicing attorney I would point out to the body here, my view is, this bill will not have a discernible impact upon trafficking of drugs in the high schools, because primarily juveniles are doing the trafficking to other juveniles, and those matters are all dealt with and come under the umbrage of the Maine Juvenile Code, and these are things that are classified as civil, so even adoption of this bill today will have no effect at all upon juvenile trafficking to juveniles in the high

schools, and I think that should be a consideration you might want to bear in your deliberations.

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

A vote of the House was taken.

Whereupon, Mr. Higgins of Scarborough 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 Scarborough, Mr. Higgins.

Mr. HIGGINS: Mr. Speaker, Ladies and Gentlemen of the House: I hesitated long and hard over whether to get involved in this issue today because I am not an attorney, I am certainly not a member of the Judiciary Committee that heard this bill, but the remarks of the gentleman from Brunswick, Mrs. Martin, kind of got at me a little bit and I am speaking to you today as a parent, as a parent of three young boys, two of them who happen to be in junior high school, or very close to it, and one going into high school. I am concerned about the drug problem in this state, and I am sure that we all here are.

The reason that I voted against this amendment, and I will do so again, is very simply this—it does nothing, it is a camouflage. If we are concerned about the issue of drugs and mandatory sentences, then we ought to vote against the amendment and in favor of the bill. The amendment is a watered down version. You have heard members of the legal profession say that anybody who is caught twice is going to get more than 10 days anyway, so what's the sense in the amendment? You either have the bill or you have nothing; that is the way I look at it.

I am not going to vote here for a piece of legislation that doesn't address the problem. If we want to address the problem, let's do it up front and vote for the bill. If we don't, then let's let it go. Let's not try to go home and tell our folks back home, I voted for mandatory sentencing for trafficking drugs — big deal. You haven't accomplished anything, you haven't addressed the issue.

Someone mentioned earlier in the debate in favor of this amendment that we ought to send a message out there to those people who are pushing drugs that the Maine Legislature is against it. I submit to you that if we are going to be against it and we want to send a message out there, we ought to send a message out there that makes the laws tougher, not the same.

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

Mrs. BEAULIEU: Mr. Speaker, Ladies and Gentlemen of the House: I am not going to belabor the point; however, I do take exception with what my friend Representative Higgins has said. It is not necessarily true that on the second offense there will be a mandatory jail sentence. I am telling you that it usually is a fine.

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

Mr. MCHENRY: Mr. Speaker, Ladies and Gentlemen of the House: I agree wholeheartedly with Representative Higgins. You know, if you have a problem about drugs, all you have to do is think about it as poison. If a person has been dealing poison to your kids a first time, I don't think there is a first or second time, it shouldn't be allowed at all.

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

Mr. CARRIER: Mr. Speaker, Members of the House: Very briefly, let's be realistic. I like the bill better than the amendment but realistically we took a vote here last time and you cannot get the votes to pass this bill. If somebody can guarantee us that you can pass the bill, I will go along with it.

In committee, for some reason or other, they must have hit me on one of my weaker days because I voted "ought not to pass" which is truly not consistent with my standing on this kind of stuff. But I do suggest that the best we can do here today is to accept the amendment, which is not totally what we want, but also realistically you can figure that it is going to the other house and if you come back to the bill and they kill it over there, then we won't have a chance to put back the amendment. So think about it, it is better than nothing. It is not the best we can do, but try to get the best out of here. On this particular bill it cannot be done.

I do hope that you vote for the amendment.

The SPEAKER: A roll call has been ordered. The pending question before the House is on adoption of House Amendment "B" (H-47) Those in favor will vote yes; those opposed will vote no.

ROLL CALL

YEA—Ainsworth, Allen, Anderson, Beaulieu, Bonney, Bost, Brannigan, Brodeur, Carrier, Carroll, D.P.; Carroll, G.A.; Carter, Cashman, Chonko, Clark, Cox, Crouse, Daggett, Day, Diamond, Dillenback, Drinkwater, Erwin, Gwadosky, Handy, Hayden, Hickey, Higgins, H.C.; Holloway, Joyce, Kelly, Ketover, Kiesman, Kilcoyne, LaPlante, Lebowitz, Lehoux, Lisnik, MacEachern, Martin, H.C.; Matthews, K.L.; Matthews, Z.E.; Mayo, McGowan, McSweeney, Melendy, Michaud, Moholland, Murray, Nadeau, Norton, Paradis, P.E.; Perry, Pouliot, Racine, Reeves, P.; Richard, Ridley, Rolde, Rotondi, Small, Smith, C.B.; Soucy, Stevens, Stover, Strout, Tammaro, Theriault, Tuttle, Vose, Walker.

NAY—Andrews, Armstrong, Baker, Bell, Benoit, Bott, Brown, A.K.; Brown, D.N.; Brown, K.L.; Cahill, Callahan, Conary, Connors, Connolly, Cooper, Cote, Crowley, Curtis, Davis, Dexter, Dudley, Foster, Gauvreau, Greenlaw, Hall, Higgins, L.M.; Hobbins, Ingraham, Jackson, Jacques, Joseph, Kelleher, Lewis, Livesay, MacBride, Macomber, Manning, Martin, A.C.; Masterman, Masterton, Maybury, McCollister, McHenry, McPherson, Mitchell, E.H.; Mitchell, J.; Murphy, Nelson, Paradis, E.J.; Parent, Paul, Perkins, Pines, Randall, Reeves, J.W.; Salsbury, Scarpino, Seavey, Smith, C.W.; Soule, Sproul, Stevenson, Swazey, Telow, Webster, Wentworth, Weymouth, Willey, Zirkilton.

ABSENT—Jalbert, Kane, Locke, Mahany, Michael, Roberts, Roderick, Sherburne, Studley, Thompson, The Speaker.

Yes, 71; No, 69; Absent, 11.

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

Thereupon, the Bill was passed to be engrossed as amended by House Amendment "B" and sent up for concurrence.

Mr. Cox of Brewer moved that the House reconsider its action of earlier in the day whereby the Majority "Ought Not to Pass" Report was accepted on Bill "An Act to Require Liquor Price Equity at Certain Border Area Liquor Stores" (H. P. 271) (L. D. 331).

Mr. Kelleher of Bangor 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 motion of Mr. Cox of Brewer that the House reconsider its action of earlier in the day whereby the Majority "Ought Not to Pass" Report was accepted on L.D. 331. All those in favor will vote yes; those opposed will vote no.

ROLL CALL

YEA—Allen, Anderson, Baker, Brown, A.K.; Carroll, G.A.; Carter, Conary, Connolly, Crouse, Erwin, Higgins, L.M.; Hobbins, Jackson, Jacques, Kelleher, Kiesman, Manning, Masterman, McSweeney, Melendy, Moholland, Nelson, Norton, Paul, Perry, Rolde, Soucy, Soule, Stevens, Strout, Tammaro, Theriault, Tuttle, Vose, Walker, Wentworth.

NAY—Ainsworth, Andrews, Armstrong, Beaulieu, Bell, Benoit, Bonney, Bost, Bott, Brannigan, Brodeur, Brown, D.N.; Brown, K.L.; Cahill, Callahan, Carrier, Carroll, D.P. Cashman, Chonko, Clark, Connors, Cooper, Cote, Cox, Crowley, Curtis, Daggett, Davis, Day, Dexter, Diamond, Dillenback, Drinkwater, Dudley, Foster, Gauvreau, Greenlaw, Gwadosky, Hall, Handy, Hayden, Hickey, Higgins, H.C.; Holloway, Ingraham, Joseph, Joyce, Kelly, Ketover, Kilcoyne, LaPlante, Lehoux, Lewis, Lisnik, Livesay, MacBride, MacEachern, Macomber, Martin, A.C.; Martin, H.C.; Masterton, Matthews, K.L.; Matthews, Z.E.; Maybury, Mayo, McCollister, McGowan, McHenry, McPherson, Michaud, Mitchell, E.H.; Mitchell, J.; Murphy, Murray, Nadeau, Paradis, E.J.; Paradis, P.E.; Parent, Perkins, Pines, Pouliot, Racine, Randall, Reeves, J.W.; Reeves, P.; Richard, Ridley, Rotondi, Salsbury, Scarpino, Seavey, Small, Smith, C.B.; Smith, C.W.; Sproul, Stevenson, Stover, Swazey, Telow, Webster, Weymouth, Willey, Zirkilton.

ABSENT—Jalbert, Kane, Lebowitz, Locke, Mahany, Michael, Roberts, Roderick, Sherburne, Studley, Thompson, The Speaker.

Yes, 36; No, 103; Absent, 12.

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

On motion of Mr. Hall of Sangerville, the House reconsidered its action of earlier in the Day whereby Bill "An Act to Undedicate Funds Received from Public Reserved Lands" (S. P. 297) (L. D. 951) was referred to the Committee on Appropriations and Financial Affairs in concurrence.

On further motion of the same gentleman, the Bill was referred to the Committee on Energy and Natural Resources in non-concurrence and sent up for concurrence.

(Off Record Remarks)

On motion of Mr. Brannigan of Portland, Adjourned until nine o'clock tomorrow morning.