

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

One Hundred and Eleventh Legislature

OF THE

STATE OF MAINE

Volume II

FIRST REGULAR SESSION

May 16, 1983 to June 24, 1983

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HOUSE

Tuesday, May 24, 1983

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

Prayer by the Reverend Russell Smith of the Center Vassalboro Baptist Church.

The journal of yesterday was read and approved.

Papers from the Senate

The following Communication:

The Senate of Maine
Augusta

May 23, 1983

Honorable Edwin H. Pert

Clerk of the House

111th Legislature

Augusta, Maine 04333

Dear Clerk Pert:

The Senate today Voted to Adhere to its former action, whereby "An Act Relating to the Appointment of County Officials" (H. P. 1200) (L. D. 1594) was Indefinitely Postponed.

Sincerely,

S/JOY J. O'BRIEN

Secretary of the Senate

The Communication was read and ordered placed on file.

Reports of Committees**Ought to Pass as Amended**

Report of the Committee on Local and County Government reporting "Ought to Pass" as amended by Committee Amendment "A" (S-138) on Bill "An Act to Permit the Location of Manufactured Housing on Individual House Lots" (S. P. 475) (L. D. 1441)

Came from the Senate with the Report read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (S-138) and Senate Amendment "A" (S-144).

In the House, the Report was read.

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

Mr. RACINE: Mr. Speaker, Ladies and Gentlemen of the House: As I read the statement of fact on this bill, it appears that we are trying to preempt the home rule that we gave the municipalities to be able to govern themselves. I would like to have somebody explain to me what this bill does and why it is needed and why don't we just let the municipalities determine what is best for them?

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

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

Mr. McHENRY: Mr. Speaker, I move that we accept the Committee Report.

It is not the bill that is before us, it is the amendment. We have worked long and hard in committee with MMA, and we finally came to an agreement. On May 5, the legislative policy committee of MMA finally agreed that this is not doing away with any local control, the local control remains in the bill, that is why MMA has accepted it.

Thereupon, the Report was accepted in concurrence and the Bill read once. Committee Amendment "A" (S-138) was read by the Clerk and adopted in concurrence. Senate Amendment "A" (S-144) was read by the Clerk and adopted in concurrence and the Bill assigned for second reading later in the day.

Ought to Pass in New Draft

Report of the Committee on Judiciary on Bill "An Act Concerning Representation of Small Businesses Appearing in Small Claims Court" (S. P. 398) (L. D. 1215) reporting "Ought to Pass" in New Draft (S. P. 576) (L. D. 1655)

Came from the Senate with the Report read and accepted and the New Draft passed to be engrossed.

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

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

Ought to Pass in New Draft/New Title

Report of the Committee on Judiciary on Bill "An Act to Amend the Act to Implement the Maine Indian Claim Settlement Act with Respect to the Houlton Band of Maliseet Indians" (S. P. 487) (L. D. 1480) reporting "Ought to Pass" in New Draft under New Title Bill "An Act to Authorize Creation of a Housing Authority of the Houlton Band of Maliseet Indians" (S. P. 577) (L. D. 1656)

Came from the Senate with the Report read and accepted and the New Draft passed to be engrossed.

In the House, the Report was read and accepted in concurrence and the New Draft read once. Under suspension of the rules, the New Draft was read the second time and passed to be engrossed in concurrence.

Divided Report**Later Today Assigned**

Majority Report of the Committee on Judiciary on Bill "An Act to Provide Equal Access to Justice" (S. P. 203) (L. D. 625) reporting "Ought to Pass" in New Draft (S. P. 570) (L. D. 1646)

Report was signed by the following members:

Senator:

COLLINS of Knox

— of the Senate.

Representatives:

REEVES of Newport

DRINKWATER of Belfast

SOULE of Westport

LIVESAY of Brunswick

FOSTER of Ellsworth

BENOIT of South Portland

— of the House.

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

Report was signed by the following members:

Senators:

TRAFTON of Androscoggin

VIOLETTE of Aroostook

— of the Senate.

Representatives:

HOBBS of Saco

JOYCE of Portland

HAYDEN of Durham

CARRIER of Westbrook

— of the House.

Came from the Senate with the Majority "Ought to Pass" in New Draft Report read and accepted and the New Draft passed to be engrossed.

In the House: Reports were read.

Representative Joyce of Portland moved that the Minority "Ought Not to Pass" Report be accepted in non-concurrence.

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

Non-Concurrent Matter

Bill "An Act to Amend the Licensing Provisions of the Maine Insurance Code and to Require Filing Fees for Fraternal Benefit Organizations" (H. P. 1242) (L. D. 1654) which was passed to be engrossed in the House on May 20, 1983.

Came from the Senate passed to be engrossed as amended by Senate Amendment "A" (S-145) in non-concurrence.

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

Non-Concurrent Matter

Bill "An Act to Permit Municipalities to Regulate Shellfish Harvesting Within State Park Lands" (H. P. 1037) (L. D. 1362) which was passed to be engrossed as amended by Committee Amendment "A" (H-246) in the House on May 18, 1983.

Came from the Senate passed to be engrossed as amended by Committee Amendment "A" (H-246) as amended by Senate Amendment "A" (S-142) thereto in non-concurrence.

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

House Reports of Committees**Ought to Pass in New Draft**

Representative Drinkwater from the Committee on Judiciary on Bill "An Act to Create a Maine Sentencing Guidelines Commission" (H. P. 916) (L. D. 1196) reporting "Ought to Pass" in New Draft (H. P. 1270) (L. D. 1684)

Report was read and accepted and the New Draft read once. Under suspension of the rules, the New Draft was read the second time, passed to be engrossed and sent up for concurrence.

Ought to Pass in New Draft/New Title

Representative Soule from the Committee on Judiciary on Bill "An Act to Require the Payment of Prejudgment Interest at Prevailing Market Rates on all Judgments, Dating from the Time of the Incident Giving Rise to the Claim" (H. P. 1049) (L. D. 1393) reporting "Ought to Pass" in New Draft under New Title Bill "An Act to Require the Payment of Prejudgment Interest at Prevailing Market Rates on all Judgments, Dating from the Time of Written Notice to the Defendant of the Cause of Action" (H. P. 1257) (L. D. 1670)

Representative Hayden from the Committee on Judiciary on Bill "An Act to Clarify what Constitutes Discrimination Against Handicapped Persons" (H. P. 1116) (L. D. 1474) reporting "Ought to Pass" in New Draft under New Title Bill "An Act to Establish Standards of Accessibility for Handicapped Persons in Public Housing and Places of Public Accommodation" (H. P. 1261) (L. D. 1671)

Reports were read and accepted and the New Drafts read once. Under suspension of the rules, the New Drafts were read the second time, passed to be engrossed and sent up for concurrence.

Divided Report

Majority Report of the Committee on Labor on Bill "An Act to Provide Occupational Safeguards for Operators of Video Display Terminals" (H. P. 657) (L. D. 831) reporting "Ought to Pass" in New Draft under New Title RESOLVE, Providing for Collection of Data and Promulgation of Rules Concerning Occupational Safeguards for Operators of Video Display Terminals" (H. P. 1265) (L. D. 1675)

Report was signed by the following members:

Senators:

DUTREMBLE of York

HAYES of Penobscot

— of the Senate.

Representatives:

NORTON of Biddeford

SWAZEY of Bucksport

TAMMARO of Baileyville

WILLEY of Hampden

TUTTLE of Sanford

BEAULIEU of Portland

GAUVREAU of Lewiston

— of the House.

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

Report was signed by the following members:

Senator:

SEWALL of Lincoln

— of the Senate.

Representatives:

BONNEY of Falmouth

LEWIS of Auburn

ZIRNKILTON of Mt. Desert

— of the House.

Reports were read.

The SPEAKER: The Chair recognizes the

gentlewoman from Portland, Mrs. Beaulieu.

Mrs. BEAULIEU: Mr. Speaker, I move acceptance of the Majority "Ought to Pass" in New Draft Report.

The SPEAKER: The Chair recognizes the gentleman from Falmouth, Mr. Bonney.

Mr. BONNEY: Mr. Speaker, Ladies and Gentlemen of the House: Regarding video display systems, I have talked with eight different employees who work with these systems. Each of them told me they like the system in comparison with their old paper system, and if this be true, why make unnecessary changes?

All new ideas take time to work into a system. Give this system a chance.

I would like to quote from some different research areas regarding radiation levels. Radiation levels are far below current standards and in most cases, were not detectable. The visual display terminal does not present a radiation hazard to employees working at or near a terminal. This is from the National Institute for Occupational Safety and Health.

Another quotation: Despite the recent reports of clusters of adverse pregnancy outcomes, the center has found no evidence that the levels of radiation from VDTs are responsible. The levels necessary for such effects are at least 1,000 higher than those to which VDT operators might be exposed. This is from the National Center for Devices and Radiological Health.

Another quotation: We did not find any significant association between VDT use (including hours per week of VDT operation and total years of VDT operating experience) and the prevalence of eye abnormalities, including cataracts. This is from the National Institute for Occupational Safety and Health.

Another quotation: Continuous work on CRT terminals for a period of five years does not cause any harmful effects on the ocular and visual systems. The symptoms which were noted during the course of the study were found to be fleeting and not serious. This is from the University of Laval in Quebec.

The resolve that we have charges the department to make rules. It can already do so on its own and has chosen not to do so. The federal government, through OSHA, has never issued any rules; no state has issued any rules. Why put the onus on our state to make rules in the absence of proof?

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

Mrs. BEAULIEU: Mr. Speaker, Ladies and Gentlemen of the House: First of all, this bill does not address the radiation issue at all because that is not determined. There is a major study being undertaken by Mount Sinai at this point in time, and at no point in time does this bill address that particular issue.

Last year, when I introduced a bill concerning the use of video display terminals, and, believe me, there is no intent from anyone to take away the capacity of VDTs in use by employees, what we are trying to do is do something on behalf of the employees as they work with the terminals. I was told very clearly by this body to hold off and review again the data available re the employee impact due to working conditions and the use of the terminals.

What you have before you is a piece of legislation that says let somebody other than Edie Beaulieu, Union Mutual, Bell Telephone and the newspaper management industry take a look at this issue for a change. Because of the introduction of the bill in the last session, the issue of the need for such standards in the work place has become a national issue. Just recently, Canada, through a major study, has come out with proposed regulations that are even more stringent than those I ever thought of proposing or that were ever proposed by the National Institute of Occupational Health and Safety, and I have the report here in front of me.

Mount Sinai, as I said, is now studying radia-

tion problems; the National Institute of Occupational Health data in San Francisco is doctrinating workers' comp claims to date.

Representative Jim Mayo, who cosponsored this bill with me, and I have been interviewed by national publications and data collected by us has been forwarded to some 30 states. Representative Mayo is no longer with us, he passed away the day the hearing was held on this bill, but his task at that point in time was to investigate to see if the corporations in this state who are so opposed to this legislation had any interest in the computer industry at all, and he was interviewing employees from all industries. Unfortunately, I cannot share what he found out on the issue.

What the bill asks for is for the Bureau of Labor to collect all data available from Maine employers and employees to have it available in one essential place, trusting that if the data is now located somewhere, then they can all come in and review what is there. It asks for the bureau to study and to examine this data and to promulgate rules and regulations only if necessary, and if necessary, to do it through the APA process and to report back to the legislature and to the Labor Committee a summary of what they have done, why they did it, so that we will know what they are doing.

So far, the Department of Human Services has adopted rules for their employees who use the terminals for more than four hours a day, and they are now looking at the need for eye exams for those personnel.

New equipment has been purchased by the Taxation Division. The equipment is modern and along the lines of the National Institute of Occupational Health recommendations, but we still have to look into the issue of the need for adjustable chairs to prevent back, neck and shoulder problems, the question of vision screening either at job entry level or at interim stages, and at the fiscal impact that that could create.

There are increasing reports of tendonitis, lighting needs and office setups need to be explored, and the bill before you would at least, if nothing else, accomplish another look at these issues, and probably more objective than what you are hearing in the halls of the House and from me.

There is one study that claims that there is no need for precautions in this field. That study was done by Bell Laboratory for Bell Telephone.

I don't think we will ever know what has been gathered for data because there is so much of it. I can't presume, but my own studies and my own work with the people who do this work tells me to do something now. Prevention and precaution is vitally important, and I ask you, if nothing else, to support this minimum effort in hopes that we can avoid the need for corrective action after the fact.

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

Mr. AINSWORTH: Mr. Speaker, Ladies and Gentlemen of the House: I would like to preface my remarks this morning with an excerpt from Sylvia Porter's syndicated column of April 20. She says: "We are on the way toward computerized diagnosis, prescription of pills, manufacture of products with sometimes hazardous ingredients ad infinitum. It is a wonderful, brave, new world if we can control it," she says. I would suggest these words be taken in their fullest sense.

May I take a few minutes this morning to explain to you my interest in video terminals. First, I am a gadget-happy guy who can't resist getting involved a little with fascinating machinery. Second, this new revolutionary method of doing so many jobs in the market place allowed me to retire early. Lastly, I learned years ago that one doesn't fight progress, but one does have the responsibility to study its effects in relation to the health of workers.

I would suspect that when talking about the

VDT industry, that we are not talking in the millions but in the billions. It therefore is realistic to suspect that the eyesight of people monitoring these machines would be given less than number one priority.

With these thoughts in mind, we contacted a friend in New York who put us onto a world authority in the medical field. By using the Speaker's secretary's formal stationery, I was able to secure printed presentations by Dr. Milton M. Zuret, M.D., to the U.S. House of Representatives, the New York State Journal of Medicine and University of Technology, Loughborough, England. Dr. Zuret goes on to explain in his papers that European scientists, primarily economists, have gone on to make significant progress towards both discovering and, more importantly, correcting many VDTU design effects. However, Dr. Zuret goes on to explain prolonged exposure to non-ionizing radiation can lead initially to the subtle development of a syndrome that at this stage appears to be a psychological stress and reversible, and I would like to stress that reversible because that is the area that Representative Beaulieu was talking about this morning, where you do get a chance to get away from the machines and you do show progress in your eyes coming back.

He also goes on to say, however, if repeated exposure continues, that leads ultimately to an irreversible pathological state. This was reported by Saticoba who tabulated the findings of a hundred cases of microwave or radiowave sickness, which has long been recognized as an occupational disease in the Soviet Union.

Some of her cases exposed to field intensities in the vicinity of milliwatt per square centimeter also developed cataracts. Doctors write of many cases and printed articles which I have turned over to the Labor Committee. Keeping in mind that one milliwatt per square centimeter that I have just mentioned, let me read you two case histories by Dr. Zuret. In 1977, two young newspaper men, case one at age 34, and case two at age 29, were each referred to me separately, and I am talking now for Dr. Zuret, for ophthalmic consultation because each had acquired incipient cataracts shortly after beginning with VDUs. For both of them all the other etiologies for acquired cataracts except for radiant energy, injury were excluded by differential diagnosis. My examinations revealed that the diagnosis for both men was radiant energy cataract, the features of which implied exposure to non-ionizing radiation. Further, my analysis implied that the only site of exposure was at the New York Times where both of them worked with recently installed cathoray tube visual display systems as copy editors.

I give this information to you to think about. I know we are not talking about radiation this morning, but I thought we should bring this onto the floor.

The SPEAKER: The Chair recognizes the gentleman from Falmouth, Mr. Bonney.

Mr. BONNEY: Mr. Speaker and Members of the House: I don't want to bore you with any more details because this particular subject has been studied to death and I don't think we need another study.

The National Institute of Occupational Safety and Health has studied it; the United Kingdom National Radiology Projection Board has studied it; the Federal Department of Agriculture and the Bureau of Radiology, Health and Human Services has studied it; the National Institute for Occupational Safety and Health in Baltimore studied it; the University of Laval in Quebec has studied it; England has studied it; Russia has studied it. I think the time has come for the stopping of studies and letting some experience take place and then make our decision in the 112th Legislature.

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

Mrs. BEAULIEU: Mr. Speaker, Ladies and

Gentlemen of the House: I am not going to prolong the debate. Yes, it has been studied, I indicated that last year to the members that were present in this body, and every single study came out with recommendations to be followed and we are asking that those recommendations be looked at and, if they are valid, to promulgate them into rules and regulations.

The SPEAKER: The Chair will order a vote. The pending question before the House is on the motion of the gentleman from Portland, Mrs. Beaulieu, that the House accept the Majority "Ought to Pass" Report. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

59 having voted in the affirmative and 43 in the negative, the motion did prevail.

The Resolve was read once. Under suspension of the rules, the Resolve was given its second reading, passed to be engrossed and sent up for concurrence.

Divided Report

Majority Report of the Committee on Labor on Bill "An Act to Change the Workers' Compensation Law with Respect to Asbestosis" (H. P. 405) (L. D. 488) reporting "Ought to Pass" in New Draft (H. P. 1262) (L. D. 1672)

Report was signed by the following members:

Senators:

SEWALL of Lincoln
DUTREMBLE of York
HAYES of Penobscot

— of the Senate.

Representatives:

NORTON of Biddeford
SWAZEY of Bucksport
BEAULIEU of Portland
GAUVREAU of Lewiston
ZIRNKILTON of Mt. Desert
TAMMARO of Baileyville
BONNEY of Falmouth
TUTTLE of Sanford

— of the House.

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

Report was signed by the following members:

Representatives:

WILLEY of Hampden
LEWIS of Auburn

— of the House.

Reports were read.

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

Mrs. BEAULIEU: Mr. Speaker, I move the acceptance of the Majority "Ought to Pass" in New Draft Report.

The SPEAKER: The Chair recognizes the gentleman from Hampden, Mr. Willey.

Mr. WILLEY: Mr. Speaker, Ladies and Gentlemen of the House: I am on the minority side of this issue, a minority of two, which isn't very impressive, I must admit, but I thought that I would like to let you know why I do oppose this legislation.

In the first place, I guess during the year here there has been some rather interesting legislation, some of it dumbfounded me, as a matter of fact, and this one does in the respect that it makes the law retroactive by 16 years. I find that a little difficult to swallow, because if we can make laws retroactive for 16 years in this respect, then I presume we can in any other law. I wonder what some of our marriages might be like if that law were changed and made retroactive for 16 years, or if suddenly the law was changed and made retroactive for 16 years, or if suddenly the law was changed so you couldn't go on a green light, you went on the red light and you made it retroactive for 16 years in order to collect fines for that issue. That is one of the things that I find wrong with it.

Another thing that I find wrong is the very simple fact that during all the hearings and

during all the work sessions, I asked, and I asked repeatedly, how much this bill would cost and who was going to pay for it and nobody could answer that issue at all because there has been no experience on it. I admit willingly that the law needs to be changed in regard to asbestos-related diseases, it badly needs to be changed. I don't think, however, that it should be made retroactive for 16 years without having any possible idea of what it is going to cost or where the money is going to come from.

I would remind you, too, that this bill is a trial lawyer's bill and when you look at the bill to see that it would be retroactive for 16 years even including those that have died in the interim might have to be exhumed, I suppose, and there is a possibility of a great deal of legal activity involved in this thing.

Another thing that I think is difficult to understand is that nobody knows how many cases there are out there, whether it is going to cost \$1 million or \$100 million or anything in between.

I did take the liberty of calling one insurance company, only one insurance company, and discovered that they had 745 cases on the books at the moment, all which involve third party cases, or nearly all involved third party cases. Of these third party cases, I would assume that if the law is changed to accept them in the workers' compensation system, that is where most of them will go.

There is no great big kitty of money stashed away somewhere to pay these claims. There has been no rate structure to pay for them at all. Therefore, the rates would have to increase suddenly when these cases start hitting the fan and then rates would have to be increased as time goes on in order to repay the insurance companies for what they pay out.

It seemed to me that there was very little activity on the part of the insurance companies to fight this issue, practically none in my estimation. I couldn't rationalize that for a bit until I realized that out of every dollar they pay out, they are going to get about a buck and half back, so they are not all that gung-ho to be fighting these things. I don't know where the employers were during these discussions and I would assume they are probably home working these discussions and I would assume they are probably home working diligently trying to figure out how to raise their cost to pay for the cost of this coverage.

I do urge you to vote against Representative Beaulieu's motion and to consider killing this bill. I do ask for a roll call.

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

Mrs. MARTIN: Mr. Speaker, Ladies and Gentlemen of the House: I wouldn't exhume my husband; I have more respect for the dead than that. I wouldn't exhume and he has been dead for six years and I am telling you that what he died of was not funny. I am telling you the people we are talking about, the 16 year limit, they are the ones that are suffering now, they are the ones we are supposed to take care of and they are the ones that we should take care of because they are dying a slow death, I can tell you that much.

The SPEAKER: The Chair recognizes the gentleman from Mt. Desert, Mr. Zirkilton.

Mr. ZIRNKILTON: Mr. Speaker, Ladies and Gentlemen of the House: I was the sponsor of this bill and I did so with great pleasure. Let me explain to you how the term "retroactivity" is used in this particular bill. It is not retroactive in terms of cost; it is retroactive in terms of who will be allowed to make a claim in the workers' compensation system.

The original law dealing with asbestos in workers' comp was put into effect at the end of November, 1967, but it required that anyone who is receiving injurious exposure from asbestosis had to come down with an asbestos related disease within three years of their last

injurious exposure. Since that time, medical science has discovered that the latency period can be much, much longer, sometimes 20, 30 or perhaps even more years than that. As a result, the employee has given up their right to sue the employer through the workers' compensation system, so what you had was someone who was coming down with a disease that would incapacitate them and eventually kill them and they had no route in which to pursue any form of compensation whatsoever because the statute of limitations had run out on them.

What we have done is to do away with the statute of limitations as far back as November 30, 1967, allowing anybody who received their last injurious exposure after that time to make a claim now. Now, they cannot receive compensation retroactively; in other words, they will not receive any compensation dating back to the date they actually became incapacitated. But they will, in fact, be allowed to receive some form of compensation starting whenever the commission decides that they are, in fact, entitled to compensation of some form. We believe that this bill is a compromise, we believe it is absolutely necessary, we believe that it is the only fair way to pursue what has become a rather serious incapacitating disease that will eventually kill someone, so we hope that you will vote for this bill.

The SPEAKER: A roll call has been requested. For the Chair to order a roll call, it must have the expressed desire of one-fifth of the members present and voting. All those in favor of a roll call 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 before the House is on the motion of the gentleman from Portland, Mrs. Beaulieu, that the House accept the Majority "Ought to Pass" Report.

The Chair recognizes the gentleman from Auburn, Miss Lewis.

Miss LEWIS: Mr. Speaker, I request permission to pair my vote with the gentleman from Old Town, Mr. Cashman. If Mr. Cashman were present and voting, he would be voting yes; I would be voting no.

The SPEAKER: The pending question before the House is on the motion of the gentleman from Portland, Mrs. Beaulieu, that the House accept the Majority "Ought to Pass" Report. Those in favor will vote yes; those opposed will vote no.

ROLL CALL

YEA—Ainsworth, Allen, Anderson, Andrews, Armstrong, Baker, Beaulieu, Bell, Benoit, Bonney, Bost, Brannigan, Brodeur, Brown, A.K.; Brown, K.L.; Cahill, Carrier, Carroll, D.P.; Carroll, G.A.; Chonko, Clark, Conary, Connolly, Cooper, Cote, Cox, Crouse, Crowley, Daggett, Davis, Day, Dexter, Diamond, Dillenback, Drinkwater, Erwin, Foster, Gauvreau, Greenlaw, Gwadosky, Hall, Handy, Hickey, Higgins, H.C.; Higgins, L.M.; Holloway, Ingraham, Jackson, Jacques, Jalbert, Joseph, Joyce, Kelleher, Kelly, Ketover, Kiesman, Kilcoyne, LaPlante, Lehoux, Lisnik, Livesay, Locke, MacEachern, Macomber, Manning, Martin, A.C.; Masterman, Masterton, Matthews, K.L.; Matthews, Z.E.; Maybury, McCollister, McGowan, McHenry, McPherson, McSweeney, Melendy, Michael, Michaud, Mitchell, E.H.; Mitchell, J.; Moholland, Murphy, E.M.; Murphy, T.W.; Murray, Nadeau, Norton, Paradis, E.J.; Paradis, P.E.; Paul, Perkins, Perry, Racine, Randall, Reeves, P.; Richard, Ridley, Roberts, Roderick, Rolde, Scarpino, Sherburne, Small, Smith, C.B.; Soucy, Stevens, Stover, Swazey, Tammara, Telow, Theriault, Thompson, Tuttle, Vose, Walker, Webster, Wentworth, Weymouth, Zirkilton, The Speaker.

NAY—Brown, D.N.; Callahan, Connors, Lebowitz, MacBride, Parent, Pines, Reeves, J.W.; Salisbury, Smith, C.W.; Sproul, Stevenson, Wil-

ley.

ABSENT—Bott, Carter, Curtis, Dudley, Hayden, Hobbins, Kane, Mahany, Martin, H.C.; Nelson, Pouliot, Rotondi, Seavey, Soule, Strout.

PAIRED—Cashman-Lewis.

Yes, 120; No, 13; Absent, 15; Paired, 2; Vacant, 1.

The SPEAKER: One hundred and twenty having voted in the affirmative and thirteen in the negative, with fifteen being absent and two paired, the motion does prevail.

The New Draft was read once. Under suspension of the rules, the New Draft was given its second reading, passed to be engrossed and sent up for concurrence.

Divided Report

Majority Report of the Committee on Labor on Bill "An Act to Amend the State Employees Labor Relations Act" (H. P. 408) (L. D. 491) reporting "Ought to Pass" in New Draft (H. P. 1263) (L. D. 1673)

Report was signed by the following members:

Senators:

DUTREMBLE of York
HAYES of Penobscot

— of the Senate.

Representatives:

GAUVREAU of Lewiston
TAMMARO of Baileyville
NORTON of Biddeford
TUTTLE of Sanford
BEAULIEU of Portland
SWAZEY of Bucksport

— of the House.

Minority Report of the same Committee reporting "Ought to Pass" in New Draft (H. P. 1264) (L. D. 1674) on same Bill.

Report was signed by the following members:

Senator:

SEWALL of Lincoln

— of the Senate.

Representatives:

BONNEY of Falmouth
WILLEY of Hampden
ZIRNKILTON of Mount Desert
LEWIS of Auburn

— of the House.

Reports were read.

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

Mrs. BEAULIEU: Mr. Speaker, I move acceptance of the Majority "Ought to Pass" in New Draft Report.

The SPEAKER: The gentlewoman from Portland, Mrs. Beaulieu, moves that the House accept the Majority "Ought to Pass" in New Draft Report.

The Chair recognizes the gentlewoman from Auburn, Miss Lewis.

Miss LEWIS: Mr. Speaker, Ladies and Gentlemen of the House: The two new drafts in front us, 1673 and 1674, are an effort to speed up the negotiation of a contract with the Maine State employees.

Currently, right now, there are more or less three steps that take place in getting a contract with our state employees. In the first step, the two sides meet and bargain across the table; in the second step, if they can't reach a contract at that point, they go to factfinding, and then in the third step, they would eventually go to arbitration if the factfinding stage did not work out. Once they get to the arbitration stage, any arbitrators' positions on non-money items are binding.

The difference between these two reports is that in the minority report we hope to speed up factfinding by limiting that factfinding to a 90-day period but that factfinding could be on all matters. In the majority report, the report that I hope you will vote against when we take our next vote, not only do they try to speed up the factfinding by limiting it to 90 days but, in addition, they say that factfinding can only be taken on those non-money items, and this

means that some non-money items that could be rather substantial items, such as seniority provisions or union security, would totally skip the factfinding stage and go straight to binding arbitration.

Some of these negotiators have told me that manytimes when they are at that original bargaining stage around the table, they don't even deal with half the items, they let them all go straight to factfinding. My concern is that they might not ever deal with some of these items, such as seniority, that can be really be very important to the workers here in the state and let these particular items go straight to binding arbitration.

For that reason, I hope that we will take a more conservative approach by keeping factfinding but limiting factfinding to a 90 day period. For that reason, I hope that you will vote against the pending motion so that we can then go on to accept L. D. 1674 that would limit the factfinding but not force many items straight into binding arbitration.

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

Mrs. BEAULIEU: Mr. Speaker, Ladies and Gentlemen of the House: I believe Representative Lewis from Auburn has presented her point of view very well and has indicated what the majority report is to you. Let me say to you that the Labor Committee had almost six or seven bills dealing with the negotiating process as we know it now.

In the area of large unions like MSEA or AFSCME, who negotiates three, four and five contracts at a time for presentation to us, that the lengths of time that has been utilized in the negotiating process has been of enormous concern right across the board, not only by the unions themselves but management themselves.

We looked at all the bills. Some recommended the elimination of factfinding altogether. What we tried to do is to work with both the unions and management on the issue of what could be done to shorten the time at the negotiating table. One side said, well, if we could limit issues going to the factfinding table to the monetary items or the questionable monetary items, that would speed up the process. Management said, if you could put a time limit on the factfinders themselves, in that they would have to conduct all the hearings in a specified amount of time, that also would speed up the process. So what the committee did is, we came down in the middle. We gave both sides their due and put it into one bill.

I think you may be being misled, however, by the former speaker. Issues like seniority, those kinds of issues, need never get to the step beyond factfinding, which is binding arbitration, on issues of non-economic matter. We do not currently, until we change the law, have binding arbitration on wages, pensions and insurance, so it is not necessarily a fact that those kinds of issues would automatically go to binding arbitration. Those could be resolved at the mediation level, which is where they should be resolved.

We are also willing to take a chance to pass this bill as a trial kind of thing. We would like to see if this, indeed, does work, this approach, because if it does work, it could be very useful for municipal collective bargaining processes.

I have been involved in the factfinding process and very, very often at the mediation level there may be 90 issues brought forward and 68 of those issues will be tentatively agreed to. Unfortunately, the minute there is an impasse and they request factfinding, those 68 issues often come back to the factfinding table, all tentative agreements from both sides, which again expands the time of factfinding.

I have seen situations where municipalities have spent more money going through the mediation and factfinding process than it would have cost to settle the whole contract in the first place because the real issues were two or

three issues and they tended to be economic. So we bring the proposal forth to you that neither side is happy with but we think it can be workable and we would like to have the opportunity to try it and we ask you to give it a chance and we will look at it in another session. If it didn't work, we will dump it, but I think it is worth a try.

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

Miss LEWIS: Mr. Speaker, Ladies and Gentlemen of the House: The view of the minority report is that if we set a time limit, then during factfinding only those issues really important will be the ones that are discussed, just as we in the House only debate those issues that are really important to us even though we deal with about 1600 bills in 100 days. But what our feeling is is that we don't want to have the possibility of some very important non-economic items to never really be discussed at the table in the first place and then go straight for binding arbitration. What we are suggesting is that if we limit the time of factfinding to 90 days on all items, it is those important items that will either get resolved at that stage of factfinding or then go on to arbitration, but we don't want to force any of these non-money items to go straight from the bargaining table to binding arbitration.

The SPEAKER: The Chair will order a vote. The pending question before the House is on the motion of the gentlewoman from Portland, Mrs. Beaulieu, that the House accept the Majority "Ought to Pass" in New Draft Report. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

57 having voted in the affirmative and 47 in the negative, the motion did prevail.

The New Draft (L. D. 1673) was read once. Under suspension of the rules, the New Draft was given its second reading, passed to be engrossed and sent up for concurrence.

Divided Report

Majority Report of the Committee on Labor reporting "Ought Not to Pass" on Bill "An Act to Incorporate Last Best Offer Provisions into the Municipal Public Employees and the University of Maine Labor Relations Laws" (H. P. 925) (L. D. 1204)

Report was signed by the following members:

Senator:

SEWALL of Lincoln

— of the Senate.

Representatives:

ZIRNKILTON of Mount Desert
BONNEY of Falmouth
WILLEY of Hampden
NORTON of Biddeford
LEWIS of Auburn
SWAZEY of Bucksport

— of the House.

Minority Report of the same Committee reporting "Ought to Pass" in New Draft under New Title Bill "An Act to Encourage Prompt Resolution of Public Employee Labor Disputes" (H. P. 1267) (L. D. 1678)

Report was signed by the following members:

Senators:

DUTREMBLE of York
HAYES of Penobscot

— of the Senate.

Representatives:

BEAULIEU of Portland
TAMMARO of Baileyville
GAUVREAU of Lewiston
TUTTLE of Sanford

— of the House.

Reports were read.

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

Mrs. BEAULIEU: Mr. Speaker, I move the acceptance of the Minority "Ought to Pass" in New Draft Report.

The SPEAKER: The Chair recognizes the gentleman from Hampden, Mr. Willey.

Mr. WILLEY: Mr. Speaker, Ladies and Gentlemen of the House: At last I got on the majority side of a bill anyway, so that is a pleasant change.

Binding arbitration, many of us don't think is the way to go. It is exactly what it says, it is very binding.

I don't know how many of you are very familiar with the labor negotiations process and how it works.

It is often extremely lengthy and I guess more or less purposely so, but hopefully it is resolved through negotiations and not by a labor judge, in effect, sitting at the end of the line to make the horrible decisions for us.

Normally what happens in labor negotiations is that both sides come requesting more than they ever expect to get. The labor union certainly does, management offers far less than they know that it is going to cost. It is in the posture for this position and in a tradeoff through negotiations it is eventually resolved, which is exactly the way that it should be.

By putting binding arbitration at the end of the trail, a lot of us think that that is going to be very self-defeating, that all through the normal process of negotiations, people on both sides will be posturing for position in front of the arbitrator at the end of the trail. The necessity of reaching a conclusion has been removed; in effect, it becomes a court, and if you are going to do this, you might just as well have binding arbitration the first thing on the list as the last thing on the list because he is going to be the one that makes the decisions.

There is another aspect of it that I don't find very palatable either and neither does any municipality or school district. Every school district that I know of and every municipality that I know of is opposed to binding arbitration because it removes part of the home rule. The school board is made up by officials elected by the people of the community to raise taxes and see that they are properly administered. In the instance of labor negotiations of teachers in a particular town, then the elected officials are simply by-passed. An arbitrator could be from the next town, he could be from California, knowing nothing about local issues, is going to come in and make that decision and the same thing would be true with municipal officials.

This thing has gone down to 'last best offer' which, to me, is worse than binding arbitration without the last best offer, because each side comes up at a period in time for the last best offer on these issues. They are obviously not going to make the last best offer because there is no reason why they should because the arbitrator is going to decide that. The arbitrator will look at the last best offer made by management, the last best offer made by the union, and will decide somewhere in between, so in knowing that there will be some leeway there, then it wouldn't behoove either side to make what is realistically a last best offer.

I urge you to defeat the motion that is presently on the floor to accept the Minority Report so we can get on and adopt the Majority Report.

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

Mrs. BEAULIEU: Mr. Speaker, Ladies and Gentlemen of the House: Again, another labor issue, six or seven bills brought before us asking us to look at the current collective bargaining process and what needs to be done in order to make it work, in order to make that home rule issue that we have placed our faith and so much acceptance into workable and honorable.

When the legislature gave public employees the right to organize and bargain collectively, in effect, specifically denied those same employees the right to strike, something that I think even labor people subscribed to. In place

of a strike as a means of forcing impact resolution, the law did not come up with a period. In effect, we have mediation, we have factfinding, we have arbitration which is binding on every matter except wages, pensions and insurance, it never stated how you are going to end that process.

All of us in our communities throughout the state, at one point or another, have seen those three issues become the single major issue in most contract impasses. The end result usually is our public employees hitting the streets on informational picketing or work slowdowns or sickouts — we even had a strike at one point at one of the VTI's. The public employees, when they have to be forced to that measure of trying to get the citizenry to look at the issues and to get a measure of sentiment whether they agree that the unions are rightful in their requests, simply puts them on a level of collective begging, it is not bargaining. They have to go to the streets to beg the citizenry to give them a helping hand with the elected officials, when rightfully those elected officials are sitting in their seats, either as boards of selectmen or councilors, and their responsibility is to do that bargaining to end the process, to do it in good faith, and in an honorable fashion.

Maine's public bargaining law has generally worked very well. Most of the contract disputes in this state are settled at the fact-finding level, but in increasing instances, and remember my words "increasing instances," the lack of a powerful incentive to agree is causing some employees in this state to be without contracts for periods of two years or more. I know of one community who held up a contract for 18 months because they did not want to buy the firefighters' boots, kind of a ludicrous rationalization, and no matter how often the citizens in that community called the members of that board to settle that contract and to end the foolishness, they would not. You elected me and I am going to do my job and I don't care what you have to say about it. The end result was that the employees, their families, the people they serve, wound up at the disadvantages.

The bill before you addresses the shortcoming by making arbitration fully binding on both parties. We have thrown out all the other measures, the different types of binding arbitration measures out of our committee and have come up with one bill. We told the Labor Unions, if you are serious, if you can come up with a mechanism that builds in protective measures so that if a community ever does get to binding arbitration, there are escape mechanisms in it so that they cannot get out even the process has begun, we, as a committee, will entertain it and we did. There are several safeguards built into the bill to assure that binding arbitration will be used only as a final resort.

The way this bill is written with the time limitations built into it and the restrictions built into it, and we already passed restriction on factfinding a few minutes ago, we contend that it is a logical, appropriate, well thought out plan of action if any community needs to go binding arbitration. We have made it tough and we made it tough on purpose so that communities will not have to get to binding arbitration. Binding arbitration is a last resort. If they do their job well and they do their job constructively, like the majority of our communities do in our state, they will never have to get to binding arbitration, but if they do, the schools are on both sides, literally, because of the process identified, because of the hazards encountered by both sides, because when you get to binding arbitration, and binding arbitration is in other states, it has been found to be constitutional so I hope we don't hear that argument again today, and because it is tough, it is our contention that every single effort will be made never to get to it. But if it gets there, they are not going to be happy with the results.

There are safeguards built into the bill. It as-

ures that binding arbitration will only be used as a final resort and not as a standard. The bill would authorize arbitration to begin after fact-finding, they have to go through every other step followed by 45 days to come to an agreement, and only where the employees have been working with an expired contract for a period in excess of 60 days, so you take 45 days and 60 days and it is a long time coming before they get to it. If they are sincere about reaching an agreement, they have got to do it within that time frame.

The means of arbitration on economic questions is so-called item-by-item last best offer, and that is what the experts on labor believe causes was the greatest incentive for both parties to come to an agreement and not resort to arbitration.

This bill amends both the employee, the municipal employees and the University Employees Labor Relation and it does not expand binding arbitration to state employees, so we feel that we have spent an enormous amount of time coming with a plan that will not distress the communities, that reinforces home rule, and that puts management and labor on notice—you do your job and you do it right in the first instance, never get to this point, because if you do get to it, you've got a lot to lose on both sides.

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

Mr. RACINE: Mr. Speaker, Ladies and Gentlemen of the House: I have always been opposed to binding arbitration and I haven't heard anything today that would make me change my mind. I feel that as a taxpayer, property taxpayer, that I would be bound by any agreement that would be reached through binding arbitration. As far as I am concerned, this would be taxation without representation, and some of you that have a little bit of gray hair and are bald may remember that there was a Boston Tea Party of the same issue and if this thing goes through, I think we will probably have a Biddeford Pool coffee party.

The SPEAKER: The Chair recognizes the gentleman from Hampden, Mr. Willey.

Mr. WILLEY: Mr. Speaker, Ladies and Gentlemen of the House: One of the supposed reasons for this binding arbitration affair is to speed up the process, but during the work session when this was presented, I added up the days here, there and everywhere involved in this binding arbitration, and believe me, it winds up to three and a half months. I don't think that is a very speedy process to begin with. Perhaps if we wanted to speed up the process, we would put a time limit on. We have a time limit on this body of 100 days to do its business, I don't know why we couldn't in other respects and still leave home rule alone.

I would suppose that each one of you is a member of a community and a taxpayer in this town, and if you want somebody else to come and spend your money for you and tell you where it is going, then you will vote for this Majority Report. If you do not think so, you will vote for the Minority Report when you get a chance.

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

Mr. TUTTLE: Mr. Speaker, Men and Women of the House: I will be very brief. I think in reference to what Representative Racine said, I think we are all very conscience of taxpayer dollars and that is one of the main reasons why most of us are here.

Being a municipal official, and I think many of you are, you have seen what the collective bargaining process costs. I guess the reason why this bill is in here today is that we are trying to find a way to make the process work better. Right now we are talking about binding arbitration, forcing these municipal officials, binding them, having an outside arbitrator come in, but that is only at last resort.

I will tell you right now, from what I have

seen being a municipal official and what it does cost to settle these contracts, in most cases if they got the sides down and had them negotiating from the beginning it wouldn't cost money, it could save money.

I think that this bill is a good-faith effort in trying to streamline the process and trying to make it work better. That is why the bill was put in and that is why it traditionally comes back time and time again. I think the argument against this bill, and saying that by passing this bill it is going to cost the taxpayers money is not right. If anything, this is going to save the taxpayers money; it is going to force both labor and management to get down and start negotiating these contracts and in the long run save money. So I encourage you finally to try and do something to streamline the process of collective bargaining in this state and for once go on record and say we support this issue not only for ourselves but for the taxpayers of the state of Maine.

Mrs. Beaulieu of Portland requested a roll call.

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

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

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

Mr. DIAMOND: Mr. Speaker, Ladies and Gentlemen of the House: I rise as the sponsor of the original bill, L. D. 1204, which is now before us in the redraft, and it is a bill that I am extremely supportive of and I would like to explain briefly why.

As Representative Beaulieu mentioned, there have been a number of proposals put before this legislature dealing with binding arbitration and trying to resolve the problems that many municipalities are facing of contract disputes between their employees and the employer, the municipality. This proposal is, I believe, the best one that was available and I am pleased that the committee reported it out the way it did, using L. D. 1204 as a vehicle. I think it provides a responsible and equitable solution to a lot of the problems that the municipalities around the state are facing.

In my home community of Bangor there has been an extensive dispute between the teachers of Bangor and the city over their contract problems and I am sure those problems are nothing new to you, your municipalities probably have gone through similar problems.

One of the questions that has been posed during the debate today is the question of whether or not we are tying the hands of the municipalities, whether we are forcing the taxpayers to pick up a cost that is mandated by an independent third party who may or may not be from out of state or outside the community. That was a concern that the committee looked at when we first had the hearing on the bill and is one that I think is adequately addressed in the bill. You have got to remember that wages, just like any other item that a school board or a municipality has to approve, is something that is a cost of doing business, just as the cost of paper goods is something they consider, furniture, fuel, food, etc., they also have to consider what they are going to pay their employees. I think the mechanism provided in the new draft of L. D. 1204 handles that very well and in a very responsible manner. The arbitrator has certain limitations he has placed on him but, most importantly, the mechanism that implements binding arbitration, in this sense "the last best offer" provision, is a responsible one and is one that I think is fair to both sides.

Again, as Representative Beaulieu and others have pointed out, we are talking about

item-by-item last best offer. Unlike some forms of binding arbitration where the arbitrator can pick and choose just about anything he wants and therefore cause some problems for employers or employees, I believe that both sides are protected well because the arbitrator is limited in what he can consider. He is looking at the proposal of one side or the other and he can't find any middle ground; therefore, there is a lot of pressure on both sides to present what is their most reasonable offer.

There is a fear that is mandated in this bill, a fear that is placed on the part of the employee and the employer to propose something that isn't going to be seen as outrageous and therefore jeopardize their position, and for that reason, the tools that are provided in this bill, I think, are responsible, they are fair to all parties involved and I don't think they are going to cause any problems for municipalities.

We have to provide a mechanism for the employees of communities, since they have none, they have no right to strike and they have nothing, again as Representative Beaulieu said, it is collective bargaining, and I think that is something we have to address and this bill does so fairly. I hope you will support it.

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

Miss LEWIS: Mr. Speaker, Ladies and Gentlemen of the House: The good Representative in the corner has told us that wages are a cost of doing business and certainly this is true; however, in the private sector, there is an option. If the wages have gone up too high, that business can always go out of business. Our cities and our university don't have that option. Our cities are a monopoly; if the wages go up too high, the taxpayers can shriek and scream but their property taxes will only go up.

The whole point of binding arbitration, ladies and gentlemen of the House, is to have an outside arbitrator come in and tell you what your property taxes are going to be. If we keep the present system, we have our workers negotiating with our municipal representatives, and between them they can come up with a good contract. If the municipal representatives won't pay the teachers enough, they won't be able to keep good teachers in the schools and then the taxpayers will all shriek and scream that their schools aren't good. That is what the workers have to lean back on.

If we keep the present system, we are able to keep a system in which our municipal officials, together with our workers, can reach a contract rather than having some arbitrator come from outside and tell you what your property taxes are going to be.

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

Mrs. BEAULIEU: Mr. Speaker, Ladies and Gentlemen of the House: What you were not told a few seconds ago is that business has binding arbitration. They have no problems bringing in some guy from Washington to resolve a dispute between the company and their employees.

It is unfortunate that we have to stand here every year debating the issue of binding arbitration, because apparently it is the only mechanism we can have to end what is happening out there in the field.

I have served on the Labor Committee for six years, this is my seventh year now, and I have yet to find anybody, especially from the opposition party, friendly opposition at times, come up with a resolve to end what is happening. Everybody concurs that there is a problem out there, but when we talk about putting time limits on the municipalities to resolve that contract by probably putting a penalty on them such as making everything retroactive when they serve to do nothing but to delay the resolving of that contract — oh no, we can't do that.

With all of the healthy, viable minds in this body, why is it that no one has been able to come forward to our committee and show us

another way other than the binding arbitration route. Could it be that nobody has the guts to care? I don't know. Apparently that is what it boils down to, nobody cares what is going on out there between the municipalities and their employees — I do. The only tool that we are able to bring before you that makes sense, that is comprehensible, that is protective, that will end what is happening out there, is binding arbitration. That is the only decision you have to make.

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

Mrs. FOSTER: Mr. Speaker, Ladies and Gentlemen of the House: As an elected official, I cannot understand why we are constantly giving others not elected so much power. Day after day we give bureaucrats more authority over the very things that we should control ourselves. Why do we have apathy back home? It is because of issues like this. Who is going to run for the school board or a council seat knowing their fiscal responsibility to the citizens who elected them cannot be upheld?

Ladies and gentlemen of the House, I hate being here and constantly giving bureaucrats and others not elected the ability to make the decisions that we should make ourselves. We have got to stand up and be accountable, and this is one area that you can do it.

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

Mr. CARTER: Mr. Speaker, Ladies and Gentlemen of the House: I have some problems with this bill and let me tell you why. We have heard the gentlelady from Portland tell us there are some problems out there and this would cure them. I have had the opportunity and the pleasure of serving in local municipal government since 1962 and I am not familiar with the problems that she talks about, but this is not what bothers me. What bothers me is Section 22 of the Constitution. For those of you who want to take out your little book, it is on Page 8 and it reads: "No tax or duty shall be imposed without the consent of the people." If we put into force binding arbitration in the municipal sector, we are, in fact, in violation of this section, so I would hope that you would vote accordingly.

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

Mr. COX: Mr. Speaker, Ladies and Gentlemen of the House: I am one of the co-sponsors of this bill. I want to address myself to just one of the points that have been raised in opposition to the bill, the so-called loss of control over the tax bills. If we just stop and think, the arbitrator, regardless of his decision, is not going to make out the tax bill. The officials of the town, what they may do is to make a policy decision that they will not spend money on something else in the event that the arbitrator awards a larger pay raise than they had intended. The decision of whether or not to raise the taxes will be strictly up to the officials or the voters of the town.

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

Mr. RIDLEY: Mr. Speaker, Ladies and Gentlemen of the House: I have been sitting here listening to this debate going back and forth and back and forth and I am really astounded. I was a municipal official for quite a number of years in my town and there was no way we could spend one cent of the taxpayers' money without their authorization, and this is what is really bothering me. If you have this binding arbitration in the middle of the year and they come up that everybody is going to get a raise, where is the town going to get the funds? On town meeting day they have all the articles listed in the warrant, they are voted on by the townspeople, each and every one of them, how much they will pay for the fire department, ways and bridges, sealer, it is all itemized right out and this is how your tax rate is set. It would be illegal to spend anymore money for some-

thing else than what is authorized by the townspeople. You would have to hold a special town meeting in order to raise more money and this would be a great burden on the towns.

I can't, for the life of me, see how anybody expects to come up with more money, in the middle of the year. Maybe they do it different in the big cities, but in the small towns you are limited very very much as to what you can spend and what you can spend it for. The big rule is that you can't spend one cent without authorization from the townspeople.

The gentlewoman from Portland, Mrs. Beaulieu, was granted permission to speak a third time.

Mrs. BEAULIEU: Mr. Speaker, Ladies and Gentlemen of the House: Hopefully for the last time — I think the last speaker raised a very good point which probably should enforce the argument for having a mechanism to end it once and for all, because the delays in negotiating the contracts, unfortunately, a majority of the time management imposed but unions are not sacrosanct either, they are equally guilty, preempts the taxpayers from having the opportunity to vote on a finalized contract. That is why we need something to end it once and for all.

As for the issue of the State Constitution, binding arbitration questions have been brought and appealed through the courts and in every single instance the courts have found, at least I have no data saying that it isn't, that it is not against the State or the United State Constitution, because, in effect, the appointed arbitrator and I am reading from an actual case here in Wisconsin, the appointed arbitrator performs an administrative rather than a legislative function. Therefore, they concluded that it does not violate the equal protection or the due process clauses of either the United States or that State's Constitution, because the arbitrator merely carries out the legislatively outlined administrative function and that is what separates that issue of binding arbitration not being unconstitutional.

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

Mr. McHENRY: Mr. Speaker, Ladies and Gentlemen of the House: In my hometown of Madawaska, my teachers and my public employees are all very well satisfied because my town fathers sit down and negotiate in good faith, which is the intent of bargaining. We should sit down in good faith, both sides, and both sides in my town do sit down in good faith. There is another town which I represent, St. Agatha and Frenchville's school district, those people do not sit down in good faith because they are always fighting. As a matter of fact, there is a court case that has been five years. It is up and it is down, it is up and it is down — if we had binding arbitration, this court case would never have gone five years and these people would have saved money, it would have been settled.

I assure you, the arbitrator is not for labor. There seems to be an presumption here that the arbitrator will rule in favor of the teachers or the public employees every time, but I assure you, I have had a case personally and I lost. Those arbitrators are fair, they do what is right, they are just like judges. The judges are not elected either but they rule on the fairness and what is in the contract in black and white. If it is not in the contract and you presume that this is right, you are presuming nothing, because the arbitrator has to go according to the contract, the language in the contract.

I would think that binding arbitration is much more preferable way than having strikes, legal or illegal.

The SPEAKER: A roll call has been ordered. The pending question before the House is on the motion of the gentlewoman from Portland, Mrs. Beaulieu, that the House accept the Minority "Ought to Pass" Report.

The SPEAKER: The Chair recognizes the

gentleman from Old Town, Mr. Paradis.

Mr. PARADIS: Mr. Speaker, I request to pair my vote with the gentleman from Old Town, Mr. Cashman. If Mr. Cashman were present and voting, he would be voting yes; I would be voting no.

The SPEAKER: The pending question before the House is the motion of the gentlewoman from Portland, Mrs. Beaulieu, that the House accept the Minority "Ought to Pass" Report. Those in favor will vote yes; those opposed will vote no.

ROLL CALL

YEA—Ainsworth, Allen, Andrews, Baker, Beaulieu, Benoit, Bost, Brannigan, Brodeur, Carroll, D.P.; Chonko, Clark, Connolly, Cox, Crowley, Diamond, Erwin, Gauvreau, Handy, Hayden, Hickey, Higgins, H.C.; Jacques, Jalbert, Joseph, Joyce, Kelleher, Kelly, Ketover, Kilcoyne, LaPlante, Locke, MacEachern, Macomber, Matthews, Z.E.; McCollister, McGowan, McHenry, McSweeney, Michael, Michaud, Mitchell, E.H.; Mitchell, J.; Murray, Nadeau, Paradis, P.E.; Paul, Perry, Richard, Rolde, Stevens, Tammara, Theriault, Thompson, Tuttle, Vose, Weymouth, The Speaker.

NAY—Anderson, Armstrong, Bell, Bonney, Brown, A.K.; Brown, D.N.; Brown, K.L.; Cahill, Callahan, Carrier, Carroll, G.A.; Carter, Conary, Connors, Cooper, Cote, Crouse, Curtis, Daggett, Davis, Day, Dexter, Dillenback, Drinkwater, Dudley, Foster, Greenlaw, Gwadosky, Hall, Higgins, L.M.; Holloway, Ingraham, Jackson, Kiesman, Lebowitz, Lehoux, Lewis, Lisnik, Livesay, MacBride, Manning, Martin, A.C.; Masterton, Masterton, Matthews, K.L.; Maybury, McPherson, Melendy, Moholland, Murphy, E.M.; Murphy, T.W.; Norton, Parent, Perkins, Pines, Racine, Randall, Reeves, J.W.; Ridley, Roderick, Salsbury, Scarpino, Sherburne, Small, Smith, C.B.; Smith, C.W.; Soucy, Sproul, Stevenson, Stover, Swazey, Telow, Walker, Webster, Wentworth, Willey, Zirnkilton.

ABSENT—Bott, Hobbins, Kane, Mahany, Martin, H.C.; Nelson, Pouliot, Reeves, P.; Roberts, Rotondi, Seavey, Soule, Strout.

PAIRED—Cashman—Paradis, E.J.
Yes, 58; No, 77; Absent, 13; Paired, 2; Vacant, 1.

The SPEAKER: Fifty-eight having voted in the affirmative and seventy-seven in the negative, with thirteen being absent and two paired, the motion does not prevail.

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

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

Bill "An Act to Stabilize Maine Potato Prices" (H. P. 1271) (Presented by Representative Lisnik of Presque Isle) (Cosponsors: Senators Carpenter of Aroostook, Emerson of Penobscot, and Speaker Martin of Eagle Lake) (Submitted by the Department of Agriculture, Food and Rural Resources pursuant to Joint Rule 24)

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

By unanimous consent, ordered sent forthwith to printing.

Divided Report

Majority Report of the Committee on Aging, Retirement and Veterans on Bill "An Act to Assure Public Awareness of Nuclear Civil Protection Plans for Maine" (H. P. 1006) (L. D. 1331) reporting "Ought to Pass" in New Draft (H. P. 1266) (L. D. 1677)

Report was signed by the following members:

Senators:

TEAGUE of Somerset
DOW of Kennebec
MINKOWSKY of Androscoggin

— of the Senate.

Representatives:

PARADIS of Old Town
THERIAULT of Fort Kent
PERRY of Mexico
HICKEY of Augusta
TUTTLE of Sanford
WALKER of Skowhegan
AINSWORTH of Yarmouth

— of the House.

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

Report was signed by the following members:

Representatives:

STEVENSON of Unity
LEHOUX of Biddeford

— of the House.

Reports were read.

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

Mr. HICKEY: Mr. Speaker Ladies and Gentlemen of the House: I move the acceptance of the Majority "Ought to Pass" in New Draft Report.

This bill L. D. 1677 is intended to provide information to the public about the impact of a nuclear attack on the state and about plans being developed to prepare for such an event. The original bill would have established a 14-member commission and set up a schedule of 16 public hearings.

Following the hearing on the bill and several work sessions, the majority of the Aging, Veterans and Retirement Committee recommended passage of the bill in a draft. The new draft establishes a 9 member citizen commission, 7 members appointed by the Governor, one each by the President of the Senate and Speaker of the House. Members serve two-year terms and elect a chairman from among themselves. They receive only travel expenses for their services.

Prior to March 1, 1984, the commission is required to hold public hearings in four of the eight designated risk areas specified in the bill. The commission felt that hearings probably should be held in the risk areas associated with the military installations, Loring, Kittery, Portsmouth, Cutler, and Bath-Brunswick. The commission, however, would have the option of choosing to hold hearings in other risk areas such as Portland, Bangor, Lewiston, Auburn and Augusta. Each public hearing would be conducted so as to first provide information to the public on the nuclear civil protection plan for the risk area and the effect of nuclear attack on the risk area.

Secondly, the public hearing would be designed to gather public reaction to the nuclear civil protection plan for the risk area. The commission would be responsible for approving the informational material presented at the public hearings to insure that all viewpoints are presented, publicizing the public hearings, reviewing comments submitted at the public hearings and reporting its findings and recommendations to the Governor and Legislature and communities within the risk area. The reports are to be completed prior to the adjournment of the Second Regular Session of the 111th Legislature.

The commission shall also recommend to the Governor and Legislature whether the commission should be continued in order to study other risk areas or other types of civil emergency preparedness plans. If the recommendation is to continue, the commission, the Governor and the Legislature would decide what its exact role would be and would determine the appropriate source and level of funding.

During its deliberation, the committee was mindful on the one hand of the expressed need for the public to be made aware of and to have an appropriate way of participating in the planning for nuclear attack, and, on the other, the need to economize and streamline state government. The majority of the committee

felt the new draft addressed both concerns.

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

Mr. LEHOX: Mr. Speaker, Ladies and Gentlemen of the House: The bill before us, to me, is absolutely useless. By accepting this bill, we are going to step on our counties' and local communities' toes. It is their responsibility to publicize their plans. When these plans are written, they hold hearings for the people to attend. Usually the people that attend these hearings are representatives of special interest groups. In this case, like it occurred in Biddeford, anti-nukers.

We held a good hearing on this bill. It lasted long after five o'clock, at least it appeared like that, and the only people that testified, except one woman, were antinukers. We heard every anti-bit throughout the whole spectrum.

This bill does not actually say what they mean. If you pass this bill, what you are going to do is give the anti-nukers a chance to come in through the back door. They were repelled by the legislature, they were repelled at referendum and now this is an attempt to come in through the back door. It is unfortunate that they should take what I feel is a sneaky path toward accomplishing their objective.

At the hearing, we had one woman who served a number of years with the diplomatic corps. I don't recall what city she came from but it was either Yarmouth or Falmouth, somewhere around there, and this woman called it as it is, and she warned us not to accept this bill.

Whose responsibility is it to publicize and notify the local population about these plans? First of all, it is your director of civil emergency preparedness on the state level, then it comes down to county, then it comes down to local communities. We should keep the state out of the county business and out of the local community business.

At one time, civil emergency preparedness had 24 people on their staff; I understand that Governor Longley cut them down to 14. It is pretty tough to do the job you are supposed to do with only 14 people. I recommended they be given one extra position, a public information type, because the director of the CEP stated that's what he needed to do a bang up job.

This committee or commission, if appointed, what the heck are they going to do? They are going to go out and hold meetings and these meetings are going to be attended by special interest groups, the anti-nukers, and it is just like stacking a deck of cards. We know before they even start what the outcome is going to be. The outcome is going to be that there is no protective means that we can plan to prevent injury to the population or death through nuclear incident or nuclear attack. Stacking the deck like that is sneaky, and as far as I am concerned, I feel that you should vote against this bill and all its accompanying papers and I move that we do so. I also request a roll call.

The SPEAKER: The gentleman from Biddeford, Mr. Lehoux, moves that this bill and all its accompanying papers be indefinitely postponed and requests that the vote be taken by the yeas and nays.

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 in favor of a roll call 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 Yarmouth, Mr. Ainsworth.

Mr. AINSWORTH: Mr. Speaker, Ladies and Gentlemen of the House: I would like to correct Representative Lehoux right off the bat — that lady didn't come from Falmouth and she didn't come from Yarmouth. As I remember, she came from Camden. After her long and lengthy

speech, if anybody could tell me what she was saying that day, I wish they would explain it to me.

I would like to say at this time that what we are trying to do in this bill is exactly what the bill says — public awareness.

Over the years, they have tried to do something with the CEP. As you know, they work through your town officials. I am afraid that that is exactly where all the work that has been done dies, right with the town officials. I am not taking anything away from these people, these dedicated people, but they do have their problems in town without fooling around with nuclear talk and so forth.

I think if you really think about this bill, you will realize what they are trying to do. What they are trying to do is go into an area, and you have these areas designated to you, so I won't go into those, go into that area and talk to these people. By the number of people that were at the hearing, there certainly is a big interest. If they get a chance to go to these hearings, they are certainly going to give input that is going to be brought back here and to be used in the future. Up to this time, nothing has been brought back that I know of, so I say to you that this is one way we are trying to do it.

The bill does have a price tag and it is a very, very minimal one. What we are trying to do is put it out in the form of having just four meetings right off the bat and later on, perhaps at the next session, get money enough, if it warrants it, to have the other four meetings. Therefore, we will have covered the whole state in the problem areas.

I ask you this morning not to go along with this motion to indefinitely postpone but to go along with the committee who wanted to put this bill before you today.

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.

In reference to Section I, Paragraph 1-B, which specifies that committee members shall be compensated for travel expense to and from all commission meetings and hearings at the same rate as state employees, would somebody explain to me what the state rate is? Will there be any per diem allowed to members of the commission?

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 gentleman from Augusta, Mr. Hickey.

Mr. HICKEY: Mr. Speaker, Ladies and Gentlemen of the House: There will be no per diem, they will be given travel expenses.

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

Mr. LEHOX: Mr. Speaker, Ladies and Gentlemen of the House: I am sorry that I did not remember the town that this woman came from but I am glad that I have been corrected.

I forgot to say one other thing. With the outcome being that there is no way that we can protect the population in case of a nuclear incident or attack, once that is established, the next step beyond that is banning the bomb or closing the nuclear plant, etc., etc., etc. If you read between the lines, you can't miss on this.

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

ROLL CALL

YEA—Armstrong, Bonney, Brown, D.N.; Calahan, Carrier, Connors, Davis, Day, Dexter, Dillenback, Dudley, Greenlaw, Higgins, L.M.; Ingraham, Jackson, Kiesman, Lebowitz, Lehoux, Lewis, McCollister, McPherson, Murphy, E.M.; Norton, Parent, Paul, Perkins, Racine, Randall, Reeves, J.W.; Salsbury, Sherburne,

Stevenson, Telow, Wentworth, Weymouth, Willey.

NAY—Ainsworth, Allen, Anderson, Andrews, Baker, Beaulieu, Bell, Benoit, Bost, Brannigan, Brodeur, Brown, A.K.; Cahill, Carroll, D.P.; Carroll, G.A.; Carter, Chonko, Clark, Conary, Connolly, Cooper, Cote, Cox, Crouse, Crowley, Curtis, Daggett, Diamond, Drinkwater, Erwin, Foster, Gauvreau, Gwadosky, Hall, Handy, Hayden, Hickey, Higgins, H.C.; Holloway, Jacques, Jalbert, Joseph, Joyce, Kelleher, Kelly, Ketover, Kilcoyne, LaPlante, Lisnik, Livesay, Locke, MacBride, MacEachern, Macomber, Manning, Martin, A.C.; Masterman, Masterton, Matthews, K.L.; Matthews, Z.E.; Maybury, McGowan, McHenry, McSweeney, Melendy, Michael, Mitchell, E.H.; Mitchell, J.; Moholland, Murphy, T.W.; Murray, Nadeau, Paradis, E.J.; Paradis, P.E.; Perry, Pines, Richard, Ridley, Roberts, Roderick, Rolde, Scarpino, Small, Smith, C.B.; Soucy, Sproul, Stevens, Stover, Tammaro, Theriault, Thompson, Vose, Walker, Webster, Zirkilton.

ABSENT—Bott, Brown, K.L.; Cashman, Hobbins, Kane, Mahany, Martin, H.C.; Michaud, Nelson, Pouliot, Reeves, P.; Rotondi, Seavey, Smith, C.W.; Soule, Strout, Swazey, Tuttle, The Speaker.

Yes, 36; No, 95; Absent, 19; Vacant, 1.

The SPEAKER: Thirty-six having voted in the affirmative and ninety-five in the negative, with nineteen being absent, the motion does not prevail.

Thereupon, the Majority "Ought to Pass" Report was accepted and the New Draft read once. Under suspension of the rules, the New Draft was read the second time, passed to be engrossed and sent up for concurrence.

Divided Report

Majority Report of the Committee on Fisheries and Wildlife reporting "Ought to Pass" as amended by Committee Amendment "A" (H-284) on Bill "An Act to Create Boothbay Region Waterfowl Sanctuary" (H. P. 713) (L. D. 904)

Report was signed by the following members:

Senators:

DOW of Kennebec
USHER of Cumberland
— of the Senate.

Representatives:

GREENLAW of Standish
JACQUES of Waterville
CONNERS of Franklin
KELLY of Camden
RODERICK of Oxford

— of the House.

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

Report was signed by the following members:

Representatives:

MacEACHERN of Lincoln
ERWIN of Rumford
PAUL of Sanford
CLARK of Millinocket
SMITH of Island Falls

— of the House.

Reports were read.

The SPEAKER: The Chair recognizes the gentleman from Lincoln, Mr. MacEachern.

Mr. MacEACHERN: Mr. Speaker, Ladies and Gentlemen of the House: I move that we accept the Minority "Ought Not to Pass" Report.

This bill originated from one person who, for some reason or other, wanted to create a game sanctuary at Boothbay. We had a hearing on the bill. The original report of the committee was eleven to two "ought not to pass." It came out on the floor and was approved in the House and the Senate decided to send it back to committee. When it got back to committee, there was an amendment put on and as a result of that, the bill is in this present posture.

The reason given originally for the bill was to protect the waterfowl in the Boothbay area. Later on another reason cropped up; appar-

ently somebody had been shooting shotgun shells out in the bay there and they broke some windshields on some boats, and that was another reason for the bill.

The last reason that came up at the second hearing was that young people were taking boats and chasing ducks around the bay and molesting them. None of these reasons, as far as I am concerned, has anything to do with the preservation of wildlife or waterfowl.

There already is a law on the books that prevents people from molesting wildlife, including the ducks. There was an attempt made a couple of years ago to pass a local ordinance down there to outlaw the use of firearms within that area, and when it went to a vote it was defeated, and it was largely through the efforts of the person who instigated this bill, a former legislator, Ransom Kelley.

This bill is strongly opposed by the Department of Fisheries and Wildlife because it accomplishes no purpose as far as wildlife protection goes. The bill is also opposed by the Maine Waterfowl Advisory Council. There really is no reason for this bill.

I would like to move the indefinite postponement of the Bill and all its accompanying papers.

The SPEAKER: The gentleman from Lincoln, Mr. MacEachern, moves that this bill and all its accompanying papers be indefinitely postponed.

The Chair recognizes the gentlewoman from Edgecomb, Mrs. Holloway.

Mrs. HOLLOWAY: Mr. Speaker and Members of the House: This certainly is a constituent bill and that is one of the reasons I am elected to be up here.

What this amendment does, it waters down the bill considerably and defines restricted activities within the sanctuary. However, I believe that having the Boothbay Region Waterfowl Sanctuary on the statutes, that attention will be given to this area by enforcement officers who will protect the nesting season. And this is the most important element of the bill and it is retained under this amendment.

Those who were originally opposed to this are not acceptable to the amendment. I am willing to compromise and I hope that you will accept the Majority "Ought to Pass" Report by not indefinitely postponing this bill.

The SPEAKER: The Chair recognizes the gentleman from Rumford, Mrs. Erwin.

Mrs. ERWIN: Mr. Speaker, Ladies and Gentlemen of the House: I would hope that you would go along with the indefinite postponement of this bill. Contrary to what my good friend Mrs. Holloway just said, I was one that opposed it originally and I still oppose it.

The Department has had a policy for several years, opposing the creation of sanctuaries unless there is a specific and biological reason for creating one. The department's deputy commissioner stated that there is no biological justification for this. Creating this sanctuary would set a precedent.

Most of the land designated as a sanctuary is state-owned. This bill would affect lots of land owned by private individuals.

The Town of Southport, one of the two towns involved, rejected a shooting ban, so apparently it isn't that much of a problem.

This legislation was requested by a single constituent in a town of nearly 3,000 population. He was the only proponent to appear before our committee. He admitted at that time that legal hunting was not a problem. It has been stated that it would protect ducks wintering here. I would point out that the legal duck hunting season ends on December 15, which is prior to winter beginning December 21.

If shooting is a problem, it can thus be handled locally by posting one's land, by enacting a local ordinance or by the 100 yard bill which this legislature passed earlier in this

session.

I would like to read the letter the committee received regarding this piece of legislation.

"Dear Representative MacEachern: At its meeting on May 11, 1983, the Maine Waterfowl Advisory Council voted to oppose L. D. 904, An Act to Create a Boothbay Region Waterfowl Sanctuary, on the premise that present federal and state statutes and regulations give adequate protection to the waterfowl resource, and that special legislation of this nature, not based upon sound biological and wildlife management principles, constitutes an undesirable interference with the ability of the Fisheries and Wildlife Department to manage the waterfowl resource."

I would urge you to support the indefinite postponement of this bill.

The SPEAKER: The Chair recognizes the gentlewoman from Edgecomb, Mrs. Holloway.

Mrs. HOLLOWAY: Mr. Speaker and Members of the House: I will take opposition to the waterfowl people opposing this bill. That was prior to its amendment.

Secondly, the specific biological reasons is for protection of harassment of this nesting area, and I do hope you will stand by me on this vote.

The SPEAKER: The Chair recognizes the gentleman from Lincoln, Mr. MacEachern.

Mr. MacEACHERN: Mr. Speaker, Ladies and Gentlemen of the House: I have to correct the gentlelady on her last statement. I talked with Mr. Townsend this morning, the author of this letter, and I explained the amendment to him and I said, would this have changed the commission's opinion in any way on opposing the bill? He said that it would not. He said that they definitely oppose it because there is no biological reason to be in favor of it.

As to the other statement about the molestation of the ducks, as I said before, there is already a law on the books that you can't molest wildlife, and that includes ducks. If it is a matter of enforcement, I would suggest that maybe somebody talk to the Fisheries and Wildlife Department and maybe they will get a little more on the ball as far as enforcing it goes. We don't need to pass another law just because one isn't being enforced.

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

Mr. KELLEHER: Mr. Speaker, Ladies and Gentlemen of the House: This bill was before this body several years ago and I keep hearing different legislators refer to one single legislator, or one single person. I wonder if it was the same person who was a member of the Fisheries and Wildlife Committee years ago, the Honorable Ransom Kelley? At that time in this House, when he was a member of that committee, his own committee rejected this very measure, and I just wonder if it was the Honorable Mr. Kelley who appeared before the Fisheries and Wildlife Committee? The House soundly defeated the measure several years ago, even though he was a member, based on the fact that he really didn't have any arguments and the arguments were about the same then as they are today from Mr. MacEachern's side, because the department felt that it was unnecessary.

If it is the same gentleman, he used to be a member of this House and he used to be a member of the Fisheries and Wildlife Committee and he couldn't get it through then and I suspect that he shouldn't get it through now.

The SPEAKER: The Chair recognizes the gentleman from Lincoln, Mr. MacEachern.

Mr. MacEACHERN: Mr. Speaker, in answer to the question, the answer is yes.

Mr. MacEachern of Lincoln 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 the gentleman from Lincoln, Mr. MacEachern, that this Bill and all its accompanying papers be indefinitely postponed. All those in favor will vote yes; those opposed will vote no.

ROLL CALL

YEA—Allen, Andrews, Armstrong, Baker, Bost, Brannigan, Callahan, Clark, Connolly, Cote, Cox, Diamond, Erwin, Gauvreau, Hayden, Hickey, Higgins, H.C.; Joyce, Kelleher, Kiesman, Kilcoyne, Lehoux, Lisnik, MacEachern, Manning, Masterman, Matthews, Z.E.; Maybury, McGowan, McHenry, McSweeney, Melendy, Michaud, Mitchell, E.H.; Moholland, Murray, Nadeau, Norton, Paradis, P.E.; Paul, Perry, Pouliot, Reeves, J.W.; Richard, Ridley, Roberts, Rolde, Sherburne, Smith, C.B.; Soucy, Stevens, Tammaro, Theriault, Thompson, Vose.

NAY—Ainsworth, Anderson, Beaulieu, Bell, Benoit, Bonney, Brodeur, Brown, A.K.; Brown, D.N.; Brown, K.L.; Cahill, Carrier, Carroll, D.P.; Carter, Chonko, Conary, Connors, Cooper, Crouse, Crowley, Curtis, Daggett, Davis, Day, Dexter, Dillenback, Drinkwater, Dudley, Foster, Greenlaw, Gwadodsky, Hall, Handy, Higgins, L.M.; Holloway, Ingraham, Jackson, Jacques, Joseph, Kelly, Ketover, LaPlante, LeBowitz, Lewis, Livesay, Locke, MacBride, Macomber, Martin, A.C.; Masterton, Matthews, K.L.; McColister, McPherson, Michael, Mitchell, J.; Murphy, E.M.; Murphy, T.W.; Nelson, Paradis, E.J.; Parent, Perkins, Pines, Racine, Randall, Roderick, Salsbury, Scarpino, Small, Smith, C.W.; Sproul, Stevenson, Stover, Telow, Walker, Webster, Wentworth, Weymouth, Willey, Zirkilston.

ABSENT—Bott, Carroll, G.A.; Cashman, Hobbins, Jalbert, Kane, Mahany, Martin, H.C.; Reeves, P.; Rotondi, Seavey, Soule, Strout, Swazy, Tuttle, The Speaker.

Yes, 55; No, 79; Absent, 16; Vacant, 1.

The SPEAKER: Fifty-five having voted in the affirmative and seventy-nine in the negative, with sixteen being absent, the motion does not prevail.

The pending question now is on the motion of the gentleman from Lincoln, Mr. MacEachern, that the Minority "Ought Not to Pass" Report be accepted.

Mrs. Holloway of Edgecomb requested a division.

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

A vote of the House was taken.

51 having voted in the affirmative and 74 having voted in the negative, the motion did not prevail.

Thereupon, the Majority "Ought to Pass" Report was accepted and the Bill read once.

Committee Amendment "A" (H-284) was read by the Clerk and adopted.

Under suspension of the rules, the Bill was read the second time, passed to be engrossed as amended 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:

(S. P. 404) (L. D. 1252) Bill "An Act Concerning Inspection, Registration and Abandonment of Dams" — Committee on Energy and Natural Resources reporting "Ought to Pass" as amended by Committee Amendment "A" (S-137)

(S. P. 499) (L. D. 1511) Bill "An Act to Require the Department of Human Services to Conduct Demonstrations of Adult Day Care and Other Services through Long-term Care Facilities" —

Committee on Health and Institutional Services reporting "Ought to Pass" as amended by Committee Amendment "A" (S-139)

(S. P. 197) (L. D. 619) Bill "An Act to Create a Fund to Encourage Local Soil and Water Conservation Projects" — Committee on Appropriations and Financial Affairs reporting "Ought to Pass" as amended by Committee Amendment "A" (S-140)

(S. P. 153) (L. D. 555) Bill "An Act to Raise Per Diem Compensation for Active Retired Justices and Judges" — Committee on Appropriations and Financial Affairs reporting "Ought to Pass" as amended by Committee Amendment "A" (S-141)

(H. P. 1144) (L. D. 1516) Bill "An Act Relating to the Funding of School Construction Projects" — Committee on Education reporting "Ought to Pass" as amended by Committee Amendment "A" (H-285)

(H. P. 1219) (L. D. 1626) Bill "An Act Amending the Charter of the Telephone Workers Credit Union of Maine" — Committee on Business Legislation reporting "Ought to Pass"

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

(Off Record Remarks)

By unanimous consent, all matters acted upon were ordered sent forthwith to the Senate fifteen minutes after the House recessed for lunch.

On motion of Mr. Carrier of Westbrook,
Recessed until four o'clock in the afternoon.

After Recess 4:00 p.m.

The House was called to order by the Speaker.

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

The following Communication:
The Senate of Maine
Augusta

May 23, 1983

Honorable Edwin H. Pert
Clerk of the House
111th Legislature
Augusta, Maine 04333
Dear Clerk Pert:

The Senate today Voted to Insist and join in a Committee of Conference on "An Act Relating to Drinking in Public" (S. P. 420) (L. D. 1273)

Sincerely,
S/Joy J. O'Brien

Secretary of the Senate

The Communication was read and ordered placed on file.

Divided Report Later Today Assigned

Majority Report of the Committee on Health and Institutional Services on Bill "An Act to Establish Funding for Programs of Preventive Intervention and Family Support" (H. P. 532) (L. D. 685) reporting "Ought to Pass" in New Draft (H. P. 1268) (L. D. 1682)

Report was signed by the following members:

Senators:

CARPENTER of Aroostook
GILL of Cumberland
BUSTIN of Kennebec

— of the Senate.

Representatives:

RICHARD of Madison
BRODEUR of Auburn

MANNING of Portland
NELSON of Portland
CARROLL of Gray
MELENDY of Rockland
SEAVEY of Kennebunkport
MAYBURY of Brewer

— of the House.

Minority Report of the same Committee reporting "Ought to Pass" in New Draft under New Title Bill "An Act to Appropriate Moneys for Programs of Preventive Intervention and Family Support" (H. P. 1269) (L. D. 1683) on same Bill.

Report was signed by the following members:

Representatives:

WEBSTER of Farmington
PINES of Limestone

— of the House.

Reports were read.

Mrs. Nelson of Portland moved that the Majority "Ought to Pass" in New Draft report be accepted (L. D. 1682)

On motion of Mrs. Mitchell of Vassalboro, tabled pending the motion of Mrs. Nelson of Portland to accept the Majority Report and later today assigned.

Consent Calendar First Day

(S. P. 351) (L. D. 1025) Bill "An Act to Establish a Program for Therapeutic Use of Marijuana" — Committee on Health and Institutional Services reporting "Ought to Pass" as amended by Committee Amendment "A" (S-143)

(H. P. 1094) (L. D. 1440) Bill "An Act Concerning the Stopping of Trucks at Roadside Weighing Points" — Committee on Transportation reporting "Ought to Pass" as amended by Committee Amendment "A" (H-288)

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

Passed to Be Engrossed

Bill "An Act to Permit the Location of Manufactured Housing on Individual House Lots" (S. P. 475) (L. D. 1441) (C. "A" S-138 and S. "A" S-144)

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

The SPEAKER: The Chair recognizes the gentleman from Lincoln, Mr. MacEachern.

Mr. MacEACHERN: Mr. Speaker, is the House in possession of House Paper 713, L. D. 904, Bill "An Act to Create Boothbay Region Waterfowl Sanctuary?"

The SPEAKER: The Chair would answer in the affirmative, having been held at the gentleman's request.

Mr. MacEACHERN: Mr. Speaker, I move that the House reconsider whereby this Bill was passed to be engrossed.

Whereupon, Mr. Clark of Millinocket 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 the gentleman from Lincoln, Mr. MacEachern, that the House reconsider its action of earlier in the day whereby this Bill was passed to be engrossed. All those in favor will vote yes; those opposed will vote no.

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

Mr. JACQUES: Mr. Speaker, I request permission to pair my vote with the gentlelady from Athens, Ms. Rotondi. If she were here, she would be voting yes; if I were voting, I would be voting no.

ROLL CALL

YEA—Ainsworth, Allen, Andrews, Baker, Benoit, Bost, Brannigan, Brodeur, Brown, A.K.; Callahan, Carrier, Carroll, G.A.; Carter, Clark, Connolly, Cox, Diamond, Erwin, Gauvreau, Gwadosky, Hall, Handy, Hayden, Hickey, Higgins, H.C.; Hobbins, Jackson, Jalbert, Joseph, Joyce, Kelleher, Ketover, Kiesman, Kilcoyne, Lehoux, Lisnik, MacEachern, Manning, Martin, H.C.; Masterman, Matthews, Z.E.; McCollister, McGowan, McHenry, McSweeney, Melendy, Michael, Michaud, Mitchell, E.H.; Moholland, Murray, Nadeau, Nelson, Norton, Paradis, P.E.; Paul, Perry, Pouliot, Reeves, J.W.; Richard, Ridley, Roberts, Rolde, Sherburne, Smith, C.B.; Soucy, Soule, Stevens, Tammaro, Theriault, Thompson, Vose, The Speaker.

NAY—Anderson, Armstrong, Bell, Bonney, Bott, Brown, D.N.; Brown, K.L.; Carroll, D.P.; Chonko, Conners, Cooper, Crouse, Crowley, Curtis, Daggett, Davis, Day, Dexter, Dillenback, Drinkwater, Dudley, Foster, Greenlaw, Higgins, L.M.; Holloway, Ingraham, Kelly, LaPlante, Lebowitz, Lewis, Livesay, Locke, MacBride, Macomber, Martin, A.C.; Masterton, Matthews, K.L.; Maybury, McPherson, Mitchell, J.; Murphy, E.M.; Paradis, E.J.; Parent, Perkins, Pines, Racine, Randall, Reeves, P.; Roderick, Salsbury, Scarpino, Small, Smith, C.W.; Sproul, Stevenson, Stover, Strout, Swazey, Telow, Walker, Webster, Wentworth, Weymouth, Willey, Zirkilton.

ABSENT—Beaulieu, Cahill, Cashman, Conary, Cote, Kane, Mahany, Murphy, T.W.; Seavey, Tuttle.

PAIRED—Jacques-Rotondi.

Yes, 73; No, 65; Absent, 10; Paired, 2; Vacant, 1.

The SPEAKER: Seventy-three having voted in the affirmative and sixty-five in the negative, with ten being absent, two paired and 1 vacant, the motion does prevail.

The Chair recognizes the gentleman from Lincoln, Mr. MacEachern.

Mr. MacEACHERN: Mr. Speaker, I move that this Bill and all its accompanying papers be indefinitely postponed.

The SPEAKER: The Chair recognizes the gentlewoman from Edgecomb, Mrs. Holloway.

Mrs. HOLLOWAY: Mr. Speaker and Members of the House: I think we can all recall last week, we had a bill before us that was on the harassment hunters. This bill is the harassment of ducks by hunters.

The SPEAKER: The Chair recognizes the gentleman from Lincoln, Mr. MacEachern.

Mr. MacEACHERN: Mr. Speaker and Members of the House: We already have a statute on the books that says we can't harass ducks or any other animal, and I don't see why we need another one that says the same thing.

This bill really doesn't do much of anything and it establishes a precedent. If we continue to do this, we will have the whole coast of Maine in sanctuaries.

Mrs. Holloway of Edgecomb 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 the gentleman from Lincoln, Mr. MacEachern, that this Bill and all its accompanying papers be indefinitely postponed. All those in favor will vote yes; those opposed will

vote no.

ROLL CALL

YEA—Ainsworth, Allen, Andrews, Baker, Benoit, Bost, Brannigan, Callahan, Carrier, Carroll, G.A.; Carter, Clark, Connolly, Cox, Diamond, Erwin, Gauvreau, Hall, Handy, Hayden, Hickey, Higgins, H.C.; Hobbins, Jackson, Jalburt, Joyce, Kelleher, Kiesman, Kilcoyne, Lehoux, Lisnik, MacEachern, Manning, Martin, H.C.; Masterman, Matthews, Z.E.; McCollister, McGowan, McHenry, McSweeney, Melendy, Michael, Michaud, Mitchell, E.H.; Moholland, Murray, Nadeau, Nelson, Norton, Paradis, P.E.; Paul, Perry, Pouliot, Reeves, J.W.; Richard, Ridley, Roberts, Rolde, Sherburne, Smith, C.B.; Soucy, Soule, Stevens, Tammaro, Theriault, Thompson, Vose, The Speaker.

NAY—Anderson, Armstrong, Bell, Bonney, Bott, Brodeur, Brown, A.K.; Brown, D.N.; Brown, K.L.; Carroll, D.P.; Chonko, Conary, Conners, Cooper, Crouse, Crowley, Curtis, Daggett, Davis, Day, Dexter, Dillenback, Drinkwater, Dudley, Foster, Greenlaw, Gwadosky, Higgins, L.M.; Holloway, Ingraham, Jacques, Joseph, Kelly, Ketover, LaPlante, Lebowitz, Lewis, Live-say, Locke, MacBride, Macomber, Martin, A.C.; Masterton, Matthews, K.L.; Maybury, McPherson, Mitchell, J.; Murphy, E.M.; Paradis, E.J.; Parent, Perkins, Pines, Racine, Randall, Reeves, P.; Roderick, Salsbury, Scarpino, Small, Smith, C.W.; Sproul, Stevenson, Stover, Strout, Swazey, Telow, Walker, Webster, Wentworth, Weymouth, Willey, Zirkilton

ABSENT—Beaulieu, Cahill, Cashman, Cote, Kane, Mahany, Murphy, T.W.; Rotondi, Seavey, Tuttle.

Yes, 68; No, 72; Absent, 10; Vacant, 1.

The SPEAKER: Sixty-eight having voted in the affirmative and seventy-two in the negative, with ten being absent, the motion does not prevail.

Thereupon, the Bill was passed to be engrossed as amended by Committee Amendment "A" (H-284) and sent up for concurrence.

The Chair laid before the House the following matter:

HOUSE DIVIDED REPORT — Majority (11) "Ought to Pass" in New Draft (H.P. 1268) (L. D. 1682) — Minority (2) "Ought to Pass" in New Draft New Title, Bill "An Act to Appropriate Moneys for Programs of Preventive Intervention and Family Support" (H. P. 1269) (L. D. 1683) — Committee on Health and Institutional Services on Bill "An Act to Establish Funding for Programs of Preventive Intervention and Family Support" (H. P. 532) (L. D. 685) which was tabled and later today assigned pending the motion of Mrs. Nelson of Portland to accept the Majority "Ought to Pass" in New Draft Report (L. D. 1682).

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

Mr. WEBSTER: Mr. Speaker, Ladies and Gentlemen of the House: I rise today to ask you to oppose the motion by the gentlelady from Vassalboro. As you will notice, I signed the Minority Report on this bill, I did so because I believe that the Majority Report is a direct end run of our legislative system. I am not opposed to appropriating dollars for a preventive intervention and family support program. I am strongly opposed to creating another dedicated account. I believe that this program should stand on its own by sitting on the Appropriation Table and by competing with every other necessary program.

I believe that the Appropriations Committee should be able to take a look at this issue and place this program on the Appropriations Table with other new programs. Let's let the Appropriations Committee in this legislature place its priorities on whether this program should be funded. Each and every legislator here today would have different priorities on what issues on the Appropriations Table should be funded.

I feel that this new program proposed by this

legislation has merit. I prefer that the \$120,000 that will be generated by this legislation should be used for other programs, priorities that I would set higher, such as fuel assistance for the elderly. I believe that this legislation goes against all that this legislature has done in previous sessions. We should not create another dedicated program, another dedicated account.

I would suggest that if this legislation passes, the Majority Report, that the next legislature will follow suit by increasing the plumbing license fees or some other license, dedicating those accounts to creating a poison control unit or some other necessary program.

In summary, I am willing, reluctantly, to increase this license fee as long as it is not dedicated and it goes in the General Fund where it belongs. I am not willing and will not support this measure that will allow these dollars to be used for a program that might not be as worthy as other programs that now sit on the Appropriations Table.

I would ask for a Division.

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

Mrs. NELSON: Mr. Speaker, Men and Women of the House: If you look at the report, you will see that it is 11 to 2, so it is clearly not a party problem at all. It has to do with priorities, no question about it.

We are all familiar with that terribly sad story of Malcolm Robbins, that young man who somehow fell between the cracks in our system here in the State of Maine and ended up in death row in California. When the Health and Institutional Services Committee called the Commissioner of Human Services, the Commissioner of Mental Health and Retardation and the Commissioner of Corrections to come before the committee, we asked all three a question — "this young man fell between the cracks in our system a few years back, how can we be sure that it wouldn't happen again?" Commissioner Petit and Commissioner Concannon said, "If we had had preventive services, very much to the point of this legislation, this young man could have been helped, he and many others could."

The question is, is it worthy? Yes, it is a worthy piece of legislation. Is it a priority? Your vote will say it is.

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

Mr. WEBSTER: Mr. Speaker, Ladies and Gentlemen of the House: I just want to bring attention to the body that there are two reports and both reports allow the passage of this legislation. They key difference, and I want to bring this to your attention, is that one of these bills dedicates all this money, \$120,000, for this program. The other report, L. D. 1683, passes this program but requires the money to come from the General Fund and the funds that are collected to go there.

I could stand here and debate this issue of whether this money should be spent on this area but I don't have any opposition to spending this money for this program. My opposition comes that I feel that there are many other programs, needy programs for the poor, the elderly, and fuel assistance, a program that I am very aware of, that should be funded perhaps if the Appropriations Committee and this legislature feels are necessary.

I would ask you to vote against the Majority Report which basically, as I said, dedicates this account, pass this bill with the Minority Report, and then let this issue compete with every other needy, necessary issue on the Appropriations Table.

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

Mrs. KETOVER: Mr. Speaker, Ladies and Gentlemen of the House: The aspects of this bill, as well as the effective and efficient use of an administrative unit, is already in place which will ensure that this fund will be used

exclusively for the intended service without funding a new bureaucracy.

The reason for this bill is to raise \$120,000. There are approximately 12,000 marriages in the State of Maine and there is approximately 6,000 divorces a year. Ten dollars is what you are paying now for a marriage license and the intent of this bill was to raise another \$10. The first \$10 will stay in the General Fund, we will not touch that amount of money; the other \$10 which was the intent of this bill, will go into a special account.

The fund would serve as a catalyst to aid communities in dealing with the problems, by helping them develop community-based educational and service programs to help the identify the causes and abuse and neglect. Then it will attempt to prevent abuse and neglect by eliminating the causes which are often the result of ignorance or a lack of community moral support.

The examples of this are awareness limitation of parented and confining programs in hospitals, community based education for parented programs in every area possible, early detection of families who are high risks, establishing programs to help parents deal with the stress of child raising — this legislation would provide support and assistance prior to serious family crisis or breakdown.

Prevention will save lives, maintain families and be far less costly than after the fact, the state care. Ultimately, this plan may reduce crimes in the streets with children growing up to repay society for the violence which they have been forced to endure. Funding for prevention services is simply not available through general revenues. The state is barely able to meet the cost of crisis services. This funding does not place an unfair burden upon the elderly or upon people without children. Marriages mark the foundation of family units and it is the family unit which increasingly is the scene of violence.

Studies are showing that there are cost-effective community based efforts which can be successful in preventing abuse instead of treating it after it happens.

The intention of this legislation is to help start the programs and mobilize community support, not long-term funding. We allocate fundings to prevent fires, to prevent crimes, to prevent cruelty to animals — isn't it time we began to prioritize the prevention of cruelty to children? I urge your support of this bill.

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

Mr. KELLEHER: Mr. Speaker, Ladies and Gentlemen of the House: I applaud the good gentlelady from Portland in her remarks and I support them wholeheartedly with one exception — I think Mr. Webster has made a reasonable point, that the program is needed, we do not dedicate the money, it goes in the General Fund and it competes evenly with everything else.

I wholeheartedly commend the committee for coming out with an almost unanimous report except on how you want to deal with the funds. I will not support the Majority Report simply because I think Mr. Webster has got a good argument on how the funds should be disbursed.

The SPEAKER: The Chair recognizes the gentleman from Wells Mrs. Wentworth.

Mrs. WENTWORTH: Mr. Speaker, Ladies and Gentlemen of the House: May I draw your attention to the fact that if you buy a marriage license, first you must buy a permit to buy it. The marriage license is town money, goes to the municipality in which it is issued, and this is calling upon the municipalities to collect a tax for the state and sent it in to the state for the privilege to buy a license. I am afraid you will find a lot of people either are not buying a license or going over the border where they can get it for half the price.

The SPEAKER: The Chair recognizes the

gentlewoman from Portland, Mrs. Nelson.

Mrs. NELSON: Mr. Speaker, Men and Women of the House: I think the issue before us is relatively simply, we all believe in the concept. There are 13 people on the Appropriations Committee and they set a list of priorities. This bill may or may not be one of their priorities but I think you should send a signal to somebody that it is a priority with you. There are 151 people in this body and now is your time to decide if this is a priority for you or not and not necessarily leave it in the hands of the Appropriations Committee. As far as collecting the tax is concerned, it is very simple. Once a month the people in the towns and the cities simply write out a check and sent half of that money to the state for this special dedicated fund for people who indeed would be using this money, because we are assuming that if people get married, they intend ultimately, perhaps, to have children.

I think you have to set your priorities here today and that will be a clear signal that this is something you care about and you want, all 151 of you, not just the people on the Appropriations Committee.

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

Mr. BRODEUR: Mr. Speaker, Members of the House: This bill that came before us was a creative way of raising revenues in order to deal with the problem of child abuse, and neglect, not the problem of child abuse and neglect after the child has been beaten or sexually abused, but to deal with the issues where we have families at risk, mothers at risk, children at risk, that we know that are likely to carry on the tradition of child abuse because they have been abused or because they are in families that are abused, where there is spousal abuse. We know in these situations that they are likely to have child abuse and neglect in the future. It is more likely than in other kinds of families that are not at risk. We know who they are, we know that young mothers who are single, who are presently receiving some of our human services programs, are clients of the Department of Human Services, are in a situation where they will be potential child abusers or potential people that will neglect their children.

The problem is that we have a situation that deals with child abuse and neglect after we have a problem, not before, but we know that there are people that are more likely than others to be abusive or neglectful of their children. We have very few programs in the state that try to deal with the preventive aspect of this program.

I would hope that we could do something today that will look a little bit further down the road to prevent a child from being abused, to prevent a child from being neglected. It seems that we have a very limited amount of resources and this bill will provide those resources. It is unfortunate that we have to wait until the last minute, but I hope that we will look ahead and try to prevent the child abuse. It is a fact that those people who are in a situation where they are risks or poor have a three to one greater chance of the children dying for any cause whatsoever, and hopefully this will address at least part of the problem to bring up new ideas, creative ways, dealing with potential child abuse and neglect.

Mrs. Nelson of Portland requested a roll call.

The SPEAKER: For the Chair to order a roll call, it must have the expressed desire of one fifth of the members present and voting. All those in favor of a roll call 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 gentlewoman from South Portland, Ms. Benoit.

Ms. BENOIT: Mr. Speaker, Men and Women

of the House: I just briefly want to tell you that—maybe some of you are familiar with the resolve that I had introduced which is before the Committee on Health and Institutional Services right now. Before I introduced that resolve, I discussed this issue or the issue of Malcolm Robbins and I believe Representative Nelson referred to Malcolm Robbins, he is the 23 year old young man who was born and lived in Rockland who has raped, sodomized, murdered, etc., children from 6 to 15, 16 and 17. He is now in California, has been tried and been sentenced to the electric chair. I became concerned, more concerned than I had ever been, when I read that article. I wondered how that happened, how we had a child that found a cat at six years old and burned it in back of the school. Why didn't that child get help? That child also had been physically and sexually abused for many years, and when I talked to the Commissioners, they all told me that they know some of the things that they can do, that they need to do, to help prevent another Malcolm Robbins, and they told me that there are more Malcolm Robbins out there, there is absolutely no question about that. There are more children out there who are sexually and physically abused who need help, but not only do they need it after the abuse occurs, we need to try to prevent that abuse from occurring in the first place.

People who are child abusers have often-times been abused themselves. The Department can work with young mothers who may have come from such backgrounds and perhaps prevent another Malcolm Robbins, so please, I hope some of you would change your votes and would support the Majority "Ought to Pass" Report.

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

Mr. JALBERT: Mr. Speaker, Members of the House: On two occasions one of the speakers, my dear friend from Portland, Mrs. Nelson, mentioned the Appropriations Committee. I am wondering what the Appropriations Committee has got to do with this bill? I would like to have the gentlelady from Portland answer me. This has got nothing to do with it.

This is another proof of the pudding—the Appropriations Committee is the greatest thing since the second coming of the good Lord. One way or another, I could care less on this thing, but for heaven sakes, don't vote for or against the Appropriations Committee, vote for or against the Webster idea. He is right, he is dead right. If a roll call hasn't been called, I hope it is called now, Mr. Chairman.

The SPEAKER: The Chair would advise the gentleman from Lewiston, Mr. Jalbert, that a roll call is now in effect.

Mr. JALBERT: Thank you very much.

The SPEAKER: The gentleman from Lewiston, Mr. Jalbert, has posed a question through the Chair to Mrs. Nelson of Portland, who may respond if she so desires.

The Chair recognizes that gentlewoman.

Mrs. NELSON: Mr. Speaker, Men and Women of the House: I did not raise that point, it was, I believe, Representative Webster who raised the point that this was an alternative to the Majority "Ought to Pass" Report. We know exactly what we are saying here, that if you do not vote for the Majority "Ought to Pass" Report and you vote for the Minority Report, then it goes down and sits on the imaginary Appropriations Table and it will be prioritized by the people on that committee. It may not be the most important thing in their eyes, they all have their own agendas as to what they think is important.

We have to set some priorities as members of this House, that is what the Majority Report is saying. It raises money that will be expended by the state. Keep that in mind. It raises money by the people who need the services.

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

Mrs. JOSEPH: Mr. Speaker, Ladies and Gentlemen of the House: I have seen this body approve a checkoff on their state income tax to fund certain programs. I think the sponsors of this bill should be commended and not criticized because they have come up with a creative and innovative way of funding the programs that I know we all see a need for and that should have some attention.

We are talking about supplemental funding of family violence, sexual abuse and child abuse, and we are simply asking you people to help us fund these programs in a manner which will prevent some of the sad stories that we have lately been exposed to.

I have seen this kind of a program work in many states around the country, as I served on the National Commission for Women Board of Directors. I feel that this kind of funding is something that Maine can look at and I will say again that you should commend the sponsors of this bill and the Health and Institutional Services Committee. We are simply not talking about a program, we are finding a way to fund it, and we are not simply going to government and the General Fund and saying to you, please give us the money, we are going out there and raising the money ourselves.

I ask you to accept the Majority Report.

The SPEAKER: A roll call has been ordered. The pending question before the House is on the motion of the gentlewoman from Portland, Mrs. Nelson, that the House accept the Majority "Ought to Pass" Report (L.D. 1682) Those in favor will vote yes; those opposed will vote no.

ROLL CALL

YEA—Ainsworth, Allen, Andrews, Baker, Beaulieu, Benoit, Bost, Brannigan, Brodeur, Carroll, D.P.; Chonko, Clark, Connolly, Cooper, Cox, Crouse, Crowley, Daggett, Diamond, Gauvreau, Gwadosky, Hall, Handy, Hayden, Hickey, Higgins, H.C.; Hobbins, Holloway, Joseph, Joyce, Kelly, Ketover, LaPlante, Lisnik, Locke, MacEachern, Macomber, Manning, Martin, H.C.; Matthews, Z.E.; Maybury, McColister, McGowan, Melendy, Mitchell, E.H.; Mitchell, J.; Murray, Nadeau, Nelson, Paradis, P.E.; Reeves, P.; Richard, Rolde, Soule, Stevens, Swazey, Theriault, Thompson.

NAY—Anderson, Armstrong, Bell, Bonney, Bott, Brown, A.K.; Brown, D.N.; Brown, K.L.; Cahill, Callahan, Carrier, Carroll, G.A.; Carter, Conary, Connors, Curtis, Davis, Day, Dexter, Dillenback, Drinkwater, Dudley, Erwin, Foster, Greenlaw, Higgins, L.M.; Ingraham, Jackson, Jacques, Jalbert, Kelleher, Kiesman, Kilcoyne, Lebowitz, Lehoux, Lewis, Livesay, MacBride, Martin, A.C.; Masterman, Masterton, Matthews, K.L.; McHenry, McPherson, McSweeney, Michaud, Moholland, Murphy, E.M.; Norton, Paradis, E.J.; Parent, Paul, Perkins, Perry, Pines, Pouliot, Racine, Randall, Reeves, J.W.; Ridley, Roberts, Roderick, Salsbury, Scarpino, Sherburne, Small, Smith, C.B.; Smith, C.W.; Soucy, Sproul, Stevenson, Stover, Strout, Tammaro, Telow, Walker, Webster, Wentworth, Willey, Zirkilton.

ABSENT—Cashman, Cote, Kane, Mahany, Michael, Murphy, T.W.; Rotondi, Seavey, Tuttle, Vose, Weymouth, The Speaker.

Yes, 58; No, 80; Absent, 12; Vacant, 1.

The SPEAKER: Fifty-eight having voted in the affirmative and eighty in the negative, with twelve being absent, the motion does not prevail.

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

Mr. WEBSTER: Mr. Speaker, I move the acceptance of the Minority "Ought to Pass" Report.

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

Mr. MANNING: Mr. Speaker, Ladies and Gentlemen of the House: I would hope that you would vote against the Minority "Ought to Pass" Report because I think we all know, especially us veterans who have sat around here, understand the priorities of what is going to

happen in the next few days and that bill could go down the tubes. If that bill goes down the tubes and another Malcolm Robbins happens, you and you alone, who vote against the Majority "Ought to Pass" Report, can be somewhat to blame because as I stated in the Sunday Paper, if most of you have read it, I stated "don't blame the department, don't blame the police departments, don't blame the schools, blame the legislature because they are the ones who refused to fund these programs." If we don't have the money for these programs, we are going to have more Malcolm Robbins. We will have more Malcolm Robbins but we will have less Malcolm Robbins, so I would hope that you would not go along with the Minority Report so we could go back to the Majority Report. Please remember, this is happening to you, your neighbors, and your friends.

The SPEAKER: The Chair will order a vote. The pending question before the House is on the motion of the gentleman from Farmington, Mr. Webster, that the House accept the Minority "Ought to Pass" Report (L. D. 1683) Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

79 having voted in the affirmative and 50 in the negative, the motion did prevail.

Thereupon, the New Draft was read once and assigned for second reading tomorrow.

Orders of the Day

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

Bill, "An Act Relating to Voting by Citizens Overseas" (H. P. 901) (L. D. 1180) (C. "A" H-283)

Tabled—May 23, 1983 by Representative Dimond of Bangor.

Pending—Passage to be Engrossed.

On motion of Miss Lewis of Auburn, the House reconsidered its action whereby Committee Amendment "A" (H-283) was adopted.

The same gentlewoman offered House Amendment "A" to Committee Amendment "A" (H-287) and moved its adoption.

House Amendment "A" to Committee Amendment "A" was read by the Clerk.

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

Miss LEWIS: Mr. Speaker, Ladies and Gentlemen of the House: I believe that if we do adopt this amendment, we will be able to meet the need that was originally presented by this legislation, and that is a way in which absentee ballots can be gotten to the voters overseas more quickly.

What the amendment does is, it continues to supply blank ballots to the various boards around the state, and then the boards of registration of the towns, clerks around the state, would type in the names of all the candidates who had qualified for office into the appropriate spots on that blank ballot. Then when this blank ballot was sent to our voters overseas, all they would have to do is either check the box next to the person's name who is already written in or else write in their own write-in candidate and check that box.

The reason why I am offering this amendment is that, as all of us know that have participated in the voting process, the write-in process can be rather difficult, people have to write the name, they have to write the municipality and I was fearful yesterday that many of our voters overseas wouldn't even be able to properly write in the names of the candidates in the right office and be sure to check the box and in fact they might be thinking they are voting from overseas but their votes would not be valid because the write-in process itself is so difficult.

I hope that this amendment, if we can adopt it, would allow the voters overseas to better participate in those elections back home.

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

Mr. NADEAU: Mr. Speaker, I move the indef-

inite postponement of House Amendment "A."

The SPEAKER: The gentleman from Lewiston, Mr. Nadeau, moves that House Amendment "A" be indefinitely postponed.

The gentleman may proceed.

Mr. NADEAU: Mr. Speaker, Ladies and Gentlemen of the House: First of all, I can appreciate the spirit with which Miss Lewis is presenting this amendment; however, I think it is bad policy.

The bill, in its original form, as reported out of committee was a unanimous report. It is a true and tested method in that the model legislation has been used in other states, enacted in other states and has worked well.

In typing the names of the candidates on the ballot, it is, in my mind, a little risky to have anybody handling an official state ballot manually, thereby typing the names on. There is room for error, obviously, and of course unintentionally, and to me it is just a bit risky.

The process we are proposing to you is simply mailing them a ballot by which they can vote for the candidates of their choice by write in with the instructions more or less enclosed with that ballot. In a normal write-in ballot situation at the polling place, it is unlikely that somebody will have written instructions in front of them, and through the process we are proposing, that is what we hope to do. Therefore, it would be fairly clearly laid out exactly how you properly vote write-in.

The major purpose behind the bill is for those presidential contests, because that is where most of the interest is in overseas voting, and the local contests, I think to some degree, are secondary. Of course, if an interested party overseas is interested in voting in a municipal or local election, the state legislature or town council or what have you, that person obviously has the opportunity to educate himself or herself as to how they want to vote in those local races.

I think the confusion will be kept down to a minimum and I would just like to leave you with one parting thought, that in the figures Mr. Lehoux presented to us yesterday, there were 182,000 people in this country in the last election that could not vote because their ballots were caught in the mail or received after the deadline or after election day, or for whatever reason, and that is simply far too many people in this country to be prohibited from voting. And obviously, as I said yesterday, if there is one person in Maine who is prohibited from voting because of the process we have, I think that is too many.

Ladies and gentlemen, I encourage you to indefinitely postpone House Amendment "A".

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

Mr. HANDY: Mr. Speaker, Men and Women of the House: I would like to address several points regarding the amendment and some of the problems that it would inevitably create.

First of all, it requires the Office of the Secretary of State to furnish each municipality with blank absentee ballots at least 90 days prior to an election. However, the final date for filing petitions for this primary election is usually 65 days before that election.

The bill indicates that municipal clerks shall type in the names of all individuals who have qualified as candidates, and according to the bill, on page 2, as of that time, since the clerk has no official knowledge of who these qualified candidates may be, the Office of the Secretary of State would be contacted for that information, and as you know, early in April is an extremely busy time for that office and the Bureau of Elections. They are in the process of determining which petitions have been properly filed and then they begin the process of producing absentee ballots, which includes the listing of all candidates by ballot, the transmittal of that information to the printer, the reading of the proofs received from the printer, making the final orders for absentee ballots.

In a primary election, they produce 236,000 ballots for each party, that is a total of 472,000 ballots, with 249 different formats of ballots for each party, totalling 498 different ballots.

Now, while these petitions may be filed prior to April 1, those files at that time and on April 1 are all subject to a period of challenge, and only after this challenge period has finally passed can we be sure of who those candidates actually are. The deadline for challenges is April 6, five days after the April 1 filing deadline. This would begin a period which may extend for several weeks during which challenges may be resolved.

Fourth, and most importantly probably, since the clerk must indicate those who have qualified as of this time, according to the amendment, a person receiving a blank ballot in March is likely to have only a few names typed in, thus the possibility of giving some candidates an advantage over others. A clerk would have to call the Office of the Secretary of State each day a new ballot was sent out since there could have been changes in the filing status since the previous day. This could place a significant burden on the Bureau of Elections staff, not to mention the Clerk's Office.

One additional note with regard to the intent of the amendment. We passed L. D. 240, which was signed into law by the Governor on May 5, which addresses immaterial irregularities in various documents, including write-in candidates on ballots. So, really, the concerns of Representative Lewis have been addressed in an earlier bill, and I would hope that you would support the indefinite postponement of House Amendment "A".

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

Mr. LEHOUX: Mr. Speaker, Ladies and Gentlemen of the House: Just to clarify one point as far as causing confusion overseas, every unit in the military has what they call a voting officer whose responsibility is to clarify or solve any problem that the men in the unit may have in voting. This also applies to the dependents of these military personnel and also the Department of Defense civilians, diplomatic corps, etc. So with the assistance of such an officer, I can't see where there would be any confusion.

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

Miss LEWIS: Mr. Speaker, Ladies and Gentlemen of the House: The earlier speaker, Representative Handy, was talking about primary elections, and according to this amendment, if people hadn't filed their nomination papers and weren't duly certified by the Secretary of State, the blank ballot would, indeed, be blank for primary elections.

I think the intent of this entire legislation is probably more for the general election, since Maine does not have a presidential primary, and Representative Nadeau told us that the whole point of this bill is really for the presidential election.

Now, for that general election in November, certainly three months before the election all of those candidates for office have been duly certified by the Secretary of State's Office and are able to have their names on that ballot and all those names would be on the ballot.

The question really is, ladies and gentlemen of the House, whether you want your voters to be faced with a blank piece of paper and expect them to be able to write in lots of names and check lots of boxes under the right offices, or whether you would like those people to have the same choice that you and I have when we go into the voting booth, and that choice is a list of candidates' names and a chance to check which candidate we want to vote for. I think that we all should prefer that latter option and therefore vote against indefinite postponement.

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

Mrs. CAHILL: Mr. Speaker, Ladies and Gentlemen of the House: I would concur with Miss Lewis. As a member of the Election Laws Committee and a unanimous signer of this original bill, I think that this is a good idea. If, indeed, the purpose of this legislation is to make the voting procedure, the voting process easier, then I think what better way to go than this, making the absentee voting process which, to say the least, is a little bit precarious at times, the easiest that it possibly can be.

I can really see someone running for an office and someone voting absentee having to write in the entire name and perhaps misspelling the name or, in my case, maybe putting "Pam" instead of "Pamela Cahill" and perhaps not checking the box at the end of the ballot in the confusion. I think Miss Lewis's amendment has a lot of merit and I would ask for a division.

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

Mr. HANDY: Mr. Speaker and Members of the House: Very briefly, as I said earlier, the L. D. that we passed and is now public law 222 addresses such irregularities on ballots such as misspellings, inclusions or omissions of initials, substitution of initials or given names such as Pam or Pamela, so that problem is taken care of.

The bottom line here, men and women of the House, is, as far as primary elections go, there is less than 30 days since the time that the petitions are verified and that process begins to have the ballots put together so that they may be printed. What we wanted to do is give those individuals who are serving in our diplomatic corps or in the military an opportunity to vote and not be passed by just because of the time it takes to print ballots.

I hope you will indefinitely postpone the amendment and send the bill on its way.

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

Mr. NADEAU: Mr. Speaker and Members of the House: Very, very briefly, just to recap. The intent of the legislation was simply to get the ballots to people overseas and get them back more quickly so that those 182,000 people that we talked about in this country could exercise their franchise. That is simply the intent of the bill.

What this amendment would do is cause the city clerk of town clerk to type in the names of the candidates on the ballots. What Representative Handy just cited is correct, in that we passed a law covering minor errors in write-in votes for the individuals who is voting. If there is a typographical error in the ballot that the individual clerk has typed, then that, indeed, becomes the official ballot and upon return, if that ballot is challenged, I suspect it will not hold up because it was more or less presented to the voter incorrectly. So there is room for error, innocent and inadvertent error, of course, but there is room for that.

What we are saying is that we want to get the ballot to the individual more quickly so that they can write in the candidate of their choice. The instructions are very clear on write-in candidacies. If they are going to this much trouble, and they are overseas, to send for a ballot, to get it back, to get all the necessary documentation, to get the ballot back to the township, if they are going to all that trouble to vote, ladies and gentlemen, I think they are going to take some care in how they mark their ballot, so I don't really think that is going to be a major concern for those individuals in this state who are overseas and want to vote. This is going to make the process a little bit easier for them in that they can get the ballots more quickly and get them back to the township and be counted in the vote totals and not have their ballot get there two or three days after the election.

That is all the bill does, ladies and gentlemen. I think the amendment could cause some problems and I encourage you to vote for the

motion to indefinitely postpone.

The SPEAKER: The Chair recognizes the gentlewoman from Wells, Mrs. Wentworth.

Mrs. WENTWORTH: Mr. Speaker, I would like to pose a question through the Chair. I have just one question—if it is possible to send a list of the candidates with the blank ballot, why not send it on the ballot?

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

Mr. HANDY: Mr. Speaker, it is, indeed, possible to send a list with the ballot, but if you start listing names on a ballot, which is an official ballot, you run into a severe legal problem of having an incomplete ballot. An incomplete list may not be illegal, but an incomplete ballot would be a disservice to all those candidates.

The SPEAKER: A vote has been requested. The pending question is on the motion of the gentleman from Lewiston, Mr. Nadeau, that House Amendment "A" to Committee Amendment "A" be indefinitely postponed. All those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

56 having voted in the affirmative and 55 having voted in the negative, the motion did prevail.

Thereupon, Committee Amendment "A" was adopted.

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

(Off Record Remarks)

On motion of Representative Stevens of Bangor,

Adjourned until nine o'clock tomorrow morning.