

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

Thursday, June 2, 1983

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

Prayer by the Reverend Philip G. Palmer of the United Methodist Conference Center, Winthrop.

The journal of yesterday was read and approved.

Divided Report

Majority Report of the Committee on Legal Affairs on Bill "An Act to Provide for Licensing of Bottle Clubs" (S. P. 509) (L. D. 1535) reporting "Ought to Pass" in New Draft under New Title Bill "An Act to Provide for Local Option Voting on Bottle Clubs" (S. P. 584) (L. D. 1694)

Report was signed by the following members:

Senators:

CHARETTE of Androscoggin

DANTON of York

— of the Senate.

Representatives:

COX of Brewer

DUDLEY of Enfield

STOVER of West Bath

SWAZEY of Bucksport

PERRY of Mexico

McSWENEY of Old Orchard Beach

COTE of Auburn

— of the House.

Minority Report of the same Committee reporting "Ought to Pass" as amended by Committee Amendment "A" (S-155) on same Bill.

Report was signed by the following members:

Senator:

SHUTE of Waldo

— of the Senate.

Representatives:

MURPHY of Berwick

DILLENBACK of Cumberland

HANDY of Lewiston

— of the House.

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

In the House: Reports were read.

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

Mr. COX: Mr. Speaker, Ladies and Gentlemen of the House: I move that we accept the Majority "Ought to Pass" Report in concurrence and would speak briefly to my motion.

The SPEAKER: The gentleman from Brewer, Mr. Cox, moves that the Majority "Ought to Pass" Report be accepted in concurrence.

The gentleman may proceed.

Mr. COX: Mr. Speaker, Ladies and Gentlemen of the House: I would just briefly explain what the majority report does. The majority report allows municipalities to place on the ballot the question of whether or not a bottle club shall be operated in that town. The original draft of the bill was not drafted to reflect the sponsor's intent, and this redraft reflects what the intent of the sponsor was, which was to have local option on bottle clubs.

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

Mr. DILLENBACK: Mr. Speaker, Ladies and Gentlemen of the House: This is not an earth-shattering bill, but apparently there has been a great many problems with bottle clubs, particularly with minors who have been found to be drinking in bottle clubs and have accidents and so forth on the roads.

I have no bottle clubs in either one of my two towns, but after listening to the information that was presented at the committee, we felt that the bill that you are now looking at, which I feel should be defeated, does nothing for you. What we wanted to do and what we attempted to do is in the amendment which is attached to the bill, which I hope after you de-

feat this motion you will support.

This bill defines what a bottle club is, which the other bill does; secondly, it allows the municipalities to decide whether they want bottle clubs, a local decision, they make that decision. You can have a bottle club in the town next door to you and because it is on private property, nobody can enter that club, no police, local police, no state police, no one, and that is the problem that we seem to be having.

What we have added in the amendment is that if a town decides to have a bottle club, they then have to have that bottle club licensed, licensed by the state, and we reduced the fee that is in the original bill from a hundred dollars to \$25, and then this results in the opportunity for the state liquor inspectors to at least go into that club and monitor it if it is necessary.

As I understand it from the information that was presented at the hearing, very few problems arise in 90 percent of the bottle clubs, but there is a 10 percent group which have no rules, no regulations, there are minors that drink there and it is a problem in certain municipalities. Even if the municipality itself doesn't have a bottle club and there happens to be one in the next town, that is where the problem arises, and it seems to me that the least we can do is allow the local communities to vote whether they want it, and secondly, allow state inspectors to go into those clubs if necessary. Right now, they can't even go into the clubs.

I hope you will defeat the motion that is before you and support this amendment, and I ask for a roll call.

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

Mr. HANDY: Mr. Speaker, Members of the House: During the course of the public hearing on this bill, as Mr. Dillenback explained to you, there were a number of problems with bottle clubs, and I guess what it all dwindles down to was the fact that there was a possibility of laws being violated, primarily two laws, that of procuring liquor for a minor and, number two, consumption of alcohol by a minor. That struck me as something very important and that we should do something about that to address that specific problem.

In discussions with the liquor enforcement people, from all we could determine, liquor enforcement would have no legal opportunity to go into a bottle club because it is a private facility. Whereas in a lounge or a Class A restaurant, liquor enforcement can go into that facility and if a violation of liquor laws is observed, then the necessary steps for prosecution can follow. At a bottle club, this cannot take place unless there is probable cause, unless there is every reason to believe that there is a violation of the liquor laws taking place.

Actually, the new draft that you have before you really does little from the standpoint of liquor enforcement. It does allow the towns to have a local option question and to decide whether or not they want a bottle club in that town.

In the amendment which I hope we will take a look at later, it does look at the local option question, does, again, give the towns the same options that would be included in this new draft, but it goes one step further, it puts in a licensing fee and it gives liquor enforcement the necessary vehicle by which they can enforce the liquor laws.

I hope you defeat the motion before you so we can take a good look at the committee amendment.

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

Mrs. WENTWORTH: Mr. Speaker, I would like to pose a question. Would this option be presented by the state as are Class A restaurant licenses or will or at a municipal election?

The SPEAKER: The gentleman from Wells, Mrs. Wentworth, has posed a question

through the Chair to anyone who may care to answer. The Chair recognizes the gentleman from Brewer, Mr. Cox.

Mr. COX: Mr. Speaker, in answer to the gentleman's question, under either of the reports the local option would be initiated by the petition process, the same as other liquor questions.

The SPEAKER: The Chair recognizes the gentleman from Berwick, Mrs. Murphy.

Mrs. MURPHY: Mr. Speaker, Ladies and Gentlemen of the House: I would like to address my comments concerning Legislative Document 1694 relating to bottle clubs. It has been my experience during the past several years that the unwillingness of the legislature to deal with a very serious problem seems to be unreasonable. As every member of the legislature realizes, there is a very serious problem with drug and alcohol abuse and significantly the problem includes minors, even to the extent of the level of junior high school. The need for the state to regulate bottle clubs is imperative and needed. To ignore this matter is failure to meet and act upon remedies to at least attempt to alleviate alcohol abuse by our youngsters. There is absolutely no logic as to why private bottle clubs may be allowed to have minors consuming alcoholic beverages and not be regulated by the same agency which must enforce liquor laws where alcohol is sold on the premises.

I believe it is time to act in a responsible manner and address this very serious problem by enacting appropriate legislation to deal with alcohol abuse by our youngsters. I wholeheartedly endorse and ask for the support of the legislature in enacting the necessary laws.

The SPEAKER: The Chair recognizes the gentleman from Houlton, Mrs. Ingraham.

Mrs. INGRAHAM: Mr. Speaker, Ladies and Gentlemen of the House: I would encourage you not to vote for the present motion, the majority report. From what I understand from the present debate, it is the enforcement that is effective in the minority report and it is the enforcement that I feel we need.

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. 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 Brewer, Mr. Cox, that the Majority "Ought to Pass" Report be accepted in concurrence. All those in favor will vote yes; those opposed will vote no.

ROLL CALL

YEA—Allen, Baker, Beaulieu, Bell, Brannigan, Brown, A.K.; Carrier, Carter, Cashman, Chonko, Clark, Conary, Connolly, Cooper, Cote, Cox, Crouse, Diamond, Dudley, Erwin, Gauvreau, Gwadosky, Hall, Higgins, H.C.; Hobbins, Jackson, Jacques, Joseph, Kelleher, Kelly, Kilcoyne, LaPlante, Lehoux, Lisnik, Locke, MacEachern, Macomber, Manning, Maybury, McCollister, McGowan, McHenry, McSweeney, Melendy, Michael, Michaud, Mitchell, E.H.; Moholland, Murray, Nadeau, Nelson, Norton, Paradis, P.E.; Paul, Perry, Pouliot, Racine, Reeves, J.W.; Richard, Ridley, Roberts, Rotondi, Smith, C.B.; Smith, C.W.; Stevens, Swazey, Tammara, Telow, Theriault, Vose, The Speaker.

NAY—Ainsworth, Anderson, Armstrong, Bonney, Bost, Bott, Brodeur, Brown, D.N.; Brown, K.L.; Cahill, Callahan, Carroll, D.P.; Carroll, G.A.; Connors, Crowley, Daggett, Davis, Day, Dexter, Dillenback, Drinkwater, Foster, Greenlaw, Handy, Hickey, Higgins, L.M.; Holloway, Ingraham, Jalbert, Joyce, Kiesman, Lebowitz, Lewis, Livesay, MacBride, Martin, A.C.; Masterman, Masterton, Matthews, K.L.; Matthews, Z.E.; Mayo, McPherson, Mitchell, J.; Murphy, E.M.; Murphy, T.W.; Parent, Perkins,

Pines, Randall, Reeves, P.; Roderick, Rolde, Salsbury, Scarpino, Seavey, Sherburne, Soucy, Sproul, Stevenson, Stover, Strout, Tuttle, Walker, Webster, Wentworth, Weymouth, Willey, Zirnkillton.

ABSENT—Andrews, Benoit, Curtis, Hayden, Kane, Ketover, Mahany, Martin, H.C.; Paradis, E.J.; Small, Soule, Thompson.

Yes, 71; No, 68; Absent, 12.

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

Thereupon, the New Draft was read once. Under suspension of the rules, the New Draft was read the second time.

On motion of Mr. Higgins of Scarborough, tabled pending passage to be engrossed in concurrence and later today assigned.

Non-Concurrent Matter Later Today Assigned

RESOLUTION, Proposing an Amendment to the Constitution of Maine to Permit Moneys Dedicated to the Highway Fund to be Used to Provide Operational Subsidies for Various Forms of Surface Passenger Transit (H. P. 968) (L. D. 1248) on which the Bill and accompanying papers were indefinitely postponed in the House on May 31, 1983.

Came from the Senate with the Minority "Ought to Pass" Report of the Committee on Taxation read and accepted and the Resolution passed to be engrossed in non-concurrence.

In the House: On motion of Mr. Higgins of Portland, tabled pending further consideration and later today assigned.

Orders

On motion of Representative Nelson of Portland, the following Joint Order: (H. P. 1297)

ORDERED, the Senate concurring, that the Joint Rules be amended by repealing and replacing Joint Rule 21 as follows:

21. Committee Fiscal Impact Statements. Every bill or resolve affecting revenue or appropriations, which has a committee recommendation other than "Ought Not to Pass" or "Leave to Withdraw," shall include a fiscal impact statement. This statement shall be incorporated in the bill before it is reported out of committee. The Office of Legislative Finance shall have sole responsibility for preparing these fiscal notes.

; and be it further ORDERED, that the Joint Rules be amended by adding a new Joint Rule 21-A to read:

21-A. Committee judicial impact statements. Every bill or resolve affecting the Judicial Department, which has a recommendation other than "Ought Not to Pass" or "Leave to Withdraw," shall include a judicial impact statement. The statement shall be incorporated in the bill before it is reported out of committee. The Office of Legislative Finance shall have the sole responsibility for preparing those judicial impact statements.

The Order was read.

Mrs. Cahill of Woolwich offered House Amendment "A" and moved its adoption.

House Amendment "A" (H-321) was read by the Clerk.

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

Mrs. MITCHELL: Mr. Speaker, I would like to pose a question through the Chair to the gentleman from Woolwich. I would like to inquire as to the gentleman's intent to add this to the joint rules when it is already a statutory requirement that the legislative finance officer provide such fiscal notes to communities.

The SPEAKER: The gentleman from Vassalboro, Mrs. Mitchell, has posed a question through the Chair to the gentleman from Woolwich, Mrs. Cahill, who may answer if she

so desires, and the Chair recognizes that gentleman.

Mrs. CAHILL: Mr. Speaker, I guess I would like to answer that question with a question to the gentleman from Vassalboro, Mrs. Mitchell. I believe in that law there is no dollar amount included and I think oftentimes it is overlooked entirely.

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

Mrs. MITCHELL: Mr. Speaker, I don't understand what the gentleman means by no dollar amount. The statute requires that the legislative finance officer provide the committee with a fiscal impact statement when a piece of legislation that we pass in this body requires a cost to the local community. I really can't see what the difference is except that she puts a floor in, it has to be over \$100,000 before this comes into play. I am a little puzzled as to why we need the extra rule.

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

Mr. HIGGINS: Mr. Speaker, Ladies and Gentlemen of the House: I did converse with the gentleman from Vassalboro, Mrs. Mitchell, about this a week or so ago and I was not aware that this was in the statutes, although she has provided it to us recently.

I had a recent conversation with the Finance Office, and as I understand it, the difference between this joint rule change that is being offered and what is in the current statutes is that the joint rule change, if adopted here by the body, this amendment provides that the Finance Office shall do this no matter what, if you will. What is the present statute now, which this would have precedence over, the amended version, says that the statement of cost shall be made within the limits of information provided the Legislative Finance Office. If they are not provided any information, then they don't have to put a municipal impact statement on the bill at all. So if nobody makes any mention of it or provides any information, then the point is moot. This amendment says that they shall provide the information just like they shall provide the information for fiscal impact, fiscal note on any other bill.

I think the amendment the gentleman has offered is a good one and in my opinion it is better than what is already on the statutes. It is a supplement to that I think those of us here are all concerned about what we might do at the state level that will affect local property taxes, because I know one of the biggest things I hear back home is—oh, you passed another law that we have got to enforce but you didn't give us any money to do it. I think this amendment the gentleman has offered would hopefully take care of some of the problems.

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

Mrs. MITCHELL: Mr. Speaker, I would like to thank the gentleman for his explanation. I have no problem with this requirement, I just wanted to make it clear that there was a statutory requirement as well, and anything we can do to make it clear what is trying to be done for municipalities is certainly acceptable to both parties.

Thereupon, House Amendment "A" was adopted.

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

Miss LEWIS: Mr. Speaker, I would like to pose a question through the Chair. Is the intent of this rule change that no fiscal note could be added by amendment on the floor but rather any bill that came out of committee without a fiscal note that was supposed to have one would be dead?

The SPEAKER: The present rules now require that bills on engrossment, any bill prior to leaving this body must contain the fiscal note, and this is the way the Chair has ruled in the past and will continue to rule in the future.

The Chair recognizes the gentleman from

Scarborough, Mr. Higgins.

Mr. HIGGINS: Mr. Speaker, I would pose a question along the same lines. Would that mean that if a bill came out of committee and did not have the appropriate documentation on it, the Chair would rule that the bill was against the rules or would you just send it back to the committee and ask them to put the amendment on it there?

The SPEAKER: I assume without looking at it in great detail, the Chair would continue to rule that the proper time for amendment is at engrossment. As long as the bill contained the amendment at engrossment, the bill could be entertained for final enactment.

The Chair would advise the gentleman from Scarborough, Mr. Higgins, that the language in the present rule is identical to what is in this amendment, except that it adds "judicial." The ruling of this Chair and the Chair in the other body over the years has been that if fiscal notes were not done in committee by error or otherwise, it would be very expensive to return the bill for reprinting, and as a result we have always ruled that the fiscal note, if not done, by error or otherwise, in the committee, prior to engrossment had to be included here because under our House Rules as well, it requires that amendments be made at second reading and only be made at that time. So to conform with that rule, it is the only time that the amendment could be adopted, and the Chair would continue to rule in that fashion.

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

Mr. KELLEHER: Mr. Speaker, I would like to pose a question to the Chair. Will this be tabled?

The SPEAKER: The Chair would advise the gentleman that it need not be. Only House rule changes need to be tabled and joint rules need not be.

Mr. KELLEHER: Mr. Speaker, I understand the House rules, but I think it would be a good idea if we tabled it for 24 hours so some of us that don't understand the rules quite as well as you and Mrs. Mitchell might get a chance to look at it ourselves.

Whereupon, on motion of Mrs. Mitchell of Vassalboro, tabled pending passage as amended and tomorrow assigned.

House Reports of Committees Unanimous Leave to Withdraw

Representative Chonko from the Committee on Appropriations and Financial Affairs on Bill "An Act to Adjust Annually the Aid to Families with Dependent Children's Standard of Need to Eliminate Inflation-Induced Decreases in Recipients' Standard of Living" (H. P. 935) (L. D. 1218) reporting "Leave to Withdraw"

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

Divided Report Tabled and Assigned

Majority Report of the Committee on Taxation reporting "Ought to Pass" as amended by Committee Amendment "A" (H-317) on RESOLUTION, Proposing an Amendment to the Constitution of Maine to Change the Municipal Property Tax Loss Reimbursement Formula, to Change the Penalty for the Withdrawal of Land from Current Use Valuation and to Require a Two-thirds Vote for the Expenditure of Funds from the Mining Excise Tax Trust Fund (H. P. 502) (L. D. 652)

Report was signed by the following members:

Senators:

TEAGUE of Somerset
TWITCHELL of Oxford

— of the Senate.

Representatives:

BROWN of Bethel
DAY of Westbrook

INGRAHAM of Houlton
MASTERMAN of Milo
CASHMAN of Old Town
KILCOYNE of Gardiner
KANE of South Portland
MCCOLLISTER of Canton

— of the House.

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

Report was signed by the following members:

Senator:

WOOD of York

— of the Senate.

Representatives:

HIGGINS of Portland

ANDREWS of Portland

— of the House.

Reports were read.

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

Divided Report

Majority Report of the Committee on Transportation reporting "Ought to Pass" as amended by Committee Amendment "A" (H-318) on Bill "An Act to Amend the Motor Vehicle Salvage Laws of the State" (H.P. 910) (L.D. 1189)

Report was signed by the following members:

Senators:

DANTON of York

DIAMOND of Cumberland

— of the Senate.

Representatives:

CARROLL of Limerick

STROUT of Corinth

THERIAULT of Fort Kent

REEVES of Pittston

CALLAHAN of Mechanic Falls

NADEAU of Lewiston

MOHOLLAND of Princeton

— 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:

EMERSON of Penobscot

— of the Senate.

Representatives:

CAHILL of Woolwich

MACOMBER of South Portland

McPHERSON of Eliot

— of the House.

Reports were read.

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

Mr. CARROLL: Mr. Speaker, I move we accept the Majority "Ought to Pass" Report.

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

The Chair recognizes the gentleman from Eliot, Mr. McPherson.

Mr. McPHERSON: Mr. Speaker, Ladies and Gentlemen of the House: I would just like to take a moment this morning to explain my position as far as signing the report. In my town there are two, we call them junk yards, two fellows that buy an old car from you and sell the parts off them. I think each one of them have probably 10, 15 or 20 cars at a time. They are licensed by the town, which costs them, with the advertising fees and the fee that the town charges them, about \$100 a year. They do this part time; both of them work at another job, both of them are mechanics, for that matter, at other places of business.

This bill will require them—the first year it will cost them \$70 for the license and \$50 thereafter. Also, you will notice in the amendment, it says the records in an established place of business shall at all times be available for the inspection by the Secretary of State and

the State Police. There are two different paragraphs. In the committee it was brought out that during the regular working day, it appears that somebody is going to have to be there to provide the records for the police and the Secretary of State.

I realize there there has been a problem with stolen automobile parts, but I think each one of you, especially from the small communities, have one or two of these small operations that are part time. I really feel that the fee is excessive and the requirement that the records have got to be available during business hours of the day.

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

Mr. CARROLL: Mr. Speaker, Ladies and Gentlemen of the House: This auto salvage law is long overdue. We have serious problems in our auto title laws, serious problems with titles being sold by salvage yards to people that have automobiles and unknown to them the people who buy these titles are putting them on these automobiles and these automobiles are stolen from out-of-state, even coming in from Canada. It is time that the state got a handle on the salvage yards in the State of Maine. If you don't think so, take a ride out and look at the Veterans' Cemetery out here because right out there now, the city of Augusta is authorizing a junk yard beside the Veterans' Cemetery, which has a tremendous expense to the state and which should be an insult to all the people that have buried their loved ones in that cemetery.

I think this salvage yard law is long overdue, extremely necessary, and I just feel that it is time that the state licensed all these salvage yards so we know who they are, where they are, and where they are coming from.

If the local communities have a problem with this law, they can repeal their part of the law, they can cut down their licensing. We want to have a state salvage law and a state licensing law for these salvage yards so when they take a car, buy it from an insurance company, that title has to be turned in to the State of Maine. Otherwise, they could take that title, have a stolen, real hot automobile, put the title on it and sell it and the state would be condoning the sale of a stolen automobile. This is a law that is long overdue.

I was down here last summer and met with the people in the Motor Vehicle Division, they pointed out to me an automobile that had been stolen in Massachusetts, something like four o'clock in the morning and by two o'clock in the afternoon, that new automobile, two-thirds of it was in parts ready to be sold in the open market. We do have a real hot item here in salvaging automobiles, they are even exporting salvage parts to foreign countries right now and I really feel that we need this law and I ask you all to support the Majority Report.

The SPEAKER: The Chair recognizes the gentleman from Eliot, Mr. McPherson.

Mr. McPHERSON: Mr. Speaker, I would like to ask for a roll call, and I would like to pose a question through the Chair also.

Is this proposed statute going to prevent the junkyard out at the Veterans' Cemetery and is this going to replace the current junkyard statute which require screening and licensing by the town? That is why the towns are doing it to this day, because the state is requiring them to do it.

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

The Chair recognizes the gentleman from Limerick, Mr. Carroll.

Mr. CARROLL: Mr. Speaker, Ladies and Gentlemen of the House: I understand that after the first reading of this document we have an amendment which will be coming down to address the Veterans' Cemetery problem. We are going to amend this law addressing this par-

ticular problem in the Augusta area. As a matter of fact, I think the city of Augusta owes an apology to this state for not having any zoning, we have had it in our town for 30 years. It is about time we woke up, we have a tremendous investment in this area.

The SPEAKER: The Chair recognizes the gentleman from Princeton, Mr. Moholland.

Mr. MOHOLLAND: Mr. Speaker, Ladies and Gentlemen of the House: I think Mr. Carroll hit the nail right on the head. They can take a truck now and chop it up in twelve minutes, take the serial number, sell you a motor for half the price, they can take the serial numbers off the cars, they change the figures on them. I have been down to the Registration Bureau and I have seen where they have changed the mileage from 76,000 to 36,000. I have had a lot of calls to buy stolen rear ends. You can go right into New Hampshire and buy stolen rear ends and you can go buy motors with different serial numbers on them.

I think this is a very good bill and I think we ought to pass it.

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

Mr. RACINE: Mr. Speaker, Ladies and Gentlemen of the House: I would like to pose a question through the Chair. There is a license fee involved in this; is this an increase or is this a new fee that has been established?

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 Limerick, Mr. Carroll.

Mr. CARROLL: Mr. Speaker, Ladies and Gentlemen of the House: This fee has been established by the state as being necessary to carry out the salvage laws of the State of Maine.

The SPEAKER: The Chair recognizes the gentleman from Eliot, Mr. McPherson.

Mr. McPHERSON: Mr. Speaker, Ladies and Gentlemen of the House: Let me clarify that just a little further. There is a \$50 fee in here, which is a new fee, plus the first year that you get the license there is an additional \$20 which makes the first year you get the license \$70.

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 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 Limerick, Mr. Carroll, 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, Andrews, Armstrong, Baker, Beaulieu, Bonney, Bost, Brannigan, Brodeur, Brown, A.K.; Brown, D.N.; Callahan, Carrier, Carroll, D.P.; Carroll, G.A.; Carter, Cashman, Chonko, Clark, Connolly, Cooper, Cote, Cox, Crouse, Crowley, Daggett, Diamond, Dillenback, Erwin, Gauvreau, Gwadnosky, Hall, Handy, Hickey, Hobbins, Joseph, Joyce, Kelly, Kiesman, Kilcoyne, LaPlante, Lehoux, Lisnik, MacEachern, Manning, Martin, A.C.; Masterman, Masterton, Matthews, K.L.; Matthews, Z.E.; Maybury, Mayo, McCollister, McGowan, McHenry, McSweeney, Melendy, Michael, Mitchell, E.H.; Mitchell, J.; Moholland, Murray, Nadeau, Norton, Paradis, P.E.; Paul, Perry, Pouliot, Reeves, P.; Richard, Ridley, Roberts, Rolde, Rotondi, Smith, C.B.; Soucy, Stevens, Strout, Swazey, Tammaro, Telow, Theriault, Thompson, Tuttle, Vose.

NAY—Anderson, Bell, Bott, Brown, K.L.; Cahill, Conary, Connors, Davis, Day, Dexter, Drinkwater, Dudley, Foster, Greenlaw, Higgins, L.M.; Holloway, Ingraham, Jackson, Lebowitz, Lewis, Livesay, Lock, MacBride, Macomber,

McPherson, Michaud, Murphy, E.M.; Murphy, T.W.; Parent, Perkins, Pines, Racine, Randall, Reeves, J.W.; Roderick, Salsbury, Scarpino, Seavey, Sherburne, Small, Smith, C.W.; Sproul, Stevenson, Stover, Webster, Wentworth, Weymouth, Willey, Zirnkillton.

ABSENT—Benoit, Curtis, Hayden, Higgins, H.C.; Jacques, Jalbert, Kane, Kelleher, Ketover, Mahany, Martin, H.C.; Nelson, Paradis, E.J.; Soule, Walker, The Speaker.

Yes, 86; No, 49; Absent, 16.

The SPEAKER: Eighty-six having voted in the affirmative and forty-nine in the negative with sixteen being absent, the motion does prevail.

The Bill was read once. Committee Amendment "A" (H-318) was read by the Clerk and adopted and the Bill assigned for second reading later in the day.

Divided Report

Majority Report of the Committee on Transportation reporting "Ought to Pass" as amended by Committee Amendment "A" (H-319) on Bill "An Act Relating to the Registration Period for Certain Motor Vehicles" (H. P. 209) (L. D. 253)

Report was signed by the following members:

Senators:

DANTON of York

EMERSON of Penobscot

— of the Senate.

Representatives:

CARROLL of Limerick

THERIAULT of Fort Kent

REEVES of Pittston

CALLAHAN of Mechanic Falls

NADEAU 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:

DIAMOND of Cumberland

— of the Senate.

Representatives:

STROUT of Corinth

MACOMBER of South Portland

McPHERSON of Eliot

MOHOLLAND of Princeton

CAHILL of Woolwich

— of the House.

Reports were read.

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

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

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

Mr. MACOMBER: Mr. Speaker, Ladies and Gentlemen of the House: I rise today to tell you my reasons for my opposition to passage of this bill.

This bill was brought to us by the Motor Vehicle Department not because of any public outcry by any people who were paying these fees, it was thought that it would be a way to simplify and bring into order a lot of registration fees that are being paid. I think the most important fact you should look at in this bill, recall that there was no public demand for this particular bill, but there is a fiscal note on this bill of \$75,000 to \$92,000. That is not a single year, each and every year that fiscal note is on there. I think that is reason enough, with the financial system we have in the state that we are in today, to refuse to pass this bill.

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

Mr. THERIAULT: Mr. Speaker, Men and Women of the House: I would like to explain to you why I voted "Ought to Pass" on L.D. 253. Presently, we have two systems of registration in this state; we have the staggered system

and we have the fixed date system. Under the staggered system, which is the system you use to register your passenger vehicle, the registration will expire one year from the date of issue. The other system, the expiration date is set as the last day of February.

Under the staggered system we have passenger vehicles, we have commercial vehicles and we have antique and also handicapped vehicles under that particular category.

Under the fixed date system we have such vehicles as motorcycles, trailers, of which we have nearly half a million registered in the State of Maine, we have farm vehicles, we have mopeds, buses, emergency vehicles, taxis, tractors and special equipment such as mobile generators.

There is a fiscal note on this bill, as has been mentioned, in the amount of \$75,000 to \$92,000 per year. The reason for this fiscal note is that under the present system, if you register a vehicle that has to be registered under the fixed date system, when you first buy the vehicle, you might have to register that vehicle twice in one year; in other words, you pay the registration fee twice in one year. This is why I favor the bill, primarily because I feel that if you register a vehicle for one year, you should have one year's use out of it.

The SPEAKER: The Chair recognizes the gentleman from Corinth, Mr. Strout.

Mr. STROUT: Mr. Speaker, Ladies and Gentlemen of the House: It isn't very often that I rise in opposition to my seatmate. However, this morning I speak for the municipalities across the state and will try to explain to you that I feel the timing is wrong on this legislation. I think the gentleman from South Portland, Mr. Macomber, has brought out the loss of revenue to the state. Also, it is unknown what the loss of revenue will be to the municipalities.

We did not, on this legislation, get any real impact from anyone asking that the change be made.

I have a couple of problems with this legislation, one is on the motorcycle registration; these vehicles are put up from three to six months at a time and if you change the period and go to staggered, I see at the local level where there is a possibility of these people coming in, asking for a waiver, and each year the registration could change. Let me give you an example. Let's say that they register in April of 1984 and they put the vehicle up in November, they come back in May of 1985, they have had their 30 day grace period, they sign a waiver slip in the municipality, they have gained a month on that first year. What I see happening here with a lot of these vehicles is that each year they may use their 30 day grace period, and in essence what you are doing is making additional paperwork for the municipalities.

Another problem that I have with this is on farm tractors. At the present time, if a vehicle is not excised by April 1st, we put a personal tax on this farm tractor. This could be handled, because what would happen is, we could use the personal tax and apply it toward the excise. However, if a person waits until August, like a lot of your potato farmers, don't register that tractor to put it on the road, or a farm truck, either way, we could put a personal tax on this April 1st, put the commitment out in July and then I see what we might have to do is ask the municipal officials to abate the personal tax so that we wouldn't have two taxes on this particular vehicle.

My big reason I guess though is that there is a loss of revenue. I see the timing is wrong. Maybe sometime in the future we should look at this, but I think right now we ought to do a little bit more study before we change the "fixed" on motorcycles and farm equipment.

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

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

tleman of the House: I think the timing is perfect. We just passed a five cent gas increase, so they can't say they don't have the money. You know, we have farmers up home that might have one of their trucks break down during the last week of harvesting and in order for them to transport the potatoes from the farm to the processing plant, they must buy another new truck, register it, and come February, they have to re-register that motor vehicle. You know, that \$75,000 we are talking about is money that is really not properly collected by the state. I really don't believe it is proper.

It has been brought up by one of my constituents and I didn't know anything about it. There is no public outcry because the public doesn't know about it. I am just as ignorant as my people are ignorant of it. Now I have been made knowledgeable of it and I think it is not right that the state should collect money that way. Let's be above board and collect it properly.

The SPEAKER: The Chair recognizes the gentleman from Corinth, Mr. Strout.

Mr. STROUT: Mr. Speaker, Ladies and Gentlemen of the House: In response to the good gentleman from Madawaska, the reason that some of the farmers wait until late in the Fall to trade some of the vehicles is so they can get in under the half rate the first year. They save their excise tax and then they come back in February of the next year and get the second year registration. I know that some of these vehicles break down and they have to register new vehicles but you will find, over the years, that some of these people do this late in the Fall for that particular reason so they can get it in under the last four months, they get a half registration and then the second year, it reduces their excise payment.

The SPEAKER: The Chair recognizes the gentleman from Princeton, Mr. Moholland.

Mr. MOHOLLAND: Mr. Speaker, Ladies and Gentlemen of the House: I think Mr. Macomber hit the nail right on the head that we have another bill coming up, I think the Registration Department is asking for another dollar to take care of these titles. If we take \$75,000 to \$92,000 a year away from them, I know I buy new trucks every once in awhile and I have to double up, you pay a lot more money than \$5 for a farm truck, probably around \$1200 and if that has to be done, so be it. I don't think we should take anymore money away, the way the economy is today. I don't think we should take any more money away from the registration, especially when they have this bill coming up, I think it is another dollar when you buy a new car so we can look up all these titles. The Registration Department is about a year behind in looking up these titles. They don't have enough help to look them up, so I think we should go along with Mr. Macomber on this.

The SPEAKER: The pending question before the House is on the motion of the gentleman from Limerick, Mr. Carroll, 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.

Mr. McHenry of Madawaska 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 gentleman from Madawaska, Mr. McHenry.

Mr. McHENRY: Mr. Speaker, Ladies and Gentlemen of the House: I can't see why we can't treat everybody alike. It is all right to have our automobiles registered once a year—why can't every other motor vehicle be registered once a

year? It would be a savings to the department, because in February you have millions of them coming in and if you could stagger those, it would be a help to that department. The Department of Transportation did say that it would be a help.

As far as the loss of revenue, it is revenue that is being collected and they should not be collected. You are saying that it is all right, if we can take money out of the pockets of our constituents without them knowing that we are doing something that is not really proper, then fine. I don't think it is right. I would hope that you would support this motion "Ought to Pass."

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

Mr. NADEAU: Mr. Speaker, Ladies and Gentlemen of the House: I hope you will support the gentleman from Fort Kent, Mr. Theriault, today and heed the words of the gentleman from Madawaska, Mr. McHenry.

I just wanted to rise and point out one thing in terms of the fiscal note, that this will go to the highway table and that obviously at the end of the session if we find we don't have the money to afford it, we have the option of not funding it and therefore killing it in that regard.

It would go to the table, we would have the opportunity to look at the funding situation, so I don't think we ought to base our decision here today on the loss of revenue. It is, in essence—don't call it double taxation, double taxation, it is money collected that ought not to be collected and I think today we would be wise to support the gentleman from Fort Kent, Mr. Theriault, and vote yea on the pending motion.

The SPEAKER: A roll call has been ordered. The pending question before the House is on the motion of the gentleman from Limerick, Mr. Carroll, that the House accept the Majority "Ought to Pass" Report. Those in favor will vote yes; those opposed will vote no.

ROLL CALL

YE—Ainsworth, Allen, Andrews, Baker, Beaulieu, Brannigan, Brodeur, Brown, A.K.; Callahan, Carroll, D.P.; Carroll, G.A.; Carter, Chonko, Clark, Connolly, Cote, Cox, Crouse, Crowley, Diamond, Gauvreau, Greenlaw, Gwadosky, Hall, Handy, Hayden, Hickey, Hobbins, Jackson, Jacques, Joseph, Kelleher, Kelly, Kilcoyne, LaPlante, Lehoux, Lewis, Lisnik, Locke, MacEachern, Martin, H.C.; Matthews, Z.E.; Mayo, McHenry, Melendy, Michael, Michaud, Mitchell, E.H.; Mitchell, J.; Murray, Nadeau, Nelson, Paradis, P.E.; Paul, Pouliot, Racine, Reeves, P.; Richard, Ridley, Roberts, Rolde, Rondini, Smith, C.W.; Soucy, Stevens, Telow, Theriault, Tuttle, The Speaker.

NAY—Anderson, Armstrong, Bell, Bonney, Bost, Bott, Brown, D.N.; Brown, K.L.; Cahill, Cashman, Conary, Connors, Cooper, Daggett, Davis, Day, Dexter, Dillenback, Drinkwater, Dudley, Erwin, Foster, Higgins, H.C.; Higgins, L.M.; Holloway, Ingraham, Joyce, Kiesman, Lebowitz, Livesay, MacBride, Macomber, Manning, Martin, A.C.; Masterman, Masterton, Matthews, K.L.; Maybury, McCollier, McGowan, McPherson, McSweeney, Moholland, Murphy, E.M.; Murphy, T.W.; Norton, Parent, Perkins, Perry, Pines, Reeves, J.W.; Roderick, Salsbury, Scarpino, Seavey, Sherburne, Small, Smith, C.B.; Sproul, Stevenson, Stover, Strout, Swazey, Tammaro, Thompson, Vose, Walker, Webster, Wentworth, Weymouth, Willey, Zirkilton.

ABSENT—Benoit, Carrier, Curtis, Jalbert, Kane, Ketover, Mahany, Paradis, E.J.; Randall, Soule.

Yes, 69; No, 72; Absent, 10.

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

Thereupon, the Minority "Ought Not to Pass" Report was accepted 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. 503) (L. D. 1519) Bill "An Act to Clarify the Law Concerning Certain Appeals from Planning Board Decisions" (Emergency)—Committee on Local and County Government reporting "Ought to Pass" as amended by Committee Amendment "A" (S-165)

On the objection of Mr. Diamond of Bangor, was removed from the Consent Calendar.

On motion of Mr. Diamond of Bangor, tabled pending acceptance of the Committee Report and tomorrow assigned.

(S. P. 585) (L. D. 1702) Bill "An Act to Clarify State Authority Regarding Higher Education Student Loan Secondary Markets" (Emergency)—Committee on Business Legislation reporting "Ought to Pass" as amended by Committee Amendment "A" (S-166).

(H. P. 1281) (L. D. 1698) Bill "An Act Amending and Expanding the Home Winterization Program Statute" Committee on State Government reporting "Ought to Pass" as amended by Committee Amendment "A" (H-322)

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

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

Ought to Pass as Amended

Representative Michael from the Committee on Agriculture on Bill "An Act to Strengthen the Maine Milk Industry" (Emergency) (H. P. 1260) (L. D. 1681) reporting "Ought to Pass" as amended by Committee Amendment "A" (H-323)

Report was read and accepted and the Bill read once. Committee Amendment "A" (H-323) was read by the Clerk and adopted. Under suspension of the rules, the Bill was given its Second Reading, passed to be engrossed as amended and sent up for concurrence.

Orders of the Day

The Chair laid before the House the first item of Unfinished Business:

The following matters, in the consideration of which the House was engaged at the time of adjournment yesterday, have preference in the Orders of the Day and continue with such preference until disposed of as provided by Rule 24.

Bill, An Act to Provide for Consumer Representation before the Maine Milk Commission" (Emergency) (H. P. 1137) (L. D. 1499)

—In House, Majority "Ought Not to Pass" Report of the Committee on Agriculture read and accepted on May 25, 1983.

—In Senate, Minority "Ought to Pass" Report of the Committee on Agriculture read and accepted and the Bill passed to be engrossed as amended by Senate Amendment "A" (S-157) in non-concurrence.

Tabled—May 31, 1983 by Representative Kelleher of Bangor.

Pending—Motion of Representative Michael of Auburn to Recede and Concur. (Roll Call Ordered)

The SPEAKER: The Chair recognizes the gentleman from Pittston, Mrs. Reeves.

Mrs. REEVES: Mr. Speaker, Men and Women of the House: I hope that you will vote against the motion to recede and concur so that we can adhere to our former position and kill this bill to fund the public advocate's appearance before the Milk Commission.

This proposal can be viewed as an attempt to undermine the people's referendum vote last Fall, which was a vote of confidence in the Milk Commission, when we voted to allow it to keep its present price-setting powers. Furthermore, this bill is a real trivialization of the office and responsibilities of the public advocate which was set up by the legislature two years ago to intervene before the Public Utilities Commission in utility rate cases which involved hundreds and millions of dollars to ratepayers. It has been documented in the press that the money spent on the public advocate's intervention in rate cases has saved much more in return to all Maine utility consumers.

There is no documentation and no evidence that a public advocate intervention before the Milk Commission would result in any savings or benefits to consumers. In fact, passage of this bill might cause the price of milk to go up because the proposal is to fund the advocate's intervention before the Milk Commission with a tax on milk. Since this office has no expertise in agricultural matters, that might be pretty expensive.

The public advocate's office is presently funded by a tax on kilowatt hours.

Another point is that the Public Utilities Commissioners are full-time professionals with a large professional staff and they act in a quasi-judicial function in these huge rate cases. The Milk Commission is a four-member volunteer citizens board. All four members are consumers. The Governor can and does appoint consumer representatives to the Milk Commission, and if the Governor feels that there should be stronger or more consumer advocacy in the area of milk pricing, he is able to appoint such a person directly to the Milk Commission.

On motion of Mr. Kelleher of Bangor, tabled pending the motion of Mr. Michael of Auburn to recede and concur and later today assigned.

The Chair laid before the House the second item of Unfinished Business:

Senate Divided Report — Majority (7) "Ought to Pass" in New Draft (S. P. 570) (L. D. 1646) — Minority (6) "Ought Not to Pass"

— Committee on Judiciary on Bill "An Act to Provide Equal Access to Justice" (S. P. 203) (L. D. 625)

— In Senate, Majority "Ought to Pass" in New Draft (S. P. 570) (L. D. 1646) Report read and accepted and the New Draft passed to be engrossed.

Tabled — June 1, 1983 (Till Later Today) by Representative Hobbins of Saco.

Pending — Motion of Representative Joyce of Portland to accept the Minority "Ought Not to Pass" Report.

On motion of Mrs. Mitchell of Vassalboro, retabled pending the motion of the gentleman from Portland, Mr. Joyce, to accept the Minority "Ought Not to Pass" Report and later today assigned.

The Chair laid before the House the third item of Unfinished Business:

An Act to Require Interdepartmental Coordination of Social Services Planning (H. P. 1255) (L. D. 1668)

Tabled — June 1, 1983 (Till Later Today) by Representative Mitchell of Vassalboro.

Pending — Motion of Representative Brodeur of Auburn to Reconsider Passage to be Enacted.

On motion of Mr. Brodeur of Auburn, retabled pending his motion to reconsider passage to be enacted and later today assigned.

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

Bill, "An Act to Authorize Bond Issue in the Amount of \$24,600,000 for Highway and Bridge Improvements to Match Federal Funds and to Accelerate the Improvement of Town

Way Bridges" (S. P. 415) (L. D. 1262)

Tabled — June 1, 1983 by Representative Mitchell of Vassalboro.

Pending — Passage to be Engrossed.

On motion of Mrs. Mitchell of Vassalboro, retabled pending passage to be engrossed and later today assigned.

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

An Act Establishing a Commission to Study the Issue of the Custody of Children in Domestic Relations Cases (Emergency) (H. P. 1244) (L. D. 1658)

Tabled — June 1, 1983 by Representative Mitchell of Vassalboro.

Pending — Passage to be Enacted.

On motion of Mr. Hobbins of Saco, retabled pending passage to be enacted and tomorrow assigned.

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

Senate Report — "Ought to Pass" in New Draft (S. P. 592) (L. D. 1710)

— Committee on Local and County Government on Bill "An Act to Establish County Budget Committees" (S. P. 435) (L. D. 1347)

Tabled — June 1, 1983 by Representative Diamond of Bangor.

Pending — Acceptance of Committee Report.

On motion of Mr. McHenry of Madawaska, retabled pending acceptance of committee report and later today assigned.

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

An Act to Require Swimming Pools to be Enclosed (S. P. 511) (L. D. 1528) (S. "A" S-129)

Tabled — June 1, 1983 by Representative Vose of Eastport.

Pending — Motion of Representative Strout of Corinth to Reconsider whereby the Bill failed of Passage to be Enacted.

The SPEAKER: The Chair recognizes the gentleman from Eastport, Mr. Vose.

Mr. VOSE: Mr. Speaker, Ladies and Gentlemen of the House: We didn't have many in the House last night when this bill was debated and I felt the vote wasn't a true indication of how this entire legislative body here felt about this bill.

We originally had passed this to be engrossed and we had lengthy debate on this so I won't be lengthy today. However, once again I want to reiterate, at the risk of being trite, that this is a safety bill. This bill is designed to save some child's life. I have heard people say that it would be difficult to enforce—not at all. Anytime a town recognizes the fact that if they don't have an ordinance in their town to govern swimming pools, the state law that now exists is going to be in effect, they are either going to take action or notify those in their town who own swimming pools that that is exactly what the story is.

I just want you to remember this, children do play around other people's homes. They play in the fields outside, too—you know, farmers have children. Just as Representative Hall said, he is constructing a swimming pool and has every intention of putting a fence around his. We are not looking for people such as Representative Hall because we know that he has the good, sound common sense to do just that, we are looking for the people who just absolutely refuse, for whatever reasons, to put a fence around their swimming pool regardless of whether or not they will save a child's life.

I want you to remember that it must be a terrible feeling to walk out to your swimming pool and maybe see your child or your grandchild or somebody else laying face down in that pool because you failed to put a fence there to prohibit them from playing. I sincerely hope that you will consider this bill and pass it, as it

should be.

The SPEAKER: The Chair recognizes the gentleman from Corinth, Mr. Strout.

Mr. STROUT: Mr. Speaker, Ladies and Gentlemen of the House: For the benefit of those members who weren't here last night, I didn't move to reconsider because I am in support of this bill. I would ask you to vote against the pending motion.

The SPEAKER: The Chair recognizes the gentlewoman from Cape Elizabeth, Mrs. Masterton.

Mrs. MASTERTON: Mr. Speaker, Ladies and Gentlemen of the House: I don't intend to belabor this bill anymore, but I would like to repeat for those of you who were not here last night some questions which I posed to Representative Cox.

Number one, who on the state level is responsible for seeing that municipalities enforce this proposed law? The answer to that question was, nobody on the state level was designated to watchdog this bill.

The second question had to do with the amendment which, if you take a look at it, reads that the town may adopt an ordinance which is either less strict or more strict than the state law. And my question was, since when do we pass state mandates, then allow the municipalities to pass and enforce less stringent ordinances? Is there a precedent for this? The answer was, no, there was not.

Ladies and gentlemen, this bill has a lot of holes in it and I would suggest that if you are going to vote for it today, you are all wet. I hope we get over this hump today so that we can all jump in the swimming pool and celebrate.

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

Mrs. MARTIN: Mr. Speaker, Ladies and Gentlemen of the House: I am not all wet because I don't swim.

I just want to let you know that if people haven't got the sense to protect themselves and their children, then we should mandate, as officers of the state, to do the right thing for them.

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

Mr. COX: Mr. Speaker, Ladies and Gentlemen of the House: I hate to confess that I find the position of the gentlelady from Cape Elizabeth rather inconsistent. In the first place, when she first debated this, she complained that the bill was not grandfathered; in other words, we were going to force people to spend money to fence their pools. Now she complains that the bill is not strong enough—what does she want? Does she want a strong bill that has no holes in it, which she opposed in the beginning, or does she want a slightly weaker bill that allows the towns more control?

While I am on my feet, let's look at the arguments that have been raised. Everything has been thrown at this bill. I have had to fish the bill out of manure pits of Fryeburg, out of the farm ponds of the whole state of Maine, out of the Penobscot River, the Kennebec River, the Atlantic Ocean at the foot of Otter Creek, but out of all these objections that have been raised, no one has denied that a fence around a swimming pool is a good idea, no one has denied that a fence around a swimming pool will save lives. The most consistent objection raised is that we should not mandate this with a state law, we should leave it up to the municipalities. We have left it to the municipalities to enact the type of law that they feel they should have, but we also say that in those communities that have neglected to protect their children with such a law, we want a state law in existence.

I think it comes down to a question of priorities. Which do you place the highest priority on, the lives of children or the slogan of local control? I come down on the side of the lives of children and I hope that this House will come down on the side of the lives of children and vote yes to reconsider this bill.

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

Mr. CARTER: Mr. Speaker, Ladies and Gentlemen of the House: I had not intended to get up again on this bill, I thought enough was said the other day, but what we are faced with here today, as has been mentioned several times, is an attempt to try to legislate common sense. Common sense tells you that if you are going to have a hazard around the house, an open pit, an open well, you should do everything you can to fence it—common sense tells you this, and good insurance companies generally require that you take care of hazards.

If we are going to legislate common sense, then it would make an awful lot of sense to me that we should legislate the need to put railings on steps in front of homes because they are very hazardous. More people have fallen down stairs and broken their necks, so we ought to legislate this because people don't have enough sense to do it themselves. There is no end to where we can go with this.

I would hope that we would let common sense prevail and put this to sleep.

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

Mr. AINSWORTH: Mr. Speaker, Ladies and Gentlemen of the House: I didn't expect to say anything this morning but I just feel I have to.

Children are so unpredictable. We can do all the monitoring in the world and still we lose children, and as proof of that, we just lost a child within the last six months at the YMCA in Portland. This just goes to prove that you can't watch these children every minute. Anything we can do to try and help this situation I think we should do this morning and vote for fencing in these pools.

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

Mr. DUDLEY: Mr. Speaker and Members of the House: I have been listening to the conversation regarding this bill and it has been brought out that an awful lot of children have drowned in pools that do have fences. This is just a false hope in a lot of cases, and I think more people lost—I didn't have the time to do a lot of research on it but I think just about as many are lost when you have got a fence around the pool as those that didn't have fences because it builds up false hope and children find some way to get in. If the parents can get in to use the pool, the children can find a way in — this is false hope in that respect.

I don't think you can legislate this type of thing no more than you could the railing on the doorstep. I think it is up to the local communities and we shouldn't be doing things like this because there is no end to the things that we would be legislating. We would be asking them to try to save people from themselves and nobody can do that either.

I think this is bad legislation and should be put to rest along with a lot of other unreasonable legislation. It is now possible for the towns to regulate this by ordinance, and I see that most towns do, but a fence is not the answer. If you will look up statistics, you will find out that about as many have been drowned in pools with fences as without fences, and an example is in Portland recently that was just mentioned, and certainly the Y pool is well tended.

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

Mr. COX: Mr. Speaker and Members of the House: I can't let this argument about legislating common sense go unchallenged because this has been raised in other cases. Of course we can't legislate common sense. If people would use common sense, we wouldn't need any laws. We pass laws to take care of the people who don't use common sense. As for protecting people from themselves, we are not protecting people from themselves—these little children who fall into these pools were not the ones who constructed the pools. We are protecting these little children from the care-

less people who build these pools and then do not put fences around them.

The SPEAKER: The Chair recognizes the gentleman from Princeton, Mr. Moholland.

Mr. MOHOLLAND: Mr. Speaker and Members of the House: A baby can drown in a mud puddle, let's face it.

Down in the rural towns where I come from, we have a million and one holes dug around within 40 feet of the houses for fire protection, and just because that swimming pool goes down straight and the other one goes down at an angle, that is what I have been getting at for the last three days, that doesn't come in line with the swimming pools. If a kid six or seven years old slides down into that water hole, he is not going to get back out if he gets two or three gulps of water before he gets back out. I think this is a foolish bill and I hope you vote against it.

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

Mr. HIGGINS: Mr. Speaker, Ladies and Gentlemen of the House: I am going to preface my remarks by just simply telling you that I am speaking as one individual legislator from Scarborough and not as the floor leader on this piece of legislation.

My concern with this bill is that it does not really pass the straight face test; that is, you can't look at the amendment put on in the Senate and really believe that it is going to accomplish anything at all. I say that because the way I read the amendment, and the gentleman from Cape Elizabeth mentioned it to you earlier, there is nothing here that prevents municipalities from passing an ordinance which is less restrictive, and I would submit to this House that if a town finds out that the state has passed this legislation, they won't be able to keep a straight face, because what I would do is just simply ask my municipal officials to pass an ordinance that said that perhaps they only needed a fence on one side or perhaps the fence only needed to be six inches high instead of four feet high. That is how ridiculous the amendment is. If we are going to do it, we are going to do it; if we are not, then let's not tell the municipalities that they can pass a less restrictive ordinance. It doesn't make any sense whatsoever.

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

Mr. MATTHEWS: Mr. Speaker, Ladies and Gentlemen of the House: Just to respond to the gentleman from Scarborough, I have a lot more faith in our local officials and the people that reside in our communities throughout the state. I think if we act on this bill and pass this bill, I would imagine that the integrity of our founding fathers in our local towns will be a lot greater than he puts credit in them. I don't see them as passing ordinances that will be lesser. I would think that they would look at the direction of the legislature, which is representative of this state, and see that the state is going to take some action in an area that needs it.

I think this legislation is something that is desperately needed, and I would like to mention to the members of this House that anyone that is going to put in a swimming pool and pay thousands of dollars to put that pool in can pay a few hundred dollars to put a fence around the pool. I don't think it is too much to ask the people to put a little protection around that swimming pool.

To comment again on local control, believe me, we are down here to do a job to protect the citizens of this state, to do the things that we believe are in their interest.

When this bill came out, unless I am mistaken, it was a majority report, it had bipartisan support from the committee. This bill is a really good bill, it is there for a reason, to protect our youngest citizens of this state, to insure their right to grow and prosper and I would ask you to support this bill and support reconsideration.

The SPEAKER: The Chair recognizes the gentleman from Eastport, Mr. Vose.

Mr. VOSE: Mr. Speaker, Ladies and Gentlemen of the House: I won't prolong this any longer, but I would like to say that this bill is going to force the communities to take a hard look at their town, and if they want to put an ordinance in, they should do so. If they want to adhere to the state law, they also shall do so.

I would like to good naturedly chide the good gentleman in the corner, Mr. Higgins. If you intend to suggest to your town an ordinance that would put a six inch fence around a swimming pool, would you be kind enough to give me a letter so I could be there and hear that?

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

Mr. HALL: Mr. Speaker, Ladies and Gentlemen of the House: I don't anticipate this as a big bill of the 1722 bills that we have had before us. I don't think we are going to go home and ever expect to see headlines whether we pass this bill or not.

I guess what this boils down to is a kind of love I have for my grandchildren and the children in the community.

I don't think my towns are going to be mad at me if I vote for it or mad at me if I vote against it. But I have a kind of feeling that something like this, when I see bridges that have got \$100,000 worth of wire put on them that costs all of you something because somebody jumped over the bridge sometime. I talked to some people in Plymouth, Massachusetts last week and they were appalled because we didn't have a bill of this sort.

Again, I say that I don't believe this is something we should get up tight over, but I get a little concerned when I hear some of the people saying that it is bad to mandate. I don't have a problem mandating something that I think is going to be good for my grandchildren and the children in my community.

I am going to vote just the same as I have, I am going to vote for the bill and hope you do too.

The SPEAKER: The Chair recognizes the gentleman from Skowhegan, Mr. Walker.

Mr. WALKER: Mr. Speaker and Members of the House: I didn't intend to speak on this today and I am not going to, but I am going to ask for 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 desiring a roll call vote will vote yes; those opposed will vote no.

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

The SPEAKER: The Chair recognizes the gentleman from Newport, Mr. Reeves.

Mr. REEVES: Mr. Speaker, Ladies and Gentlemen of the House: I, too, had not intended to speak on this bill today but there is one thing in this bill that I haven't heard any talk about and it concerns me and I am going to vote the same as I did every time on this bill, but this is the first time I have thought I had to speak on it.

If you will look at the bill, it says that the fence shall be so constructed as not to have openings, holes or gaps larger than four square inches. It doesn't say how many of these holes and gaps are allowed. Ladies and gentlemen, you know as well as I that a hole four inches square, these little hands and these little feet will fit into that hole, and you know as well as I know that children like to climb. They may climb this fence because of these four inch holes and there is not going to be anybody around there to know that they have climbed the fence. I am wondering just how much protection you are offering these children.

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

Mr. DILLENBACK: Mr. Speaker, Ladies and

Gentlemen of the House: I am sorry to delay this and I think the next time I will wear my white suit because I worked for the poor 15 year old fellows who are getting drunk in the bars and so forth, and now I am going to work for the small children. When you say this four inch hole is a big problem to a child climbing over a fence, I just had to get up. If you would look at the amendment, it says that your community can put in any rules they want. They can put two foot holes in the fence, they can do anything they want, there is no reason it has to be a four inch hole, so I think that argument is ridiculous.

All we are asking for is for you people to vote so that your community, hopefully it has enough common sense where you come from to pass some sort of an ordinance to protect children, and I am talking about toddlers, from falling into a swimming pool. That is all we are asking for, it is not ridiculous, it is not foolish, it is a preventative measure and I hope all communities in the state have some sort of a law.

The SPEAKER: A roll call has been ordered. The pending question is on the motion of the gentleman from Corinth, Mr. Strout, that the House reconsider its action whereby this bill failed of passage to be enacted. All those in favor of reconsideration will vote yes; those opposed will vote no.

ROLL CALL

YEA—Ainsworth, Andrews, Baker, Beau-
lieu, Bost, Brannigan, Brodeur, Brown, A.K.;
Carroll, D.P.; Carroll, G.A.; Cashman, Connolly,
Cooper, Cote, Cox, Crouse, Crowley, Diamond,
Dillenback, Erwin, Foster, Gauvreau, Green-
law, Hall, Handy, Hayden, Hickey, Higgins, H.C.;
Hobbins, Jacques, Jalbert, Joyce, Kelleher,
Kelly, Kilcoyne, LaPlante, Lehoux, Lisnik,
Locke, MacEachern, Manning, Martin, A.C.;
Matthews, K.L.; Matthews, Z.E.; Mayo, McGo-
wan, McHenry, McSweeney, Melendy, Mitchell,
E.H.; Mitchell, J.; Murray, Nadeau, Nelson, Nor-
ton, Paradis, P.E.; Paul, Perry, Pouliot, Reeves,
P.; Richard, Rotondi, Smith, C.B.; Stevens,
Stover, Swazey, Tammara, Telow, Thompson,
Tuttle, Vose, The Speaker.

NAY—Allen, Anderson, Armstrong, Bell,
Bonney, Bott, Brown, D.N.; Brown, K.L.; Cahill,
Carter, Chonko, Clark, Conary, Connors, Dag-
gett, Davis, Day, Dexter, Drinkwater, Dudley,
Gwadlosky, Higgins, L.M.; Holloway, Ingraham,
Jackson, Joseph, Kiesman, Lebowitz, Lewis,
Livesay, MacBride, Macomber, Martin, H.C.;
Masterman, Masterton, Maybury, McCollister,
McPherson, Michael, Michaud, Moholland,
Murphy, E.M.; Murphy, T.W.; Paradis, E.J.; Par-
ent, Perkins, Pines, Racine, Randall, Reeves,
J.W.; Roberts, Roderick, Rolde, Salsbury, Scar-
pino, Seavey, Sherburne, Small, Smith, C.W.;
Soucy, Sproul, Stevenson, Strout, Theriault,
Walker, Webster, Wentworth, Weymouth, Wil-
ley, Zirkilton.

ABSENT—Benoit, Callahan, Carrier, Curtis,
Kane, Ketover, Mahany, Ridley, Soule.

Yes, 72; No, 70; Absent, 9.

The SPEAKER: Seventy-two having voted in the affirmative and seventy in the negative, with nine being absent, the motion does pre-
vail.

The pending question is on passage to be enacted.

Mr. Webster of Farmington requested a roll call vote.

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

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

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

Mr. WEBSTER: Mr. Speaker, Ladies and Gentlemen of the House: I just feel compelled to speak on this issue for one brief moment. The

people in my community, as Representative Armstrong stated before, initially, quite a while ago when this issue first came, I voted twice at town meeting not to require that swimming pools be enclosed, and I feel that this should be left to the local towns, and all the arguments we have heard here today, all the arguments of children, all the other arguments that we have heard today were discussed at that town meeting which I attended both times, and both times the people decided that they did not want to require this as you are going to try to require this today.

I think this decision, the decision on whether these should be enclosed, should be made by local towns, so I am against this.

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

Mr. HANDY: Mr. Speaker, Men and Women of the House: I am going to appeal to your sense of humanity and remind you that we are not legislating just for those who have swimming pools; we are legislating for those who do not have swimming pools and those who cannot afford them and those who cannot afford to put fences up. So those who have swimming pools who can't afford to put them up, let's tell them that we want to protect our children and let's vote to put up a fence around those pools.

The SPEAKER: A roll call has been ordered. The pending question is on passage to be enacted. All those in favor will vote yes; those opposed will vote no.

ROLL CALL

YEA—Ainsworth, Andrews, Baker, Beaulieu, Bost, Brannigan, Brodeur, Brown, A.K.; Carroll, D.P.; Carroll, G.A.; Cashman, Connolly, Cooper, Cote, Cox, Crouse, Crowley, Diamond, Dillenback, Erwin, Foster, Gauvreau, Greenlaw, Hall, Handy, Hayden, Hickey, Higgins, H.C.; Hobbins, Jacques, Jalbert, Joyce, Kelleher, Kelly, Kilcoyne, LaPlante, Lehoux, Lisnik, MacEachern, Manning, Martin, A.C.; Matthews, K.L.; Matthews, Z.E.; Mayo, McGowan, McHenry, McSweeney, Melendy, Michael, Mitchell, E.H.; Mitchell, J.; Murray, Nadeau, Nelson, Norton, Paradis, P.E.; Paul, Pouliot, Reeves, P.; Richard, Rotondi, Smith, C.B.; Stevens, Stover, Swazey, Tammaro, Telow, Theriault, Thompson, Tuttle, Vose, The Speaker.

NAY—Allen, Anderson, Armstrong, Bell, Bonney, Bott, Brown, D.N.; Brown, K.L.; Cahill, Carter, Chonko, Clark, Conary, Conners, Daggett, Davis, Day, Dexter, Drinkwater, Dudley, Gwadosky, Higgins, L.M.; Holloway, Ingraham, Jackson, Joseph, Kiesman, Lebowitz, Lewis, Livesay, Locke, MacBride, Macomber, Martin, H.C.; Masterman, Masterton, Maybury, McCollister, McPherson, Michaud, Moholland, Murphy, E.M.; Murphy, T.W.; Paradis, E.J.; Parent, Perkins, Pines, Racine, Randall, Reeves, J.W.; Roberts, Roderick, Rolde, Salsbury, Scarpino, Seavey, Sherburne, Small, Smith, C.W.; Soucy, Sproul, Stevenson, Strout, Walker, Webster, Wentworth, Weymouth, Willey, Zirkilton.

ABSENT—Benoit, Callahan, Carrier, Curtis, Kane, Ketover, Mahany, Perry, Ridley, Soule.

Yes, 72; No, 69; Absent, 10.

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

Signed by the Speaker and sent to the Senate.

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

An Act to Amend the Department of Environmental Protection Statutes (H. P. 1105) (L. D. 1458) (C. "A" H-291)

Tabled — June 1, 1983 by Representative Mitchell of Vassalboro.

Pending — Passage to be Enacted.

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

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

Bill, "An Act to Amend the Statutes Relating to Fluoridation" (S. P. 595) (L. D. 1717)

Tabled — June 1, 1983 by Representative Higgins of Scarborough.

Pending — Passage to be Engrossed.

On motion of Mrs. Nelson of Portland, tabled pending passage to be engrossed and later today assigned.

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

Senate Divided Report — Majority (7) "Ought to Pass" — Minority (5) "Ought Not to Pass" — Committee on Agriculture on Bill "An Act to Improve the Functioning of the Maine Milk Commission" (S. P. 133) (L. D. 426)

— In Senate, Bill and accompanying papers indefinitely postponed.

Tabled — June 1, 1983 by Representative Michael of Auburn.

Pending — Motion of same gentleman to accept the Majority "Ought to Pass" Report.

The SPEAKER: The Chair recognizes the gentleman from Dexter, Mr. Sherburne.

Mr. SHERBURNE: Mr. Speaker, Ladies and Gentlemen of the House: I would just like to explain a little bit about what this bill does. It is an act to improve the functioning of the Maine Milk Commission. I think we all realize that many of the things that the Maine Milk Commission does have been questioned, have been taken to court, and one of the reasons for that is the fact that the Maine Milk Commission sets the prices at the lowest achievable cost, which has allowed out-of-state dealers and mainly out-of-state dairies to say that they could sell milk at a lower price than the commission could sell. The big out-of-state dairy that usually does this has never come forth with the figures that would prove their cases.

All this bill does is say that the minimum wholesale prices paid to dealers shall be established to reflect the average of the lowest prices at which milk purchased from Maine producers, at Maine minimum prices, is being received, processed, packaged and distributed within the state at a just and reasonable return by the four lowest cost processors. This bill would allow the Maine Milk Commission to use the four lowest cost dairies in the state that are doing the best job. It would allow their prices to be used in setting the prices for the rest of the state. This would just eliminate that lowest achievable cost and use prices that do reflect much better the conditions in the state. So I would hope that we would try to keep this bill alive.

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

Mr. MCCOLLISTER: Mr. Speaker, Ladies and Gentlemen of the House: The previous speaker is absolutely right. The name of this bill is "An Act to Improve the Functioning of the Maine Milk Commission." It will improve the function for one dairy, one dairy only.

As it was stated in the Portland Press Herald, this sort of a measure will cost the Maine consumer an additional \$2.5 million or more a year. It is even too much for some of the state milk dealers who would benefit hugely from these increases. Most dealers oppose this bill because it will give one Portland area dairy a tremendous price advantage.

The Portland Press Herald goes on to say that this would most certainly drive up the retail cost of Maine milk 7 to 8 cents a gallon. I don't believe that this is our intention, to increase the price of Maine milk.

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

Mr. STOVER: Mr. Speaker, Ladies and Gentlemen of the House: This bill is not a consumer bill, this bill is not a producer bill, this bill is a dealer bill. Under this bill, the producer, the man that produces the milk, the farmer, would not get one extra cent. His prices arrived at would stay the same, but this would enable the dealer to charge, as Mr. McCollister says, up to

at least 8 cents a gallon more than they are now charging.

What the Maine Milk Commission does as compared to what the PUC does, the PUC puts a ceiling on the price that the utilities can charge, but the Milk Commission says this is the lowest you can charge. There is nothing to prevent the dairy from charging more, but what this ruling does is guarantee the dealers a profit. They don't have to get out there in the marketplace and compete. They know that if they go up on the price of milk and a competing dairy doesn't go up, they won't be selling as much milk. Therefore, what they do is go to the Maine Milk Commission and say to them, raise the price of milk and we will all make more money.

However, as I said before, the person who pays for this is the man who has a family, who is buying milk that is so necessary for the health of his children. This is a bad bill, Mr. McCollister is right on target, it is for one reason only, it is for dealers and we don't need it.

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

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

Whereupon, Mr. Sherburne of Dexter 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 Bangor, Mr. Kelleher, that this Bill and all its accompanying papers be indefinitely postponed in concurrence. All those in favor will vote yes; those opposed will vote no.

ROLL CALL

YEA—Ainsworth, Allen, Andrews, Baker, Bonney, Bost, Brannigan, Brodeur, Brown, A.K.; Carroll, D.P.; Carroll, G.A.; Carter, Cashman, Chonko, Clark, Connolly, Cooper, Cote, Cox, Crowley, Daggett, Diamond, Dillenback, Dudley, Erwin, Gauvreau, Gwadosky, Hall, Handy, Hayden, Higgins, H.C.; Hobbins, Jackson, Jacques, Joseph, Joyce, Kane, Kelleher, Kelly, Kilcoyne, LaPlante, Lebowitz, Lehoux, Lisnik, Livesay, MacEachern, Manning, Martin, A.C.; Masterton, Maybury, Mayo, McCollister, McGowan, McHenry, McPherson, McSweeney, Melendy, Mitchell, E.H.; Mitchell, J.; Moholland, Murphy, E.M.; Murphy, T.W.; Murray, Nadeau, Nelson, Norton, Paradis, E.J.; Paradis, P.E.; Paul, Perkins, Perry, Pouliot, Racine, Reeves, P.; Richard, Roberts, Salsbury, Scarpino, Seavey, Sherburne, Smith, C.B.; Smith, C.W.; Soucy, Sproul, Stover, Strout, Swazey, Tammaro, Telow, Theriault, Thompson, Tuttle, Vose, Walker, Wentworth.

NAY—Anderson, Armstrong, Beaulieu, Bell, Brown, D.N.; Brown, K.L.; Cahill, Conary, Conners, Crouse, Davis, Day, Dexter, Drinkwater, Foster, Greenlaw, Hickey, Higgins, L.M.; Holloway, Ingraham, Kiesman, Lewis, Locke, MacBride, Masterman, Matthews, K.L.; Matthews, Z.E.; Michael, Michaud, Parent, Pines, Randall, Reeves, J.W.; Roderick, Salsbury, Scarpino, Seavey, Sherburne, Smith, C.B.; Smith, C.W.; Stevenson, Weymouth, Willey.

ABSENT—Benoit, Bott, Callahan, Carrier, Curtis, Hickey, Jalbert, Ketover, Macomber, Mahany, Martin, H.C.; Ridley, Rotondi, Soule, Stevens, Webster, Zirkilton, The Speaker.

Yes, 91; No, 42; Absent, 18.

The SPEAKER: Ninety-one having voted in the affirmative and forty-two in the negative, with eighteen being absent, the motion does prevail.

The SPEAKER: The Chair recognizes the

gentlewoman from Sebec, Mrs. Locke.

Mrs. LOCKE: Mr. Speaker, is the House in possession of Senate Paper 583, L. D. 1691, An Act Concerning Confidential Records and State Certification of Educational Personnel?

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

Mrs. Locke of Sebec moved that the House reconsider its action whereby the Bill was passed to be enacted.

On motion of the same gentlewoman, tabled pending her motion to reconsider and later today assigned.

The Chair laid before the House the following matter:

Bill "An Act to Authorize Bond Issue in the Amount of \$24,600,000 for Highway and Bridge Improvements to Match Federal Funds and to Accelerate the Improvement of Town Way Bridges" (S. P. 415) (L. D. 1262) which was tabled and later today assigned pending passage to be engrossed.

Mr. Higgins of Scarborough offered House Amendment "B" and moved its adoption.

House Amendment "B" (H-326) was read by the Clerk.

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

Mr. HIGGINS: Mr. Speaker, Ladies and Gentlemen of the House: I would like to give you a brief background as to not only what this amendment does but why it is necessary. Last session, a year or so ago, this legislature passed a constitutional amendment, and I don't have it right in front of me but it reads something to the effect that if this legislature authorizes a bond issue and no bonds are issued within a five-year period of time, then those bonds become deauthorized unless the legislature takes action within a period after that five-year period in which the legislature can reauthorize the bonds without them going to the voter for ratification. That is my understanding of the process.

The Treasury Department has construed that to mean that if we authorized and the people ratified a bond issue, for example, we will use this one in the amount of \$24,600,000 and four years and ten months from when it was ratified the state issued a bond in the amount of \$100,000, that was satisfactory to keep that bond issue open and on the books for an additional five-year period. My opinion is that that was not the intent of the constitutional amendment that we passed here a year ago and what the people voted on in November.

I asked for an Attorney General's opinion and the opinion has come back and says the way in which the department is interpreting the law is correct and, frankly, I think we need to take — if there is any blame to be had, I think we should point out that we have to be very careful about the way in which we amend the state constitution and also the debate that went on surrounding that bill, because I think in the debate, which there was a very limited amount of, I might add, but in an explanation of the bill, it went something to the effect that if no bonds were issued, then this issuance would become deauthorized. The key word there is "no bonds" rather than "any bonds", it should have been "any" instead of "no," in my opinion.

The reason I bring this up, and I think the reason why the legislature passed that and the people ratified it was because of a growing concern over the fact that there were, a year or so ago, a hundred million dollars worth of bonds authorized but not yet issued and at that point we only had about \$250 million worth of bonded indebtedness and yet there was a hundred and some odd million available to be issued. That is of concern to the legislature and to the bonding houses and anybody who is interested in the credit rating of the

State of Maine, and that is why the amendment was passed, but because of an oversight or whatever the case might be, that was not really accomplished at all by the constitutional amendment. It would be accomplished, however, if there was a total bond issue that none of the bonds had been issued, but that, to my knowledge, has not yet happened. We were looking for a way in which to remove a number of these bonds from the list without having to go back to the people and ask them to deauthorize them. It seemed like a waste of time and effort and the constitutional amendment provided for a way in which the legislature could reauthorize them if none of the bonds had been issued.

Having said all that, I think it is important to realize from where this is coming. The amendment that I had drafted and offered simply puts into this bond issue what I feel was the expressed desire of the legislature when it passed the constitutional amendment, that being that if all the bonds, all of these \$24,600,000 worth of bonds are not issued within a five-year period, then they become deauthorized unless the legislature takes affirmative action in reauthorizing the bonds. It is not intended to constrain anybody in the Department of Transportation, it is my understanding that the bonds are intended to be issued within a two-year period or certainly within three years. But I think it is clear, at least as far as I am concerned, that we ought to be considering putting an amendment like this on all subsequent bond issues until we can get some constitutional language drafted that will make that amendment clear, because that can't be done in an expeditious manner because it has to go to the people and all that sort of thing, be ratified. I think the only way we can deal with this issue and straighten out what I consider a flaw is to amend this bond issue and any other one with language similar to this.

Thereupon, House Amendment "B" was adopted.

The Bill was passed to be engrossed as amended by House Amendment "B" in non-concurrence and sent up for concurrence.

(Off Record Remarks)

On motion of Mrs. Beaulieu of Portland,
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:

Unanimous Leave to Withdraw

Report of the Committee on Health and Institutional Services reporting "Leave to Withdraw" on Bill "An Act to Establish Reimbursement Principles Governing Nonprofit Hospital and Medical Service Organization Agreements with Rural Health Centers" (S. P. 581) (L. D. 1689)

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

Non-Concurrent Matter Tabled Unassigned

Bill "An Act to Ban Clear Cutting Within the Allagash Wilderness Waterway" (H. P. 312) (L. D. 371) on which the Unanimous "Ought to Pass" in New Draft under New Title Bill "An Act to Identify Areas Requiring Further Protection Within the Allagash Wilderness Waterway" (H. P. 1296) (L. D. 1720) Report of the Committee on Energy and Natural Resources was read and accepted and the New Draft passed to be engrossed in the House on June 1, 1983.

Came from the Senate with the Bill and accompanying papers indefinitely postponed in

non-concurrence.

In the House: On motion of Mrs. Mitchell of Vassalboro, tabled unassigned pending further consideration.

Bill "An Act to Authorize the Plantation of The Forks to Award Educational Scholarships" (Emergency) (H. P. 1300) (Presented by Representative Rotondi of Athens)

Committee on Taxation was suggested.

Under suspension of the rules, the Bill was read twice, passed to be engrossed without reference to any committee and sent up for concurrence.

Consent Calendar First Day

(S. P. 433) (L. D. 1345) Bill "An Act to Make Additional Allocations from the Public Utilities Commission Regulatory Fund for the Fiscal Years Ending June 30, 1984, and June 30, 1985" (Emergency)—Committee on Appropriations and Financial Affairs reporting "Ought to Pass" as amended by Committee Amendment "A" (S-167)

No objections having been noted, under suspension of the rules the above item was given Consent Calendar, Second Day, notification and passed to be engrossed as amended in concurrence.

Tabled and Assigned

Bill "An Act to Amend the Motor Vehicle Salvage Laws of the State" (H. P. 910) (L. D. 1189) (C. "A" H-318)

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

On motion of Mrs. Mitchell of Vassalboro, tabled pending passage to be engrossed as amended and tomorrow assigned.

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

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

On motion of Mr. Hall of Sangerville, the House reconsidered its action of earlier in the day whereby An Act to Amend the Department of Environmental Protection Statutes (H. P. 1105) (L. D. 1548) (C. "A" H-291) was passed to be enacted.

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

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

House Amendment "A" (H-327) was read by the Clerk and adopted.

The Bill was passed to be engrossed as amended by Committee Amendment "A" and House Amendment "A" in non-concurrence and sent up for concurrence.

The Chair laid before the House the following matter:

Bill "An Act to Provide for Consumer Representation before the Maine Milk Commission" (Emergency) (H. P. 1137) (L. D. 1499) which was tabled and later today assigned pending the motion of Mr. Michael of Auburn to recede and concur (roll call ordered).

Mr. Kelleher of Bangor moved that this be tabled for one legislative day.

Mrs. Reeves of Pittston requested a vote.

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

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

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

ordered.

The SPEAKER Pro Tem: The pending question is on the motion of the gentleman from Bangor, Mr. Kelleher, that this be tabled for one legislative day pending the motion of Mr. Michael of Auburn to recede and concur. All those in favor will vote yes; those opposed will vote no.

ROLL CALL

YEA—Ainsworth, Allen, Andrews, Baker, Beaulieu, Bost, Bott, Brodeur, Carroll, G.A.; Carter, Cashman, Chonko, Clark, Conary, Cooper, Cote, Cox, Crouse, Crowley, Daggett, Diamond, Dillenback, Erwin, Foster, Gauvreau, Hall, Hayden, Hickey, Higgins, H.C.; Hobbins, Jacques, Jalbert, Joseph, Joyce, Kane, Kelleher, Kelly, Kilcoyne, LaPlante, Lehoux, Lisnik, MacEachern, Macomber, Manning, Martin, H.C.; Matthews, Z.E.; Mayo, McCollister, McGowan, McHenry, McSweeney, Melendy, Michael, Mitchell, E.H.; Mitchell, J.; Moholland, Murray, Nadeau, Nelson, Norton, Paradis, P.E.; Paul, Perkins, Perry, Pouliot, Racine, Randall, Richard, Ridley, Roberts, Rotondi, Small, Smith, C.W.; Soucy, Soule, Stevens, Stover, Strout, Swazey, Tammaro, Telow, Theriault, Thompson, Tuttle, Vose.

NAY—Anderson, Bell, Bonney, Brown, A.K.; Brown, D.N.; Brown, K.L.; Cahill, Carroll, D.P.; Davis, Day, Drinkwater, Dudley, Greenlaw, Higgins, L.M.; Holloway, Ingraham, Kiesman, Lebowitz, Lewis, Livesay, Locke, MacBride, Masterman, Masterton, Matthews, K.L.; McPherson, Michaud, Murphy, E.M.; Murphy, T.W.; Paradis, E.J.; Parent, Pines, Reeves, J.W.; Reeves, P.; Roderick, Rolde, Salsbury, Scarpino, Seavey, Sherburne, Smith, C.B.; Sproul, Stevenson, Walker, Wentworth, Weymouth, Willey, Zirkilton.

ABSENT—Armstrong, Benoit, Brannigan, Callahan, Carrier, Connors, Connolly, Curtis, Dexter, Gwadosky, Handy, Jackson, Ketover, Mahany, Martin, A.C.; Maybury, Webster, The Speaker.

Yes, 85; No, 48; Absent, 18.

The SPEAKER Pro Tem: Eighty-five having voted in the affirmative and forty-eight in the negative, with eighteen being absent, the motion does prevail.

The Chair laid before the House the following matter:

Senate Divided Report—Majority (7) "Ought to Pass" in New Draft (S. P. 570) (L. D. 1646) — Minority (6) "Ought Not to Pass" — Committee on Judiciary on Bill "An Act to Provide Equal Access to Justice" (S. P. 203) (L. D. 625) — In Senate, Majority "Ought to Pass" Report accepted and the New Draft passed to be engrossed.

Which was tabled and later today assigned pending the motion of Mr. Joyce of Portland to accept the Minority "Ought Not to Pass" Report in non-concurrence.

On motion of Mr. Joyce of Portland, retabled pending his motion to accept the Minority Report in non-concurrence and tomorrow assigned.

The Chair laid before the House the following matter:

An Act to Require Interdepartmental Coordination of Social Services Planning (H. P. 1255) (L. D. 1668) which was tabled and later today assigned pending the motion of Mr. Brodeur of Auburn to reconsider whereby the Bill was passed to be enacted.

On motion of Mr. Brodeur of Auburn, tabled pending his motion to reconsider passage to be enacted and tomorrow assigned.

The Chair laid before the House the following matter:

Senate Report—"Ought to Pass" in New Draft (S. P. 592) (L. D. 1710) Committee on Local and County Government on Bill "An Act to Establish County Budget Committees" (S. P. 435) (L. D. 1347) which was tabled and later

today assigned pending acceptance of the Committee Report.

Thereupon, the Report was accepted in concurrence, the New Draft read once and assigned for second reading the next legislative day.

The Chair laid before the House the following matter:

Bill "An Act to Amend the Statutes Relating to Fluoridation" (S. P. 595) (L. D. 1717) which was tabled and later today assigned pending passage to be engrossed.

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

Mrs. NELSON: Mr. Speaker, Ladies and Gentlemen of the House: As the sponsor of the amendment has found that there is an error in the amendment and wishes a little more time to get a proper amendment up from Research, I would ask that this be tabled for one legislative day.

Whereupon, on motion of Mr. Diamond of Bangor, tabled pending passage to be engrossed and tomorrow assigned.

The Chair laid before the House the following matter:

RESOLUTION, Proposing an Amendment to the Constitution of Maine to Permit Moneys Dedicated to the Highway Fund to be Used to Provide Operational Subsidies for Various Forms of Surface Passenger Transit (H. P. 968) (L. D. 1248) which was tabled and later today assigned pending further consideration. (In House, indefinitely postponed; in Senate, Minority "Ought to Pass" Report accepted and Resolution passed to be engrossed)

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

Mr. KANE: Mr. Speaker, Ladies and Gentlemen of the House: A few of you may remember this bill from the other day. This is the one that the gentleman from Bangor, Mr. Kelleher, jumped onto as it laid dead, bleeding and dying in the well of the House, but probably will be surprised at the support I have been able to engender over the last two days for this bill and probably the biggest selling point was that I told people I was going to amend it with a provision to put a four-foot fence around the milk pool, but anyway, as you know, this is a constitutional amendment, requires 101 votes in this House, two-thirds in the other house. Although I am sure I have got 102 blood-committed promises in here, I just wanted to say that consider yourselves all released and vote your conscience.

The SPEAKER Pro Tem: The Chair recognizes the gentleman from Waterville, Mr. Jacques.

Mr. JACQUES: Mr. Speaker, I move that we adhere.

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

Mr. DIAMOND: Mr. Speaker, I move that we recede and concur.

The SPEAKER Pro Tem: The Chair recognizes the gentleman from Bethel, Miss Brown.

Miss BROWN: Mr. Speaker, I request a roll call.

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

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

The SPEAKER Pro Tem: The Chair recognizes the gentleman from Eastport, Mr. Vose.

Mr. VOSE: Mr. Speaker, Ladies and Gentlemen of the House: Let's kill this bill. We did it before; let's do it now. Everybody vote no.

The SPEAKER Pro Tem: The pending question is on the motion of the gentleman from Bangor, Mr. Diamond, that the House recede and concur. All those in favor will vote yes;

those opposed will vote no.

ROLL CALL

YEA—Andrews, Baker, Beaulieu, Brodeur, Carroll, D.P.; Cashman, Connolly, Crouse, Diamond, Gauvreau, Hall, Hickey, Higgins, H.C.; Hobbins, Kane, Kelly, Kilcoyne, Macomber, Melendy, Michael, Mitchell, E.H.; Mitchell, J.; Murray, Nadeau, Nelson, Paradis, P.E.; Reeves, P.; Rolde, Seavey, Thompson.

NAY—Ainsworth, Allen, Anderson, Bell, Bonney, Bost, Bott, Brown, A.K.; Brown, D.N.; Brown, K.L.; Cahill, Callahan, Carroll, G.A.; Chonko, Clark, Conary, Cooper, Cote, Cox, Crowley, Daggett, Davis, Day, Dillenback, Drinkwater, Dudley, Erwin, Foster, Greenlaw, Handy, Hayden, Higgins, L.M.; Holloway, Ingraham, Jackson, Jacques, Jalbert, Joseph, Joyce, Kelleher, Kiesman, LaPlante, Lebowitz, Lehoux, Lewis, Lisnik, Livesay, MacBride, MacEachern, Manning, Martin, H.C.; Masterman, Masterton, Matthews, K.L.; Matthews, Z.E.; Maybury, Mayo, McCollister, McGowan, McHenry, McPherson, McSweeney, Michaud, Moholland, Murphy, E.M.; Murphy, T.W.; Norton, Paradis, E.J.; Parent, Paul, Perry, Pines, Pouliot, Racine, Randall, Reeves, J.W.; Richard, Ridley, Roberts, Roderick, Rotondi, Salsbury, Scarpino, Sherburne, Small, Smith, C.B.; Smith, C.W.; Soucy, Soule, Sproul, Stevens, Stevenson, Stover, Strout, Swazey, Tammaro, Telow, Theriault, Vose, Walker, Wentworth, Weymouth, Willey, Zirkilton.

ABSENT—Armstrong, Benoit, Brannigan, Carrier, Carter, Connors, Curtis, Dexter, Gwadosky, Ketover, Locke, Mahany, Martin, A.C.; Perkins, Tuttle, Webster, The Speaker.

Yes, 30; No, 104; Absent, 17.

The SPEAKER Pro Tem: Thirty having voted in the affirmative and one hundred and four in the negative, with seventeen being absent, the motion does not prevail.

Thereupon, the House voted to adhere.

At this point, Speaker Martin returned to the rostrum.

Speaker MARTIN: The Chair thanks the gentleman from Fairfield, Mr. Gwadosky, for acting as Speaker Pro Tem.

Thereupon, Mr. Gwadosky returned to his seat on the floor and Speaker Martin resumed the Chair.

On motion of Mrs. Mitchell of Vassalboro, the following matter was removed from the Unassigned Table:

Bill "An Act to Increase the Excise Tax on Dessert Wine and to Permit the Sale of Dessert Wine at Retail Stores" (H. P. 1284) (L. D. 1701)

Tabled — May 26, 1983, by Representative Mitchell of Vassalboro

Pending — Reference.

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

By unanimous consent, ordered sent forthwith.

The Chair laid before the House the following matter:

Bill "An Act to Provide the Licensing of Bottle Clubs" (S. P. 584) (L. D. 1694) which was tabled and later today assigned pending passage to be engrossed in concurrence.

Thereupon, the Bill was passed to be engrossed in concurrence.

(Off Record Remarks)

On motion of Mr. Joyce of Portland, Adjourned until twelve o'clock noon tomorrow.