

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

Friday, June 3, 1983

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

Prayer by the Reverend Richard Nordgren of the First Congregational Church, United Church of Christ, South Portland.

The journal of yesterday was read and approved.

**Papers from the Senate
Divided Report
Tabled and Assigned**

Majority Report of the Committee on Business Legislation reporting "Ought Not to Pass" on Bill "An Act to Provide Equitable Mental Health Insurance" (S. P. 349) (L. D. 1023)

Report was signed by the following members:
Senators:

CHARETTE of Androscoggin
SEWALL of Lincoln

— of the Senate.

Representatives:

RACINE of Biddeford
TELOW of Lewiston
MacBRIDE of Presque Isle
CONARY of Oakland
POULIOT of Lewiston

— of the House.

Minority Report of the same Committee reporting "Ought to Pass" in New Draft (S. P. 596) (L. D. 1718) on same Bill.

Report was signed by the following members:
Senator:

CLARK of Cumberland

— of the Senate.

Representatives:

MARTIN of Van Buren
MURRAY of Bangor
PERKINS of Brooksville
STEVENS of Bangor
BRANNIGAN of Portland

— of the House.

Came from the Senate with the Minority "Ought to Pass" in New Draft Report read and accepted and the New Draft passed to be engrossed as amended by Senate Amendment "A" (S-170)

In the House: Reports were read.

Mr. Brannigan of Portland moved that the Minority "Ought to Pass" Report be accepted in concurrence.

On motion of the same gentleman, tabled pending his motion to accept the Minority Report in concurrence and tomorrow assigned.

Messages and Documents

The Following Communication: (S. P. 601)
111th Maine Legislature

June 2, 1983

Honorable Richard Trafton

Honorable Barry Hobbins

Chair

Joint Standing Committee on Judiciary

State House

Augusta, ME 04333

Dear Chairs Trafton and Hobbins:

Please be advised that Governor Joseph E. Brennan today nominated David J. Soucy of Fort Kent for appointment as a Commissioner of the Worker's Compensation Commission.

Pursuant to Title 39 MRSA, Section 91, this nomination will require review by the Joint Standing Committee on Judiciary and confirmation by the Senate.

Sincerely,

S/GERARD P. CONLEY

President of the Senate

S/JOHN L. MARTIN

Speaker of the House

Came from the Senate read and referred to the Committee on Judiciary.

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

Orders

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

ORDERED, that Representative Allan L. Bonney of Falmouth be excused June 6 through June 9 for personal reasons.

**House Reports of Committees
Unanimous Leave to Withdraw**

Representative Murphy from the Committee on Education on Bill "An Act to Require Dismissal of State Employees Responsible for Abuse or Neglect to Patients, Clients or Students" (Emergency) (H. P. 1286) (L. D. 1704) reporting "Leave to Withdraw"

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

Ought to Pass in New Draft

Representative Jalbert from the Committee on Appropriations and Financial Affairs on Bill "An Act to Authorize the Department of Human Services to Operate a Grant Diversion Program for Recipients of Aid to Families with Dependent Children" (Emergency) (H. P. 977) (L. D. 1278) reporting "Ought to Pass" in New Draft (Emergency) (H. P. 1301) (L. D. 1725)

Representative Dexter from the Committee on Energy and Natural Resources on Bill "An Act to Amend the Authority of the Department of Environmental Protection to Identify Hazardous Waste" (H. P. 264) (L. D. 324) reporting "Ought to Pass" in New Draft (H. P. 1302) (L. D. 1726)

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

Ought to Pass in New Draft/New Title

Representative McCollister from the Committee on Agriculture on Bill "An Act to Create a Maine Potato Dealers' Licensing Board" (H. P. 1206) (L. D. 1605) reporting "Ought to Pass" in New Draft under New Title Bill "An Act to Amend the Maine Potato Dealer Licensing Law" (H. P. 1298) (L. D. 1723)

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

Divided Report

Majority Report of the Committee on Local and County Government on Bill "An Act to Change the Positions of County Treasurer and Register of Deeds from Elected to Appointed" (H. P. 1052) (L. D. 1396) reporting "Ought to Pass" in New Draft under New Title Bill "An Act to Permit Appointment of Registers of Deeds and to Involve the County Budget Committee in Certain Proposed Appointments" (H. P. 1303) (L. D. 1727)

Report was signed by the following members:
Senators:

TWITCHELL of Oxford
SHUTE of Waldo
ERWIN of Oxford

— of the Senate.

Representatives:

CURTIS of Waldoboro
WENTWORTH of Wells
DAGGETT of Manchester
WALKER of Skowhegan
McHENRY of Madawaska
ROBERTS of Buxton
BROWN of Gorham
BOST of Orono
ROTONDI of Athens

— of the House.

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

Report was signed by the following member:
Representative:

INGRAHAM of Houlton

— of the House.

Reports were read.

On motion of Mr. McHenry of Madawaska, the Majority "Ought to Pass" Report was ac-

cepted, the New Draft read once and assigned for second reading the next legislative day.

**Consent Calendar
First Day**

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

(S. P. 567) (L. D. 1642) Bill "An Act Relating to the Branding of Potatoes"—Committee on Agriculture reporting "Ought to Pass" as amended by Committee Amendment "A" (S-169)

(S. P. 556) (L. D. 1622) Bill "An Act Concerning Group Life Insurance for State Employees and Teachers" (Emergency)—Committee on Aging, Retirement and Veterans reporting "Ought to Pass" as amended by Committee Amendment "A" (S-168)

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

**Second Reader
Tabled and Assigned**

Bill "An Act to Establish County Budget Committees" (S. P. 592) (L. D. 1710)

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

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

Mr. CARTER: Mr. Speaker, could somebody from the committee explain to me just what this bill does?

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

The Chair recognizes the gentleman from Waldoboro, Mr. Curtis.

Mr. CURTIS: Mr. Speaker, Ladies and Gentlemen of the House: This bill to create county budget committees comes out of the 1982 Blaine House Conference on Local Relations. The bill transfers the budget approval authority from the legislature to municipal officials. Municipal officials would be on the county budget committee. There would be three municipal officials for each commissioner district, making up a board of nine. Those nine would have to vote on the approval of the budget.

The selection process for those municipal officials involves a weighted vote. The municipalities involve the officers of the municipality within a commissioner district, would caucus, would place in nomination names of the municipal officers within that district. Those names would then be referred to the commissioners who would prepare a printed ballot, which would then be distributed at a later time to each of the municipalities within that district. Those municipal officers, those boards of selectmen or councils would each vote as one on a weighted vote for three persons to represent them on the budget committee.

The control of the budget committee is a question that many people have had about it and where it is weighted with the total amount of the districts, no town would have more control, i.e. a large city, than its population would require. We requested an attorney general's opinion as to whether this in fact was proper procedure for selecting officers, and the opinion of the attorney general was that it was in fact legal.

Members of the committee worked very hard on this bill. We probably had as many as two dozen different workshops on it working with the Maine County Commissioners Association, Maine Municipal and other interested parties, the State Planning Office, and we feel that we have an opportunity here to reform county government in such a way that it will be more responsive to the people. Municipal officials that would be on the committee would have more time to be involved in the county budget process. They will know those social agencies which have come to them, to their towns for

monies, as well as to the county, and hopefully we will eliminate a lot of the duplication. Of course, a lot of the problems that we have had here in the legislature with county budgets have always been in reference to those agencies and the duplication of services, and so forth. I am sure you remember the problems we had here the first of April.

I certainly hope you will support this legislation.

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

Mr. CARTER: Mr. Speaker, Ladies and Gentlemen of the House: I would like to thank the good gentleman from Waldoboro, Mr. Curtis, for his explanation. It seems to me that the committee did, indeed, work very hard on this measure. However, I have to disagree on a point that the good gentleman has mentioned. He tells us that if we accept this document, that they would be "more responsive to the people."

If I read this document correctly, instead of being more responsive to the people, I think it takes the people completely out of the picture. The way I understand this document, the members of the budget commission will be selected by the municipal officers and the vote will be weighted, so it is possible that one area may have more weight than another. In my community, for example, we have seven councilors, the neighboring town only has three selectmen, but that doesn't really bother me too much. The thing that really disturbs me about this is that it looks to me like it is an old rehash of the charter commission that was passed in this House in June of 1977. The major difference between this draft and the charter commission is that this one here is mandatory. It forces the people to accept something that they have already indicated they do not want.

Let me read to you some of the comments that were in the record, the Horse Blanket, June 21, 1977, in reference to the Charter Commission which, I submit to you, was not mandatory but the entire debate was keyed to the fact that we should let the people back home decide. He is one, I believe he was chairman of the county committee at that time, Representative Henderson. "I promise you that this is the last county bill you will see as far as this kind of stuff is concerned. I would just like to point out to you what the difference is in this as compared to a lot of other so-called county reform bills. This is the most modest of all. It is merely to allow the people from the local areas in each county to vote, if they wish, for a charter commission, and if they did select such a commission, then that commission could propose a reorganization of the administration of the county." Then he goes on. "And I would like to ask anybody if they would want to put on record why they are opposed to letting people in their own areas vote on changing their county structure."

Another gentleman, in the same debate, he still sits in this House, and I quote: "I don't really think that all the directions need to come from up here in Augusta, I think it can come from back home and come from the voters. I feel this charter bill is the best thing that we have come up with."

Another speaker: "This is an opportunity to let the people themselves, not to legislate them, but let the people take a good look at their county government."

"What is the problem with anyone allowing their own constituents in any area the real freedom to vote whether they need a third government or not?"

Another speaker: "This bill, in a way, calls your bluff. If you are dissatisfied with county government and you don't like any of the other suggestions offered to you in this session or the last, then I feel there is no excuse but to let the counties decide what they themselves want to do." I suppose I could go on and on, but I think the point is clear.

The charter commission bill passed. Seven

counties elected to go the route of petition, put it on the local ballot, and it was defeated in six of those counties and one county accepted it by a very narrow margin, the county of Cumberland, and I understand that since then they have rejected the entire idea.

We have allowed the people the freedom of choice and we are not satisfied with what they are trying to tell us, so now we are going to ram it down their throats, we are going to say, you are going to buy this whether you like it or not and you are not going to have anything to say about it. This is democracy, ladies and gentlemen?

Mr. Speaker, I move that this Bill and all its accompanying papers be indefinitely postponed, and I ask for the yeas and nays.

The SPEAKER: The gentleman from Winslow, Mr. Carter, moves that this Bill and all its accompanying papers be indefinitely postponed.

The Chair recognizes the gentleman from Waldoboro, Mr. Curtis.

Mr. CURTIS: Mr. Speaker and Members of the House: Unfortunately, I was not a member of that legislature, as many of us here were not, the legislature that Mr. Carter of Winslow was referring to. It is important for us to remember that county government is a statutory government; we created it here in the legislature. Unfortunately, it is a third government; however, it is a third government which really seems not to have a home of its own.

The charter question which he referred to is not what we have before us here today. We have just one simple segment of it. Home Rule in the charter commission was a big question mark to many people in voting for it, and I am sure, as many of you know, when there is a lot that you question, you seldom vote for it. What we are talking about here is specifics, one simple facet of home rule in the approval of the budget.

Stop and think, the county tax does not appear on your state income or your sales tax, the county tax appears on the property tax bill when and if it ever shows up. It appears in your town report. Municipal officials are the ones that really get the grief for this. Also, do you really feel that you know all there is to know concerning county government when you are dealing with the budgets? Don't you feel that others might be a little bit more informed? In other words, wouldn't municipal officials be more informed and more able to deal with the county budget process?

I hope you will defeat the motion.

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

Mr. WALKER: Mr. Speaker, Ladies and Gentlemen of the House: In essence, this is a rather simple bill, it substitutes one group of elected officials for another group, us. It gets us out of this act and by so doing, it gives the control to residents of the county whose budget is being voted on.

As we are now, at least in my county I know this is true, only 70 percent of the people that vote on our budget are even residents of the county, and as I understand the redistricting plan, it is possible that two years from now there may be only four residents out of eleven people voting on Somerset County's budget. If this is fair representation, I can think of an awful lot more better forms of representation, because I happen to believe that people who vote on a subject should have a stake in the subject.

These local officials that are going to form this budget committee are probably elected by the most responsible electorate we have. These are the people that aren't brought out by nuclear referenda, they are not brought out by the moral majority or anything else, they are just there at the local election voting because they believe in good government, they believe in electing the people best able to represent them. They are not partisan, and, goodness knows, I

think we need some people concerned with the local budgets. One big advantage that I see is, it is going to force those local officials to take notice of an ever-growing segment of the local property tax.

Mr. Speaker, I ask for the yeas and nays on the motion to indefinitely postpone and I hope you will defeat it so this may be passed.

The SPEAKER: The Chair recognizes the gentleman from Belfast, Mr. Drinkwater.

Mr. DRINKWATER: Mr. Speaker and Members of the House: I think it is a well-known fact that I have supported every bill that has come before this legislature affecting county government. I have supported the delegations from each county on their budgets, from Aroostook to Cumberland, and the last time was Cumberland, of course, and I went with the majority from Cumberland County because I felt that they knew more about what they wanted than I knew down in Waldo, but we had quite a problem with that budget. It was sidelined for several days and it was sidelined not just by people from Cumberland but people from all over the state.

I firmly believe that this is a good idea and I firmly believe that if we hang onto what we have been doing, we are just saying to the people back home, we know more about what you want than you do. I think this is an excellent idea, to have the municipal officials from the commissioner districts pick their own people that they want to serve, and I notice they have struck out, if it ever was there, the fact that a town manager could serve because he is not elected. I was very glad to see that. The selectmen or municipal officials who were elected will be doing this and it will be a weighted vote and I think it would be a fair way and it would be done right in the area.

I heard some conversation here during the debate on the Cumberland budget that some of those towns hadn't had any input. Well, by golly, this way they will have input because each one of their districts would be represented, I believe, by three people and they would have that input. If there was something wrong and they didn't get their say, they had better go down and see those people elected and do something about it.

I feel quite strongly that we have got to do something as far as budgets are concerned at the county level. I would hate to see county government turned into a regional government with a pointed head. I would much rather see a budget committee supported by elected officials, and in this case, namely selectmen.

I hope you will vote to defeat the motion before you so we can vote in favor of this piece of legislation.

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

Mr. PARADIS: Mr. Speaker, Ladies and Gentlemen of the House: I wouldn't want the gentleman from Winslow to think that he is the only one against this bill this morning, because I can assure him that there are many good people in this House who share his feelings about this L. D. After reading it over the last several nights, I got the impression, men and women of the House, that this is in one part an attempt to reform the process by which all of us have to approve the different county budgets that are submitted to us by the County Commissioners, and no one in this House, I think, really enjoys that process, I don't think, any of the county chairs enjoys that process at all. It is a long, drawn out battle that we have to go through every winter.

The impression that I get from this document is that another layer of government would be involved, namely, the budget committees made up of the local selectmen, town councilors, city councilors, mayors, etc., who are qualified by this document to become members of the budget committee, another process, another layer in that process, would become involved and make recommendations

and then that would go to the state auditor, if I read the bill correctly.

I can see, after this bill is enacted, my city manager or one of my councilors saying, do you know that our town has gotten shafted on a particular portion of the county budget and we are not satisfied with this and we have a vote before the city council not approving, will you do something to represent your district on this? Would you put in a bill amending this budget document? I would feel as a legislator from my own city, as all of you feel from your own towns and cities, that I would have an obligation to listen to my people from home — another layer of government.

I see less public input because my own city is overwhelmed with their own budgetary process, with their own problems of taxation and school funding here in Augusta, having to tackle the problem of county budgets at the same time they are faced with their own city budget and having them say to me: Did you realize what you were doing last Winter when you passed this bill? Didn't you read the bill? Didn't you go through it?" I have a part-time city council, a part-time mayor. It isn't enough that I have to sit through two or three meetings a week going into that budget to do the work that I ran for, now I have to sit through another couple evenings a week during the months of January and February, perhaps March, and look through the county budget and listen to the people on the council and listen to the heads of my departments say—you know, there isn't anything in here for us, there isn't anything in that portion that deals with our problems. The county jail, we have a problem with the Department of Corrections, that is a state function, you better contact the state delegation from Augusta or from Portland or from Bangor or from Houlton. I hear all these problems in the back of my mind and it kind of scares me.

I wanted the good gentleman from Winslow to know that he isn't alone in having reservations about this bill. It may be a recommendation of the Blaine House Commission on Local and State Governmental Relations of last year, if I remember what the gentleman from Waldoboro said, and I think it is an honest attempt but I think it falls far short of being a real solution.

I hope that you will vote to indefinitely postpone this bill and all its papers.

THE SPEAKER: The Chair recognizes the gentleman from Orono, Mr. Bost.

MR. BOST: Mr. Speaker, Men and Women of the House: I ask for your support on L. D. 1710, An Act to Establish County Budget Committees. I am a cosigner of this legislation because I believe the need for county government and the effectiveness of county government have continually come into question in recent years.

It has been examined several times in the past decade by the legislature, by a special task force to the Governor and by the Blaine House Conference on State and Local Relations, as Representative Curtis has stated. The only apparent agreement is that the status quo is inadequate, something needs to be done.

I would concur with Representatives Walker and Curtis that the current procedure of legislative approval of county budgets presents several problems.

The funds for county services are to a large extent derived from the local property tax. Local governments collect the taxes but have no voice in how these funds are spent. The legislature has the prerogative to adjust county budgets and yet has no administrative or financial responsibility for the operation of county government. Added to this situation are elected county officials who must administer a budget which they have no responsibility for approving or collecting the revenues to implement it. The result, I believe, is often confusion, fragmentation and lack of accountability. Prior efforts at reforming county govern-

ment and existing statutes allowing greater county autonomy have been unsuccessful. This is in large part due to our history of strong municipal home rule. The solution presented here today is to reinforce the strong home rule sentiment of local elected officials by bringing them into the decision-making process. I believe it is a modest, achievable and a practical proposal and will bring immediate and positive results.

Specifically, we are asking that control of the county budget be granted to a committee comprised of local elected county officials. These budget committees will be established in each county. This process is not perfect but it does reflect a compromise. Certainly, it is an improvement over the existing situation. The favorable opinion by the Attorney General's Office should alleviate the concerns of those who question the constitutionality of this process.

A budget process is also outlined in this legislation, the budget process includes the setting up of a preliminary budget by the Commissioners, review and revision by the budget committee, public hearing and notification procedures, budget adoption and an amendments procedure.

I believe that this legislation is the best solution. It is by no means a new approach. Advisory budget committees already exist in some counties, as has already been stated, and seem to be working quite well. I believe this legislation will allow county government to be responsive to local needs and to better serve communities and constituents. It is a modest change; however, if counties are to serve as useful governmental entities, some change, I believe, is necessary. This legislation does not serve to aggrandize county government, rather it brings together the decision-making responsibility for county expenditures with the taxing authority. Who can better decide what the county should or should not do than those responsible for raising the revenue.

I urge your favorable consideration of this legislation, I believe it to be a very fair route to go.

MR. CURTIS of Waldoboro was granted permission to speak a third time.

MR. CURTIS: Mr. Speaker, Ladies and Gentlemen of the House: Just to address several points that Representative Paradis of Augusta made, with regard to another layer of government, replacing the legislative delegation by a municipal budget committee does not create another layer of government. They are going to assume the function that we have and they are already elected officials.

There is no requirement that a municipal official be on the budget committee; he does so by choice, he has to be nominated, and to be nominated he has to want the position.

As far as amending the budget, once approved by the budget committee and sent to the state auditor, I believe that the legislature would no longer have the prerogative of having the budget amended.

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

MR. McHENRY: Mr. Speaker, Ladies and Gentlemen of the House: I certainly hope that you do not indefinitely postpone this bill. I look at the bottom line in this bill and to me this bill says it is more of a local control and it is going to be interpreted in a year or two as savings on the property taxes of our constituents.

I hope that you do not indefinitely postpone this bill. If you do not, I have an amendment which I will present to clear up some technicalities.

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

MR. CARTER: Mr. Speaker, Ladies and Gentlemen of the House: My good friend from Belfast, Representative Drinkwater, keeps reaffirming a stand which I heartily believe in—let the people back home decide. I think for once we

ought to do just that. There is a bill, the committee has kept it bottled up waiting to see what might happen to this bill, and I would urge you to put this one to sleep gracefully so we might have the other bill that truly lets the people decide what they want to do.

I don't want to take any pot shots at the members of the County Government Committee, but in all the years that I have served here and a bill has appeared on the docket that someone in the association believes that it might affect county government adversely, we have a strong organization that springs out of nowhere, an organization that is funded in part by dues paid by the county government to the association, and they in effect are lobbying against the people with their own money. I suspect the reason that a legislative document that would allow the people, truly allow the people, the right of self-determination is put aside because they are afraid of their worst fear, that the people might go along with the proposal.

Let me clear up another point that has been made here that some of us, I guess, are not aware of. We keep referring to county government as a government, but let me reiterate again that county government is no government at all. It is a misnomer and the word government should not be used and I will tell you why.

For example, Webster's Dictionary defines government and I quote: "The political function of policy making as distinguished from administration of policy decisions." In other words, county government should have the right of self-determination, but this very basic element is missing under our form of county government except for the right to form a charter commission, which they have soundly rejected, yet we refuse to hear them.

County government cannot, and I repeat, cannot do anything unless specifically authorized by this legislature. It is not a government, they are nothing but paid administrators. What we are going to do if we adopt this document is take our supervisory role that we have now and pass it on, not to the people but to elected local officials who will elect their own members to this commission. In essence, it is the same type that would operate under a charter commission, except in this case the people won't have a choice, it is being rammed down their throat.

Let me make one more final point. Reference has been made that this document, and it is in the Statement of Fact, is the result of the Blaine House Conference on State and Local Relations. I submit to you that the original document was but not this one. This is nothing but a rehash, a mandatory rehash, of what the people have already rejected.

I would urge this House to go along with the motion to indefinitely postpone and wait for the next bill to come out of Local and County Government that will put this question to referendum and for once, we might let the people decide.

THE SPEAKER: The Chair recognizes the gentleman from Madison, Mr. Richard.

MR. RICHARD: Mr. Speaker, Ladies and Gentlemen of the House: It has already been expressed here this morning that there are a great number of us who haven't felt completely at ease in dealing with county budgets. I, for one, who makes an attempt to find out all that we can about it still finds it very difficult to go through this process.

Secondly, I found it extremely difficult when county budgets came on the floor this year to make a decision of which side I was going to be on on a county which I had no knowledge of any of the background on it and so forth and I was asked to make a decision, to choose sides. I, too, didn't like that process, so I would urge you, very definitely, not to indefinitely postpone this bill.

THE SPEAKER: The Chair recognizes the

gentleman from Madawaska, Mr. McHenry.

Mr. McHENRY: Mr. Speaker, Ladies and Gentlemen of the House: I don't wish the House to be misled by Representative Carter's statement that we are setting up a body here that will legislate and create laws and control county government, that is not true. What we are setting up here is a budget approval committee which is made up of municipal officials. Who else knows better than they do? They know a lot better than I do, I am sure, they know where their money is coming from and they know who is going to have to pay the bills. They cannot legislate anything. We still are going to be the legislators. If they don't like any functions of county government, we can eliminate or add on to it but they will not, don't be misled by that.

The SPEAKER: The Chair recognizes the gentlewoman from Gorham, Ms. Brown.

Ms. BROWN: Mr. Speaker, Ladies and Gentlemen of the House: I would also urge you to not indefinitely postpone this measure this morning. The Local and County Government Committee has put a lot of work into this and I was a member of the Cumberland County Charter Commission with Representative Masterton that was defeated when it went out for the people to vote on, but I believe there were several reasons why it was defeated. I don't think there was enough publicity on what was going on and the people really didn't pay enough attention to what the charter commission had recommended. The vote was taken at the time of the June primary, which I think didn't have enough people out to vote.

I would just like to make another comment about what Representative Carter just mentioned. He did say there was a bill left in Local and County Government and I will tell you what that bill is—and he is a proponent of it—to abolish county government. I would like to know where he thinks county government is going if he abolishes it? Is the state going to take it over? Would that be more satisfactory to the people, to have the state take it over? Don't you think the municipal officers are more capable of this control over the local property tax? To me, that is where it should go. I know that my own local officials worked very closely with the county budget and I think they would be happy to have more control.

The SPEAKER: The Chair recognizes the gentleman from Belfast, Mr. Drinkwater.

Mr. DRINKWATER: Mr. Speaker, Ladies and Gentlemen of the House: I rise the second time on this issue just to bring one point out, that I, as one member of my delegation, I am not speaking for the rest of them, only myself, have no problem with the elected officials in my county sitting on the county budget. As a matter of fact, I like it much better than somebody from other counties who know nothing about it. I have no trouble not sitting on that budget, because I think the elected officials within the county probably are more knowledgeable of each town in their district than I am.

The SPEAKER: The Chair recognizes the gentleman from Harrison, Mr. Jackson.

Mr. JACKSON: Mr. Speaker, Ladies and Gentlemen of the House: I have been listening intently this morning to the debate that has been generated here concerning this approach to arranging for a budget for the counties. This problem is not new, as many of you probably recognize. I can recall when I served in the other body, I was Chairman of the Local and County Government Committee at that time, that we had several proposals in trying to relieve the problem of the legislature approving the budgets when 90 percent of the money for those budgets was generated at the local level and the only input at the local level at that time was from the County Commissioners.

I am concerned with the piece of legislation that is before us but I am going to vote to support that legislation. I am concerned at the statement that was made a little earlier that it

wasn't the intent of this budget committee to have so-called legislative power, but in looking at another document which came across our desks this morning, L. D. 1727, I noticed in that document that the county budget committee does have authority to abolish positions, namely the register of deeds and the treasurer's position.

I do think the concept is a good concept, I think it is long overdue. I am a true and firm believer that the closer you can get that operation back to the people, that is important because that is where the money comes from, the money to run county government, that makes it operate, and therefore I am going to support the bill this morning. I think it is something that we should look at, because when this other document comes through, I think we gave it its first reading this morning, I think we should take a long, hard look at that document.

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

Mr. PARADIS: Mr. Speaker, Ladies and Gentlemen of the House: I just wanted to correct what might be perceived as a misconception. The gentledady has referred to Representative Carter's bill as an L. D. that would abolish county government; I would like to correct that. The L. D. states "An Act to Provide a Referendum." It would be the people who would vote on whether or not county government should continue to exist in the way that it is. I think that is an important difference.

The second thing I would like to bring to the attention of this House is that if you would look at the original L. D., L. D. 1347, it does differ substantially from the L. D. that is before us today. And when the gentleman from Winslow states that L. D. 1710 is a result of—when he questions that L. D. 1710 is the result of the Blaine House Conference, I would concur with him, I questioned it too. I can see where L. D. 1347 might be in its original form. The way it came out of committee, I am surprised that it could claim any relation to L. D. 1347.

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

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

The SPEAKER: The pending question is on the motion of the gentleman from Winslow, Mr. Carter, that this Bill and all its accompanying papers be indefinitely postponed. All those in favor will vote yes; those opposed will vote no.

ROLL CALL

YEA—Allen, Andrews, Baker, Bell, Brodeur, Brown, K.L.; Carroll, G.A.; Carter, Chonko, Clark, Connolly, Dexter, Foster, Hall, Handy, Hayden, Hickey, Hobbins, Jacques, Jalbert, Joseph, Joyce, Kane, Kelleher, Kelly, Kilcoyne, Lehoux, Lewis, Lisnik, MacBride, Martin, H.C.; McCollister, McPherson, McSweeney, Michaud, Mitchell, E.H.; Moholland, Murphy, T.W.; Nadeau, Norton, Paradis, P.E.; Parent, Pouliot, Reeves, J.W.; Reeves, P.; Ridley, Rolde, Smith, C.W.; Sproul, Stevens, Strout, Telow, Theriault, Tuttle, Weymouth, The Speaker.

NAY—Ainsworth, Anderson, Armstrong, Beaulieu, Bonney, Bost, Bott, Brannigan, Brown, A.K.; Brown, D.N.; Cahill, Callahan, Carroll, D.P.; Cashman, Conary, Cooper, Cox, Crouse, Crowley, Curtis, Daggett, Davis, Day, Diamond, Dillenback, Drinkwater, Erwin, Gauvreau, Greenlaw, Gwadosky, Higgins, H.C.; Higgins, L.M.; Holloway, Ingraham, Jackson, Kiesen, LaPlante, Lebowitz, Livesay, Locke, MacEachern, Macomber, Manning, Martin, H.C.; Masterman, Masterton, Matthews, K.L.; Matthews, Z.E.; Maybury, Mayo, McGowan, McHenry, Melendy, Michael, Mitchell, J.; Murphy, E.M.; Murray, Nelson, Paradis, E.J.; Perry,

Pines, Racine, Randall, Richard, Roberts, Roderrick, Rotondi, Scarpino, Sherburne, Small, Smith, C.B.; Soucy, Soule, Stevenson, Stover, Swazey, Tammaro, Vose, Walker, Webster, Wentworth, Willey, Zirkilston.

ABSENT—Benoit, Carrier, Connors, Cote, Dudley, Ketover, Mahany, Paul, Perkins, Salisbury, Seavey, Thompson.

Yes, 56; No, 83; Absent, 12.

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

The pending question is on passage to be engrossed.

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

House Amendment "A" (H-329) was read by the Clerk.

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

Mr. McHENRY: Mr. Speaker, Ladies and Gentlemen of the House: All this amendment does is take care of Section 6 in the bill, which is already a bill that we enacted in the Legislature, and it changes the word 'weighed' to 'weighted.' Also, in section 2, resectioning, it describes the responsibility of the budget committee.

Thereupon, House Amendment "A" was adopted.

Mr. Cooper of Windham offered House Amendment "B" and moved its adoption.

House Amendment "B" (H-330) was read by the Clerk.

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

Mr. HIGGINS: Mr. Speaker, I would like to pose a question to the gentleman from Windham if he would explain to us how this is going to change the process.

The SPEAKER: The gentleman from Scarborough, Mr. Higgins, has posed a question through the Chair to the gentleman from Windham, Mr. Cooper, who may answer if he so desires, and the Chair recognizes that gentleman.

Mr. COOPER: Mr. Speaker, the bill as written requires the majority vote of the elected officials present at the caucus in order to get your name on the ballot, this is just at the caucus, not the actual vote, and it is my feeling that an amendment should not require a majority of the people present just so your name can appear on the ballot. That majority should take place during the actual vote. This amendment simply lowers that to say that all you need is 10 percent of those present in order to get your name on the ballot.

Thereupon, House Amendment "B" was adopted.

Mr. Carter of Winslow moved that this be tabled for one legislative day.

Whereupon, Mr. McHenry of Madawaska requested a vote.

The SPEAKER: The pending question is on the motion of the gentleman from Winslow, Mr. Carter, that this be tabled for one legislative day pending passage to be engrossed as amended in non-concurrence. All those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

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

Orders of the Day

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

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

An Act Concerning Confidential Records and State Certification of Educational Personnel (Emergency) (S. P. 583) (L. D. 1691)

Tabled—June 2, 1983 (Till Later Today) by Representative Locke of Sebec.

Pending—Motion of same gentlewoman to Reconsider Passage to be Enacted.

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

On motion of Mrs. Locke of Sebec, tabled pending passage to be enacted and specially assigned for Monday, June 6.

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

JOINT ORDER—Relative to Joint Rule 21—Committee Fiscal Impact Statements (H. P. 1297) (H. "A" H-321)

Read in House June 2.

Tabled—June 2, 1983 by Representative Mitchell of Vassalboro.

Pending—Passage as amended.

Thereupon, the Order received passage as amended and was sent up for concurrence.

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

HOUSE DIVIDED REPORT—Majority (10) "Ought to Pass" as amended by Committee Amendment "A" (H-317)—Minority (3) "Ought Not to Pass"—Committee on Taxation 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)

Tabled—June 2, 1983 by Representative Mitchell of Vassalboro.

Pending—Acceptance of Either Report.

On motion of Mrs. Mitchell of Vassalboro, retabled pending acceptance of either Report and specially assigned for Monday, June 6.

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

SENATE REPORT—"Ought to Pass" as amended by Committee Amendment "A" (S-165)—Committee on Local and County Government on Bill "An Act to Clarify the Law Concerning Certain Appeals from Planning Board Decisions" (Emergency) (S. P. 503) (L. D. 1519)

Tabled—June 2, 1983 by Representative Diamond of Bangor.

Pending—Acceptance of Committee Report.

Report was accepted in concurrence and the Bill read once. Committee Amendment "A" (S-165) was read by the Clerk and adopted in concurrence and the bill assigned for second reading the next legislative day.

The Chair laid before the House the fourth 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 2, 1983 by Representative Hobbs of Saco.

Pending—Passage to be Enacted. (Roll Call Ordered)

On motion of Mrs. Mitchell of Vassalboro, retabled pending passage to be enacted and specially assigned for Monday, June 6.

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

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

Tabled—June 2, 1983 by Representative Mitchell of Vassalboro.

Pending—Passage to be Engrossed.

On motion of Mr. Carroll of Limerick, tabled pending passage to be engrossed and specially assigned for Monday, June 6.

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

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—June 2, 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 gentlewoman from Pittston, Mrs. Reeves.

Mrs. REEVES: Mr. Speaker and Members of the House: I urge you to vote against recede and concur so that we can adhere and kill this bill.

I think there are two reasons for this bill and one is to do the job that the referendum could not do because it lost, which is to undermine the powers of the Milk Commission which were reaffirmed by the referendum. If you look around you in the halls and you see who is supporting this bill, it is the same people who supported the referendum, and that referendum was financed by Cumberland Farms.

Cumberland Farms wants the public advocate to intervene before the Milk Commission so that they won't look like the bad guys. The public advocate's office will tie up the Milk Commission in court, forcing additional legal fees, doing just the opposite of the will of the people which was expressed in the milk referendum.

Cumberland Farms is always saying that they represent the consumers, and if you think that Cumberland Farms represents the consumers, vote for this bill because this is the Cumberland Farms legal assistance bill.

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

Mr. KELLEHER: Mr. Speaker, Ladies and Gentlemen of the House: My dear Mrs. Reeves, this bill that is before this House today did not come from Cumberland Farms, for your information, it came from Governor Brennan's office, not Cumberland Farms' office. You know, I really like your style and your approach to this—if you can't kill it with fact, then try to drag somebody else in to do it that people may or may not like. This is not a bad argument; however, it doesn't really hold water.

This bill went before the Agriculture Committee and I was asked to be one of the sponsors. I was delighted to because it gave more representation for the general public before the Maine Milk Commission—simple as that. If Mrs. Reeves doesn't want the public to have that much of an opportunity, so be it to her and her constituents, but my constituency is just a little bit different, and I think there is safety in numbers, no matter how you add them up.

In regards to going before the Maine Milk Commission, there are limitations on what that commission can do based on argument after the fact of their own investigation, and this is just another way for Maine citizens to be represented before the Maine Milk Commission. Who is afraid of what the public advocate is going to do? This guy or this operation will be doing just what it does before the PUC, and as Mrs. Reeves so well stated the other day, it has saved the consumers a great deal of money. I think in the long run, with that kind of attitude, the Maine people will be far better served if in fact there was a public intervenor going before the Maine Milk Commission.

I ask this House to support the gentleman from Auburn, Mr. Michael's, motion to

reconsider.

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

Miss LEWIS: Mr. Speaker, Ladies and Gentlemen of the House: What this bill does is, it creates another person to do something that is already supposed to be done. Already the Maine Milk Commission is supposed to be looking after consumer interests and, in fact, has consumer members on that board.

In every Legislature, we seem to have a bill which can best be described by turning to our childhood roots, so I would like to read to you again something that has been read into the Legislature Record several times before. This comes from Dr. Seuss.

"Oh, the jobs people work at. Out west near Hotch-Hotch, there's a hotch-hotch bee watcher. His job is to watch, to keep both his eyes on the lazy town bee; a bee that is watched will work harder, you see. Well, he watched and he watched but in spite of his watch, that bee didn't work any harder, not much. So then somebody said, our bee watching man just isn't bee watching as hard as he can. He ought to be watched by another hotch-hotcher. The thing that we need is a bee watching watcher. Well, the bee watching watcher watched the bee watcher watcher and he didn't watch well, so another hotch-hotcher had to come in as a watch watcher. And today all the hotch-hotchers who live in Hotch-Hotch are watching the watch watcher watch watching the watcher who is watching that bee." We don't want to do this in state government; please vote against the motion to recede and concur.

The SPEAKER: The Chair recognizes the gentleman from Stockton Springs, Mr. Crowley.

Mr. CROWLEY: Mr. Speaker, Ladies and Gentlemen of the House: I am not going to mention the Governor's office because I was told I shouldn't do that on the floor a few weeks ago.

I would like to read about the present organization we have now called the Milk Commission. In 1975, the law was completely amended requiring the commission to be comprised of four consumer members and the Commissioner of Agriculture ex officio, and I think that alone speaks for itself. We have enough consumers there now to handle the job.

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

Mr. ROLDE: Mr. Speaker, Ladies and Gentlemen of the House: I would like to pose a question to anybody who can answer. I would simply like to ask, how much is this public advocate going to cost and who is going to pay for it?

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

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

Mr. SHERBURNE: Mr. Speaker, Ladies and Gentlemen of the House: The public advocate is going to cost \$30,000 a year. This is going to be taken out of the milk dealers at one cent per hundredweight. Now, a hundredweight of milk consists of almost 12 gallons. In order for that milk dealer to recoup this cost, he would have to put the price of milk up at least one cent on that gallon. If his cost is only one-twelfth of one cent a gallon and he puts his cost up the total one cent, I think this, right off quick, would be a case for the public advocate to come in.

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

Mr. BAKER: Mr. Speaker and Members of the House: I am going to be somewhat long winded this afternoon, so those of you who care not to listen, you need not; those of you who do want to listen, I have a few words I would like to say about this particular piece of legislation. I am going to be very honest with you, I am going to open up my soul to you. Frankly, I don't care how you vote, I am going to tell you why I am going to vote the way I am going to vote, I feel I

must. That is the most irrational reason I can think of.

I suspect that by getting up here and taking a position, I am sure that at least two-thirds of you will wind up voting the other way, but, unfortunately, I am a little too sensitive, probably a little bit more sensitive than I should be to be here. I am not as thick-skinned as most of you.

Two years ago—a little late this time on this one, I should have delivered this speech two years ago. Two years ago, as many of you remember, I voted to allow the commission time to reset the price of milk. I did this knowing full well that I was fighting against the majority of my constituents, I did this knowing that because I felt there was something more important than simply me looking good in front of my constituents. I felt that it was very important to maintain the health of the dairy industry. I have no dairy farmers in my district, I have no cows, but I felt that it was too important and so I voted the way I did.

I supported legislation that would allow workers to have notification when the plants were going to shut down and leaving them without a place to look for work. I have been in favor of import quotas for shoe workers. How could I then turn around and say, okay, let the courts strike down the order and let the farmers fend for themselves? I couldn't do that in good conscience.

A couple of weeks afterwards the big ad came in the Maine Sunday Telegram. This ad listed those who were pro-consumer voters and those who were anti-consumer voters, and that was sponsored by your friends, Cumberland Farms. I wish I had that kind of money so I could have rebutted that position. If you would look at the ad, I have reproduced a copy here so I could look at this during the debate, you will find, interestingly enough, Harlan Baker, Democrat, Portland, listed under the anti-consumer list—there you go. I am anti-consumer, there is nothing I can do about it, I am afraid, I am pegged as anti-consumer, it is in print, it went out all over the Sunday Telegram, it appeared everywhere—okay, fine, so be it!

I was going to support the bill initially, and then—I know who sponsored the bill, the Governor did sponsor the bill, and I also know who has been lobbying the bill and it might be unfair to bring that up and it might not be a rational decision to make, but, ladies and gentlemen of the House, I know I would be bantered about the Sunday papers the way I was bantered about two years ago, and I have a long memory, I don't know what kind of response this is going to provoke from some of you, it might be pretty hostile, but I don't like people that yell at me, there is only one person who has a right to yell at me and that is my father, he has passed away—all right, you have heard enough from me today.

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

Mr. DILLENBACK: Mr. Speaker, Ladies and Gentlemen of the House: I just want to tell Mr. Baker that he was in fine company. I think I joined him and many others. It was probably the best company he has been in for a long time.

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

Mrs. MARTIN: Mr. Speaker, Ladies and Gentlemen of the House: I agree with Mr. Sherburne that it is going to bring the milk up one cent a gallon. I heard on the TV last night, on the news, that the federal government is going to put another tax on the dairy farmers because they are producing too much milk. So with a tax from the federal government and an increase for the milk, your milk is going to increase 3 to 4 cents a quart.

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

Mr. SMITH: Mr. Speaker, Ladies and Gentle-

men of the House: The committee gave us a majority "ought not to pass" report 7 to 5. I don't believe the advocate is needed and I hope you will defeat the motion before us.

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

Mr. MCCOLLISTER: Mr. Speaker, Ladies and Gentlemen of the House: There is no denying that the Milk Commission is made up of consumers, but by law, when they are rendering a decision on milk pricing, they can only consider that evidence that has been presented to them, not what they believe to be true. This will certainly bring about a court suit against them if they render a decision based on something that has not been presented to them in a formal fashion.

The public advocate will give the public an opportunity to have all the facts presented to the commission so they can consider it. The only reason why I signed this out was so all the facts could be presented and be considered by the Milk Commission.

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

Mr. MICHAEL: Mr. Speaker, Ladies and Gentlemen of the House: I want to re-emphasize exactly what the gentleman from Canton said, that there is currently no consumer representation before the commission, although technically the commissioners are consumers. As he said, the commission has to accept the information that is presented to the commission and base its decision on that information. So even if they have a particular opinion going into a hearing, they can't use their own opinion or even their own information they have gathered over the years to come to conclusions, it has to be presented at the hearings, and the only people you have showing up at the hearings are the attorneys from the dairies, essentially, different dairies, on whatever side of the issues. There is no consumer representation there now, you should know that when you make your decision on this bill.

I was a little bit offended when the gentleman suggested that the people opposed to the Milk Commission were supporting this bill; in fact, it doesn't even come together logically. As you recall, a couple years ago we overruled a Governor's veto and it had to have been at least two-thirds of us on the same side of that issue. On this bill, there are probably a few people in the room who do not support the commission. I think most people in this room finally support that Milk Commission, and that was proven in the last referendum also.

This is not a bill that opponents of the Milk Commission are supporting. This is a bill that in a way supporters of the Milk Commission are supporting. I think the Milk Commission has to hold up the decisions it makes, and one way to insure that the decisions that come out of the Milk Commission are appropriate decisions is to have a public advocate bring that information and come before the commission. Then they can make intelligent decisions. Without that side of the issue delivered to the commission, there is no way they can make an intelligent decision.

In terms of the cost and the alleged allegation that the price of milk will go up one cent, that is theoretically possible, that the price of a gallon of milk will go up a penny, but understand that this bill says that there will be one cent per hundredweight added to the cost of milk, and that is several gallons, I think it is about 10 gallons. If you increase the price of a gallon of milk one-twelfth of a cent, theoretically that might put you over the edge where you would have to increase the gallon a penny, but not necessarily, and in the long run it would all come out in the wash. I don't want you to be misled or tricked or fooled into voting against this bill; vote for this bill based on the information, whether or not you want the commission to have a consumer point of view presented to it because it has none now.

One last point. It was brought up in the discussion of this bill that no consumer advocate group in this state is effective; there is one in Lewiston but they never show up at the milk hearings; there is one in Bangor but you never hear from them, so the consumers in the state are extremely unorganized and this public advocate will be the only opportunity to get that point of view before the commission; that is what we are up to here.

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

Mr. BROWN: Mr. Speaker, I would like to pose a question to either the gentleman from Canton, Mr. McCollister, or the gentleman from Auburn, Mr. Michael. You have made good arguments relative to the consumers not being represented before the commission and I am a little confused. Is there anything presently that prohibits any single consumer or any consumer group from presently appearing before the commission?

The SPEAKER: The gentleman from Livermore Falls, Mr. Brown, has posed a question through the Chair and the Chair recognizes the gentleman from Auburn, Mr. Michael.

Mr. MICHAEL: Mr. Speaker, obviously there is not anything that prohibits a consumer, an individual such as you and I or anyone from the general public, from appearing before the commission, but as I just said, the consumer groups essentially don't show up because probably they don't have the money and the resources to understand the issue, and I have said that most people in this room, myself included, don't fully understand the workings of that Milk Commission, and the average person from the general public certainly doesn't. That is our job, to make sure that they are represented.

I want my good friend from Livermore Falls to know that the dairies have plenty of representation. In fact, they are up here lobbying both sides of this bill right now. They are well represented before the Milk Commission.

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

Mr. KANE: Mr. Speaker, Ladies and Gentlemen of the House: With regard to Mr. Brown's question, I think the only thing preventing somebody from showing up and putting forth their point of view on milk is because most people have to work for a living if they are consumers.

This bill is not really a question of supporting the Maine Milk Commission, I think everybody in this body agrees that that question was settled resoundingly during the last election, but I just want to emphasize that although there are consumer members on the board, those people are prohibited by the Administrative Procedures Act to consider anything except what was put in front of them. They are the triers of fact in their hearings and all that they can consider in making decisions is the evidence that was put before them. They can't consider what their brother-in-law told them or what the fellow at the store told them, they have to go according to the hearing.

The dairies right now—and we have had a couple of bills this session where dairies obviously don't agree with each other, one trying to compete with another via legislation, and as far as Cumberland Farms goes and all this broad-brush guilt by association, the fact of the matter is, Cumberland Farms is always handsomely represented before the Maine Milk Commission. It may well be that the consumer interest is not that of Cumberland Farms, and I think if that were the case, then the public advocate would represent the consumer rather than having Cumberland Farms going around saying that they are representing the consumer.

The fact of the matter is, although there are people who have been able to make their life's work out of representing the consumer before the Public Utilities Commission, there is no one

who has been able to make a life's work out of representing the consumer before the Maine Milk Commission and therefore we ought to pass this bill and provide for that representation.

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

Miss LEWIS: Mr. Speaker, Ladies and Gentlemen from the House: My colleague from Auburn has suggested that only lawyers are showing up at the current meetings of the Milk Commission. I would like to point out to him, as all of us who are members of the Public Utilities Committee know, the public advocate's office is an office of lawyers, so we would just be adding more lawyers into the system if we pass this bill.

Please vote against the motion.

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

Mr. MICHAEL: Mr. Speaker and Members of the House: The gentlewoman is correct; however, at least the attorneys that will be showing up from the public advocate's office will be representing the consumer's point of view, which heretofore has not been represented. I am glad the gentlelady stood up because I knew there was one point I forgot to cover earlier in my discussion, and that was that I think what she said before had something to do with mocking the whole regulatory process. I want you to know that this is one issue you can't complain about, because I think the traditional people who are opposed to regulation over the years wanted the Milk Commission in; the people who were traditionally in favor of regulation has been opposed to it over the years, so this is one where the whole thing gets turned topsy-turvy.

The SPEAKER: The Chair recognizes the gentlewoman from Sebec, Mrs. Locke.

Mrs. LOCKE: Mr. Speaker, Men and Women of the House: I want to explain to you why I signed the "ought not to pass" report. When the advocate, the person who would be serving in the position of advocate before the Maine Milk Commission appeared before our committee at the public hearing, I asked him what he would do if his views came in conflict with the policy of the office from which he would be coming from—I cannot mention the name—the office from which this person is connected directly is the policy that that person has to work under, he told us that, and I asked him what he would do if he came in conflict, if he took everything into consideration before the Maine Milk Commission and disagreed with the policy of that office, and he said he would step down. Now, before a person steps down, gives up a job that pays pretty well these days, one would be trying to reconcile, I think, between the policy and one's opinion. I don't think this would be very good for the consumer, and that is why I didn't sign the "ought to pass" report.

The SPEAKER: A roll call has been ordered. The pending question is on the motion of the gentleman from Auburn, Mr. Michael, that the House recede and concur. All those in favor will vote yes; those opposed will vote no.

ROLL CALL

YEA—Ainsworth, Beaulieu, Bott, Brannigan, Brodeur, Carter, Cashman, Clark, Conary, Cooper, Cox, Diamond, Erwin, Gauvreau, Hall, Handy, Hayden, Hickey, Higgins, H.C.; Hobbins, Jacques, Joseph, Joyce, Kane, Kelleher, Kelly, Kilcoyne, Lehoux, Lisnik, MacEachern, Macomber, Manning, Mayo, McCollier, McGowan, McHenry, McSweeney, Michael, Mitchell, E.H.; Mitchell, J.; Moholland, Murray, Nadeau, Nelson, Norton, Paradis, P.E.; Pouliot, Racine, Roberts, Rotondi, Soucy, Stover, Swazey, Tammaro, Telow, Tuttle, Vose.

NAY—Allen, Anderson, Andrews, Armstrong, Baker, Bell, Bonney, Bost, Brown, A.K.; Brown, D.N.; Brown, K.L.; Cahill, Callahan, Carroll, D.P.; Carroll, G.A.; Chonko, Connolly, Crouse, Crowley, Curtis, Daggett, Davis, Day, Dexter,

Dillenback, Drinkwater, Foster, Greenlaw, Gwadosky, Higgins, L.M.; Holloway, Ingraham, Jackson, Jalbert, Kiesman, LaPlante, Lebowitz, Lewis, Livesay, Locke, MacBride, Martin, A.C.; Martin, H.C.; Masterman, Masterton, Matthews, K.L.; Matthews, Z.E.; Maybury, McPherson, Melendy, Michaud, Murphy, E.M.; Murphy, T.W.; Paradis, E.J.; Parent, Perry, Pines, Randall, Reeves, J.W.; Reeves, P.; Richard, Ridley, Roderick, Rolde, Scarpino, Sherburne, Small, Smith, C.B.; Smith, C.W.; Soule, Sproul, Stevens, Stevenson, Strout, Theriault, Walker, Webster, Wentworth, Weymouth, Willey, Zirkilton.

ABSENT—Benoit, Carrier, Connors, Cote, Dudley, Ketover, Mahany, Paul, Perkins, Salisbury, Seavey, Thompson, The Speaker.

Yes, 57; No, 81; Absent, 13.

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

Thereupon, the House voted to adhere.

The Chair laid before the House the seventh tabled and today assigned 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" in New Draft (S. P. 570) (L. D. 1646) Report read and accepted and the New Draft passed to be engrossed.

Tabled—June 2, 1983 by Representative Joyce of Portland.

Pending—Motion of same gentleman to accept the Minority "Ought Not to Pass" Report.

Mr. Joyce of Portland requested permission to withdraw his motion to accept the Minority "Ought Not to Pass" Report, which was granted.

On motion of the same gentleman, the Majority "Ought to Pass" 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 eighth tabled and today assigned matter:

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

Tabled—June 2, 1983 by Representative Brodeur of Auburn.

Pending—Motion of same gentleman to Reconsider Passage to be Enacted.

On motion of Mr. Brodeur of Auburn, retabled pending his motion to reconsider and specially assigned for Monday, June 6.

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

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

Tabled—June 2, 1983 by Representative Diamond of Bangor.

Pending—Passage to be Engrossed.

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

House Amendment "B" (H-332) 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: This bill that was heard by the Health and Institutional Services Committee in actuality, I think, and I believe even members of the committee would agree, it really is an election laws bill, and without getting involved in the way in which the question of whether or not to fluoridate public water supplies, how that existed prior to this legislation, at least at this point is unnecessary. However, the concern that I have over this is one of home rule, and the amendment that I have

offered says that in addition to a majority of voters of the district served by the multi-community water district, that also a majority of the towns must have voted affirmatively as well. The situation I am trying to address is the one in the greater Portland area where the people of Portland control a great deal of the votes, certainly, in that district. Members of my community are concerned that a positive vote by the metropolitan area is going to really negate any chances that the rural areas have in this issue.

The amendment I have offered simply says that in addition to a majority that a majority of the communities as well must be in favor in an attempt to eliminate the over-dependence, if you will, on the larger communities.

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

Mrs. NELSON: Mr. Speaker, Men and Women of the House: I would hope that you would vote to defeat this amendment because this amendment basically guts the entire intent of the bill as it is redrafted.

The committee, in a unanimous report out of committee, dealt with the real problem, which was, as Representative Higgins has stated, the procedure. It is simply a matter of justice and procedure.

Right now, we have a referendum vote that says the majority rules. We feel that way with milk, we feel that way with radiation, we deal with those issues that way in the House, we deal that way with referendums in the Constitution. Why should it be any different a procedure on this issue? In fact, this is asking for two bites of the apple.

Let's take Augusta instead of Portland, because I know that is a buzz word around here, Portland. Let's say Augusta, which has 21,819 people living in that community, and they are voters and those are the people who are voting and they vote no on the issue before them, 10,000 out of the fifteen voted no, but Chelsea, which has 2,522 people, voted yes, 2,000 out of the 2,500 said yes and 1,000 out of the 1,949 voted yes, those two small towns with less people, they voted yes, they are the majority, which is really the two little towns, they are a minority group of people because together they don't add up to 10,000 people, 3,000 people would say one thing and that would rule over the 10,000 that ruled the other way.

What if those two towns, the majority of those two towns, and it was only 3,000 people, wanted what this issue is, fluoridation, and the 10,000 people in Augusta didn't want it, those 3,000 people would make the difference; it works both ways. So the people on this committee, Republicans and Democrats alike, looked at the fairness of the procedure of the referendum. Whether you are for fluoridation or not is not the issue. The Representative is correct, it should have gone before Election Laws, it did not.

We, in our wisdom, the unanimous position of the committee, determined that this is a fair and just way to go. This is what America is based on—majority rule, so I ask you for the indefinite postponement of this amendment.

The SPEAKER: The Chair recognizes the gentleman from Madison, Mr. Richard.

Mr. RICHARD: Mr. Speaker, Ladies and Gentlemen of the House: Essentially, as Representative Nelson has mentioned, this was a unanimous committee report. We talked over all the various issues, the way it had been done in the past. This deals with multiple community water districts. I am from a rural area where we do have a multiple community water district and this has posed no problem for us.

Also, when we are speaking of a multiple community water district, we are speaking of an entity. Why should not the majority of the people in any entity, be it a community, a group of communities such as in an SAD, the state, why shouldn't each of these people have an opportunity to have the majority vote be the

determining factor on anything in which they do vote?

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

McHENRY: Mr. Speaker, I would like to know, if anybody can answer, is it only the consumer, the people that are going to be drinking that water, that will have the right to vote or will people—everybody is going to have the right to vote, and even the people that won't be drinking that water will say yes, let's fluoridate the water. That is the question I have.

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

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

Mr. HIGGINS: Mr. Speaker, Ladies and Gentlemen of the House: The answer to the gentleman's question is yes, that all members of the district served would be able to vote whether they are actually utilizers of the system or not.

I did forget, and I promised the gentlelady from Portland that I would say this at the beginning and I forgot—I am speaking as an individual legislator today, I am not speaking in any capacity other than that.

The issue of fluoridating the water is a highly charged one with some people and I personally know how I would vote, and rather than indicate that to you now, I would just say that I offered the amendment simply because there are a number of people who are extremely concerned about fluoridation. People don't like to be told what is going to happen to them by some other community, and we in Cumberland County, for whatever reason, we have commissioner districts and many of you here do as well, and I think that is one thing that the legislature has done in the past, especially to accommodate the more rural areas of the county, in an attempt to dilute or make it fairer in decisions that are made on a county-wide basis so that the bigger cities don't do everything that they want to do and give the more rural areas of the county the bills to pay, and I think the amendment I have offered is an attempt to do something similar to that on a very emotionally charged issue. It gives the opportunity for the smaller communities, who may be apprehensive about that, I don't know, I don't pretend to know how my community would even vote on fluoridation, but I do happen to know that they are concerned about home rule, they are concerned about how they are represented and whether or not they have the opportunity to have a say in the fluoridation of their water.

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

Mr. MACOMBER: Mr. Speaker, Ladies and Gentlemen of the House: I have read the amendment very carefully, I discussed it with Mr. Higgins yesterday, and I don't think the amendment that he has offered really does what he proposed it to do. If you read the statement of fact, it says: "The purpose of this amendment is to require a majority vote in a majority of the communities." I am going to use the Portland Water District because that is the one I am familiar with, we have 10 towns in the Portland Water District with a population of 140,000; 101,000 of those people are in three cities, Portland, South Portland and Westbrook. If six of these ten cities or towns voted for fluoridation, even though that might only be 30,000 people out of 140,000, they are dictating to all of the communities involved what the policy is going to be. I don't think it is fair. I think the only thing that can be done is the total vote of the 140,000 people that are there. It sort of goes against all the concepts we have always advocated in this state and in this country, and that is the concept that the ma-

jority rules.

In this particular case, these six towns, although they only comprise of 30,000 people out of the 140,000 people, can dictate to the other 100,000 people what the policy will be, and I don't think that is what we are here to do.

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

Mr. MANNING: Mr. Speaker, Ladies and Gentlemen of the House: For your information, in the past it has been the rural towns of the Portland Water District, if we want to get into the Portland Water District, that have voted for the fluoridation. It has not been South Portland and Portland who have voted for fluoridation; yet, Mr. Macomber and myself are looking the other way. We feel that this isn't the proper way to do it. When we elect, the Portland Water District and the Portland Water District Council sits down and makes up the rates, they make the rates up for everybody, they make the rates up from one end of the district to the other end of the district.

I think what we are trying to say is, if we as legislators got elected by 51 percent of the votes, then whether you want fluoride or you don't want fluoride ought to be determined by 51 percent of the vote.

The SPEAKER: The Chair recognizes the gentleman from Stockton Springs, Mr. Crowley.

Mr. CROWLEY: Mr. Speaker, Ladies and Gentlemen of the House: I am having a little problem with this bill because the water district in the town that I am in does not service most of the people, probably 80 percent; in Winterport I think they service about 35 percent in their water district; my question to the committee is, will the people who don't have the services of this water district be allowed to vote on this fluoridation issue?

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

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

Mr. BRODEUR: Mr. Speaker and Members of the House: The answer to the question is yes. The committee deliberated this and believes that, first of all, people, whether they are customers or not, they are certainly potential customers and they also get the water for their children should they be in the school system and they also should have the option to vote on what their children will be drinking in the school system. Every other election relating to issues in towns, such as, for instance, the school system, whether or not you have children in the school system, everybody does participate in the vote. So we felt that this issue should be the same as every other issue.

Mr. Higgins of Scarborough was granted permission to speak a third time.

Mr. HIGGINS: Mr. Speaker, Ladies and Gentlemen of the House: I simply want to clear up Mr. Macomber's statements. I have read the statement of fact and in my opinion it does not adequately express the intent of the amendment, and if you read Section 2 of the bill, it does say that in case of a multiple community water district, authorization shall be by a majority vote of (a) all legal voters, plus (b) a majority of the legal voters in each municipality; so you have a two-edged sword here, not only do you have to have a majority vote of everybody within the district but a majority vote of the towns within the district, and it cannot be controlled, as he indicated, by a small group within the district.

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

Mr. MANNING: Mr. Speaker, Ladies and Gentlemen of the House: That is true, however, we can bring it down to, and we have done it in the committee in a number of different ways, that it could be a very split vote in Portland, it could be a very split vote in South Portland, it could

be a very split vote in Westbrook, but the other six or seven communities in that district could have a tremendous vote and it still wouldn't total the three numbers of the Portland, South Portland and Westbrook voting.

Let's get away from Portland, South Portland and Westbrook and Scarborough. Mr. Higgins' home town has two water districts. Scarborough is in with not only the Portland Water District but it is in with Old Orchard, Biddeford and Saco. There are a number of multi water districts in this state, and I just want to reiterate, we get elected by 51 percent of the vote, the moose amendment which is going to be on the ballot in the fall is going to be by 51 percent of the vote. Those people who are affected are going to be able to vote, not a majority of this and a majority of that or 80 percent of this and 80 percent of that—51 percent simple majority.

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

Mrs. NELSON: Mr. Speaker, I move the indefinite postponement of House Amendment "B" and I further 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 pending question is on the motion of the gentlewoman from Portland, Mrs. Nelson, that House Amendment "B" be indefinitely postponed. All those in favor will vote yes; those opposed will vote no.

ROLL CALL

YEA—Ainsworth, Allen, Anderson, Andrews, Baker, Beaulieu, Bell, Bonney, Bost, Bott, Brannigan, Brodeur, Brown, A.K.; Carroll, D.P.; Cashman, Chonko, Clark, Connolly, Cooper, Cox, Crouse, Crowley, Daggett, Day, Diamond, Dillenback, Erwin, Foster, Gauvreau, Gwadosky, Hall, Handy, Hayden, Hickey, Higgins, H.C.; Hobbins, Jacques, Jalbert, Joseph, Joyce, Kane, Kelly, Kilcoyne, LaPlante, Lehoux, Lisnik, Livesay, Locke, MacBride, MacEachern, Macomber, Manning, Martin, H.C.; Masterton, Matthews, Z.E.; Maybury, Mayo, McGowan, McSweeney, Melendy, Michaud, Mitchell, E.H.; Mitchell, J.; Moholland, Murphy, T.W.; Murray, Nadeau, Nelson, Norton, Paradis, P.E.; Parent, Perry, Pines, Pouliot, Racine, Randall, Reeves, P.; Richard, Ridley, Roderick, Rolde, Rotondi, Smith, C.B.; Soucy, Soule, Stevens, Stover, Swazey, Tammaro, Telow, Theriault, Tuttle, Vose, Walker, Webster, Wentworth, Willey.

NAY—Armstrong, Brown, D.N.; Cahill, Calahan, Carter, Conary, Davis, Drinkwater, Greenlaw, Higgins, L.M.; Holloway, Ingraham, Kelleher, Kiesman, Lebowitz, Lewis, Martin, A.C.; Masterman, Matthews, K.L.; McCollister, McHenry, McPherson, Michael, Murphy, E.M.; Paradis, E.J.; Reeves, J.W.; Roberts, Scarpino, Sherburne, Smith, C.W.; Sproul, Stevenson, Strout, Weymouth, Zirkilton.

ABSENT—Benoit, Brown, K.L., Carrier, Carroll, G.A.; Conners, Cote, Curtis, Dexter, Dudley, Jackson, Ketover, Mahany, Paul, Perkins, Salsbury, Seavey, Small, Thompson, The Speaker.

Yes, 97; No, 35; Absent, 19.

The SPEAKER: Ninety-seven having voted in the affirmative and thirty-five in the negative, with nineteen being absent, the motion does prevail.

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

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

Committee of Conference Report

The Committee of Conference on the dis-

agreeing action of the two branches of the Legislature on Bill "An Act to Regulate Smoking on Public Conveyances in the State of Maine" (H. P. 829) (L. D. 1067) ask leave to report: that they are unable to agree.
Signed:

Representatives:

REEVES of Pittston
MANNING of Portland
PINES of Limestone

— of the House.

Senators:

DANTON of York
BALDACCI of Penobscot
GILL of Cumberland

— of the Senate.

Report was read and accepted and sent up for concurrence.

Bill "An Act Relating to Transportation Facilities" (S. P. 603) (L. D. 1730)

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

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

Unanimous Ought Not to Pass

Representative Chonko from the Committee on Appropriations and Financial Affairs on Bill "An Act to Provide for State Service Payments to Municipalities in which State-owned Buildings are Located" (H. P. 1085) (L. D. 1442) reporting "Ought Not to Pass"

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

Consent Calendar

First Day

(H. P. 1258) (L. D. 1679) Bill "An Act to Increase Funding Allocation for the Bureau of Air Quality Control for Fiscal Year 1983" (Emergency) — Committee on Appropriations and Financial Affairs reporting "Ought to Pass"

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

Enactor

Tabled and Assigned

An Act to Provide Workers' Compensation Coverage to Emergency Medical Services' Persons (S. P. 563) (L. D. 1637) (C. "A" S-160)

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

On motion of Mrs. Mitchell of Vassalboro, tabled pending passage to be enacted and specially assigned for Monday, June 6.

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

Representative Cashman from the Committee on Taxation on Bill "An Act to Increase the Tax Exemption on Church Parsonages" (H. P. 356) (L. D. 414) reporting "Leave to Withdraw"

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

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

**Passed to Be Enacted
Emergency Measures**

An Act to Extend the Time for County Commissioners to Apportion County Taxes (S. P. 510) (L. D. 1536) (C. "A" S-158)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure and a two-thirds vote of all the members elected to the House being necessary, a total was taken. 105 voted in favor of same and none against, and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

An Act to Define Connection under the Liquor Laws (S. P. 557) (L. D. 1623) (C. "A" S-162)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure and a two-thirds vote of all the members elected to the House being necessary, a total was taken. 113 voted in favor of same and none against, and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

An Act Concerning Volunteer Marine Patrol Officers (S. P. 558) (L. D. 1624) (S. "A" S-164)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure and a two-thirds vote of all the members elected to the House being necessary, a total was taken. 109 voted in favor of same and none against, and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

An Act Relating to Joint Custody (H. P. 1243) (L. D. 1657) (S. "A" S-163)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure and a two-thirds vote of all the members elected to the House being necessary, a total was taken. 116 voted in favor of same and none against, and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

An Act to Permit Expedited Processing of Petitions for a Certificate of Public Convenience and Necessity (H. P. 1253) (L. D. 1666)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure and a two-thirds vote of all the members elected to the House being necessary, a total was taken. 103 voted in favor of same and none against, and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

Enactor

Reconsidered

An Act to Provide for the Development of a Centralized Coordinated Planning and Evaluation Process for State Alcohol and Drug Abuse Activities (H. P. 1276) (L. D. 1692) (H. "A" H-308)

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

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

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

House Amendment "B" (H-324) was read by the Clerk.

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

Mr. ROLDE: Mr. Speaker, Ladies and Gentlemen of the House: Just when I thought it was safe to go ahead with this bill, a great white shark of a lawyer by the name of Jonathan Hull swam by and said that there was a possible constitutional problem not with the bill as it was drafted but with existing laws to which this particular bill applied and therefore it had to be changed.

Briefly, to explain what it is, one of the parts of the bill deals with the Governor's Advisory Council on Alcohol and Drug Abuse. There are two legislators on that committee and because of an Attorney General's opinion, there has to be no appearance in the legislation that relates to this council that they would have any executive function. In the original law that set up the council a number of years ago, there was a small section that said they had the right to administer funds, and even though that did not affect what we are doing in this bill, it was in the law and so it was felt that we should take it out. That is what this amendment does, so I

think it is a bit of pettifoggery myself, but it is felt that we should go ahead and do it and the members of the alcoholism committee all agreed to it.

Thereupon, House Amendment "B" was adopted.

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

Passed to Be Enacted

An Act Appropriating Funds for Independent Living Services for the Disabled (S. P. 316) (L. D. 952) (C. "A" S-150)

An Act to Provide for Citizen Participation in the Decision to Construct any Nuclear Power Plant (S. P. 513) (L. D. 1537) (C. "A" S-161)

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

Tabled and Assigned

An Act to Clarify and Make Corrections in the Inland Fisheries and Wildlife Laws (S. P. 548) (L. D. 1599) (C. "A" S-151)

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

On motion of Mr. Carter of Winslow, tabled pending passage to be enacted and specially assigned for Monday, June 6.

An Act to Effect Changes in the Statutes of Various Occupational and Professional Licensing Boards (S. P. 562) (L. D. 1625) (C. "A" S-156) (Later Reconsidered)

An Act to Establish a Job Development Training Fund Within the State Development Office (H. P. 1294) (L. D. 1715)

An Act to Amend the Investment Provisions and Certain Related Sections of the Maine Insurance Code (S. P. 589) (L. D. 1707)

An Act Relating to Penobscot Nation Trust Land Designation (S. P. 593) (L. D. 1713)

An Act Relating to Motor Vehicle Inspection Stickers (H. P. 49) (L. D. 54) (C. "A" H-306)

An Act to Modify Certain Rules of the Road to Conform with the Uniform Vehicle Code (H. P. 811) (L. D. 1051) (C. "A" H-307)

An Act to Amend the Foreclosure Laws (H. P. 1153) (L. D. 1523) (H. "A" H-304 to C. "A" H-268)

An Act to Establish Time Limits for the Eminent Domain Procedures for Sanitary and Sewer Districts (H. P. 1186) (L. D. 1582)

An Act to Revise Certain Sections of the Probate Code (H. P. 1256) (L. D. 1669) (H. "A" H-303)

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

Tabled and Assigned

An Act to Encourage Prompt Resolution of Public Employee Labor Disputes (H. P. 1267) (L. D. 1678)

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

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

Miss LEWIS: Mr. Speaker, Ladies and Gentlemen of the House: This is the binding arbitration bill and I would request a division.

Whereupon, Mr. Higgins of Scarborough requested a roll call vote.

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

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

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

Mr. WILLEY: Mr. Speaker, Ladies and Gentlemen of the House: This is the binding arbitration bill, we have debated it strenuously and it has been strenuously lobbied. I am very sorry to see it come to the floor today when so many are apparently missing this afternoon. I don't think the vote will be as representative as it might be some other time, but if we must go through the motions, we will.

In my mind, this has the possibility of being one of the most detrimental things we have faced this year. Binding arbitration is just what it says, it binds both parties to an agreement which they haven't even agreed on. The necessity of labor relations is the process whereby each side sits down at a bargaining table and resolves their differences. Somewhere along the line, each and every item that they have argued about and disagreed upon must be reached by mutual agreement. In the process of doing this, sometimes it takes awhile. Nevertheless, it is a necessary part of labor relations. This act takes that effect away entirely, that right away entirely, in that at the end of the negotiation trial there is in effect a judge who makes this decision. It seems to me that that is entirely wrong; as a matter of fact, I am sure that is entirely wrong because there is absolutely no reason for the people to negotiate in good faith up to that point, because at the end of the trial there is somebody there that is going to make the decision for them.

Another thing that is very wrong about this, it removes a very large segment of home rule from the people. You have elected officials to the school board and to the municipality to raise taxes and to spend the tax money. In this instance, if the school board, for instance, was in disagreement with the school union, that right has been removed from the local officials to make the decision insofar as the monetary concerns are because the decision will be made by somebody outside.

I mentioned the other day about an article that appeared in the paper this week which to me was very disconcerting and I think also pictured exactly what might happen if we had this law in the State of Maine. This involved the State of California where various school districts are going bankrupt. You might be interested to know that they have had binding arbitration in the State of California for some time, as I understand it, and the average teacher's pay out there is \$30,000. I noticed in the dispute that was settled in Bangor recently, the average teacher's pay is about \$20,000. I don't think that the State of Maine can afford that sort of thing at all. Each one of us lives in some district, some town, some village, some city which would be affected by this sort of thing.

Also, I know that a number of you are pro union, and for those of you who are, I noticed a quote, I guess it came yesterday in the Maine Municipal Newsletter, which I thought was very interesting, and I don't know why I happened to read it, I never do but I did happen to read this, and it gives a quote from George Meany, and I suppose George Meany is the most venerated person involved in labor relations in a long time. It says: "Collective bargaining is a two-handed tool that won't work unless both parties want it to work, and that goes for arbitration as well. There are no shortcuts and no substitute for the bargaining table and mutual freedom of contract, and compulsory arbitration just will not work because in an abrogation of freedom, the critical difference between voluntary and compulsory arbitration is the difference between freedom and its denial." I think that is put very well and was put well by one of the all-time leading labor leaders in this country.

I urge very much for you to vote no for this bill to be enacted, and I would ask for a roll call.

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

Mr. GAUVREAU: Mr. Speaker, Men and Women of the House: I rise today to urge this

body to enact L. D. 1678, and although we have heard extensive debate on this matter, I would feel compelled to respond to some of the remarks offered to you by the good gentleman from Hampden, Mr. Willey.

At the outset of my remarks, I would have to express my disappointment that the voting patterns on this bill have crystalized upon party lines, because it is our view, the majority view of the Committee on Labor, that the bill you have before you is a very moderate piece of legislation and one which is sincerely designed to promote and facilitate prompt resolutions of disputes, collective bargaining disputes, at the municipal level.

I would point out that with respect to the concern raised regarding the possible adverse fiscal consequences to localities which have gone through the collective bargaining and binding arbitration process, I would point your attention to pages five and six on L. D. 1678. Those pages contain specific factors which have to be considered by an arbitrator when that arbitrator takes into consideration requests involving fiscal matters.

Specifically, the arbitrator has to consider the financial ability of the locality involved to finance any proposed cost items. That is an obligation imposed upon the arbitrator, and if he deviates from that, then, in fact, that is a matter that can be appealed, so you have to bear in mind that that is an important consideration which the arbitrator has to consider. You see, you are not free to disregard the appositeness of funds at the local level in making a determination on these issues. The committee felt very strongly about including that language in the bill. We think that factor, along with others, would tend to promote and mandate, in fact, a moderate and reasonable resolution to these disputes.

I would also take issue with the good gentleman and his concern that L. D. 1678 would promote an elongation of the disputes at the municipal level. It is our view, the majority of the committee on Labor, as well as most experts in this field, that binding arbitration in point of fact facilitates dispute resolution in the public sector disputes, and I would point to a recent article in the Maine Law Review which was drafted by Attorney Bryan Dench. Now, Bryan Dench is an attorney, a labor lawyer, who represents the City of Lewiston from a management perspective in labor matters, including matters involving arbitration. Mr. Dench, to quote from his article on binding arbitration, states as follows: "Arbitration appears to be ineffective unless it is binding on each issue and if the arbitral result is based directly on the final positions of the parties, both the employer and employees will have to make the most reasonable proposal acceptable to them or run the risk that the other party's offer will be found more reasonable and be adopted by the arbitrator."

He goes on to state as follows: "Because the parties to final offer arbitration could not hope for the compromise split that so often results from usual arbitration procedures, the parties would be forced to moderate unrealistic and extreme positions. They would have no incentive to exploit impasse resolution procedures and at the same time would retain control over the binding process until final offers were submitted. Thus, the likelihood of voluntary settlement would be preserved."

So we find that the experts in this field have concluded that binding arbitration is, in fact, viable and a highly recommended vehicle to promote and facilitate dispute resolution on collective bargaining disputes at the local level.

Again, L. D. 1678 simply introduces into the sphere of collective bargaining a realistic incentive for both parties to bargain in good faith, and for these reasons, I would wholeheartedly urge this body to send this bill on to enactment.

The SPEAKER: The Chair recognizes the

gentleman from Biddeford, Mr. Norton.

Mr. NORTON: Mr. Speaker, I rise to correct the good gentleman from Lewiston. I would like to remind you that the committee reported this out by a majority of 7 to 6 "ought to pass" and I ask that you support the committee.

The SPEAKER: The Chair recognizes the gentleman from Kennebunk, Mr. Murphy.

Mr. MURPHY: Mr. Speaker, Men and Women of the House: During the early stages of debate on this binding arbitration bill, the lobbyists from both sides left me alone. Later I was told that it was because having been a teacher for 13 years, it was assumed that I was for binding arbitration. They were wrong; this teacher is opposed.

As a former selectman who had to prepare six municipal budgets, I, in good conscience, can take no other position on this issue.

I know last weekend, over the holiday, many of you were recipients of a very heavy phone lobbying effort. I was spared that again because a speeding driver took out my telephone pole and we lost our telephone on Saturday through last night.

Many members so far, since January, in this body have told us that they are for property tax relief and that they are for local control. If they truly believe that, their lights should flash red today. To abdicate their final authority for money-related items during collective bargaining flies in the face of all local control rhetoric and raids the pocketbooks of your local property taxpayers.

There is, finally, some relief in sight now that inflation has been reduced and it has run amuck with our municipal budgets and hurt our municipal employees during the last decade. The interest rates are finally lower. Your town officials and mine now finally have the opportunity to get back on their budgetary feet. The property taxpayers, as long as this lower rate of inflation holds, will see some leveling of local property tax increases. This is, without a doubt, the most important local issue that has faced us during the session. I would urge you to vote no and retain local control.

Mr. Speaker, I would like to pose two questions. The questions would be posed to any supporters of this bill. If we pass this binding arbitration bill, where will we find citizens willing to serve on our local boards of selectmen and to serve on our school boards?

Also, if we pass this bill, at what point will the statute be expanded to include all county employees and then all state employees?

The SPEAKER: The gentleman from Kennebunk, Mr. Murphy, has posed a question through the Chair to anyone who may care to respond.

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

Mr. DIAMOND: Mr. Speaker, Members of the House: In response to the questions, if those are really questions, from the gentleman from Kennebunk, Mr. Murphy, I think he knows the answer. There really are no answers to leading questions like that and by posing those questions he is distorting the issue. This has nothing to do with whether or not we are going to discourage people from participating in local affairs because we establish a mechanism to avoid contract disputes. That argument has been bantered about by people who have been opposed to this, who oppose a lot of the bills that deal with collective bargaining in general, and to try to tie that argument in, it just has no place in this.

We are not talking about denying any or expanding any dilution of local control. We are setting a mechanism which I think will allow our town fathers to avoid a lot of the problems that have taken place in some municipalities and we are doing so in a responsible way. Just as we have town managers who take on the responsibility of managing the day-to-day activities of

a local municipality so that the town fathers can look at the bigger policy questions, we are establishing a mechanism that is much more narrow than that and that is a workable solution to one particular area, contract disputes.

I would like to elaborate a little more on some of the concerns that have been addressed today, especially by the gentleman from Hampden, Mr. Willey. It is very easy to talk about this issue and throw out facts because collective bargaining and, in particular, binding arbitration is very complex, so you have got to stick to the facts.

California does not have this form of binding arbitration. There are four other states that have it, Connecticut, Iowa, Nevada and Wisconsin. Whatever happens in California has no bearing on this. In the states that do have it, those four states, it is proved, as the gentleman from Lewiston, Mr. Gauvreau, said, that it has avoided a lot of lengthy contract disputes and it has done so in a manner that has proven to work for both sides. Using Connecticut for an example, they have had it and it has been tested 12 times. Of those 12 times, the management side has won out 7 times out of those 12. It is something that the people in those states, all four states that I mentioned, are comfortable with because they realize that there is a fear factor involved in this particular legislation, the so-called last best offer binding arbitration, the fear that one side may be stuck with something they can't live with because the arbitrator would see the presentation of the other side as being more moderate. For that reason, both sides try harder than they normally do under standard binding arbitration to resolve the dispute before it gets to that point. And it can only get to that point after a contract has been expired for at least 60 days, so there is no incentive on either part to let it go, or no incentive on the employee part to let it go beyond that point because they will be operating without a contract if they do so. Rather, the incentive is for the employer, management, the municipality, to let it get to that point for the very same reason, they will be having their employees work for a long period of time based on an expired contract.

The other fear that has been mentioned, it hasn't been mentioned on the floor but it has been mentioned in the halls a lot today, is the fact that the arbitrator is going to be a person who, according to the mayor of my community, is going to be totally out of touch with reality, he is going to come in with absolutely no understanding of the local concerns, and that we will be stuck with somebody who cannot in any way relate to our municipality.

The municipalities, as do the employees, have a veto mechanism. When it comes down to selecting the arbitrator, they are submitted the names of the people who are willing and able and qualified to serve in that capacity. If the municipality doesn't like that person, they will say no and they have the right to say no and they have to go on to another name. They have the ability to choose a person they want as long as the other side agrees, and they keep doing that until both sides can agree.

Now, if I am a city councilor, I am going to try to find somebody, I am going to look for somebody who is going to be experienced, understanding of my community, who is going to have that type of experience and understanding that would best serve my interest. Maybe I won't be all that happy with the results, maybe I will. Maybe it will lower property taxes because he will reject the argument of the employee or the bargaining agent. Nonetheless, I do have a say, if I am a city official, in who that person is going to be, and if you listen to any of the municipal officials around here or the opponents in general who say that is not the case, then you are doing yourself a disservice, because it is the case. If you would read the bill, you would understand that.

I think it is too bad that this has become an

issue that has been clouded by a lot of arguments that have nothing to do with this particular piece of legislation. It is a conservative approach to binding arbitration. It is called last best offer, item by item binding arbitration. It is not the same as the gentleman from Hampden, Mr. Willey, related, and I hope that in making your decision on your vote, you will do it on the facts and not rhetoric.

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

Mr. KELLEHER: Mr. Speaker, Ladies and Gentlemen of the House: This body here should be as consistent with its own employees as we are with the municipal employees throughout the State of Maine, so I would respectfully ask some member of the House to table this until Monday and I would like to prepare an amendment to include the state employees as well as our municipal employees. If we are going to do it for the towns, and I don't have any real problems with that, than I think that we as members of this body should include the Maine State employees as well. So would some kind member please table this until Monday so I can get an amendment put on the bill?

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

Mr. NORTON: Mr. Speaker, I move that we table this one legislative day.

Whereupon, Mr. Cashman of Old Town requested a division.

The SPEAKER: The pending question is on the motion of the gentleman from Biddeford, Mr. Norton, that this be tabled for one legislative day pending passage to be enacted. All those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

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

An Act Concerning the Rate of Return on Investment Factor Under the Railroad Excise Tax (H. P. 1288) (L. D. 1708)

An Act to Extend the Time for Acquiring those Areas which have been Designated Potential Passamaquoddy Indian Territory (H. P. 1291) (L. D. 1712)

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

(Off Record Remarks)

On motion of Mr. Brannigan of Portland, the House reconsidered its action of earlier in the day whereby An Act to Effect Changes in the Statutes of Various Occupational and Professional Licensing Boards, Senate Paper 562, L. D. 1625, was passed to be enacted.

On motion of the same gentleman, tabled pending passage to be enacted and specially assigned for Monday, June 6.

Mr. Higgins of Portland was granted unanimous consent to address the House.

Mr. HIGGINS: Mr. Speaker, Ladies and Gentlemen of the House: In relation to a Unanimous Leave to Withdraw Report on Supplement No. 2, Bill "An Act to Increase the Tax Exemption on Church Parsonages," House Paper 356, L. D. 414, while there was some strong sentiment in the Taxation Committee to expand this property tax exemption on church parsonages, it was felt that at this time we should not take this action for two principal reasons. The Maine Constitution requires state reimbursement of 50 percent of the loss incurred by municipalities due to new or expanded property tax exemptions. We recognize our current fiscal condition and the lack of adequate funding to finance any expansion of this exemption. Secondly, during the summer and fall, the Taxation Committee, as required to statute, will be reviewing the justification for all prop-

erty tax exemptions that this legislature has enacted and we will also be considering this exemption as well.

(Off Record Remarks)

On motion of Mr. Hickey of Augusta,
Adjourned until Monday, June 6, at nine o'clock in the morning.