

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

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

INDEX

FIRST CONFIRMATION SESSION

August 4, 1983

INDEX

FIRST SPECIAL SESSION

September 6 and 7, 1983

INDEX

SECOND CONFIRMATION SESSION

September 23, 1983

INDEX

THIRD CONFIRMATION SESSION

October 28, 1983

INDEX

SECOND SPECIAL SESSION

November 18, 1983

INDEX

HOUSE

Wednesday, June 15, 1983

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

Prayer by Rabbi Asher Reichert of Shaarey Tphiloh Synagogue, Portland.

The journal of yesterday was read and approved.

At this point, the rules were suspended for the purpose of allowing members to remove their jackets.

Messages and Documents

The following Communication:
State of Maine

One Hundred and Eleventh Legislature
Committee on Energy and Natural Resources

The Honorable John Martin

Speaker of the House

State House

Augusta, Maine

Dear Speaker Martin:

The Committee on Energy & Natural Resources is pleased to report that it has completed all business placed before it by the first regular session of the 111th Legislature.

Total number of bills received	81
Unanimous reports	67
Leave to Withdraw	25
Ought to Pass	9
Ought Not to Pass	4
Ought to Pass as Amended	14
Ought to Pass in New Draft	15
Divided reports	10
Carryover	4

Respectfully submitted

S/SEN. J. KANY

Senate Chairman

S/REP. D. HALL

House Chairman

Was read and ordered placed on file.

The following Communication:
State of Maine

One Hundred and Eleventh Legislature
Committee on Judiciary

June 14, 1983

The Honorable John L. Martin

Speaker of the House

State House

Augusta, Maine

Dear Mr. Speaker:

The Committee on Judiciary is pleased to report that it has completed all business placed before it by the first regular session of the 111th Legislature.

Total Number of Bills received:	182
Total Unanimous Reports	154
Leave to Withdraw	59
Ought Not to Pass	14
Ought to Pass	41
Ought to Pass/Amended	14
Ought to Pass in New	
Draft and or New Title	26
Divided Reports	25
Carryover bills	3

Respectfully submitted,

S' BARRY J. HOBBS

House Chairman

Was read and ordered placed on file.

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

Representative Carter from the Committee on Appropriations and Financial Affairs on Bill "An Act Making Authorizations and Allocations Relating to Federal Block Grants for the Expenditures of State Government for the Fiscal Years Ending June 30, 1984, and June 30, 1985" (Emergency) (H. P. 601) (L. D. 749) reporting "Ought to Pass" in New Draft under New Title Bill "An Act Making Authorizations and Allocations Relating to Federal Block

Grants for the Expenditures of State Government for the Fiscal Years Ending June 30, 1983, June 30, 1984, and June 30, 1985" (Emergency) (H. P. 1329) (L. D. 1767)

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.

Passed to Be Engrossed

Bill "An Act to Make Corrections of Errors and Inconsistencies in the Laws of Maine" (Emergency) (S. P. 622) (L. D. 1760)

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

By unanimous consent, ordered sent forthwith to Engrossing.

Orders of the Day

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

RESOLUTION, Proposing Amendments to the Constitution of Maine to Change the Municipal Property Tax Loss Reimbursement Formula, to Change the Penalty for the Change of Use of Land Subject to Current Use Valuation and to Require a Two-thirds Vote for the Expenditure of Funds from the Mining Excise Tax Trust Fund (Constitutional Amendment) (H. P. 502) (L. D. 652) (H. "A" H-331 to C. "A" H-317)

Tabled — June 9, 1983 (Till later in the day) by Representative Diamond of Bangor.

Pending — Final Passage.

On motion of Mr. Higgins of Portland, retabled pending final passage and later today assigned.

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

An Act to Provide Workers' Compensation Coverage to Emergency Medical Services' Persons (S. P. 563) (L. D. 1637) (H. "A" H-354; C. "A" S-160)

Tabled — June 10, 1983 (Till Later Today) by Representative Diamond of Bangor.

Pending — Passage to be Enacted.

On motion of Mrs. Beaulieu of Portland, retabled pending passage to be enacted and later today assigned.

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

Bill, "An Act to Prevent Unjust Enrichment by Retention of Surplus Upon Foreclosure of Municipalities and Sewer Districts" (S. P. 486) (L. D. 1479)

— In House, Majority "Ought Not to Pass" Report of the Committee on Judiciary read and accepted on June 9, 1983 in non-concurrence.

— In Senate, that Body having insisted on its former action whereby the Minority "Ought to Pass" in New Draft (S. P. 597) (L. D. 1719) Report of the Committee on Judiciary was read and accepted and the New Draft passed to be engrossed as amended by Senate Amendment "A" (S-183) in non-concurrence.

Tabled — June 10, 1983 (Till Later Today) by Representative Benoit of South Portland.

Pending — Motion of Representative Hobbs of Saco to Recede and Concur.

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

Mr. MACOMBER: Mr. Speaker, Ladies and Gentlemen of the House: I hope you will not go along with the motion this morning to recede and concur.

This is a bill that we had here last Thursday which the House defeated by a vote of 110 to 26. Since that time, it has been to the Senate, they have attached an amendment to it but the amendment is a long ways from making the bill what we really need to have.

I would point out to you that the bill in its present form treats the organized territories and the unorganized territories in two different manners. In other words, if this law were passed in the manner that it is now before us, it would affect the organized municipalities but it would not have any effect on the unorganized territories. I am sure that it was not the intention of the people here to pass a bill that would treat people in the state differently.

I have an amendment and if we defeat the motion to recede and concur I would present the amendment that would bring the state and municipalities in line as far as this bill is concerned.

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

Mr. DRINKWATER: Mr. Speaker, I would like to request a roll call.

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

Ms. BENOIT: Mr. Speaker, Men and Women of the House: I would ask you to support Representative Macomber's motion so that he can present his amendment. I know that a lot of you who have problems with this bill met with the sponsor and have tried to come up with an amendment that will make it acceptable to a majority of the people here.

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

Mr. STROUT: Mr. Speaker, Ladies and Gentlemen of the House: I would urge you to follow the gentleman from South Portland, Mr. Macomber, in not receding and concurring. The message that I got from him was that he asked us not to recede and concur, and I think that is the direction we should take.

As I stated the other day, as a tax collector I think maybe this would be a good bill for the tax collectors, but I have got to tell you, for the average citizen out there that has a problem paying his tax bill, and if you do adopt the amendment that was offered in the other body, you are going to require us down the road, without any leverage, to advertise a piece of property for sale. I don't think that is the route that we want to go. I think we ought to leave it up to each municipality to decide how they want to work out their problems when a piece of property is tax acquired. There are situations that arise where a person becomes ill or a person becomes injured and they may need more than the 18 months to get the property back in their hands.

I really think that the system is working well at the present time and I would hate to see this body put the State of Maine and the municipalities in a position where they would have to advertise the property for sale without going the due course of allowing each individual that opportunity to sit down with the municipal officials and work out their disagreements.

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

Ms. BENOIT: Mr. Speaker, Men and Women of the House: I think Mr. Strout misunderstood me, or maybe I didn't make myself clear. I do not want you to recede and concur, I want you to vote against that motion so that Mr. Macomber can put his amendment on the bill. I believe that is what he asked for and I agree with that.

In addition, just like we said, the bottom line to this bill, from my point of view, and I signed the "ought to pass" report on the Judiciary Committee, is that we do not want, most of the signers did not want anyone who had their home or land or property taken away from them because of a foreclosure to lose the entire value of that property. It has, indeed, happened that some people have had a foreclosure brought against them and all the money was kept by the town. What we wanted to see was the town or municipality be able to keep the taxes, the cost to the town, whatever fees they incurred because of the foreclosure, whatever charges, and an additional 20 percent of

the surplus, and then the remainder would go to the owner of the property, and that simply seems fair.

I would ask you not to recede and concur and then if the amendment is not ready, we would have to table it.

Thereupon, on motion of Mr. Macomber of South Portland, the House voted to recede.

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

Mr. Macomber offered House Amendment "A" and moved its adoption.

House Amendment "A" (H-381) was read by the Clerk.

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

Mr. VOSE: Mr. Speaker, would the gentleman please explain the amendment.

The SPEAKER: The gentleman from Eastport, Mr. Vose, has posed a question through the Chair to the gentleman from South Portland, Mr. Macomber, who may answer if he so desires, and the Chair recognizes that gentleman.

Mr. MACOMBER: Mr. Speaker, Ladies and Gentlemen of the House: The posture that the bill was in right at this moment, unorganized territories are not included in the language. In other words, if you passed this bill, you would have two separate laws for two separate classes of people. There would be this law that we are passing that would affect organized territories, municipalities, but it would not apply to the unorganized territories that do their business through taxation with the state. This amendment would simply bring all the people in the state under the same law.

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

Mr. LIVESAY: Mr. Speaker and Members of the House: We all should be aware today that what we are about to do if we pass this legislation is to change a rather complex body of law, and to do so with really no study and in a fairly hasty fashion.

I recall when we discussed this bill in the Judiciary Committee that many of us had misgivings and at one point in time, I can remember that the committee felt that the proper way for handling this particular issue at this particular time was to refer it out to a study which the Maine Municipal Association agreed to do. I think that is the prudent thing to do.

This body of law that we are changing right now has been in effect in this state for a hundred and some-odd years and there hasn't been a real crying need for change. It seems to me that to make this rather significant change on relatively short notice and with a fair number of amendments cropping up at the last minute, it would be an imprudent thing to do, so I would hope that we would defeat this entire issue and give the Maine Municipal Association a chance to study this matter over the summer and make some recommendations to us at the next session.

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

Mr. RIDLEY: Mr. Speaker, Ladies and Gentlemen of the House: I think this is a very bad bill. Having been a selectman for a number of years in one of these small towns, I can see where some grave problems could arise from this. One that comes to mind right off is when you have an elderly person or an elderly couple living in a house and for some reason, whether it be sickness or some other reason they are unable to pay their taxes, if the town takes this property over, advertises it and sells it, what are you going to do with those old people? The town is going to be forced to support them. You are going to have to find a place for them to live. The system we have now has been in place for many, many years, it has worked out very, very well and it leaves it up to the individual town to do as they see fit. A lot of these are based on individual cases, each one on its own merits, and I think it would be a very, very poor

thing to let this bill pass, and I move that this Bill and all its accompanying papers be indefinitely postponed and ask for a roll call.

The SPEAKER: The Chair would advise the gentleman that his motion to indefinitely postpone is not in order.

Thereupon, House Amendment "A" was adopted.

Senate Amendment "A" (S-183) was read by the Clerk and adopted in concurrence.

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

Mr. DRINKWATER: Mr. Speaker, I request a roll call on passage to be engrossed.

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 Portland, Mr. Manning.

Mr. MANNING: Mr. Speaker, Ladies and Gentlemen of the House: I think this bill now is in the posture that we can definitely say that if this bill passes, we are not forcing anybody out of their homes. What we are saying is, if and when a municipality sells the home, if per chance somebody hasn't paid their taxes and paid their sewer fees and the towns do take that home, then and only then will this bill come into effect. It will not be forcing anybody out of their homes, and that isn't what the sponsors, one of them is myself, had in mind. We only wanted to make sure that those people who lost their homes would get some monies back. If somebody has been living in their home for 10 or 15 years and for one reason or another hasn't paid their taxes and the city wants to let them stay in there, they can still let them do that. Most towns are doing that, it is cheaper to do that than it is to put them on general assistance. This is only if and when the town takes the home.

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

Mr. STROUT: Mr. Speaker, Ladies and Gentlemen of the House: I have to disagree with the good gentleman from Portland, Mr. Manning. The problem that I have with this now, with the Senate Amendment adopted, is that after the piece of property becomes tax acquired, the town has 18 months that we are going to have to make the step to dispose of this property. Yes, we will be able to advertise this for sale and the way that I read the bill in its present form, we will be required to keep 20 percent of that money that the property sold for. That is one of the reasons that I oppose this.

A lot of municipalities across this state do everything possible to get the property back to the former landowner. Our town, for example, has an article in the local town warrant that says that once we acquire a piece of property, we have to give the prior owner the first chance to buy this back. If we do this with taxes, interest, insurance and other charges that may come up. If we adopt this bill today, at the end of the 18-months period, as I read it, we will have to advertise it, and if it is a \$30,000 home that is sold, the town is going to get \$6,000. I don't believe this is what the municipalities, at least some of them across the state, would like to get this back in the hands of the former owner without receiving any compensation.

What do you do with a person who is an elderly person that maybe after the 18-month period you would like to see them stay there in their home maybe for two or three years without advertising it for sale? I would like to see the towns have that discretion to do what they feel is in the best interest of the homeowner and the municipality. I really feel that maybe down the road there are some situations

where there are differences that could be worked out. I don't feel that at the present time this is the route to go.

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

Mr. HOBBS: Mr. Speaker, Men and Women of the House: Before the Committee on Judiciary, we heard testimony from the President of the other body concerning this legislation. In that testimony, he raised to our minds the reality that situations in Maine had resulted in acquiring property, selling the property and local communities pocketing the money. In his testimony, he said that during 1981 in a town in Somerset County, the municipality acquired through a tax lien foreclosure four parcels of land owned by an individual. The land consisted of about 80 acres, including some frontage on a lake. The taxes on those liens with interest totalled \$154.34. Again, the taxes on these liens, with interest, totalled \$154.34. The town sold the four parcels of land for a total of \$21,908.50 and pocketed the extra \$21,700. That is what can happen under present Maine law. I don't know about you, ladies and gentlemen, but I don't think a municipality, because of administrative convenience, should be treated any different than anyone else under our law. I think that fundamental fairness would only dictate that the municipality should not keep what they are not rightfully entitled to.

To address a question raised by the good gentleman from Corinth, Mr. Strout, the 20 percent provision that he mentioned does not apply as long as the sewer district or sanitary district allows possession of the property by the record owner or his lessee at the time the district acquired land.

I agree that there might be some administrative inconvenience to our local municipalities because of this situation, but I do not think that we can stretch the imagination to believe that a municipality such as the case involving a town in Somerset County should be entitled to keep the overage after all of the expenses, all of the taxes, all of the legal fees have been reimbursed to the community.

When we have a bank or we have a residential property owned by an individual and that property is foreclosed, maybe we should pass a law that says the banks can keep the money and the residential property, because we are not talking about anything different. We are talking about a default on an obligation and it is my hope this morning that we will recede and concur so this bill can become law.

I realize the Maine Municipal Association might be upset and I realize we might be upsetting a basic tenet of history of the state involving this area, but if something is unjust, I think we should correct it.

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

Mr. LIVESAY: Mr. Speaker and Members of the House: I would ask the proponents of this legislation just one question, and that is, what's the hurry?

Representative Hobbins cited an example that occurred in 1981 and I will guarantee you that those sorts of instances are very few and very far between, and before we rush headlong into adopting this sort of a measure, I think that we ought to be giving it a good deal of study and that is what we haven't done to date. We are talking about amendments that have been proposed subsequent to discussions within the Judiciary Committee. I don't think that they are particularly well conceived. I will concede, though, that every member of the Judiciary Committee is sympathetic to the sort of problem that we are attempting to address here today, and I think that every member of that committee and every member of this House and every member of the other body wants to address this difficulty, and that is the unjust enrichment of municipalities who foreclose on property and keep the overage for

themselves. There is not a soul, I think, in this House that wouldn't feel that that was an inequitable taking of an individual's assets.

On the other hand, the disruption that would be created by adopting this measure today could be very significant and I am unaware of any real pending crisis that necessitates us to take action today.

So I would hope, once again, that we would defer any action until the next session, when we have had a chance to thoroughly study this issue and then address it in a proper fashion.

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

Ms. BENOIT: Mr. Speaker, Ladies and Gentlemen of the House: Just to respond to Representative Livesay, I think the pending crisis, if you wish to refer to it as that, was the fear of some members of the Judiciary Committee that anybody would lose what was rightfully theirs, and the longer we wait, the more likely that will indeed happen. I think that is an important reason for passing a piece of legislation such as this, and I think the reason why it was amended after it came out of committee is that unfortunately we don't have some town officials on our committee, and when some people that had served as local town officials saw the bill and had some concerns, they met with the primary sponsor, and I believe the cosponsors, and worked out the amendments that you see that have been put on the bill.

I can't possibly see what damage this is going to do, what harm this is going to cause that simply says you can't keep all the money.

The SPEAKER: A roll call has been ordered. The pending question is on passage to be engrossed as amended by Senate Amendment "A" (S-183) and House Amendment "A" (H-381) in non-concurrence. All those in favor will vote yes; those opposed will vote no.

ROLL CALL

YEA—Andrews, Baker, Beaulieu, Benoit, Brannigan, Carroll, D.P.; Cashman, Connolly, Cooper, Cote, Cox, Diamond, Gauvreau, Hall, Higgins, H.C.; Hobbins, Joseph, Joyce, Kane, Ketover, Locke, Manning, Masterton, Matthews, Z.E.; Mayo, McColister, McGowan, McSweeney, Mitchell, E.H.; Paul, Reeves, P.; Rolde, Rotondi, Tuttle, Walker.

NAY—Ainsworth, Allen, Anderson, Armstrong, Bell, Bonney, Bost, Bott, Brodeur, Brown, A.K.; Brown, D.N.; Brown, K.L.; Cahill, Callahan, Carrier, Carroll, G.A.; Carter, Chonko, Clark, Conary, Connors, Crouse, Crowley, Daggett, Davis, Day, Dexter, Dillenback, Drinkwater, Dudley, Erwin, Foster, Greenlaw, Handy, Hayden, Hickey, Higgins, L.M.; Holloway, Ingraham, Jackson, Jacques, Jalbert, Kelly, Kiesman, Kilcoyne, LaPlante, Lebowitz, Lehoux, Lewis, Lisnik, Livesay, MacBride, MacEachern, Macomber, Martin, A.C.; Martin, H.C.; Masterman, Matthews, K.L.; Maybury, McHenry, Melendy, Michael, Michaud, Mitchell, J.; Moholland, Murphy, E.M.; Murray, Nadeau, Norton, Paradis, E.J.; Paradis, P.E.; Parent, Perkins, Perry, Pouliot, Randall, Reeves, J.W.; Richard, Ridley, Roberts, Roderick, Salsbury, Scarpino, Sherburne, Small, Smith, C.B.; Smith, C.W.; Soucy, Sproul, Stevens, Stevenson, Stover, Strout, Swazey, Tammaro, Telow, Theriault, Thompson, Vose, Webster, Wentworth, Weymouth, Willey, Zirkilton.

ABSENT—Curtis, Gwadosky, Kelleher, Mahany, McPherson, Murphy, T.W.; Nelson, Pines, Racine, Seavey, Soule, The Speaker.

Yes, 35; No, 104; Absent, 12.

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

Sent to the Senate.

The Chair laid before the House the fourth matter of Unfinished Business:

Senate Divided Report — Majority (11) "Ought to Pass" as amended by Committee

Amendment "A" (S-197) — Minority (2) "Ought to Pass" as amended by Committee Amendment "B" (S-198) — Committee on Business Legislation on Bill "An Act Affecting the Organization of the Department of Business Regulation" (S. P. 541) (L. D. 1580)

— In Senate, Majority "Ought to Pass" as amended Report read and accepted and the Bill Passed to be Engrossed as amended by Committee Amendment "A" (S-197).

Tabled — June 10, 1983 by Representative Brannigan of Portland.

Pending — Acceptance of Either Report.

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

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

The SPEAKER: The gentleman from Portland, Mr. Brannigan, moves the House accept the Majority "Ought to Pass" Report in concurrence.

The gentleman may proceed.

Mr. BRANNIGAN: Mr. Speaker, Men and Women of the House: I would like to begin by commending my committee on the work that they have done. Our report will be out today and out of 147 bills we had only 10 divided reports and this is one of them. This one isn't badly divided at all. This is a report of 11 to 2 and there are two reports rather than an "Ought Not to Pass."

This bill deals with many issues regarding the Department of Business Regulation. The Department of Business Regulation was set up rather recently as departments go, in 1975, less than 10 years ago, and needs changing from time to time to bring it into line with proper practice. It is an unusual department that it is run almost totally by dedicated revenues, which is a difficult way to run. It is made up of district groups of people and there is the Bureau of Insurance, the Bureau of Banking and the Bureau of Consumer Protection, three bureaus, one commission, Real Estate, and 20 plus boards of licensing and regulation. This is presided over by Commissioner DeVane, from whom many of you have heard on how important this piece of legislation is to him.

This piece of legislation has many parts to it, almost all of them agreed to by all involved, by all members of our committee and by those affected by the changes. However, there are three items of which there are differences and that has caused the two reports, the Majority Report of 11 and the Minority Report of 2.

Those three, therefore, I would like to explain. They deal with two of the three bureaus. The bureaus regulate very important industries, very important activities that affect people that we represent and our own selves, the Bureau of Banking, the Bureau of Insurance and the Bureau of Consumer Credit Protection.

What we are dealing with is, who pays for the superintendent's salary? The Bureau of Insurance from the beginning has been paid for out of the General Fund, the superintendent. These are regulators and they should be, as much as possible, independent regulators, and so for some reason, and I cannot explain why, one of the bureau heads is paid for from the General Fund, as he should be, to leave him or her independent from those he regulates. The Bureau of Banking and the Bureau of Consumer Credit Protection are paid for, the superintendents' salaries, out of dedicated funds, and so this bill would bring about uniformity. All three of these superintendents' independence would be enhanced by their being paid for out of the General Fund rather than by the people they regulate. That is one issue, those two positions.

The other issue on which we differ and which you are asked to vote on is an attorney. As you can imagine, a bureau that deals with such complex issues, especially now where

bankers are doing insurance and insurance is trying to do banking and credit is a thing that is very much up in the air, where Real Estate licenses 6,000 people and where these 20 other plus boards have licensing issues before them all the time and legal issues before them all the time, they need a great deal of legal advice. We as a committee and this legislature need a great deal of legal advice. You, when you call up that Department about some licensee among your constituency, you need legal advice. They have had two attorneys for all of this vast activity, we are asking for one more. We are asking for that person to be paid for out of the General Fund. Many of these boards are very small and yet they may generate a great deal of controversy, they may, in order to protect us, need licenses pulled, which is a very complicated issue to protect the rights of everyone. So we are asking in this report that you change these three positions, one new position, an attorney for the Bureau of Banking superintendent and the Bureau of Consumer Protection to be paid for out of the General Fund.

We ask you to support our Majority Report and help us in bringing this department into line with good practice.

The SPEAKER: The Chair recognizes the gentlewoman from Presque Isle, Mrs. MacBride.

Mrs. MacBRIDE: Mr. Speaker, Ladies and Gentlemen of the House: Representative Brannigan has explained the bill very well to you and the differences in the two reports. I hope today that you will not accept the Majority Report so that you can accept the Minority Report. As he says, the reports are about the same; the difference is in the funding of those three positions.

Under the Minority Report, these positions would have to come out of the dedicated account which the Department of Business Regulation has. All fees and revenues from the 20 boards which the Department of Business Regulation regulates go into a dedicated account. The department wants to transfer, as Representative Brannigan said, the salaries of the Superintendent of Banking and the Superintendent of Consumer Credit into the General Fund. They also want to hire another attorney for their exclusive use to protect these 20 boards who pay their fees into the dedicated account.

I don't know whether the department needs another attorney or not. I think that is something they will have to decide, but I do feel that if they are going to hire another attorney who is going to be used exclusively for the Department of Business Regulation, that attorney's salary should come out of that dedicated account.

Just for example, ladies and gentlemen, suppose I had a business and I said to my friend, all of the revenue that is going to come into this business will come into my account right here and I will pay most of the expenses from my account. However, there are two or three little troublesome matters, two or three little salaries, that it would be most helpful if you would pay. It surely would make my account look better and it would certainly be a lot easier. That is exactly what the Department of Business Regulation is attempting to do. This does not work in business and I am sure my friend would not be agreeable to paying those salaries and why should it work in state government?

I think the Department of Business Regulation should examine its own accounts. If they can't solve their financial problems and then need additional money, at that point I think they should go the route of the Appropriations Committee, as the other departments have to do, but I do not think that these three positions should be transferred from this dedicated account into the General Fund.

I hope you will vote against the Majority Report.

The SPEAKER: The Chair recognizes the gentleman from Brooksville, Mr. Perkins.

Mr. PERKINS: Mr. Speaker, Ladies and Gentlemen of the House: I am really disturbed that the department wishes to spend some \$200,000 of General Funds, taxpayers' money, to provide services to various dedicated accounts. The present dedicated accounts to which they refer have some \$560,000 which doesn't lapse to the General Fund, and yet they want to hire a lawyer for some \$23,000 and have the General Fund pay for it. In my opinion, that lawyer should definitely be paid for by dedicated revenue.

I am not going to argue the point whether they need another lawyer. They have two at the present time and they seem to get along all right. For example, here is a little book, L. D. 1502 that we passed here and those lawyers found time enough to make this up last year. That doesn't bother me so much as the fact that it seems funny to me that they are coming and asking for one person, a lawyer. Why didn't they ask the administration, why didn't they go to the Appropriations Committee for that? If we are going to sit here and everytime somebody wants a new employee they are going to come to the legislature and ask for them, we will be here all summer.

As far as the two bureau members — incidentally, this bill, they are trying to undedicate a couple of people but at the same time this bill dedicates two departments so we are a little bit inconsistent in the two. As far as the superintendents are concerned, they want to spend some \$86,000 a year to undedicate them. You should also know that in this whole department down there and in the bureaus, they have some \$1,300,000 of dedicated revenue that hasn't been spent. If they have some problems with any of those bureaus as to how they would finance them, it certainly seems to me that they should go back to the drawing board and figure out a way to do it but not come here and try to raid the General Fund of some \$200,000.

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

Mr. TELOW: Mr. Speaker, Ladies and Gentlemen of the House: Very seldom do I get up here and say very many words, but I felt that this morning I would have to get up and give support to my outstanding House Chairman of the Business Leg Committee.

I am pleased and honored to be cosponsoring L. D. 1580 as amended by Committee Amendment "A". I know the Department has worked long and very hard on it. I know that they need these changes to continue to do a good job.

Briefly, I do want to say this, that from my business experience, 36 years, there are times when reorganization is necessary to make your department, store or whatever it is more efficient, and I know that these changes will continue to do a good job.

I am listing here some of the reasons that I am going to state: (1) I think it makes a lot of good sense, since most of the agencies within the department license and regulate occupations and professions, to change the official name of the Department to the Department of Business, Occupational and Professional Regulation; (2) I think it makes a lot of good sense to constitute a division of administrative services by statute since one has existed for 10 years by letter of authorization; (3) I think it makes a lot of good sense to create a Division of Investigation and Enforcement and to hire one qualified person to assist all the bureaus, boards and commissions within the department with the investigation of a licensed practice and malpractice by licensees. This same person can become an expert in testing and following trends around the country and be a real asset, the kind which the bureaus, commissions and particularly the boards cannot afford by themselves; (4) I think it makes good sense — I

hope you are hearing the good part — to rename the central licensing division to Computer Services since it really has no licensing authority but has the responsibility for computer operation and word processing services for the whole department; (5) I think it makes a lot of good sense for the State Claims Board to be reassigned to the Department of Finance and Administration. It is adjudicatory in nature and examines licenses or regulates nothing. The Department of Business Regulation which houses it and the Department of Transportation which funds it, spends time processing financial orders, personnel and other matters back and forth through the Department of Finance and Administration. At Finance and Administration would be where the Insurance Advisory Board and other similar functions would be better off. (6) I think it makes a lot of good sense, again, to bring mobile home park licensing and annual inspections from the Division of Health and Engineering, under the Department of Human Services, where it is not wanted, to the Manufactured Housing Board where they have one full-time employee with ample time to do the job efficiently. The total cost would be less. (7) I think it is absolutely critical that the Department get a third attorney and that this attorney be paid from the General Fund. (8) I think the Commissioner can and should no longer be a member and executive secretary for the Oil and Solid Fuel Board, Plumbers, Electricians and Funeral Boards. He can give them more assistance by not being on them and he can spend his time with whichever bureau board or commission needs him.

In conclusion, I do want to state that the present commissioner is doing an excellent job. I have gone through reorganization before and I firmly believe in what he is trying to do.

I would like to finish with this — personally, I think it is an outstanding bill for an outstanding department and I would appreciate the outstanding members of this House to join me in supporting this bill.

The SPEAKER: The Chair recognizes the gentleman from Brooksville, Mr. Perkins.

Mr. PERKINS: Mr. Speaker, I would request the yeas and nays.

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

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

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

ROLL CALL

YEA—Ainsworth, Allen, Andrews, Baker, Beaulieu, Benoit, Bost, Brannigan, Brodeur, Brown, A.K.; Carrier, Carroll, D.P.; Carroll, G.A.; Carter, Cashman, Chonko, Clark, Conary, Connolly, Cooper, Cote, Cox, Crouse, Crowley, Diamond, Erwin, Gauvreau, Handy, Hayden, Hickey, Hobbins, Jackson, Jacques, Jalbert, Joseph, Joyce, Kane, Kelleher, Kelly, Ketover, Kilcoyne, LaPlante, Lehoux, Lisnik, Locke, MacEachern, Macomber, Manning, Martin, A.C.; Martin, H.C.; Matthews, K.L.; Matthews, Z.E.; Mayo, McGowan, McHenry, McSweeney, Melendy, Michael, Michaud, Mitchell, E.H.; Mitchell, J.; Moholland, Murray, Nadeau, Norton, Paradis, P.E.; Paul, Perry, Pouliot, Richard, Roberts, Rolde, Smith, C.B.; Soucy, Stevens, Strout, Swazey, Tammaro, Telow, Theriault, Thompson, Tuttle, Vose.

NAY—Anderson, Armstrong, Bell, Bonney, Bott, Brown, D.N.; Brown, K.L.; Cahill, Callahan, Connors, Daggett, Davis, Day, Dexter, Dillenback, Drinkwater, Foster, Greenlaw, Hig-

gins, L.M.; Holloway, Ingraham, Kiesman, Lebowitz, Lewis, Livesay, MacBride, Masterman, Masterton, Maybury, McCollister, Murphy, E.M.; Paradis, E.J.; Parent, Perkins, Randall, Reeves, J.W.; Roderick, Rotondi, Salisbury, Scarpino, Sherburne, Small, Smith, C.W.; Sproul, Stevenson, Stover, Walker, Webster, Wentworth, Weymouth, Willey, Zirnkilton.

ABSENT—Curtis, Dudley, Gwadosky, Hall, Higgins, H.C.; Mahany, McPherson, Murphy, T.W.; Nelson, Pines, Racine, Reeves, P.; Ridley, Seavey, Soule, The Speaker.

Yes, 83; No, 52; Absent, 16.

The SPEAKER: Eighty-three having voted in the affirmative and fifty-two in the negative, with sixteen being absent, the motion does prevail.

The Bill was read once.

Committee Amendment "A" (S-197) was read by the Clerk and adopted in concurrence.

Under suspension of the rules, the Bill was given its second reading.

Mr. Vose of Eastport offered House Amendment "A" and moved its adoption.

House Amendment "A" (H-359) was read by the Clerk.

Mr. VOSE: Mr. Speaker, Ladies and Gentlemen of the House: First, I apologize to the committee that I am presenting this amendment on the floor but they were very busy and actually I was unable to make the work session and they had already voted the bill out, but I did inform the committee that I was going to attempt to put this amendment on.

First off, the bill itself creates a new section of the Division of Administrative Services which, in effect, is supposed to be an in-between man, so to speak, between the commissioner and all of the respective boards. This amendment that I am putting on addresses the funding of that particular position of the gentleman or lady which is to be hired for that job. The reason that I wanted to amend the bill is because the funding for that position was to be achieved through the dedicated funds of the various boards.

However, last year, in a separate bill that was sponsored by Representative Manning, the electricians' fees were raised and the reason why they were raised was because of this and I will read the Statement of Fact: "The board has expended all of its balances and has no cash with which to operate. In October of 1981, it was necessary to lay off two of the state's four electrical inspectors. The board has made no capital expenditures for years. This bill would increase dedicated revenues by approximately \$125,000 annually."

I was chairman of that board at one time and it has always been my thought that what this state really needs to have effective control over the electricians is one inspector for each county. We now only have four and it upsets me a little, where I see now the commission is attempting to put a new position over in the department, which I am not arguing the position because I certainly am not qualified to say he needs or doesn't need this position, but to fund this position from dedicated revenue in which we last year just passed a bill so we could get the two inspectors who are now back, to get them back in operation, so therefore this amendment that I am putting on says, fine, if you want to create this position, then you must go to the General Fund to fund this position.

The SPEAKER: The Chair recognizes the gentleman from Brooksville, Mr. Perkins.

Mr. PERKINS: Mr. Speaker, Ladies and Gentlemen of the House: I lost on the other one, I don't know whether I am going to lose on this one or not, but this is another raid on the General Fund in the sum of \$18,000. From that point of view, I don't think it is needed and I hope you defeat this amendment.

Mr. Brannigan of Portland requested a division.

The SPEAKER: The pending question before

the House is on the adoption of House Amendment "A". Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

34 having voted in the affirmative and 68 in the negative, the motion did not prevail.

Thereupon, the Bill was passed to be engrossed as amended in non-concurrence.

The Chair laid before the House the fifth matter of Unfinished Business:

Bill, "An Act to Increase the Minimum Wage" (H. P. 884) (L. D. 1138)

— In House, Minority "Ought to Pass" as amended Report of the Committee on Labor read and accepted and the Bill Passed to be Engrossed as amended by Committee Amendment "A" (H-262) in the House on June 1, 1983

— In Senate, Majority "Ought Not to Pass" Report of the Committee on Labor read and accepted in non-concurrence.

Tabled — June 10, 1983 by Representative Diamond of Bangor.

Pending — Further Consideration.

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

Mrs. BEAULIEU: Mr. Speaker, I move we insist and ask for a roll call.

The SPEAKER: The gentleman from Portland, Mrs. Beaulieu, moves that the House insist and asked for a roll call.

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

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

The SPEAKER: The pending question before the House is on the motion of the gentleman from Portland, Mrs. Beaulieu, that the House insist.

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

Mr. GAUVREAU: Mr. Speaker, I request leave of the House to pair my vote with the gentleman from Kennebunk, Mr. Seavey. If Mr. Seavey were present and voting, he would be voting no; I would be voting yes.

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

Mr. GWADOSKY: Mr. Speaker, I request leave of the House to pair my vote with the gentleman from Portland, Mrs. Nelson. If Mrs. Nelson were present and voting she would be voting yes; I would be voting no.

The SPEAKER: The pending question before the House is on the motion of the gentleman from Portland, Mrs. Beaulieu, that the House insist. Those in favor will vote yes; those opposed will vote no.

ROLL CALL

YEA—Ainsworth, Andrews, Baker, Beaulieu, Benoit, Bost, Brannigan, Brodeur, Brown, A.K.; Carrier, Carroll, D.P.; Carroll, G.A.; Carter, Cashman, Chonko, Clark, Connolly, Cox, Crowley, Diamond, Erwin, Hall, Handy, Hayden, Hickey, Higgins, H.C.; Hobbins, Jacques, Jalbert, Joseph, Joyce, Kane, Kelleher, Kelly, Ketover, Kilcoyne, Lehoux, Lisnik, Locke, Macomber, Manning, Martin, A.C.; Martin, H.C.; Matthews, K.L.; Matthews, Z.E.; Mayo, McColister, McHenry, Melendy, Michael, Michaud, Mitchell, E.H.; Mitchell, J.; Murray, Nadeau, Paradis, P.E.; Paul, Perry, Pouliot, Reeves, P.; Richard, Rolde, Rotondi, Smith, C.B.; Stevens, Swazey, Tammaro, Theriault, Thompson, Tuttle, Vose, The Speaker.

NAY—Allen, Anderson, Armstrong, Bell, Bonney, Bott, Brown, D.N.; Brown, K.L.; Cahill, Callahan, Conary, Connors, Cooper, Cote, Crouse, Daggett, Davis, Day, Dexter, Dillenback, Drinkwater, Dudley, Foster, Greenlaw, Higgins, L.M.; Holloway, Ingraham, Jackson, Kiesman, LaPlante, Lebowitz, Lewis, Livesay,

MacBride, Masterman, Masterton, Maybury, McGowan, McSweeney, Moholland, Murphy, E.M.; Norton, Paradis, E.J.; Parent, Perkins, Randall, Reeves, J.W.; Ridley, Roberts, Roderick, Salsbury, Scarpino, Sherburne, Small, Smith, C.W.; Soucy, Sproul, Stevenson, Stover, Strout, Telow, Walker, Webster, Wentworth, Weymouth, Willey, Zirkilton.

ABSENT—Curtis, MacEachern, Mahany, McPherson, Murphy, T.W.; Pines, Racine, Soule.

PAIRED—Gauvreau-Seavey, Gwadosky-Nelson.

Yes, 72; No, 67; Absent, 8; Paired, 4.

The SPEAKER: Seventy-two having voted in the affirmative and sixty-seven in the negative, with eight being absent and four paired, the motion does prevail.

The Chair laid before the House the sixth matter of Unfinished Business:

House Divided Report — Majority (9) "Ought to Pass" in New Draft (H. P. 1319) (L. D. 1749) — Minority (4) "Ought Not to Pass" — Committee on Judiciary on Bill "An Act to Provide for Swifter Disposition of Drunk Driving Cases" (H. P. 830) (L. D. 1068)

Tabled — June 10, 1983 by Representative Hobbins of Saco.

Pending — Acceptance of Minority "Ought Not to Pass" Report.

The SPEAKER: The Chair recognizes the gentleman from Monmouth, Mr. Davis.

Mr. DAVIS: Mr. Speaker, Ladies and Gentlemen of the House: I certainly hope that we will not accept the "Ought Not to Pass" Report this morning. I have a couple of amendments to address some of the concerns of the members of this body, so I would hope that you will not accept this and I would request a division.

The SPEAKER: The pending question before the House is on acceptance of the Minority "Ought Not to Pass" Report. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

27 having voted in the affirmative and 73 in the negative, the motion did not prevail.

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

Under suspension of the rules, the New Draft was given its Second Reading.

The SPEAKER: The Chair recognizes the gentleman from Monmouth, Mr. Davis.

Mr. DAVIS: Mr. Speaker, Ladies and Gentlemen of the House: The first amendment that I would like to offer is House Amendment "A" and move its adoption.

House Amendment "A" (H-393) was read by the Clerk.

The SPEAKER: The Chair recognizes the gentleman from Monmouth, Mr. Davis.

Mr. DAVIS: Mr. Speaker, Ladies and Gentlemen of the House: House Amendment "A" is merely a definition to address a technicality that the Driver Licensing Control Division brought to our attention. This merely tightens up the definition of the drunkenness at .10 percent. I now move for the adoption of House Amendment "A."

Thereupon, House Amendment "A" was adopted.

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

House Amendment "B" (H-394) 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: This is the amendment which I had asked if someone would sponsor and I ended up sponsoring it. This is in case a person's license is revoked and after a trial it is proven that the person is not guilty, this would give them damages and the judge would decide whether damages are due. All I am saying is that if the person is not guilty, he should not be paying for something and that is what the amendment would do.

Thereupon, House Amendment "B" was adopted.

The SPEAKER: The Chair recognizes the gentleman from Monmouth, Mr. Davis.

Mr. DAVIS: Mr. Speaker, Ladies and Gentlemen of the House: I am a little late on my feet but I would now move reconsideration of adoption of House Amendment "B." I feel that there are enough safeguards in this bill with its amendments as we plan to present them to address this problem and I would certainly move for reconsideration of this amendment and hope we can defeat it.

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

Mr. HOBBS: Mr. Speaker, Men and Women of the House: I would hope that we do not reconsider our action whereby we adopted House Amendment "B." This is a real tester, ladies and gentlemen, we are going to find out whether or not in fact we want to treat people fairly and whether or not fundamental fairness also dictates that if a person is then found innocent of operating under the influence, after that person has lost their license for a period of time, it could be of great expense to that person. They could have lost their job, they could have had a business where they couldn't deliver things, they could have had a medical problem which necessitated a license where they could have driven to that particular place, and I commend the good gentleman from Madawaska, Mr. McHenry, for sympathizing with the arguments that I made at last week's session concerning this bill. I hope if, in fact, we are going to pass this bill and it looks like the Secretary of State and many other people have lobbied very hard, we are getting letters in the mail here, I can see, and other people getting letters, because they were a little surprised at the vote last week supporting the Majority Report, but if we are going to pass this, let's make it fair. If someone is found not guilty and there are some damages that have to be assessed against the wrongdoer, and in that particular case it would be the State of Maine, I think it is only fair that that person be compensated.

I urge you not to reconsider.

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

Mr. HIGGINS: Mr. Speaker, Ladies and Gentlemen of the House: I am not really surprised that the gentleman from Saco, Mr. Hobbins, would be in favor of this amendment. It really looks to me like an "attorney's dream."

I just wanted to pose a question through the Chair. If any individual is charged for something under any other provision of the law and then they are later found innocent, do we allow them to sue for damages that were done?

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

Mr. WALKER: Mr. Speaker, Ladies and Gentlemen of the House: I would request a roll call on reconsideration.

The SPEAKER: The gentleman from Skowhegan, Mr. Walker, requests a roll call on reconsideration.

The gentleman may proceed.

Mr. WALKER: Mr. Speaker, Ladies and Gentlemen of the House: I think this amendment is right on, right on target. Having read the paper and looked at the different convictions around the state, these apparently run from a high of 85 percent, I believe it is in Kennebec County, to a low of something like 40 percent in the southern part of the state somewhere, obviously there are a lot of people who are going to be convicted and lose licenses who are later going to be found not guilty.

Last week we had a stirring appeal to us from an attorney on the Judiciary Committee recounting the sad story of a hairdresser who was hounded by one of our, I guess it was our Taxation Committee, for some taxes they claimed she owed them. Well, I really don't see that there is that much difference between being penalized wrongfully by the Taxation

Committee or by the Secretary of State's Office. I think if we are going to penalize people who are not guilty, we certainly should make restitution.

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

Mr. MacEACHERN: Mr. Speaker, Ladies and Gentlemen of the House: This amendment could cost a lot of money and I would like to see some sort of a fiscal note on it. I can see millions of dollars going out of the state coffers if this amendment is passed.

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

Mr. McHENRY: Mr. Speaker, Ladies and Gentlemen of the House: I proposed this amendment for the very gentleman that is proposing a fiscal note on the bill. My reason for proposing this amendment is to make sure that when a police officer stops a person and advises the Secretary of State to revoke the person's license, you have got to be doggone sure that that person's license is revoked for a good reason and he has got to be sure that that person is guilty and that is my reason behind this. It is also to protect the innocent. I don't want my police officers going around and revoking people's licenses just out of viciousness. What I want is justice and I believe this is providing justice. I am for this bill 100 percent but I want to protect the innocent also, and as far as a fiscal note, I don't think there should be a fiscal note because I really believe that the police officials, police officers, should be arresting people that deserve and should be proven guilty in court. If they are proven innocent, that means our police officers are not doing their jobs.

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

Mr. JACQUES: Mr. Speaker, Ladies and Gentlemen of the House: I said my piece on this bill last week. I would like to just briefly read you part of an editorial that appeared in the Kennebec Journal this past weekend.

It says: "There is a world of difference between being charged and being convicted even in what may seem an open and shut OUI case. The fact that charges are brought does not necessarily mean that the suspect will be convicted. Due process of law is an important concept but this bill would ignore it. The bill does stipulate that a defendant whose license is suspended is entitled to a hearing before the Secretary of State." That makes him an awful powerful man, don't you think? "But there is no substitute for the proper judicial process. The bill would allow the state to punish a person before it proves he has committed an offense."

This morning's Waterville Sentinel, on the front page there is the administrator of my local hospitals, two of them, they are major hospitals in Waterville, who has resigned as administrator. He was picked up and charged with OUI last week, he hasn't even gone to court, he hasn't even been found guilty but he has been forced to resign from that position. I think that is a little sad, especially in the United States of America.

Not too long ago we had a bill before this body on, as Mr. Smith from Island Falls called it, the Rat and Cheese Bill and he went through a very elaborate scenario of the woman who would call on her husband so she could get a new coat and the kids would then become a liability of the state because the old man would be in jail, food stamps, mother's aid, fuel assistance — how about the guy who drives a truck for Country Kitchen or Smiley's Dairy or Grant's Dairy, who needs his license for the job, loses that license, loses his job, who is going to pay for these children in the meantime while that guy has no license and no job? What are we going to do with him after he is found innocent, if he is? Are we going to say we are sorry you lost your job? It is all right, we will pay for the kids, we will support you, we will pay for your fuel, we won't charge you taxes on your house. I think it is only fair that if you wrongly

accuse somebody of something and take, even if it is a privilege, it away, there should be some place that person could be compensated.

This amendment still doesn't make this bill great to me because I think we have slapped in the face what we all believe, but I think it does address one of the major problems and at least that is a step halfway in the right direction anyway, and I hope you will go along with the amendment.

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

Mr. HIGGINS: Mr. Speaker, Ladies and Gentlemen of the House: I think it is obvious by the fact that no one answered the question that the answer is, no. In any other provisions of law, if you are charged and you are later found innocent, you don't have the right to sue the state or anybody else for what happened, and why should this particular piece of legislation be any different than any other? I think the answer is clear that it is an attempt to kill the bill. If it is not, I would be some surprised.

Now the gentleman from Waterville mentioned someone who had been picked up for OUI and lost his job because he had been charged. This bill is not going to change that, it has nothing to do with that whatsoever. If you take into account the amendment that the gentleman, my seatmate, intends to offer later that provides for someone being able to have a work permit so they can drive and will not lose their job because of this, I think every possible question or problem with this bill has been eliminated other than the fact that you are against it.

We have strayed a little bit from the issue here, and that is whether or not people who are charged with OUI ought to be able to lose their license, their privilege to drive, while a trial is pending. I think it is going to provide for, as the title says, swifter disposition, because if you have been charged and you feel you are innocent, you sure as heck are going to want a trial right off and we know what is happening now with a lot of cases, they are delaying and delaying and delaying. This is the only bill we have had so far, excuse me, I guess there were a couple on the Calendar the other day or yesterday, but as of Friday it really is the only bill that has been presented this session to deal with the still critical problem of operating under the influence in the State of Maine that this legislature has been asked to deal with.

I think this is one method and a good method of providing for justice on the highways. We are getting to the point where we are asking to protect the person who has been charged with OUI and we ought to be asking, "what about the other people that are coming down the street on the other side of the road who are, when they pass, less than 36 inches apart?"

I hope you will go along with reconsideration of this amendment so we can kill it and get along with the real issue here of whether or not we want to take some action, as the gentleman from Durham said the other day, to make a good law better.

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

Mr. PARADIS: Mr. Speaker, Ladies and Gentlemen of the House: As I look at this amendment and as I have the bill before me, L. D. 1068, I feel that the amendment has the wrong title. It ought to be called "the lawyers' employment security act," because I can see every brother and sister of the bar of the State of Maine advising clients that if they hire he or she, they can probably get off with a not guilty verdict and then can sue for damages, \$20,000, \$30,000 or \$40,000 perhaps from the State of Maine and we would have more backlog in the courts as a result.

But more importantly, what the backers of this amendment would like to have you good people believe is that our police officers are going to be apprehending innocent men and

women. The people that I know that serve in the law enforcement don't stop someone on the highway that is cold sober, that has been driving perfectly well on the highway at high noon, and charge them with driving under the influence. I have been with the Augusta Police and State Police troopers enough in the last two or three years to see that when they do apprehend someone, it is because that person has been crossing the line more than five or six times and the blood alcohol level when tested is usually, 99 percent of the time, over .10, legally drunk in this state. Another action of this, perhaps, is high speed pursuit, they try to elude the officer.

If you take the bill, L. D. 1068, and it says the Secretary of State can pull the license immediately only after a certain number of criteria have been met, the drunk driving criteria. I cannot support this amendment that tries to instill into the heart of the police officer that if you make one mistake, your chief probably will suspend you because the state is going to have to come across with a \$100,000 damage claim to pay and your name is going to be on the front pages of all the papers that you did wrong. Our police officers do us enough favors by cleaning up some of the people we have driving on our highways.

I urge you not to accept this amendment. L. D. 1068 is a good bill. It is going to go one step further in trying to clean up some of the actions we have on our highways and, believe me, ladies and gentlemen, it isn't getting better.

For awhile, after October of 1981 when the OUI law went into effect, traffic fatalities went down; now they are going back up again. I don't have the answer to tell you, I don't think anybody right now does. We have multiple fatalities which have boosted the rate, two or three teenagers getting killed in the same car, but it surprises me and it worries me that a bill like this with an amendment like this can probably do more harm to innocent people than do good for the people that once in awhile might be caught in the system.

I urge you to vote to indefinitely postpone this amendment.

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

Mr. DRINKWATER: Mr. Speaker, Ladies and Gentlemen of the House: I urge you to revive this amendment so we can kill it and get on with listening to the other amendments so we can select the good ones.

I would like to bring one point out in this debate and then I will sit back down again. Everybody here knows how I feel about this bill and it has been brought up a lot of times in the debate today and a few days ago that people are going to lose a great deal, they would lose their license, they might lose their job, I think that anyone who has a job who depends on their license should protect their license, should protect their privilege to drive.

My wife and I, on Saturday, were driving on a side road in a town near where I live and my wife is sitting in the balcony today so I have a witness to this, this is not political rhetoric or whatever you want to say, but we met a car on a curve, it was jeep-type car with a roll bar on it with no top, the driver was drinking out of a can that we could readily see what it said on the can because we were so close, and it forced us completely off the road and I question if he saw us whatsoever. I feel that we are both lucky to be here today, so I don't have a great deal of sympathy with people who have a job and don't do anything to protect it.

I urge you to help us revive this amendment so we can kill it and get on with listening to the other amendments.

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

Mr. GAUVREAU: Mr. Speaker, Ladies and Gentlemen of the House: It is with some reluctance that I rise today to oppose the amendment but I feel in all good conscience I must

oppose the amendment being offered. I must be up front and tell you people that I am opposed to the basic concept underlying this piece of legislation and I plan to vote against the bill, but I cannot in good conscience support an amendment which simply adds one layer of bad law to an already bad law.

I feel that the whole approach which this L. D. is taking is misconceived. In my experience, having practiced law for seven years, indicates to me that the irresponsible driver, the poor driver, is going to drive regardless of whether or not he or she happens to have in his possession a motor vehicle license. That is totally irrelevant, they will still operate on the roads of this state. That is a tragic but unfortunately true fact. My deep concern on this matter is that in our sincere effort to attack a menace, the drunk driver, we are going to enact legislation so broad, we are going to impose upon the rights and privileges of the people of this state. I think that is an unconscionable approach, one that I cannot adhere to, and for that reason I oppose both the amendment and the underlying bill.

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

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

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

Mr. REEVES: Mr. Speaker, Ladies and Gentlemen of the House: I didn't intend to rise again today. I think everybody on this floor knows where I stand and why I take that position. I merely rise to point out that two earlier speakers spoke about an individual being permitted or allowed to sue the state. Well, it is strange to me, because I cannot read that anywhere in this House Amendment "B". There is no provision in there for anybody to sue the state. It says that the court shall, upon request, determine what reasonable damages, if any, have been suffered by that person and that he will be paid by the state. There is nothing in there about suing the state.

I can't see multi-thousand dollar cases from this amendment. It says that the judge will determine "reasonable." I think that that is quite plain. I think that the amendment does make the bill a little bit more palatable but not very much.

If we have got to pass this bill, I hope that we will pass the amendment too, but I hope that you will not vote to pass this very bad bill. I was beginning to wonder until a few minutes ago when the gentleman from Waterville got up, I was wondering if anybody had read the editorials in the KJ yesterday. I did and he told you exactly what they said. They said it was a bad bill. It is a prejudgment bill. It is penalizing an individual before he has had his day in court and I am not going to take up any more of your time.

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

Mr. McHENRY: Mr. Speaker, Ladies and Gentlemen of the House: I proposed this amendment not to kill the bill but to make it better. I am one that believes in the bill. The gentleman from Scarborough says that I am trying to gut the bill but I am not. I am trying to get this bill in position where those that oppose it will be able to vote for it. I know that I want to protect the innocent, not the guilty. All this does is protect those that are wrongfully charged, that is all the amendment does.

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

Mr. JOYCE: Mr. Speaker, Ladies and Gentlemen of the House: It is my understanding that now before this body is Representative Mc-

Henry's amendment and no other matter can be discussed.

As I speak to that amendment, I will ask this body to bear in mind that this is an amendment that is not needed. Under the current Maine law, we have adequate protection. False arrest suits are not uncommon in my area and perhaps not uncommon in your area. We look for police officers who are dedicated, officers that will be respected. We feel that throughout the state we have made an impression on the caliber of officers who are out there today. They will make mistakes and if those mistakes bare malice, I believe there is just reward available in Maine law for the offended person. I do not feel that this amendment is needed.

The SPEAKER: The pending question is on the motion of the gentleman from Monmouth, Mr. Davis, that the House reconsider its action whereby House Amendment "B" was adopted. Those in favor will vote yes; those opposed will vote no.

ROLL CALL

YEA—Ainsworth, Armstrong, Bell, Benoit, Bonney, Brannigan, Brown, A.K.; Brown, D.N.; Brown, K.L.; Cahill, Callahan, Carrier, Carroll, G.A.; Carter, Chonko, Clark, Connors, Cote, Crowley, Daggett, Davis, Day, Dexter, Drinkwater, Erwin, Foster, Gauvreau, Greenlaw, Gwadosky, Hayden, Hickey, Higgins, H.C.; Higgins, L.M.; Holloway, Ingraham, Jackson, Joyce, Kelly, Ketover, Kiesman, Kilcoyne, Lebowitz, Lehoux, Lisnik, Livesay, MacBride, MacEachern, Macomber, Masterman, Masterton, Matthews, K.L.; Matthews, Z.E.; Maybury, McCollister, McGowan, McSweeney, Melendy, Michael, Michaud, Norton, Paradis, E.J.; Paradis, P.E.; Parent, Paul, Perkins, Perry, Randall, Richard, Ridley, Roberts, Roderick, Rotondi, Salsbury, Scarpino, Small, Smith, C.B.; Smith, C.W.; Soucy, Stevens, Stevenson, Stover, Strout, Swazey, Tammaro, Telow, Thompson, Vose, Webster, Weymouth, Willey, Zirkilton.

NAY—Allen, Anderson, Andrews, Baker, Beaulieu, Bost, Bott, Brodeur, Carroll, D.P.; Cashman, Canary, Connolly, Cooper, Cox, Crouse, Diamond, Dillenback, Dudley, Hall, Handy, Hobbins, Jacques, Jalbert, Kane, Kelleher, LaPlante, Lewis, Locke, Manning, Martin, A.C.; Mayo, McHenry, Mitchell, E.H.; Mitchell, J.; Moholland, Murphy, E.M.; Murray, Nadeau, Reeves, J.W.; Reeves, P.; Rolde, Sherburne, Sproul, Theriault, Tuttle, Walker, Wentworth.

ABSENT—Curtis, Joseph, Mahany, Martin, H.C.; McPherson, Murphy, T.W.; Nelson, Pines, Pouliot, Racine, Seavey, Soule, The Speaker.

Yes, 91; No, 47; Absent, 13.

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

The pending question is on the adoption of House Amendment "B".

The Chair recognizes the gentleman from Monmouth, Mr. Davis.

Mr. DAVIS: Mr. Speaker, I would ask for a division.

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

Mr. McHENRY: Mr. Speaker, Ladies and Gentlemen of the House: I would like to pose a question to anybody who wishes to answer. How are the people who are wrongfully charged going to be protected? That is all I am trying to do, protect those that are innocent of the charges. How are they going to be protected if we kill this amendment?

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

The Chair will order a vote. The pending question before this House is on the adoption of House Amendment "B." Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

41 having voted in the affirmative and 78 in the negative, the motion did not prevail.

Mr. Davis of Monmouth offered House Amendment "C" and moved its adoption.

House Amendment "C" (H-396) was read by the Clerk.

Mr. DAVIS: Mr. Speaker, Ladies and Gentlemen of the House: I offer this amendment to address some of the concerns of many of you good members here in the House. This amendment provides for a work restricted license. If the evaluation of the information that the Secretary of State and his workers are provided deems that it would be within their good judgement to provide a work restricted license, it can be done if this amendment is added.

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

Mr. HOBBS: Mr. Speaker, I would like to pose a question through the Chair. How long will it take from the time that a person is suspended to a time when they can have a hearing on the issue of a work restricted license? I guess the point I am trying to raise is whether or not there would be a long period of time between the time a person is suspended to that time when they can receive a work restricted license.

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

The Chair recognizes the gentleman from Monmouth, Mr. Davis.

Mr. DAVIS: Mr. Speaker, Ladies and Gentlemen of the House: In answer to that question, I would say this, that in the title of the bill it reflects what we are trying to do in cases of drunken driving, to provide for swifter, and the key word is swifter, disposition. That would carry right through to the entire process that this bill addresses.

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

Mr. MacEACHERN: Mr. Speaker, Ladies and Gentlemen of the House: I think that this amendment does make the bill a little more palatable but it still doesn't inject any common sense and fairness into the mind of any police officer in this state, and that includes the country constable and every other police agency in the state. Most of our state police and our city police and our county police are pretty well trained but there are those out there with a uniform on who I would rather not have prosecuting me. Nothing in this bill or any of these amendments changes that situation. If the bill is going to pass, I would rather see it pass with this amendment on it, so I hope you will vote for the amendment, but I wouldn't like you to go any farther than that.

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

A vote of the House was taken.

113 having voted in the affirmative and 9 in the negative, the motion did prevail.

The SPEAKER: The pending question is passage to be engrossed as amended by House Amendments "A" and "C" thereto.

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

Mr. HOBBS: Mr. Speaker, I would like to pose a parliamentary inquiry. Does this bill require a fiscal note?

The SPEAKER: The Chair would advise the gentleman from Saco, Mr. Hobbins, that it does not require a fiscal note based on the information provided by the Legislative Finance Office.

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

Mr. JACQUES: Mr. Speaker, Ladies and Gentlemen of the House: I apologize to you on this hot day for speaking so many times on this bill, but I am doing so only because I feel so strongly about it. I don't think any of you would really want it any other way.

There was something that was just said a lit-

tle while ago and I have been waiting for this chance — it really bothers me that the good and noble gentleman from Scarborough, Mr. Higgins, said it looked like we were trying to protect the person that was charged, not convicted, charged. Apparently all my years of government studies and social studies led me astray, because I was under the assumption that in this country every bit of your rights were protected until you was convicted, not charged.

Do we address other criminals in the same manner that we are going to address this drunk driver today? Ask yourself that question. Has this country come that far, and I know everybody wants to go back home and say I did something against the drunk driver, but at what cost, ladies and gentlemen of this House, at what costs? I said the other day, if you want to take the license away for five years or ten years or twenty five years upon conviction, I would go along with that, but what are we doing?

Mr. Speaker, on engrossment of this bill, I would ask for a roll call.

The SPEAKER: A roll call has been requested.

The Chair recognizes the gentlewoman from Bethel, Miss Brown.

Miss BROWN: Mr. Speaker, Ladies and Gentlemen of the House: I didn't intend to speak on this bill but I would like to tell you about some of the things that I have discovered going on in Oxford County and other parts of the state in the last couple of years.

There are OUI drivers who have had more than two convictions, that have run roadblocks, that have had 16 and 17 year old girls in the car that are permanently paralyzed and they are still out there driving. The state right now is not taking these people off the highway. The Secretary of State possibly can take them off the highway, but only a few of them, they have got to have this law. I am talking about more than one case. There are numerous cases out there. Perhaps the State Police in Augusta are accurate but in other parts of the state, because of the way the investigations are run, because of local politics, because of numerous reasons, a lot of these guys continue to drive time and time again.

I have had many cases in my area, we had one almost two years ago where a 17 year old girl was in the car out for a joy ride, the guy was drunk, the police chased the car, they went through the roadblock, had a car accident, the girl is permanently damaged — no insurance, nothing. The guy has been convicted twice since then on OUI, he is still driving.

I said to Rod Quinn, I don't understand, what is wrong with the system? You need this bill to get those people off the highways.

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

Mr. REEVES: Mr. Speaker, Ladies and Gentlemen of the House: This House Amendment "C" reminds me of "taketh with one hand and giveth with the other." As far as I can see, House Amendment "C" helps to prove the point that some of us have been trying to make, that this bill is not necessary. The bill, as designed, they can't take your license away from you quick enough and House Amendment "C" is a provision to give you a work related license. They talk about getting the drunk driver off the road and keeping him off the road, as the last speaker just said, well they may grab his license and cause him a lot of inconvenience and maybe his job and then they want to turn around and give him back a license so he can go back and forth to work. Is that taking him off the road and keeping him off the road? Not in my book.

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

Mr. HOBBS: Mr. Speaker, Men and Women of the House: There is one basic problem with the amendment which we put on this bill, and

that says that if you are fortunate enough to be one of those people who has a job or are employed, you can receive a work restricted license but if you are of the 9.8 percent individuals, the unfortunate individuals, if you are a person because of whatever means you do not have a job, under this amendment that person would not be able to get a restricted license pending their outcome of their day in court when the determination would be made whether, in fact, they were guilty of the crime charged.

It appears that the good lobbying efforts of many individuals, it appears that the emotionalism that is brought forward today saying that the previous amendment was a lawyer's dream, the emotional argument used, as we all do in these bills concerning the results of an OUI situation, but let me tell you a little bit about what we have done already this session in this regard. We have increased the penalties or we will have increased the penalties by the end of the day, most likely, from a minimum of a first offense of 45 days without a license, if you are convicted, to 90 days, we did that this session. This House has passed to be engrossed a very strict OUI bill pertaining to juveniles. Some people say it is a model legislation for the country. I supported both of those bills but this bill goes too far, whether or not it is amended down, it still goes too far.

I was happy to see the editorial in the newspaper and it was good to see that they finally didn't say anything in vain about a position I hold, but I wish you would look at that editorial and I wish you would search your conscience a little bit to see whether or not you want to go this far. I honestly believe that if we enact this bill in whatever form, we are tipping the scale and the scale is very balanced in our society and when that scale tips one way or tips the other way, innocent individuals are hurt by that. It is my hope that we will keep the scale balanced and not tip the scale to an area where I think some innocent people will be hurt.

I know when I sit down someone is going to get up and say, well how about those innocent people who get hit by drunken drivers? As the good gentleman from Lewiston has mentioned very nicely because he has practiced law and he has seen these OUI cases, the unfair reality and the unjust reality is that in a great majority of cases involving fatalities in this state, the person wasn't privileged to be on the road in the first place, the person didn't even have a license. The person was under suspension in the first place, and that is the truth. I wish some of you would talk to some of the lawyers in your area or spend a half a day in court or talk to the district attorney's office and find out about the OUI offender and the person who causes that injury or that death, because you will find in a great majority of the cases, the person shouldn't have been on the road in the first place, they are under suspension and this law is not going to change one bit what the results will be in that circumstance.

I hope you all today will not knee jerk it and will look at the bill very carefully, because it is very easy to go back to your hometowns and say I did something for the citizens, we are going to protect you from the OUI offender. To be frank with you, ladies and gentlemen, we passed one of the toughest OUI laws in the country and, unfortunately, the reality is this — it has helped in those instances of keeping some people off the road but the reality is, the deaths have increased. So don't for a minute think that this bill, if passed, is going to have a great effect in that regard.

I suppose I will sit down now and we will take the vote and I am sure the lobbying efforts of those involved will probably put this into law and I can just tell you one thing, that as a lawyer a couple of my lawyer friends back home said, Gee, don't get up and fight that bill, Barry, because what it will mean is that a person will

hire a lawyer in every instance in a OUI case because they will have to get their license back or they will have to petition the Secretary of State for a hearing, and that is what is going to happen, ladies and gentlemen. We are going to have a two tier process now, we are going to have an administrative pile up, I think, in the administrative area, the Secretary of State's Office. I asked the question earlier about a fiscal impact statement and the truth of the matter is, we are going to hire more personnel and the way they are funding this, we're \$25 million in debt now and we are going to fund this with a fee increase, a \$5 fee increase, so all you people out there who always oppose these fee increases, and the irony is, it is the same individuals who are pushing this bill and have time and time again, during the last session and during this session, always opposed fee increases because they want to put us on the spot — you are voting for one now, ladies and gentlemen.

I just hope you think seriously about passing this bill.

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

Mr. WALKER: Mr. Speaker, Ladies and Gentlemen of the House: This bill really doesn't seem to me to have as its basic motive: better justice in the state. It seems to me that this bill, if passed, would allow society to avenge itself immediately, or very soon thereafter, against anyone who is arrested for OUI, and I certainly hope we don't pass this bill because I am sure some of you will remember a bit of history about the old west — there was a judge out there who became quite famous and his motto was: "We will hang 'em first and try 'em later." That became known as Lynch Law. When we convict people without a trial, when we say "your guilty" and we take their right for a trial, we yank the license, we are advocating old Judge Lynch's law.

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

Mr. AINSWORTH: Mr. Speaker, Ladies and Gentlemen of the House: The gentleman across the aisle just said a few minutes ago they couldn't take the license quick enough and I think that is great. I think they should take it just as quick as they can. As I told you a couple of weeks ago, a gentleman in Yarmouth who got smashed up and I really mean smashed up, and three and a half hours later, the person who hit him, who was drunk and driving at the time of the crash was picked up again for drunken driving. Now this is one time the Secretary of State could have done a job. He could have taken that man's license immediately. I think you have to realize that somewhere along the line, you have to give someone a little bit of authority, and I think you are giving it to the Secretary of State in this case. I think he will use reason when he pulls that license. Again I say, we could have done something. I would hate to think we went home after this session and didn't do anything and left everything in place as it is now.

I know at the time I called the Attorney General, I called everyone, the Secretary of State's Office, they couldn't do anything; now they are going to be able to do something and I like to think that I can go back this time to my constituents and say especially to the man who got smashed up, we did try to do something.

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

Mr. McHENRY: Mr. Speaker, Ladies and Gentlemen of the House: I will vote for the bill but I would much rather see it amended so we would protect those that are wrongfully charged, I honestly believe that, but I will vote for the bill. Hopefully sometime in the future, maybe next year, somebody will see the light and protect the innocent.

The SPEAKER: A roll call has been requested. For the Chair to order a roll call, it

must have the expressed desire of one fifth of the members present and voting. All those in favor of a roll call will vote yes; those opposed will vote no.

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

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

Mr. MOHOLLAND: Mr. Speaker, Ladies and Gentlemen of the House: I have been sitting here for two days listening to this and I am one of the gentlemen who don't drink. Mr. Ainsworth evidently hasn't got a person that drinks where all his constituents are.

I would like to relate a couple of things that the officer did to one of my employees. He has lost his license for 90 days. He was yanked out of a truck, his face was all stove to pieces, he was kicked in the stomach so you could see the foot prints of the officer's feet on his stomach, he begged that same officer all the way down the road, 10 miles, to take him to the hospital to take a test. He would not do that, he took him to jail and he gave him another rap. I don't think we need any officer that will pull a trick like that.

I have another instance, it was my own son, he was helping this same officer fix up a ball-field for a softball game. They both drank about a fifth of liquor, they worked all afternoon. When they got all done, the officer jumped into his car and drove 10 miles up the road and had my son picked up or tried to have him picked up for OUI. Ladies and gentlemen, I don't think we need this bill at this time.

The SPEAKER: A roll call has been ordered. The pending question before the House is on passage to be engrossed as amended. Those in favor will vote yes; those opposed will vote no.

ROLL CALL

YEA—Ainsworth, Armstrong, Bell, Brannigan, Brown, A.K.; Brown, K.L.; Cahill, Callahan, Carroll, G.A.; Carter, Connors, Cox, Crowley, Daggett, Davis, Dexter, Drinkwater, Foster, Greenlaw, Gwadosky, Hayden, Higgins, H.C.; Higgins, L.M.; Holloway, Ingraham, Jalbert, Joyce, Kelly, Kiesman, Kilcoyne, LaPlante, Lebowitz, Lehoux, Livesay, MacBride, Macomber, Manning, Martin, A.C.; Masterman, Matthews, K.L.; McCollister, McHenry, McSweeney, Melendy, Norton, Paradis, E.J.; Paradis, P.E.; Parent, Paul, Perkins, Perry, Pouliot, Randall, Richard, Ridley, Roberts, Roderick, Rotondi, Salisbury, Scarpino, Sherburne, Small, Smith, C.B.; Smith, C.W.; Soucy, Stover, Strout, Swazey, Tammaro, Telow, Thompson, Vose, Weymouth, Willey, Zirkilton, The Speaker.

NAY—Allen, Anderson, Andrews, Baker, Beaulieu, Benoit, Bonney, Bost, Bott, Brodeur, Brown, D.N.; Carrier, Carroll, D.P.; Cashman, Chonko, Clark, Conary, Cooper, Cote, Crouse, Day, Diamond, Dillenback, Dudley, Erwin, Gauvreau, Hall, Handy, Hickey, Hobbins, Jacques, Joseph, Kane, Kelleher, Ketover, Lewis, Lisnik, Locke, MacEachern, Masterton, Matthews, Z.E.; Maybury, Mayo, McGowan, Michael, Michaud, Mitchell, E.H.; Mitchell, J.; Moholland, Murphy, E.M.; Murray, Nadeau, Reeves, J.W.; Reeves, P.; Rolde, Sproul, Stevens, Theriault, Tuttle, Walker, Webster, Wentworth.

ABSENT—Connolly, Curtis, Jackson, Mahany, Martin, H.C.; McPherson, Murphy, T.W.; Nelson, Pines, Racine, Seavey, Soule, Stevenson.

Yes, 76; No, 62; Absent, 13.

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

Sent up for concurrence.

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

Bill, "An Act Creating the Wiscasset Water District" (H. P. 1328) (L. D. 1765)

Tabled — June 14, 1983 (Till Later Today) by Representative Vose of Eastport.

Pending — Passage to be Engrossed.

On motion of Mr. Vose of Eastport, referred to the Committee on Public Utilities and sent up for concurrence.

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

An Act Relating to Involuntary Admission (Emergency) (H. P. 1321) (L. D. 1756)

Tabled — June 14, 1983 (Till Later Today) by Representative Diamond of Bangor.

Pending — Passage to be Enacted.

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

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

House Amendment "A" (H-398) was read by the Clerk and adopted.

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

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

Bill, "An Act to Establish and Amend the Air Emission and Open-burning Standards" (H. P. 1259) (L. D. 1680)

— In House, Passed to be Engrossed as amended by Committee Amendment "A" (H-340) as amended by House Amendment "B" (H-368) thereto on June 8, 1983.

— In Senate, Passed to be Engrossed as amended by Committee Amendment "A" (H-340) as amended by Senate Amendment "A" (S-196) thereto in non-concurrence.

Tabled — June 14, 1983 (Till Later Today) by Representative Mitchell of Vassalboro.

Pending — Further Consideration.

On motion of Mr. Hall of Sangerville, retabled pending further consideration and later today assigned.

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

Ms. BENOIT: Mr. Speaker, is the House in possession of An Act to Establish County Budget Committees (S. P. 592) (L. D. 1710) (H. "A" H-352 to H. "A" H-329 and H. "B" H-330)

(In House, Passed to be Enacted on June 14, 1983)

(Held at the request of Representative Bost of Orono)

The SPEAKER: The Chair would answer in the affirmative being held at the gentlewoman's request, along with Representative Bost.

Ms. BENOIT: Mr. Speaker, I move that the House reconsider its action whereby this Bill was passed to be enacted.

Mr. Bost of Orono request a division.

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

Ms. BENOIT: Mr. Speaker, Men and Women of the House: I asked to have this bill held as a courtesy to several colleagues who asked me to do so because I don't have strong feelings about the bill, but I do have one question that concerns me and I don't know if it has really been addressed.

I understand that under this bill, a budget committee will be set up and I think I understand how that is to be done, but the concern I have about the budget committee is, after the budget committee makes a decision as to what the budget should be, do the county commissioners in each county have the final vote? Can they veto or change or delete or amend in any way that budget?

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

Mr. McHENRY: Mr. Speaker, Ladies and Gentlemen of the House: In answer to the question, no, they do have veto power. I hope that the House will not reconsider this bill. We have dealt with it and we have dealt with it for the past two weeks. We have had plenty of debate.

I hope we vote no on reconsideration.

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

Mrs. MITCHELL: Mr. Speaker, Men and Women of the House: First and foremost, I am not speaking as the majority leader, I am speaking as a Representative of Sidney, Vassalboro, Windsor and East Augusta.

I have been quiet as long as I could on this bill but I am offended by this bill because it goes against my system of democracy and my idea of representative government.

I looked at a bulletin on my desk today from the Maine Municipal urging all of you to support it. I would like to point out two fallacies in this bill. I would like to talk about something that we have not talked about before in debating this issue.

First of all, it talks about some items that failed in the House. One of the items they talked about failing was an amendment that I had intended to offer but the debate had gone on so long that we could hardly keep a quorum in here and there seemed to be very little interest in pursuing the debate, and that was to say that the county commissioners would, indeed, have the final say because they are, indeed, elected by all the people of their county commissioner districts.

This memo also says the bill gives municipal officers who are responsible for raising property taxes to support county government control over how their funds are to be spent. Again a half truth; it gives some municipal officers control over how those funds are to be spent.

In my own county commissioner district, there are seven towns. This municipal budget committee that you have proposed to set up gives three votes and let's assume all the towns are the same size so three of my towns are going to have an elected official setting property taxes. Four towns have no votes whatsoever, except that my selectmen in Vassalboro get a chance to vote on maybe who some of those three people will be if it is successful. That means that the people in four of the seven towns in my county commissioner district have no access, no vote, on the person who sets their budget, and you are kidding yourselves if you think the City of Council of Augusta cares very much about what I say as a citizen of Vassalboro and what he sets the tax rate at.

I understand the desire to kick this process out of the legislature, I am not opposed to that, nor am I opposed to county government, but it seems to me, ladies and gentlemen, we are going to have to love it or leave it, we can't have it both ways. If you want it out of here, don't kick it out of here at all cost, do it right. I would even be willing to reconsider and talk about some other way to do it, but this way, when there are people of towns who are disenfranchised, who have no vote on what their county taxes are going to be, I simply cannot support it. So under the current circumstances, I would hope that you would reconsider and then vote to indefinitely postpone the bill.

Mr. Martin of Eagle Lake requested a roll call.

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

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

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

Mr. HALL: Mr. Speaker, I would like to pose a question through the Chair. In the County of Piscataquis, we came a long way with our budget last year because we had input from many of the towns, 12 towns I believe, and we formed a committee where it took the work away from the legislators, which I found to be very, very helpful. The question I would like to

ask is, if this bill passes, will this be outlawed or will this be kept in place?

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

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

Mr. McHENRY: Mr. Speaker, Ladies and Gentlemen of the House: Any county that wishes to have an advisory commission of all town managers, all selectmen, they can do it, but the budget committee will consist of three elected municipal officials in each commissioner district and they will vote up or down on the budgets. They can take the advice of any municipal official as the gentleman has stated.

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

Mr. HALL: Mr. Speaker, Ladies and Gentlemen of the House: If that is true, that leaves the control in the county and if that is so, I see no reason for the bill. Am I correct in that?

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

Mr. McHENRY: Mr. Speaker, Ladies and Gentlemen of the House: The reason for the bill is, if the legislature so chose to ignore your municipal officials, they can do so and I assure you that the year after you wouldn't see them attending the public hearings. That is why the bill is here, to make sure the municipal officials also have the input.

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

Ms. BENOIT: Mr. Speaker, Men and Women of the House: I very rarely disagree with my leader but I disagree on the outcome. I hope you move to reconsider so that perhaps she can offer her amendment now to allow county commissioners to have the veto power over the budget, as I think they should. It would be no different than us allowing someone to do our budgets for us, the Appropriations Committee, and we have no say whatsoever. I think that is a fair analogy and if we move to reconsider, perhaps someone will table the bill and an amendment could be presented to include the county commissioners and to include their veto power.

The SPEAKER: The pending question before the House is on the motion of the gentleman from South Portland, Ms. Benoit that the House reconsider whereby the Bill was passed to be enacted.

The Chair recognizes the gentleman from Auburn, Miss Lewis.

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

The SPEAKER: The pending question is on the motion of the gentleman from South Portland, Ms. Benoit, that the House reconsider its action whereby this Bill was passed to be enacted. Those in favor will vote yes; those opposed will vote no.

ROLL CALL

YEA—Ainsworth, Allen, Andrews, Baker, Bell, Benoit, Brannigan, Brodeur, Brown, K.L.; Carroll, D.P.; Carroll, G.A.; Carter, Cashman, Chonko, Clark, Connolly, Cote, Cox, Dexter, Diamond, Erwin, Foster, Gauvreau, Gwadosky, Hall, Handy, Hayden, Hickey, Higgins, H.C.; Jackson, Jacques, Jalbert, Joseph, Joyce, Kane, Kelleher, Kelly, Ketover, Kilcoyne, LaPlante, Lehoux, Lisnik, Locke, MacBride, MacEachern, Manning, Masterman, Matthews, Z.E.; Mayo, McCollister, McGowan, McSweeney, Melendy, Michael, Michaud, Mitchell, E.H.; Mitchell, J.; Moholland, Murphy, E.M.; Nadeau, Norton, Paradis, P.E.; Paul, Perkins, Perry, Pouliot, Reeves, J.W.; Reeves, P.; Richard, Ridley, Roberts, Rolde, Rotondi, Smith, C.B.; Strout, Tammara, Telow, Theriault, Thompson, Tuttle, Vose, Webster, Weymouth, The Speaker.

NAY—Anderson, Armstrong, Beaulieu, Bon-

ney, Bost, Bott, Brown, A.K.; Brown, D.N.; Cahill, Callahan, Carrier, Conary, Conners, Cooper, Crouse, Crowley, Daggett, Davis, Day, Dillenback, Drinkwater, Greenlaw, Higgins, L.M.; Holloway, Ingraham, Kiesman, Lebowitz, Livesay, Macomber, Martin, A.C.; Masterton, Matthews, K.L.; Maybury, McHenry, Murray, Paradis, E.J.; Parent, Randall, Roderick, Salisbury, Scarpino, Sherburne, Small, Smith, C.W.; Soucy, Sproul, Stevens, Stover, Swazey, Walker, Wentworth, Willey, Zirkilton.

ABSENT—Dudley, Hobbins, Mahany, Martin, H.C.; McPherson, Murphy, T.W.; Nelson, Pines, Racine, Seavey, Soule, Stevenson.

PAIRED—Curtis-Lewis.

Yes, 84; No, 53; Absent, 12; Paired, 2.

The SPEAKER: Eighty-four having voted in the affirmative and fifty three in the negative, with twelve being absent and two paired, the motion does prevail.

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

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

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

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

Mr. McHENRY: Mr. Speaker, Ladies and Gentlemen of the House: I request a roll call. You can see exactly the game that is being played here. They have pulled every trick in the book and I hope that you do not vote to indefinitely postpone this bill. This is a good bill. This is what the municipal officials want, this is what the Governor wanted, this is what the county officials want, this is what the legislature wanted until a handful of people in this House, a handful, just won't take no for an answer and you know who they are. They have been working — fine, that is politics, but I am not a very political person, I do what I think is right. As Chair of the Local and County Government, we have heard the bill, we have worked on the bill for two months, we have heard arguments and we took care of all the arguments that were presented to the committee. We did the best we could, and if we are going to do something about county government, now is the time to do it. Let's not kid ourselves.

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

Mr. KELLEHER: Mr. Speaker, Ladies and Gentlemen of the House: On this particular issue, I have had mixed emotions since the day it came up in the Town and Counties Committee. I served on the Town and County Committee in this House a few years ago and I know it is a committee that has a lot of work, very little recognition, and should be applauded by each and every one of us in dealing with our respective county budgets.

I was sitting here listening to the debate this morning and I was just thinking about my own county if we accepted this type of a proposal that Mr. McHenry is advocating here today. I honestly think that the small towns, I don't come from a small town, I come from the largest city in the county and it would be at a disadvantage. I look at the county districts that would be set up and you look and see where the money is that is generated. It is generated in Bangor, Brewer, Old Town and then you go up north and its East Millinocket, Millinocket in another district and if you water it all down and put it all together, I think in my county, in the County of Penobscot, the rural areas would be at a disadvantage. We in this House should try to work out a balance, an equal, fair balance for everyone, and I honestly think in Penobscot County, it would not be the advantage to the small towns.

Then there is another perspective that we have to look at and that is all of us representing a variety of people from our own respective districts in our respective counties. Even

though the Town and County Committee is frustrated by myself and everybody else dealing with the budget, it is not a bad system, the system we have now. There are things in county government that we are not all happy with but, nevertheless, what might look appealing to some in the rural area may not look so well to me. I think if we turn around and shorten the stride of the ability of people to participate, we would be in grave error.

I should be speaking for this bill because I come from a big city. I don't think it is a good deal for the small towns. I would urge you to support my motion to indefinitely postpone.

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

Mr. DRINKWATER: Mr. Speaker, Members of the House: Very, very briefly, I have complete trust in my municipal officials to handle the budget of our county, complete trust in them. I feel that the time has come when we have the opportunity to put the county budgets back where they belong, back with the people who have to live with the taxpayer who is paying the bills. It is property tax that county government is run on and the selectmen and the councils are presenting those people who supply that. Every town in the county will not have a representative but I would much rather have some of my towns who don't have a representative than to have it here in the House of Representatives in Augusta, where we have people from Aroostook and Cumberland that these municipal officials probably never will see and maybe the commissioners will never see them, but at least this board that is made up out of the commissioner districts, they are going to see them at least once or twice a year and maybe oftener than that. They are also going to be able to have some input in getting the rascals out if they keep doing things they shouldn't.

This budget, as far as I am concerned, belongs with the municipal officials back in the county. I don't know about you people, maybe you don't trust the municipal officials, you would rather do it here, but I for one, and my records shows that ever since I have been here, I trust my local officials to handle this and I think they are the most qualified.

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 several questions to anyone who may care to answer.

First of all, I have a commissioner district with five towns in it and I would like to know how the three people will be chosen to represent those five towns.

Second, I would like to know how the person will be chosen within the town? For example, we have a tremendous split between our municipal officers, they have been fighting and feuding with each other so badly that it has actually been written about in the New York Times, so I would like to know how they will decide, if my town happens to be one of those that is chosen to be on this board, how they will also decide who is going to represent the town?

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

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

Mr. CURTIS: Mr. Speaker, Ladies and Gentlemen of the House: In response to the question of the gentleman from York, Mr. Rolde, all the municipal officers in those five towns would all caucus together, they would nominate officials from that caucus whose names will be placed on a ballot. The county clerk would be in charge of presenting the ballot with the names of the nominees to each of the five towns and each of the boards would vote as one. The amount of their vote would be weighted according to the population they carry within the entire district.

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

Mr. ROLDE: Mr. Speaker, Ladies and Gentlemen of the House: I thank the gentleman for his answer. One of the things that bothers me is that all the different towns have different numbers of municipal officials. My town happens to have five, the neighboring town to mine has nine — I wonder how that works. Is it going to be one man, one vote?

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

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

Mr. CURTIS: Mr. Speaker, Ladies and Gentlemen of the House: By considering the board of the voters as one, it would make no difference in their vote whether there are five on the board, there are three on the board — they are representing the population of that town as one. Each of the municipalities will vote for three and of course the majority would win.

The SPEAKER: The Chair recognizes the gentleman from Brooksville, Mr. Perkins.

Mr. PERKINS: Mr. Speaker, Ladies and Gentlemen of the House: I have not risen on this bill before but I think it is about time I said something because I come from Hancock County and I represent 11 towns, very small towns, and they will be completely disenfranchised if this bill goes through.

At the present time, I, representing them, do represent them before the county commissioners, but if this bill goes through, they will have no representation whatsoever.

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

Mr. CURTIS: Mr. Speaker, Ladies and Gentlemen of the House: Just in response to the gentleman from Brooksville's remarks, I think it was mentioned before that in the reapportionment we have over 36 county crossings and you are going to have more people on your legislative delegations who may represent as little as a thousand people but will have just as much of a vote as you would representing 7500. That in itself would disenfranchise people within your own county.

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

Mrs. MITCHELL: Mr. Speaker, Ladies and Gentlemen of the House: To correct a point made by Representative Curtis — there is no proper analogy there, every single citizen in the State of Maine has an opportunity to vote for a legislator who then in turn can vote for the county budget. Under this proposal of the budget committees, the people in the towns who have no member on the budget committee cannot vote for anybody but their local selectmen who then in turn must vote for the budget committee. It is equivalent to having the constitutional officer set the tax rates for this state. They are elected all right, but they are elected once removed.

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

Mr. RIDLEY: Mr. Speaker, Ladies and Gentlemen of the House: I hope that you will go along with the indefinite postponement of this bill and I will tell you why. If we go along with it, I think it is a step backwards. It has just been recently here that we have had the counties divided up into three sections where we get a county commissioner out of each area. If you go along with this bill, especially down in the southern end of the state, I can see where all of these voters will be coming right out of one town or possibly two towns and the other ones will be left out.

As I state before, I would like to emphasize that I think it would be a step backwards, so I hope you do indefinitely postpone this bill.

The SPEAKER: The Chair recognizes the gentleman from Brooksville, Mr. Perkins.

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

tlemen of the House: I don't think Representative Curtis knows too much about Hancock County. There are two large metropolises. As far as we are concerned, that is where everything is going to go, we are not going to get any representation whatsoever in my area.

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

Mr. MOHOLLAND: Mr. Speaker, Ladies and Gentlemen of the House: I have 28 little small towns and I would like to know who is going to take care of them.

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

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

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

Ms. BENOIT: Mr. Speaker, Men and Women of the House: I don't want to kill this bill. I know Mr. McHenry thinks I do, but I don't. We just had a vote on reconsideration at which time I thought would be a good idea if we could put an amendment on to allow the county commissioners that veto power, that is what they are elected for.

If the vote to reconsider was a signal that people would like that amendment, fine; if it was a vote to kill, fine, so I would hope that Mr. McHenry or someone would move to table this until later in today's session. If that is the feeling, we can have an amendment prepared; if it isn't, then I guess you want to kill the bill and you won't vote to table it.

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

Mr. KELLEHER: Mr. Speaker, Ladies and Gentlemen of the House: If there is any reason why we would never want to table this bill, it is to put an amendment on to give the county commissioners the right to veto, that would be absolutely in error for us to even consider. Where is the accountability if that was ever put onto this bill?

I would hope that this House would vote to kill this bill this morning.

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

Ms. BENOIT: Mr. Speaker, I would like to pose a question through the Chair. Representative Kelleher, why do they elect the county commissioners? I assume they are elected to have some say over what goes on in the county, just as we are elected up here and have some say over what goes on in the state. We are accountable to those who elect us just as the county commissioners are responsible to those who elect them.

The SPEAKER: The gentleman from South Portland, Ms. Benoit, has posed a question through the Chair to anyone who may care to respond.

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

Mr. KELLEHER: Mr. Speaker, Ladies and Gentlemen of the House: That is a very good question — why do we elect them? We elect them to do their job and we provide the checks and balance system, just like the Senate provides the checks and balance system on us and we on them.

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

Mr. DILLENBACK: Mr. Speaker, Ladies and Gentlemen of the House: I don't care if we stay here all day, this is an important bill. You people have played around with it now long enough. You talk about the little towns not being represented. My little town of Harpswell won't even go to the meetings because they have no vote. The City of Portland dominates the thing. We had the big battle here on the

Cumberland budget this year, you all know what happened there. We sat here for an hour until we got enough votes to overcome — this is what you want to do? Why can't you let the towns and the officers in the towns make the decision about the budget? These people have the know how, know what the problems are and they can do a good job.

It is ridiculous to take this attitude. If this doesn't work, you can change it and I am happy to disagree with my friend, Mr. Kelleher. He is in the city and I am in a small town and I think we should have the officers of the communities be the people who are responsible.

I move that we table this until later in the day.

The SPEAKER: The motion is out of order. The Chair recognizes the gentleman from Limerick, Mr. Carroll.

Mr. CARROLL: Mr. Speaker, Ladies and Gentlemen of the House: I rise here today asking you, who is going to pay for this new layer of government that you are creating? You don't think they are going to go to these meetings for the fun of it or for nothing, do you? Someone is going to pay. Are we sent down here to create another layer of government? Is that what you are telling me?

Furthermore, in York County, they got into a jobs program and they ran it and they are \$44,000 in hock and we have to bail them out.

I understand back in the hitherland there among all their papers that there may be another bill for a couple of hundred thousand for another program they are talking about and they are going to go to bed with the neighboring county on the jobs program.

Ladies and gentlemen of this House, I campaigned throughout my communities, I represent seven towns and I haven't met anyone who wants this type of government you are talking about here today. They don't want it back there. They want what we have got now. They know how to push a wheelbarrow because it hasn't been broken and you are trying to fix something that hasn't been broken yet. County government has worked so far and it will in the future. I accept my responsibility and I hope you will accept yours. We come down here to perform our services and if anybody doesn't want to work on the county budget, go around and tell those towns that you want to be elected but you don't want to do your job. You want to give it back to the selectmen and let them do your job for you. That is just exactly what you are asking for. You want to be paid, you want a seat, quarters, your meals, everything that goes with this job, but when it comes to an undesirable part of the job such as county budgets, where you are criticized, you don't want anything to do with it, you want to give it back to the towns. But you are not giving it back to the towns, you are telling me I represent seven towns and only three of them will have anybody that will have anything to say. What about the other four towns?

You know, most people in those seven towns all pay taxes, every one of them pays taxes; yet, you are telling me today if this bill should pass, only three of the towns can have anything to say about how seven towns' taxes are going to be spent? Is that what you call good government?

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

Ms. BROWN: Mr. Speaker, Ladies and Gentlemen of the House: As I said before, the Local and County Government Committee has done a lot of work on this bill. We talk all the time about reform for county government and the people who have been most against it are the people that want to do away with county government altogether.

Representative Carroll says that you don't fix something that isn't broken; I think it is pretty well broken after all the mess we have been through up here on passing county budgets.

What should not continue is the practice of legislators tampering with county budgets. County commissioners are charged with preparing budget proposals which the legislature can take apart at will. That's a lousy system if you ask me. We hold the county officials responsible for the decisions they can't control and encourage lawmakers to make choices uninformed. You all know as well as I do that the legislators do not attend the county budget meetings very well. There is only a handful of them that will vote and then they can come in with their amendments — in the case of Cumberland County and pass whatever they want to over what the Commissioners have already decided.

You have a chance to take care of this problem and I hope you will not indefinitely postpone the bill.

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

Mr. MATTHEWS: Mr. Speaker, Ladies and Gentlemen of the House: I have listened to this debate, as everybody else has, and I know that it is late in the session, but I couldn't agree with the Representative from Cumberland anymore, Mr. Dillenback. I think it would be very, very unfortunate to the members of the Local and County Government and to us as legislators to kill this bill in the ninth hour. I think it is an issue that is very, very sweeping and maybe we had better give it a little more time and debate this issue a little bit more. I am not sure how I am going to vote and I have been lobbied to death on this bill from either side and I am fed up to here but I am willing to go a little further and come out with a bill that the people in this state want. Believe me, the system that we have today doesn't work.

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

Mr. McHENRY: Mr. Speaker, Ladies and Gentlemen of the House: I just discovered a new tactic — he is going to starve us now.

This was a unanimous report of Local and County Government and we did work hard and we did come out with something that is workable. If we made a mistake, we can correct it but I don't think we have because we have worked diligently, we have worked hard and we have taken every consideration, everybody that appeared before our committee we listened to and we did everything we could to help them. We always do and I am not a political person, like I said, I do what I think is best.

My town is the highest tax paying town in Aroostook County and I couldn't care less if there wasn't one official from my town because I know it will work. This is local control. Don't be misled, it is local control. These people are the ones collecting the taxes. They send out the tax bills — why shouldn't they say yes or no. They are the ones that know where the money is coming from, not us.

Over here, if you want to talk about what goes on over here, I could tell you a few horror stories, we all know about the things that go on up here, it is political. Whoever has the clout will get his way — fine, but let's do it on a local level, let's try it, if it doesn't work, I would be willing to change it but I am sure that it is going to work. If you want to cut down on county government, this is the way to do it.

As far as outcry from the people back home, as Representative Carroll has stated, I didn't have any outcry from my people to raise a five cent gas tax increase, no way, but I voted for it because I knew that it was right. I felt that it was right, now I am beginning to have doubts but I felt that it was right and I feel that this is right, so let's vote not to indefinitely postpone and enact this bill.

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

Mr. BOST: Mr. Speaker, Ladies and Gentlemen of the House: I hope that this House will continue its support for this legislation as it has on three separate occasions now. Many at-

tempts have been made to bury it with what I believe to be unnecessary amendments and, fortunately, this House has had the good sense to keep this bill intact.

It has a unanimous committee report, as Representative McHenry has stated on so many occasions. I don't need to carry the debate very much further. We have all heard the arguments and I hope you will stay with your original position so we can enact this bill.

Response in my district to this bill from both the rural and the urban ends, and I have both, has been very positive. I don't believe my district is in any way unique. I think it would be very unfortunate, indeed, if we kill this bill. It has been well studied and it has been well thought out. It is neither hasty nor impractical and any argument to dispute that, I believe, is simply a red herring.

I ask for your support on passage.

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

Mr. JACQUES: Mr. Speaker, Ladies and Gentlemen of the House: I want to get in on this action too. I, like Mr. Kelleher, should be all for this bill because this past session I fought to reinstate two rural patrolmen in Kennebec County. I don't know about the rest of your counties and I really don't care about the rest of your counties but I got a little flak from some of the council in Waterville because they had no concern about rural patrolmen in Fayette, Vienna, Readfield, Manchester or Sidney or Belgrade and some of you have an awful lot of faith in your elected officials in your town and I do certain individuals also, but I can guarantee you one thing, and how you vote on this bill, I could care less, Waterville and Winslow are going to control the northern end of Kennebec County and when it comes to Belgrade, Sidney and Benton and any of those other small towns, you won't be getting anything out of Waterville or Winslow unless the council in Waterville changes a heck of a lot, which I don't think it is going to, I will tell you what they are going to get — they are going to get a big fat goose egg, that is what they are going to get. Rural patrol — out the window. Anything else that is going to benefit the small towns — out the window, I can guarantee you that. So I actually ought to be tickled to death to have this bill because I wouldn't have to go on fighting for rural patrol for the small towns because I happen to believe it is right. This bill probably would make my job a lot easier and I guess that is what we want, to make our job easier.

The SPEAKER: The pending question before the House is on the motion of the gentlemen from Bangor, Mr. Kelleher, that this Bill and all its accompanying papers be indefinitely postponed in non-concurrence. All those in favor will vote yes; those opposed will vote no.

ROLL CALL

YEA—Allen, Andrews, Baker, Beaulieu, Benoit, Brannigan, Brodeur, Brown, D.N.; Brown, K.L.; Carroll, G.A.; Carter, Cashman, Chonko, Clark, Connors, Connolly, Cote, Dexter, Erwin, Foster, Gauvreau, Gwadosky, Handy, Hayden, Hickey, Higgins, H.C.; Jacques, Jalbert, Joseph, Joyce, Kane, Kelleher, Ketover, Kilcoyne, Lehoux, Lewis, Lisnik, MacBride, MacEachern, Manning, Martin, H.C.; Mayo, McCollister, McGowan, Michael, Michaud, Mitchell, E.H.; Mitchell, J.; Moholland, Murphy, E.M.; Nadeau, Norton, Paradis, P.E.; Paul, Perkins, Perry, Pouliot, Randall, Reeves, J.W.; Reeves, P.; Richard, Ridley, Roberts, Rolde, Smith, C.B.; Smith, C.W.; Strout, Tammaro, Telow, Theriault, Tuttle, Weymouth, The Speaker.

NAY—Ainsworth, Anderson, Armstrong, Bell, Bonney, Bost, Bott, Brown, A.K.; Cahill, Callahan, Carrier, Carroll, D.P.; Conary, Cooper, Cox, Crouse, Crowley, Curtis, Daggett, Davis, Day, Diamond, Dillenback, Drinkwater, Greenlaw, Hall, Higgins, L.M.; Holloway, Ingraham, Jackson, Kelly, Kiesman, LaPlante, Lebowitz, Livesay, Locke, Macomber, Martin, A.C.; Masterman, Masterton, Matthews, K.L.;

Matthews, Z.E.; Maybury, McHenry, McSweeney, Melendy, Murray, Paradis, E.J.; Parent, Roderick, Rotondi, Salsbury, Scarpino, Sherburne, Small, Soucy, Sproul, Stevens, Stover, Swazey, Thompson, Walker, Webster, Wentworth, Willey, Zirkilton.

ABSENT—Dudley, Hobbins, Mahany, McPherson, Murphy, T.W.; Nelson, Pines, Racine, Seavey Soule, Stevenson, Vose.

Yes, 73; No, 66; Absent, 12.

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

By unanimous consent, ordered sent forthwith.

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

Mrs. ERWIN: Mr. Speaker, is the House in possession of An Act to Create a Boothbay Region Waterfowl Sanctuary (H. P. 713) (L. D. 904) (C. "A" H-284)

(In House, Passed to be Enacted on June 14, 1983.)

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

Mrs. ERWIN: Mr. Speaker, Ladies and Gentlemen of the House: Having voted on the prevailing side, I now move that the House reconsider its action whereby this Bill was passed to be enacted.

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

Mrs. HOLLOWAY: Mr. Speaker, Ladies and Gentlemen of the House: I am only going to say two words — sanctuary, please.

I would request a roll call.

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

Mrs. ERWIN: Mr. Speaker, Ladies and Gentlemen of the House: Yesterday, I voted on the prevailing side on this issue and that certainly was not my intention. In other words, I fouled up.

As you are no doubt aware, I do not speak on every issue that comes before us; in fact, it is quite the opposite.

This is an unnecessary piece of legislation proposed for one constituent and one constituent alone. He was the only proponent at our public hearing. This legislation is for one man in a town of nearly 3000 population. When Ransom Kelly was a member of the State Legislature and a member of the Fisheries and Wildlife Joint Standing Committee, he was unable to get the committee to favor this legislation and it was resoundingly defeated in the legislature. We already have laws on the books that would address the problem. This is a local enforcement problem.

Ladies and Gentlemen, I urge you to reconsider this so the legislation can be indefinitely postponed.

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

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

The SPEAKER: The pending question before the House is on the motion of the gentleman from Rumford, Mrs. Erwin, that the House reconsider its action whereby this Bill was passed to be enacted. Those in favor will vote yes; those opposed will vote no.

ROLL CALL

YEA—Ainsworth, Allen, Andrews, Armstrong, Baker, Beaulieu, Benoit, Brannigan, Carroll, D.P.; Carter, Cashman, Clark, Connolly, Cote, Cox, Diamond, Erwin, Gauvreau, Gwadosky, Hall, Hayden, Hickey, Higgins, H.C.; Hobbins, Joseph, Joyce, Kane, Kelleher, Kelly,

Ketover, Kiesman, Kilcoyne, Lehoux, Lisnik, MacEachern, Manning, Masterman, Matthews, Z.E.; Mayo, McColister, McGowan, McSweeney, Melendy, Michael, Mitchell, E.H.; Moholland, Murray, Nadeau, Norton, Paradis, P.E.; Paul, Perry, Pouliot, Reeves, J.W.; Richard, Ridley, Roberts, Rolde, Smith, C.W.; Soucy, Stevens, Swazey, Tammaro, Theriault, Thompson, Tuttle, Vose, Wentworth, The Speaker.

NAY—Anderson, Bell, Bonney, Bost, Bott, Brodeur, Brown, A.K.; Brown, D.N.; Brown, K.L.; Cahill, Callahan, Carroll, G.A.; Chonko, Conary, Conners, Cooper, Crouse, Crowley, Curtis, Daggett, Davis, Day, Dexter, Dillenback, Drinkwater, Foster, Greenlaw, Handy, Higgins, L.M.; Holloway, Ingraham, Jacques, Jalbert, LaPlante, Lebowitz, Lewis, Livesay, Locke, MacBride, Macomber, Martin, A.C.; Masterton, Matthews, K.L.; Maybury, McHenry, Mitchell, J.; Murphy, E.M.; Paradis, E.J.; Parent, Perkins, Randall, Reeves, P.; Roderick, Rotondi, Salsbury, Scarpino, Sherburne, Small, Smith, C.W.; Sproul, Stover, Strout, Telow, Walker, Webster, Weymouth, Willey.

ABSENT—Carrier, Dudley, Jackson, Mahany, Martin, H.C.; McPherson, Michaud, Murphy, T.W.; Nelson, Pines, Racine, Seavey, Soule, Stevenson, Zirkilton.

Yes, 69; No, 67; Absent, 15.

The SPEAKER: Sixty-nine having voted in the affirmative and sixty-seven in the negative with fifteen being absent, the motion does prevail.

The pending question before the House is on passage to be enacted.

Mr. Webster of Farmington requested a vote.

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

Mr. MacEachern: Mr. Speaker, I move indefinite postponement of the bill and all its accompanying papers. I would request a roll call.

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

Mrs. HOLLOWAY: Mr. Speaker, Ladies and Gentlemen of the House: I am not going to say too much on this but I do think you all realize that good conservation measures do promote good hunting, and that is not just a statement, it is a fact.

Just look at the moose drawing that we had at the Augusta Armory a couple of weeks ago. We closed our state to moose hunting many years ago. The conservation and good wildlife management has proven successful, so successful, in fact, that this moose drawing was featured on ABC's Today Show.

This particular piece of legislation does not involve any land at all, it is only a shoreline ordinance. Hunting and trapping are still allowed and there is a biological need for this waterfowl sanctuary on the Maine coast and it would very much help the waterfowl and it would do little harm to the hunting opportunities.

I guess perhaps in reference to Mr. Kelly, who is a constituent, and I don't know about his past activities and being a member of Fisheries and Wildlife. I just happen to believe very firmly in this particular piece of legislation as well as several other people in my area, so it is not just a one issue or a one constituent item, and I do hope that you will stay with me on this bill. It has been a long time, and I am hoping that we will be able to keep it flying.

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

Mrs. ERWIN: Mr. Speaker, Ladies and Gentlemen of the House: I would just repeat something that I said a week or so ago, that the department says there is no biological necessity for this sanctuary. Generally, sanctuaries are for public lands, and this involves a lot of private land, so I hope you will indefinitely postpone this.

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 de-

siring 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 Stockton Springs, Mr. Crowley.

Mr. CROWLEY: Mr. Speaker, Ladies and Gentlemen of the House: I voted in favor of this and at a caucus I was almost admonished for voting for this bill, but I am going to try one more time and I will probably be thrown right out of the club.

This sanctuary that we are talking about is going to set a precedent that I don't understand. I have a little booklet here and I don't have to tell you people about sanctuaries in the State of Maine like the one in Portland at Back Bay or the one in Oxford, Hancock, Baxter, Waterville, Deer Isle, these are all sanctuaries—Fairfield, Jonesboro, Waterboro, Aroostook, Penobscot and on and on, I could name every one of your areas and districts, you all have sanctuaries. We have one right in the middle of Lewiston. In fact, I took kids up there when I was running the playgrounds there when I was a little bit younger, a beautiful place, a sanctuary.

Sanctuaries are all over the State of Maine and they have a good purpose and I think this is a good bill.

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

Mr. SMITH: Mr. Speaker, Ladies and Gentlemen of the House: I have been opposed to this bill since it first began and it has changed considerably. This bill has been around a long time; I hope we can lay it to rest.

I know many of you support the beautiful lady from Edgecomb, Mrs. Holloway, out of friendship and respect, but this bill is setting a precedent. The precedent is, you are doing it for one individual. The biologists don't want this. Are we to ignore our biologists? Are we saying we do not need biologists? If so, we would be setting all the game laws by the suggestion of people back home. I have suggestions every week about what should be done, and I am sure you do too, but do we make a law for each one? I should hope not.

Now, SAM has said that they support this bill and they did offer the amendment that we have now, but they are neutral at this time. The problem can be solved through local control, so let's let local control work. Let's listen to our biologists and lay this bird to rest.

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

Mrs. MARTIN: Mr. Speaker, Ladies and Gentlemen of the House: Like Mr. Crowley, I am going to be out of the club too, but I never belonged so it doesn't make much difference.

I think that this is a good thing and I am going to be very honest with you people, I think it has been used as a political thing and it is against the principle of a few people to be honest with each other.

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

ROLL CALL

YEA—Ainsworth, Allen, Andrews, Armstrong, Baker, Beaulieu, Benoit, Brannigan, Carroll, D.P.; Carroll, G.A.; Carter, Cashman, Clark, Connolly, Cote, Cox, Diamond, Erwin, Gauvreau, Hayden, Hickey, Higgins, H.C.; Hobbins, Jackson, Joseph, Joyce, Kane, Kelleher, Kelly, Ketover, Kiesman, Kilcoyne, Lehoux, Lisnik, MacEachern, Manning, Masterman, Matthews, Z.E.; Mayo, McColister, McGowan, McSweeney, Melendy, Michael, Mitchell, E.H.; Moholland, Murray, Nadeau, Norton, Paradis,

P.E.; Paul, Perry, Reeves, J.W.; Richard, Ridley, Roberts, Rolde, Smith, C.B.; Soucy, Stevens, Swazey, Tammaro, Theriault, Thompson, Tuttle, Vose, The Speaker.

NAY—Anderson, Bell, Bonney, Bost, Bott, Brodeur, Brown, A.K.; Brown, D.N.; Brown, K.L.; Cahill, Callahan, Carrier, Chonko, Conary, Conners, Cooper, Crouse, Crowley, Curtis, Daggett, Davis, Day, Dexter, Dillenback, Drinkwater, Foster, Greenlaw, Gwadosky, Hall, Handy, Higgins, L.M.; Holloway, Ingraham, Jacques, Jalbert, LaPlante, Lebowitz, Lewis, Livesay, Locke, MacBride, Macomber, Martin, A.C.; Masterton, Matthews, K.L.; Maybury, McHenry, Michaud, Mitchell, J.; Murphy, E.M.; Paradis, E.J.; Parent, Perkins, Pouliot, Randall, Reeves, P.; Roderick, Rotondi, Salsbury, Scarpino, Sherburne, Small, Smith, C.W.; Sproul, Stover, Strout, Telow, Walker, Webster, Wentworth, Weymouth, Willey, Zirkilton.

ABSENT—Dudley, Mahany, Martin, H.C.; McPherson, Murphy, T.W.; Nelson, Pines, Racine, Seavey, Soule, Stevenson.

Yes, 67; No, 73; Absent, 11.

The SPEAKER: Sixty-seven having voted in the affirmative and seventy-three in the negative, with eleven being absent, the motion does not prevail.

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

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

Passed to Be Enacted Emergency Measures

An Act to Establish a Program to Abate, Clean up and Mitigate Threats to Public Health and the Environment from Uncontrolled Hazardous Substance Sites (S. P. 617) (L. D. 1751) (H. "A" H-386)

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. 104 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 Making Adjusted Allocations from the Highway Fund for the Fiscal Years Ending June 30, 1983, June 30, 1984, and June 30, 1985, and Placing Limitations on the Use of the Unallocated Highway Fund Surplus (H. P. 810) (L. D. 1050) (S. "A" S-204)

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

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

Mr. HIGGINS: Mr. Speaker, Ladies and Gentlemen of the House: I felt that since this bill had had so much rhetoric, if you will, earlier on in the session, that I would just like to make a brief statement before we enact it this afternoon.

It was never my intent or anybody else's intent in the Republican caucus, that I am aware of anyway, to unduly restrict the executive branch of government in carrying out the duties of running the Department of Transportation. However, we had some concerns about not only how much money could be spent but the fact that it could be spent at all without legislative approval. I think the amendment, the compromise, if you will, that was reached on this bill solves two problems. First of all, it solves the problem that we had with giving a blank check to the executive branch of government in spending unallocated surplus revenue that was received by the department in excess of what we, the legislature, had budgeted to expend. But in addition to that, it has given some flexibility to the commissioner and the chief executive in that it allows, in that particular case, them to spend up to a million dollars over the biennium, but it also allows the

department to transfer money from within line items as long as they notify the committee members, members of the legislature first.

I think this really resolves the concerns that we had and I think it addresses the problems that the executive had at the same time, and it is a continuing saga of getting the Department of Transportation's budget more in line with the way in which this legislation and the executive branch deals with budgets on the same basis as the General Fund budget, so I applaud the amendment that was drafted and I am glad to say that it is on its way.

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

A vote of the House was taken.

109 voted in favor of same and one against, and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

An Act to Increase Funding Allocation for the Bureau of Oil and Hazardous Materials Control for Fiscal Year 1983 (H. P. 1317) (L. D. 1746)

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. 107 voted in favor of same and 3 against, and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

Passed to Be Enacted

An Act to Establish New Selection Procedures for the Maine Indian Tribal-state Commission Chairmanship (S. P. 342) (L. D. 1016) (S. "A" S-187 to C. "A" S-76)

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

Later Today Assigned

An Act to License Home Health Care Services (S. P. 527) (L. D. 1550) (S. "A" S-202 and C. "A" S-180)

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

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

An Act Relating to Penobscot Nation Trust Land Designation (S. P. 593) (L. D. 1713) (S. "A" S-189)

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

An Act to Create the Finance Authority of Maine (S. P. 612) (L. D. 1747) (S. "A" S-200)

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

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

Mr. WEBSTER: Mr. Speaker, I would like to pose a question through the Chair. This is the legislation the Governor's Office presented which combines three departments, could somebody explain this to me?

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

The Chair recognizes the gentleman from Fairfield, Mr. Gwadosky.

Mr. GWADOSKY: Mr. Speaker, Ladies and Gentlemen of the House: I would be happy to respond to the question.

The intent of this bill, the Finance Authority of Maine, is to combine the present lending programs that exist in the State of Maine into a

single authority, and what is being combined is the Maine Veterans' Small Business Loan Board, the Small Business Loan Board and three of the existing programs under the MGA, they would be combined under one business development finance division. We are also in this bill recommending that an expanded role be played in relation to available financial resource financing.

There is a serious problem in that the majority of natural resource financing, particularly agriculture financing, comes from the federal government and we are talking about FHA. I think the latest figures I saw were that FHA financed 52 percent of the loans that Maine farmers received last year and the national average is 11 percent. The problem is that many of these federal funds are drying up, so this bill does two things, it first combines some of the existing agencies; the other portion of the bill would be to provide for an expanded role for natural resource financing.

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

Mr. WEBSTER: Mr. Speaker, Ladies and Gentlemen of the House: I regret taking your time but I have a constituent who is concerned that he felt, and I wanted to ask this question and have it on the record, that only the efficient of the three agencies that we have that are going to be in this bill, it is my understanding that the Veterans is the only efficient operation of the three, and I am curious as to why this is necessary to combine the three of these. I am not sure I want to vote for this until I am convinced that it is a good piece of legislation.

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

The Chair recognizes the gentleman from Fairfield, Mr. Gwadosky.

Mr. GWADOSKY: Mr. Speaker, Ladies and Gentlemen of the House: We received a great deal of testimony on this bill dealing with the individual agencies, specifically the veterans' agency. They had people at the hearing who expressed their concerns that the veterans' program, which currently is a very well run program and it is very well run because it is a simple program to administer, they were concerned that this would get put into a giant finance authority and the veterans would be lost in the shuffle.

From June 1, 1982 to May 31, 1983, the Maine Veterans Small Business Loan program, there were 19 loans made during the last year. The Small Business Loan Authority made 27 loans. When you compare this to the SBA, which provided 291 loans last year, you find that one of the problems is that the Small Business Loan Board doesn't have the numbers of staff to practically market this type of program. A lot of veterans out there don't know that this type of program is available. There are a lot of small businesses that don't know the Small Business program is available, and there is a lot of confusion about where they go to get these loans.

We left the Veterans Small Business Loan Board intact as far as the total outstanding bonds that they can have at any one time. We have increased the amount of money that veterans can ask for from \$30,000 to \$100,000. We have also specifically put into the bill — by the way, we have also kept the present board of the Maine Veterans Small Business Board and they are going to be available as an advisory board for these veterans' programs.

We have also put into the bill that one of the staff members that works for the FAME has to be a veteran and has to be responsible for receiving requests from any veteran that comes in requesting a loan. I believe we tried to be very sensitive to the concerns of the veterans because they were concerned, and I believe that raising the limit from \$30,000 to \$100,000, plus the other safeguards that we put in the

bill will allow more veterans to get loans than we have had in the past.

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

An Act to Revise the Truancy Laws (H. P. 877) (L. D. 1131) (H. "A" H-385 to S. "A" S-191; H. "C" H-264; C. "A" H-213)

An Act to Require Interdepartmental Coordination of Social Services Planning (H. P. 1255) (L. D. 1668) (H. "B" H-383 to H. "A" H-347)

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.

By unanimous consent, all matters acted on requiring Senate concurrence were ordered sent forthwith.

An Act to Extend the Time for Acquiring those Areas which have been Designated Potential Passamaquoddy Indian Territory (H. P. 1291) (L. D. 1712) (S. "A" S-188)

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

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

Mr. GAUVREAU: Mr. Speaker, Men and Women of the House: I will be very brief. L. D. 1712 affords the Passamaquoddy Tribe Nation two additional years, until January 1, 1985, in which to purchase or negotiate for the acquisition of additional properties which were originally contemplated in the now famous Indian Land Claim Settlement. I believe the period of time afforded to the Indian Nation is too conservative. For that reason, I plan to oppose this bill and I ask that the vote be taken by the yeas and nays.

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 South Portland, Ms. Benoit.

Ms. BENOIT: Mr. Speaker, Men and Women of the House: I am not exactly sure of what Mr. Gauvreau said but I do know that this bill is an agreement between the Tribe and the Governor. It is not here without that agreement. Then, in addition to that agreement, it was also approved by the Judiciary Committee unanimously, so I would urge you not to vote against the enactment.

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

Mrs. MARTIN: Mr. Speaker and Members of the House: I would like someone to table this for one legislative day.

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

Mr. HOBBS: Mr. Speaker, Men and Women of the House: I don't think it is appropriate to rehash the merits or demerits of the whole Indian Land Claims issue. That issue has been decided, it was not decided in a court of law. There was an agreement signed by the State of Maine and the two tribes involved.

As you probably know, two legislative sessions ago there was a Joint Select Committee on Indian Land Claims established. That committee worked long and hard to come up with a palatable resolution of this matter. The full legislature voted and that issue has been decided.

The matters concerning the Indian Land Claims issue has come down to about 10 or 12 bills that were considered by the Judiciary Committee, I think there were nine bills in all. Most of the bills were basically consistent with

the intention of the Indian Land Claims case; however, some of them were felt by the committee to go too far and those bills were amended.

I think it is important for us to all realize that this bill does not do anything that is inconsistent with the original agreement. It has the full support of the Judiciary Committee. If you have looked at our report, you can see that there aren't many times when our committee agrees on issues, but this is one of the issues which we all agreed on. It is not inconsistent with the settlement proposal, which all of you probably know about, and it is my hope that we can pass this bill. It has the support of all the Judiciary Committee, it has the support of the Governor's Office, who negotiated the settlement on behalf of the State of Maine, and reluctantly, I understand, it has the support of the two nations involved. I urge you to support the bill.

The SPEAKER: The Chair recognizes the gentleman from the Penobscot Tribe, Mr. Sappier.

Mr. SAPIER: Mr. Speaker and Members of the House: The bills that were introduced to the legislature concerning both Penobscot and Passamaquoddy requested 10 years for the extension of acquiring land to be placed in trust designation. The only opponent we had to the legislation was the Governor's Office, and we had a series of meetings over the last few months.

The Tribal State Commission became involved in the decision that was made by the tribal representatives to the Tribal State Commission and reported to the Governor's Office, it was five years and no land. After the work session with the Judiciary Committee and the recommendation received from the Tribal State Commission and the two tribes, the bill that finally came out of Judiciary was L. D. 1712, the Bill you see today, which is two years and no land, no new land to be designated.

The tribes at this time are in support of the two years but we would like to consider new legislation coming in, as it is not emergency legislation, we have already lost five months of this year, plus three more months due to the 90 day enactment, and it would only give us one year and three months. Perhaps in the upcoming session we could submit something to extend this time line and work out a better agreement with the Governor.

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

ROLL CALL

YEA—Allen, Anderson, Andrews, Armstrong, Baker, Beaulieu, Bell, Benoit, Bonney, Bost, Bott, Brannigan, Brodeur, Brown, A.K.; Cahill, Callahan, Carrier, Carroll, D.P.; Carroll, G.A.; Cashman, Clark, Connors, Cooper, Cote, Cox, Crouse, Crowley, Curtis, Daggett, Davis, Day, Dexter, Diamond, Dillenback, Drinkwater, Erwin, Foster, Greenlaw, Gwadosky, Hall, Handy, Hickey, Higgins, H.C.; Higgins, L.M.; Hobbins, Holloway, Ingraham, Jackson, Jacques, Jalbert, Joseph, Joyce, Kane, Kelly, Ketover, Kiesman, Kilcoyne, LaPlante, Lebowitz, Lehoux, Lewis, Lisnik, Livesay, Locke, MacBride, MacEachern, Manning, Martin, A.C.; Martin, H.C.; Masterman, Masterton, Matthews, K.L.; Maybury, McCollister, McGowan, McHenry, McSweeney, Melendy, Michael, Michaud, Mitchell, E.H.; Mitchell, J.; Moholland, Murphy, E.M.; Murray, Nadeau, Norton, Paradis, E.J.; Paradis, P.E.; Parent, Paul, Perkins, Perry, Pouliot, Randall, Reeves, J.W.; Richard, Roberts, Roderick, Rolde, Salisbury, Scarpino, Sherburne, Small, Smith, C.B.; Soucy, Sproul, Stevens, Stover, Strout, Swazey, Tammaro, Telow, Theriault, Thompson, Vose, Walker, Webster, Wentworth, Weymouth, Zirnklilton, The Speaker.

NAY—Ainsworth, Carter, Conary, Connolly,

Gauvreau, Matthews, Z.E.; Mayo, Ridley, Smith, C.W.; Tuttle.

ABSENT—Brown, D.N.; Brown, K.L.; Chonko, Dudley, Hayden, Kelleher, Macomber, Mahany, McPherson, Murphy, T.W.; Nelson, Pines, Racine, Reeves, P.; Rotondi, Seavey, Soule, Stevenson, Willey.

Yes, 122; No, 10; Absent, 19.

The SPEAKER: One hundred twenty-two having voted in the affirmative and ten in the negative, with nineteen being absent, the motion does prevail.

Signed by the Speaker and sent to the Senate.

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

Ought to Pass in New Draft

Report of the Joint Select Committee on Whitewater Rafting on Bill "An Act to Regulate Commercial Whitewater Rafting (Emergency)" (S. P. 479) (L. D. 1454) reporting "Ought to Pass" in New Draft (Emergency) (S. P. 625) (L. D. 1763)

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

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

Non-Concurrent Matter

Bill "An Act to Establish the Medical Radiation Health and Safety Act" (H. P. 904) (L. D. 1183) which was passed to be engrossed as amended by Committee Amendment "A" (H-389) in the House on June 14, 1983.

Came from the Senate passed to be engrossed as amended by Committee Amendment "A" (H-389) as amended by Senate Amendment "A" (S-207) thereto in non-concurrence.

In the House: On motion of Mr. Manning of Portland, the House voted to recede and concur.

By unanimous consent, all matters acted upon requiring Senate concurrence were ordered sent forthwith.

On motion of Mr. Vose of Eastport, Recessed until two-thirty in the afternoon.

After Recess

2:30 P.M.

The House was called to order by the Speaker.

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

Ought to Pass in New Draft

Report of the Committee on Health and Institutional Services on Bill "An Act to Revise the General Assistance Laws" (S. P. 144) (L. D. 554) reporting "Ought to Pass" in New Draft (S. P. 626) (L. D. 1764)

Came from the Senate with the Report read and accepted and the New Draft passed to be engrossed as amended by Senate Amendment "A" (S-212)

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

Under suspension of the rules, the New Draft was given its Second Reading.

Senate Amendment "A" (S-212) was read and adopted in concurrence, and the New Draft passed to be engrossed as amended in concurrence.

Ought to Pass in New Draft/New Title

Report of the Committee on Taxation on Bill "An Act to Clarify the Definition of Casual Sales under the Sales Tax Law" (S. P. 261) (L. D. 806)

reporting "Ought to Pass" in New Draft under New Title Bill "An Act to Change the Treatment of Certain Sales Under the Sales Tax Laws" (S. P. 627) (L. D. 1766)

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

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

Under suspension of the rules, the New Draft was given its second reading and passed to be engrossed in concurrence.

Non-Concurrent Matter

An Act Relating to Training Penobscot Law Enforcement Officers (S. P. 81) (L. D. 192) (S. "A" S-186) which was passed to be enacted in the House on June 14, 1983.

Came from the Senate passed to be engrossed as amended by Senate Amendment "A" (S-186) as amended by Senate Amendment "A" (S-211) thereto in non-concurrence.

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

Non-Concurrent Matter

Bill "An Act to Amend the Habitual Offender Law" (H. P. 956) (L. D. 1237)

— In House, Bill and accompanying papers recommitted to the Committee on Judiciary in non-concurrence on May 11, 1983.

— In Senate, passed to be engrossed as amended by Senate Amendment "A" (S-209) in non-concurrence.

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

The Chair laid before the House the following matter:

Bill "An Act to Establish and Amend the Air Emission and Open-burning Standards" (H. P. 1259) (L. D. 1680) which was tabled and later today assigned pending further consideration.

(In House, passed to be engrossed as amended by Committee Amendment "A" (H-340) as amended by House Amendment "B" (H-368) thereto on June 8. In Senate, passed to be engrossed as amended by Committee Amendment "A" (H-340) as amended by Senate Amendment "A" (S-196) thereto in non-concurrence)

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

Mr. HALL: Mr. Speaker, Ladies and Gentlemen of the House: I move to recede and concur.

I would like to read into the record, if I may, in regards to the amendment.

The Senate Amendment removes that portion of House Amendment "B" which clarified the intent of the legislature on the issue of the new air emission standards included in this bill. I am convinced that current state and federal law is absolutely clear and that the amendment is unnecessary, section 590 of our Air Quality Laws and DEP regulations already define "best practical treatment" to require a case-by-case analysis for each license application in order to determine the appropriate level of technology to control air pollution. This case-by-case review may require tougher emission limitations than those contained in this bill. It should be understood that the emission limitations contained in this bill are the minimum required for new sources of air pollution and that the technological standards may require more.

Thereupon, the House voted to recede and concur.

By unanimous consent, ordered sent forthwith to Engrossing.

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

Resolution, Proposing an Amendment to the Constitution of Maine to Provide that the State may Enact Property Tax Exemptions Relating

to Watercraft not Subject to Fifty Percent Reimbursement (H. P. 1042) (L. D. 1349)

Tabled — March 30, 1983 by Representative Mitchell of Vassalboro.

Pending — Final Passage.

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

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

House Amendment "A" (H-241) was read by the Clerk and adopted.

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

By unanimous consent, all matters acted upon requiring Senate concurrence were ordered sent forthwith.

On motion of Mr. Diamond of Bangor, the following item was removed from the Unassigned Table:

An Act Pertaining to the Political Rights of State Employees (S. P. 439) (L. D. 1318) (S. "A" S-42)

Tabled — April 14, 1983 by Representative Diamond of Bangor.

Pending — Motion of Representative Sproul of Augusta to reconsider Passage to be Enacted.

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

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

On further motion of the same gentleman, under suspension of the rules, the House reconsidered its action whereby Senate Amendment "A" (S-42) was adopted and on motion of the same gentleman, Senate Amendment "A" was indefinitely postponed.

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

House Amendment "D" (H-392) was read by the Clerk.

Mr. GWADOSKY: Mr. Speaker, Ladies and Gentlemen of the House: I would like to take a moment to explain the purposes of this amendment.

This is a bill which we have already enacted and it is a bill which I had asked to be tabled pending the opinion of the Attorney General on several questions that came up in regards to this bill. We were concerned about having a clean bill, as clean as it could possibly get.

The purpose of this bill and what we would presently allow under this bill — let me just walk through this amendment, since this amendment actually becomes the bill. First of all, we define what an election is; we define what an employee of the state is; there is a definition of a nonpartisan election and the definition of a partisan election.

You might have remembered from the original discussion on the bill that when the bill came before us in State Government and we began to analyze it, there seemed to be somewhat of a discrepancy presently in the State of Maine in what classified employees can do in a political sense and what unclassified employees can do. There are several restrictions on what classified employees can do as far as political activities, whether they want to run for office or be able to serve as a treasurer for a candidate of their choice or be able to solicit funds for a candidate of their choice. However, these restrictions don't apply to unclassified employees.

There are about 1500 or so unclassified employees. Well, we received a bill which would have — the original bill, I think, was entitled "An Act to Provide State Employees with Full Political Rights" but we felt that it was in better keeping with the mood of this House and what we had in mind, it was safer to try to achieve

some parity between these two groups, but we were also concerned with any problems that might occur when we allow this parity, so what we have done is as follows — what we have allowed is to treat the unclassified employees the same as classified employees in the State of Maine, which means that we are allowing state employees, under this amendment, the opportunity to run for a local or municipal nonpartisan or partisan office. We are expressly prohibiting any state employee from running for a state office such as the legislature.

I also should point out that we have excluded in this amendment the constitutional officers because we found out that in a bill we had enacted, we had inadvertently made it impossible for certain constitutional officers, such as perhaps an attorney general, from running for governor, if that was ever the case with an Attorney General.

There were certain people who felt that surely that was not our intent, to keep a constitutional officer from running for state office, so that has been corrected in this amendment.

In the area of solicitation, we have said that state employees, classified employees, will be able to solicit for a candidate of their choice just like unclassified employees currently can but we have added some restrictions and these restrictions come right from the Federal Hatch Act, so it is like a mini Hatch Act that we are putting on our state employees. The restrictions are as follows, and these are prohibited political activities: An employee of this state may not interfere with an election, use his official authority or influence for the purpose of interfering with or affecting the result of an election, so no supervisor will be able to solicit from their subordinates.

Also, under prohibitive political activity, coerce political contributions, no state employee of the State of Maine can directly or indirectly attempt to coerce, command or advise another employee of this state to pay, lend or contribute anything of value to a party, committee, organization, agency or person for political purposes.

Finally, we have said that no state employee of the State of Maine can solicit from state property during working hours; in other words, they cannot solicit or request a payment, loan or contribution or anything of value to a party, committee, organization, agency or person for political purposes during the employee's state working hours on the property or premises owned by the state or using facilities, equipment or services of the State of Maine.

We have also said that any violation of this section would be a Class E crime and essentially that is what this House Amendment would do.

Mr. Carter of Winslow offered House Amendment "A" to House Amendment "D" and moved its adoption.

House Amendment "A" to House Amendment "D" (H-399) was read by the Clerk.

Mr. CARTER: Mr. Speaker, Ladies and Gentlemen of the House: I have no problem with House Amendment "D" except where it permits solicitation and that really concerns me for several reasons. If we were to adopt the Federal Hatch Act in its entirety, this would not be a permitted activity at all.

This is what could occur if we accept House Amendment "D" without excluding solicitation. First of all, the Federal Hatch Act stipulates that no federal employee may participate in any activity, and the key here is activity, which is in whole or in part paid for by federal funds. Right off the bat, you stop and think, you can eliminate an entire department from participation, the National Guard, Employment Security, Transportation, Human Services, many of those employees receive federal funds and the problem with it is, if they participate in violation of the Federal Hatch Act, the state can be held liable for twice their salary, and

that is one of the reasons why I can't support House Amendment "D" unless it's amended to rule out solicitation. They can do anything else, I have no problems with that, if they want to run for office, we allow them back in my community, non-partisan elections, state employees can run, postal employees can run, no problem, but when it comes to solicitation, it really disturbs me.

It is true, they put a restriction, you can only do this on off-duty hours, but can you picture a state trooper in uniform coming to you for solicitation after hours? Those of you that have served here before probably can recall the problems that we went through when we allowed them to solicit funds for charitable purposes, and it got to the point where it was a situation that we could not allow to continue and we decided to abolish that activity.

I'm not saying that a state trooper could intimidate people but it is a temptation that I don't think they should be allowed to exercise. Furthermore, I am concerned whether state troopers, where they to receive 25 percent of their money from the transportation budget, how they would be affected. Probably they would be ruled out completely.

By the very nature of the way this amendment is drafted, allowing solicitation, it opens up enormous areas that the state could be held liable for if an employee is found in violation.

I would hope that you would go along and adopt House Amendment "A".

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

Mr. GWADOSKY: Mr. Speaker, Ladies and Gentlemen of the House: I would ask for a division on adoption.

Just to further crystalize, I think, where the debate has taken place now on this issue, we have a discrepancy currently in our statutes on what state employees are allowed to do as far as participating in political campaigns, and the discrepancy is in whether or not they are unclassified employees or whether they are classified employees.

In House Amendment "D", which we just offered, we attempt to create that parity by treating all state employees the same, by saying "yes, you can all solicit for a candidate of your choice, but you have to do so with these prohibitions, which are the same as the federal Hatch Act."

House Amendment "A" which is before you now would take out solicitation, period, so that there can be no solicitation. It is up to each of you as individuals to decide which way you would want to go to create the parity. We currently have some people who can solicit and we have some who cannot. We have two ways to resolve it; either you allow both sets of state employees to solicit with some prohibitions or you just say that no one can solicit at all.

I would ask for a division and urge you to oppose the amendment.

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

Mrs. KETOVER: Mr. Speaker, Men and Women of the House: My good friend Mr. Carter, House Amendment "A", and I just want to explain this, his amendment would prohibit solicitation to anybody in state government or out of state government. This bill is carefully constructed to open up political rights for state workers while at the same time clearly draws the line to ensure that those rights will not be abused.

For example, in this bill, supervisors remain prohibited from soliciting from employees over whom they have supervisory authority. I urge you to help us restore the political rights for state workers, rights that we as citizens in this state are free to exercise, and I urge you to go along with my chairman.

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

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

tleman of the House: A few years ago, I was involved in the legislation that you are about to repeal. I was involved in it because the state police in the state of Maine had entered into a contract with a solicitation organization and they solicited a substantial amount of money. The state police did not do that themselves, but they had an agent. That agent used to walk into a person's place of business and size it up and say, "Well, you can afford to give us \$3,000".

Now, ladies and gentlemen, this is a dream world. This little piece of legislation, you better look at it and look at it very, very closely, because we had an investigation by the Attorney General's Office, the legislation was drafted by the Attorney General, I introduced it and it was passed by this legislature, not by this particular body but a body in the past.

We could have a very, very dangerous situation if we do not approach this with very, very strict limitations, and I don't think a state policeman, whether he's on duty or off duty or anytime, should be approaching anybody for any funds or anything. He has a very peculiar position in your society. He is a law enforcement officer. I could have a business and be going down the road, never bothering my trucks, my equipment one day, and then in a roundabout way I could receive a nice little call on the phone saying "I noticed that you don't approve of us people, that you don't want us to have any fun for charitable purposes." There is a little line here that you've got to be awfully careful on, and that is — am I being intimidated by being asked to make a contribution for those purposes?

And I say that if I own a business and if I have trucks and equipment on the highway, I am being intimidated because my equipment could be stopped and detained time and time again because I had not made a favorable contribution. Don't tell me that I'm living in a dream world and this doesn't go on, because it could go on unless you're very, very careful. I think Representative Carter knows from whence I came, he knows what I am talking about. He has been around here a while, and he is very well aware of what took place a few years ago. An outfit in New York took a lot of money out of this state, and very little of it was given to the state police, and they solicited under the name of the Maine state police.

I want you to look at this very, very carefully. There was a reason why that legislation was passed. If we over-react, I have no problem with this legislature correcting any over-reaction I was involved in, but I do have a problem when you open the door to a man who one day is in uniform enforcing the laws on the highway, and that night could be knocking on the door of some of the people asking them to make a contribution.

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

Mr. GWADOSKY: Mr. Speaker, Ladies and Gentlemen of the House: I think that some of the comments from the gentleman from Limerick, Mr. Carroll, are very real and I think the concerns that he brought forth are the reasons that the Charitable Solicitations Act was enacted a few years back and has been amended to do so, and I know that when I served on the Business Legislation Committee, they received several bills dealing with exactly that—state police people and local police officers in some instances who were out selling magazine ads and stuff like this, and they still do it to some extent and they're still in court, I believe that that type of problem is currently covered under the Charitable Solicitations Act and that type of problem should not be confused with this bill.

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

Mrs. KETOVER: Mr. Speaker, Men and Women of the House: I would just like to answer Representative Carroll. Under coercion, it clearly says under the law that any fed-

eral person—supervisor that puts any pressure on any of his subordinates, under the federal law, agency, says that they can be fired, and they can lose their job. Under the state law, it will be a Class E crime.

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

Mr. GWADOSKY: I request a roll call.

The SPEAKER: A roll call is 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 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 Fairfield, Mr. Gwadosky.

Mr. GWADOSKY: Mr. Speaker, Ladies and Gentlemen of the House: Perhaps I am not explaining my concerns in the way I wish I would. I thought I had asked the members and I was urging the members of the House to vote against House Amendment "A" because what House Amendment "A" does is take out solicitation altogether. What House Amendment "A" does. House Amendment "D" is confusing, but what House Amendment "A" does that the gentleman from Winslow is offering, it takes out solicitation altogether, which means that a state employee can not only not solicit from other state employees, a state employee would not be able to work for a candidate of his choice as a treasurer. He would not be able to solicit funds from his mother or his father or anybody in his family. What House Amendment "A" does, it says that state employees cannot solicit, period.

For a lot of years, and there are current statutes, we've allowed unclassified employees in the state of Maine to solicit, and it seems to me that that is the crux of this whole matter, whether we want state employees to solicit or not to solicit, and as I said before, it's up to you — whatever you choose to do in that matter. The fact is that we allow unclassified state employees to solicit now, we've allowed them for a long time to solicit, and I think when you're trying to create parity between two groups of people, two classes of people, I'm not sure the best way to do it is to say, "Sorry, none of you can do this anymore." I am not sure it's fair to our state employees in the state of Maine, and I would ask you to vote against the adoption of House Amendment "A".

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

Mr. CARTER: Mr. Speaker, Ladies and Gentlemen of the House: The amendment that I offered I think is very clear; I don't think it is confusing. I'm pleased at the way the initial vote was taken and I hope you'll follow through and adopt this amendment.

The amendment does not, as the gentleman from Fairfield has stated, prevent anybody from participating in politics or working for the individual of his choice. All this does, if you will look at the amendment, it strikes out "soliciting contributions", which is on page 3, paragraph 3 of the bill. That is all it does — it eliminates solicitation of contributions.

The participating employee can participate in campaigns; except as provided in Section 22 participate fully in political activities including donating his own time, his funds, his services for a party, committee, organization, agency, etc.

Now, I think it is very clear, and as the amendment is prepared, Amendment "D" with my amendment, it makes it palatable and I think we should adopt it, I think we should adopt both amendments. I would hope that you would support the motion to adopt the amendment.

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

Mrs. BEAULIEU: May I pose a question

through the Chair? Am I correct in assuming that those unclassified people who were able to solicit before will now not be able to?

The SPEAKER: The gentleman from Portland, Mrs. Beaulieu, has posed a question through the Chair. The Chair recognizes the gentleman from Fairfield, Mr. Gwadosky.

Mr. GWADOSKY: Mr. Speaker, Ladies and Gentlemen of the House: The answer to Representative Beaulieu's question is yes, Unclassified employees of the state of Maine who presently can solicit would not be allowed to solicit under this amendment.

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

Mr. CARTER: I would like to pose a question to the good gentleman from Fairfield. Could he tell us who the employees are that are identified under Section 711, Subsection 1, paragraph A, B, D, and E?

The SPEAKER: The gentleman from Winslow, Mr. Carter, has posed a question through the Chair. The Chair recognizes the gentleman from Fairfield, Mr. Gwadosky.

Mr. GWADOSKY: Mr. Speaker, Ladies and Gentlemen of the House: Now that I find it, I would be happy to respond to the question of the gentleman from Winslow, Mr. Carter. Under the definition of state employees, what we are doing in effect is, we are excluding under the definition of employees for the purposes of this bill we are excluding legislators, we are excluding partisan aides and we're excluding constitutional officers — for the purposes of this bill.

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

ROLL CALL

YEA—Anderson, Armstrong, Bell, Bonney, Bott, Brown, D.N.; Brown, K.L.; Cahill, Callahan, Carroll, G.A.; Carter, Chonko, Curtis, Daggett, Davis, Day, Dexter, Dillenback, Drinkwater, Foster, Greenlaw, Higgins, L.M.; Ingraham, Kelly, Kiesman, Lebowitz, Lewis, Livesay, MacBride, Macomber, Masterton, Matthews, K.L.; McCollister, Michaud, Murphy, E.M.; Norton, Paradis, E.J.; Parent, Paul, Perkins, Perry, Randall, Reeves, J.W.; Ridley, Roberts, Roderick, Salsbury, Scarpino, Sherburne, Small, Smith, C.W.; Soucy, Stevens, Stevenson, Stover, Telow, Theriault, Walker, Wentworth, Weymouth, Willey, Zirkilton.

NAY—Ainsworth, Allen, Andrews, Baker, Beaulieu, Brodeur, Brown, A.K.; Carroll, D.P.; Cashman, Clark, Conary, Connolly, Cooper, Cote, Cox, Crouse, Crowley, Diamond, Erwin, Gauvreau, Gwadosky, Hall, Handy, Hickey, Higgins, H.C.; Holloway, Jackson, Jacques, Jalburt, Joseph, Joyce, Ketover, Kilcoyne, LaPlante, Lehoux, Lisnik, Locke, MacEachern, Manning, Martin, H.C.; Masterman, Matthews, Z.E.; Maybury, Mayo, McGowan, McHenry, McSweeney, Melendy, Michael, Mitchell, E.H.; Mitchell, J.; Moholland, Murray, Nadeau, Paradis, P.E.; Richard, Rolde, Smith, C.B.; Soule, Sproul, Swazey, Tammara, Thompson, Tuttle, Vose, Webster.

ABSENT—Benoit, Bost, Brannigan, Carrier, Connors, Dudley, Hayden, Hobbins, Kane, Kelleher, Mahany, Martin, A.C.; McPherson, Murphy, T.W.; Nelson, Pines, Pouliot, Racine, Reeves, P.; Rotondi, Seavey, Strout, The Speaker.

Yes, 62; No, 66; Absent, 23.

The SPEAKER: Sixty-two having voted in the affirmative and sixty-six in the negative, with twenty-three being absent, the motion does not prevail.

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

Mr. CARTER: Mr. Speaker, I now move that House Amendment "D" be indefinite postponed and ask for a roll call.

The SPEAKER: The gentleman from Wins-

low, Mr. Carter, now moves indefinite postponement of House Amendment "D".

The Chair recognizes the gentleman from Fairfield, Mr. Gwadosky.

Mr. GWADOSKY: Mr. Speaker, Ladies and Gentlemen of the House: This is not an easy issue, I think it is a difficult issue and I sympathize with the concerns that people have here. I appreciate those who voted against House Amendment "A" just now because I think what we have to remember is that we have already enacted this bill once in this body, and we have just put on some tighter restrictions to this bill by the adoption of House Amendment "D" — tighter restrictions than we would have had otherwise. I hope that you would stick by your guns and oppose the motion to indefinitely postpone this amendment.

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

Mr. CARTER: Mr. Speaker, Ladies and Gentlemen of the House: I think the real thing to do with this bill would be to send the whole thing back to Committee or indefinitely postpone the entire mess. If I had not interceded, this bill would have been enacted, and the good gentleman from Fairfield just told you the problems with the original bill.

There are problems with this amendment, I've cited several of them, and it is unfortunate if the way they drafted the bill that unclassified employees are excluded, but they can amend that so that they can correct that situation. But the way the bill is now, it is not workable because of what has been debated before you on the floor of the House. We are going to open the door to all types of abuses that will take place.

Currently there's a law on the books that says no employee may solicit on state property, and I want to ask you, how many of you have noticed state employees going around soliciting from other employees for various causes, but the law says clearly that there is not supposed to be any solicitation at all.

Who is going to enforce this, I ask you. There is all kinds of room for intimidation whether it's on the job or off the job. It is a bad, bad bill, and we should not allow it to pass.

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

Mr. GWADOSKY: Mr. Speaker, Ladies and Gentlemen of the House: I apologize to the members of the House for delaying this anymore. Just to bring up the question of enforcement. There is a Class E fine put into the bill for any violations of this act. As far as the individuals who may feel that they have been aggrieved for some reason or that they are being coerced for some reason, there are numerous remedies for these types of people.

If they're classified employees, they could see their representative from the bargaining unit. They could always prosecute through a district attorney's office if they wanted to. They could go through the personnel laws if they feel that they have been abused by this particular law.

I understand some people may have some philosophical concerns about this bill, but we have already enacted a bill which is much looser than this, and I just hope that out of a matter of consistency we now enact this bill which we feel sincerely has the necessary safeguards and restrictions upon it.

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 House Amendment "D" be indefi-

nately postponed. All those in favor will vote yes; those opposed will vote no.

ROLL CALL

YEA—Anderson, Armstrong, Bell, Bott, Brown, D.N.; Brown, K.L.; Cahill, Callahan, Carroll, G.A.; Carter, Chonko, Curtis, Davis, Dexter, Foster, Greenlaw, Higgins, L.M.; Ingraham, Jacques, Joyce, Kelly, Kiesman, Lewis, Livesay, MacBride, Matthews, K.L.; Maybury, McSweeney, Norton, Paradis, E.J.; Parent, Perkins, Randall, Reeves, J.W.; Ridley, Roberts, Roderick, Scarpino, Sherburne, Small, Smith, C.W.; Soucy, Stover, Willey, Zirnkilton.

NAY—Ainsworth, Allen, Andrews, Baker, Beaulieu, Bonney, Brodeur, Brown, A.K.; Carroll, D.P.; Clark, Conary, Connolly, Cooper, Cote, Cox, Crouse, Crowley, Daggett, Day, Diamond, Dillenback, Drinkwater, Erwin, Gauvreau, Gwadosky, Hall, Handy, Hickey, Higgins, H.C.; Holloway, Jackson, Jalbert, Joseph, Ketover, Kilcoyne, LaPlante, Lebowitz, Lehoux, Lisnik, Locke, MacEachern, Macomber, Manning, Martin, H.C.; Masterman, Masterton, Matthews, Z.E.; Mayo, McCollister, McGowan, McHenry, Melendy, Michael, Michaud, Mitchell, E.H.; Mitchell, J.; Moholland, Murphy, E.M.; Murray, Nadeau, Paradis, P.E.; Paul, Perry, Reeves, P.; Richard, Rolde, Salsbury, Smith, C.B.; Soule, Sproul, Stevens, Stevenson, Tammaro, Telow, Theriault, Thompson, Tuttle, Vose, Walker, Webster, Wentworth, Weymouth.

ABSENT—Benoit, Bost, Brannigan, Carrier, Cashman, Connors, Dudley, Hayden, Hobbins, Kane, Kelleher, Mahany, Martin, A.C.; McPherson, Murphy, Nelson, Pines, Pouliot, Racine, Rotondi Seavey, Strout, Swazey, Mr. Speaker.

Yes, 45; No, 82, Absent, 24.

The SPEAKER: Forty-five having voted in the affirmative and eighty-two in the negative, with twenty-four being absent, the motion does not prevail.

Thereupon, House Amendment "D" (H-392) was adopted.

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

By unanimous consent, all matter requiring Senate concurrence were ordered sent forthwith.

(Off Record Remarks)

On motion of Mr. Day of Westbrook,
Adjourned until nine o'clock tomorrow morning.