

# MAINE STATE LEGISLATURE

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**LEGISLATIVE RECORD**

OF THE

***One Hundred and Eleventh  
Legislature***

OF THE

**STATE OF MAINE**

**SECOND REGULAR SESSION**

**January 4, 1984 to April 25, 1984**

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**House**

Monday, April 9, 1984

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

Prayer by Reverend George E.M. Bullens, United Methodist Church of Gorham.

National Anthem by the Maine Maritime Academy Band, Castine.

The Journal of Friday, April 6, 1984, was read and adopted.

**Papers from the Senate**

The following Communication:

April 6, 1984

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

In reference to the action of the Senate on Friday, March 30, 1984 whereby it Insisted and Joined in a Committee of Conference on Bill "An Act to Permit Public Service in Lieu of Fines for Indigent Offenders Under the Drunk Driving Law" (H. P. 1427) (L. D. 1872).

The Chair appointed as conferees on the part of the Senate:

The Senator from

Androscoggin—Senator Trafton  
Aroostook—Senator Violette  
Knox—Senator Collins

Sincerely,

S/JOY J. O'BRIEN

Secretary of the Senate

Was read and ordered placed on file.

Bill "An Act to Clarify and Make Corrections in the Inland Fisheries and Wildlife Laws" (S. P. 908) (L. D. 2446)

Came from the Senate, referred to the Committee on Fisheries and Wildlife and Ordered Printed.

On motion of Mr. MacEachern of Lincoln, under suspension of the rules the Bill was read twice, passed to be engrossed in non-concurrence and sent up for concurrence.

**Ought to Pass****Later Today Assigned**

Report of the Committee on Taxation reporting "Ought to Pass" on Bill "An Act to Provide for Conformity with the United States Internal Revenue Code" (S. P. 893) (L. D. 2409).

Came from the Senate, with the report read and accepted and the bill passed to be engrossed. Report was read.

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

**Divided Report**

Majority Report of the Committee on Public Utilities on Bill "An Act to Limit the Authority of the Public Utilities Commission to award Compensation to Intervenor" (S. P. 763) (L. D. 2071) reporting "Ought to Pass" in New Draft (S. P. 904) (L. D. 2424)

Signed:

Senators:

BALDACCI of Penobscot  
KANY of Kennebec  
EMERSON of Penobscot

Representatives:

MATTHEWS of Winslow  
VOSE of Eastport  
BAKER of Portland  
BOST of Orono  
McGOWAN of Pittsfield

Minority Report of the same Committee reporting "Ought to Pass" as amended by Committee Amendment "A" (S-370) on same Bill.

Signed:

Representatives:

RIDLEY of Shapleigh  
WEYMOUTH of West Gardiner  
ROBINSON of Auburn  
PARADIS of Old Town

Came from the Senate with the Majority

"Ought to Pass" Report read and accepted and the New Draft (S. P. 904) (L. D. 2424) passed to be engrossed.

Reports were read.

The SPEAKER: The Chair recognizes the gentleman from Eastport, Mr. Vose, that the House accept the Majority "Ought to Pass" Report.

The SPEAKER: The gentleman from Eastport, Mr. Vose, moves that the House accept the Majority "Ought to Pass" Report.

The gentleman may proceed.

Mr. VOSE: Mr. Speaker, Ladies and Gentlemen of the House: Earlier this year, we had a bill similar to this in our committee on which we gave the sponsor a "leave to withdraw." After the bill was given a "leave to withdraw," the Public Utilities Commission decided to award an intervenor with some money, which was the contents of the bill that we had actually given a "leave to withdraw." It rather angered us, to be honest with you, not necessarily because the intervenor deserved the money but because we felt that since we had so-called killed this bill, there were no funds that we could see available to pay for this intervenor. Now, the bill I am talking about did, in fact, provide some funding, an assessment fund over there for intervention, period. Therefore, the other bill surfaced which was a bill to attempt not to allow them to pay intervenors except under certain conditions.

During the hearing on this bill, the majority of us felt that there wasn't any question in our mind that intervention was an intricate part and necessary part of the rate proceedings; therefore, the majority of us said, all right, we do have a public advocate, we have created the public advocate and we are paying him to intervene on behalf of the consumer, so therefore, he should have a part in paying any intervenor that contributed anything significant to a rate hearing that would in fact help the consumer.

So our bill does this, we established a certain set of rules and regulations that an intervenor would have to adhere to and have to satisfy in order that the commissioners would recommend, with the advice of the public advocate, that that intervenor would receive a certain sum of money.

What we are talking about here is the intervenor would, in fact, present something in the case that the public advocate could not for whatever reason. Also, this is something that would help the consumer, it would help lower the cost for the consumers, that is, lower the rate and that is important. It is important to us to have intervention regardless of whether we ask somebody to intervene and we don't have intervenors that go on their own hook and go in there and do the best we can to protect the consumer.

It also provides that if the commissioners decide that they want to pay this intervenor for whatever reason, after satisfying the conditions, and with the advice of the public advocate they do so but they do so out of their own funds, their own budget, and we are talking now about a \$50,000 item that is placed in their budget for consultants.

The reason we decided we wanted to do that is because it gives legislative review each year on that portion of the budget. That is Report A.

Report B, somebody else will explain to you and I hope you will support me this morning.

The SPEAKER: The Chair recognizes the gentleman from Auburn, Mrs. Robinson.

Mrs. ROBINSON: Mr. Speaker, Ladies and Gentlemen of the House: I signed out Report B and I hope that many of you will be able to support that this morning.

As Representative Vose from Eastport has pointed out, we already have a Public Utilities Commission that is supposed to be deciding rates and it is supposed to decide those rates on the basis of what is best for the companies and what is best for the consumers; it is supposed to balance those two competing interests.

A couple of years ago, in the 110th Legislature, in addition to a PUC that was already supposed to be doing its job, we put in a public advocate

and that public advocate was supposed to intervene and he was supposed to represent just the interests of the consuming public. It seems to me that that is quite enough, that the PUC is already supposed to be thinking about consumers and now we have a public advocate to do that.

What the two bills do is that Report A allows intervenors to continue to be paid but these intervenors would be paid through the consultant's budget in the PUC's own budget. In Report B, we do not allow the paying of intervenors. It seems to me that if you go along with Report A, to allow intervenors to be paid through the PUC's budget, you are saying that, yes, it is fine for the PUC's budget to increase every year and you are saying that, no, the public advocate is not doing what we are paying him to do.

It seems to me that if we are concerned about the growth of state government, we should stop paying five, six, seven, eight, I am wondering when it is going to stop, that many different organizations, intervenors, or outfits or whatever to do the very same job. I say we should put a stop to this now and we should put faith in our public advocate and faith in the PUC to analyze these budgets and analyze these rate cases and do their own job.

I request a roll call.

The SPEAKER: The Chair recognizes the gentleman from West Gardiner, Mr. Weymouth.

Mr. WEYMOUTH: Mr. Speaker, Members of the Legislature: I agree with what Mrs. Robinson just said. The problem here is that this does not in any way stop anybody from intervening. Remember, some of the intervenors can be the big companies as well as small people. I think what you really have to decide here is, do you have faith in the PUC, do you have faith in the public advocate?

We on the committee, and I am going to use Mr. Vose's words, we are angry. Many of us felt that the public advocate should do just what the job was set up for. We in this House lobbied very hard for that job and I would like to see you go with our report, Report B.

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

Mr. RIDLEY: Mr. Speaker, Ladies and Gentlemen of the House: I would like to give you my stand where I am signed out on Report B.

There was an awfully lot of discussion on this bill as it was first presented, and as Representative Vose said, it was withdrawn and another one was put in its place.

My biggest objection to this is that there is \$50,000 that is set aside or will be put in for consultant fees. They don't have anymore than enough money in this consultant fee budget now and I feel that if you allow them to pay these intervenors out of that fund, it is just going to be a matter of time when that fund is going to increase and increase every year.

As it was stated before, in the 110th we created the job of the public advocate and this was primarily one of his duties or why it was created, to give assistance to the consumer and we are not saying that nobody intervene, we are saying that if you want to intervene in a rate case, you go to the public advocate, that is his job, that is what he is there for, that is what the job was created for. To put this into the hands of the Public Utilities Commission, to award compensation for intervenors out of this consultant fund of \$50,000, I just don't think that it is the route to go and I would hope that you would go along with Report B instead of Report A.

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

Mr. VOSE: Mr. Speaker, Ladies and Gentlemen of the House: I hope you don't think there is going to be a rash of monies being given out to intervenors. I think we should read the conditions that are set forth.

1. The public advocate has to be unable to present the issue, which means that whatever the intervenor has presented is either contrary to what he is presenting or the public advocate did not, either by lack of money or failure to do

so, hire a consultant to present this.

2. Presentation, a significant Contribution. The intervenor has to make a significant contribution that does have an effect on the rate case itself and generally speaking that effect is going to benefit the consumer.

3. Inability to develop issue without intervenor compensation. The issue could not be reasonably developed within the award of the intervenor compensation. In other words, the intervenor can prove that he didn't have enough money to get a consultant to present this and he is appealing to the commissioners to say, I think I have something good here and I do need some financial assistance. The cost presentation without compensation would impose a substantial financial hardship on the intervenor. Obviously, if an intervenor can afford to pay for this intervention himself, he is not going to be awarded.

There is one other thing that we put into this bill which I think you might find interesting. It says no public utility may cover through rates for any expenditures, contributions, expenses or costs incurred with respect to Commission proceedings which are imprudent and unreasonable. Now this allows them to disallow some of the cost that the utilities are paying for their rate presentation.

I think that this is a good bill. I think we have covered it well and also by putting it through the \$50,000 consultant fund, we are, in fact, allowing legislative review each and every year.

I hope that you will go along with the Majority Report.

A roll call has been requested.

More than one fifth of the members present expressed a desire for a roll call, which was ordered.

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

Mr. RACINE: Mr. Speaker, Ladies and Gentlemen of the House: I am a little bit concerned about this bill this morning and I will tell you my reasons. You will probably recall that we passed a bill to allow the public advocate to intervene in Workers' Compensation cases and I am concerned that if we pass this bill, if we go with the Majority Report, that we will be establishing a precedent whereby intervenors in Workers' Compensation will be asking to be reimbursed for their time and for the amount of money that they have spent to intervene. I think by accepting the Majority Report here, we are going to be establishing a precedent which would become very costly down the road. On that basis, I will follow the good gentleman from Shapleigh and go along with his report.

The SPEAKER: The pending question is on the motion of the gentleman from Eastport, Mr. Vose, 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 NO. 448

YEA—Ainsworth, Andrews, Baker, Beaulieu, Bost, Brannigan, Brodeur, Carroll, D. P.; Carter, Chonko, Clark, Connolly, Cooper, Cox, Diamond, Erwin, Gwadosky, Hall, Handy, Jalbert, Joseph, Kelleher, Kelly, Ketover, Lehoux, Locke, MacEachern, Macomber, Mahany, Manning, Mayo, McCollister, McGowan, McHenry, Melendy, Michaud, Mills, Mitchell, E. H.; Mitchell, J.; Moholland, Murray, Nadeau, Paradis, P. E.; Paul, Reeves, P.; Richard, Rolde, Rotondi, Stevens, Tannmaro, Thompson, Vose, The Speaker.

NAY—Allen, Anderson, Armstrong, Bell, Benoit, Bonney, Bott, Brown, A. K.; Brown, D. N.; Cahill, Callahan, Carroll, G. A.; Cashman, Conary, Connors, Cote, Crowley, Daggett, Davis, Day, Dexter, Dillenback, Drinkwater, Foster, Greenlaw, Hickey, Higgins, L. M.; Holloway, Ingraham, Jackson, Jacques, Joyce, Kiesman, Kilcoyne, LaPlante, Lebowitz, Lisnik, Livesay, MacBride, Martin, A. C.; Masterman, Masterton, Matthews, K. L.; Maybury, McPherson, McSweeney, Murphy, E. M.; Murphy, T. W.; Nelson, Norton, Paradis, E. J.; Parent, Perkins, Perry, Pines, Pouliot, Racine, Randall, Reeves, J. W.; Ridley, Roberts, Robinson,

Roderick, Salsbury, Scarpino, Seavey, Sherburne, Small, Smith, C. B.; Smith, C. W.; Soucy, Sprout, Stevenson, Strout, Swazey, Theriault, Walker, Webster, Wentworth, Weymouth, Willey, Zirkilton.

ABSENT—Carrier, Crouse, Curtis, Dudley, Gauvreau, Hayden, Higgins, H. C.; Hobbins, Kane, Martin, H. C.; Matthews, Z. E.; Michael, Soule, Stover, Telow, Tuttle.

53 having voted in the affirmative and 82 in the negative, with 16 being absent, the motion did not prevail.

Thereupon, the Minority "Ought to Pass" Report was accepted in non-concurrence and the Bill read once.

Committee Amendment "A" (S-370) was read by the Clerk and adopted and the Bill assigned for Second Reading later in today's session.

#### Divided Report Later Today Assigned

Majority Report of the Joint Select Committee on Wood Measurement on Bill "An Act to Revise the Wood Measurement Law" (S. P. 623) (L. D. 1768) reporting "Ought to Pass" in New Draft (S. P. 889) (L. D. 2404)

Signed:

Senators:

CARPENTER of Aroostook  
WOOD of York

Representatives:

KELLY of Camden  
LOCKE of Sebec  
HALL of Sangerville  
JACQUES of Waterville  
THERIAULT of Fort Kent

Minority Report of the same Committee reporting "Ought to Pass" in New Draft under New Title Bill "An Act to Amend the Wood Measurement Law (S. P. 890) (L. D. 2405) on same Bill.

Signed:

Senator:

EMERSON of Penobscot

Representatives:

DAY of Westbrook  
DEXTER of Kingfield

Came from the Senate with the Majority "Ought to Pass" in New Draft Report read and accepted and the New Draft (S. P. 889) (L. D. 2404) passed to be engrossed as amended by Senate amendment "A" (S-372)

Reports were read.

Mr. Jacques of Waterville moved acceptance of the Majority "Ought to Pass" Report.

On further motion of the same gentleman, tabled pending his motion to accept the Majority "Ought to Pass" Report and later today assigned.

#### Divided Report

Majority Report of the Committee on Energy and Natural Resources on Bill "An Act Relating to Enforcement of Land Use Laws" (S. P. 761) (L. D. 2069) reporting "Ought to Pass" in New Draft under New Title Bill "An Act Concerning Enforcement of Land Use Laws" (S. P. 901) (L. D. 2419)

Signed:

Senators:

KANY of Kennebec  
PEARSON of Penobscot

Representatives:

MICHAEL of Auburn  
MITCHELL of Freeport  
MCGOWAN of Pittsfield  
HALL of Sangerville  
JACQUES of Waterville

Minority Report of the same Committee reporting "Ought to Pass" in New Draft (S. P. 900) (L. D. 2418) on same Bill.

Signed:

Senator:

McBREAIRTY of Aroostook

Representatives:

MICHAUD of East Millinocket  
KIESMAN of Fryeburg  
BROWN of Livermore Falls  
RIDLEY of Shapleigh  
DEXTER of Kingfield

Came from the Senate with the Majority "Ought to Pass" in New Draft under New Title Report read and accepted and the New Draft (S. P. 901) (L. D. 2419) passed to be engrossed.

Reports were read.

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

Mr. HALL: Mr. Speaker, Ladies and Gentlemen of the House: I move that we accept the Majority "Ought to Pass" Report.

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

The gentleman may proceed.

Mr. HALL: Mr. Speaker, Ladies and Gentlemen of the House: This is a report that came out partially because of the Rivers Bill that we passed last year. Apparently, as many of you know, there have been many violations going on about the land use around the shores of our lakes, rivers and streams for many, many years. The towns have known about this but they have been stymied in many ways because of the lack of tools to help alleviate that.

There are three differences between the Majority Report and the Minority Report. The Majority Report establishes a central unit within the Department of Environmental Protection. Right now you have half a man in the State Planning Office and you have a quarter of a man to half a man in the DEP and probably a third of a man in the Department of Conservation. Now if you put them all together, it might give you a man and a half, if you could find the right one, to help the code enforcement officer on the planning board back home. This has always been very confusing for any of the towns, as I have found out over the last several years in my responsibility of helping the towns try to find somebody back here who would help them to alleviate the problems. This, to me, is one of the most important parts of the bill.

The Majority Report also contains an appropriation for one additional position in the Attorney General's Office. You know, when we had the Attorney General down there speaking to us, we asked him, do you take any of these cases to court, which is the last, last, last resort? He said, yes, if they are important enough. They only take the most important ones—that could be a dam going out or there could be a violation like in our area of Guilford Industries or some industry like that dumping raw sewerage into the stream, they then would have something to get their teeth into, but as those simmer down and the violations don't seem so great, right now there are over 700 violations out there that they have no way of ever getting at, that leaves them in a very hard position to come up with any idea of ever handling them.

The third and final difference between the reports is that the Majority Report grants municipalities attorney fees if they are the prevailing party in the prosecution of a land violation.

The Minority Report says that the court "may" grant attorney fees if the municipality is the prevailing party.

Now let me tell you why I supported the Majority Report. You know, for years since I have been here we have passed some pretty good laws about our land, our rivers and our lakes, etc. and it is very easy for us down here to pass laws about the environment but it has been difficult for us to put any teeth in them to help the towns back home in a coordinated way to enforce them and that is where we have been lax over the years.

There is no sense in us continuing to pass laws in this regard when we know that there are violations out there if we don't somehow put some teeth in to help the towns to carry out those orders. Even though we have offered them no financial assistance and little technical assistance,—you know something folks, it is very hard for me to read from a paper put before me but I need to do that so to keep my thoughts somewhere in line, so if you will bear with me, I will

stray from this once in awhile so I can give it to you as I see it.

The Majority Report gives the assistance and the Minority Report doesn't. Now I know that there is a price tag on this of a hundred thousand dollars and it needs some people but I am not afraid of that. If you folks are, that is a decision you will have to make but how much longer do you want these violations continuing out there without having somebody down here in a unit to help coordinate those back home. That is one of the biggest issues that I see at home now.

The new unit within the DEP would establish a public education program—that is one of the things that we kept hearing over and over again. Before you go too far with suing somebody, you ought to have some way of educating the people back home, even though these have been on the books for 10, 12 or 14 years, like I have had to do by bringing somebody from the DEP back up to my area, a big, tall, long fellow that worked in the DEP but he was very good. When he and I walked into the woods and saw a violation, the mud was running into the stream like somebody had hauled logs up and let the dirt run down into it, he and his gracious wife pointed out to the people that this was wrong and that you don't do that. If you do, you are going to carry all that dirt into the stream and you won't have any fish in there.

This unit will be a central point for the code enforcement officers to turn to for assistance on a day-to-day basis. They ought to have some place where they can, as I said, not that third of a man in the Planning Office or not that half a man in the DEP or that other third of a man in the Department of Conservation.

The position of the Attorney General's Office is important. Currently, as I have said before, the AG's Office doesn't have time to prosecute land use violations. That is pretty near down on the end of their totem pole. This new AG's only job would be to work with the new unit of the DEP to assist in the enforcement of the shoreland zoning laws and with the Division of Health Engineering in the Department of Human Services assisting in the enforcement of the plumbing code. You take a boat and go around the shores of many of the small streams, if anybody wanted to put some dye into the toilets inside, you could see it come out right into the streams. Now there is a violation there and many, many times it is not the coordination between the local enforcement officer and the state department to make those things stick.

You might be interested to know that the bill had three new attorney general positions, that is a lot, you don't need that many, so this has already been pared down by the committee.

Mandatory attorney fees for municipalities is extremely important. The state is asking municipalities to enforce the state environmental laws with no state financial assistance. You folks know that as well as I do. It is expensive to go to court and that is the last, last resort. We heard that many, many times over and over. The big thing about the court system is, really and truly, if you have to go to court, you have lost the case because you haven't done your job in educating the people of the problems that already exist.

The rest of the two versions of the bill are identical. Both versions expand the jurisdiction of the District Court to grant equitable relief, meaning that they can order a violation activity to stop. Currently, they can only levy a fine; that is allowing people to get away with a \$25 beach that has been mentioned several times in committee. Both versions authorize certified code enforcement officers to represent the municipality in court, thereby reducing their legal fees.

I urge you to support the Majority "Ought to Pass" Report.

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

Mr. BROWN: Mr. Speaker, Ladies and Gentlemen of the House: The gentleman from Sangerville, Mr. Hall, has outlined for you, I think quite

well, the origins of the bill, where it came from and many of the differences.

I would like to say at the outset that the Commission on Land Use Violations, which was created as an offshoot of the Rivers Bill, was a hard working commission, met around the state at public hearings, took testimony from all sides and I think did a very, very fine job of putting together a fine report and a list of recommendations.

The gentleman from Sangerville is right, many of the small municipalities did feel stymied because if they had land use violations within their municipalities, they were in a difficult situation as to what to do to try to alleviate those situations or to try to bring the responsible party to court. Quite often it was costly and quite often the municipalities, rather than spend the money needed to result in some kind of an action, chose to take no action, which in many cases put them in a situation of feeling in a stymied kind of position.

An example, I guess, of the kind of thing that we are talking about would be if a camp were constructed in Eagle Lake and a septic system installed with no soil test, that would be an example of a land use violation. Of course, we do understand that it is quite difficult to get a soil scientist all the way to Eagle Lake but that is an example of the kind of thing of which we are talking.

There are some things I want to bring to your attention, however, and the gentleman has done so in some respects and in others has not and I would like to talk about some of those differences which I consider to be very, very major differences between the two bills.

Let's talk about what the bills do. They transfer responsibility from superior court down to district court. This is something that the municipalities wanted very much. This was input from the judicial section who indicated that by so doing would create a much smoother flowing action on the part of the towns taking the violators to court. Both bills do that.

Both bills provide the municipalities with the authority to appoint code enforcement people in their communities to serve civil process, as Mr. Hall from Sangerville pointed out, again alleviating the high cost of having to hire attorneys to do that job. Both bills give the towns the authority to authorize their code enforcement people to represent the municipalities in court, again getting down to the real problem that the municipalities were facing. Both bills require code enforcement people in all municipalities, again, something that the towns needed very badly.

Basically, the Minority Report does just about everything that the commission recommended except one and I think very important thing, or actually three very important things. The Minority Report eliminates the local state coordination division within the DEP. I don't believe that we need to establish a whole brand new layer of bureaucracy to do the things that both bills attempt to do. Frankly, I think it is a waste of money. It is not needed and it is going to place another burden on the municipalities, because if you read the Majority Report, you will see that the code enforcement people in all the municipalities across the state will be required to file reports of every single action that they take within their municipalities with this brand new division. It is going to be costly to the towns, it is going to be repetitious, it is going to be doubling the amount of paper work that has to take place and flow to Augusta and I believe that it is going to serve no real purpose.

The Majority Report establishes one additional position with the AG's Office. The Attorney General's Office of Maine already is the biggest law firm in the State of Maine; I don't think we need to make it bigger. I think perhaps what we need to do is convince the Attorney General's Office that it ought to be paying a little more attention to some of the land use violations that are occurring around the state and ask them to take a

little more of an active interest and perhaps prioritize things a little differently so that those kinds of things, if they are that serious, are a little higher on their list of priorities.

I think that Mr. Hall also pointed out one major difference between the two bills. He said that in the Majority Report, if the municipality prevails in any case, is the prevailing party, then it "shall" be awarded court fees. That is great for the municipality; however, if you continue on in that paragraph, you will read that if the defendant is the prevailing party, he "may" be awarded court fees, that is not fair. If the municipality, fairly or unfairly, takes you to court for a supposed land use violation and it prevails, you have to pay the fees, but if you prevail, you are not going to get a dime—that is not fair.

Finally, getting back to the new bureaucracy to be created within the DEP, Mr. Hall says that the local people need this help. The local people need the tools to do the job that they can do at their level. They don't need another layer of big brother bureaucracy trying to "help" them with their jobs. The Minority Report gives the municipalities those tools and does not require a whole brand new level of bureaucracy to be created within state government which, by the way, the total cost of the new bureaucracy and the additional position within the AG's Office is going to be over \$130,000 for the first year only and we know what happens after that.

Ladies and gentlemen, I urge you to vote against the motion before you so we can accept the Minority Report and do for the towns what the towns want and need and not create any new bureaucracy here in Augusta.

The SPEAKER: The Chair recognizes the gentleman from Freeport, Mr. Mitchell.

Mr. MITCHELL: Mr. Speaker, Ladies and Gentlemen of the House: There are two major differences in these bills. The plumbing code and the local shoreland zoning laws are local laws that were imposed upon the towns. The towns are required by the state to have these ordinances and the proposed unit in the Department of Environmental Protection's job will be to provide technical assistance to the towns in enforcing these state-imposed ordinances. I think if we tell towns that they have to do something, we ought to act responsibly and give them some resources to carry out that job.

The two bills, as Representative Brown indicated, also differ in the court cost issue. When the Commission on Land Use Violations met last Fall, at one meeting the judges came and we discussed the issue of towns going to court. It is very costly for a small town to go to court for a plumbing code violation. Sometimes the town will end up spending five, seven or eight thousand dollars. We asked the judges what we could do to ease that burden on the towns and the judges said, tell us to award court costs, and that is what the Majority Report does.

This bill is going to help the towns and cities to enforce state imposed land use ordinances. The non-enforcement of an ordinance is a very dangerous situation. No enforcement of a law creates a false impression among people that they are protected, that the shorelines around their ponds, along the ocean, and along their streams are protected. It also creates the impression that the plumbing code is being enforced. When they are not enforced, it is very dangerous because, in fact, if there is no protection at all, none exists.

I hope you will all support Report A, the Majority Report of the committee.

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

Mr. KISMAN: Mr. Speaker, Ladies and Gentlemen of the House: I think possibly I am uniquely qualified to speak on this subject because I was the man in my town for six years. I was the guy that went around and put the bite on the people that violated the land use laws.

The purpose of both of these bills is to encourage local enforcement. Ask anyone who is a developer in the town of Fryeburg and they will

tell you, boy, we had some local enforcement in Fryeburg. There were three major elements to encourage local enforcement. One was to transfer the court actions from the superior court to the district court and the big reason for that, the district courts function a lot more rapidly and their calendar is run through much quicker than superior court. I agree that many violators knew that they could violate and it would take a year or a year and a half before their case ever came up in superior court and it put a burden on the municipalities. That was the most important aspect of these two bills, to get it into district court.

The second one, I believe, was recovery of costs, and this has been brought out, the difference between the two reports—one says that if the town prevails, they "shall" receive the court costs and the cost of prosecution but if the defendant prevails, he "may."

Now let me tell you, a lot of times in court you lose or win on a technicality and this, I don't think, was the intent of the judges when they said that the legislature should give them some guidance. It says that if a defendant loses on a technicality, they still are going to sock it to him.

Also, I don't think the judges that appeared before this commission really said everything that the gentleman from Freeport said. They said, give us some guidance, and part of the guidance they were looking for was fines. There has been a lot of talk and one of the big issues of this whole study was the \$25 beach. There was a perception that anytime anyone violated the land use laws such as building a beach in a pond, hauling in sand and dumping it into the pond, they would pay a \$25 fine and that was the end of it. It doesn't have to be that way. I think the court was looking for guidance on minimum fines and they have that in both laws.

Let me tell you about the requirement for having a new bureaucracy over in the DEP. Right now we have four regional offices of the Department of Environmental Protection. I worked with the Portland office during the period that I was the man in Fryeburg. They gave me all kinds of assistance on Great Pond violations and stream violations. The capability is already there and if what the intention of these two bills are is to encourage local enforcement, then you don't need some people sitting somewhere, a unit in Augusta with four or five people in it to tell them on the phone to go get them, tiger. All they need is somebody that they can go back to when they need them and those people are already in place in the Department of Environmental Protection.

As far as giving another man to the Attorney General's Office, we heard the Attorney General's representative tell us the reason that they don't enforce the land use laws now at the state level is because of the priorities that are applied to the cases before the Attorney General.

This bill, the Majority Report, does not allocate this Attorney General just to deal with the department of Environmental Protection or land use actions. It is another man put into the Attorney General's Office and his time will be prioritized just like those that are in there now. All this does in effect is give them one more man in the Attorney General's Office and does not necessarily say that that man's time will be applied to land use laws.

I urge you to reject this Majority Report. The capability is there now. The Minority Report does give the assistance that is required, you ought to put it in place. I have become convinced by the gentleman from Bangor and the gentleman from Lewiston that are on the Appropriations Committee that there is no money there, so let's put this Minority Report in place and encourage the municipalities to enforce these laws and let's see how they do. I think you will be surprised.

Mr. Hall of Sangerville requested a roll call.

More than one fifth of the members present expressed a desire for a roll call, which was ordered.

The SPEAKER: The pending question is the motion of the gentleman from Sangerville, Mr. Hall, 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 NO. 449

YEA—Ainsworth, Allen, Andrews, Baker, Beaulieu, Benoit, Bost, Brannigan, Brodeur, Carroll, D. P.; Carter, Cashman, Connolly, Cote, Cox, Daggett, Diamond, Gwadosky, Hall, Handy, Hayden, Hickey, Higgins, H. C.; Jacques, Joseph, Kane, Kelleher, Kelly, Ketover, Kilcoyne, LaPlante, Lehoux, Locke, Manning, McGowan, Melendy, Michael, Mills, Mitchell, E. H.; Mitchell, J.; Murray, Nadeau, Reeves, P.; Rolde, Soule, Stevens, Thompson, Vose.

NAY—Anderson, Armstrong, Bell, Bonney, Bott, Brown, A. K.; Brown, D. N.; Cahill, Callahan, Carroll, G. A.; Chonko, Clark, Conary, Connors, Cooper, Crouse, Crowley, Davis, Day, Dillenback, Drinkwater, Erwin, Foster, Greenlaw, Higgins, L. M.; Holloway, Ingraham, Jackson, Jalbert, Joyce, Kiesman, Lebowitz, Lisnik, Livesay, MacBride, MacEachern, Macomber, Mahany, Martin, A. C.; Masterman, Masterton, Matthews, K. L.; McCollister, McHenry, McPherson, McSweeney, Michael, Moholland, Murphy, E. M.; Murphy, T. W.; Nelson, Norton, Paradis, E. J.; Paradis, P. E.; Parent, Paul, Perkins, Perry, Pines, Pouliot, Racine, Randall, Reeves, J. W.; Richard, Ridley, Roberts, Robinson, Roderick, Rotondi, Salsbury, Scarpino, Seavey, Sherburne, Small, Smith, C. B.; Smith, C. W.; Soucy, Sproul, Stevenson, Stover, Strout, Swazey, Tammaro, Theriault, Walker, Webster, Wentworth, Weymouth, Willey, Zirkilston.

ABSENT—Carrier, Curtis, Dexter, Dudley, Gauvreau, Hobbins, Martin, H. C.; Matthews, Z. E.; Maybury, Mayo, Telow, Tuttle, Mr. Speaker.

48 having voted in the affirmative and 90 in the negative, with 13 being absent, the motion did not prevail.

Thereupon, the Minority "Ought to Pass" Report was accepted in non-concurrence, the New Draft read once and assigned for Second Reading later in today's session.

#### Messages and Documents

The following Communication:

Committee on State Government

April 4, 1984

The Honorable John L. Martin

Speaker of the House

111th Legislature

Dear Speaker Martin:

We are pleased to report that all business which was placed before the Committee on State Government during the second regular session of the 111th Legislature has been completed. The breakdown of bills referred to our committee follows:

Total number of bills received	27
Unanimous reports	26
Leave to Withdraw	9
Ought to Pass	8
Ought Not to Pass	0
Ought to Pass as Amended	3
Ought to Pass in New Draft	6

Divided reports 1

Respectfully submitted,

S/PAUL E. VIOLETTE

Senate Chair

S/DAN A. GWADOSKY

House Chair

Was read and ordered placed on file.

The following Communication:

April 6, 1984

The Honorable John L. Martin

Speaker of the House

111th Legislature

Dear Speaker Martin:

We are pleased to report that all business which was placed before the Committee on Transportation during the second regular session of the 111th Legislature has been completed. The breakdown of bills referred to our committee follows:

Total number of bills received	19
Unanimous reports	13
Leave to Withdraw	2

Ought to Pass	7
Ought Not to Pass	1
Ought to Pass as Amended	1
Ought to Pass in New Draft	2

Divided reports 6

Respectfully submitted,

S/PETER DANTON

Senate Chair

S/GEORGE A. CARROLL

House Chair

Was read and ordered placed on file.

The following Communication:

Department of Educational and Cultural Services  
April 6, 1984

The Honorable Gerard P. Conley

President of the Senate

State House

Augusta, Maine 04333

The Honorable John L. Martin

Speaker of the House

State House

Augusta, Maine 04333

Dear Mr. President and Mr. Speaker:

In accordance with Private and Special Law, 1983, Chapter 52, I am submitting to the 111th Legislature a report on state assistance and educational programs available to non-English speaking immigrants and refugees within the State of Maine.

I am available to answer any questions you may have regarding this report.

Sincerely,

S/ROBERT E. BOOSE

Commissioner

Was read and with accompanying report ordered placed on file.

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

Representative Joyce from the Committee on Judiciary on RESOLUTION, Proposing an Amendment to the Constitution of Maine to Provide for an Express Statement of the Right to Bail and Authorizing the Denial of Bail in Certain Cases (H. P. 1699) (L. D. 2253) reporting "Leave to Withdraw"

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

#### Ought to Pass in New Draft/New Title

Representative Locke from the Committee on Agriculture on Bill "An Act to Protect Agricultural Lands" (H. P. 1789) (L. D. 2364) reporting "Ought to Pass" in New Draft under New Title Bill "An Act to Establish a Commission to Assess the Loss of Farmland in Maine" (H. P. 1842) (L. D. 2438).

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

#### Divided Report

Majority Report of the Committee on Judiciary reporting "Ought Not to Pass" on Bill "An Act to Ensure Statewide Uniformity in the Procedures for Body Searches and Body Cavity Searches of Arrestees by Law Enforcement Officers while Respecting the Civil Rights and Liberties of Arrestees" (H. P. 1745) (L. D. 2299)

Signed:

Sensors:

TRAFTON of Androscoggin  
COLLINS of Knox

Representatives:

REEVES of Newport  
JOYCE of Portland  
DRINKWATER of Belfast  
HAYDEN of Durham  
CARRIER of Westbrook

Minority Report of the same Committee reporting "Ought to Pass" in New Draft under New Title Bill "An Act to Ensure Statewide Uniformity in the Procedures for Strip Searches and Body Cavity Searches for Arrestees by Law Enforce-



ment officers while Respecting the Civil Rights and Liberties of Arrestees" (H. P. 1845) (L. D. 2440) on same Bill.

Signed:

Senator:

VIOLETTE of Aroostook

Representatives:

SOULE of Westport

LIVESAY of Brunswick

BENOIT of South Portland

FOSTER of Ellsworth

HOBBINS of Saco

Reports were read.

Ms. Benoit of South Portland moved the acceptance of the Minority "Ought to Pass" Report.

The Speaker: The gentlewoman from South Portland, Ms. Benoit, moves that the House accept the Minority "Ought to Pass" Report.

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

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

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

Mr. JOYCE: Mr. Speaker, Ladies and Gentlemen of the House: I urge that you vote against the motion that is before at this time so we can properly handle this bill.

The Judiciary Committee spent considerable time and effort reviewing this bill. You know what we decided? We decided that this was really a kind bill, truly a kind bill, the kind of a bill that should never see the light of day, a kind of bill that should be killed without delay in this House.

We had people from the Attorney General's Office, we had people from the State Police testify on this bill, we got communications from the Chief of the State Police who has been a trooper for 34 years and not once has come across the situation described in this bill. We had testimony from the Commissioner of Public Safety where he contacted his three senior detectives in reference to this bill, and those three law enforcement officers had a total of over 80 years' service. Not once in their careers did they come across situations that this bill is supposedly aimed at.

I spent a short 27 years in law enforcement; I have never come across this type of situation. Let's face it, your police officers never engaged in cavity searches, that is something for the medical profession.

Yes, Mr. Speaker pro tem, I would like to lighten your burden today and perhaps that could be best done if I move for the indefinite postponement of this bill and all its accompanying papers.

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

Ms. BENOIT: Mr. Speaker, Men and Women of the House: It is true that some members of the committee decided that this bill should not see the light of day but that was only seven; six of us decided that it should. That is not exactly an overwhelming majority.

This bill does nothing more than ensure the statewide uniformity in procedures for strip searches and body cavity searches of arrestees. Right now, there is no statewide rules or regulations that are adhered to by law enforcement agencies, and it is true that no one personally came before the committee with complaints. However, I, the sponsor of the bill, and other members of the committee did hear from some that they knew of instances personally when this had occurred. It is not a difficult issue to come forth and speak on, people do not like to come up against the police.

We were fortunate enough to see a film from 60 Minutes and perhaps some of you were able to see it too and know that in other states and perhaps places in this state there are problems

with strip searches or body cavity searches. All this bill does is ask that rules be promulgated and it sets forth a few conditions—one being that if body cavity searches are to be conducted that they be conducted by a person who is medically trained. It also says that no person arrested for a Class D or E crime such as a traffic violation or that kind of crime would be subject to a strip search unless there was reason to believe that that person was concealing a weapon, contraband or other evidence. Believe me, when we saw the film from 60 Minutes, I, for one, was absolutely appalled. I could not believe that a person who was brought into jail for not paying a parking ticket was stripped searched. I don't think any of you want that to happen to you or to any of your family. I surely don't want it to happen to me.

I can't for the life of me understand what is wrong with setting down rules for police to go by when and if strip searches are necessary, so I would ask you to vote against the indefinite postponement.

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

Mr. JOYCE: Mr. Speaker, Ladies and Gentlemen of the House: I will keep this short. My seatmate has brought in an egg timer that marks three minutes, I will use that.

The Maine State Police Training Academy in Waterville receives very high rankings nationally. Each police officer attending the Maine Police Academy is mandated that he have twelve hours covering searches and body searches.

Body searches in Maine are rarely, if ever, conducted by police officers. Body searches would be, and this is the strip down search and things, they have done by corrections officers. Corrections officers, it has been mandated by this legislature that for a person to qualify as a corrections officer in this state complete the course that requires 40 hours of search and body searches, but every police officer, sheriff and street police officer must complete in his general police training at the academy 12 hours in searches.

I saw a film from 60 Minutes. I realize that in parts of the country they have serious problems. I have gone to seminars and the federal drug schools where we were instructed on applying for warrants directed at cavity searches and they would spell it right out in the warrant. We have never had this here. I have often heard here—why fix something that is not broken?

I just urge that you vote for the indefinite postponement of this kind of bill.

The SPEAKER pro tem: The Chair recognizes the gentleman from Waterville, Mrs. Joseph.

Mrs. JOSEPH: Mr. Speaker, Men and Women of the House: This is a very deeply personal and private issue and this is a very simple bill but a very necessary bill.

With all due respect to my colleague from Portland, I disagree with him. I believe that there is a necessity to have guidelines for arrestees during the arresting process in dealing with strip searching, something the State of Maine has overlooked. I ask for your support of this piece of legislation.

As difficult as it is to think about and as difficult as it is to talk about, what is there to fear by developing guidelines for the arrest of people and the procedures during the arrest?

With the training of 12 hours from the Criminal Justice Academy, I am assured that the procedures will be done properly. However, in this state, the Department of Corrections has, in fact, recognized that there is a need to have guidelines for searching of those people in custody. Today, we are talking about people who are not in custody. We are talking about arrestees. The key word in what we are discussing today are guidelines developed by the chief enforcement officer of this state, the attorney general and guidelines dealing with arrestees.

We are talking about people with no plans to be put into custody, we are talking about where there has been no trial, where there has been no guilt. We are talking about preventing indiscrimi-

nate strip searching. We are talking about uniform guidelines whether you or I or any members of our family were detained in Washington County, Aroostook County, Kennebec County or any other place in the state.

I also want to mention to you that strip searching is something that does happen in the State of Maine. Last year, in January of 1983, I asked the Commissioner of Corrections to send out a questionnaire to municipal and county officers. Strip searches are conducted in the counties 100 percent of the time; in the municipalities, 72 percent of the time.

Question number four on this questionnaire is: Are traffic violators strip searched? Thirty-eight percent in the counties, yes; one percent in municipalities. Are cavity searches a part of the strip searches? In the counties, 75 percent of the time and municipalities, 17 percent of the time. Are cavity searches conducted by medical personnel? In the counties, 88 percent of the time and municipalities 61 percent of the time.

I believe that this bill is absolutely necessary. I was advised by those law enforcement people and people in positions to say that this should be done by statute and I ask you to oppose the motion to indefinitely postpone this very important piece of legislation.

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

Mr. GAUVREAU: Mr. Speaker, Men and Women of the Maine House: I rise today to join in opposition to the pending motion in order that we can go on to accept the Minority "Ought to Pass" Report. I will keep my remarks very brief.

I would like to point out the distinction between a stop and frisk search or a patdown search and the kind of search that is being addressed in L. D. 2440. It is common practice and indeed proper police practice for officers to pat down arrestees to make sure that those people have no weapons which might harm the officer or other individuals. It is also common practice for pat downs which accomplishes pretty much the same objective if there is any reason for the officer to suspect that the person might be carrying either a dangerous weapon or contraband which might be easily concealed or disposed of.

What this bill is dealing with is, in fact, strip searches which, as we know, are a substantial invasion of personal privacy. Now, in no way does the bill prohibit the conduct of those searches in reasonable circumstances. All it does is simply authorize and empower the Attorney General to promulgate a set of statewide rules to govern such searches by law enforcement authorities.

I would point out that it is rather anomalous for the situation that we have now in the State of Maine whereby people who already are incarcerated have certain rights. They cannot be subjected to these kinds of searches absent very strict guidelines which have to be adhered to. We are talking about people who have not been incarcerated, people like you and I who might simply be stopped for a minor misdemeanor or traffic offense or whatnot.

At the present time, there is simply no standard, no guidelines whatsoever in the State of Maine to govern searches which are substantially intrusive upon privacy and it seems to me that if we are going to have rules for people who already are incarcerated, we also should adopt a similar set of rules for those people who are simply being stopped for minor misdemeanors or whatnot. For these reasons, I would urge you to oppose the pending motion, which is for indefinite postponement, in order that we can go on and accept the Minority "Ought to Pass" Report.

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

Mr. HAYDEN: Mr. Speaker, Fellow House Members: It is very difficult to fight against this bill and particularly against the gentlelady from Waterville because this bill that is very important to her and one for which she has worked very hard and I want to explain to you the reason why I am in favor of the pending motion to inde-

finitely postpone and why a majority of the committee, I expect, is in favor of that motion as well.

The problem is not that we are condoning strip searches and body cavity searches when they are improper; the problem in my mind is whether this is the way we want to go about our business in the State Legislature.

The gentlelady from Waterville said that it was on the advice of law enforcement officials that she made the decision to put this Order to the Department of Public Safety into statute. We didn't have the benefit of that testimony from law enforcement officials at our hearing. We didn't have the benefit of testimony from members of the public who felt that this matter should be in statute. Now maybe this is just a very embarrassing topic for someone that has been poorly treated by way of a strip search or a body cavity search but my guess is, as is the case with rape law, as is with the case of the child abuse law, when an issue is important, there is a way for the public to make their voice heard. The simple fact is, they didn't in this case.

We have offered the sponsors of this bill for the Chairs of the Committee, the House and Senate Chairs, to write a letter instructing the Attorney General, instructing the Commissioner of Public Safety to look into this problem and to come back to us and say if it is a problem that either they want statute ordering them to do or they will on their own have more specific statutes. The sponsors declined that option, they wanted to have the majority vote on this bill up or down.

My view is, this is a problem right now, particularly if it is abused. We don't have evidence of that abuse. Incidentally, when there is an abuse of a strip search or body cavity search, the person who has been wronged has cause of action against the municipalities, even against the individuals involved, and on occasion in Maine, those types of suits have been filed. You can imagine the kinds of damages that are at stake here when a public safety officer or police officer or jailer abuses this responsibility and overextends the power that he had, but the fact is that this very, very rarely, if ever, has occurred in our state. The fact is, as a general rule, we on the Judiciary Committee and we in the Maine House don't make a point of ordering agencies of state government to make out rules that if they are doing their normal job they would have made out anyway, particularly when we don't have any evidence that this is a problem in Maine.

Now, if I was standing up in Albany and this was the New York Legislature and we were talking about an abuse in Attica or we were talking about abuse in Harlem, the speech might be different. My guess is, if the problem were there, the majority on this report would be different. But this isn't Attica, this isn't Albany, it is not Sacramento, California, it is Augusta, Maine, and we have handled our affairs so far without these rules. We have had faith in our agencies of state government that they are doing their job and unless we get some indication to the contrary, we haven't in this case, so as a general principle I don't think we should order the commission to do this, not because we don't think it is a problem, not because we condone irresponsible activity in this area, not because we are afraid to talk about it, but because the way we do our business in this state is, unless we find some problem in state government, then we let the people that are running state government do their job.

It is for that reason that I am regretfully in favor of the Majority Report on this bill, which is "Ought Not to Pass," and I am in favor of the present pending motion to indefinitely postpone. I urge you regretfully to support that motion as well.

The SPEAKER pro tem: The Chair recognizes the gentlewoman from Ellsworth, Mrs. Foster.

Mrs. FOSTER: Mr. Speaker, Ladies and Gentlemen of the House: Why, why do we have to wait for abuse before we take care of a situation that has happened in other states in the United

States?

Anyone that is in custody in a jail has a certain procedure as far as a body cavity search or a strip search is concerned. An arrestee does not have any guidelines that are spelled out for an officer to follow.

I have heard that young officers, men and women, that go to the academy are trained in what to do. Ladies and gentlemen of the House, there are many officers that serve that have a certain length of time before they have to go to the academy. Where are the guidelines for this young man or woman when he or she arrests someone?

This bill proposes that there will be guidelines promulgated by the Attorney General for these occasions for arrestees, not people that are going to be incarcerated regarding strip searches, these are not pat downs, the bill has been changed. The Minority Report says: "strip searches—body cavity searches" and I think if we have to wait for an abuse and someone to come forward we are just a little bit late for some of those people.

I urge you to support the Minority Report and vote against the motion to indefinitely postpone.

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

Mr. REEVES: Mr. Speaker, Ladies and Gentlemen of the House: I will be brief but I do want to rise in support of the motion before you by my good friend from Portland.

I want to comment that Mr. Hayden, in his remarks, told you the whole truth and nothing but the truth.

I recall Representative Joyce saying something about in his 27 year career in law enforcement he knew of no problems. Well, I only had 24 years in law enforcement, I never knew of any problems, I have never heard of any complaints. In my career, I never once conducted or asked for a body search and I never heard of a cavity search by any policeman. These searches are conducted by institutional personnel. They are done for very good reasons at our county jails, Thomaston, correctional centers and so forth.

I honestly and sincerely know of no abuse of any search procedures in this state. As has been stated, there may be some in other states, other jurisdictions, I know of none in Maine. Yes, I watched the segment of 60 Minutes describing the situation out in California. All I can say is, thank God we live in Maine and not California.

I urge you to support the motion before you and indefinitely postpone this bill. I can see absolutely no justification for it.

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

Ms. BENOIT: Mr. Speaker, Men and Women of the House: Briefly, this bill was recommended to Representative Joseph by one of our state government commissioners. Representative Hayden said that we should let the people in state government do their job and I agree. This came from one of our commissioners who was very much aware of these strip searches being done in a manner in which this commissioner believed is not the appropriate way to be done or perhaps they shouldn't even be done in certain instances.

It is true that one of our chairs of our committee offered to write a letter but we have heard that before, we will write a letter. Who knows which one of us will be back here in the new legislature? Who will be here to follow up on such a letter to see that that is done? That is the reason why we have preferred to go this route and hoped that we could get the support of this body in asking that rules be promulgated, that is all we are doing. That is not really asking very much.

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

Mr. GAUVREAU: Mr. Speaker, Men and Women of the House: Just two points in rebuttal. I again urge you to oppose the pending motion for indefinite postponement. We have heard a lot this morning that strip searches are not con-

ducted in Maine, there has been no problem; that, to my knowledge, is not correct. I am aware of a situation in Cumberland County recently where a woman was stopped for a parking violation, she was taken into the police station, she was forced to strip before being allowed to go to the lavatory and photographs were taken of her and this was all for a parking violation, so there are some cases that we have knowledge of that have occurred in our own state.

I would like to address a point that was brought up by the good gentleman from Durham, Mr. Hayden, regarding the liability aspect of this whole problem. He pointed out that in his view perhaps there could be additional claims brought against these towns or the state if regulations were to go into effect regarding strip searches. It is my view that if, in fact, we don't take responsible action now, we are inviting such lawsuits. If we have reasonable regulations promulgated by the AG and enforced throughout the state, officers can rely upon those regulations in conducting strip searches for their own safety as well as for the safety of the inmate population while preserving the rights of arrestees. So it seems to me that if officers have these regulations they can rely upon, that is in fact a source of protection for them and might discourage unwarranted lawsuits against the state, while at the same time it is true that if there are gross violations of those regulations an action should lie and of course in those situations people should be compensated for the harm.

Once again, I would simply urge you to stand today and oppose the pending motion so we can go on and accept the Minority "Ought to Pass" Report.

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

Mr. HAYDEN: Mr. Speaker, Ladies and Gentlemen of the House: First of all, I would request the yeas and nays, please.

The SPEAKER pro tem: The gentleman from Durham, Mr. Hayden, requests a roll call.

The gentleman may proceed.

Mr. HAYDEN: Mr. Speaker, Ladies and Gentlemen of the House: Second of all, if this incident that the gentleman from Lewiston is aware of personally and speaking in the royal "we" said that we are aware of, where was the report of that incident at the committee hearing? Where was the justification and the verification of that so we in the committee can do our job?

The gentlewoman from South Portland says: "We all know what it means when committee chairs say we are going to write a letter, we know what is going to happen." Well, in my brief experience in the legislature, I have known what has happened and when committee chairs say that something is going to be followed up, it is followed up.

Believe me, the sponsors of this bill have been everything including tenacious about putting forward their point of view. In a way, what is happening here is one of the things that is being put on trial is the committee process. We offered an opportunity to pursue this informally; if it doesn't work out, then we can pursue it formally. The sponsors, who believe very strongly in the righteousness of every single ounce of their position, have declined that offer and they are going to go on their own, it is their right, but it is inaccurate to say "we know what happens with the committee process" implying that nothing is going to happen. I intend to be back here next time and if I make a promise or somebody makes a promise that I support, I am going to make sure that it is followed.

I think it is inaccurate to say that we all know that these abuses occur because, frankly, if I am one of those "we's" I don't know.

A roll call has been requested.

More than one fifth of the members present expressed a desire for a roll call, which was ordered.

The SPEAKER pro tem: The Chair recognizes the gentlelady from Berwick, Mrs. Murphy.

Mrs. MURPHY: Mr. Speaker, Ladies and Gen-



lemen of the House: I urge you not to support the motion on the floor to indefinitely postpone. We know that in most small towns we have to hire police officers who are not trained men and many times it is a year or a year and a half before we can get them into the police academy.

We have no way of knowing how many times this has been abused and most of us, if it had happened to us, would not report it anyway. We would be too embarrassed and ashamed.

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

Mr. MURPHY: Mr. Speaker, Men and Women of the House: I am very pleased to follow the gentlelady from Berwick. The debate has focused on, have there been instances? The law is very clear in terms of the maximum application in terms of an arrest, in terms of fingerprinting and in terms of search and it has happened. It has happened in York County, and unless we take this action today in accepting the Minority Report, it could happen, I think we could be assured that it will happen. I think it is very important for this body to go on record, a very clear message can be sent that this change should be in the statutes and not met by a letter and I would urge you to vote no on the motion to indefinitely postpone.

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

Mr. JALBERT: Mr. Speaker, Ladies and Gentlemen of the House: Look at the calendar here. We only have a few more hours to go before we statutorily are supposed to get out of here. We have debated this thing nearly an hour and I move the previous question.

The SPEAKER pro tem: For the Chair to entertain a motion for the previous question, it must have the expressed desire of one-third of the members present and voting. All those in favor of the Chair entertaining the motion for the previous question will vote yes; those opposed will vote no.

A vote of the House was taken and more than one-third of the members present having voted for the motion for the previous question, the question was entertained.

The SPEAKER pro tem: The question now before the House is, shall the main question be put now? This is debatable with a time limit of five minutes by any one member. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

66 having voted in the affirmative and 33 in the negative, the main question was ordered.

The SPEAKER pro tem: The pending question before the House now is on the motion of the gentleman from Portland, Mr. Joyce, that this bill and all its accompanying papers be indefinitely postponed. Those in favor will vote yes; those opposed will vote no.

#### ROLL CALL NO. 450

YEA—Ainsworth, Bonney, Brown, A. K.; Cooper, Crowley, Daggett, Davis, Day, Dillenback, Drinkwater, Dudley, Hayden, Hickey, Higgins, L. M.; Joyce, Kiesman, MacEachern, Manning, Masterman, Mayo, McGowan, McPherson, McSweeney, Perkins, Reeves, J. W.; Ridley, Seavey, Sherburne, Smith, C. B.; Smith, C. W.; Webster.

NAY—Allen, Anderson, Andrews, Armstrong, Baker, Beaulieu, Bell, Benoit, Bost, Bott, Brannigan, Brodeur, Brown, D.N.; Cahill, Callahan, Carroll, D. P.; Carroll, G. A.; Carter, Cashman, Chonko, Clark, Conary, Connors, Connolly, Cote, Cox, Crouse, Diamond, Erwin, Foster, Gauvreau, Greenlaw, Hall, Handy, Higgins, H. C.; Holloway, Ingraham, Jackson, Jacques, Jalbert, Joseph, Kane, Kelleher, Kelly, Kilcoyne, LaPlante, Lebowitz, Lehoux, Lisnik, Livesay, Locke, MacBride, Macomber, Mahany, Martin, A. C.; Master-ton, Matthews, K. L.; Maybury, McCollister, McHenry, Melendy, Michael, Michaud, Mills, Mitchell, E. H.; Mitchell, J.; Moholland, Murphy, E. M.; Murphy, T. W.; Murray, Nadeau, Nelson, Norton, Paradis, E. J.; Paradis, P. E.; Parent, Paul, Perry, Pines, Pouliot, Racine, Randall, Reeves, P.; Richard, Roberts, Robinson, Roderick, Rolde,

Rotondi, Salisbury, Scarpino, Small, Soucy, Soule, Sproul, Stevens, Stevenson, Stover, Strout, Swazey, Tammara, Theriault, Thompson, Vose, Walker, Wentworth, Weymouth, Willey, Zirnkill-ton.

ABSENT—Carrier, Curtis, Dexter, Gwadosky, Hobbins, Ketover, Martin, H. C.; Matthews, Z. E.; Telow, Tuttle, The Speaker.

31 having voted in the affirmative and 109 in the negative, with 11 being absent, the motion did not prevail.

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

#### Divided Report

Majority Report of the Committee on Judiciary on Bill "An Act to Amend the Laws Regarding Bail" (H. P. 1655) (L. D. 2185) reporting "Ought to Pass" in New Draft (H. P. 1844) (L. D. 2439)

Signed:

Senators:

VIOLETTE of Aroostook  
TRAFTON of Androscoggin

Representatives:

REEVES of Newport  
DRINKWATER of Belfast  
JOYCE of Portland  
FOSTER of Ellsworth  
LIVESAY of Brunswick  
HAYDEN of Durham  
SOULE of Westport  
BENOIT of South Portland  
HOBBINS of Saco  
CARRIER of Westbrook

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

Signed:

Senator:

COLLONS of Knox

Reports were read.

On motion of Representative Soule of Westport, the Majority "Ought to Pass" Report was accepted, the New Draft read once and assigned for second reading later in today's session.

#### Divided Report

##### Later Today Assigned

Majority Report of the Committee on Business Legislation on Bill "An Act to Clarify the Extension of Consumers' Freedom of Choice Regarding Insured Mental Health Services" (H. P. 1744) (L. D. 2298) reporting "Ought to Pass" in New Draft (H. P. 1846) (L. D. 2441)

Signed:

Senators:

CLARK of Cumberland  
CHARETTE of Androscoggin  
SEWALL of Lincoln

Representatives:

PERKINS of Brooksville  
POULIOT of Lewiston  
MARTIN of Van Buren  
MacBRIDE of Presque Isle  
MURRAY of Bangor  
BRANNIGAN of Portland  
RACINE of Biddeford  
CONARY of Oakland

Minority Report of the same Committee reporting "Ought to Pass" in New Draft under New Title Bill "An Act Clarifying the Extension of Consumers' Freedom of Choice Regarding Insured Mental Health Services" (H. P. 1847) (L. D. 2442) on same Bill.

Signed:

Representative:

STEVENS of Bangor

Representative Brannigan of Portland moved acceptance of the Majority "Ought to Pass" Report.

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

#### Divided Report

Majority Report of the Committee on Trans-

portation on Bill "An Act Making Adjusted Allocations from the Highway Fund for the Fiscal Years Ending June 30, 1984, and June 30, 1985" (Emergency) (H. P. 1599) (L. D. 2121) reporting "Ought to Pass" in New Draft (Emergency) (H. P. 1848) (L. D. 2443)

Signed:

Senators:

DIAMOND of Cumberland  
EMERSON of Penobscot

Representatives:

REEVES of Pittston  
STROUT of Corinth  
CALLAHAN of Mechanic Falls  
McPHERSON of Eliot  
MOHOLLAND of Princeton  
CARROLL of Limerick  
MACOMBER of South Portland  
THERIAULT of Fort Kent  
CAHILL of Woolwich  
NADEAU of Lewiston

Minority Report of the same Committee reporting "Ought to Pass" in New Draft (Emergency) (H. P. 1849) (L. D. 2444) on same Bill.

Signed:

Senator:

DANTON of York

Reports were read.

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

#### Consent Calendar

##### First Day

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

(S. P. 852) (L. D. 2310) Bill "An Act to Allow Access to Financial Records of Public Assistance Recipients" Committee on Judiciary reporting "Ought to Pass" as amended by Committee Amendment "A" (S-374)

(H. P. 1715) (L. D. 2274) Bill "An Act to Clarify the Definition of Lots under the Site Location of Development Law" Committee on Energy and Natural Resources reporting "Ought to Pass" as amended by Committee Amendment "A" (H-667)

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

At this point, Speaker Martin returned to the rostrum and Representative Gwadosky of Fairfield returned to his seat on the Floor.

#### Emergency Measure

##### Later Today Assigned

RESOLVE, for Laying of the County Taxes and Authorizing Expenditures of Kennebec County for the Year 1984 (H. P. 1821) (L. D. 2413)

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

On motion of Representative Mitchell of Vassalboro, tabled pending final passage and later today assigned.

The following papers were taken up out of order by unanimous consent:

#### Emergency Measure

##### Reconsidered

An Act to Require an Inventory, Permitting and Monitoring of Underground Tanks Containing Gasoline, Oil and Toxic Materials (S. P. 857) (L. D. 2324) (H. "A" H-641 to C. "A" S-363)

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

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

On motion of the same gentleman, under suspension of the rules the House reconsidered its action whereby Committee Amendment "A" as amended by House Amendment "A" thereto was adopted.

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

House Amendment "B" to Committee Amendment "A" (H-652) was read by the Clerk.

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

Mrs. MacBRIDE: Mr. Speaker, I would like to pose a question through the Chair. May we have an explanation of this?

The SPEAKER: The gentlewoman from Presque Isle, Mrs. MacBride, has posed a question through the Chair to anyone who may care to answer.

The Chair recognizes the gentleman from Pittsfield, Mr. McGowan.

Mr. McGOWAN: Mr. Speaker, Ladies and Gentlemen of the House: In answer to the gentlewoman's question, this bill is an amendment to the inventory, permitting and monitoring of the underground tanks containing gasoline, oil and toxic materials, and all this amendment does is, it allows the state to recover the cost if, say, the cause of the environmental damages sold, or transfer of title is made, then it allows the state to recover the cost.

I tried to put this into perspective in that a year ago we passed a bill saying that if a drug bust occurred on the Maine coast, then we could recover the vehicle which was used in the drug smuggling operation, like a boat or an airplane, and in this case we would be able to recover the cost of the building or the grounds if it were sold of where the environmental damage occurred. This is basically technical amendment allowing the state to do so, and I would hope you would go along with the adoption of this amendment.

Thereupon, House Amendment "B" to Committee Amendment "A" was adopted.

Committee Amendment "A" as amended by House Amendments "A" and "B" thereto was adopted.

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

#### **Passed to Be Enacted Emergency Measure**

An Act Relating to Medicaid Reimbursement Rates for Ambulance Services (H. P. 1811) (L. D. 2396) (H. "A" H-632)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 119 voted in favor of the same and one against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

#### **Emergency Measure**

An Act Relating to School Funding for Washburn for 1984-85 (H. P. 1835) (L. D. 2429)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 114 voted in favor of the same and 2 against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

#### **Finally Passed Emergency Measure**

RESOLVE, Relating to Wastewater Treatment and Water Classification of Sardine Plants (H. P. 1830) (L. D. 2425)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 123 voted in favor of the

same and none against and accordingly the Resolve was finally passed, signed by the Speaker and sent to the Senate.

#### **Passed to Be Enacted**

An Act Concerning the Counting of Absentee Ballots in Towns with Voting Devices (S. P. 708) (L. D. 1954) (S. "A" S-365)

An Act to Ensure Universal Telephone Service for Maine People (S. P. 778) (L. D. 2097) (H. "A" H-627; C. "A" S-340)

An Act to Clarify the Definition of "Traffick" with Respect to Growing and Cultivating Marijuana (S. P. 841) (L. D. 2265)

An Act Relating to Alcohol-related Birth Defects (S. P. 880) (L. D. 2384) (H. "B" H-664; H. "D" H-661)

An Act to Promote Family Permanency (H. P. 1637) (L. D. 2166) (C. "A" H-647)

An Act to Update and Clarify Certain Provisions of the Mining Excise Tax (H. P. 1638) (L. D. 2167) (H. "A" H-651; C. "A" H-633)

An Act to Amend the Restitution Provisions of the Victims' Bill of Rights (H. P. 1697) (L. D. 2251) (C. "A" H-648)

An Act to Revise the Procedure Relating to the Review of Property Tax Exemptions and to Amend Certain Laws Relating to Property Tax Exemptions (H. P. 1729) (L. D. 2282)

An Act Concerning Use of Computer Transcripts (H. P. 1748) (L. D. 2302)

An Act to Require Downstream Public Notification of Release of Water Impoundments (H. P. 1808) (L. D. 2390) (H. "A" H-638)

An Act to Provide Funding from the Blueberry Industry Tax to Promote Market Development for the Blueberry Industry (H. P. 1816) (L. D. 2406) (S. "A" S-368)

An Act Relative to Time of Payment Under the Maine Labor Law (H. P. 1828) (L. D. 2422)

An Act to Standardize Time Periods for the Processing of Applications (H. P. 1840) (L. D. 2435)

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.

#### **Orders of the Day**

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

RESOLVE, Authorizing the Exchange of Certain Public Reserved Lands (S. P. 810) (L. D. 2168)

In House, Passed to be Engrossed as amended by House Amendment "A" (H-619) on March 29, 1984.

In Senate, that Body Adhered to Passage to be Engrossed in non-concurrence.

Tabled—April 6, 1984 by Representative Jacques of Waterville.

Pending—Further Consideration.

On motion of Representative Mitchell of Vassalboro, tabled unassigned pending further consideration.

The following papers were taken up out of order by unanimous consent:

#### **Consent Calendar First Day**

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

(H. P. 1695) (L. D. 2250) Bill "An Act to Amend the Laws Relating to Criminal History Record Information" (Emergency) Committee on Judiciary reporting "Ought to Pass" as amended by Committee Amendment "A" (H-671)

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

By unanimous consent, unless previous notice was given to the Clerk of the House by some member of his or her intention to move reconsideration, the Clerk was authorized today to send to the Senate, 30 minutes after the House re-

cessed and also thirty minutes after the House adjourned for the day, all matters passed to be engrossed in concurrence and all matters that required Senate concurrence; and that after such matters had been so sent to the Senate by the Clerk, no motion to reconsider would be allowed.

On motion of Representative Rolde of York, Recessed until three o'clock in the afternoon.

#### **After Recess 3:00 p.m.**

The House was called to order by the Speaker.

The following papers were taken up out of order by unanimous consent:

#### **Ought to Pass in New Draft**

Representative Connolly from the Committee on Appropriations and Financial Affairs on Bill "An Act to Provide Funds for an Increase in the Aid to Families with Dependent Children's Standard of Need" (H. P. 1593) (L. D. 2103) reporting "Ought to Pass" in New Draft (H. P. 1851) (L. D. 2450)

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 Relating to Enforcement of Land Use Laws" (S. P. 900) (L. D. 2418)

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

Representative Hall of Sangerville offered House Amendment "A" and moved its adoption.

House Amendment "A" (H-676) was read by the Clerk.

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

Mr. BROWN: Mr. Speaker, I move the indefinite postponement of House Amendment "A" and would speak to my motion.

The SPEAKER: The gentleman from Livermore Falls, Mr. Brown, moves that House Amendment "A" be indefinitely postponed.

The gentleman may proceed.

Mr. BROWN: Mr. Speaker, Ladies and Gentlemen of the House: I understand what the gentleman from Sangerville, Mr. Hall, is attempting to do and I commend him for his wanting to do it and I understand why he wants to do it, but let me explain to you what is going to happen.

The minority report, which was accepted this morning, provides that if the municipality which takes someone to court is the prevailing party, then the municipality may be reimbursed. That paragraph further goes on to say that if the defendant is the prevailing party, the defendant may be reimbursed. What Mr. Hall is attempting to do is to substitute the word 'shall' for 'may' when it refers to the municipality but not to the defendant, if I read this amendment correctly, and I don't think that is right.

I understand the dilemma that the municipalities may be facing, but the fact of the matter is, if they are going to be taking somebody to court for an alleged land use violation, they had better have a pretty good case. If they don't have a good case, they shouldn't be taking them to court.

I would have no objections to 'shall' being placed in the law for both the municipality and the defendant, but it is just simply unfair, to my way of thinking, that if the municipality takes someone to court, the defendant wins the case, the defendant is not going to get reimbursed—why not? If the law says that the municipality is going to be reimbursed, why should the defendant be reimbursed? That is my problem with this amendment; therefore, I hope that you support the motion for indefinite postponement of this amendment.

The SPEAKER: The Chair recognizes the gentleman from Westport, Mr. Soule.

Mr. SOULE: Mr. Speaker, Ladies and Gentlemen of the House: I hope you will go along with the motion to adopt this amendment. The provi-

sions in this amendment do treat the defendant and the plaintiff a little bit differently, but I think there is justification for that distinction. The justification of that distinction lies in the weeks and months of testimony we heard on the land use violations commission concerning giving the towns some sort of incentive to bring these actions to correct land use violations. If the town feels it is going to bring an action and if there is some sort of technical deficiency in the complaint, for instance, or a technical deficiency in service, that it is going to get slapped with attorney's fees even though they are bringing this action in good faith, it may deter a lot of corrective actions being taken.

The amendment gives the courts some discretion. It provides that the towns shall get attorneys' fees unless the court finds that there are special circumstances which makes the award unjust. That gives the court the discretion in those instances where the defendant, although technically guilty of a violation, perhaps was not acting in bad faith himself. I think this is a very fair compromise and still gives the town some incentive to go forward and correct these violations of which we heard so much about.

Representative Hall of Sangerville requested a roll call vote.

More than one fifth of the members present expressed a desire for a roll call, which was ordered.

The SPEAKER: The pending question is on the motion of Representative Brown of Livermore Falls that House Amendment "A" be indefinitely postponed. All those in favor will vote yes; those opposed will vote no.

#### ROLL CALL NO. 451

YEA—Anderson, Armstrong, Bell, Bonney, Bott, Brown, A.K.; Brown, D.N.; Cahill, Callahan, Conary, Conners, Curtis, Davis, Day, Dexter, Dillenback, Drinkwater, Dudley, Foster, Greenlaw, Higgins, L.M.; Holloway, Ingraham, Jackson, Joyce, Kiesman, Lebowitz, MacBride, Masterman, Masterton, Matthews, K.L.; Maybury, McCollister, McPherson, McSweeney, Murphy, E.M.; Murphy, T.W.; Paradis, E.J.; Parent, Perkins, Pines, Randall, Reeves, J.W.; Robinson, Roderick, Salsbury, Scarpino, Seavey, Sherburne, Small, Smith, C.B.; Smith, C.W.; Sproul, Stevenson, Stover, Tammara, Theriault, Walker, Webster, Wentworth, Weymouth, Willey, Zirkilton.

NAY—Ainsworth, Allen, Andrews, Baker, Beaulieu, Benoit, Bost, Brannigan, Brodeur, Carroll, D.P.; Carroll, G.A.; Carter, Cashman, Chonko, Clark, Cooper, Cote, Crouse, Crowley, Daggett, Diamond, Erwin, Gauvreau, Gwadnosky, Hall, Handy, Hayden, Hickey, Higgins, H.C.; Hobbins, Jacques, Jalbert, Joseph, Kane, Kelly, Ketover, Kilcoyne, LaPlante, Lehoux, Lisnik, Locke, MacEachern, Macomber, Mahany, Manning, Martin, A.C.; Matthews, Z.E.; Mayo, McGowan, McHenry, Melendy, Michael, Michael, Mills, Mitchell, E.H.; Mitchell, J.; Moholland, Murray, Nadeau, Nelson, Norton, Paradis, P.E.; Paul, Perry, Pouliot, Racine, Reeves, P.; Richard, Ridley, Roberts, Rolde, Rotondi, Soucy, Soule, Stevens, Strout, Swazey, Thompson, Tuttle, Vose, The Speaker.

ABSENT—Carrier, Connolly, Cox, Kelleher, Livesay, Martin, H.C.; Telow.

63 having voted in the affirmative and 81 in the negative, with 7 being absent, the motion did not prevail.

Thereupon, House Amendment "A" was adopted.

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

Bill "An Act to Ensure Statewide Uniformity in the Procedures for Strip Searches and Body Cavity Searches of Arrestees by Law Enforcement Officers while Respecting the Civil Rights and Liberties of Arrestees" (H. P. 1845) (L. D. 2440)

Was reported by the Committee on Bills in the Second Reading, read the second time, passed

to be engrossed and sent up for concurrence.

#### Second Reader Tabled and Assigned

Bill "An Act to Amend the Laws Regarding Bail" (H. P. 1844) (L. D. 2439)

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

On motion of Representative Brannigan of Portland, tabled pending passage to be engrossed and tomorrow assigned.

#### Passed to Be Enacted Emergency Measure

An Act to Allow the Department of Transportation to Assume Responsibility for 100% of the Maintenance and Operation Costs of the Carleton Bridge Between Bath and Woolwich and to Allocate and Appropriate the Funds Necessary to Assume this Additional Responsibility (S. P. 884) (L. D. 2392)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 127 voted in favor of the same and 8 against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate. (Representative Jalbert of Lewiston was excused from voting pursuant to House Rule 10)

#### Passed to Be Enacted

An Act to Encourage the Use of Wood and Solid Waste as a Source of Energy in State-owned Buildings (S. P. 879) (L. D. 2383) (S. "A" S-371)

An Act Requiring Proof of Financial Responsibility for 2nd and Subsequent Offenders Under the Drunk Driving Laws (S. P. 892) (L. D. 2408) (S. "A" S-367)

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.

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

Bill "An Act to Amend Certain Motor Vehicle Laws" (H. P. 1444) (L. D. 1889)

—In House, Minority "Ought to Pass" in New Draft Report of the Committee on Transportation was read and accepted and the New Draft (Emergency) (H. P. 1820) (L. D. 2412) was passed to be engrossed on April 3, 1984.

—In Senate, Majority "Ought to Pass" in New Draft Report of the Committee on Transportation read and accepted and the New Draft (Emergency) (H. P. 1819) (L. D. 2411) was passed to be engrossed in non-concurrence.

Tabled—April 6, 1984 by Representative Diamond of Bangor.

Pending—Further Consideration.

On motion of Representative Carroll of Limerick, retabled pending further consideration and later today assigned.

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

Bill "An Act to Revise the Laws Governing Certification of Educational Personnel" (H. P. 1839) (L. D. 2434)

Tabled—April 6, 1984 by Representative Locke of Sebec.

Pending—Passage to be Engrossed.

Representative Locke of Sebec offered House Amendment "B" and moved its adoption.

House Amendment "B" (H-672) was read by the Clerk.

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

Mrs. LOCKE: Mr. Speaker, Men and Women of the House: This amendment does two things. It inserts wording that would require at least one public hearing in 1987, after the State Board assesses the pilot programs in 1986, and comes to the legislature in 1987. This assures people that there will be at least one public hearing, probably more than that.

It also puts into statute that the statutes governing certification now will remain in effect until the whole bill goes into effect in 1988. We hope that this will be people assurance that a complicated new program won't be shoved upon them without careful consideration.

Thereupon, House Amendment "B" was adopted.

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

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

Bill "An Act Concerning Higher Education" (H. P. 1684) (L. D. 2221)

Tabled—April 6, 1984 by Representative Locke of Sebec.

Pending—Adoption of Committee Amendment "A" (H-649).

Mrs. Mitchell of Vassalboro offered House Amendment "A" to Committee Amendment "A" and moved its adoption.

House Amendment "A" to Committee Amendment "A" (H-668) was read by the Clerk.

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

Mrs. MITCHELL: Mr. Speaker, Ladies and Gentlemen of the House: A brief explanation of the purpose of this House Amendment to the Committee Amendment.

As a member and Vice-Chair of the Governor's Commission on the Status of Education, the Commission has spent a considerable amount of time thinking of ways to improve the lot of the University of Maine and one of the things we thought would be very important was to invite the Chancellor to give a State of the State of University Address to this Legislature at each session so that we would have first-hand knowledge of the needs and the accomplishments of the university. This amendment simply accomplishes at this time the invitation to the Chancellor to address the legislature each session telling us about the university's status.

Thereupon, House Amendment "A" to Committee Amendment "A" was adopted.

Committee Amendment "A" as amended by House Amendment "A" thereto was adopted.

Under suspension of the rules, the Bill was read the second time, passed to be engrossed as amended and sent up for concurrence.

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

An Act to Raise the Annual Public Utilities Commission Regulatory Fund Assessments to \$1,635,000 and to Allocate those Funds for Fiscal Year 1985" (Emergency) (H. P. 1809) (L. D. 2391)

Tabled—April 6, 1984 by Representative Vose of Eastport.

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

On motion of Representative Vose of Eastport, retabled pending passage to be enacted and later today assigned.

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

RESOLVE, for Laying of the County Taxes and Authorizing Expenditures of York County for the Year 1984 (Emergency) (H. P. 1822) (L. D. 2414)

Tabled—April 6, 1984 by Representative Diamond of Bangor.

Pending—Final Passage.

On motion of Representative Diamond of Bangor, retabled pending final passage and later today assigned.

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

An Act Relating to Local Voting on School Administrative District Budgets (H. P. 1814) (L. D. 2399)

Tabled—April 6, 1984 by Representative Soucy of Kittery.

Pending—Passage to be Enacted.

On motion of Representative Diamond of Bangor, tabled pending passage to be enacted and

later today assigned.

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

An Act Relating to the Quality of Milk (H. P. 1804) (L. D. 2378)

Tabled—April 6, 1984 by Representative Michael of Auburn.

Pending—Motion of Representative Smith of Island Falls that the Bill and Accompanying Papers be Indefinitely Postponed. (Roll Call requested)

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

Mr. MICHAEL: Mr. Speaker, Ladies and Gentlemen of the House: I understand there will be no amendment offered on this bill so we are free to vote on it now. I certainly hope that you will vote against the motion to indefinitely postpone so that we can go on to enact this bill. It is a very good bill. It has a broad spectrum of support. It is a good consumer bill, a good milk quality bill, so please vote against the motion to indefinitely postpone.

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

Mr. MCCOLLISTER: Mr. Speaker, Ladies and Gentlemen of the House: This is another step in the farmers' move to maintain a high volume of milk being consumed in Maine. Each time the industry has made a move to make a change in its rules and regulations or its quality of milk, there has been resistance. You recall last year the resistance we had with the milk pooling. That was just another step in making a healthy milk industry and, believe me, this is another step in the same direction.

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

Mr. SMITH: Mr. Speaker, Ladies and Gentlemen of the House: I don't want to prolong this debate. It is probably not the most exciting bill on the agenda today, but I do feel it is important to the consumers.

To remind you, it would raise the fat in whole milk. It has not been asked for by the consumers. The trend has been to low fat milk.

The processors have offered milk in quarts, two quart and gallon containers. Now they have come out with a three quart container. This is an effort on their part to increase sales. If there was a market for a high fat level of milk, don't you think they would be responding to that need? I am sure they would. They can do that without this bill.

Maine has the highest milk consumption per person in the nation. We must be doing something right. Should we be changing that?

Section 2 of the bill requires the temperature of the milk coolers to be lowered 5 degrees. This is an added cost to the stores. Some of the Mom and Pop stores may have problems with this lowering of the temperature and it may require buying new coolers. There is no problem there now.

Raising the fat in whole milk will increase costs, and lowering the temperature in the coolers will also increase costs, and that will also be passed on to the consumer.

I hope you will stay with me in voting to indefinitely postpone this measure.

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

Mr. SHERBURNE: Mr. Speaker, Ladies and Gentlemen of the House: I am going to be very brief today. Last week I tried to explain what this bill is going to do and I think probably there is a little confusion here.

It isn't very often that you see Representative Sherburne supporting a bill that has Representative Michael or Representative McCollister on it, and it isn't very often that they support a bill that my name is on. But I am sorry if that confusion was so great that my good friend from Island Falls got all mixed up and got on the wrong side of this bill.

All I am going to say today is that it is a good bill, it will do a little for the farmer, it will do a

little for the consumer, and I am going to vote against the motion to indefinitely postpone.

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

Mr. AINSWORTH: Mr. Speaker, Ladies and Gentlemen of the House: Representative Michael was coming up with an amendment today, but I guess he found that he didn't need it, or he thought he didn't need it. The thing was mixed up enough without putting anymore on it.

I don't think it is going to improve the milk a bit. I do think one thing, it is going to raise the price. I think the gentleman from Island Falls is a hundred percent right on this bill, and I hope you will vote to do away with this as quickly as we can.

A roll call has been requested.

More than one fifth of the members present expressed a desire for a roll call, which was ordered.

The SPEAKER: The pending question is on the motion of Representative Smith of Island Falls 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 NO. 452

YEA—Ainsworth, Allen, Anderson, Andrews, Armstrong, Baker, Beaulieu, Benoit, Bonney, Bost, Brodeur, Brown, A. K.; Carroll, D. P.; Carroll, G. A.; Carter, Cashman, Chonko, Conners, Cooper, Cote, Cox, Crouse, Curtis, Day, Diamond, Dillenback, Dudley, Erwin, Foster, Gwadosky, Hayden, Hickey, Hobbins, Ingraham, Jackson, Jacques, Joseph, Kelly, Ketover, Killoyne, LaPlante, Lehoux, Lisnik, MacBride, MacEachern, Macomber, Martin, A. C.; Master-ton, Mayo, McGowan, McHenry, McSweeney, Melendy, Michaud, Mitchell, E. H.; Moholland, Nadeau, Nelson, Norton, Paradis, P. E.; Paul, Perry, Pines, Pouliot, Racine, Reeves, J. W.; Reeves, P.; Ridley, Roberts, Roderick, Rolde, Salisbury, Small, Smith, C. B.; Smith, C. W.; Soule, Swazey, Tammaro, Theriault, Tuttle, Vose, Walker, Weymouth, The Speaker.

NAY—Bell, Bott, Brannigan, Brown, D. N.; Cahill, Callahan, Clark, Conary, Crowley, Daggett, Davis, Dexter, Drinkwater, Gauvreau, Greenlaw, Hall, Handy, Higgins, H. C.; Higgins, L. M.; Holloway, Joyce, Kane, Kelleher, Kiesman, Lebowitz, Locke, Mahany, Manning, Masterman, Matthews, K. L.; Matthews, Z. E.; Maybury, McCollister, McPherson, Michael, Mills, Mitchell, J.; Murphy, E. M.; Murphy, T. W.; Murray, Paradis, E. J.; Parent, Perkins, Randall, Richard, Robinson, Rotondi, Scarpino, Seavey, Sherburne, Soucy, Sproul, Stevens, Stevenson, Stover, Strout, Thompson, Webster, Wentworth, Willey, Zirkilton.

ABENT—Carrier, Connolly, Jalbert, Livesay, Martin, H. C.; Telow.

84 having voted in the affirmative and 61 in the negative, with 6 being absent, the motion did prevail.

Sent up for concurrence.

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

SENATE DIVIDED REPORT—Majority (8) "Ought to Pass" as amended by Committee Amendment "A" (S-345)—Minority (3) "Ought Not to Pass"—Committee on Energy and Natural Resources on Bill "An Act Encouraging an Alternative to Landfill Disposal of Solid Waste" (Emergency) (S. P. 833) (L. D. 2234).

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-345).

Tabled—April 6, 1984 by Representative Hall of Sangerville.

Pending—Acceptance of either report.

On motion of Representative Mitchell of Vassalboro, retabled pending acceptance of either Report and later today assigned.

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

Bill "An Act to Amend the Forest Fire Control Laws and Change the Method of Funding Forest Fire Control Services" (H. P. 1782) (L. D. 2347)

Tabled—April 6, 1984 by Representative Cashman of Old Town

Pending—Passage to be Engrossed.

On motion of Mr. Higgins of Portland, recommended to the Committee on Taxation and sent up for concurrence.

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

Bill "An Act to Clarify Certain Portions of the Reapportionment Laws" (S. P. 862) (L. D. 2342)

Tabled—April 6, 1984 by Representative Mitchell of Vassalboro.

Pending—Passage to be Engrossed.

Mr. Kelleher of Bangor offered House Amendment "B" and moved for its adoption.

House Amendment "B" (H-670) was read by the Clerk.

Mr. KELLEHER: Mr. Speaker, Ladies and Gentlemen of the House: When this bill came into the House originally, for all intents and purposes it was to be a housekeeping correction bill and it went beyond what the members of the Reapportionment Commission on both sides of the political aisles had agreed to. This amendment puts the bill back in the perspective which we agreed to in the beginning and I would urge that you adopt it.

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

Mrs. MACBRIDE: Speaker, Ladies and Gentlemen of the House: I hope that you will support this amendment today. This amendment assures that there is no substantive changes in the reapportionment bill and it is important that it is passed.

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

Mr. MANNING: Mr. Speaker, Ladies and Gentlemen of the House: I would like to pose a question through the Chair to the gentleman from Bangor, Mr. Kelleher.

Mr. Kelleher, are there two Payson Streets in my district now? My future district?

The SPEAKER: The gentleman from Portland, Mr. Manning, has posed a question through the Chair to the gentleman from Bangor, Mr. Kelleher, who may respond if he so desires.

The Chair recognizes that gentleman.

Mr. KELLEHER: Mr. Speaker, Ladies and Gentlemen of the House: In response to his question, all I can say is, what is in your district was supposed to be what was in your district when we created the original plan, no more and no less.

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

Mr. MANNING: Mr. Speaker, Ladies and Gentlemen of the House: My only problem is that there are two Payson Streets in my district, one on one side of the district and one on the other side of the district and I think that is going to be a confusion to the people back in city hall in Portland and I think for anybody in the future who is going to be running for that seat.

I talked to the Senate Chairman of Judiciary and I am assuming that he put an amendment in but now they tell me that that amendment was taken off. I just think we ought to straighten those things out. It is kind of crazy to put two streets in one district when they don't exist.

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

Mr. CURTIS: Mr. Speaker, Ladies and Gentlemen of the House: In reference to the question posed by the gentleman from Portland, Mr. Manning, in House Amendment "B" on Page 3, Line 1, I think he will find the correction that he needs.

Thereupon, House Amendment "B" was adopted.

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

Mr. HIGGINS: Mr. Speaker, I would like to pose a question through the Chair. Does this bill need an emergency clause and if it does, has it been added through House Amendment "B"?

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

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

Mr. KELLEHER: Mr. Speaker, Ladies and Gentlemen of the House: It does not.

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

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

An Act to Increase Legislative Oversight of the Fiscal Affairs of the Department of Inland Fisheries and Wildlife (Emergency) (H. P. 1628) (L. D. 2143) (S. "A" S-296; S. "B" S-297)

Tabled—April 6, 1984 (under suspension of the rules) by Representative Diamond of Bangor.

Pending—Reconsideration. (Returned by the Governor without his Approval).

On motion of Mr. Diamond of Bangor, under suspension of the rules, retabled pending reconsideration and tomorrow assigned.

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

An Act to Provide Voter Information on Ballot Questions (H. P. 1588) (L. D. 2095) (C. "A" H-568)

Tabled—April 6, 1984 by Representative Handy of Lewiston.

Pending—Passage to be enacted.

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

Mr. NADEAU: Mr. Speaker, Ladies and Gentlemen of the House: There is an amendment that has been drafted, it simply hasn't arrived yet. Could someone table this until later today, please?

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

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

Bill "An Act to Establish a Policy and Procedure for Law Enforcement Offices Engaged in the Pursuit of Fleeing or Speeding Vehicles" (H. P. 1746) (L. D. 2300)

Tabled—April 6, 1984 by Representative Diamond of Bangor.

Pending—Motion of Representative Nelson of Portland to Reconsider acceptance of the Majority "Ought Not to Pass" Report of the Committee on Judiciary.

On motion of Mr. Diamond of Bangor, retabled pending the motion of Representative Nelson of Portland to reconsider acceptance of the Majority "Ought Not to Pass" Report of the Committee on Judiciary and later today assigned.

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

Bill "An Act to Revise the Salaries of Certain County Officers" (Emergency) (H. P. 1841) (L. D. 2436)

Tabled—April 6, 1984 by Representative McHenry of Madawaska.

Pending—Passage to be Engrossed.

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

All matters acted upon requiring Senate concurrence, order sent forthwith to the Senate.

The following papers were taken up out of order by unanimous consent:

#### **Papers from the Senate Ought to Pass in New Draft**

Report of the Committee on Business Legislation on Bill "An Act Relative to Group Legal Insurance" (S. P. 784) (L. D. 2110) reporting "Ought to Pass" in New Draft (S. P. 906) (L. D. 2437).

Came from the Senate with the report read and accepted and the New Draft passed to be

engrossed.

Report was read and accepted, the New Draft given its first reading and assigned for its second reading later in today's session.

#### **Divided Report**

Majority Report of the Committee on Judiciary on Bill "An Act to provide for a Citizens Environmental Protection Act" (S. P. 735) (L. D. 2026) reporting "Ought to Pass" in New Draft (S. P. 907) (L. D. 2445)

Signed:

Senators:

TRAFTON of Androscoggin  
COLLINS of Knox

Representatives:

HAYDEN of Durham  
SOULE of Westport  
LIVESAY of Brunswick  
HOBBINS of Saco  
BENOIT of South Portland

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

Signed:

Senator:

VIOLETTE of Aroostook

Representatives:

DRINKWATER of Belfast  
REEVES of Newport  
JOYCE of Portland  
FOSTER of Ellsworth  
CARRIER of Westbrook

Came from the Senate with the Minority "Ought Not to Pass" Report Read and Accepted.

Reports were read.

Mr. Hobbins of Saco moved the acceptance of the Majority "Ought to Pass" Report in non-concurrence.

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

Mr. DRINKWATER: Mr. Speaker, Members of the House: I rise today to ask you not to support the motion before you but to defeat that motion so that we can vote on the Minority Report, the "Ought Not to Pass."

This piece of legislation came before us in Judiciary and it was there for some time and there were many changes made, but it seems to me that this is a bad piece of legislation, it encourages people to instigate lawsuits against people that they have never seen or ever seen the problem that causes them to instigate the suit.

There was testimony before the Judiciary Committee to the effect that the Attorney General didn't have money enough to do it, didn't have personnel enough to handle this. But I also heard in testimony in the Judiciary Committee that these different suits once they were started and got into a certain posture would require the Attorney General and would require funding, so it would seem to me that that is not going to do it.

I feel quite strongly and I have had almost no communications in favor of this bill, I have had all kinds of communication that are opposed to it. I guess that everybody knows about this piece of legislation and knows what it does and I don't think there is any need of my standing here and talking about it but I would ask you to please defeat the motion before you so we can entertain the motion of "Ought Not to Pass."

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

Mr. HOBBINS: Mr. Speaker, Men and Women of the House: I urge you to support the Majority "Ought to Pass" Report on this legislation. Initially when this bill was before the Judiciary Committee, there were grave concerns that were raised by many individuals. The original bill was broad in nature and because of the concerns addressed, we have before you a revised version which narrowed the provisions of the Citizens Environmental Protection Act as proposed under the new draft of L. D. 2026. I would like to go through briefly and tell you what the bill does and what it requires in fact sheet form.

Under this legislation, a person, corporation or municipality may bring a civil legal action to

seek reinforcement of certain specified environmental laws. Now the person bringing the action must be a resident of the State of Maine under the provisions of this bill.

Secondly, the person who brings the action must first give a 60 day notice in writing to the agency or body charged with the enforcement responsibility. Also, the Attorney General must be notified and the alleged violator. Also under this new redraft, the legal action must be brought in the judicial district where the alleged violation occurred—again, dealing with the jurisdiction aspect which are narrowed under this proposed redraft of the Citizens Environmental Protection Act.

Also under the new redraft, the Attorney General may intervene in any citizen suit at any time. This, again, is a revision of the initial bill that was presented before the Judiciary Committee.

An important aspect is the court may award cost and reasonable fees to the either party—again, narrowing the original intent of the legislation.

Many individuals asked, what laws are covered by this proposed Citizens Environmental Protection Act that has the majority support of the committee? Briefly, the provisions and laws that are covered are site location of development, alteration of coastal wetlands—I won't give you the titles—the Great Ponds Act, water pollution, related only to straight piping of sanitary waste water, again a revision, alteration of rivers, streams, and brooks, minimum lot size, and many municipal shoreline zoning under Title XII, Section 4811 through 4817.

Let me explain a little bit in brief detail what this proposal will not permit under the revised Citizens Environmental Protection Act as presented here. No lawsuit may be brought against the state, any state agency, any county or any community or municipality. Also under this proposal, it will not permit any action to be brought against any industry related to any permit or license—again, a narrowing of the original intent. Also under this proposal, this act will not permit any action to be brought until after, as I mentioned earlier, at least 60 days from the time that written notice is given. Again, under this act, it will not be permitted any damages—no damages may be sought or recovered under this act—again, a narrowing of the original bill.

For those of you who might think this might be a lawyer's bill, no attorneys' fees may be awarded against any town or state under any circumstances under this proposal.

This bill in its present form is reasonable, it is not far-reaching, it does not infringe, I feel, upon industries which were outlined, does not have the problem that was outlined at the hearing concerning the agricultural industry of the state, and I believe that if you look at those who signed the report on the Committee on Judiciary, you will see that it had bipartisan support and I urge you to accept the Majority Report.

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

Mr. MACEachern: Mr. Speaker, Ladies and Gentlemen of the House: Almost 50 years ago, a concept similar to this was instituted in the country of Germany. It pitted one neighbor against the other and it caused people to spy on their neighbors and turn them into the authorities for frivolous violations and that is exactly what this bill would do if it is passed. I can see one neighbor not particularly liking his next door neighbor and turning him in for some frivolous violation causing him discomfort and the expense of going to court, embarrassment. I just feel that this is a terrible bill and I can't understand an attorney supporting such a bill unless it is for personal gain.

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

Mr. HOBBINS: Mr. Speaker, Men and Women of the House: There is an issue raised whether or not there would be a flood of lawsuits if this particular legislation was passed. The experience in a state such as Michigan that have citizen



suit bills have shown that there is no significant increase in the number of lawsuits.

Now there is another argument that has been raised that some people will pit neighbor against neighbor and there will be frivolous suits all over the place. Well, if anyone knows the cost of litigation will know that no one is going to spend the money to hire lawyers or go to court just for the sake of bringing a case before the court if it was frivolous. I don't think people will take lightly the responsibility that they have to ensure that in fact the case has merit.

Also, this bill allows the court to award expenses to the party who is sued if that party prevails—again, another safeguard.

Another concern, as I mentioned earlier, was will the bill threaten the farming operations? Many of you received letters in the past in regards to whether or not the original bill would affect farming operations. The provision that offended many of the farmers under the original bill dealing with pesticide spraying has been removed under the redraft by the Judiciary Committee.

There is another item raised and that is, isn't this bad public policy, this particular idea, because it places law enforcement in private hands? First, this bill allows the citizen to bring the suit only if the government decides, after 60 days notice, not to bring the suit themselves.

Second, the bill only allows the citizen to ask the court to stop pollution; it does not provide for fines to be imposed on the polluter. Again, the remedy is not collecting money for fines or damages, it is just to stop a situation from occurring.

The other argument is, won't this bill send the wrong message to industry? That is an item that is of great concern to all of us. Under this revised revision of the bill, I believe that all of the concerns that were addressed have been taken care of.

Ten states presently have citizen suit bills that are much broader than this particular piece of legislation. To give you some examples, these states include: Massachusetts, Connecticut, New Jersey, Michigan and many other industrialized states.

I believe that the argument that will be used that this bill will be a threat to commerce and industry in Maine does not have merit. In fact, the laws covered by this bill, the Great Ponds Act, for example, generally have very little to do with industry in the State of Maine.

I hope that you will look at the redraft and not the original bill. The original bill, to most members of the Judiciary Committee, was not acceptable but the redraft that is before us addressed all those items that the committee had before it in testimony. I hope this afternoon that you will support the "Ought to Pass" Report.

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

Mr. HICKEY: Mr. Speaker, Ladies and Gentlemen of the House: We haven't received 2445 so I have not had an opportunity to become aware of the corrections that probably have been made. But all of us have received considerable mail relative to 2026 and I would like to ask the sponsor if he has cleared up some of these items that have been challenged by people writing in.

If I understand this bill correctly, it gives any Maine citizen the right to sue any person who he or she believes is or is about to violate any environmental law. According to the way the law is written, there are no restrictions requiring that a person bringing the action show that he or she has been affected by the alleged violation. This is like allowing private citizens to issue speeding tickets. If a citizen of Maine has been personally adversely affected by a violation of an environmental law, then he or she should be able to seek recourse.

As this law is written, a person in Kittery could bring a suit against a paper company in Woodland, Maine. This is not proper. I ask you to defeat this bill and I would appreciate it if the sponsor would clarify some of these questions

that have been sent in by people concerned.

The SPEAKER: The gentleman from Augusta, Mr. Hickey, has posed a series of questions through the Chair to anyone who may respond if they so desire.

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

Mr. HOBBS: Mr. Speaker, Men and Women of the House: I am not the sponsor of the legislation and I had no dealings in drafting the legislation but I felt that in my explanation I hit upon those concerns which were addressed at the committee.

I believe that the new draft permits only Maine residents to sue to enforce what are primarily land use laws generally enforced or known about at the local level. And again, the concerns that were addressed by the good gentleman from Augusta, Mr. Hickey, and the type of questions that were raised through correspondence have been addressed, I feel, in the redraft of the legislation.

I hope that you will all take a look at the redraft of the bill. If you take a look at the redraft, which is L. D. 2445, you will find that it is radically different than the original bill. I could not have supported L. D. 2026 and I don't think many members of the committee, not speaking for those who signed the Majority Report, could have supported this bill in its original form, but again, most of the concerns that were raised, in fact every one that I saw at the time, has been addressed in the redraft. Again, I would hope that you would take a look at this particular redraft of L. D. 2026 which is now L. D. 2445.

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

Mr. VOSE: Mr. Speaker, I would like to pose a question through the Chair. Under the existing law and if I noticed a violation of an environmental law, what avenue could I then take as a private citizen under the present law?

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

The Chair recognizes the gentleman from Westport, Mr. Soule.

Mr. SOULE: Mr. Speaker, Ladies and Gentlemen of the House: In response to the gentleman from Eastport's question, under current Maine law, if there is a violation of the land use law, the only action that a citizen would have is if they were directly affected by that action. They would have to be harmed either physically or economically in a direct sense and not just like a member of the general public. In that event, they would have suit for damages against the perpetrator of that violation. They would not have the right to go into court to have that action stopped or to force a governmental agency to stop it. I think that is the current status.

I just want to clarify a couple of things too. Mr. Hobbins, the Representative from Saco, has explained, I think, the intent of the bill very well, but I think we can't emphasize enough the fact that the bill before you is very, very limited in its scope. It applies only to land use violations, it does not allow someone to seek damages against their neighbor in the sense of money damages. It allows only for them to bring an action to stop a violation of the law.

The genesis of this bill goes back a year or so. It was introduced in the last session and we considered it in depth at that point in the Judiciary Committee and I think unanimously felt that at that point, in its present form, was a bad idea. It has been reworked by the Attorney General's Office, it has been studied by the Commission on Land Use Violations, of which I was a member, and it was reintroduced in this session. In the form that it was reintroduced it was unacceptable to a majority, if not all members of the committee. What you have before you is a very, very limited version of that.

The need is there for this bill. There are many, many violations of land use laws which are going unnoticed and unaffected and I hope that you will take a moment to look at the current redraft. Unfortunately, the name of this bill has been

poisoned from the very beginning and rightfully so in its original form. I hope you will take a look at it in its present form and give this bill a chance.

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

Mr. KESMAN: Mr. Speaker, Ladies and Gentlemen of the House: I would like to correct an answer that was made or at least intimated a few minutes ago that there really was no way to address a violation that was observed.

In the Department of Environmental Protection, we have a bureau called the Bureau of Land Quality Control, operated by a very fine man and a very aggressive man in defending the quality of our land in the State of Maine. I have had occasion to call on him a time or two on a land violation and it has been vigorously pursued, so there is a way to seek action on a land use violation.

I would also say that the gentleman from Saco, Representative Hobbins, has said that there would be no additional law suits, no additional court cases, and he has told us how many things this does not do so I guess what he is saying is that it really does nothing. Maybe it does nothing, the danger is there, but I would like to suggest though that it is not needed because we have just been working today on a bill that is well on its way apparently, "An Act Relating to Enforcement of Land Use Laws" and we are talking about enforcing those very same laws and we are encouraging this action to take place at the municipal level and I think we have taken quite a large step in that direction. I question whether there is any need for this to begin with.

The gentleman from Saco also made quite a bit of the fact that it takes 60 days, there is a 60 day period involved here, but over in 8155 there is an exception to that and it says: A 60 day notice requirement of subsection one, paragraph A is not applicable when the plaintiff can show that the matter in controversy involves the direct substantial, imminent, irreversible damage or loss to the interest of the plaintiff. So I would suggest to you that in almost every case there will be a great effort made to make the point that this is going to involve some irreversible damage to the individual that is making the case, so I think that 60 days just went out the window on that clause.

Another thing that I would suggest is that this can become a contest between parties and will be won by whoever has got the money, because in addition to the authorization for the court to award costs and litigation and reasonable attorney fees and expert witness fees, and I would suggest to you that you can really run up a lot of expert witness fees. If you have got plenty of money to prosecute a case in court, a civil case, you can bring in some pretty good expert witnesses and blow the guy away that doesn't have a great deal of money. So I think that is another reason why we ought to put this bill to bed. It is not needed and if the gentleman from Saco is correct that it doesn't do anything, then we don't need it anyway.

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

Mr. ZIRKILTON: Mr. Speaker, Ladies and Gentlemen of the House: I would like to pose a question through the Chair. This is to the gentleman from Saco, Mr. Hobbins, actually two questions, the first of which is, the gentleman mentioned that suit can only be brought if, in fact, the state had decided not to bring suit, six days later someone could bring suit and my question is, if, in fact, somebody is in violation of land use laws, and I use the word laws as he did earlier, why would the state not bring suit against them? If they didn't, what reason would there be for someone else to bring suit?

My second question is, it would seem with the exception of the gentelady from South Portland, Ms. Benoit, every single signer of the "Ought to Pass" Report is an attorney and every single signer of the "Ought Not to Pass" Report is not an attorney, and my question is, what, perhaps,



was going through the minds of both sides when you in fact worked on this in committee?

The SPEAKER: The Chair would caution the gentleman from Mt. Desert, Mr. Zirkilton, to cast doubt upon the gentlewoman from South Portland, Ms. Benoit.

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

Ms. BENOIT: Mr. Speaker, Men and Women of the House: In fact Representative Hobbins is correct. When this bill first came before the committee, even those of us who were sympathetic were not willing to accept the piece of legislation and were ready to give it "Leave to Withdraw." Somehow, out of nowhere, it wasn't out of nowhere but I won't say where it came from, a certain lawyer lobbyist provided us with some suggestions as to how we might clean it up, and I might add that this certain lawyer was not exactly on the side of those who wanted it to pass. I think what happened was that just in case it did, it would be nice to have it acceptable. I am sure they are not working for it.

I would like to respond to Representative Zirkilton's question and that, indeed, will tell you why that bill is here even before the legislature. Attorney General Ahrens appeared before our committee and confirmed the fact that there are many cases that are brought to the Attorney General's Office, many complaints, and they simply do not have the manpower to address each and every one of those complaints.

He told of us, I believe the number was 300 sewerage pipes that they know right now are going into our lakes and/or oceans. They cannot take care of all of those cases. They handle the cases that they think affect the most number of people, so there is a need for this bill for that reason.

Let me give you a good example. In my own city of South Portland, you may have heard of a company which processes innards or whatever of animals and I will tell you, if any of you have ever been in Portland on a warm summer day, or South Portland, it was pretty bad. In fact, the people that lived in the vicinity of that plant actually became physically ill. This went on for over two years. The Attorney General's Office simply did not have time to address that and it was also difficult because it was an odor and our laws are not very specific about odors. Unfortunately, this bill would not even address that. I was hoping that we would have had in here a section that would have allowed citizens to bring suit because, believe me, in South Portland there would have been no difficulty getting the citizens to band together and sue that company. Now that company has finally been taken to court by the state and, in fact, has been closed down. This bill will not help them because that section was left out, that was one of the sections that tightened it up.

If you didn't hear Representative Hobbins to begin with, the only types of laws that you can look to to bring suit are site location and development laws, alteration of the coastal wetlands, Great Ponds Act, water pollution, alteration of rivers, minimum lot size and municipal shoreland zoning ordinances. Why did we pass those laws? I assume that we all support those laws, that we all want to keep our state in the best environmental condition that we can.

Now you know as well as I do that there are violations of land use laws out there that are not stopped because we do not have the manpower to do that. All this bill would do is allow for you or some other citizen to go to a court and say, look, this is going on and it shouldn't be going on—no money, you cannot get any award of money, you can only have an injunction to stop what is going on. In fact, that might not happen for at least 60 days unless you can prove that the guy is out there cutting down your timber lot that shouldn't be cut down, if you wait 60 days, it is going to be a little too late, but you would have to convince a judge of that first.

As far as industry is concerned, you cannot bring lawsuit against any industry if it is related

to a permit or a license, so if any industry in the state has been granted a permit or a license to do whatever they are doing and you don't think they are doing it right, that is too bad. You can call the Department of Environmental Protection or Conservation or whatever and complain about it but you cannot bring suit.

I don't think that this is a bad bill, I don't think it is going to bring all these lawsuits that people are talking about and I hope that you will support it.

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

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

The SPEAKER: The gentleman from Bangor, Mr. Kelleher, moves that this bill and all its accompanying papers be indefinitely postponed and further requests a roll call vote.

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

Mr. ZIRNKILTON: Mr. Speaker, I would like to pose another question through the Chair to the gentlewoman from South Portland, Representative Benoit. In response to your statement, am I to understand that even though the Attorney General's Office may, in fact, be aware of certain violations that are going on and even though it is the law, they are not bringing these situations to court merely because they don't have the time? If, in fact, that is the case, then my question would be, if our citizens are going to take these cases to court, who, in fact, is going to conduct the testing to see whether or not there are, in fact, hazardous materials or whatever going into our lakes and streams and so forth? If, in fact, that is to be the Department of Environmental Protection, how are we to assume that they are going to have the manpower to handle not only the cases that the Attorney General's Office is bringing forth but also all of the cases that our citizens are going to bring forth?

The SPEAKER: The gentleman from Mt. Desert, Mr. Zirkilton, has posed a series of questions through the Chair to anyone who may respond if they so desire.

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

Ms. BENOIT: Mr. Speaker, Men and Women of the House: Yes, you do understand it correctly, that is what we have been told by the Attorney General's Office, that they simply do not have the time or the manpower to address every violation that occurs in the state, and as you so well noted, I am not a lawyer and I would assume, as in any suit, that you come in and you have to prove it. You have to bring in evidence to prove that you are correct before you can win any suit.

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

Mr. HOBBS: Mr. Speaker, Men and Women of the House: Just to set the record straight, the reason why there is a 60 day provision in this new redraft is to try to stop the possibility of having a lawsuit. The 60 day provision might smarten up someone who is violating the law during that period of time by saying if you don't do something about it and it is not an immediate threat or danger, as someone mentioned here, Mr. Kiesman, the good gentleman from Fryeburg, you could go to court sooner than 60 days but the reason why we have those safeguards in it are the same reasons we put safeguards in a lot of our statutes. Does everyone know that if you want to sue a doctor or a hospital, you have to wait 90 days, a 90 day period? It is called a cooling off period to see whether or not you can settle the matter privately without filing a lawsuit, that is to stop the possibility of having a flood of lawsuits, that is one of the safeguards.

Secondly, on this proposal I am not saying, as the good gentlemen inferred, that we are not going to have an increase in lawsuits, but I am saying that they won't be frivolous and if they are brought there will be some merit to them, because if there is no merit to the lawsuits, the

court can award court costs and expenses to that party that didn't prevail.

The original bill, as the good gentlewoman will tell you and the good gentleman from Westport, Mr. Soule, will tell you, did not pass muster with the committee; in fact, it was withdrawn last year. The original bill that was presented before us didn't pass muster, so all the arguments you have might have had merit if we were discussing those particular documents but we are talking about a new animal, a new creature, and please read it. Don't pass judgment on L. D. 2026, this is not L. D. 2026, don't pass judgment, look at the bill.

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

Mrs. FOSTER: Mr. Speaker, Ladies and Gentlemen of the House: If you will look at the title of this bill, it is "An Act to Provide for A Citizens Environmental Protection Act." You know, that is kind of like being a vigilante and, you know, that is how I had to look at the bill, a vigilante bill. I know the bill has been gutted but there is also something left there that is something to work on, something to build on. Do we want a citizen, just because one of the agencies that we have created we have not given enough money to pursue what they should be doing, a private citizen takes money out of his own hip pocket and takes another citizen to court because that is what you are going to have done?

The other things is, if we go on this vein all laws that we make are broken. Do we want to give in the next piece of legislation the citizens the right to enforce other laws? If a citizen, for instance, there could be a vigilante next year when someone is speeding down the highway to report that. I ask that you kill the bill.

A roll call has been requested.

More than one fifth of the members present expressed a desire for a roll call, which was ordered.

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

#### ROLL CALL NO. 453

YEA—Ainsworth, Anderson, Armstrong, Bell, Bonney, Bott, Brown, A.K.; Brown, D.N.; Cahill, Callahan, Carter, Chonko, Clark, Conary, Connors, Cooper, Cote, Crouse, Crowley, Curtis, Davis, Day, Dexter, Dillenback, Drinkwater, Dudley, Erwin, Foster, Greenlaw, Gwadosky, Hall, Hickey, Higgins, L.M.; Holloway, Ingraham, Jackson, Jacques, Jalbert, Joseph, Joyce, Kane, Kelleher, Kelly, Ketover, Kiesman, Kilcoyne, LaPlante, Lebowitz, Lehoux, Lisnik, MacBride, MacEachern, Macomber, Mahany, Martin, A.C.; Masterman, Matthews, K.L.; Maybury, McHenry, McPherson, McSweeney, Melendy, Michaud, Mills, Moholland, Murphy, E.M.; Murphy, T.W.; Murray, Nelson, Norton, Paradis, E.J.; Paradis, P.E.; Parent, Paul, Perkins, Perry, Pines, Pouliot, Racine, Randall, Reeves, J.W.; Richard, Ridley, Roberts, Robinson, Roderick, Salsbury, Scarpino, Seavey, Sherburne, Small, Smith, C.B.; Smith, C.W.; Soucy, Sproul, Stevenson, Stover, Strout, Swazey, Tammaro, Theriault, Tuttle, Vose, Walker, Webster, Weymouth, Willey, Zirkilton.

NAY—Allen, Andrews, Baker, Beaulieu, Benoit, Bost, Brannigan, Brodeur, Carroll, D.P.; Cashman, Cox, Daggett, Diamond, Gauvreau, Handy, Hayden, Hobbins, Livesay, Locke, Manning, Masterton, Matthews, Z.E.; Mayo, McColister, McGowan, Michael, Mitchell, E.H.; Mitchell, J.; Nadeau, Reeves, P.; Rolde, Rotondi, Soule, Stevens, Thompson, The Speaker.

ABSENT—Carrier, Carroll, G.A.; Connolly, Higgins, H.C.; Martin, H.C.; Telow, Wentworth.

108 having voted in the affirmative and 36 in the negative, with 7 being absent, the motion did prevail.

#### Divided Report

Majority Report of the Committee on Appropriations and Financial Affairs on Bill "An Act to

Update, Revise, Expand and Publish Williamson's Bibliography of Maine" (S. P. 781) (L. D. 2107) reporting "Ought to Pass" in New Draft under New Title Bill "An Act to Republish Williamson's Bibliography of Maine" (S. P. 910) (L. D. 2449)

Signed:

Senators:

NAJARIAN of Cumberland  
BROWN of Washington  
PERKINS of Hancock

Representatives:

MASTERTON of Cape Elizabeth  
CONNOLLY of Portland  
JALBERT of Lewiston  
CHONKO of Topsham  
LISNIK of Presque Isle  
KELLEHER of Bangor

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

Signed:

Representatives:

SMITH of Mars Hill  
ARMSTRONG of Wilton  
CARTER of Winslow  
BELL of Paris

Came from the Senate, with the Majority "Ought to Pass" in New Draft under New Title Report read and accepted and the New Draft (S. P. 910) (L. D. 2449) Passed to be Engrossed.

Reports were read.

Mr. Carter of Winslow moved acceptance of the Minority "Ought Not to Pass" Report.

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

Mr. LIVESAY: Mr. Speaker, Ladies and Gentlemen of the House: This is the sort of bill that one would have hoped the Appropriations Committee could have taken care of within their own committee and come up with a report one way or another without subjecting the House to any lengthy debate.

It involves the munificent sum of about \$17,000. It is the intent of this bill, and I want to indicate right now that I am a cosponsor, to make available to the libraries and the schools and the scholars of this state a bibliography which probably is unsurpassed by any other state bibliography.

Let me just briefly explain what Williamson's Bibliography is. It is a two volume work that was published in the late 19th Century that included in it reference to every book published in Maine or about Maine. It is an indispensable tool for anybody who is researching Maine's history.

The problem is that this work is just not available and whenever it becomes available, it becomes available only at a very high price. It is the intent of this legislation to make that book available to libraries around the state for a lesser amount, and the idea is to have the state library have this work republished and the monies that are expended in that republication would be recouped upon the sale of the various volumes to the different libraries, scholars and schools around the state.

It had been my hope, I think, that more of my Republican friends on that committee would have seen it in their hearts to support this bill but I think we are all aware that Republicans are rather heartless and this just proves what I think many of us suspected all along.

I am grateful that at least in this body we don't always have to rely on the Republicans to do the right thing and I hope that I can count on the support of those people on the other side of the aisle.

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

Mr. CARTER: Mr. Speaker, Ladies and Gentlemen of the House: I would hope that you would go along with the Minority "Ought Not to Pass" Report. Originally I don't believe that it was a minority report but things have a way of changing now and then and I am not sure whether it was political or not but that is not my reason for voting on the "Ought Not to Pass."

What we are dealing with here, I think, first of all it is not an emergency and it is something that should best be left for the regular session.

Secondly, I think if we allow this type of activity to come out of the General Fund, we would be opening up Pandora's box.

I am sure that there are many, many volumes of historical value sitting in the library that are low on prints and ought to be reprinted. That is a perfect private enterprise thing to be doing and I don't think the state should be competing with private industry. I think it is best left for the private enterprise to come up with the wherewithal to take care of these historical novels or volumes.

This particular L.D. calls for \$16,000 to print 250 volumes that will be resold at sixty-four bucks apiece. This is going to be a very limited edition, to say the least, and if it is successful, I would urge each one of you to go out and grab a copy at \$64 because it is going to be worth money.

The SPEAKER: The Chair recognizes the gentleman from Cape Elizabeth, Mrs. Master-ton.

Mrs. MASTERTON: Mr. Speaker, Ladies and Gentlemen of the House: I would like to remind us all that we can point to numerous bills that were allowed into this session that are not of an emergency nature.

As far as this type of bill is concerned, we do have a precedent. For years and years we printed town histories. Since my time in the legislature that practice has been done away with but there is precedent for this kind of a bill. Look at the percent for art in public buildings. Don't tell me that the Maine Legislature doesn't allow history and cultural to come into our day to day activities.

I wish you would take a look at this bill, it is very simple. The cost, that \$16,000, will be recouped. When those volumes are bought, the cost of each volume will be returned to the General Fund. This is an irreplaceable book and, as I understand it, the books that we have today, the few that are left, are literally falling apart and will soon no longer be usable. I invite you today to do something for the State of Maine and for its future so that future historians can benefit from this book.

Mr. Carter of Winslow requested a roll call.

A roll call has been requested.

More than one fifth of the members present expressed a desire for a roll call, which was ordered.

The SPEAKER: The pending question is on the motion of the gentleman from Winslow, Mr. Carter, that the House accept the Minority "Ought Not to Pass" Report in non-concurrence. Those in favor will vote yes; those opposed will vote no.

#### ROLL CALL NO. 454

YEA—Anderson, Armstrong, Bell, Brown, D.N.; Cahill, Callahan, Carroll, G.A.; Carter, Curtis, Dexter, Dudley, Hickey, Jackson, Jacques, Jalbert, Kelly, Kiesman, Maybury, Mayo, Parent, Paul, Perkins, Racine, Reeves, J.W.; Richard, Ridley, Roberts, Robinson, Roderick, Salsbury, Scarpino, Seavey, Sherburne, Smith, C.W.; Strout, Theriault, Webster, Willey.

NAY—Ainsworth, Allen, Andrews, Baker, Beaulieu, Benoit, Bonney, Bost, Bott, Brannigan, Brodeur, Brown, A.K.; Carroll, D.P.; Cashman, Chonko, Clark, Conary, Connors, Cooper, Cote, Cox, Crouse, Crowley, Daggett, Davis, Day, Diamond, Dillenback, Drinkwater, Erwin, Foster, Gauvreau, Greenlaw, Gwadosky, Hall, Handy, Hayden, Higgins, H.C.; Higgins, L.M.; Hobbins, Holloway, Ingraham, Joseph, Kane, Kelleher, Ketover, Kilcoyne, LaPlante, Lebowitz, Lehoux, Lisnik, Livesay, Locke, MacBride, MacEachern, Macomber, Mahany, Manning, Martin, A.C.; Mastertan, Masterton, Matthews, K.L.; Matthews, Z.E.; McColister, McGowan, McHenry, McPherson, McSweeney, Melendy, Michael, Michaud, Mills, Mitchell, E.H.; Mitchell, J.; Moholland, Murphy, E.M.; Murphy, T.W.; Murray, Nadeau, Nelson, Norton, Paradis, E.J.; Paradis, P.E.; Perry, Pines, Pouliot, Randall, Reeves, P.; Rolde, Rotondi,

Small, Smith, C.B.; Soucy, Soule, Stevens, Stevenson, Stover, Swazey, Tammaro, Thompson, Tuttle, Vose, Walker, Wentworth, Weymouth, Zirkilton, The Speaker.

ABSENT—Carrier, Connolly, Joyce, Martin, H.C.; Sproul, Telow.

38 having voted in the affirmative and 107 in the negative, with 6 being absent, the motion did not prevail.

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

#### Non-Concurrent Matter

Bill "An Act to Amend the Laws Concerning Commercial Whitewater Rafting" (Emergency) (S. P. 873) (L. D. 2367) which was Passed to be Engrossed in the House on April 6, 1984.

Came from the Senate with that Body having Adhered to its former action whereby the Bill was Passed to be Engrossed as amended by Senate Amendment "A" (S-373) in non-concurrence.

The SPEAKER: The Chair recognizes the gentleman from Pittsfield, Mr. McGowan.

Mr. MCGOWAN: Mr. Speaker, Ladies and Gentlemen of the House: I move that the House recede and concur.

The SPEAKER: The gentleman from Pittsfield, Mr. McGowan, moves that the House recede and concur.

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

Mr. JACQUES: Mr. Speaker, Ladies and Gentlemen of the House: Just to let you know what is going on here, we have been playing ping pong with the other body for the last couple of days. When we established the Joint Select Committee on Whitewater Rafting, we overlooked the whole process of whitewater rafting legislation and part of that legislation dealt with the fact that if an established company were to eventually sell their company at a later time, would their allocation go along with that, that would be if a company had the maximum allocation, which would be 80 rafts on one river and 60 on the other, would that be able to be sold?

The Joint Select Committee left that to be that if somebody sold their company, the allocations would go with them. They did so because they felt if a company had built themselves up to the point of being a top-notch company with the top allocations, that would be a selling factor. What this Senate Amendment does is, it says that if a company selling their business cannot sell it to a business that is equally qualified to be in that business as the company that is selling it, then the allocations will not go with it. That means that one of your top companies—I will take one for an example which is not in whitewater that has a full allocation on both rivers—if they were not selling their company to somebody who is equal in the allocation system as they are, they could not sell them allocations to go with it. Their company would have to go back and start all over again.

I don't have a real big problem with that because some of the companies are a bunch of lying, cut throat snakes anyway, but what I do have a problem with is the good, legitimate companies that have worked hard to build the business up that are going to be circumvented from selling their company for what it is worth because of this amendment. I just hope that the good companies don't have to sell and the lousy ones try to and can't.

I just wanted you to know and I would like to have the record know what is happening. This is contrary to the Joint Select Committee's unanimous report, but I guess power is power.

Thereupon, the House voted to recede and concur.

#### Non-Concurrent Matter

Bill "An Act to Prevent Unjust Enrichment by Retention of Surplus upon Foreclosure of

Municipalities and Sewer Districts" (S. P. 597) (L. D. 1719) on which the Majority "Ought Not to Pass" Report of the Committee on Judiciary was Read and Accepted in the House on April 6, 1984.

Came from the Senate with that Body having Adhered to its former action whereby the Minority "Ought to Pass" in New Draft under New Title Bill "An Act to Provide Guidelines for Sale of Tax-acquired Property" (S. P. 905) (L. D. 2433) Report of the Committee on Judiciary Read and Accepted and the New Draft Passed to be Engrossed in non-concurrence.

On motion of Representative Soule of Westport, the House voted to adhere.

#### Non-Concurrent Matter

Joint Resolution Concerning the State Contracting for Medical Services in Competition with Private Enterprise (H. P. 1829) which was Read and Adopted in the House on April 6, 1984.

Came from the Senate Indefinitely Postponed in non-concurrence.

On motion of Representative Webster of Farmington, the House voted to adhere.

#### Non-Concurrent Matter Later Today Assigned

RESOLVE, to Reimburse David James McDaniel for Damages Suffered as a Result of Wrongful Imprisonment (H. P. 761) (L. D. 992) on which the Minority "Ought to Pass" Report of the Committee on Judiciary was Read and Accepted and the Bill Passed to be Engrossed as amended by House Amendment "A" (H-591) as amended by House Amendment "A" (H-664) thereto in the House on April 6, 1984.

Came from the Senate with the Majority "Ought Not to Pass" Report of the Committee on Judiciary was Read and Accepted in non-concurrence.

On motion of Representative Diamond of Bangor, tabled pending further consideration and later today assigned.

#### Non-Concurrent Matter

Bill "An Act to Amend the Statute Relating to the Sale and Free Distribution of Cigarettes to Children" (H. P. 1694) (L. D. 2249) on which the Majority "Ought to Pass" as amended Report of the Committee on Health and Institutional Services was Read and Accepted and the Bill Passed to be Engrossed as amended by Committee Amendment "A" (H-650) in the House on April 6, 1984.

Came from the Senate with the Minority "Ought Not to Pass" Report of the Committee on Health and Institutional Services Read and Accepted in non-concurrence.

Representative Nelson of Portland moved that the House recede and concur.

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

Mr. CARROLL: Mr. Speaker, Ladies and Gentlemen of the House: I would hope you would defeat the motion to recede and concur so that we could stand with the position we took in this House the other day.

We debated this bill hot and heavy with no if's, and's and but's left out in the debate. The folks at the correctional institutions, especially the Youth Center in South Portland, were in front of this committee and they guaranteed us all sorts of educational programs that they could do with these young men and women who are in their institutions.

None of us on the committee like the idea of smoking, we also don't like the idea of problems that could result from not smoking for these children in that institution. I would hope that you would stick with the position that we took before so that we could adhere to our past position.

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

Mrs. NELSON: Mr. Speaker, Men and Women of the House: I will not prolong the debate. We had a good strong vote here. I know what will

happen to this bill in the House, but I will go down fighting.

I will just remind you again that there is no bill of rights for those who break the law of an entitlement to get sick and to smoke and to die. You know, many of these young people who are in the correction institutions never had anybody who cared enough to say to them, stop what you are doing, I care about you, I don't want you to hurt yourself, I don't want you to smoke, I don't want you to die. And now these children, and they are children, are in the hands of the state and perhaps for the first time in their lives the state will have to say no because we care, no, you can't do that because it is wrong, and no, you can't do it because you are behind bars and no, you can't do it if you are out on the streets. You have got to have a law that is fair to those in jail as well as those out of jail.

If they can't smoke at 18 out on the streets when they are free, working hard at a job or whatever, then why should they be allowed to smoke inside a correctional institution when they have already broken the law? Let's care enough about these kids to say no.

I hope you will vote with me on the motion to recede and concur.

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

Mr. MCCOLLISTER: Mr. Speaker, Ladies and Gentlemen of the House: I have got to agree with Representative Nelson from Portland. Maybe if the children of this state realize that they are not going to be able to smoke when they get to jail, maybe they will want to stay out.

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

Mrs. MARTIN: Mr. Speaker, Ladies and Gentlemen of the House: I am just going to come right to the point. What you are trying to do with these children has made them go through cold turkey. I hope all of you know what that means. You are going to make them or you are going to break them, and that is just what is going to happen. It is bad enough that they have to be in those places without taking one little thing that they want. Please do it easily. I think this is all wrong. As much as I like Mrs. Nelson, this is all wrong, I think she has got the wrong idea.

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

Mr. JACKSON: Mr. Speaker, Ladies and Gentlemen of the House: It is not very often that I agree with the gentlelady from Portland, but on this issue I think she is right on.

Representative Nelson of Portland requested a roll call vote.

More than one fifth of the members present expressed a desire for a roll call, which was ordered.

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

Mr. MANNING: Mr. Speaker, Ladies and Gentlemen of the House: I don't want to debate this much longer, but I just want you to realize that I don't think there is one member of that committee or one member of that majority report that really like people smoking, but I think we are in a Catch-22 situation. We have debated this, we told you the reasons last week, and I just hope that you would go along with us again today because I think both the sheriffs of the State of Maine and the people at the correctional center do a tremendous job trying to turn these young children around, and they are the ones that we really feel need that help.

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

Mr. BRODEUR: Mr. Speaker and Members of the House: The problem we have here is that we haven't been able to confront these youths for their addiction, and the people who happen to be working in the correctional center, most of them have admitted, or at least this has been offered to the committee in testimony, that most of the people there also have a problem with drug of nicotine. I asked the question, what about a youth that is addicted to alcohol or cocaine or

some other drug and I asked them how they handled that and they said "we did it cold turkey and they can do it." I don't see any reason why we can't do it to this.

There is no evidence to show, as far as I am concerned, that offering a cigarette to somebody who is in counseling is beneficial to that person. If you are in counseling, if a person is too tense or too nervous to deal with the issue, you don't give the person a crutch, you deal with the issue that is causing the problem, and that is the problem of the addiction to the drug.

If we don't deal with addiction to one drug, we are avoiding the problem of addiction to all drugs because there is some sort of commonality in those addictions. I think that ought to be one thing that we deal with when we are doing the treatment, not avoiding their problem.

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

Mr. MCHENRY: Mr. Speaker, Ladies and Gentlemen of the House: I believe that if we are going to allow the children to go into these reformatories and jails to smoke, like the former speaker said, if they have a drug problem, are we going to supply them with drugs the next time around? If they have a drinking problem, are we going to supply them with some drinks because they do have a problem? Are we saying this is cruel? I don't believe so.

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

Mr. DILLENBACK: Mr. Speaker, Ladies and Gentlemen of the House: I am not going to take any time, but you are trying to tell me that a 17 year old that has been put in jail for rape, for murder, you are going to deny that gentleman a cigarette.

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

Mrs. NELSON: Mr. Speaker, Men and Women of the House: I guess the answer to that question is yes, and the concern, and I think it is an important concern that Representative Martin had from Brunswick regarding quitting cold turkey, there is no emergency on this bill, there is 90 days for the people there to know, for the young people there to know. And for those people who are on the streets and who might think again, as Mr. McCollister has mentioned, maybe if they know they have to go there and won't be able to smoke, maybe that is a deterrent.

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

Mr. JACKSON: Mr. Speaker, Ladies and Gentlemen of the House: It seems to me we had a bill here last year which prohibited establishments throughout the state to furnish cigarettes to minors, and that is anyone under 18 years old, without a fine. Here we are debating a bill today, this afternoon, that says it is all right for the State of Maine or the County of Oxford or the County of Cumberland or the county of anywhere, wherever these penal institutions are, to go ahead and provide cigarettes to minors. Where is the continuity in the law that we passed last year?

I further ask, and I hope somebody will be able to answer the question, how much additional money is this going to cost taxpayers of the State of Maine to provide cigarettes to somebody who is smoking in these institutions?

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

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

Mrs. NELSON: Mr. Speaker, Men and Women of the House: To answer the question that was asked, approximately three and a half packs of cigarettes a week is the maximum amount that a young person can smoke in the Youth Center. It turns out that some of them, if they are, indeed, wards of the state, receive money from the state, canteen money, in which they can purchase those three and a half packs of cigarettes a week. We figured it out, and Representative Brodeur who sits next to me and has a mind like a com-

puter figured out that it costs about \$31,000 a year for the Department of Human Services to pay for the purchase of these cigarettes.

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

Mr. MANNING: Mr. Speaker, Ladies and Gentlemen of the House: I am glad we are getting back to the cost of this because that is exaggeration, folks. Representative Brodeur added it up and he took 245 people and he multiplied it times \$15. I told you last week that the \$15 comes from those people who are on AFDC. If they are on AFDC and they ended up in the Maine Youth Center, the money is subtracted from the allotment of the AFDC and it is given to the Department of Corrections in their special account down there for each person.

The \$15 goes for many other things besides cigarettes. One, they will not allow them to buy shampoo because if they bring in shampoo they might bring in contraband. Two, they will allow them to have their own toothpaste if they want a different kind and they have to buy it.

On cigarettes, \$15 a month, if I am not mistaken and I am not a smoker, I don't think you are going to buy too many packs of cigarettes if you have to buy other things such as candy bars, other things that these children, and don't forget they are children, some of these are children, are going to be using.

Representative Nelson also brought up the point about it is a 90 day warning. Well, ladies and gentlemen, that is true, but if they are in the Maine Youth Center, I don't think they are going to be thinking about this bill; 90 days isn't going to help them.

In committee, we talked about a sunset, sun-setting this out. Well, every six and a half months—not every six and a half months—but the average resident stands to stay there about six and a half months.

Kids who are out on the street and are one day going to end up in the Maine Youth Center aren't going to say, oh my gosh, I have got to quit cold turkey because I am going to end up at the Maine Youth Center. Do you really think that is going to happen? I don't.

I think, as most of my committee has stated before, we don't agree with smoking. Most of you remember last year, it was my amendment that said there shall be a place in any restaurant for nonsmoking, so we don't agree with it; however, I don't want to pick up the Portland Press Herald some day and find out that the previous night they had a fire over at the Maine Youth Center and maybe a child died or maybe an employee died because one of the kids snuck a cigarette when we banned cigarettes completely at the Maine Youth Center. You can't ban them completely because I don't think collective bargaining is going to go along with it. Therefore, the employees are going to be smoking and they are going to get those little butts and they are going to end up smoking them and they are going to end up burning something down, and that is what we are worried about. We are worried about escapes. Do you want the staff over there to be chasing these kids all over Representative Macomber's district? I don't think so.

In the past, they have broken into the area stores and there are about five or six area stores within about a half a mile of the Maine Youth Center. Granted, it is a Catch 22, but I really think the majority has looked at it and really feel that the department needs this, and I would appreciate it if you would go along with this.

The SPEAKER: The Chair recognizes the gentleman from Washburn, Mr. Crouse.

Mr. CROUSE: Mr. Speaker, Ladies and Gentlemen of the House: I would just like to relate to you my own experience. I used to work as a rehabilitation counselor in a county jail. One of the things that I experienced while I worked there as a counselor is when a juvenile first came into the institution, they had the highest anxiety level that you can imagine. They were on the edge, a lot of times, of really having an emotional breakdown. When they first entered the institu-

tion, were locked up for the first time, they had a situation they really couldn't handle.

In prison, in a county jail, for juveniles particularly, where they are not treated in the best ways such as at the Youth Center where they are equipped and they are trained to handle juveniles, the county jail is a little bit different for juveniles entering and cigarettes are used as a management tool. It is used in a situation where the juvenile is unmanageable at times, they have high anxiety, they are very difficult to deal with, and it just creates another conflict in the institution, it makes it very, very difficult for a county sheriff or a turnkey that is sometimes not used to dealing with juveniles when they are entering a county jail, so that is what we have to look at.

As far as whether it is a management tool or whether it is going to create a situation that is more manageable for an institution as opposed to the other side of it, I think that is the key issue. I hope that you look at that issue alone and look at it from a corrections point of view.

The SPEAKER: The Chair recognizes the gentleman from Kennebunkport, Mr. Seavey.

Mr. SEAVEY: Mr. Speaker, Ladies and Gentlemen of the House: I think it is important to understand also that it would take more than this legislature to give these kids permission to smoke. You are going to need the written permission of their parents also to allow them to smoke. I don't believe that this legislature should play mother and father, so I hope you defeat the pending motion.

The SPEAKER: The Chair recognizes the gentleman from Rockland, Mrs. Melendy.

Mrs. MELENDY: Mr. Speaker, Ladies and Gentlemen of the House: You have heard the saying—I'd do anything for a cigarette. That, my friends, is what I am afraid of. The older inmates will have access to cigarettes, those over 18 years of age, and what I fear is that they will trade cigarettes for sexual or other favors.

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

#### ROLL CALL NO. 455

YEA—Allen, Baker, Bonney, Bott, Brodeur, Callahan, Carroll, G.A.; Cooper, Cote, Cox, Crowley, Davis, Dexter, Diamond, Dillenback, Drinkwater, Dudley, Greenlaw, Handy, Hayden, Hickey, Higgins, L.M.; Jackson, Jacques, Joseph, Ketover, Kiesman, Lehoux, MacEachern, Mahany, Masterman, Masterton, Matthews, Z.E.; Mayo, McCollister, McHenry, Mills, Mitchell, E.H.; Mitchell, J.; Nelson, Paradis, P.E.; Parent, Pouliot, Randall, Reeves, P.; Rolde, Rotondi, Steven, Stevenson, Stover, Strout, Swazey, Tammaro, TAompson, Tuttle, Vose, Weymouth.

NAY—Ainsworth, Anderson, Armstrong, Beaulieu, Bell, Benoit, Bost, Brannigan, Brown, A.K.; Brown, D.N.; Cahill, Carroll, D.P.; Cashman, Chonko, Clark, Conary, Connors, Crouse, Curtis, Daggett, Day, Erwin, Foster, Gauvreau, Gwadosky, Hall, Higgins, H.C.; Hobbins, Holloway, Ingraham, Jalbert, Kane, Kelleher, Kelly, Kilcoyne, LaPlante, Lebowitz, Lisnik, Livesay, Locke, MacBride, Macomber, Manning, Martin, A.C.; Matthews, K.L.; Maybury, McGowan, McPherson, McSweeney, Melendy, Michael, Michaud, Moholland, Murphy, E.M.; Murphy, T.W.; Murray, Nadeau, Norton, Paradis, E.J.; Paul, Perkins, Perry, Pines, Racine, Reeves, J.W.; Richard, Ridley, Roberts, Robinson, Roderick, Salsbury, Scarpino, Seavey, Sherburne, Small, Smith, C.B.; Smith, C.W.; Soucy, Soule, Sproul, Theriault, Walker, Webster, Wentworth, Willey, Zirkilton.

ABSENT—Andrews, Carrier, Carter, Connolly, Joyce, Martin, H.C.; Telow, The Speaker.

57 having voted in the affirmative and 86 in the negative, with 8 being absent, the motion did not prevail.

Thereupon, the House voted to adhere.

The following Communication:  
STATE OF MAINE

Executive Department  
Division of Community Services  
State House Station 73  
Augusta, Maine 04333

April 5, 1984

The Honorable John L. Martin  
Speaker of the House  
State House Station 2  
Augusta, ME 04333

Dear John:

Enclosed please find the Maine Community Action Annual Report for the period, October 1, 1982 to September 30, 1983.

I'm sure you will find the information to be of assistance to you. If you have questions or would like additional copies, please feel free to contact me.

Sincerely,  
S/Nancy A. Boothby  
Director

Was read and with accompanying report ordered placed on file.

#### Petitions, Bills and Resolves Requiring Reference

Bill "An Act to Provide for Conformity with the United States Internal Revenue Code" (H. P. 1853) (Presented by Representative Higgins of Portland) (Cosponsors: Representatives Mitchell of Vassalboro, Higgins of Scarborough and Senator Wood of York) (Approved for introduction by a Majority of the Legislative Council pursuant to Joint Rule 27)

Committee on Taxation was suggested.

Under suspension of the rules and without reference to a Committee, the bill was read twice.

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

Mr. KELLEHER: Mr. Speaker, I would like to pose a question through the Chair to the Taxation Committee. Does this bring full conformity to the tax code in regards to what the federal government did a year ago?

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

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

Mr. HIGGINS: Mr. Speaker, Men and Women of the House: This bill provides that the date of reference to the United States Internal Revenue Code would be changed to January 31, 1983.

Thereupon, the Bill was passed to be engrossed and sent up for concurrence.

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

#### Second Reader

##### Later Today Assigned

Bill "An Act to Limit the Authority of the Public Utilities Commission to Award Compensation to Intervenor" (S. P. 763) (L. D. 2071) (C. "A" S-370)

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

On motion of Representative Vose of Eastport, tabled pending passage to be engrossed in concurrence and later today assigned.

The following papers were taken up out of order by unanimous consent:

#### House Reports of Committees Divided Report

Majority Report of the Committee on Business Legislation on Bill "An Act to Require Maintenance of Financial Responsibility by All Motorists" (H. P. 1575) (L. D. 2085) reporting "Ought to Pass" in New Draft (H. P. 1843) (L. D. 2447)

Signed:

Senators:

CLARK of Cumberland  
CHARETTE of Androscoggin

Representatives:

MURRAY of Bangor  
PERKINS of Brooksville  
BRANNIGAN of Portland



MacBRIDE of Presque Isle  
MARTIN of Van Buren  
RACINE of Biddeford  
STEVENS of Bangor  
CONARY of Oakland  
POULIOT of Lewiston  
TELOW of Lewiston

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

Signed:

Senator:

SEWALL of Lincoln

Reports were read.

On motion of Mr. Brannigan of Portland, the Majority "Ought to Pass" Report was accepted and the New Draft read once.

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

By unanimous consent, ordered sent forthwith to the Senate.

### Divided Report

Seven Members of the Committee on Election Laws on Bill "An Act to Place Limitations on the Contributions which Candidates may Receive from Political Action Committees" (H. P. 1785) (L. D. 2351) report in Report "A" that the same "Ought Not to Pass"

Signed:

Senators:

PEARSON of Penobscot

USHER of Cumberland

REDMOND of Somerset

Representatives:

CAHILL of Woolwich

SHERBURNE of Dexter

ROBERTS of Buxton

WENTWORTH of Wells

Three members of the same Committee on same Bill Report in Report "B" that the same "Ought to Pass" in New Draft under New Title RESOLVE, Creating a Special Commission on Campaign Finance Reform (H. P. 1850) (L. D. 2448).

Signed:

Representatives:

NADEAU of Lewiston

PARADIS of Augusta

MICHAUD of East Millinocket

Three members of the same Committee on same Bill report in Report "C" that the same "Ought to Pass".

Signed:

Representatives:

MARTIN of Brunswick

HANDY of Lewiston

STEVENSON of Unity

Reports were read.

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

Mr. NADEAU: Mr. Speaker, I move acceptance of Report C.

The SPEAKER: The gentleman from Lewiston, Mr. Nadeau, moves the acceptance of Report C.

The gentleman may proceed.

Mr. NADEAU: Mr. Speaker, Ladies and Gentlemen of the House: If you have noticed the committee report, you might think that was an odd motion coming from me being on Report B. However, I would like to explain it to you how this got in this posture and then I think you will understand why. Essentially, it is going to be, I hope, move acceptance of Report C and hope you vote against me, that sort of situation.

There was a bill to limit the amount of money candidates could receive from political action committees. As you know, it was an issue of whether this bill ought to be referred to committee after it came out of a study group last year. The committee had the hearing this last week and three reports have come as a result. Option one, "Ought Not to Pass," meaning do nothing on the bill or on this second proposal; the other report obviously is to pass the bill in its present form, which I obviously am against. The third option is to form a special commission on campaign finance law which would, in my belief,

take a longer and more comprehensive look at the entire PAC issue.

I voted against reference to committee of this bill primarily because the bill itself, I thought, was not effective and would not accomplish the objectives that the proponents have intended. I think it is treating in a minor way the symptom of what could potentially be a bigger problem.

The other issue I found I wanted to make very clear to the people of Maine was that this was in no way an admission that there is a problem presently existing in this body or in the other body. As a matter of fact, PAC contributions in terms of state legislative races are extremely minor and make up overall something like two percent of the total money contributed to legislative candidates.

It is my view that the problem is certainly prevalent at the federal level and that Political Action Committees have infiltrated our federal elections beyond belief and that is, indeed, a serious consideration.

As a matter of fact, I serve on a task force set up by Senator Mitchell to deal with the problem of campaign finance law and there is now legislation pending in Congress sponsored by Senator Mitchell to create public financing of the U.S. Senate elections as a result. So, it is clearly a problem. In terms of Maine I think what our obligation and our responsibility is to take the long view to envision down the road there could be potentially a problem and there has got to be a better way to finance elections in this state, and that is my position.

The bill, I don't believe, addresses the problem in any way, shape or form. If you believe that PAC's have a potential influence on legislative candidates, then ten PAC's contributing to a candidate, taking that situation and lowering that to only four PAC's contributing to a candidate doesn't solve the problem, it just reduces the influence, I suppose. I think it is well intended but ineffective.

My proposal, Report B, is to create a study commission that will take a long, hard look at this issue and report back to the next regular session of the legislature. The study that we did last year was basically made up of the Election Laws Committee. This commission would include legislators, members of the public and administrators of election law, so I think between all of those individuals, they can take a broader view of the issue and, after all, the bottom line issue is we the legislators, we are the focus of this attempt, so I don't think the entire study ought to be made up of just legislators.

What my hope is today, ladies and gentlemen of the House, is that you will vote against acceptance of Report C and then we can move on to Report B, which is the setting up of this special commission and should those two options not tickle your fancy, then, of course, there is always the option of "ought not to pass," which I hope you don't do because I think it certainly is a big enough issue not only nationally but something that merits some looking into here in Maine.

I would encourage you to vote against Report C and then I intend to get up and move acceptance of Report B to set up the special commission on campaign finance reform.

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

Mr. HANDY: Mr. Speaker, Men and Women of the House: As you may know, I chaired the Subcommittee on Campaign Finance Reform under the Committee on Election Laws. I made it my business to know all about PAC's both from receiving money from PAC's and knowing the potential that PAC money carries.

As Representative Nadeau said, and I agree with him, there is no problem currently in this state with PAC; however, what this report seeks to do is to eliminate the possibility of that happening or at least reduce the possibility of that happening here in the State of Maine.

The bill you have before you under Report C does the following: It sets a \$45,000 PAC limit that any candidate for Governor may receive

from one or more PAC's. For example, if the gubernatorial candidate wanted to receive \$45,000 from one PAC, he or she may do so. If she or he wanted to receive \$5,000 from nine different PAC's, he or she may do so, but the aggregate limit is \$45,000 for Governor.

For State Senate, it is \$1,000 from one or more PAC's; for the State House it is \$500 for one or more PAC's; for the various county offices \$250 for one or more PAC's.

Let me emphasize that we do not see a problem with PAC's in the State of Maine; however, the potential is there. It is clearly exemplified on Capital Hill in Washington, D.C., the various interest groups exerting their influence and essentially buying votes and I do not want to see that happen here in the State of Maine. It is of paramount importance that our political process, which is a public process, remain that way and that the public hold on to that process and have the clearest, most vocal voice in our public political process and not some special interest group.

The provision of this bill would not take effect in the next election. It would take effect in the 1986 election so those of us here can take that PAC money for one more campaign and then we would place the limitations imposed by this bill.

There is an inflation factor built into this bill that would be adjusted by the Consumer Price Index so that these ceilings would be adjusted every election cycle.

I think today, ladies and gentlemen, we have a unique opportunity, unique inasmuch as Maine goes to strike a blow for the individual in our electoral process. I would urge you today to accept the motion of my good colleague from Lewiston to accept Report C and we could be proud that we have done something.

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

Mr. KELLEHER: Mr. Speaker, Ladies and Gentlemen of the House: I believe the best conscience that we have as legislators is, in fact, the very citizens we address ourselves to in each General Election. Maine has a wonderful reputation for being a clean legislature. In fact, I ran into a fellow today who is from a bonding house in the City of New York and he was just amazed at the caliber and the quality of the men and women who serve here, not that we are unique except we are unique in terms of representing people and we keep ourselves honest and I am sure that the voters keep us honest by our appearance before them in our primaries and our General Elections.

I have a great deal of respect for this body and the men and women who serve in it as well as those who have served here in the past and I am sure that the next legislature will represent collectively the conscience of the people of this state. I don't believe that we have to pass this type of legislation to prove a point that (1) we are here to serve the people; (2) we listen to the people and (3) we respond to their needs.

I move that this bill, its reports and all its accompanying papers be indefinitely postponed.

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

Mrs. CAHILL: Mr. Speaker, Ladies and Gentlemen of the House: I would concur with the good gentleman from Bangor, Mr. Kelleher. After giving the PAC question a long hard look, I feel this legislation attempts to solve a problem that just doesn't exist here in Maine. Throughout the study the Election Laws conducted and during the various hearings pertaining to this bill, no one provided evidence to even suggest that PAC contributions caused undue influence on a candidate's position on a particular subject. It was suggested to the contrary, I might add, that PAC contributions were the result of a candidate's position rather than the cause.

Mr. Handy suggests that by limiting the PAC contributions, we are increasing individual involvement and interest in the political process, and his argument suggests that a \$500 contribution by one individual is more acceptable than a \$500 contribution from a PAC. I disagree with

with this argument and would further suggest that a PAC, a political action committee, are vehicles used to increase political involvement. I believe that this legislation is discriminatory towards candidates of less affluent means, but most importantly I believe this legislation sends an incorrect message to the people of the State of Maine. It suggests that our legislative candidates are being unduly influenced by special interest money.

If you will recall the various races that you have been involved with, I think you will probably agree with me that PAC money in any great sum is just not very prevalent in Maine. Campaign costs have increased in the State of Maine over the last ten years, as has everything. Our study found that the average cost of a campaign for a House seat was \$3,500 while a campaign for a seat in the other body, the average cost was \$7,000. But in comparison to the rest of the nation, this is indeed a very, very modest sum.

We have public disclosure of campaign funds and the right of each and every one of us to say no to PAC money if we feel it is necessary and the vote of the electorate are the current restrictions that we have and I feel that they are quite effective and would encourage you to vote for the pending motion, indefinite postponement, and I would request the yeas and nays, Mr. Speaker.

The SPEAKER: The gentlewoman from Woolwich, Mrs. Cahill, requests a roll call.

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

Mr. MICHAEL: Mr. Speaker, Ladies and Gentlemen of the House: I certainly hope that you vote against the motion to indefinitely postpone for many of the reasons that the opponents of this bill have raised. I certainly agree with the gentlelady and also the gentleman from Bangor when he praises the quality of the Maine Legislature and that is one of the reasons why I am in support of this legislation.

This is a preventive piece of legislation, because I would agree that the abuses, if they have occurred and they probably have occurred to some degree but I think to a very small degree so far, nonetheless, this bill is designed to keep the Maine system clean.

PAC money, if I may quote a couple of people that we all know, as Democratic Senator William Proxmire says "PAC money is not free, it has strings attached. Campaign contributions help open doors to advance special interest rather than the public interest." Republican Congressman Barber Conable says he is scared that PAC's not only buy incumbents but affect legislation. It is the same crummy business as judges putting the arm on lawyers who appear before them to finance their next campaign.

During the Watergate era, there were campaign reform measures passed as a response to the garbage that appeared during that era. Unfortunately, PAC's actually emerged out of those reforms, ironically, and although corporate officials were able to distribute the money to the candidates they chose. So PAC's represent an effort to circumvent those Watergate era reforms and so it is a loophole in that good legislation that passed then. That is why PAC's exist.

I say that we don't need the PAC money, that it is junk, that we should do what we can now to limit the impact that the PAC's have on the State of Maine and not wait around until it gets so bad that we are compelled to do that because the public demands it, because they will throw us out if we don't do it. I don't think we should wait until then. I think we have the foresight to handle this PAC situation now. It is obviously on the rampage. Nationally the PAC money increases at the rate of 30 to 40 percent a year. It is the new big game, the way to influence politics. We don't need it, we can get the money from our friends or we can accept the limits that are suggested in this bill. Five hundred bucks is plenty of money to accept from the PAC's, accept from whatever ones you like, if you want to take from the good ones and forget the rest. This

would be a great contribution to the state and I hope that you do vote against the motion to indefinitely postpone so that we may accept Report C, as the gentleman from Lewiston moved.

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

Mr. NADEAU: Mr. Speaker, Ladies and Gentlemen of the House: Just to make it perfectly clear what my position is, I have moved acceptance of Report C; however, I do not feel this particular bill addresses the problem that it is attempting to correct.

I would urge you to vote against, I think this is proper, the indefinite postponement motion only so that I may move to accept Report B to set up a study commission on campaign finance reform which I think will do a couple of things.

Number one, there is obvious concern in this body that this issue ought to be looked at because it was referred to committee a couple of weeks ago on a roll call vote, so I felt an obligation of myself and of the committee that we take a serious look at this issue.

I don't think the bill is effective and therefore I think we ought to look for a better method of addressing the entire problem. So if you would, I would encourage you to vote against the motion to indefinitely postpone and then hopefully we could move on to Report B and set up the commission and look at the issue one way or the other. The commission may come back next January and suggest nothing. They may suggest that nothing ought to be done, that things are going fine just the way they are; however, they may come back and say, this is an issue that we really ought to take a look at because political action committees were originally created with good intentions but have certainly gotten out of hand at the federal level.

But as has been mentioned here, I don't think there is anybody in this body or the other body that can be bought. That is not the issue, that is not what we are trying to say. The issue is public perception, how the public perceives influence of this special interest money and you know as well as I do that there political action committees that you like and political action committees that I like. I suspect there may be some that I would consider more public interest than special interest but the fact is, they are of all under the same umbrella, they are all labeled political action committees and I think the public is beginning to be concerned about this method of financing elections.

I think it certainly is important enough for us to take a few months to have this commission which is going to cost virtually nothing, take a look at the issue and report back to us in January and let us know what they think, that is all that I am asking you to do. I would encourage you to vote against the motion so that we can defeat Report C and move on to Report B, and I certainly hope I have clarified that scenario properly.

A roll call has been requested.

More than one fifth of the members present expressed a desire for a roll call, which was ordered.

The SPEAKER: The pending question before the House is the motion of the gentleman from Bangor, Mr. Kelleher, that this bill and all its accompanying papers be indefinitely postponed. Those in favor will vote yes; those opposed will vote no.

#### ROLL CALL NO. 456

YEA—Allen, Anderson, Armstrong, Bell, Bonney, Bott, Brown, D.N.; Cahill, Callahan, Clark, Conary, Connors, Curtis, Daggett, Davis, Day, Dillenback, Drinkwater, Dudley, Erwin, Foster, Greenlaw, Handy, Hickey, Holloway, Ingraham, Jackson, Joseph, Joyce, Kelleher, Kelly, Kiesman, Kilcoyne, Lebowitz, Lisnik, Livesay, MacBride, MacEachern, Macomber, Masterman, Masterton, Matthews, K.L.; Maybury, McCollister, McGowan, McPherson, McSweeney, Moholland, Murphy, E.M.; Murphy, T.W.; Murray, Norton, Paradis, E.J.; Paradis, P.E.; Parent, Paul, Perkins, Pines, Racine, Randall, Reeves, J.W.; Roberts, Robinson, Roderick, Rotondi, Seavey, Sherburne, Small,

Smith, C.B.; Smith, C.W.; Sproul, Stover, Strout, Swazey, Tammaro, Theriault, Vose, Walker, Wentworth, Weymouth, Willey, Zirnklinton.

NAY—Ainsworth, Andrews, Baker, Beaulieu, Benoit, Bost, Brannigan, Brodeur, Brown, A.K.; Carroll, D.P.; Carroll, G.A.; Carter, Cashman, Chonko, Cooper, Cote, Cox, Crouse, Crowley, Diamond, Gauvreau, Gwadosky, Higgins, H.C.; Hobbins, Ketover, LaPlante, Lehoux, Locke, Mahany, Manning, Matthews, Z.E.; Mayo, McHenry, Melendy, Michael, Michaud, Mills, Mitchell, E.H.; Mitchell, J.; Nadeau, Nelson, Perry, Pouliot, Reeves, P.; Ridley, Rolde, Scarpino, Soucy, Stevens, Stevenson, Thompson, Tuttle, Webster, The Speaker.

ABSENT—Carrier, Connolly, Dexter, Hall, Hayden, Higgins, L.M.; Jacques, Jalbert, Kane, Martin, A.C.; Martin, H.C.; Richard, Salisbury, Soule, Telow.

82 having voted in the affirmative and 54 in the negative, with 15 being absent, the motion did prevail.

The following paper was taken up out of order by unanimous consent:

#### Second Readers Later Today Assigned

Bill "An Act Relative to Group Legal Insurance" (S. P. 906) (L. D. 2437)

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

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

The Chair laid before the House the following matter:

RESOLVE, for Laying of the County Taxes and Authorizing Expenditures of Kennebec County for the Year 1984 (H. P. 1821) (L. D. 2413) which was tabled earlier and later today assigned pending final passage.

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

Mr. PARADIS: Mr. Speaker, Ladies and Gentlemen of the House: Just very briefly before we do enact the Kennebec County Budget, as Chairman of the Delegation I have taken an interest in this budget in the last two years and cooperated with the county commissioners in finding out how our county appropriations are expended.

Last year in Kennebec County and perhaps in some other counties, there were some rather severe overdrafts. In our county alone, over \$49,000 of overdrafts out of a possible \$50,000 contingency fund were taken away. I know that you share with me the same frustration as even some of the commissioners feel in working with their bureau directors, bureau heads, in trying to keep expenditures in line with what we as the legislature enacted into law.

I requested from the Attorney General an opinion as to who would be responsible for overdrafts and he stated to me verbally that we already had sufficient statutes and there was very little that we could do as a legislature to force the bureau heads to live within their budgets. In Maine, we do not have a recall provision, we can only impeach someone, and that is a rather drastic step.

Out of a possible \$50,000 contingency fund, over \$49,000 was spent and I was interested to know how some of that \$49,000 was spent. In most of the budgets, the jail and the sheriff's department amounts to over 50 percent of the expenditures. I looked into those two accounts because I wanted to know why some of the overdrafts were so severe.

The phone bill for the Kennebec County Jail last year was over \$10,000, approximately \$10,552. Out of that, \$6,000 was an overdraft. It was beyond my imagination how such a large expenditure could be made on phones.

I rang some of the phone numbers at random through New England Telephone and I was embarrassed to find out that two of the numbers had very little to do with official business. There was one number, area code 914-976-2626, it was



called ten times during the month of April of last year and it was to the Pornography Hotline in Mount Vernon, New York. For the life of me, I cannot understand what that has to do with official business. I beg your indulgence, men and women of the House. That perhaps makes light of some of the management that is being done in how these overcharges are being corrected or what type of discipline is maintained to try to keep county expenditures low.

The jail is billed for the phone number 623-3591, but if you take out the Augusta-Gardiner area phone book, you will find that that is the Sheriff Department's number. His phone budget was about \$5,000 and I would have thought actually would have been reversed, that the \$10,552 jail bill would have been in the sheriff's department and vice versa of such a large expenditure.

New England Telephone told me one other thing, or a few other things, I might add, that all of the credit cards that are given out to the deputies are all charged to the jail, none of them are charged to the sheriff's department, and I can tell you that that amounts to two or three hundred dollars per month. Sometimes the jail gets a bad name and it doesn't deserve to.

I asked the sheriff at our budget hearings whether or not there was a Wats line in the jail to try to cut down on that \$10,000 phone bill, and he answered there was none. New England Telephone told me there was a Wats line, it was an incoming Wats line and when I looked in the phone book again, I found that that was the Wats line that the area communities like Pittston, Randolph and Windsor call in for protection, for police protection, it has nothing to do with the jail. They pay the sheriff's department for this. He calls it an income and he debits the jail account for it. He robs Peter to pay Paul.

I looked at the sheriff's appropriation, his was over also, and I saw one of the numbers on there that had been called a few times and that was Area Code 617-674-5906. That only amounted to about \$25, a little less than \$25. I found no reimbursement for it but that is his home phone, listed in his name in Fall River, Massachusetts. I have a list here of about a dozen other calls to other Fall River number exchanges and I have no idea if that has anything to do with police protection in Kennebec County.

The only reason that I am concerned about this is that we are asked over and over again in our county budget hearings to give more funding. We must always increase every two years, or every year for that matter, our county budgets and it is the least important item to any of us when we are debating millions and millions of dollars here every day especially in the last few days of this session. I think they have to have a lot more discipline.

Another item that accounted for one of the overdrafts that we questioned was in the radio account. They spent \$2,329 for radar guns, speed guns, as an overdraft. I can't understand how these items are emergency items. When we fund certain things, we put \$50,000 in there for emergency appropriations; yet, when I talk to the county commissioners they tell me there is very little that we can do, we just pay the bills.

I have here an opinion from the Attorney General's Office that is dated February 4, 1980 and it is signed by Attorney General Richard Cohen and it says: "Once the legislature has approved the county budget, it then becomes the responsibility of the county commissioners to control county expenditures. As we stated in a previous opinion, 'the county commissioners have exclusive jurisdiction with regard to other county offices in matters of county property and fiscal management; therefore, it is the commissioners who must bear the responsibilities of keeping expenditures within the budget.'" You can't pass the buck any further than that.

We can't be county commissioners and state legislators, we can only do one thing and I think it is really their responsibility to start looking into some of these matters. I don't think they are partisan matters, I don't think fiscal manage-

ment, good, sound management, is a partisan issue, not here today, not ever. All of us are responsible to the voters and we all take that very, very seriously and we want to give good government. I don't think any of us want to get into a partisan dispute about that.

So I urge you today to enact this budget, this new budget for fiscal 1984. We recognize that there have been some things that were done, perhaps not intentionally but certainly carelessly, and I felt responsible to bring that to your attention. I only rang six numbers, a couple of them were official, a couple of them were questionable but two of them certainly were of a personal nature, it had nothing to do with official operation of county government.

I am going to vote to enact the budget. There is a lot of good in this budget that we have all worked hard on but I hope that we continue to raise some of these questions and that all of the commissioners of all the 16 counties look into their budgets a lot more closely in the future.

The SPEAKER: The Chair recognizes the gentleman from West Gardiner, Mr. Weymouth.

Mr. WEYMOUTH: Mr. Speaker and Members of the House: I would like to bring it to Representative Paradis' attention that one dispatcher was fired for private use of the jail lines. There has been an attempt to control the phones.

I would also like to bring to his attention and to the legislature's attention that the jail was built to hold 35 inmates; the jail often has double that number. Often there are people sleeping in the corridors. I was there several times; everytime I have been there, every evening, there has been people sleeping in the corridors.

The sheriff used to board inmates from other counties. Now we cannot do this any longer, so of course there is going to be an overdraft, we have no money coming in. If the sheriff had boarded out all these people, over 35 inmates, the overdraft would have amounted to several hundred thousand dollars.

I would also like to bring to your attention that we have given more and more new laws, we have made it more difficult for the sheriff. I think he has done a reasonable job. I would also bring to the Kennebec delegation that we used a hatchet on his budget this year. We cut out \$50,000 from his capital fund. We cut out \$20,000 from his personal fund for personnel. We cut out \$5,000 for a walk-in cooler to help bring down the cost of food. We cut out \$91,000 total. These major cuts guarantee an overdraft in 1984. Representative Paradis knows this and he will be back here next year criticizing, I am sure.

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

Mr. PARADIS: Mr. Speaker, Ladies and Gentlemen of the House: I just wanted to answer briefly the remarks of my friend from West Gardiner, Mr. Weymouth, because I think they need a bit of clarification.

When the county delegation voted 15 to 5 to endorse these cuts that he just mentioned, we were not intending to have any overdrafts and I do not believe that this will result in any overdraft. The \$50,000 jail reserve account which we voted in last year—by the way, Kennebec County was the only jail that did not have a reserve account—as of last year we put \$50,000 in and we had \$50,000 in for this year. We thought that was one area that perhaps we would cut because the small towns were crying foul that their taxes were being raised. That won't do anything, there shouldn't be any overdraft because we cut a reserve account.

Now we cut \$5,000 for the freezer because the sheriff said to the county commissioners that this would help reduce the cost of food. Well, we increased his food budget anyway by \$6,000. That wasn't going to mean an immediate savings, that was a savings projected perhaps in fiscal 1985.

We cut \$20,000 from personnel costs in the jail and let me tell you the reason we did that. You heard earlier that perhaps 60 or 70 inmates were housed at the Kennebec County Jail about

every month. Well, that isn't so. The average for 1983 was 54 inmates and out of that, four of them were at the halfway house. I will give them to you for every month. In March of 1983, it was high, it was 80; out of that, four of them stayed at the halfway house. In April of 1983, it was 73, three of them stayed at the halfway house. In May, there was 70, seven of them stayed at the halfway house. In June it was 52, four of them at the halfway house. In July it was 54, five at the halfway house. In August, 43, one at the halfway house. In September it was 51, one at the halfway house. In October it was 49, none at the halfway house. In November it was 50, four at the halfway house. In December it was 46, three at the halfway house. In January of this year it was 58, seven at the Halfway House; in other words, there were 51 in the jail. In February it was 60 with seven at the halfway house, and in March it was 50 with eight at the halfway house. Now that is hardly 80 inmates. That population has gone down the last year, not gone up.

We don't reward a population that has gone down with giving more funds for personnel. They have already gone up \$20,000. His budget was increased by \$20,000 over what it was in fiscal 1983. We weren't cutting the budget. He wanted \$40,000 extra, we gave him \$20,000 which is what the commissioners recommended. We didn't cut anything from what the commissioners recommended.

Like I said, I don't think that is a partisan issue to cut some of these things. We cut \$104,000 out. I think that everybody was disappointed but we all had to cut something that we liked in order to get the budget reduced by a sizable figure, something that really meant something.

The SPEAKER: The Chair would ask the sergeant-at-Arms to escort the gentleman from Fairfield, Mr. Gwadosky, to the rostrum to act as Speaker pro tem.

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

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

Mr. CARTER: Mr. Speaker, Ladies and Gentlemen of the House: I am not going to belabor the issue, I just merely want to congratulate Representative Paradis from Augusta for being thorough as chairman of the delegation in trying to see to it that accountability be stressed in the county budget. I guess he has found, much to his surprise, what I have known for several years and have been trying to correct to no avail. But let me remind you that Kennebec County is not unique, you can pick up a newspaper and you can see where you have the same types of problems occurring in Cumberland, Androscoggin, Penobscot, York and I guess it is statewide.

There really is a simple solution to all of these problems. I have had advocated it for several years and those of you who come back the next session I hope that you will remember what has taken place in Kennebec County and perhaps look into your own county a little closer and perhaps you may find that it is time that we do away with the excess personnel that we have supposedly running county government that don't seem to be able to accomplish that task. Maybe we can relieve them of that, save the taxpayers some money and have accountability everywhere.

This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 101 voted in favor of same and 18 against, and accordingly the Resolve was finally passed, signed by the Speaker and sent to the Senate.

The Chair laid before the House the following matter:

Bill "An Act to Clarify the Extension of Consumers' Freedom of Choice Regarding Insured Mental Health Services" (H.P. 1744) (L.D. 2298) which was tabled earlier and later today assigned

pending the motion of the gentleman from Portland, Mr. Brannigan, that the House accept the Majority "Ought to Pass" Report.

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

Mr. BRANNIGAN: Mr. Speaker, Men and Women of the House: This is a bill that deals with a very limited problem dealing with a bill that we passed last year involving insurance and the reimbursement of social workers in the area of mental health.

Last year we passed a bill that required insurance companies and Blue Cross-Blue Shield to reimburse a very narrow, limited group of social workers specially trained in the area of mental health. That bill was to go into effect January 1st and for insurance companies it has. However, for Blue Cross-Blue Shield, there was a problem that developed this Fall. One of the legal people in Blue Cross-Blue Shield's operation felt that the wording in the licensing law of these social workers was not strong enough to allow them to be reimbursed for part of their services. The word 'evaluation' in the area of decisions around mental illness was not sufficient for legal counsel for Blue Cross-Blue Shield.

A great deal of work was done by the sponsors of the bill, members of our committee, people in social work, people in Blue Cross-Blue Shield and the insurance bureau to try to reconcile this without coming back to the legislature, to no avail, working through January and February and so this bill has come to be our problem here in this second session.

According to Blue Cross-Blue Shield, unless some language changes were made in the social work registration and licensing law, social workers, no matter how well trained, no matter how well prepared, could not work with people with mental illness unless they had first seen a physician. It did not matter to Blue Cross-Blue Shield at all what kind of physician just as long as they were medical doctors or a doctor of osteopathy. This seemed totally unacceptable to social workers, as it should, and to members of our committee and so we have before you a change in the licensing law which will satisfy Blue Cross-Blue Shield and the Bureau of Insurance.

Unfortunately, the word diagnoses has had to be used in order to satisfy this medically-oriented group and the word diagnoses is often used, although it is used by Mr. Goodwrench and other people in working on Cars, it is usually used by medical doctors and they have taken umbrage at the fact that the word 'diagnoses' is being included for this special group of specially trained psychiatric social workers.

The bill, in order to clarify all of this, has set up a special category of social workers, narrowly defined, no different, however, than those of last year. They will have to be MSW's, people trained at the master's level in social work, in psychiatric social work, and not in other types of social work in which there are master's level people, administration and so forth, they will have to have special training in all forms. They have special training in their work in diagnoses and they are experts in their area of mental illness. They will have to take a test in order to become part of this new category.

There are many medical doctors—we received letters from people from Kittery to the north country who support this change. There are some psychiatrists who support this change. There are people from both of these groups on both sides of this issue.

Psychiatrists are in a very bad position, as they will have to admit when you talk with them and some of you have talked with them, maybe you haven't had the opportunity to ask them the right questions, they are only about 69 psychiatrists in the whole state who are available for private practice and yet, if pinned to the wall, they would say that only psychiatrists can make determination of illness in mental illness. When we are talking about other neuroses, psychoses and other more serious types of mental illness.

It just seems to us that the choice we have

today is whether or not we will let the special category, take care of Blue Cross's legal problem, or we say, as either Blue Cross is now saying, or the minority opinion of one says, that they must see a doctor, any doctor will do.

Now M.D.'s on the whole do not get the training in mental illness that these specially prepared psychiatric social workers get, and so it just seems unnecessary, it seems costly to require this throughout this state so we are presenting to you a bill today to take care of a limited problem which we thought we had cared for last year in order to take care of the problems of Blue Cross-Blue Shield.

I hope that you will go along with the Majority Report and vote with us on this matter this evening.

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

Mr. ROLDE: Mr. Speaker, Ladies and Gentlemen of the House: As the gentleman from Portland has explained, we have tried everything we could to keep this bill from being before you today. We had many meetings, we have tried to resolve the problem without dealing with legislation and finally we were brought to the pass where we had to put in legislation.

The question has been raised to me as to why the Attorney General did not intervene legally in this and I can't really answer that. I would only say that this legislation has been drafted by the Attorney General's Office.

I do want to say one other thing. Earlier I distributed a letter to you that had some facts about the bill that was given to me by the social workers. The lobbyist for the Maine Medical Association was unhappy with some of the things that were in there, the way some of the remarks that he made were interpreted, particularly when he said some particular changes were better, that was interpreted as saying he was happy with the language and he wanted me to make it plain that that was not so. He also wanted me to make it plain that he did not personally receive any letters from physicians although letters from physicians supporting this legislation were sent in, so if I misstated the position of that gentleman, which apparently he feels I did, I would like to publicly apologize.

I would like to read you one of the letters from a physician that was sent to the committee. It is from a doctor in Lewiston, Dr. Mark Euley, M.D., and it said: "This letter serves to endorse the extended language of the social work licensure bill to include diagnosis of mental illness and emotional disorders. I am a member of the Maine Medical Association as such, have no training in the diagnosing of mental disorders. I have been impressed with the clinical knowledge and expertise as practiced by licensed clinical social workers and believe that they are qualified to diagnose and treat their respective patients. Not allowing clinical social workers to perform their professional role in enforcing the law requiring them to refer their patients to physicians for diagnosis will only serve to escalate the cost of the patient's treatment."

I know that there has been an objection that some people have toward the bill saying that it would allow social workers to practice medicine and I would ask you to refer to the L.D., which is 2298, and look at the top of Page 6, Section 4, where it says Limitations, and I will quote from that. It says, "Nothing in this chapter may be construed as permitting the practice of medicine as defined in Section 3270 by social workers."

I would just like you to know that this is a Catch 22 situation, that we are trying to get the social workers out to implement what is basically legislative intent. The committee gave it very serious consideration. Twelve members of the committee went along with this bill as it is, another wanted a slightly different version, I hope you will go with the Majority Report.

The SPEAKER pro tem: The Chair recognizes the gentleman from Bangor, Mrs. Stevens.

Mrs. STEVENS: Mr. Speaker, Ladies and Gentlemen of the House: The Chairman of the Busi-

ness Legislation Committee is a member of this body that I respect highly. His judgment I value enormously. I would not choose to be in this position today to oppose all the members on my committee but I consider the issue so important that I had to take this lowly minority position.

I stand here today to ask you to oppose the Majority Report so you can support my minority version of the bill.

Representative Brannigan is right, the problem came because Blue Cross-Blue Shield was not reimbursing for mental health coverage provided by masters in social work degree people. My bill still provides for this reimbursement. My bill is no different than the majority report in that respect. It is an eleven page bill. My bill is different on six lines, only six lines of the eleven page bill, that is why many of you couldn't find the difference when you were reading them this morning. I know that many of you do not have the bill before you. I am going to read the part that is different from the majority report.

If you do have it, it is Page 6, Line 24. My bills says this: "In the process of making a diagnosis and formulating a treatment plan for mental illness or emotional disorder, the social worker shall assure that the person is examined by a physician and may take into account the physician's opinion in forming the cycle social evaluation."

I want the very capable, fine people who provide mental health services in the state of Maine at the masters and social work level to get reimbursed. They do an excellent job. I concur completely with the committee's report that they should get paid by Blue Cross-Blue Shield. However, in order to systematically exclude medical intervention in order to get covered by Blue Cross, I think it is too serious an approach to solve what I consider a bookkeeping problem with Blue Cross-Blue Shield.

The psychologists in Maine with a Ph.D. came to this legislature ten years ago and asked to be reimbursed by third party payers. They were granted that privilege; however, they were specifically denied the right to diagnosis mental illness. The psychiatric social worker who is covered by the bill we passed last year is specifically excluded from diagnosing mental illness.

Surely, mental illness is the most serious of all our afflictions. I think we take grave risk in excluding medical intervention in this area. I know full well that the competent, capable social workers will surely refer out all organic mental illnesses when it comes to their office, I have no doubt of that. The only thing I doubt is whether or not they will always be able to recognize organic mental illness when it presents itself in their office.

The signs of organic illness are very subtle. The thyroid, parathyroid, brain tumors, high blood sugar, low blood sugar, all can cause symptoms that mimic mental illness. Can a social worker with a master's degree and two years' clinical experience be expected by any of us to recognize all these symptoms? Even physician psychiatrists say that on their good days some miss some of them. I think we have put too much responsibility on their shoulders.

They will readily admit to you in private that they do this on a routine basis, they send out their clients to a physician. It is almost common practice. However, if we change this law that will no longer be required and laws are often made to protect us from not the most competent in our professions but from the least competent in our professions.

I have specifically in my bill excluded psychiatrists from intervention because I heard last year and understand and accept the argument that there are too few psychiatrists, there are no women psychiatrists, there are very few, and there certainly are none in our more rural counties. I did not put psychiatrists in the bill. I did not request that a physician refer to the social worker. I did not request that the physician prescribe to the social worker. I did not even put in that the social worker had to follow any sug-

gestions by the physician. It is the most benign, noninvasive involvement you can have from the medical community in the treatment of mental illness.

You will hear horror stories of medical doctors who don't know about mental illness; you will also hear an equal number of horror stories of social workers who have treated inappropriately. I start from the premise that everybody is doing their job competently. You have to start from that premise, I think, in order to act reasonably. If you start from that premise, I have every expectation that the physician who sees the client would eliminate organic causes of mental illness and say, go back to your social worker, they are doing a great job for you, they will provide you the service you need.

One will hear the argument, it will cost more, the cost will go up, we are making everybody see a doctor. Frequently, we have to make people see a doctor and it is only if they are going to get reimbursed for medical necessity that they are required to see a doctor. The point of view that perhaps they have seen a doctor within a short time before they came to the social worker, I can accept. If one would accept my minority report, I would propose an amendment that if a client has seen a doctor within three months or four months, whatever might be reasonable, that they can be offered the ability to consult with the doctor rather than have a new visitation by a doctor.

Mental treatment takes a long time, it is not something that one goes in, has their tonsils removed and then comes back in six days fit as a fiddle. It is an ongoing process for mental illness. I think that the visit to a doctor somewhere in that course of treatment would be the very least that the Maine Legislature should say is needed for the health care that these people so justly depend upon us to judge the value of. When we, by law, say a social worker can now diagnose, we put the authority of the state, the authority of this body, behind our judgment that because Blue Cross is not paying them, all of a sudden social workers can now diagnose.

I ask you to please reject the motion before us to accept the majority report so we can accept my minority report.

The SPEAKER pro tem: The Chair recognizes the gentleman from Bangor, Mr. Murray.

Mr. MURRAY: Mr. Speaker, Ladies and Gentlemen of the House: This is obviously a very complex and somewhat emotional issue and I would like to just share, if I may, a few of the reasons why I supported the majority report and why I am opposed to the report before you by Representative Stevens.

I think the issue basically comes down to one of access to mental health care. The Maine Hospital Association, which is a relatively unbiased group in this particular measure, came before us and I quote you from their testimony. The gentleman testified saying: "I believe that we understand the concerns of the physician community regarding the authority of nonphysicians to diagnose patients. Nevertheless, we strongly support the passage of this bill in order to address what we consider to be a greater problem, that of access to proper care."

Last year, as the gentleman from Portland pointed out, we passed a measure which would provide that type of reimbursement for qualified social workers in providing mental health care. The position presented by the minority of this committee would, I believe, fly in the face of what we intended to do last year.

Many of you, as I did this past weekend, probably heard from psychiatrists who called and had concerns about the new encroachment that this bill may provide for qualified social workers. The alternative presented to us will in no way address their concerns. The alternative will require an exam by any physician, not a psychiatrist, any physician who may or may not have trained in mental health diagnosis and care. Oftentimes, perhaps, they may even have less training in care, and this is the reason why many of

those same physicians wrote letters to all of the members of the Business Legislation Committee in support of this particular majority report. They recognize the state of affairs in which social workers, psychologists and doctors presently operate under. They operate under a situation where social workers are now making these types of diagnoses that would be allowed under the law. They presently, especially in some of the rural community mental health centers, are making these types of judgments which most of the physician community, I believe, is accepting.

If we don't go along with the majority report, we are saying no, we believe that a physician should be involved in every examination, every case, when a person goes for mental health care. I can't believe that is what this House wants to do. As I said, I believe it lies in the fact of what we intended last year, and I hope you would reject that as an approach and go along with the majority approach.

I would like to leave you with one other thought before I sit down. As had been said before, the problem seems to exist with one particular company and their interpretation, and I don't deny that problem and I think their problem with the interpretation is a legitimate one and one which we have addressed in the majority report. I do believe, however, if we are to reject this majority report, we would be setting up a situation where the companies that have already agreed to the law as we passed it last year and are reimbursing social workers for the service they provide, we will be setting up a system where those people who are covered by Blue Cross and Blue Shield are going to be treated differently than those people covered by a different company, an insurance company which already provides the type of service that the majority report would allow. I don't believe that is good policy, I don't believe it is fair to the people who are covered by Blue Cross and Blue Shield, who happen to be under the interpretation that they made, and for those reasons I would urge you to support the majority of the Business Legislation Committee. We spent a great deal of time analyzing this situation.

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

Mr. PERKINS: Mr. Speaker, Ladies and Gentlemen of the House: I will be brief and I am going to cover a point which has not been brought up as yet. I am for the majority report.

The Maine Hospital Association also, in their report to us, said in part as follows: "In many parts of the state, particularly the more rural areas, patients do not have access to physicians with training in psychiatry. Therefore, as one of the answers to this problem to adequate access, hospitals have worked with their communities to acquire the services of licensed clinical social workers who are qualified to provide such support."

Actually, I have a list of the counties and the number of psychiatrists that are available—Washington County, 2 of a psychiatrist was available; Waldo, 1; Somerset, 0; Sagadahoc, 0; Oxford, 0; Lincoln, 0; my own county, 2. I know my own county and I know what work is being done there. I would like to know how the psychiatrists are going to handle my area if they were going to try to do it.

We have a little town called Frenchboro. Now, to get to Frenchboro, you can only get there on Thursdays and Fridays, and I assure you, I haven't seen any psychiatrists down there or anywhere near there. That is also true for a lot of the other places.

I think the psychiatrists must be in some place around Ellsworth. If they are around Ellsworth, that is 40 miles away. Our people don't like doctors anyway, and I will tell you right now, the social workers are doing quite a job down there but the doctors aren't, and I don't blame them, they can't afford to go down there, but we have got to have somebody handle those people, and this bill will do it.

The SPEAKER pro tem: The Chair recognizes

the gentlewoman from Rockland, Mrs. Melendy.

Mrs. MELENDY: Mr. Speaker, Ladies and Gentlemen of the House: Twenty two insurance companies paid for licensed social workers diagnosing and treating psychiatric problems long before we passed this bill last year and no medical involvement was mandated at that time. But the social workers have worked closely with physicians and PhD's for years for the good of their patients as well as for their own protection. Do you expect them to act any differently now?

Social workers know that MD consultation is already a reality and it should be specified as expectations in practice in the rules and regulations of the social work board, it does not belong in statute, especially if you have any feeling at all about cost containment.

Representative Pines of Limestone requested a roll call vote.

More than one fifth of the members present expressed a desire for a roll call, which was ordered.

The SPEAKER pro tem: The Chair recognizes the gentlewoman from Limestone, Mrs. Pines.

Mrs. PINES: Mr. Speaker, Ladies and Gentlemen of the House: I was a cosponsor of the bill last year recognizing the very fine treatment and work done by the master social workers in order that they be reimbursed within the scope of their license. Within the scope of the license does not include a license to practice medicine and diagnosis.

We have many licenses offered in the state, and the reason we have those licenses is to limit them to their scope of work.

I understand the problem which has been presented to the Business Legislation Committee. I feel very strongly that they should continue to work with the one party that has not given them reimbursement or bring that responsible party to court.

It has been brought to our attention that we do not have a large number of psychiatrists in the state, we will all agree to that. However, we do have in most of our rural counties family practitioners who have spent three years training as family practitioners and during that time each year have had to spend hours in counseling in order to be qualified for that specialty.

The main reason we seek an opinion from one of those physicians is to rule out organic disease. Last week, we had a presentation of the Rivendale School who would like to come here and build a private hospital for youth needing psychiatric, in-hospital treatment in this local area. It was brought to our attention that they spend practically the first month in hospital ruling out organic disease.

I would hope that you would vote against the motion today because it is necessary that we limit the license to the scope of the work and not allow the diagnosing by master social workers.

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

Mr. LEHOUX: Mr. Speaker, Ladies and Gentlemen of the House: L.D. 2298 is another attempt to encroach on the medical field by nonmedical therapists. Do not misunderstand me, social workers are a valuable asset in a medical team's ability to provide total medical care and they have my utmost respect, but if this bill is passed, it would actually cheapen the profession you are trying to improve.

In this bill the key words are "diagnose and treatment of mental illness and emotional disorders." Social workers with a master's degree will be allowed to diagnose and treat mental illness and emotional disorders. This is clearly in conflict with the medical practices act which for years served to protect the patients and public from practitioners lacking full scientific and medical training.

In addition to the obvious patient care issue, enactment of this bill could have broad medical legal implication. As I stated before, social workers are valuable and do excellent work within the licensure of their profession, but actually I

am appalled at their attempt to encroach upon the medical profession. Ladies and gentlemen, these attempts are like cancer, they just keep growing and spreading. Nonmedical therapists will work to enact a law which on the surface appears to be justified but actually is beyond the scope of their abilities. Then the next year, they try to expand on it. One group sees another group acquire an item of licensure, so they, too, try to get an item or go one step further and so on and so on, there is no end.

If social workers desire to diagnose and treat patients, then let them go back to medical school and study to become a psychiatrist. Do not cheapen the medical profession by agreeing with such legislation.

Lastly, the fact that the Maine Medical Association and the Maine Psychiatric Association are in strong opposition to L.D. 2298, thus maintaining their constant opposition over the years that the practice of medicine by anyone other than properly trained and licensed physicians, should be more than enough reason for all of you to vote against this motion for the majority report.

The SPEAKER pro tem: The Chair recognizes the gentleman from Bangor, Mr. Murray.

Mr. MURRAY: Mr. Speaker, Men and Women of the House: I think it is important to point out precisely what the bill does say. There might be a little misunderstanding about the type of diagnosis and treatment we are talking about.

The bill clearly points out the clinical social worker would be empowered to make the diagnosis of mental illness and emotional disorders for the purpose of treatment and therapeutic intervention but excluding the diagnosis of organic mental illness or treatment or any illness by organic therapy.

We on the majority side of this issue were told by several people in our deliberations the type of diagnostic training that a clinical social worker would have to go through; it is extensive. It is extensive enough so that the clinical social worker under this new designation would be able to recognize in most of those cases when we are dealing with a mental illness for which they are properly trained and when we are dealing with an organic mental illness for which by law they would have to make a referral to a physician.

I think it is important to point out the alternative to that and the language that is offered in the minority report does not require that a psychiatrist be involved in that diagnosis and treatment, and therefore the risk of a physician making a judgment of the organic mental illness is as great.

By accepting the minority language, we are not dealing with that element of risk that may, in fact, still be in place in trying to determine whether or not there is an organic mental disorder. If the minority were truly concerned about getting the best quality possible, we may wish to require that a psychiatrist be involved in all these things. The problem is, as has been outlined, the number of psychiatrists available for that type of care and the increased costs make that prohibitive. Therefore, I would urge you to look at exactly what the bill says, it is very limited in scope, and support the majority of this committee in its decision.

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

Mr. RACINE: Mr. Speaker, Ladies and Gentlemen of the House: When this bill came up last year, I was one of the few that was opposed to allowing social workers to be reimbursed for services that they perform, and after much wrangling, compromising, sunsetting, I agreed to go along with it. After the bill was passed, I was very surprised to hear that some of the insurance companies were paying social workers for some of the services they were performing and the Blue Cross and Blue Shield decided, based on their own interpretation, that they could not reimburse social workers because in their licensure it did not include the authority to perform a medical diagnosis.

I had a lot of problems with this bill because

I felt that an individual with a master's degree and two years of clinical training or supervised training would be able to make a medical diagnosis. I still have some problems with that particular portion of the bill.

I went along with the majority report because I didn't want to get up on this floor and fight a bill with an 11 to 1 report.

Both bills indicate that a social worker, based on a law that we passed, has the authority to diagnosis a mental illness, and it goes on further to say, as the good gentleman from Bangor stated, that they cannot—it excludes the diagnosis of organic mental illness. There is a question as to whether or not someone with a master's degree and two years of supervision in a clinic is able to do that. I have some reservations about that. I feel that an individual with that amount of training is not qualified to be able to do that.

You are probably wondering why I went with the majority report. I stated before that I did not intend to come up here and fight this thing on the floor. Both bills, incidentally, have that provision, the only difference being that one will be referred to a medical authority. I couldn't go along with that one either.

I think what you have to decide here is, should we buckle down under the Blue Cross ruling that they cannot reimburse social workers for services that they perform? In order to do so, what we have done, we have included in our law a provision that states social workers are capable of making a mental diagnosis, that is the issue. I think that there should have been some other way without changing the licensing requirement to allow and permit Blue Cross to reimburse social workers, and I am not opposed to that, for services that they perform and which they are capable of. But this bill, both bills, don't do that. We say that they can perform a medical diagnosis, and I don't know if that is the right thing.

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

Mr. BRANNIGAN: Mr. Speaker, Men and Women of the House: The Blue Cross-Blue Shield is a quasi-governmental body in that it has certain rules and regulations that are built into our laws which separates it from insurance companies.

As Representative Melendy said, for years and certainly since January 1, many many insurance companies have been following the law that we passed and it seems social workers are capable of doing the work of deciding on mental illness, making decisions, making referrals and so forth. They are doing it with pay from other insurance companies, they are doing it with the authority of the state in their present licensing law. We are only talking here of under 200 people who have a license to practice in private practice.

These people have special training. Representative Pines said that family practice physicians, and certainly they have added a lot in the area of counseling, guidance and help in the mental illness field and we are glad that they have that kind of training, they have many hours of counseling training, but they are MD's and they don't have the specialized training that a psychiatric social worker has, as many as six, three credit hours, four credit hour courses, in diagnoses itself in the area of mental illness, only in the mental illness area where, as you must know, all general and broad practicing MD's such as family practitioners, people who have to know a differential diagnosis in a wide range of fields. So we are talking about a very narrow group of people, very specially trained, and we are talking about a special problem we have with the laws of Blue Cross-Blue Shield.

Please join us in the majority report of "ought to pass."

The SPEAKER pro tem: The Chair recognizes the gentleman from St. George, Mr. Scarpino.

Mr. SCARPINO: Mr. Speaker, Ladies and Gentlemen of the House: I hadn't really intended to speak on this bill, but I have heard information repeated a number of times about the special qualifications of these social workers to perform

this job. I have heard them defined as psychiatric social workers. I just listened to the gentleman from Portland, Mr. Brannigan, tell me about the amount of courses that they are required to take in diagnosis, and I would refer you to the bill, to Page 8, Line 28, where it says, "An applicant shall have received a master's or doctoral degree in social work from an accredited educational institution and shall have subsequently completed two years of supervised social work experience in a clinical setting." Nowhere does it define that that individual shall have had training in psychological diagnosis. Nowhere does it mandate that that social worker shall have specialized in psychiatric social work. The simple fact is that that individual with that master's degree could have specialized in medical social work, he could have specialized in human services social work, he could have specialized in administrative procedures and then done his two years of clinical work under supervision and taken his exam.

While I am not speaking particularly in favor or against this bill, what I am attempting to say right now is that some of the information that has been presented in regards to the qualifications required on the individuals would appear to be in conflict with the requirements that are actually laid down in the bill.

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

Mr. LEHOUX: Mr. Speaker, I move that L. D. 2298 and all its accompanying papers be indefinitely postponed.

The SPEAKER pro tem: The gentleman from Biddeford, Mr. Lehoux, moves that this Bill and all its accompanying papers be indefinitely postponed.

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

Mr. ROLDE: Mr. Speaker and Members of the House: I would oppose the motion and I would ask for the yeas and nays. I hope you will not vote to indefinitely postpone this bill. I would like to raise one point.

The gentleman from Biddeford, in the prepared statement that he read, seemed to indicate that this was a deliberate move on the part of the social workers, some sort of power grab to get something that they weren't entitled to. I assure you that we have taken every step possible to avoid this particular situation today. All they want to do is be paid and have the law follow the intent of the bill that was passed in the last session. We have exhausted every possible other means of trying to do this and that is why we had to bring this bill, very reluctantly, before you.

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

Mr. MANNING: Mr. Speaker, Ladies and Gentlemen of the House: I would like to pose a couple of questions through the Chair because I have never had as much trouble in my four years as I am having with this bill, because most of you know that we on the health committee really take a real interest in this. I am really confused and I wish somebody on the Majority Report could explain Section 7053, the qualifications. I had a number of people call me yesterday, mostly masters in social work, and I was under the assumption that masters in social work plus two years is what we are trying to accomplish in this bill, but I am not quite sure whether there is more than a masters in social work in this bill and could somebody please explain like the registered social worker, the associate associate social worker, certified social worker and licensed clinical social worker, I am really confused on that. If they could explain it to me, it might really help me out.

The SPEAKER pro tem: The gentleman from Portland, Mr. Manning, has posed a question through the Chair to anyone who may care to respond.

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

Mr. BRANNIGAN: Mr. Speaker, Men and



Women of the House: There are various grades of social workers as you have pointed out in your reading. The language has been changed so it has been underlined as new language; however, we are not changing any of those lower grades, bachelor level, masters level, without a social work degree and so forth. This sets up a new category and in order to be a member of that new category, the social work licensing board will require that they be master level, social workers trained in psychiatric social work, that they will be people who have had two years of experience in supervisory experience and that they will be tested in diagnostic and training tests that are standard tests throughout the United States. This will set up a new category for those people who are qualified for that and wish to take the test and wish to become part of this new category.

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

Mr. MANNING: Mr. Speaker, Ladies and Gentlemen of the House: Thank you, Mr. Brannigan. I would like to pose one more question if Representative Brannigan could answer and that would be, are there presently masters of social worker out there with two years' additional training, as Representative Scarpino has indicated, that wouldn't qualify for this? If there are, what do they need to do to qualify for this?

The SPEAKER pro tem: The gentleman from Portland, Mr. Manning, has posed a question through the Chair to the gentleman from Portland, Mr. Brannigan, who may respond if he so desires.

The Chair recognizes that gentleman.

Mr. BRANNIGAN: Mr. Speaker, Men and Women of the House: To answer the gentleman's question, there is now a category called certified social workers licensed to do private practice; I am one of them. I will not be qualified nor was I under the bill that we passed last year. I will not be part of that because my master's degree is not in psychiatric social work; therefore, I would not be.

Yes, there are people now practicing and I can still go out and practice. I do not, I run a psychiatric facility. I could go out, I would not be reimbursed under this but I could. I have a license to practice in private practice. I would not be allowed to join this select, very select, group of people. They ruled the chairman out and we still passed the bill - how about that?

The SPEAKER pro tem: The Chair recognizes the gentleman from Bangor, Mrs. Stevens.

Mrs. STEVENS: Mr. Speaker, Ladies and Gentlemen of the House: I would also like to address Representative Manning's question. I would differ with Representative Brannigan. The bill says a masters in social work from a credited institution; it does not say that the masters has to be in psychiatric social work.

I would also add that in Title 32, which is the licensure requirement, the certified social worker is also empowered to diagnose mental illness. The certified social worker requires only a master's level degree and requires no clinical experience. They require only a master's degree, they require meeting the code of ethics and they require passing an exam for a certified social worker. These people are not reimbursable but, nonetheless, under this bill passed by the majority, they will still be empowered to diagnose mental illness.

The SPEAKER pro tem: The Chair recognizes the gentleman from Rockland, Mrs. Melendy.

Mrs. MELENDY: Mr. Speaker, Ladies and Gentlemen of the House: I would just like to read a couple of paragraphs from a letter written by a psychiatrist. It says: "You are being advised that social workers trained to the level of MSW and licensed for independent practice are unable or should not be allowed to diagnose mental illness. I have observed and collaborated with these professional individuals for nearly 25 years, the last 10 in my present capacity, and for 25 years have seen their ability to diagnose and treat mental illness. It is my opinion that MSW functions with

high competency in clinical skills sufficient to render their services invaluable as providers of mental health services. I particularly object to any requirement that their work be underwritten by non-psychiatric physicians. For the most part, as a psychiatrist I would defer to the diagnostic impression of the social worker rather than the non-psychiatric physician. Additionally, rather than accomplishing the stated goal of cost containment, such a requirement will merely add to the cost." This was written by William J. Barnum, M.D., of the Midcoast Mental Health.

A roll call has been requested.

More than one fifth of the members present expressed a desire for a roll call, which was ordered.

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

Mr. MANNING: Mr. Speaker, Ladies and Gentlemen of the House: I am probably going to vote for this bill but I would hope that the Majority Report would come up with an amendment in Second Reading to explain that two years prior and to explain what Representative Scarpino talked about. I would feel much more comfortable with this bill ultimately if they came up with that than it is in its present form. So I would be going along with it but I would hope that in the Second Reading there would be an amendment.

At this point, Speaker Martin returned to the rostrum.

SPEAKER MARTIN: The Chair would thank the gentleman from Fairfield, Mr. Gwadosky, for presiding.

Thereupon, the Sergeant-at-Arms escorted Mr. Gwadosky to his seat on the floor, amid the applause of the House, and Speaker Martin resumed the Chair.

The SPEAKER: The pending question is on the motion of the gentleman from Biddeford, Mr. Lehoux, that this bill and all its accompanying papers be indefinitely postponed.

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

Mr. PERKINS: Mr. Speaker, I would ask leave of the House to pair my vote with the gentleman from Scarborough, Mr. Higgins. If Mr. Higgins were present and voting, he would be voting yes; I would be voting no.

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

#### ROLL CALL NO. 457

YEA—Ainsworth, Anderson, Armstrong, Beaulieu, Bell, Bonney, Bott, Brown, A.K.; Brown, D.N.; Cahill, Carroll, D.P.; Clark, Cote, Curtis, Davis, Day, Dexter, Dillenback, Foster, Gauvreau, Greenlaw, Higgins, H.C.; Holloway, Ingraham, Joyce, Kane, Kelleher, Lebowitz, Lehoux, Livesay, Macomber, Masterman, Matthews, K.L.; Maybury, McGowan, McSweeney, Moholland, Murphy, E.M.; Murphy, T.W.; Paradis, E.J.; Pines, Randall, Reeves, J.W.; Richard, Ridley, Robinson, Salsbury, Seavey, Small, Smith, C.W.; Stevens, Strout, Swazey, Tammaro, Theriault, Walker, Wentworth, Weymouth, Willey.

NAY—Allen, Andrews, Benoit, Bost, Brannigan, Brodeur, Callahan, Carroll, G.A.; Carter, Cashman, Conary, Connors, Cooper, Cox, Crouse, Crowley, Diamond, Drinkwater, Erwin, Gwadosky, Hall, Handy, Hayden, Hickey, Hobbins, Jackson, Jacques, Kelly, Ketover, Kiesman, Kilcoyne, Laplante, Lisnik, Locke, MacBride, MacEachern, Mahany, Manning, Masterton, Matthews, Z.E.; Mayo, McCollier, McHenry, McPherson, Melendy, Michaud, Mills, Mitchell, E.H.; Mitchell, J.; Murray, Nadeau, Nelson, Norton, Paradis, P.E.; Parent, Paul, Perry, Pouliot, Racine, Reeves, P.; Roberts, Roderick, Rolde, Rotondi, Scarpino, Sherburne, Smith, C.B.; Soucy, Stevenson, Thompson, Tuttle, Vose, Webster, The Speaker.

ABSENT—Baker, Carrier, Chonko, Connolly, Daggett, Dudley, Jalbert, Joseph, Martin, A.C.;

Martin, H.C.; Michael, Soule, Sproul, Stover, Telow, Zirkilton.

PAIRED—Higgins, L.M.; Perkins.

59 having voted in the affirmative and 74 in the negative, with 16 being absent and two paired, the motion did not prevail.

The SPEAKER: The pending question is on acceptance of the Majority "Ought to Pass" Report.

The Chair recognizes the gentleman from Limestone, Mrs. Pines.

Mrs. PINES: Mr. Speaker, I request a roll call.

More than one fifth of the members present expressed a desire for a roll call, which was ordered.

The SPEAKER: The Chair recognizes the gentleman from Limestone, Mrs. Pines.

Mrs. PINES: Mr. Speaker, Ladies and Gentlemen of the House: I would like to read to you from Dr. Jacobsohn's testimony to the Committee on Business Legislation on March 27th. "It is difficult to see from the bill how the diagnosis and treatment of mental illness will be limited to individuals who have been specially trained in this very difficult task. There is no indication that the education and training includes in any way exposure to the basic sciences that form the foundation for modern concepts of disease. Mental illnesses are generally thought of as the major psychoses such as schizophrenia and manic depressive illness, the organic states resulting in psychoses and severe phobias which have important physiological components. To understand these illnesses requires an understanding of epidemiology of disease signs and symptoms specific to the disorders, basic neurophysiology and an understanding of pathological state, the results of physical illness that can mimic any one of these states."

This is my problem with this bill, allowing them to diagnose, and I ask you to vote against the Majority Report.

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

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

Mr. PERKINS: Mr. Speaker, I ask leave of the House to pair my vote with the gentleman from Scarborough, Mr. Higgins. If he were present and voting, he would be voting no; I would be voting yes.

#### ROLL CALL NO. 458

YEA—Allen, Andrews, Benoit, Bost, Brannigan, Brodeur, Callahan, Carroll, G.A.; Carter, Cashman, Conary, Connors, Cooper, Cox, Crouse, Diamond, Erwin, Gwadosky, Hall, Handy, Hayden, Hickey, Hobbins, Jackson, Jacques, Ketover, Kiesman, Kilcoyne, Lisnik, Locke, MacBride, MacEachern, Mahany, Manning, Matthews, Z.E.; Mayo, McCollier, McHenry, Melendy, Michael, Michaud, Mills, Mitchell, E.H.; Mitchell, J.; Murray, Nadeau, Nelson, Norton, Paradis, P.E.; Perry, Pouliot, Racine, Reeves, P.; Ridley, Roberts, Roderick, Rolde, Rotondi, Scarpino, Smith, C.B.; Soucy, Stevenson, Thompson, Vose, Webster, The Speaker.

NAY—Ainsworth, Anderson, Armstrong, Beaulieu, Bell, Bonney, Bott, Brown, A.K.; Brown, D.N.; Cahill, Carroll, D.P.; Clark, Cote, Crowley, Curtis, Davis, Day, Dexter, Dillenback, Drinkwater, Foster, Gauvreau, Greenlaw, Higgins, H.C.; Holloway, Ingraham, Joyce, Kane, Kelleher, Kelly, LaPlante, Lebowitz, Lehoux, Livesay, Macomber, Masterman, Masterton, Matthews, K.L.; Maybury, McGowan, McPherson, McSweeney, Moholland, Murphy, E.M.; Murphy, T.W.; Paradis, E.J.; Parent, Pines, Randall, Reeves, J.W.; Richard, Robinson, Salsbury, Seavey, Sherburne, Small, Smith, C.W.; Stevens, Strout, Swazey, Tammaro, Theriault, Tuttle, Walker, Wentworth, Weymouth, Willey, Zirkilton.

ABSENT—Baker, Carrier, Chonko, Connolly, Daggett, Dudley, Jalbert, Joseph, Martin, A.C.; Martin, H.C.; Paul, Soule, Sproul, Stover, Telow.

PAIRED—Higgins, L.M., Perkins.

66 having voted in the affirmative and 68 in the negative, with 15 being absent and two paired, the motion did not prevail.

The SPEAKER: The Chair recognizes the gentlewoman from Bangor, Mrs. Stevens.

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

The SPEAKER: The gentlewoman from Bangor, Mrs. Stevens, moves the acceptance of the Minority "Ought to Pass" Report.

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

Mr. BRANNIGAN: Mr. Speaker, Men and Women of the House: First, I would request a roll call vote.

If we accept the minority report, we are accepting that anyone who goes to a social worker must somewhere along the line go to any M.D. of any training, any care.

I don't know whether Mrs. Pines reading from Dr. Jacobsohn's letter made the difference or not. Dr. Jacobsohn, when asked pointedly in our committee, said that only psychiatrists could do this. He said, don't put me in a box, Mr. Chairman. I said, I am not, you are in a box—do you want psychiatrists and only psychiatrists? He said, yes. There are only 60-some psychiatrists in the whole state available. People from Portland have written us, M.D.'s have written us saying in Portland and there are psychiatrists all over, they charge \$80 to \$145 an hour and they want us to send people who have mental illness, anxiety, depression, to see a psychiatrist.

I urge you to reconsider and to vote against the pending motion.

A roll call has been requested.

More than one fifth of the members present expressed a desire for a roll call, which was ordered.

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

Mr. ROLDE: Mr. Speaker, a parliamentary inquiry?

The SPEAKER: The gentleman may state his inquiry.

Mr. ROLDE: Mr. Speaker, if this report is not accepted, what position is the bill in?

The SPEAKER: If the pending motion is not accepted, then neither report will have been accepted and the motion to accept either report will still be in order.

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

Ms. BENOIT: Mr. Speaker, I would like to pose a question through the Chair. I would like to ask Representative Stevens—I understood that your report only required that a person go to a physician. I did not understand that it had to be a psychiatrist. Could you clarify that please?

The SPEAKER: The gentlewoman from South Portland, Ms. Benoit, has posed a question through the Chair to anyone who may respond if they so desire.

The Chair recognizes the gentlewoman from Bangor, Mrs. Stevens.

Mrs. STEVENS: Mr. Speaker, Ladies and Gentlemen of the House: My version does not require a psychiatrist. It requires only a physician involvement. I specifically excluded a psychiatrist because of the expense and the unavailability of that particular mental health care provider.

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

Mr. ROLDE: Mr. Speaker, I would like to pose a question through the Chair.

I would like to pose the question to the gentlelady from Bangor. In your version, when would this have to be done? When would the physical examination have to be made and how extensive and thorough would that examination be?

The SPEAKER: The gentleman from York, Mr. Rolde, has posed a question through the Chair to the gentlewoman from Bangor, Mrs. Stevens, who may respond if she so desires.

The Chair recognizes that gentlewoman.

Mrs. STEVENS: Mr. Speaker, in response to

Representative Rolde's question, I made the language as non-evasive of the social worker's practice as I could. The language says that in the process of threatment and diagnosis, the social worker shall assure that the patient sees a physician. I realize that mental health treatment is an ongoing, evolving, viable process. Anytime during the course of that treatment would be an acceptable time by my language, as long as they are continuing doing the diagnosis for the treatment. It is not meant to be a referral system by the physician. There is no referral system in my bill. It just requires in the course of the treatment.

The SPEAKER: The Chair recognizes the gentlewoman from Rockland, Mrs. Melendy.

Mrs. MELENDY: Mr. Speaker, I would like to pose a question through the Chair to the gentlewoman from Bangor, Mrs. Stevens.

If a patient has to see a physician and the social worker calls the physician and wants to know if he would see her and he knows that this patient is a young patient, does not need a physical every year and says, well I really don't need to see her, is that acceptable to you?

The SPEAKER: The gentlewoman from Rockland, Mrs. Melendy, has posed a question through the Chair to the gentlewoman from Bangor, Mrs. Stevens, who may respond if she so desires.

The Chair recognizes that gentlewoman.

Mrs. STEVENS: Mr. Speaker, Members of the House: The idea is not to have an extra person involved in mental health care. The purpose of the bill is to eliminate organic mental illness from consideration and diagnosing the total picture of mental illness. The physician would not be able to do that over the phone.

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

#### ROLL CALL NO. 459

YEA—Ainsworth, Allen, Anderson, Armstrong, Beaulieu, Bell, Benoit, Bonney, Bost, Brown, A.K.; Brown, D.N.; Cahill, Callahan, Carroll, D.P.; Carroll, G.A.; Carter, Clark, Cote, Cox, Crowley, Curtis, Davis, Dexter, Diamond, Dillenback, Drinkwater, Foster, Gauvreau, Higgins, H.C.; Holloway, Ingraham, Jacques, Joyce, Kane, Kelleher, Kelly, Ketover, LaPlante, Lehoux, Livesay, Macomber, Masterman, Masterton, Matthews, K.L.; Matthews, Z.E.; Maybury, McGowan, McPherson, McSweeney, Mitchell, E.H.; Mitchell, J.; Moholland, Murphy, E.M.; Murphy, T.W.; Nelson, Paul, Pines, Racine, Randall, Reeves, J.W.; Richard, Ridley, Roberts, Robinson, Salsbury, Seavey, Sherburne, Small, Smith, C.W.; Stevens, Stevenson, Strout, Swazey, Tammaro, Theriault, Tuttle, Walker, Webster, Wentworth, Weymouth, Willey, Zirkilton.

NAY—Andrews, Bott, Brannigan, Brodeur, Cashman, Chonko, Conary, Connors, Cooper, Crouse, Day, Erwin, Greenlaw, Gwadodsky, Hall, Handy, Hayden, Hickey, Hobbins, Jackson, Kiesman, Kilcoyne, Lebowitz, Lisnik, Locke, MacBride, MacEachern, Mahany, Manning, Mayo, McCollister, McHenry, Melendy, Michael, Michaud, Mills, Murray, Nadeau, Norton, Paradis, E.J.; Paradis, P.E.; Parent, Perkins, Perry, Pouliot, Reeves, P.; Roderick, Rolde, Rotondi, Scarpino, Smith, C.B.; Soucy, Thompson, Vose, The Speaker.

ABSENT—Baker, Carrier, Connolly, Daggett, Dudley, Higgins, L.M.; Jalbert, Joseph, Martin, A.C.; Martin, H.C.; Soule, Sproul, Stover, Telow.

82 having voted in the affirmative and 55 in the negative, with 14 being absent, the motion did prevail.

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

The Chair laid before the House the following matter:

Bill "An Act to Amend Certain Motor Vehicle Laws" (H. P. 1444) (L. D. 1889) which was tabled earlier and later today assigned pending further

consideration.

(In House, Minority "Ought to Pass" in New Draft Report read and accepted and the New Draft (Emergency) (H. P. 1820) (L. D. 2412) passed to be engrossed).

On motion of Mr. Diamond of Bangor, retabled pending further consideration and later today assigned.

The Chair laid before the House the following matter:

Resolve, for Laying of the County Taxes and Authorizing Expenditures of York County for the Year 1984 (Emergency) (H. P. 1822) (L. D. 2414) which was tabled and later today assigned pending final passage.

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

Mr. CARROLL: Mr. Speaker, I move that the rules be suspended for the purpose of reconsideration.

The SPEAKER: The gentleman from Limerick, Mr. Carroll, moves that the rules be suspended for the purpose of reconsideration. Is there objection?

The Chair hears objection.

The Chair will order a vote. The pending question is on the motion of the gentleman from Limerick, Mr. Carroll, that the rules be suspended for the purpose of reconsideration. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

62 having voted in the affirmative and 24 in the negative, the motion did prevail.

On motion of Mr. Carroll of Limerick, the House reconsidered its action whereby the Resolve was passed to be engrossed.

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

House Amendment "B" (H-679) was read by the Clerk.

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

Mr. PAUL: Mr. Speaker, Members of the House: I would like to pose a question through the Chair to the gentleman from Limerick, Mr. Carroll.

The gentleman's amendment which has surfaced here just a short time ago indicates that the towns who participate in this communications system were overcharged in the amount of \$9,058. I would just like to ask him on what basis does he make that charge?

The SPEAKER: The gentleman from Sanford, Mr. Paul, has posed a question through the Chair to the gentleman from Limerick, Mr. Carroll, who may respond if he so desires.

The Chair recognizes that gentleman.

Mr. CARROLL: Mr. Speaker, Ladies and Gentlemen of the House: Under the formula that was in the Resolve that was passed in the last session, the county taxes for York County, the formula as devised and written into that Resolve was not followed correctly by the commissioners and their clerk when they figured out the assessment to the towns in the county budget for the communications.

I contacted them in the presence of Representative Ridley and we read the Resolve to them over the phone, pointing out to them where we felt they had erred in their deliberation. Mr. McMahon was at the office downstairs and he concurred with us that they had erred and had made a mistake. I asked them if they would refigure the communication costs to those towns and how much the overcharge was. I was informed that those towns were overcharged in the amount of \$9,058. In discussing this, how it could be handled with the commissioner, we felt that it could be handled in this manner by amending this budget.

I have discussed this with many members of my delegation since the amendment was drafted and I felt that there was no problem with it and I hope that the legislative body here tonight would go along with this amendment and help us to get a budget back to York County.

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



Mr. PAUL: Mr. Speaker, Members of the House: I certainly apologize for taking your time on this issue but it is a very important issue and it is a very, very controversial issue in York County, in case you haven't recognized that.

Just about ever since I have been up here, we have been fighting over the funding formula on this communications system. Those who are Representatives that represent the larger towns and cities naturally, who pay thousands and thousands of dollars for their own system, feel that the small towns who use the system should be paying to support the system. So every year it comes down to the eleventh hour, I guess like this does, we have a battle over the assessment formula.

Last year, I thought we had an understanding that the towns would be required to pay 50-50 on the second console. We set up an assessment and the assessment was approximately \$30,000. This was in the budget, this was accepted by all of the delegation, it was implemented by the advisory commission which consists of fire-chiefs, police chiefs, rescue people, who represent all these little towns, they all agreed to this formula, the commissioners all agreed to this formula and now here we are at the eleventh hour with somebody saying that somebody has been overcharged.

I guess all I would like to say is that it is unfortunate that this has to come out without having the delegation having input into it. I asked the Chairman of the delegation, Mr. Carroll, to call a delegation meeting so we could get the facts and the figures on this to see if, in fact, there was a mistake. I have the formula here, I have the legislative record of last year, it is all pretty clear in my mind, but others on the other side feel that there was a mistake, so I just feel that there should be a meeting on it and we shouldn't have to come to the floor and fight on this.

There is another provision in the amendment that deals with a study and it gives the Chairman of York County the responsibility and the authority to conduct a communications study. It appropriates \$1,000 of taxpayers' money to conduct this study. Here again, no public debate, no public hearing on this. I feel that matters of substance like this should not be presented to you people and asked to be voted on in this fashion, particularly when members of the York County delegation are not apprised of these issues and have an opportunity to decide them.

I would move the indefinite postponement of this amendment.

The SPEAKER: The gentleman from Sanford, Mr. Paul, moves indefinite postponement of House Amendment "B".

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

Mr. RIDLEY: Mr. Speaker, Ladies and Gentlemen of the House: A few comments on this, if I might. There was a mistake made on the billing of the towns, the ones that participated in this communications center.

True, it has been a controversial issue in the four years that I have been down here, but I don't think this is the issue, the issue is that there was a \$9,000 mistake made and I think it should be rectified. A mistake was made that involved those towns that belong to this York Area Communications System, and the thousand dollars that they are asking for out of this is primarily for the benefit of those small towns to have a communications study made and the delegation certainly is aware of this study that was going to be made because we made one trip over into New Hampshire to look at a dispatch center. It has been discussed, the county commissioners agreed, or at least voiced their approval at a meeting that we had on having this study, and I think if we don't correct this—and where it all comes from is, the county was supposed to stand the cost of maintenance of all the radio equipment. I think if the gentleman from Sanford, Representative Paul, remembers, in the last session I discussed this at great length with him. In fact,

I was the one that had this put into the Resolve.

I see nothing wrong with this at this time. Maybe we should have called a delegation meeting but we didn't. We are short on time and this seemed like a good way to remedy this situation, and we have discussed it with the other members of the delegation.

I hope that you will go along with Mr. Carroll on this Amendment "B" and that you not vote for indefinite postponement, as the gentleman from Sanford, Mr. Paul, has indicated.

Mr. Paul of Sanford requested a roll call vote.

More than one fifth of the members present expressed a desire for a roll call, which was ordered.

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

Mr. PAUL: Mr. Speaker and Members of the House: A few facts that I would like to give you, I won't be long, it is very important I feel.

As I stated earlier, we did have an understanding this year, as we did in years previous, as to how this communications formula would be set up. The understanding this year was that we do the same as we did last year, which was 50/50. The commissioners had recommended that the small towns that rely heavily on this communications system be assessed \$85,000 for the cost of this system. We had a lot of tugging and pulling this year and there was a compromise, I feel anyway, and I feel there was an understanding of all parties involved that we would not go to that drastic system which would require the towns to pay the full cost to the second unit, so we opted to go with the compromise version of about \$30,000, the same as last year.

I think it is fair to say that the net effect of that is that we saved the small towns about \$50,000. The commissioners are real adamant that they felt the time had come for the second year to be turned over, that the small communities should pay more of the cost. We felt that it was too much of a burden to do it, it should be gradual, and a compromise, I thought, was struck. Now here at the eleventh hour, we have an attempt with an amendment to change that compromise, at attempt to change the formula by approximately \$9,000.

I think it is unfortunate this is being proposed without a delegation hearing, without input from the commissioners, without input from the communications advisory council that sits over the operations of the communication system. I just think it is wrong and I would ask you to vote against the amendment.

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

Mr. VOSE: Mr. Speaker, Ladies and Gentlemen of the House: I am from Washington County and I am being asked tonight to decide a York County budget, an argument between two members of the delegation from York County. I feel awfully uncomfortable with it. The delegation apparently has taken no position. I think it is the duty of the delegation of York County to get up one at a time and tell me what they want me to do from Washington County.

On motion of Representative Diamond of Bangor, tabled pending the motion of Representative Paul of Sanford to indefinitely postpone House Amendment "B" and later today assigned.

The Chair laid before the House the following matter:

An Act to Provide Voter Information on Ballot Questions (H. P. 1588) (L. D. 2095) (C. "A" H-568) which was tabled and later today assigned pending passage to be enacted.

On motion of Representative Handy of Lewiston, under suspension of the rules the House reconsidered its action whereby the Bill was passed to be engrossed as amended.

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

House Amendment "A" (H-678) was read by the Clerk and adopted.

The Bill was passed to be engrossed as amended by Committee Amendment "A" and

House Amendment "A" in non-concurrence and sent up for concurrence.

The following papers were taken up out of order by unanimous consent:

#### Ought to Pass in New Draft

Report of the Committee on Public Utilities on Bill "An Act Regarding Franchising and Regulation of Cable Television Systems" (S.P. 745) (L. D. 2048) reporting "Ought to Pass" in New Draft (S. P. 903) (L. D. 2423).

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

Report was read and accepted, the New Draft given its first reading and assigned for its second reading tomorrow.

#### Consent Calendar First Day

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

(S. P. 652) (L. D. 1842) Bill "An Act to Require that the Aid to Families with Dependent Children Program Promote Family Unity" Committee on Appropriations and Financial Affairs reporting "Ought to Pass" as amended by Committee Amendment "A" (S-383).

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

The Chair laid before the House the following matter:

Bill "An Act to Revise the Salaries of Certain County Officers" (Emergency) (H. P. 1841) (L. D. 2436) which was tabled and later today assigned pending passage to be engrossed.

Thereupon, the Bill was passed to be engrossed and sent up for concurrence.

The Chair laid before the House the following matter:

Bill "An Act to Provide for Conformity with the United States Internal Revenue Code" (S. P. 893) (L. D. 2409) which was tabled and later today assigned pending acceptance of the unanimous "Ought to Pass" Report in concurrence.

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

Mr. DIAMOND: Mr. Speaker, I move that this bill be indefinitely postponed and would speak to my motion.

The SPEAKER: The gentleman from Bangor, Mr. Diamond, moves that this Bill and all its accompanying papers be indefinitely postponed in non-concurrence.

The gentleman may proceed.

Mr. DIAMOND: Mr. Speaker and Members of the House: Earlier today we engrossed a bill identical to this dealing with tax conformity. The reason this must be indefinitely postponed is that this is a Senate Paper and such a measure has to originate in this chamber, so for that reason I ask you to support the motion.

Thereupon, the Bill was indefinitely postponed in non-concurrence and sent up for concurrence.

The Chair laid before the House the following matter:

RESOLVE, for Laying of the County Taxes and Authorizing Expenditures of York County for the Year 1984 (Emergency) (H. P. 1822) (L. D. 2414) which was tabled and later today assigned pending the motion of Representative Paul of Sanford that House Amendment "B" be indefinitely postponed.

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

Mr. CARROLL: Mr. Speaker, Ladies and Gentlemen of the House: I wish to withdraw my amendment.

The SPEAKER: The gentleman from Limerick, Mr. Carroll, withdraws House Amendment "B".

The gentleman may proceed.

Mr. CARROLL: Mr. Speaker, I wish to yield the floor to Representative Ridley who will read a statement into the record.

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

Mr. RIDLEY: Mr. Speaker, Ladies and Gentlemen of the House: The delegation has unanimously decided to support withdrawal of the amendment. We unanimously support the York County commissioners holding a public hearing to determine if and how much of the overage occurred in the communications billing to the participating towns. The members of the delegation will attend the meeting and with a two-thirds approval of the delegation needed, will fund the recommendation of the commissioners and the necessary \$1,000 for the study.

Thereupon, the Resolve was passed to be engrossed.

This being an amergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 108 voted in favor of same and 3 against, and accordingly the Resolve was finally passed, signed by the Speaker and sent to the Senate.

The Chair laid before the House the following matter:

An Act Relating to Local Voting on School Administrative District Budgets (H. P. 1814) (L. D. 2399) which was tabled and later today assigned pending passage to be enacted.

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

(Off Record Remarks)

On motion of Representative Clark of Millinocket, adjourned until nine o'clock tomorrow morning.