

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

***One Hundred and Twelfth
Legislature***

OF THE

STATE OF MAINE

Volume I

FIRST REGULAR SESSION

December 5, 1984 - June 20, 1985

HOUSE

Tuesday, April 9, 1985

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

Prayer by Reverend Donald Hodgson, Foreside Community Church, Falmouth.

National Anthem by the Lisbon High School Band.

Quorum called; was held.

The Journal of Thursday, April 4, 1985 was read and approved.

Papers from the Senate

The following Communication:

The Senate of Maine
Augusta

April 4, 1985

The Honorable John L. Martin

Speaker of the House

112th Legislature

Augusta, Maine 04333

Dear Speaker Martin:

In accordance with Joint Rule 38, please be advised that the Senate today confirmed, upon the recommendation of the Joint Standing Committee on Agriculture, the Governor's nomination of Sumner J. Goffin of Portland for appointment as a member of the Harness Racing Commission.

Sincerely,

S/ JOY J. O'BRIEN

Secretary of the Senate

Was read and ordered placed on file.

Bill "An Act to Recodify the Maine State Retirement System Laws" (S.P. 443) (L.D. 1246)

Came from the Senate, referred to the Committee on Aging, Retirement and Veterans and Ordered Printed.

Was referred to the Committee on Aging, Retirement and Veterans in concurrence.

Bill "An Act Relating to Regulation Fees Under the Manufacturing of Bedding, Upholstered Furniture and Cushion Law" (S.P. 444) (L.D. 1247)

Came from the Senate, referred to the Committee on Business and Commerce and Ordered Printed.

Was referred to the Committee on Business and Commerce in concurrence.

Bill "An Act to Restructure the Duties and Funding of the Maine Land Use Regulation Commission" (Emergency) (S.P. 448) (L.D. 1251)

Came from the Senate, referred to the Committee on Energy and Natural Resources and Ordered Printed.

Was referred to the Committee on Energy and Natural Resources in concurrence.

Bill "An Act to Amend the Laws Regulating Ice Fishing to Change the Line Restriction for Moosehead Lake" (S.P. 449) (L.D. 1252)

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

Was referred to the Committee on Fisheries and Wildlife in concurrence.

Bill "An Act to Establish a Procedure to Appoint Advocates for Foster Children" (S.P. 450) (L.D. 1253)

Came from the Senate, referred to the Committee on Human Resources and Ordered Printed.

Was referred to the Committee on Human Resources in concurrence.

RESOLVE, Creating a Commission to Study Procedures for Exercising the Legislative Powers of Impeachment and Address (S.P. 445) (L.D. 1248)

Bill "An Act to Include the Term 'Sexual Orientation' in the Maine Human Rights Act" (S.P. 446) (L.D. 1249)

Bill "An Act to Transfer Probate Jurisdiction to the Superior and District Courts" (S.P. 447) (L.D. 1250)

Bill "An Act to Establish Statutory Definitions of Entrapment under the Maine Criminal Code" (S.P. 451) (L.D. 1254)

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

Were referred to the Committee on Judiciary in concurrence.

Bill "An Act Allowing an Exemption from the Requirements of the Workers' Compensation Act for Certain Employers Employing less than 3 Persons" (S.P. 452) (L.D. 1255)

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

Was referred to the Committee on Labor in concurrence.

RESOLVE, Authorizing a Study Concerning Extension of the Maine Turnpike (S.P. 453) (L.D. 1256)

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

Was referred to the Committee on Transportation in concurrence.

Bill "An Act to Preserve Affordable Flat Rate Local Telephone Service" (Emergency) (S.P. 454) (L.D. 1257)

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

Was referred to the Committee on Utilities in concurrence.

Unanimous Ought Not To Pass

Report of the Committee on Business and Commerce reporting "Ought Not to Pass" on Bill "An Act to Repeal the Law Permitting the Purchase of Alcoholic Beverages with Major Credit Cards" (S.P. 245) (L.D. 640)

Report of the Committee on Legal Affairs reporting "Ought Not to Pass" on Bill "An Act to Allow in Kind Contributions to be Descriptively reported under the Election Laws" (S.P. 114) (L.D. 329)

Report of the Committee on Education reporting "Ought Not to Pass" on Bill "An Act to Promote the Teaching of Free Enterprise in Maine's Public Schools" (S.P. 271) (L.D. 729)

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

Unanimous Leave to Withdraw

Report of the Committee on Business and Commerce reporting "Leave to Withdraw" on Bill "An Act to Promote Free Enterprise in Real Estate Transactions" (S.P. 292) (L.D. 781)

Report of the Committee on Judiciary reporting "Leave to Withdraw" on Bill "An Act to Amend Certain Judicial Divisions and Districts of the Maine District Court Statutes" (S.P. 174) (L.D. 466)

Report of the Committee on Labor reporting "Leave to Withdraw" on Bill "An Act Concerning Small Business Apprenticeship Programs" (S.P. 249) (L.D. 644)

Report of the Committee on Labor reporting "Leave to Withdraw" on Bill "An Act Relating to Unemployment Compensation Claimants Seeking Retraining" (S.P. 364) (L.D. 984)

Report of the Committee on Taxation reporting "Leave to Withdraw" on Bill "An Act to Increase the Income Benefit Limitations Under the Elderly Householders Tax and Rent Refund Act" (S.P. 117) (L.D. 332)

Report of the Committee on Taxation reporting "Leave to Withdraw" on Bill "An Act to Increase Income Limitations Under the Elderly Householders Tax and Rent Refund Act and to Remove People in Subsidized Housing from the Program" (S.P. 263) (L.D. 672)

Report of the Committee on Taxation reporting "Leave to Withdraw" on Bill "An Act Concerning the Maturation of Tax Liens" (S.P. 261) (L.D. 670)

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

Refer to the Committee on Energy and Natural Resources

Report of the Committee on Marine Resources on Bill "An Act Concerning Commercial Fishing and Maritime Activity Zones" (S.P. 365) (L.D. 985) reporting that it be referred to the Committee on Energy and Natural Resources.

Came from the Senate with the report read and accepted and the Bill referred to the Committee on Energy and Natural Resources.

Report was read and accepted and the bill referred to the Committee on Energy and Natural Resources in concurrence.

Non-Concurrent Matter

Bill "An Act to Amend the Maine Education Statute to Prohibit the Teaching of Alternative Lifestyles in Maine's Public Schools" (S.P. 432) (L.D. 1199) which was referred to the Committee on Judiciary in the House on April 3, 1985.

Came from the Senate with that Body having adhered to its former action whereby the Bill was referred to the Committee on Education in non-concurrence.

On motion of Representative Connolly of Portland, the House voted to adhere.

Non-Concurrent Matter

Bill "An Act Relating to Motorcycle Safety" (H.P. 261) (L.D. 315) on which the Minority "Ought Not to Pass" report of the Committee on Transportation was read and accepted in the House on April 2, 1985.

Came from the Senate with the Majority "Ought to Pass" as amended report of the Committee on Transportation read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (H-47) in non-concurrence.

The SPEAKER: The Chair recognizes the Representative from Corinth, Representative Strout.

Representative STROUT: Mr. Speaker. I move that the House adhere.

The SPEAKER: The Chair recognizes the Representative from Auburn, Representative Michael.

Representative MICHAEL: Mr. Speaker. I move that the House recede and concur.

Representative MICHAEL of Auburn requests a roll call.

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

A vote of the House was taken and less than one-fifth of the members present and voting expressed a desire for a roll call, a roll call was not ordered.

The SPEAKER: The Chair will order a vote. The pending question before the House is the motion of the Representative from Auburn, Representative Michael, that the House recede and concur. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

36 having voted in the affirmative and 94 in the negative, the motion to recede and concur did not prevail.

Subsequently, the House voted to adhere.

Messages and Documents

The following Communication: (S.P. 439)

112th LEGISLATURE

April 3, 1985

Senator Michael E. Carpenter

Representative Edward J. Kane

Chairpersons

Committee on Judiciary

112th Legislature

Augusta, Maine 04330

Dear Chairs:

Please be advised that Governor Joseph E. Brennan has nominated Maynard F. Marsh of Gorham for reappointment to the Maine Indian Tribal-State Commission.

Pursuant to Title 30, MRSA Section 6212, this nomination will require review by the Joint Standing Committee on Judiciary and confirmation by the Senate.

Sincerely,
S/ CHARLES P. PRAY
President of the Senate
S/ JOHN L. MARTIN
Speaker of the House

Came from the Senate, Read and Referred to the Committee on Judiciary.

Was Read and Referred to the Committee on Judiciary in concurrence.

The following Communication: (S.P. 440)
112th LEGISLATURE

April 3, 1985

Senator Michael E. Carpenter
Representative Edward J. Kane
Chairpersons
Committee on Judiciary
112th Legislature
Augusta, Maine 04333
Dear Chairs:

Please be advised that Governor Joseph E. Brennan has nominated Bonnie Post of Owls Head for reappointment to the Maine Indian Tribal-State Commission.

Pursuant to Title 30, MRSA Section 6212, this nomination will require review by the Joint Standing Committee on Judiciary and confirmation by the Senate.

Sincerely,
S/ CHARLES P. PRAY
President of the Senate
S/ JOHN L. MARTIN
Speaker of the House

Came from the Senate, Read and Referred to the Committee on Judiciary.

Was Read and Referred to the Committee on Judiciary in concurrence.

The following Communication: (S.P. 441)
112th LEGISLATURE

April 3, 1985

Senator Michael E. Carpenter
Representative Edward J. Kane
Chairpersons
Committee on Judiciary
112th Legislature
Augusta, Maine 04333
Dear Chairs:

Please be advised that Governor Joseph E. Brennan has nominated Frederick B. Hurley of Wayne for reappointment to the Maine Indian Tribal-State Commission.

Pursuant to Title 30, MRSA Section 6212, this nomination will require review by the Joint Standing Committee on Judiciary and confirmation by the Senate.

Sincerely,
S/ CHARLES P. PRAY
President of the Senate
S/ JOHN L. MARTIN
Speaker of the House

Came from the Senate, Read and Referred to the Committee on Judiciary.

Was Read and Referred to the Committee on Judiciary in Concurrence.

The following Communication: (S.P. 442)
112th LEGISLATURE

April 3, 1985

Senator Michael E. Carpenter
Representative Edward J. Kane
Chairpersons
Committee on Judiciary
112th Legislature
Augusta, Maine 04333
Dear Chairs:

Please be advised that Governor Joseph E. Brennan has nominated F. Paul Frisko of Scarborough for reappointment to the Maine Indian

Tribal-State Commission.

Pursuant to Title 30, MRSA Section 6212, this nomination will require review by the Joint Standing Committee on Judiciary and confirmation by the Senate.

Sincerely,
S/ CHARLES P. PRAY
President of the Senate
S/ JOHN L. MARTIN
Speaker of the House

Came from the Senate, Read and Referred to the Committee on Judiciary

Was Read and Referred to the Committee on Judiciary in concurrence.

Petitions, Bills and Resolved Requiring Reference

The following Bills and Resolves were received and, upon the recommendation of the Committee on Reference of Bills, were referred to the following Committees, Ordered Printed and Sent up for concurrence.

Agriculture

Bill "An Act to Compensate Associations Conducting Winter Harness Racing Meets" (H.P. 865) (L.D. 1222) (Presented by Representative McGOWAN of Canaan) (Cosponsors: Representatives JACQUES of Waterville and MICHAUD of Medway)
(Ordered Printed.)
Sent up for concurrence.

Appropriations and Financial Affairs

Bill "An Act Deauthorizing State Positions which Remain Vacant" (H.P. 866) (L.D. 1223) (Presented by Representative ZIRNKILTON of Mount Desert) (Cosponsors: Representative GWADOSKY of Fairfield and Senator PERKINS of Hancock)
(Ordered Printed.)
Sent up for concurrence.

Business and Commerce

RESOLVE, Creating a Commission to Study Reduced Benefit Low-cost Health Insurance Coverage (H.P. 867) (L.D. 1224) (Presented by Representative ZIRNKILTON of Mount Desert)
Bill "An Act to Create Inactive Professional Licenses for Members of the Armed Forces" (H.P. 868) (L.D. 1225) (Presented by Representative SCARPINO of St. George) (Cosponsors: Representatives PARADIS of Old Town, RACINE of Biddeford and MOHOLLAND of Princeton)
Bill "An Act Limiting the Amount of Insurance Coverage which a Mortgagee can Require a Mortgagor to Carry" (H.P. 869) (L.D. 1226) (Presented by Representative DAVIS of Monmouth) (Cosponsors: Representative BRANNIGAN of Portland, Senator PERKINS of Hancock and President PRAY of Penobscot)
(Ordered Printed.)
Sent up for concurrence.

Education

Bill "An Act to Permit Restructuring of School Administrative Districts" (H.P. 870) (L.D. 1227) (Presented by Speaker MARTIN of Eagle Lake)
Bill "An Act to Provide for State Certification of School Administrators" (H.P. 871) (L.D. 1228) (Presented by Representative BOST of Orono) (Cosponsors: Speaker MARTIN of Eagle Lake, Senator PEARSON of Penobscot and Representative CROUSE of Caribou)
(Ordered Printed.)
Sent up for concurrence.

Energy and Natural Resources

Bill "An Act to Bring into Conformity Municipal and State Subdivision Laws" (H.P. 872) (L.D. 1229) (Presented by Representative STEVENS of Bangor) (Cosponsors: Representative JACKSON of Harrison, Senators TRAF-TON of Androscoggin and DANTON of York)
Bill "An Act to Increase the Allocation of Personal Services Expenditures under the Maine Hazardous Waste Fund for Fiscal Year 1985"

(Emergency) (H.P. 873) (L.D. 1230) (Presented by Representative MITCHELL of Freeport) (Cosponsors: Representatives JACQUES of Waterville, DEXTER of Kingfield and Senator USHER of Cumberland) (Submitted by the Department of Environmental Protection pursuant to Joint Rule 24)

Bill "An Act Affecting Enforcement of Maine's Hazardous Waste Laws" (H.P. 874) (L.D. 1231) (Presented by Representative WARREN of Scarborough) (Cosponsors: Senators TRAF-TON of Androscoggin, CARPENTER of Aroostook and Representative STETSON of Damariscotta)

Bill "An Act to Amend the State's Zoning Laws" (H.P. 875) (L.D. 1232) (Presented by Representative McGOWAN of Canaan)
(Ordered Printed.)
Sent up for concurrence.

Human Resources

Bill "An Act Relating to Retesting of Emergency Medical Technicians" (H.P. 876) (L.D. 1233) (Presented by Representative SWAZEY of Bucksport) (Cosponsors: Representatives CARROLL of Gray, RICE of Stonington and Senator DIAMOND of Cumberland)
Bill "An Act Concerning Courses for License Renewal of Emergency Medical Personnel" (H.P. 877) (L.D. 1234) (Presented by Representative ZIRNKILTON of Mount Desert) (Cosponsors: Representative SWAZEY of Bucksport and Senator PERKINS of Hancock and DIAMOND of Cumberland)

Bill "An Act to Require the Proceedings of Boards of Directors of Nonprofit Hospitals to be Open to the Public" (H.P. 878) (L.D. 1235) (Presented by Representative MELENDY of Rockland) (Cosponsors: Senators NAJARIAN of Cumberland, CARPENTER of Aroostook and Representative WILLEY of Hampden)
Bill "An Act Concerning Compatible Living Areas in Nursing Homes" (H.P. 879) (L.D. 1236) (Presented by Representative DAVIS of Monmouth) (Cosponsors: Representative CARROLL of Gray, Senator GILL of Cumberland and BERUBE of Androscoggin)
(Ordered Printed.)
Sent up for concurrence.

Judiciary

Bill "An Act Relating to Child Abuse Conviction Reform" (H.P. 880) (L.D. 1237) (Presented by Representative STEVENS of Sabattus) (Cosponsors: Representative COTE of Auburn and Senator BERUBE of Androscoggin)
Bill "An Act Concerning Appointment of Counsel for Indigent Criminal Defendants" (H.P. 881) (L.D. 1238) (Presented by Representative WARREN of Scarborough) (Cosponsors: Representative STEVENS of Bangor and Senators GAUVREAU of Androscoggin and CARPENTER of Aroostook)
Bill "An Act Concerning the State Civil Rights Act" (H.P. 882) (L.D. 1239) (Presented by Representative BAKER of Portland)
(Ordered Printed.)
Sent up for concurrence.

Labor

Bill "An Act to Clarify the Agricultural Exemption in the Workers' Compensation Laws" (H.P. 883) (L.D. 1240) (Presented by Representative LISNIK of Presque Isle)
(Ordered Printed.)
Sent up for concurrence.

State Government

Bill "An Act Relating to Disposition of State-owned Real Estate" (H.P. 884) (L.D. 1241) (Presented by Representative SPROUL of Augusta) (Cosponsor: Representative WENT-WORTH of Wells)
Bill "An Act to Require Sufficient Notification in Cases of Adoption of Agency Rules" (H.P. 885) (L.D. 1242) (Presented by Representative SCARPINO of St. George)
(Ordered Printed.)

Sent up for concurrence.

Taxation

Bill "An Act Concerning Tax Assessors and Assessments" (H.P. 888) (L.D. 1245) (Presented by Representative RACINE of Biddeford) (Cosponsor: Representative TARDY OF Palmyra)

Bill "An Act Concerning Registration and Excise Tax on Recreational Vehicles" (H.P. 887) (L.D. 1244) (Presented by Representative SIMPSON of Casco)

(Ordered Printed.)

Sent up for concurrence.

Transportation

Bill "An Act to Permit Travel of Heavy Equipment on Posted Roads" (H.P. 888) (L.D. 1245) (Presented by Representative BROWN of Livermore Falls) (Cosponsor: Representative MILLS of Bethel)

(Ordered Printed.)

Sent up for concurrence.

Reports of Committees

Unanimous Leave to Withdraw

Representative Stevenson from the Committee on Aging, Retirement and Veterans on Bill "An Act to Insure Fair Housing for Senior Citizens" (H.P. 518) (L.D. 723) reporting "Leave to Withdraw"

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

Ought to Pass in New Draft

Representative HALE from the Committee on Labor on Bill "An Act to Increase Fairness to Workers' Compensation Claimants" (H.P. 176) (L.D. 210) reporting "Ought to Pass" in New Draft (H.P. 864) (L.D. 1221)

Report was read and accepted, the New Draft read once and assigned for Second Reading later in today's session.

Divided Report

Majority Report of the Committee on Education reporting "Ought Not to Pass" on Bill "An Act Relating to Requirements for Withdrawal from a School Administrative District" (H.P. 258) (L.D. 312)

Signed:

Senators:

BROWN OF Washington
HICHENS of York

Representatives:

SMALL of Bath
BROWN OF Gorham
CROUSE of Caribou
FOSS of Yarmouth
LAWRENCE of Parsonsfield
ROBERTS of Farmington
MATTHEWS of Caribou
BOST of Orono

Minority Report of the same Committee reporting "Ought to Pass" as amended by Committee Amendment "A" (H-60) on same Bill.

Signed:

Senator:

GAUVREAU of Androscoggin

Representatives:

O'GARA of Westbrook
HANDY of Lewiston

Reports were read.

The SPEAKER: The Chair recognizes the Representative from Gorham, Representative Brown.

Representative BROWN: Mr. Speaker, I move the Majority "Ought Not to Pass" Report.

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

Representative BROWN: Mr. Speaker. Ladies and Gentlemen of the House: This divided report caught my attention this morning as I picked up my calendar and I thought that I would speak a few moments on the issue before we took a vote on this, what I consider

to be a very crucial issue before the House this morning. The Bill before us would permit any municipality which is part of a school administrative district to withdraw with a simple majority vote of that municipality's citizens rather than the two-thirds requirement that currently is in the law. Those who oppose the bill did so with a certain amount of fear. I think it was that fear that caused the bill to come out in the posture that it did from the Committee on Education. I think that the prevailing thought is, how can a town choose to withdraw from a SAD so easily and throw that School Administrative district into a virtual uproar? I guess if you looked at it that way, that could be correct.

But let me give you just a bit of background of how this whole process started. Four years ago, the Legislature dealt with the issue of withdrawal from a SAD. It was a complex subject to be sure because, up to that point, there really wasn't a process. The process simply said that a town could withdraw from a School Administrative District so long as all of the debt was paid off in that district. Of course, it was a little more complicated than that, but basically before a town could even consider pulling out of the SAD, all of the debt had to be paid off within the district. That just wasn't possible, because as you all know, School Administrative Districts, at least any that I know, always have some outstanding debts. So a bill was introduced, several bills were introduced, in fact, to permit towns to withdraw from School Administrative Districts. I was on the Education Committee at the time and was involved in a subcommittee. It finally came out with the language which is in the law today. If there is one thing that I want to impress upon this body today is that the withdrawal of any municipality from a School Administrative District is not a simple task. It is very, very, very complicated. I will go through that procedure with you. The very first thing that has to happen — a petition drive has to take place and a petition has to be signed by at least 10% of all of the voters who voted in the last gubernatorial election. That is the first process. The petition itself. Then the petition has to be presented to the municipality that is withdrawing for acceptance. Acceptance of that petition by that municipality is by a simple majority. All that does is just simply accept the fact that the petition has been duly signed and that there is a movement afoot within the municipality to withdraw. But there still has to be a vote taken on that petition. It has to be taken by the withdrawing municipality. If the vote is favorable for the acceptance of the petition, then proper notice is given to the School Administrative District that such a petition by the withdrawing municipality has been accepted. At that point, a committee is established within that municipality. It is a committee that is established with wide community involvement, both from the general public, from the municipal offices and from the folks who established the petition drive in the first place. So this committee is not lopsided at all. That committee has some very definite responsibilities according to the law. The first of those responsibilities is to provide for an agreement and that agreement, first and foremost, has to provide for the education of students within that municipality.

Secondly, the agreement that is drawn up by the committee shall not result in any school building project that would be eligible for state funding within a five year period of time. This was to protect the state from costly school construction projects as a result of withdrawal from a SAD. That agreement shall provide for transportation of all students within that municipality. Very importantly, that agreement shall provide for the proper distribution of all financial commitment that that municipality has within that School Administrative District. That agreement shall provide for proper ad-

ministration of any future educational activities within the withdrawing town.

For those who are concerned about negotiations of teachers and their rights, the agreement shall provide for continued assignment of collective bargaining agreements as they apply to the new or reorganized School Administrative Unit for the duration of those agreements and shall provide for the continuation of representative rights of the employees. The agreement shall provide for continuation of contractual rights of the employees. The agreement shall provide for disposition of all real and personal property and other monetary assets. These are some of the things that have to be included within the agreement that is prepared by the Committee after the town has accepted the petition. Once the agreement has been put together, it is then forwarded to the State Board of Education. With the help of the Department of Education, it makes a decision within 60 days of the agreement whether or not to give the agreement conditional approval or to recommend changes or to deny it. If conditional approval is provided to the agreement whether or not to give the agreement conditional approval is provided to the agreement, then a public hearing is scheduled, where all sides have an opportunity to represent their views. Following the public hearing, a vote by the municipality is finally held. As the law now says, before that town can withdraw from the School Administrative District after having done all of these things that I have described to you, it still must have a two-thirds vote to withdraw. I think that is wrong. I thought it was wrong then, I think it is wrong now. It is practically impossible to get a two-thirds vote on that kind of a question. It only took a simple majority to get into the School Administrative District, then why should it take more than a simple majority to get out? For those who may follow me and say that the withdrawal of a municipality from any SAD is going to disrupt it to the point that it will have a serious impact on the educational quality within that SAD, should just simply go back through the process that I just described to you and I think that your logic will tell you that is not going to happen. This is an issue of local control. It is very carefully thought out and it is an extremely complex process for any town to pull out. I think we ought to give them that right, if they so choose, especially after having followed the procedure that I just outlined to you.

The SPEAKER: The Chair recognizes the Representative from Lewiston, Representative Telow.

Representative TELOW: Mr. Speaker. Ladies and Gentlemen of the House: The Representative from Livermore Falls, Representative Brown, has done an excellent job of taking my notes away from me, which I spent last night preparing on the withdrawal procedure, so now I will have to take it from the cuff and throw my notes away.

I am the sponsor of this bill and I hope that I will have the support of you people here this morning on the Minority "Ought to Pass." As he explained to you and I have the notes here, there is a safeguard there in the withdrawal procedure. Education is the emphasis of making sure that the children have the proper education when it becomes a withdrawal. I stress to you the fact that a two-thirds vote on a controversial subject as you know right here in this body is very hard to get. And to turn it around to the people in a town and ask for two-thirds, and I would like to stress why the two-thirds has become a problem — in reading on the withdrawal procedure, since the legislature enacted the withdrawal provision, there has not been a wholesale splitting of school districts. Only one town, Dennistown Plantation has successfully withdrawn from a district. There have been seven unsuccessful withdrawal attempts and four including

Greene are pending. So I just want to bring that to your attention of how hard it is. First, the withdrawal procedure really protects the educational system.

I would also want to bring to your attention the fact that there is an amendment to this. That where our committee, although we feel a majority vote on this matter should be considered today, I and my cosponsors and three members of the Education Committee were agreeable to amending this law to 60% in order to maintain the safeguard the opposition feels is necessary. That was the important thing to us. We are asking for in this amendment 60% rather than a two-thirds.

In the Statement of Facts, it states this amendment changes the majority vote to a 60% vote at a primary or general election. That is something different. The intent is to reduce the percentage but to ensure a sufficient voter turnout to get a true and stable community commitment to change. So today, I am asking for your support in setting this at 60%. I have gotten involved, you may ask why, because I have always represented part of Lewiston, and on the redistricting, I inherited Greene and Wales, so one of the first things that was done, I was approached by the Committee to submit this bill. I feel that the education is well covered by the procedure but when you ask for two-thirds, we in the House, know how hard it is on a controversial bill to get that two-thirds. A good example is in Lewiston where I live, on the University of Maine having that in Lewiston. We had trouble, we couldn't even get a majority the last time. So we are having a second referendum this time. But again, I beseech you, give the opportunity to these people. Greene, for example, what are they asking for? They will give a good education. I attended one of their meetings of the Committee last night. Where are they at? They want the 7th and 8th grade students to stay in Greene. Greene's population has increased tremendously in the last 3, 4, 5 years. It is up to roughly 2,000 registered voters now. They want to keep this 7th and 8th grade instead of being bussed with the high school. They want them to stay there, then they will contract out the others. They have already made arrangements that they can contract it out.

So again, I would appreciate your support and your help to help these towns who would like to get out. The circumstances, because you know and I know, it is easier to get in. All of us can remember that some times in our lives when we want to get out of something, we find it almost an impossibility to get out. So again, thanks for listening to me and I would ask for a roll call.

The SPEAKER: The Chair recognizes the Representative from Caribou, Representative Crouse.

Representative CROUSE: Mr. Speaker. Ladies and Gentlemen of the House. Before us today we have a policy that is in place and that has worked extremely well throughout the state as far as the withdrawal policy for the SADs. We have had 4% of the towns in the State of Maine take advantage of this policy and go through the procedure of withdrawal. You have had communities such as Eagle Lake and Winterville that have shown their clear intent as a community as a body of what they would like to see happen on withdrawal. Their percentages of their vote for withdrawal were 85% and 82%. When you have an issue that is this important in a community, you have people who understand the educational process, the educational system and if they feel that they need to withdraw from the system, you will see a clear intent. We all understand here as a member of the House that a two-thirds majority gives us a clear intent of what the body intends. You have commitments that are made by a particular town in a SAD. You have commitments, you have money spent, you have students going into a particular institution. You

have a clear direction of what's happening in a SAD. You have one community that wants to withdraw for whatever particular reason, you have to have a policy in place, such as a two-thirds withdrawal policy in order to maintain the continuity of that particular SAD.

What you have before you today is probably going to be more difficult for a town to withdraw from a SAD. You are going to have to have a 60% vote in order to withdraw on a general election day or state wide election. This, in reality, will probably be more difficult for a town to withdraw from an SAD. If it were a simple majority, you might be able to argue one way or the other, but a 60% vote would not help any one of these towns that have gone through with the withdrawal system. If they have gone through withdrawal they have not been able to receive the 60% and this would not help any town that has gone through this procedure. So, I really don't see a real choice here today. You have a 60% procedure or you have a 66% or two-thirds that is required to withdraw from a SAD so there is no clear choice here.

So I hope you support the committee majority on this bill. It is a very solid procedure, it is a very solid policy and it has worked extremely well throughout the State of Maine.

The SPEAKER: The Chair recognizes the Representative from Lewiston, Representative Handy.

Representative HANDY: Mr. Speaker. Members of the Maine House. I am one of the signers of the Minority Report which is an "Ought to Pass" Report as amended. I just want to briefly go over what this Minority Report does.

It sets a level to 60%, the bill originally asked for 66 and two-thirds, it also requires the election to be held on a state-wide election day. Now Representative Crouse indicated that this may be more difficult than the current statute. I submit that it wouldn't be as difficult or more difficult and it would not also dilute the SAD system by having an influx of towns wishing to withdraw and going through the process. It at least brings it down to 60% so that those towns, who think that it is in the best interest of their community, see this as an attainable percentage of the vote. Now, I do not come from a town that is involved with the SAD process but I have looked over the situation very carefully and, indeed, I am sensitive to any attempt to dilute the SAD process. I want it to retain the integrity that it enjoys. Because the Minority Report requires that it be held on a state-wide election day, it would be a long period of time, a year in some cases, before that town could actually withdraw from that SAD. So those other member towns would have ample opportunity to prepare themselves and they still would be liable for any outstanding debts that they have through that SAD. So once again I just see this as something that makes that process a little bit more attainable for the towns who wish to withdraw.

I respectfully urge you to oppose the motion before you so that we can go on to accept the Minority Report.

The SPEAKER: The Chair recognizes the Representative from Orono, Representative Bost.

Representative BOST: Mr. Speaker. Men and Women of the House. I hope you will support the Majority Report of the Education Committee on L.D. 312. Although, at first glance it would appear a reasonable idea to enable a community to withdraw from a SAD with a simple majority, I am certain after listening to both sides of the argument before our committee, as the other committee members did, that to enable the community to withdraw is not necessarily in the best interests of the people involved. It is not at all uncommon for individuals or groups to have differences of opinion or policy with school administrative units. Often there seems justification for frustrated

individuals to call for a withdrawal from an SAD and they are certainly free to do so. But there must be a mechanism in place, as there has been for many years, to ensure that a vocal minority not determine policy for the municipality, or in this case, the SAD, that mechanism is the requirement of a two-thirds majority of those in the municipality to withdraw. I think that is fair. Otherwise, single issue movements can manipulate policy for the whole district. It would then be much more awkward, as we heard in testimony, to re-enter the district if the momentum has changed and in the interim it would be very disruptive, of course, to that SAD.

The central issue here is quite simple. If those who wish to withdraw have the votes, then the municipality can withdraw. The burden of proof is on those who initiate withdrawal, as it should be.

Finally, it must be said that there have been only a handful of requests in the past ten years as, Representative Crouse has indicated, that figure is 4% to be exact, which indicates to me and others on the committee, that most are content with the process as it stands. The Committee felt also, quite honestly, that the amendment was simply window dressing and did nothing substantive. Although, this bill is well intended, I hope you will accept the Majority "Ought Not to Pass" Report.

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

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

The SPEAKER: The Chair recognizes the Representative from Washington, Representative Allen.

Representative ALLEN: Mr. Speaker. Men and Women of the House: I would urge you this morning to vote against the Majority Report so that we can accept the Minority Report. As a cosponsor of this bill, I felt very strongly on local control. As we are currently standing, two-thirds of the populace of a particular town are required in order for that town to remove itself from the school district, I feel very strongly that a majority of the residents of that town are quite capable of deciding whether or not they want to remain a part of the School Administrative District. Some of the opponents of the legislation said well, they don't want to dilute the strength of a School Administrative District. They don't want to do anything to reduce the integrity of that district. I would say that, as the law stands now, we are, in fact, reducing the integrity of those towns people and diluting their effectiveness and their control over the local school administrative district. I represent eight rural towns, only three of which are in School Administrative Districts, the others belong to school unions. Of the three towns, two of them belong to School Districts that I live in and one belongs to School Administrative District 3.

I would like to briefly tell you of an occurrence in School Administrative District No. 3 that prompted me to cosponsor this bill. I might add for the record, at this point, that the Town of Liberty and School Administrative District 3 is not even thinking of withdrawing but they found themselves in a situation where the School Administrative Board of Directors, of which they only have one member, was going to close their local school. They were going to build a regional elementary school. The basic thought with the members of the school board in that district was that bigger was better. The folks in Liberty disagreed and fought before that even came to the state for building plan approval and were able to overturn that and the state has agreed to refurbish their building

as opposed to building a new structure. But the point is, the people in Liberty felt very helpless. The thirteen board members in that particular school administrative district, had one tiny voice. The felt extremely frustrated to the point where they held an emergency town meeting and, without any dissent, approved a \$5,000 allocation to hire both legal assistance and architectural assistance.

I feel very strongly that small towns are able to intelligently decide whether or not they should or should not belong to the School Administrative District by a simple majority vote. People in these towns are able to decide who the President of the United States is going to be, who their local Representatives are going to be, and if they can do that, if they can make those kinds of decisions by a majority vote, I see absolutely no reason why they can't do the same in determining whether or not the quality of education that that particular school Administrative District is offering is what they want for their children. I think they can do that and I think they can do that by a majority vote.

I would urge you again to reject the Majority Report so we can accept the Minority.

The SPEAKER: The Chair recognizes the Representative from Harrison, Representative Jackson.

Representative JACKSON: Mr. Speaker, Fellow Representatives: I rise to support the minority position and hope that you folks this morning will vote against the majority position on this piece of legislation. As a Representative who comes from several small communities, or represents several small communities, of at least we have investigated withdrawal from a SAD. I certainly can sympathize with those communities. I think one must realize that most of these small communities in the State of Maine, not particularly in the southern part or probably in the central part, but in the western part, northern part and eastern part, only have one representative who represents them on some of these SAD boards. Usually the School Administrative District is made up around a large municipality. That large municipality may have enough votes, or two of those larger municipalities, may have enough votes to cloud the smaller municipalities. Therefore, the policies and expenditures set forth in that unit are controlled by those communities, one or two communities, even with the other communities dissenting.

As a cosponsor of this bill, I thought long and hard as to why many of the communities wish to remove themselves from School Administrative Districts. After discussions with many town fathers and taxpayers of these communities that I represent, it was brought to my attention that several of these communities pay a large portion of the educational costs in these school districts. Some pay as high as 75% or 78%. One community I represent is 67% and another one is 58% of the educational cost in that school district. These people feel or have felt in the past, that due to some of the policies advocated by the School District, the Board of the District, have robbed their municipalities of tax dollars which could have provided police protection, full-time fire protection, maybe a recreation program, things of this nature. I don't dispute and argue with the finance law but I do think that if we are, in some instances, saying that a community with 50 or 60 million dollars state valuation is picking up the tab of anywhere from 58% to 75% of the cost of educating their students in their community, that some of these communities think that maybe we can do just as good a job if we can withdraw from that School Administrative District and start our own school system. I think one must realize that when the inception of the school district law that required a basic number of people before you could be an individual unit, if you did not attain that school population base and you want to stay out by yourself, you were penalized by not receiving

state aid, as I recall. So these are just some of the reasons that I cosponsored the bill, some of the reasons that I feel it is extremely important to give these local communities the local control that Representative Allen speaks about, Representative Brown speaks about, and several other people here that have debated. I am not concerned that 60% is a window dressing as has been stated. I think that if communities really have the initiative and this gives them the position to be within striking distance, removing the 66 and 2/3 to 60%, I think that those people can attain that. I think that the past 66 and two-thirds is indicative of the debate that has been here this morning, that the success rate of keeping these communities together has been because of the 66 and two-thirds percent. People could call the vote anytime they wanted to. They didn't have to have it on a primary election or a general election. We could have it in March, we could have it in August, we could have it in December. Whenever they decided to call it. So I think the amendment does have merit and I think the 60% is attainable and I would hope that the fellow members of this House this morning would join me and some of my colleagues and vote against the Majority Report.

The SPEAKER: The Chair recognizes the Representative from Canton, Representative McCollister.

Representative MCCOLLISTER: Mr. Speaker. Ladies and Gentlemen of the House: The amendment does one thing. It tells the big towns that they have to pay attention and listen to what the small towns are saying. Examine the report. Look at the towns and you tell me what the big towns are. They are all represented on the Committee. The large towns, with their complete control of school boards, set the policy regardless of what the small towns want. That is why I easily accept the 60%. It sends a message to the big towns from the legislature to clean up their act and listen to the small towns.

The SPEAKER: A roll call has been ordered. The pending question before the House is the motion of the Representative from Gorham, Representative Brown, that the House accept the Majority "Ought Not to Pass" Report. Those in favor will vote yes; those opposed will vote no.

ROLL CALL No. 29

YEAS:—Baker, A.L.; Baker, H.R.; Beaulieu, Bell, Bost, Boutillier, Brannigan, Brodeur, Brown, A.K.; Cahill, Carrier, Cashman, Chonko, Clark, Connolly, Crouse, Crowley, Dellert, Diamond, Drinkwater, Duffy, Farnum, Foss, Hale, Harper, Hayden, Hichborn, Hickey, Hillock, Hoglund, Holloway, Ingraham, Jalbert, Joseph, Kimball, Lacroix, Lawrence, Lord, MacBride, Macomber, Manning, Martin, H.C.; Masterman, Matthews, Mayo, McGowan, McHenry, McPherson, Melendy, Michael, Mills, Murphy, E.M.; Murphy, T.W.; Murray, Nadeau, G.R.; Nelson, Nicholson, Nickerson, Paradis, E.J.; Paul, Perry, Pines, Priest, Racine, Randall, Reeves, Rice, Richard, Rioux, Roberts, Rolde, Rydell, Salsbury, Sherburne, Small, Smith, C.B.; Smith, C.W.; Soucy, Stevens, P.; Stevenson, Swazey, Tammara, Tardy, Taylor, Theriault, Walker, Webster, Wentworth, Weymouth, Whitcomb, Zirkililton.

NAYS:—Aliberti, Allen, Armstrong, Begley, Bonney, Bott, Brown, D.N.; Carroll, Carter, Coles, Connors, Cooper, Cote, Daggett, Davis, Descoteaux, Dexter, Dillenback, Erwin, Foster, Greenlaw, Gwadosky, Handy, Hepburn, Higgins, H.C.; Higgins, L.M.; Jackson, Jacques, Lander, Law, Lebowitz, McCollister, McSweeney, Michaud, Mitchell, Moholland, Nadeau, G.G.; O'Gara, Paradis, P.E.; Parent, Pouliot, Ridley, Rotondi, Ruhlin, Seavey, Simpson, Sproul, Stevens, A.G.; Strout, Telow, Vose, Willey.

ABSENT:—Bragg, Callahan, Kane, Lisnik, Scarpino, Stetson, Warren, The Speaker.

91 voted in favor and 52 against with 8 being absent, the motion did prevail.

Sent up for concurrence.

Divided Report

Later Today Assigned

Majority Report of the Committee on Labor reporting "Ought to Pass" as amended by Committee Amendment "A" (H-61) on Bill "An Act to Provide for the Negotiability of Transfers, Reassignments and Promotions for Teachers" (H.P. 530) (L.D. 750)

Signed:

Senators:

TUTTLE of York
DUTREMBLE of York

Representatives:

TAMMARO of Baileyville
HALE of Sanford
JOSEPH of Waterville
BEAULIEU of Portland
RUHLIN of Brewer

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

Signed:

Senator:

BLACK of Cumberland

Representatives:

HEPBURN of Skowhegan
BONNEY of Falmouth
WILLEY of Hampden
BEGLEY of Waldoboro
LANDER of Greenville

Reports were read.

On motion of Representative Priest of Brunswick, tabled pending acceptance of either report and later today assigned.

Divided Report

Later Today Assigned

Majority Report of the Committee on Human Resources reporting "Ought to Pass" on Bill "An Act to Amend the Municipal General Assistance Law" (H.P. 576) (L.D. 847)

Signed:

Senators:

BERUBE of Androscoggin
BUSTIN of Kennebec

Representatives:

MANNING of Portland
CARROLL of Gray
NELSON of Portland
MELENDY of Rockland
BRODEUR of Auburn

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

Signed:

Senator:

GILL of Cumberland

Representatives:

ROLDE of York
SEAVEY of Kennebunkport
TAYLOR of Camden
PINES of Limestone
KIMBALL of Buxton

Reports were read.

On motion of Representative Nelson of Portland, tabled pending acceptance of either report and later today assigned.

Divided Report

Later Today Assigned

Majority Report of the Committee on "Education" on Bill "An Act to Increase Academic Learning Time" (H.P. 161) (L.D. 195) reporting "Ought to Pass" in New Draft (H.P. 862) (L.D. 1215)

Signed:

Senators:

BROWN of Washington
GAUVREAU of Androscoggin

Representatives:

HANDY of Lewiston
O'GARA of Westbrook
CROUSE of Caribou
BOST of Orono
ROBERTS of Farmington
MATTHEWS of Caribou

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

HICHENS of York
Representatives:
SMALL of Bath
BROWN of Gorham
FOSS of Yarmouth
LAWRENCE of Parsonsfield

Reports were read.

On motion of Representative Brown of Gorham, tabled pending acceptance of either report and later today assigned.

Consent Calendar Second Day

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

(H.P. 108) (L.D. 133) Bill "An Act to Prohibit Smoking in Certain Retail Stores" (C. "A" H-58)

(H.P. 359) (L.D. 479) Bill "An Act to Create a Maine Sentencing Guidelines Commission" (C. "A" H-59)

(H.P. 611) (L.D. 881) Bill "An Act to Adjust the Boundaries between House District 103 and House District 55"

(H.P. 390) (L.D. 539) Bill "An Act to Increase the Limit on New School Bus Purchases" (C. "A" H-62)

(H.P. 423) (L.D. 603) Bill "An Act to Provide a 10% Contingency in the School Construction Debt Service Limit" (C. "A" H-63)

No objections having been noted at the end of the Second Legislative Day, the House Papers were Passed to be Engrossed or Passed to be Engrossed as Amended and sent up for concurrence.

Passed to Be Engrossed

Bill "An Act Concerning Persons on Partial Release from a Mental Health Institution" (Emergency) (H.P. 856) (L.D. 1213)

Bill "An Act to Make Permanent the Special Fuel Tax Act" (Emergency) (H.P. 316) (L.D. 405)

Were reported by the Committee on Bills in the Second Reading, read the second time, Passed to be Engrossed, and sent up for concurrence.

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

Passed to Be Enacted Emergency Measure Later Today Assigned

RESOLVE, Regarding a Study of the Personnel Law (S.P. 168) (L.D. 436) (C. "A" S-35)

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

On motion of Representative Nadeau of Saco, tabled pending passage to be enacted and later today assigned.

An Act to Require the Employer to Pay for Eye Examinations Under a Company Mandated Eyeglass Safety Program for Eyeglass Wearers (S.P. 111) (L.D. 326) (C. "A" S-36)

An Act to Provide for Licensing of Companies Who Apply Pesticides as Custom or Commercial Applicators (S.P. 133) (L.D. 372)

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.

An Act Concerning Eligibility to Hunt Moose (H.P. 52) (L.D. 65) (C. "A" H-36)

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

On motion of Representative Erwin of Rumford, set aside.

An Act Relating to Deferred Payments and Terms and Schedules for Repayment of Loans Under the Maine Consumer Credit Code (H.P. 815) (L.D. 1141) (S. "A" S-39)

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

Later Today Assigned

An Act to Permit the Sale of Liquor on Days on Which Statewide General Election is Held (H.P. 362) (L.D. 482) (C. "A" H-46)

Representative Hillock of Gorham moved that L.D. 482 be indefinitely postponed.

O further motion of the same Representative, tabled pending his motion that L.D. 482 be indefinitely postponed and later today assigned.

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

Reports of Committees Ought to Pass Pursuant to Joint Order (H.P. 56) Later Today Assigned

Representative WENTWORTH from the Committee on Local and County Government on RESOLVE, for Laying of the County Taxes and Authorizing Expenditures of Kennebec County for the Year 1985 (Emergency) (H.P. 889) (L.D. 1273) reporting "Ought to Pass" — Pursuant to Joint Order (H.P. 56)

Report was read and accepted and the Bill read once.

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

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

(Off Record Remarks)

On motion of Representative McHenry of Madawaska.

Recessed until five o'clock in the afternoon.

(After Recess)

The House was called to order by the Speaker.

The following item appearing on Supplement No. 4 was taken up out of order by unanimous consent:

Passed to Be Enacted Emergency Measure

RESOLVE, for Laying of the County Taxes and Authorizing Expenditures of Kennebec County for the Year 1985 (H.P. 889) (L.D. 1273)

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. 113 voted in favor of the same and 2 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 Concerning Eligibility to Hunt Moose (H.P. 52) (L.D. 65) (C. "A" H-36) which was tabled earlier and later today assigned pending enactment.

The SPEAKER: The Chair recognizes the Representative from Rumford, Representative Erwin.

Representative ERWIN: Mr. Speaker, Men and Women of the House: I move the indefinite postponement of this bill and all its accompanying papers.

I signed the Minority "Ought Not to Pass" Report because I feel there is no need for this legislation. If passed, this bill would deny a person who has obtained a moose hunting permit from participating in the Moose Lottery for two years. In my opinion, a lottery is a lottery. It would make just as much sense if I were to win \$10,000 on the Maine State Lottery today and then be denied participation in the Maine State

Lottery for two years.

This bill has a fiscal note on it. It means a loss of revenue of \$5,500 in the first year and \$11,000 every year thereafter.

Comments that were made by the Department of Inland Fisheries and Wildlife Deputy Commissioner at the hearing were, a desirability of establishing a waiting period before moose hunting permittees were eligible for another permit has been discussed since moose hunting legislation was first introduced. The Department has felt that the probability of reselection was too small to warrant the problem and cost associated with accurately keeping track of past permittees and effectively controlling the reallocation of permits to ineligible individuals and it should be noted that monitoring and controlling reapplications by ineligible individuals would be extremely difficult. The repeaters are so few that it would be insignificant.

In 1984, 60,881 applications were purchased. Of this number, 1,000 were drawn and there were only eleven repeats from the previous year.

As many of you will recall, the Audit and Program Review worked diligently to come out with an important bill last session to increase efficiency, accountability and to seek an additional funding for a financially troubled department. Does it make sense to pass a bill that would create a loss of revenue of \$16,000 in the first two years and \$11,000 every year thereafter?

I urge you to support the motion to indefinitely postpone this bill.

I would request a roll call.

The SPEAKER: The Chair recognizes the Representative from Bangor, Representative Duffy.

Representative DUFFY: Mr. Speaker, Ladies and Gentlemen of the House: I signed the Majority Report and I asked all the same questions that the Minority people asked as well. There was a great deal of preception that this was done because it was done for the benefit of the sportsmen of Maine. The sportsmen said they were promised when this lottery system went in that everybody would have a fair and equitable chance. What they meant by that fair and equitable chance was that if somebody won once, they would have to wait at least a couple of years. We may be talking 12 people, 14 people in 1984 but the way the probability rises, it could be 20, double that the next year, add another 12 to that the third year — see you could possibly get up to 50 or 60 but withstanding that, the sportsmen have seen this Department and this state generate money for the sole reason of doing anything. I think we don't necessarily have to take a loss here. Nobody is saying that this 11 or 1,000 people won't have another person in the family come along and say, well I will put in for it this year. The dollar amount that we are going to lose on this is, I think, variable, but most of all, I think it is important to look and say to them, we feel that we are trying to be fair and honest, we will keep our word on this, and you should consider the sportsmen instead of the dollar for once.

I would urge you not to indefinitely postpone this bill.

The SPEAKER: The Chair recognizes the Representative from Waterville, Representative Jacques.

Representative JACQUES: Mr. Speaker, Men and Women of the House: The prime sponsor of this bill is not here today and this bill means an awfully lot to him and I would hope that somebody would table this for one legislative day so he could be here when we debate this matter.

On motion of Representative Clark of Millinocket, tabled pending the motion of the Representative from Rumford, Representative Erwin, that this bill and all its accompanying papers be indefinitely postponed and tomorrow assigned.

The Chair laid before the House the following matter: An Act to Permit the Sale of Liquor on Days on Which Statewide General Election is Held (H.P. 362) (L.D. 482) (C. "A" H-46) which was tabled earlier and later today assigned pending the motion of Representative Hillock of Gorham that the Bill be indefinitely postponed.

The SPEAKER: The Chair recognizes the Representative from Gorham, Representative Hillock.

Representative HILLOCK: Mr. Speaker, Ladies and Gentlemen of the House: This Bill, L.D. 482, making a motion that we indefinitely postpone this bill, is more on a matter of principle. I feel that we just don't have a reasonable cause enough to repeal a law that has worked for well over a century. The founding fathers of this state felt it necessary. It may not be as necessary now to the degree that it was in the frontier days of Maine but the root of the problem is still there.

You will hear arguments today that it has an effect on our tourism industry. I came up here to represent the tourism industry. I personally don't think one, perhaps two days a year, liquor establishments not being able to buy booze on that day — well, I do plan ahead and if I want a drink on election day, I will buy it the day before. If I am not able to plan that far ahead, well maybe I shouldn't drink that day.

The elective process is very dear to me and is dear to all the people in this state who have been before us and the sacrifices that they have made for us to have this elected process deserves our attention and for us to overturn this law would have to have a lot of evidence in my mind and the sacrifice that we give of abstaining from buying, not abstaining from drinking that day, just doesn't hold water for me.

I request a roll call vote and I urge you to vote in the affirmative for indefinite postponement of this bill.

The SPEAKER: The Chair recognizes the Representative from Pittston, Representative Reeves.

Representative REEVES: Mr. Speaker, Men and Women of the House: The Legal Affairs Committee voted unanimously to remove the restrictions on the sale of liquor on election day. We had two days of public hearings on this subject with extensive testimony and no one spoke of an instance where they had ever heard of where alcohol had been used to influence a vote on election day. We asked this question of several police officers and liquor enforcement officials as well as the general public giving testimony and there was absolutely no evidence that alcohol had been used in this manner in regard to elections.

We also had considerable testimony from Maine restaurants as to the hardships to their business of not serving drinks on this day and particularly when customers were out-of-staters or out-of-towners where restrictions seemed irrelevant. It was the feeling of the committee that this law is an outdated blue law that comes back from the time when politicians were perceived as influencing votes by buying people drinks. There are 16 controlled states in the country and 14 of those states do not have any prohibitions on election day sales of liquor. One other state besides Maine still retains its prohibition.

Finally, the fiscal impact of repealing this law would be considerable to have election day sales and would increase our General Fund revenues by approximately \$213,000 in the next fiscal year, 1986 and 1987 so I urge you to vote against indefinite postponement.

The SPEAKER: The Chair recognizes the

Representative from Cumberland, Representative Dillenback.

Representative DILLENBACK: Mr. Speaker, Ladies and Gentlemen of the House: This is true, this was a majority vote of the committee, it was not only a majority, it was a total vote of the committee, and we aren't all dries on the committee and we aren't all wets on the committee. The days of putting a barrel out in the middle of the street, which they probably did in 1820 when this law went into effect, and they passed out liquor around the corner before the people went to vote, may have been the reason for the vote at that time. Certainly this is an archaic law. We don't need it and I think it would be very wise just to let it die a natural death.

The SPEAKER: The Chair recognizes the Representative from Orono, Representative Bott.

Representative BOTT: Mr. Speaker, Men and Women of the House: I agree with the Representative from Cumberland, Representative Dillenback, when he says that those days are gone. I think those days are gone, I don't think that there is anyone in this body or the other body or anybody who ran against us last time who would even consider stooping to the level of buying alcohol for someone in order to procure votes. I think to leave this on the books is a bad idea because those days are gone and to leave it there implies that somehow people in this body or people who will serve in this body would do such a thing as buying votes with liquor.

I hope that you will support the unanimous report of the committee and repeal this.

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

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

The SPEAKER: The pending question before the House is the motion of the Representative from Gorham, Representative Hillock, 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. 30

YEAS:—Allen, Baker, A.L.; Begley, Bell, Bonney, Bost, Bragg, Brodeur, Clark, Connors, Connolly, Crowley, Dellert, Dexter, Hepburn, Higgins, H.C.; Higgins, L.M.; Hillock, Kimball, Lander, MacBride, Masterman, Matthews, Mayo, McColister, Michael, Mills, Mitchell, Paradis, E.J.; Parent, Pines, Randall, Richard, Ridley, Rydell, Sherburne, Smith, C.B.; Smith, C.W.; Sproul, Stevenson, Strout, Wentworth, Weymouth, Whitcomb, Zirkilton.

NAYS:—Aliberti, Armstrong, Beaulieu, Bott, Boutillier, Brannigan, Brown, A.K.; Brown, D.N.; Cahill, Carroll, Carter, Cashman, Chonko, Coles, Cooper, Cote, Crouse, Daggett, Davis, Descoteaux, Diamond, Dillenback, Drinkwater, Duffy, Erwin, Farnum, Foss, Foster, Greenlaw, Gwadosky, Hale, Handy, Harper, Hayden, Hichborn, Hickey, Holloway, Ingraham, Jackson, Jacques, Jalbert, Joseph, Lacroix, Law, Lawrence, Lebowitz, Lord, Macomber, Manning, Martin, H.C.; McGowan, McHenry, McPherson, McSweeney, Melendy, Michaud, Moholland, Murphy, E.M.; Murphy, T.W.; Murray, Nadeau, G.G.; Nadeau, G.R.; Nickerson, O'Gara, Paradis, P.E.; Paul, Perry, Pouliot, Priest, Racine, Reeves, Rice, Rioux, Roberts, Rolde, Rotondi, Ruhlin, Salsbury, Seavey, Simpson, Small, Soucy, Stevens, A.G.; Stevens, P.; Swazey, Tammara, Tardy, Taylor, Telow, Theriault, Vose, Walker, Warren, Webster, Willey.

ABSENT:—Baker, H.R.; Callahan, Carrier, Hoglund, Kane, Lisnik, Nelson, Nicholson, Scarpino, Stetson, The Speaker.

45 having voted in the affirmative and 95 in the negative with 11 being absent, the motion did not prevail.

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

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

Papers from the Senate

Bill "An Act to Make Liability Auto Insurance Mandatory" (S.P. 457) (L.D. 1260)

Bill "An Act Concerning Warranties Given by Persons Engaged in the Business of Rust-proofing Motor Vehicles" (S.P. 458) (L.D. 1261)

Came from the Senate, referred to the Committee on Business and Commerce and Ordered Printed.

Were referred to the Committee on Business and Commerce in concurrence.

Bill "An Act to Establish a Funding Mechanism to Make the Joint Environmental Training Program Self-supporting" (S.P. 459) (L.D. 1262)

Came from the Senate, referred to the Committee on Energy and Natural Resources and Ordered Printed.

Was referred to the Committee on Energy and Natural Resources in concurrence.

Bill "An Act to Amend the Maine Certificate of Need Act to Correct Inconsistencies Related to Other Statutory Provisions and to Ensure Cost-effective Development of Services Requiring Acquisition of Major Medical Equipment" (S.P. 461) (L.D. 1264)

Came from the Senate, referred to the Committee on Human Resources and Ordered Printed.

On motion of Representative Brodeur of Auburn, referred to the Committee on Human Resources in concurrence.

Bill "An Act Concerning Access to Birth Records of Adopted Persons" (S.P. 462) (L.D. 1265)

Came from the Senate, referred to the Committee on Human Resources and Ordered Printed.

On motion of Representative Brodeur of Auburn, referred to the Committee on Judiciary in non-concurrence and sent up for concurrence.

Bill "An Act to Require that all Checks Issued to a Recipient of State Aid to Pay Local Real Estate Taxes be Issued Jointly in the Name of the Municipality and the Name of the Recipient" (S.P. 463) (L.D. 1266)

Came from the Senate, referred to the Committee on Human Resources and Ordered Printed.

On motion of Representative Brodeur of Auburn, referred to the Committee on Taxation in non-concurrence and sent up for concurrence.

Bill "An Act Relating to Privileged Communications under the Child and Family Services and Child Protection Act" (S.P. 460) (L.D. 1263)

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

(The Committee on Reference of Bills had suggested reference to the Committee on Human Resources.)

Was referred to the Committee on Judiciary in concurrence.

Bill "An Act Concerning Computer Fraud and Abuse" (S.P. 464) (L.D. 1267)

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

(The Committee on Reference of Bills had suggested reference to the Committee on Legal Affairs.)

Was referred to the Committee on Judiciary in concurrence.

Bill "An Act to Improve and Strengthen the Referendum Process" (S.P. 465) (L.D. 1268)

Came from the Senate, referred to the Committee on Legal Affairs and Ordered Printed.

Was referred to the Committee on Legal Affairs in concurrence.

Bill "An Act Relating to the Classification of the Deputy Treasurer and Supervisor of Abandoned Property" (S.P. 466) (L.D. 1269)

Came from the Senate, referred to the Committee on State Government and Ordered Printed.

Was referred to the Committee on State Government in concurrence.

Bill "An Act to Prevent Utilities from Passing on to Ratepayers the Investment Losses from Canceled Power Plants" (S.P. 467) (L.D. 1270)

Bill "An Act to Ensure Reduced Telephone Rates for Volunteers and Nonprofit Organizations Serving the Deaf, Hearing Impaired and Speech Impaired" (S.P. 468) (L.D. 1271)

Bill "An Act to Ensure Affordable Telephone Costs for Nonprofit Social Service Corporations by Prohibiting the Local Measured Service Rate Structure for these Customers" (S.P. 469) (L.D. 1272)

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

Were referred to the Committee on Utilities in concurrence.

Unanimous Leave to Withdraw

Report of the Committee on Aging, Retirement and Veterans reporting "Leave to Withdraw" on Bill "An Act to Require that the Maine National Guard Provide an Honor Guard for Burials at the Maine Veterans' Memorial Cemetery" (S.P. 268) (L.D. 726)

Report of the Committee on Aging, Retirement and Veterans reporting "Leave to Withdraw" on RESOLVE, Authorizing the Department of Defense and Veterans' Services to Study Benefits Offered by the Maine National Guard as Compared with other State (S.P. 288) (L.D. 777)

Report of the Committee on Energy and Natural Resources reporting "Leave to Withdraw" on Bill "An Act to Establish a State Energy Efficiency Goal" (S.P. 173) (L.D. 465)

Report of the Committee on Local and County Government reporting "Leave to Withdraw" on Bill "An Act to More Clearly Provide for Public Access to the County Budget Process" (S.P. 160) (L.D. 427)

Report of the Committee on Judiciary reporting "Leave to Withdraw" on Bill "An Act to Permit State Courts to Remain Open on the Day of a Statewide Primary or General Election" (S.P. 109) (L.D. 324)

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

Ought to Pass in New Draft

Report of the Committee on Business and Commerce on Bill "An Act to Amend the Maine Consumer Credit Code" (S.P. 148) (L.D. 415) reporting "Ought to Pass" in New Draft (S.P. 438) (L.D. 1214)

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 read once and assigned for Second Reading tomorrow.

Messages and Documents

The following Communication: (S.P. 470)
112th Maine Legislature

April 4, 1985

Senator Ronald E. Usher
Representative Michael H. Michaud
Chairpersons

Committee on Energy and Natural Resources
112th Legislature

Augusta, Maine 04333

Dear Chairs:

Please be advised that Governor Joseph E. Brennan has nominated Dr. R. Stevens Kleinschmidt of Pittsfield for appointment to the Board of Environmental Protection.

Pursuant to Title 38 MRSA Section 431, this nomination will require review by the Joint Standing Committee on Energy and Natural Resources and confirmation by the Senate.

Sincerely,

S/ CHARLES P. PRAY
President of the Senate

S/ JOHN L. MARTIN
Speaker of the House

Came from the Senate, Read and Referred to the Committee on Energy and Natural Resources.

Was Read and Referred to the Committee on Energy and Natural Resources in concurrence.

Passed To Be Engrossed

Bill "An Act to Increase Fairness to Workers' Compensation Claimants" (H.P. 864) (L.D. 1221)

Was reported by the Committee on Bills in the Second Reading, read the second time, Passed to be Engrossed, and sent up for concurrence.

Orders of the Day Bill Held

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

Representative SMITH: Mr. Speaker, is the House in possession of: Bill "An Act to Amend the Maine Education Statute to Prohibit the Teaching of Alternative Lifestyles in Maine's Public Schools" (S.P. 432) (L.D. 1199)?

(—In Senate, Senate Adhered to its action whereby the Bill was referred to the Committee on Education.)

(—In House, House Adhered to its action whereby the Bill was referred to the Committee on Judiciary.)

The SPEAKER: The Chair would answer in the affirmative being held at the request of the Representative from Island Falls, Representative Smith.

Representative SMITH of Island Falls moved that the House reconsider its action whereby the House voted to adhere.

The SPEAKER: The Chair recognizes the Representative from Portland, Representative Connolly.

Representative CONNOLLY: Mr. Speaker, I move that this be tabled for one legislative day.

Representative Smith of Island Falls requested a Division.

The SPEAKER: The pending question before the House is the motion of the Representative from Portland, Representative Connolly, that this be tabled for one legislative day. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

42 having voted in the affirmative and 89 in the negative, the motion did not prevail.

The SPEAKER: The Chair recognizes the Representative from Portland, Representative Connolly.

Representative CONNOLLY: Mr. Speaker, Members of the House: The reason that I asked for the tabling motion was that I didn't want to take up the time of the House this afternoon to debate the bill and would leave it until tomorrow but since we are not in the position to do that and also because we are not in the position to debate the merits of this legislation. Just let me try to explain to those of you who are not familiar with what is going on with what I am attempting to try to do.

This bill deals with a subject matter that is also contained in another piece of legislation that has already been referred to the Judiciary Committee. That other piece of legislation is

a bill of which I am one of the cosponsors. I had attempted on reference to try to get that other bill referred to the Legal Affairs Committee because I felt that it would be more appropriately handled by that committee. However, the folks who ran the two committees decided that it was best if that bill went to the Judiciary Committee. When this bill, which is before us now, came into this body the other day, we moved to send it to the Judiciary Committee so they could have both bills dealing with the same subject matter. Our motion to adhere today would say that this House reaffirms that position that the bill should stay before the Judiciary Committee rather than the Education Committee where the proponents of it would like to see it go.

I would hope that you would vote against the motion for reconsideration.

The SPEAKER: The Chair recognizes the Representative from Madawaska, Representative McHenry.

Representative McHENRY: Mr. Speaker, Ladies and Gentlemen of the House: The motion to adhere that the House took this morning is actually killing the bill so I believe that this bill should have a hearing, whether it be Judiciary or it be Education, the bill should have a hearing. It does have enough merits to have a hearing so whether the other bill was referred to Judiciary where the other body does not agree with us, it should be referred to the Judiciary — they say it should be Education — Title 20 is education so I believe that we should reconsider and after that, send the bill over and recede and concur with the other body.

The SPEAKER: The Chair will order a vote. The pending motion now before the House is the motion of the Representative from Island Falls, Representative Smith, that the House reconsider its action where the House voted to adhere. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

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

Whereupon, on motion of Representative Smith of Island Falls, the House voted to recede and concur.

The SPEAKER: The Chair recognizes the Representative from Gorham, Representative Brown.

Representative BROWN: Mr. Speaker, is the House in possession of: Bill "An Act to Increase the Limit on New School Bus Purchases" (H.P. 390) (L.D. 539)?

(—In House, Passed to be Engrossed as amended by Committee Amendment "A" (H-62).)

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

On motion of Representative Brown of Gorham, the House reconsidered its action whereby the Bill was passed to be engrossed as amended.

The Committee Report was accepted, the Bill read once.

Committee Amendment "A" (H-62) was read by the Clerk and adopted and the Bill assigned for Second Reading tomorrow.

The following items appearing on Supplement No. 5 were taken up out of order by unanimous consent:

Petitions, Bills and Resolves Requiring Reference

The following Bills and Resolves were received and, upon the recommendation of the Committee on Reference of Bills, were referred to the following Committees, Ordered Printed and Sent up for Concurrence:

Judiciary

Bill "An Act to Increase the Classification of the Crime of Gross Sexual Misconduct under the Maine Criminal Code" (H.P. 890) (Presented

by Representative DUFFY of Bangor) (Cosponsors: Senator BALDACCI of Penobscot and Representative NELSON of Portland)

(Ordered Printed)

Sent up for concurrence.

State Government

Bill "An Act to Reallocate Mortgage Insurance Authority from the Mortgage Insurance Program of the Finance Authority of Maine to the Maine Small Business Loan Program" (Emergency) (H.P. 891) (Presented by Representative GWADOSKY of Fairfield) (Cosponsors: Speaker MARTIN of Eagle Lake, President PRAY of Penobscot and Representative MURPHY of Kennebunk) (Submitted by the Finance Authority of Maine pursuant to Joint Rule 24)

(Ordered Printed)

Sent up for concurrence.

The Chair laid before the House the following matter: Majority Report of the Committee on Labor reporting "Ought to Pass" as amended by Committee Amendment "A" (H-61) on Bill "An Act to Provide for the Negotiability of Transfers, Reassignments and Promotions for Teachers" (H.P. 530) (L.D. 750) and Minority Report of the same Committee reporting "Ought Not to Pass" on same Bill which was tabled earlier and later today assigned pending acceptance of either report.

The SPEAKER: The Chair recognizes the Representative from Portland, Representative Beaulieu.

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

The SPEAKER: The Chair recognizes the Representative from Hampden, Representative Willey.

Representative WILLEY: Mr. Speaker, Ladies and Gentlemen of the House: I move that this bill and all its accompanying papers be indefinitely postponed.

The reason that I have made this motion — in the first place, I think I should explain that the teachers' union this year have had 23 bills in so far and none of them had anything to do with the quality of education. Most of them had to do with improving the bargaining position and enhancing the bargaining position of the teachers' union at the expense of local control. This is a good example of what I am talking about.

To explain the position a little better and perhaps in better words than I can put in, I would like to read one paragraph from a letter that I received from a superintendent of schools in SAD 22 and I read: "L.D. 750 would require the transfer, reassignment, and promotion of teachers shall be negotiable items. This bill would have the effect of overturning the decision of the Maine Supreme Judicial Court which held that the criteria for transfer, reassignment and promotion of teachers are non-negotiable. Please note that the procedures for transfer, reassignment and promotion of teachers are currently negotiated; therefore, net effect of L.D. 750 would be to remove from the local school board the authority to establish criteria and place that authority in the hands of the arbitrator."

So, I guess the argument really comes down to the definition and the way these particular words are used — criteria and procedure. Procedure is a method; in other words, they have been able to negotiate the method by which these things could take place. For instance, they say we will include this in the method and not that — that sort of thing. Criteria, of course, is a standard for judging. Now, if you look at it in that respect, the standard for judging might be — are we going to consider seniority; are we going to consider ability and to what percentage? Promotion, reassignment and transfers, in my opinion, is something that is

best left up to administration because certainly in the private sector, you couldn't have the union that represents your company negotiating who is going to be the foreman or the superintendent; it simply would not work and it won't work, I don't believe, in the school district either.

The infringement upon local control, I think, is considerable and there is always an erosion there. For instance, consider this, the peoples only contact with the Department of Education or the educational system in general is simply through the elected officials that they have elected to the school board. There is no way that you are going to have any input at all through the union. It has to be through the school board and for that reason, I think this is a very detrimental bill and I am sure that every school administrator in the country agrees with it.

The SPEAKER: The Chair recognizes the Representative from Portland, Representative Beaulieu.

Representative BEAULIEU: Mr. Speaker, Ladies and Gentlemen of the House: I am not going to stand here and cite you how many bills MMA or any other group have put in. If they have put in bills, they all deserve to have a hearing as this one did.

First of all, let me indicate to you that the original bills did not include the words "criteria" and/or "procedures." The committee dealt with this bill in the same manner that we dealt with the issues of seniority when the Supreme Court made a judgment on that issue. We dealt with this issue in the same manner that we dealt with the issue of just cause just this last session because we felt that the way the court decision was in highly similar circumstances so we are not setting a precedent.

The bill allows, in its current form, bargaining agents of teachers to negotiate criteria and procedures with school boards considering the working conditions of transfer, reassignment and promotion. There is never any interference on the recommendation that a superintendent makes to the school committee. What we are talking about is what precedes the superintendent's election process. The Supreme Court preceded its seniority decision in the same parallel on this one and they have invalidated a provision in one collective bargaining agreement.

I think that it is important for everyone to understand that for the past 14 years, the criteria and the procedures have been negotiable up until this Supreme Court decision. I think it is important for everyone to make note also of the fact that within the confines of that Supreme Court decision that the court said and I quote: "by this decision, we do not recognize any implied management prerogative exceptions to the scope of public sector collective bargaining."

The bill simply reinstates the right of the associations and management that have been exercised for some 14 years now to bargain the criteria and the procedures for the transfer, reassignment and promotion of teachers within a bargaining unit. There was another step that the committee felt very strongly about and we made sure the language was appropriate because we didn't want them to transfer into another bargaining unit. Again, we plead the case on our unanimous or the Majority Report that we dealt with this issue in the same manner as we did with the seniority and just cause issue.

I would like to point out the justification one step further for the Majority Report — last week there was an article in the newspaper concerning principals transfers in the City of Portland and I can quote directly from the newspaper article a comment made by one principal who was involved and he said: "no one quarrels with the right of the superintendent to reassign but the process is wrong." It was the process utilized that upset parents,

teachers and the principals. This bill addresses the issue of what kind of process will be utilized.

The SPEAKER: The Chair recognizes the Representative from Gorham, Representative Brown.

Representative BROWN: Mr. Speaker, Ladies and Gentlemen of the House: The amended version of L.D. 750 would make it possible for an arbitrator to insert language in a negotiated agreement that would require a school board to hire an inside candidate to fill a teacher vacancy even though there are better qualified applicants from outside the school system. Local school officials routinely give existing staff members notice of upcoming vacancies and encourage their application but the public interest in quality education would be seriously compromised if an inside candidate is given an automatic preference over all other applicants.

I urge you to vote against the pending motion.

The SPEAKER: The Chair recognizes the Representative from Waldoboro, Representative Begley.

Representative BEGLEY: Speaker Martin, Ladies and Gentlemen of the House: I rise in support of the indefinite postponement motion. To pass this bill would be taking away the responsibility of local elected officials, the school board members. In many school systems right now, when a position opens up, this job is posted in each school and any teacher may apply for any of these openings. After this process, I then believe the authority should be left with the Superintendent who then, by his or her recommendations, would be giving the school board members the direction they need to make their decisions about filling any openings within that particular school union or district.

I urge you to support the motion to indefinitely postpone.

The SPEAKER: The Chair recognizes the Representative from Portland, Representative Beaulieu.

Representative BEAULIEU: Mr. Speaker, Ladies and Gentlemen of the House: I am not going to take up too much time. I believe I have more than adequately explained the Majority Report and why it is before you; however, I can't help but say to you that I wonder why the local control issue was not really raised for the past 14 years when these issues were, indeed, negotiated by school boards all over the state and I would contend that any Superintendent who would recommend a less than qualified person to a school committee should be shot down in more ways than one by that school committee. This bill does not impede upon that process whatsoever.

I would request a roll call.

The SPEAKER: The Chair recognizes the Representative from Hampden, Representative Willey.

Representative WILLEY: Mr. Speaker, Ladies and Gentlemen of the House: As Representative Beaulieu told you, they did, I guess, in some areas at least negotiate criteria for 14 years or some such matter but apparently it was done by error because as soon as that practice was called to the attention of the law court, it was outlawed and justifiably so.

It is not uncommon, in fact it is rather common, for the union to come before the labor committee in the instance of adverse legal decision to get the law changed so that they are not hung up on that affair again. It is also not uncommon for them to come before this body and the other one in the instance of where they have negotiated a contract that was not very good to get us to remedy that as well. This, I think, is one of those instances. In the instance of the amendment, I can't see that the amendment does anything at all. It includes the language within the bargaining unit — well, I don't know where else a union can bargain except within the bargaining unit.

I would urge you to support my motion in the interest of local control.

The SPEAKER: The Chair recognizes the Representative from Yarmouth, Representative FOSS.

Representative FOSS: Mr. Speaker, Ladies and Gentlemen of the House: As a member of the Education Committee, I am opposed to the negotiability of teacher transfers, reassignment, and promotions. These decisions are clearly management responsibilities. The members of the local school committees and superintendents of schools must be allowed to perform their statutory duties. The hiring and placement of teachers are two of the most important functions of the locally elected and appointed officials. These functions should not be delegated to others at the bargaining table.

I urge you to support the motion to indefinitely postpone.

Representative Beaulieu was granted permission to speak a third time.

Representative BEAULIEU: Mr. Speaker, Ladies and Gentlemen of the House: I simply want to remind you again that what the court ruled on was on a decision on a provision in one collective bargaining agreement that had been voluntarily entered into between the teachers association and the school board—in one case. I repeat again what I said earlier that the court does not recognize any implied management prerogative exceptions in their decision concerning this matter so I hope that you will not vote to indefinitely postpone this bill.

The SPEAKER: The Chair recognizes the Representative from LaGrange, Representative Hichborn.

Representative HICHBORN: Mr. Speaker, Ladies and Gentlemen of the House: This is a question of local control. L.D. 750 seems to imply that local school boards and superintendents can't be trusted to hire the best educators available. This bill is just one more step in the direction of erosion of local control and the responsibility for selecting the best qualified teachers should be left to the local school committees and the superintendents of schools.

I hope that you will vote to indefinitely postpone this bill.

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

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

The SPEAKER: The Chair recognizes the Representative from Skowhegan, Representative Hepburn.

Representative HEPBURN: Mr. Speaker, Members of the House: I think that it is important that we deal with the issue before us now which is an issue of local control and it is important that we don't become too caught up in what has gone on before us. The ongoing question would have to be: if we cannot trust our local school boards to make the decision on how positions will be filled, then who can we trust?

I urge you to support the motion to indefinitely postpone this.

The SPEAKER: The Chair recognizes the Representative from Washington, Representative Allen.

Representative ALLEN: Mr. Speaker, Men and Women of the House: I would like to pose a question through the Chair.

I would like to know how the residents of a local community can be assured that the best person will be hired when a vacancy does occur if, in fact, the superintendent does not post that vacancy?

The SPEAKER: The Representative from

Washington, Representative Allen, has posed a question through the Chair to anyone who may respond if they so desire.

The Chair recognizes the Representative from Hampden, Representative Willey.

Representative WILLEY: Mr. Speaker, Ladies and Gentlemen of the House: In answer to the question, that is under procedure which they negotiate now. The procedures for doing so certainly can be posted. The list can be posted under procedures. It doesn't include criteria. Presently, they want to include criteria, which is quite a different matter.

The SPEAKER: The Chair recognizes the Representative from Westbrook, Representative O'Gara.

Representative O'GARA: Mr. Speaker, Ladies and Gentlemen of the House: I just want to reiterate what has already been said on one particular item and that is that we are only talking about criteria and procedure here and not the superintendent's eventual selection. It has been my very, very carefully observed judgment over the years that whenever teachers are allowed an opportunity to sit in and discuss and to have a hand in the selection process, the criteria which is established, it makes for a much better system. Over the years as a teacher, I was involved at a level with Maine Municipal, with the Maine Teachers' Association and in that capacity, it was my responsibility to sit in on hearings throughout the state and one of the most often brought up problems that we had was in a situation where superintendents of schools were allowed arbitrarily to make the decisions without any input from the teachers at all. I don't think anybody should vote for this motion on the basis that a superintendent's right is being taken away. The superintendent's right to make the decision, the ultimate decisions, is still there. All it simply says is, that if the criteria is established properly and the teachers have had a hand in it, if teacher X and teacher Y both apply for the same job and one or the other is selected, as long as the process has been a fair one and people had a hand in it, the superintendent's choice would not be questioned. That is not the way it is at this time and I urge the members of the House to defeat the motion to indefinitely postpone.

The SPEAKER: The Chair recognizes the Representative from Falmouth, Representative Bonney.

Representative BONNEY: Mr. Speaker, Ladies and Gentlemen of the House: To relegate teacher hiring to the bargaining table thereby ultimately permits arbitrators to specifically assign teachers makes a mockery of the public expectation that the best qualified teachers will be sought by school administrators and school boards in order to assure the best possible education for their students.

The SPEAKER: The Chair recognizes the Representative from Thomaston, Representative Mayo.

Representative MAYO: Mr. Speaker, Ladies and Gentlemen of the House: I think there is something fundamentally wrong going on here—I don't know if we are listening to each other. We are talking about negotiability of policies and procedures; we are not talking about home rule; we are not talking about the superintendents rights to hire a teacher; he still maintains that right. As Representative O'Gara said, it still doesn't affect that. We should read the Statement of Fact on the back of L.D. 750 and consider this in a calm and rational manner and listen to each other.

The SPEAKER: The pending question before the House is the motion of the Representative from Hampden, Representative Willey, that this bill and all its accompanying papers be indefinitely postponed.

The SPEAKER: The Chair recognizes the Representative from Harrison, Representative Jackson.

Representative JACKSON: Mr. Speaker, I wish

to pair my vote with the Representative from Old Town, Representative Cashman. If he were here and voting, he would be voting no; I would be voting yes.

The SPEAKER: The pending question before the House is the motion of the Representative from Hampden, Representative Willey, 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. 31

YEAS:—Aliberti, Armstrong, Baker, A.L.; Begley, Bell, Bonney, Bott, Bragg, Brown, A.K.; Brown, D.N.; Cahill, Carter, Connors, Daggett, Davis, Dellert, Descoteaux, Dexter, Dillenback, Drinkwater, Foss, Foster, Greenlaw, Gwadosky, Harper, Hepburn, Hichborn, Higgins, L.M.; Hillock, Holloway, Ingraham, Jacques, Jalbert, Kimball, Law, Lawrence, Lebowitz, Lord, MacBride, Macomber, Martin, H.C.; Masterman, Matthews, McGowan, McPherson, McSweeney, Melendy, Moholland, Murphy, E.M.; Murphy, T.W.; Nickerson, Paradis, E.J.; Parent, Perry, Pines, Racine, Randall, Rice, Richard, Ridley, Rioux, Salsbury, Seavey, Sherburne, Small, Smith, C.B.; Smith, C.W.; Soucy, Sproul, Stevens, A.G.; Stevenson, Strout, Swazey, Tardy, Taylor, Telow, Vose, Walker, Webster, Wentworth, Whitcomb, Willey, Zirkilton.

NAYS:—Allen, Beaulieu, Bost, Boutilier, Brannigan, Brodeur, Carroll, Chonko, Clark, Coles, Connolly, Cooper, Cote, Crouse, Crowley, Diamond, Duffy, Erwin, Hale, Handy, Hayden, Hickey, Higgins, H.C.; Lacroix, Manning, Mayo, McCollister, McHenry, Michaud, Mills, Mitchell, Murray, Nadeau, G.G.; Nadeau, G.R.; O'Gara, Paradis, P.E.; Paul, Pouliot, Priest, Reeves, Roberts, Rolde, Rotondi, Ruhlin, Rydell, Simpson, Stevens, P.; Tammara, Theriault, Warren, Weymouth, The Speaker.

ABSENT:—Baker, H.R.; Callahan, Carrier, Farnum, Hoglund, Joseph, Kane, Lander, Lisnik, Michael, Nelson, Nicholson, Scarpino, Stetson.

PAIRED:—Cashman—Jackson.

83 having voted in the affirmative and 52 in the negative with 14 being absent and 2 paired, the motion did prevail. Sent up for concurrence.

Majority Report of the Committee on Human Resources reporting "Ought to Pass" on Bill "An Act to Amend the Municipal General Assistance Law" (H.P. 576) (L.D. 847)

Signed:

Senator:

BERUBE of Androscoggin
BUSTIN of Kennebec

Representatives:

MANNING of Portland
NELSON of Portland
MELENDY of Rockland
BRODEUR of Auburn

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

Signed:

Senator:

GILL of Cumberland

Representatives:

ROLDE of York
SEAVEY of Kennebunkport
TAYLOR of Camden
PINES of Limestone
KIMBALL of Buxton

Reports were read.

The SPEAKER: The Chair recognizes the Representative from Kennebunkport, Representative Seavey.

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

Mr. Speaker, Ladies and Gentlemen of the House: This bill is not as controversial as the bill we just heard even though it got a 7 to 6 report out of committee. It is the kind of bill that usually gets passed, it doesn't do anybody any harm, goes down to the Appropriations Table, and then gets short-circuited down there

because there is no money. I think we can save Appropriations a little time and trouble and take care of some of these needless bills in committee or on the floor of the House.

The first thing that I object to is the \$100,000 appropriation except for fiscal year '87. First of all, if this bill is really needed, I think the appropriation could stop in the fiscal year '86. I can't see why it is in fiscal year '87. If that is the case, it ought to come back next year when we are more sure of fiscal year 1987's revenues.

More importantly than that, every town and city right now, administers their own municipal general assistance program and while it is true that under this bill, any town or city could apply to the Department of Human Services for grant money, the only person to testify before the committee in support of the bill was the welfare director from the City of Portland and I think that should tell you something.

The State of Maine could execute a more uniform program to help towns administer the general assistance program rather than this bill which allows big cities to computerize their list at the entire states expense.

I urge you to vote yes on the pending motion.

On motion of Representative Diamond of Bangor, tabled pending the motion of Representative Seavey of Kennebunkport that this bill and all its accompanying papers be indefinitely postponed, and tomorrow assigned.

The Chair laid before the House the following matter: Majority Report of the Committee on "Education" on Bill "An Act to Increase Academic Learning Time" (H.P. 161) (L.D. 195) reporting "Ought to Pass" in New Draft (H.P. 862) (L.D. 1215) and the Minority Report of the same Committee reporting "Ought Not to Pass" on same Bill which was tabled earlier and later today assigned pending the acceptance of either report.

The SPEAKER: The Chair recognizes the Representative from Gorham, Representative Brown.

Representative BROWN: Mr. Speaker, I move the acceptance of the Minority "Ought Not to Pass" Report.

Ladies and Gentlemen of the House: I agree that we need to be concerned about academic learning time of students but the issue as to when the announcement should be made in 746 public schools in the State of Maine should thus be left to local school officials. This bill is an insult to superintendents, principals, and school boards over the state. This is another intrusion on local control and there is no way that it could be enforced.

I urge you to vote with the Minority Report.

The SPEAKER: The Chair recognizes the Representative from Bath, Representative Small.

Representative SMALL: Mr. Speaker, Ladies and Gentlemen of the House: An Act to Increase Academic Learning Time is an interesting little bill. It started its young life as a vehicle to cut down on intercom interruptions during classes and matured into a bill to limit all interruptions during the school day for non-academic activities. I don't think the opponents of this bill will deny the fact that we need more learning time for students within the school day. We, as legislators, know and accept this and I bet if you check with your local school board and administrators, they know this too. If there were cases of schools unnecessarily interrupting learning time, this legislation will not correct this.

This bill simply says that the board must adopt and strictly enforce policy. They can set any type of policy they choose, strict or lax, and they are also responsible for enforcing the policy. This bill does nothing more than generate paper work. Actually, it does do something else — it places further restrictions on local school units. Many educational reformists agree that improvement in education has

to start at the local level. The state cannot mandate better schools. It has to be a local effort by the school board, the administrators, teachers and parents. This is an issue of local control and I am afraid that you are going to hear those two words many more times before our committee agenda is completed but I believe that we should be consistent in our voting. If we pledge to our people back home that we believe in local control, then this bill is an unacceptable intrusion into local policy making and should be defeated.

The SPEAKER: The Chair recognizes the Representative from Lewiston, Representative Aliberti.

Representative ALIBERTI: Mr. Speaker, Ladies and Gentlemen of the House: I would like to inform this body of one actual experience related fact. Ninety percent of the requests to give notices over the PA systems come from the staff themselves. They, themselves, are responsible for these interruptions.

The SPEAKER: The Chair recognizes the Representative from Caribou, Representative Crouse.

Representative CROUSE: Mr. Speaker, Ladies and Gentlemen of the House: There have been many contradictions from the opponents here today on academic learning time on this piece of legislation that is before you today.

Like Representative Small has stated, the bill started out in a different form and it now (I will read it to you) — "the school board of each school administrative unit shall adopt and strictly enforce a policy limiting interruptions of classes during the school day for non-academic activities. What more important priority, as a state, do we take as far as academic learning time. We, as a state, in September passed on ideas that we felt were priorities for the people of the State of Maine, whether it be school approval, creditation process, high school graduation requirements — these are all priorities back in September. What we would like to see happen in our schools and in our classrooms is more and more time in the classrooms, more and more academic learning without interruptions. Continuity in a classroom is extremely important and can build throughout the day. These continued interruptions during the school day, whether it be the building manager, whether it be staff making a request — there are policies established at the local level that can limit these interruptions during a school day.

As an admissions person, I worked in admissions for five years, and when an admissions person went into a local school, guidance people would request that the student be called out of a classroom and if you are in an urban area of the state, this can continuously happen requesting that a student be pulled out of a classroom. What this causes to a students education can be extreme in some cases. Many cases of athletics can be extreme in some cases. There are also many cases of athletics where students are pulled out of classrooms for athletics, whether it be baseball, basketball, football, the many athletic programs that are administered at the local level. There are many interruptions during the school day and anything that we as a state can say we feel this is a priority, we feel as a state that we would like to see this established, then I think we should do it.

Effective Schools Research recommends increasing academic learning time as a measure to undertake to improve their schools and this is what Representative Willey had requested. It is the one bill that we have seen in education that will improve the quality of education. This will, indeed, help the establishment of academic learning time and limiting interruptions at the local level.

You talk about local control — we, as a state, have told the local school boards to adopt and strictly enforce — it is up to the locals to

establish, to adopt and to strictly enforce those policies. What more can we say for local control than that in this particular bill?

Also, there is no cost attached to this bill, something a lot of us are concerned with particularly when we see a lot of money is being spent for education and this will not, indeed, cost any money for the local unit.

I hope that you will accept the Majority Report of the committee, go against the Minority Report, the motion to "Ought Not to Pass" and then we will go ahead and approve the "Ought to Pass" Report.

The SPEAKER: The Chair recognizes the Representative from Yarmouth, Representative Foss.

Representative FOSS: Mr. Speaker, Ladies and Gentlemen of the House: The issue of the state mandating policy for local school boards to follow is a serious one. This is another attempt to force local decision making and presumes that the wisdom of Augusta is greater than that of the elected governing board closest to the people, the school committee. We all believe, and we have all testified today, that time in class should be improved and that the fewer interruptions during the school day, the more concentrated and effective the time will be.

I submit that local officials are working hard to improve the quality of education in their communities and we should not be interfering in their arena of control. This bill could affect athletic schedules, music schedules, field trips and other areas which clearly must be planned by local officials. We do not need more mandated reforms at the state level right now; we need to concentrate on fine tuning all the changes made last Fall.

I urge an "Ought Not to Pass" Report on this bill to reinforce our confidence in the ability of our local school committees.

The SPEAKER: The Chair recognizes the Representative from Westbrook, Representative O'Gara.

Representative O'GARA: Mr. Speaker, Ladies and Gentlemen of the House: I do have to rise on this one as a former teacher again and have had the experience. All of you in this room, if you have had children or known people who have had children and were talking constantly about the interruptions, it is an everyday thing. Many of you in this room may very well have read a few years ago a book called "Up the Down Staircase" and if you did and you remember that book, it could have been about any classroom anywhere here in the State of Maine because it happens all the time. We are always hearing people say, somebody ought to do something about something. You, as the men and women of this House, have an opportunity to do something that I really, truly believe would be a good start in the right direction to improve education along with all of the other things that the reform bills, hopefully, will do and that is to direct the locals to do something and I don't agree that it would be set up that lax, it is something that could be strictly enforced and get this thing corrected because it is an everyday problem. You have to be there and if you don't believe me, just take the time some day to visit any one of the schools in your area and see how often, how very often, the classes are interrupted for a million items every day.

I urge you to defeat this Minority Report motion.

The SPEAKER: The chair will order a vote. The pending question before the House is the motion of the Representative from Gorham, Representative Brown, that the House accept the Minority "Ought Not to Pass" Report. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

86 having voted in the affirmative and 33 in the negative, the motion did prevail.

Sent up for concurrence.

The Chair laid before the House the following matter: RESOLVE, Regarding a Study of the Personnel Law (S.P. 168) (L.D. 436) (C "A" S-35) (Emergency) which was tabled earlier and later today assigned pending final passage.

The SPEAKER: This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 124 having voted in favor of same and one against, and accordingly the Resolve was finally passed, signed by the Speaker and sent to the Senate.

Bill Recalled from Governor

(Pursuant to Joint Order—House Paper 863)
An Act to Establish Eligibility for Burial in the Maine Veterans' Memorial Cemetery for Members of the Maine National Guard (H.P. 769) (L.D. 1061)

—In House, Passed to be Enacted on March 28.

—In Senate, Passed to be Enacted on March 29.

On motion of Representative Hickey of Augusta, under suspension of the rules, the House reconsidered its action whereby this Bill was passed to be enacted.

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

The same Representative offered House Amendment "A" (H-65) and moved its adoption.

House Amendment "A" (H-65) was read by the Clerk and adopted.

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

(Off Record Remarks)

On motion of Representative Rolde of York.
Adjourned until nine o'clock tomorrow morning.
