

# MAINE STATE LEGISLATURE

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# LEGISLATIVE RECORD

OF THE

*1st Special Session*

OF THE

*One Hundred and Sixth  
Legislature*

OF THE

STATE OF MAINE

**Volume II**

MARCH 7, 1974 TO MARCH 29, 1974

**Index**

**Legislative Ethics Committee Report**

to reimburse Task Force members for expenses incurred in the performance of their duties, to pay the salary of the executive secretary and other staff assistance deemed necessary by the Task Force, and to meet other related and incidental costs of the study.

Came from the Senate read and adopted.

In the House, the Resolution was read.

The SPEAKER: The Chair recognizes the gentleman from Strong, Mr. Dyar.

Mr. DYAR: Mr. Speaker, I move the indefinite postponement of this Resolution and would speak to my motion.

The SPEAKER: The gentleman from Strong, Mr. Dyar, moves the indefinite postponement of this Joint Resolution.

The gentleman may proceed.

Mr. DYAR: Mr. Speaker and Members of the House: I feel that this order is unnecessary. We are asking for another \$40,000 task force which I think we can get along without. There was an editorial recently in a local paper referring to the State Bureau of Mental Health and Corrections. The problem is that finally the Maine Psychiatric Association and Maine Medical Association in a survey conducted has brought out many facts that possibly are embarrassing to the Department of Mental Health and Corrections.

This order would set up a 15 member task force to study the problems in the department as far as the field of mental health is concerned. I think several days ago I discussed this on the floor of the House and suggested probably this department is pouring more money down the drain than any other department in State government. I think one of the gubernatorial candidates, Danny Trask down at Thomaston hit the nail right on the head, and I am not speaking on his behalf this morning, when he said the department has spent \$60,000 for a study that could have been bought from the State of California for \$30.

The department has a study going on now, which I got an opportunity to read a draft a week ago. It is 106-page document thus far, which speaks on area mental health programs and somehow, even though this draft was available to

me, it won't be out and available to the public until sometime in June. Possibly this might suggest that there are things in there that possibly the legislature shouldn't see while we are in session.

So I hope this morning that you will go along with the indefinite postponement, and if this body feels it necessary, I hope somebody will introduce an order allowing the Legislative Council to do their own investigation in this field. I am quite sure the legislature could handle it at much less cost and probably come up with more relative conclusions.

Thereupon, the Resolution was indefinitely postponed in non-concurrence and sent up for concurrence.

### Reports of Committees Ought to Pass in New Draft

Committee on Judiciary on Bill "An Act to Correct Errors and Inconsistencies in the Public Laws" (S. P. 821) (L. D. 2337) Emergency, reporting "Ought to pass" in New Draft (S. P. 953) (L. D. 2606) Emergency, under same title.

Came from the Senate with the Report read and accepted and the Bill passed to be engrossed as amended by Senate Amendment "A" (S-427), Senate Amendment "B" (S-428), Senate Amendment "C" (S-429), Senate Amendment "D" (S-431), Senate Amendment "E" (S-432), Senate Amendment "F" (S-433), Senate Amendment "G" (S-434), Senate Amendment "H" (S-436), Senate Amendment "I" (S-437), Senate Amendment "K" (S-439), Senate Amendment "L" (S-440), Senate Amendment "N" (S-442), and Senate Amendment "O" (S-443).

In the House, the Report was read.

Thereupon, on motion of Mrs. Baker of Orrington, the Report was accepted in concurrence and the New Draft read once.

Senate Amendment "A" (S-427) was read by the Clerk.

The SPEAKER: The Chair recognizes the gentleman from Westbrook, Mr. Carrier.

Mr. CARRIER: Mr. Speaker, Ladies and Gentlemen of the House: I think that this morning we should try to explain to

you very briefly as to which way we are heading here, what has happened and what might happen, and I assume that you probably know more about the procedures on this type of a bill than I do. But as you recall, in the session here I have mentioned at different times, when the occasion has come up, the subject of using all kinds of methods to circumvent the law. I referred to this particular bill — not this particular L. D., but this particular errors and inconsistencies bill, which I have thought for the last eight years that this is an extremely bad vehicle to use in order to pass laws which have failed in this session or other sessions and to change certain laws. I construe this particular bill as one to correct errors and inconsistencies and not to clarify or put in laws or to add to them or anything else.

I think this morning there will be a lot of discussion on these particular amendments. We have, I think, 18 of them. In committee we considered quite a few of them, and for some reason or other we didn't let them in. And of course this is the recourse that you have to put them in, as an amendment.

We are here in the interest of passing good legislation and doing it honestly. I, personally, don't have any personal grind because somebody put a certain amendment on, but I think if we are going to have any change in the law, this is not the vehicle to be used, and I don't think we should let it be used.

As far as amendment "A" is concerned, personally I think you have to follow these, because as far as Amendment "A" is concerned, I think what is crossed off on the bottom, actually, you had the hearing before the notice and I think that this is an error. I will go along with the passage of Senate Amendment "A".

The SPEAKER: The Chair recognizes the gentlewoman from Madison, Mrs. Berry.

Mrs. BERRY: Mr. Speaker and Members of the House: If I have the right amendment, this is the same thing that we had in the pilot bill, which we indefinitely postponed here in the House. Maybe we didn't, but it is the same thing that we had. I don't know, I can't remember what we did with it.

The SPEAKER: The Chair recognizes

the gentleman from Portland, Mr. Mulkern.

Mr. MULKERN: Mr. Speaker, Ladies and Gentlemen of the House: I made inquiries about the particular amendment under discussions relating to this bill. As I understand it, this is only a language clarification. It says instead of a published annual schedule, it says a schedule published annually, which is a language clarification. And at the end it says, to insure port safety after hearing — the original bill says, hearing and notice, and the language has been changed to say, notice and hearing, assuming that a notice will be put forth before a hearing. You can't have the hearing first and have the notice afterwards.

Thereupon, Senate Amendment "A" was adopted in concurrence.

Senate Amendment "B" (S-428) was read by the Clerk.

The SPEAKER: The Chair recognizes the gentleman from Clinton, Mr. Hunter.

Mr. HUNTER: Mr. Speaker and Members of the House: I don't think this bill is in error. It died on the Appropriations Table last year. I ask for the indefinite postponement of it.

The SPEAKER: The gentleman from Clinton, Mr. Hunter, moves the indefinite postponement of Senate Amendment "B".

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

Mr. SUSI: Mr. Speaker, Ladies and Gentlemen of the House: I would like to explain the background in this Senate Amendment "B". There was a bill in the regular session which would have established colt stakes in Maine. It was passed by both Houses and it did die on the Appropriations Table for lack of funding. It called for a \$50,000 appropriations of state funds.

Since the regular session, the Maine Harness Racing Commission has established by commission order such a stakes program, and this action on their behalf is within the prerogative of their office. It involves no state funds. It derives \$80,000 from nominations and sustaining fees which would be paid by the owners of the colts themselves and from purse funds which would come from racing associations, which are private funds.

There is no problem in this procedure. Under the terms of the program, the Commission would be the repository of the fees that were so generated, and the Attorney General's Office has ruled that the state law does not authorize this function by the commission.

I would like to read to you a letter from the Attorney General:

"This is a response to your letter of March 20 stating that the State Harness Racing Commission has formulated rules and regulations for use in conducting a state program for Maine's own two and three year old horses. Your letter advises us that the commission promulgated these rules pursuant to 8 MRSA §268 and §281. Those provisions read as follows:

'The Commission shall make rules and regulations for the holding, conducting and operating of all harness horse races or meets for public exhibition held in the State.'

§281 'The Commission shall encourage and promote the breeding of a strain of Maine standard bred horses and make provisions to encourage donations of the same by licensees or others to persons or institutions within the State for breeding purposes.'

"You state in your letter that you are aware that this office gave an informal opinion indicating that the commission's action was inconsistent with its authority created by statute and you ask that an explanation be made showing how the legislature may correct the situation.

"By way of informal opinion dated March 7, 1974, the Commissioner of Agriculture, was advised that the Maine Harness Racing Commission rules and regulations relating to the conduct of a stake program for Maine's own two and three year horses was inconsistent with existing statutes. Specifically, neither the provisions of §268 and 281 authorize the proposed program.

"In order to be of assistance to the Commissioner of Agriculture and the Maine Harness Racing Commission, the proposed legislation was prepared in this office, which if enacted, would make the Commission's action consistent with Maine law. A copy of that proposed legislation is attached for your attention.

Trusting that this letter serves to answer your correspondence of March 20, I remain, Sincerely, Jon A. Lund."

So, the Attorney General has stated in this letter that there is this inconsistency. He prepared this legislation which would face the action actually taken, which would authorize the commission to act as a repository for these private funds, and I think it is an entirely proper amendment. I hope that you will vote against the indefinite postponement of the amendment.

The SPEAKER: The Chair recognizes the gentleman from Clinton, Mr. Hunter.

Mr. HUNTER: Mr. Speaker, Ladies and Gentlemen of the House: I still think it isn't an error or inconsistency. I think this is an entire bill and should have been put in as such and asked for an appropriation.

The SPEAKER: The Chair recognizes the gentleman from Sanford, Mr. Gauthier.

Mr. GAUTHIER: Mr. Speaker and Members of the House: I would like to agree with Mr. Hunter, what he had just mentioned to you.

The Committee on Judiciary had a hard time to meet. We tried to gather the committee on three different occasions. By agreement of the Chairman, Mrs. Baker, the committee members went up there three times, we finally gathered a majority of the committee, who, by the way, were all House members, there was no members from the Senate at the time who finally attended, and one of these amendments that are here appearing before you now is one that was rejected for the same reason, as I have just mentioned, that Mr. Hunter mentioned to you.

This is a complete bill, and this was rejected by the Appropriations Committee last year. Many of these bills, after we had refused them, were brought back by one member of the other body who did not even attend the hearing after we tried to meet on different occasions. We finally did, and it was in agreement of the committee that if these amendments were refused, they would not reappear here. I hope that you go along and accept the "Ought not to pass."

The SPEAKER: The Chair recognizes

the gentleman from Bangor, Mr. Kelleher.

Mr. KELLEHER: Mr. Speaker, Ladies and Gentlemen of the House: You know, for the past two legislative sessions, I sponsored the standard bred colt bill, and as representative Susi has stated, it passed both branches but it never had funds to implement it. So the Maine harness tracks and the agricultural fairs, as well as the Horsemen's Association, put together a decent standard bred program that I was trying to get funds for from the State.

As Representative Susi has stated, we need someone, an independent body, to run the program. It was our opinion at the time when we were putting this program together through the horsemen and the Maine Fair Association and the tracks that the Harness Racing Commission has the authority to do it, which they haven't got. It is apparent by a letter that was stated by Representative Susi. This puts them in a position, a legal position, to run the program. There is not any state money involved, in no way is there any state money involved, so I would hope that you people, in your wisdom this morning, would reject the motion of the gentleman from Kennebec County, Mr. Hunter, and support this amendment.

The SPEAKER: The Chair recognizes the gentleman from Westbrook, Mr. Carrier.

Mr. CARRIER: Mr. Speaker and Members of the House: At the offset this morning, you have to realize that either you will pass these things because errors or inconsistencies, or else it is a substantive change in the law. This particular amendment, this is truly a substantive change. This was never into law before, and it will be the law now if you pass it. I am not interested in the money part of it, and the program itself, I don't know anything about it. But the thing is that this is a substantive change, and on that principle, this is why we suggest that this amendment and others that have such a change do not pass. I hope that you support the motion to indefinitely postpone.

The SPEAKER: The Chair recognizes

the gentlelady from Orrington, Mrs. Baker.

Mrs. BAKER: Mr. Speaker and Members of the House: I am not going to defend this amendment or oppose it, but I think that you ought to understand perhaps that what this does, it really gives the commission the authority to handle the funds, to receive them and disburse them. It does not involve any state money, as I understand it. Of course, there is a possibility that they may be asking for state funds at some later date, but it is not necessary that they have to be granted.

I think that this simply gives the commission the authority to receive and disburse the funds, but I want you to use your own judgment as to whether or not you want to pass it.

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

Mr. BROWN: Mr. Speaker, Ladies and Gentlemen of the House: I apologize for not having listened to all of the debate, because I had to leave briefly, but I can say that this particular proposal, which I do not believe costs the state any additional funds, has the support of the entire industry, including the Maine Association of Agricultural Fairs, Maine Horsemen's Association, Scarborough Downs, Lewiston Raceways and I believe everybody in the state that is involved in this activity. So they are very interested in passage of this — anything that will clear it up.

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

Mr. SUSI: Mr. Speaker and Members of the House: Much point has been made of the fact that this wasn't entered as a bill, and I would like to explain that there was certainly no objection on the part of those who were interested in this topic to its coming in the form of a bill and there certainly wouldn't have been no objection to it. Actually, this inconsistency was discovered by the Attorney General's Office and was the first knowledge of in on March 9. That was too late to enter a bill on this, and I have no doubt in my own mind this is the proper way to handle it.

The SPEAKER: The Chair recognizes the gentleman from Lubec, Mr. Donaghy.

Mr. DONAGHY: Mr. Speaker, Ladies and Gentlemen of the House: We have been told that this isn't going to cost the state any money. I would ask through the Chair, of anyone who would care to answer, if there will be as much money left for the state's cut after these races as they presently received into the General Fund?

The SPEAKER: The gentleman from Lubec, Mr. Donaghy, poses a question through the Chair to any member who may answer if he or she wishes.

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

Mr. KELLEHER: Mr. Speaker and Members of the House: This doesn't affect the General Fund one bit, with the exception, in my opinion, it will probably, and I say most probably, generate more interest at the agricultural fairs and the raceways as far as these colt programs are concerned where parimutuel betting is and in my opinion it will probably generate more money for the General Fund. But as far as taking anything out of the state's percentage of the parimutuel pool that goes into the general fund, it doesn't take one single cent.

The SPEAKER: The Chair recognizes the gentleman from Sanford, Mr. Gauthier:

Mr. GAUTHIER: Mr. Speaker and Members of the House: It probably doesn't affect the General Fund at the present time, but I agree and grant you that in the 107th you will find that probably, as they did last year, they will come back for another \$50,000.

Mr. Susi of Pittsfield was granted permission to speak a third time.

Mr. SUSI: Mr. Speaker, Ladies and Gentlemen of the House: Whether or not some member of the legislature in the next session will be here asking for money to support a colt program in the main is something that I couldn't possibly project. I don't know whether that will happen or not. But my point is this, whether or not a member does this is completely independent of what action you take on this amendment here today, because in no way does this amendment expedite the asking for funds in any ensuing session. It has nothing to do with it. We can ask for funds regardless of

whether or not this amendment is acted on.

The SPEAKER: The Chair recognizes the gentleman from Perham, Mr. Bragdon.

Mr. BRAGDON: Mr. Speaker and Members of the House: I did come in a little late on the debate on this. So far it has not been satisfactorily explained to me. If these people are not asking for any state money, for the life of me, I can't see what objection there is to doing all these things that they want to do with their own funds. I hope somebody will clear my thinking on this. Frankly, I don't see what they need to clarify the law to raise colts or anything else or potatoes or onions or what have you, but it seems to me any of us could do it if we wanted to if we are not asking for state money. Frankly, I fail to see the merit of this change. Certainly this is one of the things that I have always objected to in these errors and inconsistencies so called, that many very important things get by at the time of consideration of this bill. I will have to vote against the amendment.

The SPEAKER: The Chair recognizes the gentleman from Westbrook, Mr. Carrier.

Mr. CARRIER: Mr. Speaker, Ladies and Gentlemen of the House: This is again whether you want to use this type of vehicle to pass laws, and this is what it is all about. It was agreed here, it was mentioned, that they tried on March 9 to put in a bill to put this in, but by their actions they have subjected themselves to the deduction that this should have been in the form of a bill. If you believe we should pass a bill, or whatever it is, in this particular session, this is up to you. This is something which I cannot buy. I would probably vote different if this was in the form of a bill, but I cannot buy it because of the way it is being done through this bill. I don't think it should be that way and I think it is very incorrect to do so.

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

Mr. JALBERT: Mr. Speaker, Ladies and Gentlemen of the House: I could no more agree with the gentleman from Sanford, Mr. Gauthier, and I would be

the first one to oppose the procedure if that was the case, because both he and I remember very well, give me the bill but I don't need the money, and then we adjourn, we wind up with a council order, and then it winds up a current service item come the next session of the legislature. But believe me, this is not so. This is an entirely different situation, totally independent from this thing appearing as a current services item at the next budget. If there is going to be anything happen, it could happen in two weeks by a bill presented with funds separate from this idea here for money for a program.

Secondly, it could happen if a bill passes at the next session of the legislature. I agree with him, but I assure him that this is absolutely independent from what both he and I are thinking of and were thinking on the same wave length.

The SPEAKER: The Chair recognizes the gentleman from Bethel, Mr. Willard.

Mr. WILLARD: Mr. Speaker, Ladies and Gentlemen of the House: I would like to ask a question for anybody who would like to answer. What the total take was for parimutuel in the General Fund of the last year? Also, will this bill take any money from the General Fund?

The SPEAKER: The gentleman from Bethel, Mr. Willard, poses a question through the Chair to anyone who may answer if he or she wishes.

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

Mr. JALBERT: Mr. Speaker, Ladies and Gentlemen of the House: I would say around the area of a million, two, give or take a few bananas.

Mr. Gauthier of Sanford was granted permission to speak a third time.

Mr. GAUTHIER: Mr. Speaker, Ladies and Gentlemen of the House: In answer to Mr. Jalbert, who is on the Appropriations Committee, this bill last year appeared in that committee for \$50,000 and it was rejected.

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

Mr. KELLEHER: Mr. Speaker, Ladies and Gentlemen of the House: The remark the gentleman from Sanford just made is not true. This amendment is not

the bill that I sponsored in the last session or the session before. It is absolutely incorrect. This was put in, in the very lateness of the hour of this session because we who are involved in the program didn't realize that the commission didn't have the necessary statutory authority. Believe me, this amendment that was presented in the Senate has nothing to do with the bill that I had in the last two regular sessions.

Mr. Gauthier of Sanford was granted permission to speak a fourth time.

Mr. GAUTHIER: Mr. Speaker, Ladies and Gentlemen of the House: It was mentioned that it wasn't true. I would like to answer Mr. Kelleher that this was brought out before the committee.

The SPEAKER: The Chair recognizes the gentleman from Milo, Mr. Trask.

Mr. TRASK: Mr. Speaker, Ladies and Gentlemen of the House: It is not often that I get up on this floor to take the same side as my good friend from Pittsfield, Mr. Susi, but this time I think I do have to agree with him. This bill was in the last session. We have accepted the concept of it. The only reason it was turned down was because of the money. The horsemen are willing to put the money into it, but they need someone to administer it. I hope you will defeat the motion to indefinitely postpone.

The SPEAKER: The Chair recognizes the gentleman from Bethel, Mr. Willard.

Mr. WILLARD: Mr. Speaker, Ladies and Gentlemen of the House: This looks like upkeep from something that is paying for the General Fund and I am in favor of it.

The SPEAKER: The Chair recognizes the gentleman from Westbrook, Mr. Carrier.

Mr. CARRIER: Mr. Speaker, Ladies and Gentlemen of the House: The only thing is, we have quite a few of these bills coming up, and I hope that we stick to the truth. When somebody says that this was brought up in the last session, it was not brought up in the last session. This particular amendment, this particular concept right here, was not part of the bill in the last session. When the other bill failed in the last session, that was the other part of the bill, this is a new addition to the law; this is what it is. If



you want it in, vote for it; if you don't, don't vote for it.

Mr. Hunter of Clinton was granted permission to speak a third time.

Mr. HUNTER: Mr. Speaker, Ladies and Gentlemen of the House: I am no expert on horse racing, but I was just wondering, if this program they say is going to be self-supporting out of the horsemen, I was wondering if they can't set up this program, why does it have to be in here? Maybe it has to be, I don't know.

The SPEAKER: The gentleman from Clinton poses a question through the Chair asking the reason for the bill being submitted?

The Chair recognizes the gentleman from Eastport, Mr. Mills.

Mr. MILLS: Mr. Speaker, Ladies and Gentlemen of the House: We are hearing a lot of discussion pro and con on horses, but the way I read this Senate Amendment "B", it says, "The commission, by regulation, may define and strain the Maine standard bred horses, bred and owned in the State of Maine and registered with the Commission in its registry book." What they are attempting to do, as I see it, is establish a strain of Maine bred horses, and that would have the same power in advertising the State of Maine as what the Maine lobster does, and I think this is a good thing.

Mr. Hunter of Clinton requested a roll call vote.

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

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

The SPEAKER: The pending question is on the motion of the gentleman from Clinton, Mr. Hunter, that Senate Amendment "B" be indefinitely postponed in non-concurrence. All in favor of that motion will vote yes; those opposed will vote no.

#### ROLL CALL

YEA — Ault, Berry, G. W.; Berube, Birt, Bragdon, Brawn, Carrier, Carter, Dow, Dunn, Emery, D. F.; Farnham,

Ferris, Gauthier, Genest, Goodwin, H.; Goodwin, K.; Hamblen, Hunter, Immonen, Jackson, LaPointe, Lawry, Murchison, Palmer, Peterson, Shaw, Talbot, Tierney.

NAY — Albert, Baker, Berry, P. P.; Binnette, Bither, Boudreau, Briggs, Brown, Bunker, Bustin, Cameron, Carey, Chick, Chonko, Churchill, Clark, Conley, Connolly, Cooney, Cottrell, Cressey, Curran, Curtis, T. S., Jr.; Dam, Davis, Donaghy, Drigotas, Dudley, Dunleavy, Dyar, Farley, Farrington, Fecteau, Finemore, Flynn, Fraser, Gahagan, Garsoe, Genest, Good, Greenlaw, Hancock, Herrick, Hobbins, Hoffses, Jacques, Jalbert, Kauffman, Kelleher, Kelley, Kelley, R. P.; Keyte, Kilroy, Knight, LaCharite, LeBlanc, Lewis, E.; Lewis, J.; Lynch, MacLeod, Mahany, Martin, Maxwell, McCormick, McHenry, McKernan, McMahon, McNally, McTeague, Merrill, Mills, Morin, L.; Morin, V.; Morton, Mulhern, Murray, Najarian, Norris, O'Brien, Parks, Ricker, Rolde, Rollins, Ross, Shute, Silverman, Simpson, L. E.; Smith, D. M.; Smith, S.; Snowe, Sproul, Stillings, Susi, Tanguay, Trask, Twitchell, Tyndale, Walker, Webber, Wheeler, White, Whitzell, Willard, Wood, M. E.

ABSENT — Crommett, Deshaies, Evans, Faucher, Huber, Littlefield, Maddox, Perkins, Pontbriand, Pratt, Santoro, Sheltra, Soulas, Strout, Theriault, Trumbull.

Yes, 28; No, 105; Absent, 16.

The SPEAKER: Twenty-eight having voted in the affirmative and one hundred five in the negative, with sixteen being absent, the motion does not prevail.

Thereupon, Senate Amendment "B" was adopted in concurrence.

Senate Amendment "C" (S-429) was read by the Clerk.

The SPEAKER: The Chair recognizes the gentleman from Westbrook, Mr. Carrier.

Mr. CARRIER: Mr. Speaker, Ladies and Gentlemen of the House: This amendment was voted down by the committee on the premise that this is a very substantive change in the law. If you had time to look under the statute of the proposal, which is a very lengthy one, you would have found so. I can only

refer you to what this Amendment "C" says on the second page, on the reverse page, and where it says Section 43C just above number ten, where it says, subsection 10 of Section 685 titled 12 Revised Statutes enacted by Section 5 is repealed and the following is enacted in place thereof. Now, if this was law already, this wouldn't have to be enacted, this would be a correction in the error that was made. So for that reason, the committee found to not let it in and I move for indefinite postponement.

The SPEAKER: The Chair recognizes the gentleman from Eagle Lake, Mr. Martin.

Mr. MARTIN: Mr. Speaker, Ladies and Gentlemen of the House: First of all, in reference to the remarks of the gentleman from Westbrook, this is not a substantial change in the law. It is true, in fact, that the committee did not deal with it. I offered it to the committee at the time and they did not deal with it because of the basic reason that when I went up there I guess there was no lawyers left around. I would like to tell you what it is and you can make your own judgment as to whether you want it or not.

I believe it was the intent of the legislature to allow the commission to issue permits or persons the right to construct houses, especially if they were constructed and already there, that they have the right to issue a variance and that is what the law provided in the original law. If you go back to Title 12 you will find that very well spelled out.

What happened is that there was an action that was brought by certain groups against the action of the commission. The commission had allowed a variance. Even though no zoning map had been done and zoning had not been done in the wildlands, the commission allowed the variance to be issued and the permit to be issued because they felt in the long run, since the building was already there, it should not be removed. The Attorney General's Office, upon request, ruled that the way that that variance provision was written, if anyone took it to court, in effect what would happen, we would be forced, the state would be forced not to allow any construction whatsoever in the

unorganized territories until zoning was done, finished.

I think it was the intent of the legislature, when the law was enacted, to allow variances to be issued and to allow the commission the power to issue these variances. If the amendment is defeated the only thing that is going to happen is that I, or any other member of the citizenry, or for that matter the Natural Resource Council or any such group, could immediately bring suit against the State of Maine and force the commission to prevent the issuing of permits in the unorganized territory until zoning maps had been completed in the entire wildlands area. I don't believe that that is the intent of the legislature, but that is the way the law is being interpreted.

The reason the entire section is being removed is to make sure that when it is rewritten that you have one new section in there and it reads properly, rather than simply yanking in words and yanking out words. Obviously, if you kill this, it isn't going to affect me because I obviously don't have a house in the unorganized that a permit is pending but you are going to affect an awful lot of people that is presently applying and complying with the law for permits and they will not be in the position to get one if a group petitions the State and says, "we don't want anymore issued," because that is the way the Attorney General's Office is interpreting that section of the law. I don't believe it was the intent of the legislature to do that; that is why I don't think it is a substantial change in the law.

It is not a substantial change in intent. It may be a change in wording, but the intent of the legislature and the legislation remains the way we had intended it to be three years ago. I would certainly hope that you would vote against the motion of indefinite postponement and I would request a division.

The SPEAKER: The Chair recognizes the gentleman from Sanford, Mr. Gauthier.

Mr. GAUTHIER: Mr. Speaker, Ladies and Gentlemen of the House: When Mr. Martin mentioned to you that probably the bill wasn't understood because there

were no lawyers at the committee hearing, I would like to tell you that the majority of the lawyers that were on our committee weren't there all year, so it wasn't the first time. We had to do the work by ourselves, and the people that were there really worked hard all year because we had the most bills of any committee in this House. We did it with the best knowledge that we had and, I think we have done a very good job.

The SPEAKER: The pending question is the motion of the gentleman from Westbrook, Mr. Carrier, that the House indefinitely postpone Senate Amendment "C" in non-concurrence. All in favor of that motion will vote yes; those opposed will vote no.

A vote of the House was taken.

15 having voted in the affirmative and 86 having voted in the negative, the motion did not prevail.

Thereupon, Senate Amendment "C" was adopted in concurrence.

Senate Amendment "D" (S-431) was read by the Clerk and adopted in concurrence.

Senate Amendment "E" (S-432) was read by the Clerk.

The SPEAKER: The Chair recognizes the gentleman from Westbrook, Mr. Carrier.

Mr. CARRIER: Mr. Speaker and Members of the House: I don't want to leave at the start the image that I am against everything this morning. I am only trying to uphold what the committee has done and why. This is why at the beginning, before we tackled these amendments on the bill that I suggested that if you want to use this vehicle, I think that we are proceeding wrongly. That is strictly my opinion that I think we are proceeding very wrongly, when people tell you that this isn't a change in the law, and you know and I know, and if you don't you take the statute and look it up. That is all I have to say.

Apparently there seems to be this morning permissiveness of going along and letting people do what the rules of the House are not supposed to allow. So actually, all I am doing, on behalf of some of the members of the Judiciary Committee and myself, I am just bringing to your attention why some of these haven't been voted in, such as

Amendment "C", Amendment "E", and I don't question the content the intent or the goodness of it or the badness of it.

Under this Amendment "E", it says right there under Section 16-A that the following is repealed and that whatever it was in there is repealed and the following is enacted in place thereof, and this is new legislation. If you haven't looked at it and you are interested, later you take a good look at it. It is brand new legislation and is changing things around. It is under this premise and under these conditions that I oppose the amendment.

I move for the indefinite postponement.

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

Mr. FARNHAM: Mr. Speaker, Ladies and Gentlemen of the House: Last year in the regular session, we enacted, passed legislation which allowed state employees the same privilege that the teachers have held for a number of years and that is to set aside a portion of their salary and buy an annuity. We thought that the language was very clear, but it turned out that the Attorney General and the Finance Department of the state didn't find it clear and all this amendment does is change and protect the handling of the monies that state employees, or a state employee who buys one of these annuities, it protects the money that is taken out of his pay and that is the only change in there. I wish the department had discovered this earlier and presented us with a bill in State Government, and this was a State Government bill. There wouldn't have been any question but it would have had unanimous acceptance by the committee. I therefore urge you not to vote for indefinite postponement, because if you do, this program which we passed last year can never, never get off the ground and it was and is a good program.

The SPEAKER: The pending question is the motion of the gentleman from Westbrook, Mr. Carrier, to indefinitely postpone Senate Amendment "E" in non-concurrence. All in favor of that motion will vote yes; those opposed will vote no.

A vote of the House was taken.

9 having voted in the affirmative and 79 having voted in the negative, the motion did not prevail.

Thereupon Senate Amendment "E" was adopted in concurrence.

Senate Amendment "F" (S-433) was read by the Clerk.

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

Mr. COTE: Mr. Speaker, Ladies and Gentlemen of the House: I don't know what this Senate Amendment "F" is, but I appreciate the members of the Judiciary Committee who try to explain each one of these amendments so that I and other members of this House can make up their minds on these individual amendments, how to vote.

Now, I know they have been rebuffed here trying to postpone amendments, but at the same time it gave the members of this House a chance to know what the amendment was all about. I hope that Mr. Carrier and Mr. Gauthier don't get discouraged, but I would like to have an explanation on each one of these amendments as they come up.

The SPEAKER: The gentleman from Lewiston, Mr. Cote, poses a question through the Chair to anyone who may answer if he or she wishes.

The Chair recognizes the gentleman from Cumberland, Mr. Garsoe.

Mr. GARSOE: Mr. Speaker, Ladies and Gentlemen of the House: I think this can be regarded as an inconsistency. If you regard the intent of the Public Employees Labor Relations Board's authority to enjoin prohibited practices you would have to agree that a delay of seven days should not be allowed. In the event of a strike of public employees, as is now, their hands would be tied for seven days. So I think we can support this as an inconsistency with what I see to be the intent of the power of this board to prohibit prohibitive practices.

Thereupon Senate Amendment "F" was adopted in concurrence.

Senate Amendment "G" (S-434) was read by the Clerk.

The SPEAKER: The Chair recognizes the gentleman from Eagle Lake, Mr. Martin.

Mr. MARTIN: Mr. Speaker, Ladies and Gentlemen of the House: I wonder if someone would be so kind as to tell us

what the present salary is for each of those four positions.

The SPEAKER: The gentleman from Eagle Lake, Mr. Martin, poses a question through the Chair to any member who may answer if he or she wishes.

The Chair recognizes the gentleman from Eagle Lake, Mr. Martin.

Mr. MARTIN: Mr. Speaker, I move indefinite postponement.

The SPEAKER: The gentleman from Eagle Lake, Mr. Martin, moves the indefinite postponement of Senate Amendment "G".

The Chair recognizes the gentleman from Standish, Mr. Simpson.

Mr. SIMPSON: Mr. Speaker and Members of the House: I am kind of concerned with the gentleman's motion. I am sure he supported a pay raise all the way down the line so far to comply with the guidelines that have been established for all other state employees, including a couple of changes that were also put in the Part II budget. I am sure that this could come out of here and be placed in the Part II budget, maybe where it belongs, but I do believe that I can't give him his answer as to what the present raise schedule is. I am sure he knows where he can find it as well as I can. I am sure that it doesn't increase it by that much more. I think it complies with the guidelines that we have laid down for all state employees.

The SPEAKER: The Chair recognizes the gentleman from Eagle Lake, Mr. Martin.

Mr. MARTIN: Mr. Speaker, Ladies and Gentlemen of the House: The gentleman assured me that the amount in here is what is to conform with the pay raise we are giving other state employees. I am obviously not opposed to it, but I do think before we vote on it, if we are going to vote affirmatively, that we ought to know what that salary is. I think that maybe the best thing to do is move indefinite postponement and then we can reconsider it a little later after we know what the salary is.

The SPEAKER: The pending question is on the motion of the gentleman from Eagle Lake, Mr. Martin that the House indefinitely postpone Senate Amendment "G" in non-concurrence.

All those in favor of that motion will vote yes; those opposed will vote no.

A vote of the House was taken.

Mr. Birt of East Millinocket requested a roll call vote.

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

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

The SPEAKER: The Chair recognizes the gentleman from Standish, Mr. Simpson.

Mr. SIMPSON: Mr. Speaker, I move this item lay on the table until later in today's session.

(Cries of No)

The SPEAKER: The Chair will order a vote. The pending question is on the motion of the gentleman from Standish, Mr. Simpson, that this matter be tabled until later in today's session pending the motion of Mr. Martin of Eagle Lake that Senate Amendment "G" be indefinitely postponed in non-concurrence. All in favor of that motion will vote yes; those opposed will vote no.

A vote of the House was taken.

77 having voted in the affirmative and 27 having voted in the negative, the motion did prevail.

### Divided Report

Majority Report of the Committee on Judiciary on Bill "An Act Relating to Mandatory Sentences for Persons Convicted of Second Offense Breaking, Entering and Larceny or Burglary" (S. P. 957) (L. D. 2607) reporting pursuant to Joint Order (H. P. 2062) that it "Ought not to pass"

Report was signed by the following members:

Messrs. SPEERS of Kennebec  
BRENNAN of Cumberland  
— of the Senate  
Mrs. KILROY of Portland  
WHEELER of Portland  
Messrs. MCKERNAN of Bangor  
DUNLEAVY of Presque Isle  
— of the House  
Minority Report of the same

Committee on same Bill reporting "Ought to pass"

Report was signed by the following members:

Mr. TANOUS of Penobscot  
— of the Senate  
Mrs. BAKER of Orrington  
WHITE of Guilford  
Mr. CARRIER of Westbrook  
— of the House

Came from the Senate with the Minority Report "Ought to pass" read and accepted and the Bill passed to be engrossed.

In the House: Reports were read.

The SPEAKER: The Chair recognizes the gentleman from Oakland, Mr. Brawn.

Mr. BRAUN: Mr. Speaker, I move we accept the Minority Report.

The SPEAKER: The gentleman from Oakland, Mr. Brawn, moves the House accept the Minority "Ought to pass" Report in concurrence. The Chair will order a vote. All in favor of that motion will vote yes; those opposed will vote no.

A vote of the House was taken.

Thereupon, Mr. McKernan of Bangor requested a roll call vote.

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

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

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

Mr. MCKERNAN: Mr. Speaker, Ladies and Gentlemen of the House: I will be brief. I think everybody knows what the issue is here, and it is simply whether or not we are going to allow a little judicial discretion in taking into consideration the specifics of any case. This requires mandatory sentencing. I think although the issue involved here is a serious one, especially in the rural area, I think we don't want to handcuff our whole judicial system requiring that people be incarcerated, especially with the problems and the Governor's Task Force on Corrections, perhaps this