

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

***One Hundred and Eighth
Legislature***

OF THE

STATE OF MAINE

Volume II

May 26, 1977 to July 25, 1977

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**Senate Confirmation Session
September 16, 1977**

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adults. I see no reason why they should not be entitled to a jury trial. I would hope the House would go on record in support of the recede motion and of this amendment.

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

ROLL CALL

YEA — Bachrach, Beaulieu, Benoit, Berube, Biron, Boudreau, A.; Boudreau, P.; Brennerman, Burns, Carter, D.; Clark, Connors, Connolly, Davies, Dexter, Diamond, Goodwin, H.; Goodwin, K.; Gray, Green, Greenlaw, Hall, Henderson, Hickey, Howe, Huber, Jalbert, Kane, Kany, Kelleher, Kerry, Kilcoyne, Lewis, Lizotte, Martin, A.; Masterman, McHenry, McMahon, Najarian, Nelson, M.; Pearson, Post, Prescott, Shute, Sprowl, Talbot, Tarbell, Tarr, Teague, Trafton, Valentine, Wilfong, Wood.

NAY — Aloupis, Bagley, Birt, Blodgett, Brown, K. L.; Brown, K. C.; Bunker, Carey, Carroll, Carter, F.; Chonko, Cote, Cox, Cunningham, Devoe, Drinkwater, Durgin, Dutremble, Fenlason, Flanagan, Fowlie, Garsoe, Gill, Gillis, Gould, Higgins, Hughes, Hunter, Immonen, Jackson, Jensen, Joyce, Laffin, LaPlante, Littlefield, Locke, Lougee, Lynch, Mahany, Marshall, Masterton, Maxwell, McBrearty, McPherson, Moody, Morton, Nadeau, Nelson, N.; Norris, Palmer, Peakes, Peltier, Perkins, Peterson, Plourde, Raymond, Rollins, Sewall, Silsby, Smith, Spencer, Strout, Theriault, Tierney, Torrey, Tozier.

ABSENT — Ault, Austin, Bennett, Berry, Bustin, Carrier, Churchill, Curran, Dow, Dudley, Elias, Gauthier, Hobbins, Hutchings, Jacques, LeBlanc, Lunt, MacEachern, Mackel, McKean, Mills, Mitchell, Quinn, Rideout, Stover, Stubbs, Truman, Twitchell, Tyndale, Whittemore, Wymann.

Yes, 53; No, 66; Absent, 31.

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

Thereupon, the House voted to recede and concur.

By unanimous consent, ordered sent forthwith to Engrossing.

The following papers appearing on Supplement No. 17 were taken up out of order by unanimous consent:

On motion of Mrs. Berube of Lewiston, the following Joint Order: (H. P. 1809)

WHEREAS, even though Title XIX of the Social Security Act (Medicaid) is a federal program, the State has some latitude for setting directions within the limits of federal law and regulations; and

WHEREAS, the Maine State Legislature could play a greater role in determining how the Medicaid program should be implemented, and to what extent various types of medical care and services should be covered under the program; and

WHEREAS, the total expenditures of state and federal dollars for medical care and services under the Medicaid program in the State of Maine increased from \$34,000,000 in fiscal year 1972 to \$90,000,000 in fiscal year 1977; and

WHEREAS, the State pays for roughly 32% of the total expenditures for medical care and services under the Medicaid program; and

WHEREAS, especially in light of the tremendous costs of the Medicaid program and the significant effect the program has on needy persons who receive medical care and services under it, it is thought to be appropriate for the Legislature to have a stronger policy-making role with respect to the implementation of the Medicaid program in the State of Maine; now, therefore, be it

ORDERED, the Senate concurring, that the

Joint Standing Committee on Performance Audit shall study the implementation of the Medicaid program in Maine by the Department of Human Services; and be it further

ORDERED, that in carrying out its study the committee shall evaluate both the medical care and intermediate care programs of the Department of Human Services, including at least an analysis of the principles, amount and process of reimbursements to providers of medical care and services under the Medicaid program; and be it further

ORDERED, that in carrying out its study the committee shall also determine which decisions about the Medicaid program should be made by the Legislature and which should be made by the Department of Human Services; and be it further

ORDERED, that the Department of Human Services, as well as any fiscal intermediaries under contractual services with the department shall cooperate with the committee to the fullest extent possible in carrying out this study; and be it further

ORDERED, that the committee shall complete this study no later than December 1, 1977, and submit to the Legislative Council within the same time period its findings and recommendations, including copies of any recommended legislation in final draft form; and be it further

ORDERED, upon passage in concurrence, that a suitable copy of this Order shall be forwarded to the members of the committee. The Order was read and passed and sent up for concurrence.

By unanimous consent, ordered sent forthwith to the Senate.

An Expression of Legislative Sentiment (H. P. 1810) recognizing that: Rodney Glidden, of Palermo, Maine, has achieved the high personal honor and distinction of Eagle Scout as a member of Troop 222

Presented by Mrs. Hutchings of Lincolnville.

The Order was read and passed and sent up for concurrence.

An Expression of Legislative Sentiment (H. P. 1811) recognizing that: Scott Glidden, of Palermo, Maine, has achieved the high personal honor and distinction of Eagle Scout as a member of Troop 222

Presented by Mrs. Hutchings of Lincolnville.

The Order was read and passed and sent up for concurrence.

An Expression of Legislative Sentiment (H. P. 1812) recognizing that: Daryl McKenny, of Palermo, Maine, has achieved the high personal honor and distinction of Eagle Scout as a member of Troop 222

Presented by Mrs. Hutchings of Lincolnville.

The Order was read and passed and sent up for concurrence.

An Expression of Legislative Sentiment (H. P. 1813) recognizing that: Joseph Travis, of Palermo, Maine, has achieved the high personal honor and distinction of Eagle Scout as a member of Troop 222

Presented by Mrs. Hutchings of Lincolnville.

The Order was read and passed and sent up for concurrence.

An Expression of Legislative Sentiment (H. P. 1808) recognizing that: Father William J. Kelly retired on June 15th, 1977 from the active priesthood after 48 years as a priest in the Diocese of Portland

Presented by Mr. McMahon of Kennebunk (Cosponsors: Mr. Mackel of Wells, Mr. Tyndale of Kennebunkport)

The Order was read and passed and sent up for concurrence.

By unanimous consent, the preceding Orders were ordered sent forthwith to the Senate.

The Chair laid before the House the following matter:

Bill "An Act Concerning Prosecution of Fish and Wildlife Law Violators Who are 16 Years of Age or Older" (H. P. 193) (L. D. 255) which was tabled earlier in the day and later today assigned pending further consideration.

On motion of Mr. Burns of Anson, the House voted to adhere.

By unanimous consent, ordered sent forthwith.

The following papers appearing on Supplement No. 19 were taken up out of order by unanimous consent:

Ought to Pass in New Draft

Report of the Committee on Judiciary on Bill "An Act to Make Additional Corrections of Errors and Inconsistencies in the Laws of Maine" (Emergency) (S. P. 564) (L. D. 1890) reporting "Ought to Pass" New Draft (S. P. 590) (L. D. 1896)

Came from the Senate, with the Report read and accepted and the Bill Passed to be Engrossed as amended by Senate Amendments "A" (S-374), "B" (S-375), "C" (S-377), "D" (S-378), "E" (S-380), "F" (S-381), "G" (S-382) and "H" (S-389).

In the House, the Report was read and accepted in concurrence and the Bill read once. Senate Amendment "A" (S-374) was read by the Clerk.

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

Mr. CONNOLLY: Mr. Speaker, I wonder if someone would explain what Senate Amendment "A" does.

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

Mr. SPENCER: Mr. Speaker, this amendment clarifies the language in the transitional provision of Public Law 1977, Chapter 422, Section 3. I think what the problem is is that we changed the procedure for redeeming a tax lien and that it is not clear what the payments are prior to the effective date of those changes, and I really can't be more specific than that.

The SPEAKER: The Chair recognizes the gentleman from Anson, Mr. Burns.

Mr. BURNS: Mr. Speaker, a parliamentary inquiry. Would it be possible to table some of these amendments as we go through and continue with the other amendments until we can get explanations of them.

The SPEAKER: The Chair would answer in the negative, that it is not possible to do that. However, it is possible to adopt and then to move reconsideration of them if there is a problem with them, if that is an acceptable procedure.

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

Senate Amendment "B" (S-375) was read by the Clerk.

The SPEAKER: The Chair recognizes the gentleman from Stonington, Mr. Greenlaw.

Mr. GREENLAW: Mr. Speaker, I would pose a parliamentary inquiry. Would this amendment, assuming it is adopted by both branches and signed into law by the Governor, repeal a bill or resolve that has been previously enacted by this legislature?

The SPEAKER: The Chair would answer in the negative.

Mr. GREENLAW: Mr. Speaker, Men and Women of the House: The reason I raised the question about this particular amendment, I don't know the reason for it being introduced. It talks about receiving and distributing surplus federal property, and as you well know — I am getting a motion here that perhaps the gentleman from South Portland has an explanation.

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

Mr. CURRAN: Mr. Speaker, Ladies and Gentlemen of the House: As the result of a

federal law that was passed, we must come up with a plan by the 14th of July which consolidates all of the federal surplus property under one single state agency. If we do not do that, then the Governor may adopt a plan to comply with the federal law. This particular amendment is the Governor's plan that he would institute if we fail to take action, and what it does, it takes the federal surplus property and it takes it out of the Department of Education and puts it under the Department of Finance and Administration. This does not include any of the school lunch or food programs. This only includes the federal surplus property like radio parts, old refrigerators and other federal surplus that comes into the State of Maine.

Further down the road, on October 14 of this year, the excessive surplus property program is being phased out by the federal government and the entire operation, I understand, over in East Winthrop, is being phased out and moved over to Hallowell, formerly the Stevens School, because it is costing us \$10,000 a year in East Winthrop for the rental of that property and we have some warehouse space.

I have checked this out personally. I have called Washington. I have talked with the Government Services Administration. It all seems to be very appropriate and above board and the logical direction for us to take.

The SPEAKER: The Chair recognizes the gentleman from Stonington, Mr. Greenlaw.

Mr. GREENLAW: Mr. Speaker, Ladies and Gentlemen of the House: I would like to pose a question to the gentleman from South Portland, Mr. Curran. The question is, from your explanation, Mr. Curran, I assume that what you are talking about is surplus federal property in terms of commodities and not surplus property in terms of buildings and facilities. Is that a correct interpretation?

The SPEAKER: The gentleman from Stonington, Mr. Greenlaw, has posed a question through the Chair to the gentleman from South Portland, Mr. Curran.

The Chair recognizes the gentleman from South Portland, Mr. Curran.

Mr. CURRAN: Mr. Speaker, Ladies and Gentlemen of the House: It is as long as you aren't including food as a commodity. It is only the furniture, office supplies, that type of federal surplus. It doesn't include state surplus.

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

Mr. GREEN: Mr. Speaker, I would like to ask a question through the Chair to the gentleman from South Portland, Mr. Curran and that is, a section of this amendment says that the department is authorized and empowered through the Bureau of Purchases to acquire warehouse, allocate and distribute surplus government property to all recipients within Maine who have been or who may later be designated as eligible to receive such surplus property by the Congress of the United States or any other federal official empowered to make such determination, my question is, what determines eligibility?

The SPEAKER: The gentleman from Auburn, Mr. Green, has posed a question through the Chair to the gentleman from South Portland, Mr. Curran.

The Chair recognizes the gentleman from South Portland, Mr. Curran.

Mr. CURRAN: Mr. Speaker, Ladies and Gentlemen of the House: The eligibility, in this case, is determined by Congress. It is generally state agencies at this time, towns, municipalities and non-profit organizations. It is all prioritized. They use a bumping system so that if a state agency, for example, wanted a jeep that they were going to retire, they would have first crack at it. From there, it would go to a municipality or town. It is done by that system. That is all established by Congress because we are talking about federal surplus,

not state surplus. If it is state surplus, you are talking about a whole new ball game where they would send a notice out to all agencies and say, is anyone interested in a file cabinet that is being declared surplus? They would have a chance to respond. If no one in state government wants it, then it goes up for bid out here in the parking lot.

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

Mr. GREEN: Mr. Speaker, Ladies and Gentlemen of the House: One further comment. I would like to ask him if armories are included in that?

Thereupon, Senate Amendment "B" was adopted.

Senate Amendment "C" (S-377) was read by the Clerk and adopted.

Senate Amendment "D" (S-378) was read by the Clerk.

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

Mr. STROUT: Mr. Speaker, Ladies and Gentlemen of the House: I would hope maybe that someone could explain this but as I read it, and maybe I am incorrect, does this say that the motorcycle helmet law will take effect immediately and not 90 days after we adjourn?

The SPEAKER: The Chair would answer in the affirmative.

Mr. STROUT: Mr. Speaker, Ladies and Gentlemen of the House: If I read this amendment correctly, then what we are saying is, that we passed a bill that said that helmets would be taken off the motorcycles 90 days after we adjourn and I was under the impression that was the position we were taking and I would move the indefinite postponement of Senate Amendment "D".

The SPEAKER: The Chair will order a vote. The pending question before the House is the motion of the gentleman from Corinth, Mr. Strout, that Senate Amendment "D" be indefinitely postponed. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

Thereupon, Mr. Goodwin of South Berwick requested a roll call vote.

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

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

The SPEAKER: The Chair recognizes the gentleman from South Berwick, Mr. Goodwin.

Mr. GOODWIN: Mr. Speaker, Ladies and Gentlemen of the House: I am sorry I have to put you through this. As you will notice, it is a Senate Amendment, not a House Amendment. Basically, this is put on as the Statement of Fact indicates, that the amendment is to provide that the motorcycle helmet law take effect immediately in order to permit fact finding as urged by the Governor's Committee on Safety to begin immediately. That is a good reason. There are also other reasons why this is being put on. Although I decided not to do it, I do favor it.

I have had quite a few calls in the last month or two since the bike riding season has started. They have been from both bikers and police. One, from the bikers, they have indicated to me that they have a hard time trying to understand as many citizens do the parliamentary process up here. All they understand is the repeal law has been passed but they don't understand why they can't ride without a helmet. Many of them are doing just that. From the several police that I have talked to, they are kind of in a quandry because they know the bill has been passed. They see people riding without a helmet. They stop them. It is kind of a big hassle for them.

They get in a hassle with the riders, they say, well the bill has been passed, we shouldn't have to wear a helmet. They try to explain it is not in effect yet, etc. etc. It doesn't affect me because I have made the decision not to put my bike on the road this summer. I would hope that you would go along with this. I don't want to get into a big debate on the merits or demerits of the helmet law because we have already done that. We have passed it. I do think that there are many people out there that would like to ride now without their helmets. It is going to take effect 90 days after we adjourn. Of course, that means most of the season will be over for those bikers. They will be able to ride next summer of course. I think it is probably logical if we could take this off. It would give some of the statisticians a chance to start compiling some of the statistics so we can really see what will happen on this.

I would just urge you to not vote to indefinitely postpone this.

The SPEAKER: The Chair recognizes the gentleman from Anson, Mr. Burns.

Mr. BURNS: Mr. Speaker, it is my understanding in the Constitution of the State of Maine that any law enacted that goes into effect prior to the 90 days after adjournment must be an emergency. If this is, in fact, placed onto this bill, would this make the entire bill an emergency enactor?

The SPEAKER: The Chair would advise the gentleman that the errors and inconsistency bill is an emergency enactor.

The Chair recognizes the gentleman from Lisbon Falls, Mr. Tierney.

Mr. TIERNEY: Mr. Speaker, Ladies and Gentlemen of the House: I am concerned about this amendment because I feel it sets a very dangerous precedent for the errors and inconsistencies bill. We have passed over 500 laws already this session which have been signed into law by the Governor. Every one of those bills had to receive at least a majority of this House. What this procedure does, means that any time the majority of the people want to put an amendment and that is all it takes is the majority on the errors and inconsistencies bill, that guarantees essentially an emergency enactor of a bill which we all felt would not take effect until 90 days after the legislature adjourns. Ladies and gentlemen, that is a drastic sideswipe. It has never been done as long as I have been here. I think it is totally improper. It is totally improper and sets an extremely dangerous precedent for all the laws we have. I feel very strongly, without getting into the merits of whether people should have helmets on or not, I do have strong feelings on that. I do feel it would be a very dangerous precedent and I hope we do indefinitely postpone this amendment.

The SPEAKER: The Chair recognizes the gentleman from Windham, Mr. Diamond.

Mr. DIAMOND: Mr. Speaker, Men and Women of the House: Again, I am not going to get into all the merits as other folks have already stated they wouldn't, but the point is, is that this is the kind of thing that happens. This is the kind of thing that takes away the credibility of this body right here, this body meaning the House and the other body. This is not an error, nor is it an inconsistency. This is just an attempt to make a law that we had already passed to take effect 90 days after this House adjourns. This amendment is trying to put an emergency clause, technically it isn't, actually what it is saying is that it become effective immediately. I think that we should indefinitely postpone this amendment.

The SPEAKER: A roll call has been ordered. The pending question is on the motion of the gentleman from Corinth, Mr. Strout, that Senate Amendment "D" be indefinitely postponed in non-concurrence. Those in favor will vote yes; those opposed will vote no.

ROLL CALL

YEA — Alopis, Ault, Bachrach, Bagley, Beaulieu, Bennett, Benoit, Berry, Berube, Birt, Blodgett, Boudreau, A.; Brenerman, Brown, K. C.; Bunker, Burns, Carey, Carroll, Carter, D.; Carter, F.; Chonko, Churchill, Clark, Conners, Cote, Cox, Curran, Dexter, Diamond, Dow, Drinkwater, Durgin, Dutremble, Fenlason, Flanagan, Garsoe, Gill, Gillis, Goodwin, K.; Gould, Greenlaw, Hall, Henderson, Hickey, Higgins, Howe, Huber, Hughes, Hunter, Hutchings, Immonen, Jackson, Joyce, Kany, Kilcoyne, Laffin, LaPlante, Lewis, Littlefield, Lizotte, Locke, Lougee, Lynch, Mahany, Marshall, Martin, A.; Masterman, Masterton, Maxwell, McBreairty, McHenry, McKean, McPherson, Moody, Morton, Najarian, Nelson, M.; Nelson, N.; Norris, Palmer, Peakes, Pearson, Peltier, Perkins, Peterson, Plourde, Post, Prescott, Raymond, Rideout, Rollins, Sewall, Shute, Silsby, Smith, Strout, Stubbs, Talbot, Tarr, Teague, Tierney, Torrey, Tozier, Trafton, Wood.

NAY — Biron, Connolly, Cunningham, Davies, Elias, Fowle, Goodwin, H.; Green, Jensen, Kane, Kelleher, Kerry, McMahon, Nadeau, Spencer, Sprowl, Theriault, Valentine, Wilfong.

ABSENT — Austin, Boudreau, P.; Brown, K. L.; Bustin, Carrier, Devoe, Dudley, Gauthier, Gray, Hobbins, Jacques, Jalbert, LeBlanc, Lunt, MacEachern, Mackel, Mills, Mitchell, Quinn, Stover, Tarbell, Truman, Twitchell, Tyndale, Whittemore, Wyman, The Speaker.

Yes, 105; No, 19; Absent, 27.

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

Senate Amendment "E" (S-380) was read by the Clerk.

The SPEAKER: The Chair recognizes the gentlewoman from Waterville, Mrs. Kany.

Mrs. KANY: Mr. Speaker, Ladies and Gentlemen of the House: I question the need for this amendment. I have no idea what it is all about. I asked the sponsor of the amendment and he didn't seem to know too much about it either. I am wondering what effect it might have on E. C. Jordan or any other company. It states something about landscape architects but it shall be lawful for a corporation to practice landscape architecture providing at least one third of the directors, if a corporation, or one third of the partners if a partnership are licensed under the laws of the state. I am wondering what is the story behind this amendment?

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

Mr. CAREY: Mr. Speaker, Ladies and Gentlemen of the House: When the gentlelady got up to speak, I checked the particular bill. In the Statement of Fact, it is quite clear why there is a need for including this. We passed two particular bills in this session. They are inconsistent with each other. This particular amendment would clarify the language.

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

Senate Amendment "F" (S-381) was read by the Clerk.

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

Mr. GREEN: Mr. Speaker, Men and Women of the House: This is an amendment dealing with the barbers bill that we had so much controversy about.

I would just like to ask a question through the Chair to someone on the Business Legislation Committee perhaps that could explain to me what the amendment does?

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

The Chair recognizes the gentlewoman from Freeport, Ms. Clark.

Ms. CLARK: Mr. Speaker, Ladies and

Gentlemen of the House: I will attempt to respond to the inquiry. The Statement of Fact reflects the purpose for this proposed Senate Amendment "F".

I received a note from the Senator who had received a note from the State Board of Barbers, which indicated that there was some confusion regarding the definition which had been obviously inadvertently left out. When the inquiry from a member of this House was made to me during the passage of the rather infamous barbering and cosmetologist bill about the definition contained in this amendment, I made an inquiry through the Office of Legislative Assistance upstairs and was assured at that time, admittedly, it was a hurried inquiry, whether this definition was incorporated in the current statutes and whether the passage of the originally numbered bill 578 and renumbered bill, whatever it was, would nullify that. I was given assurance, at that time, that this was incorporated and not replaced with the enactment of the other bill. Evidently, we found out since that it was. Therefore, here it is. This meets with the approval of the State Board of Barbers and all of the other people who have been calling.

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

Senate Amendment "G" (S-382) was read by the Clerk and adopted in concurrence.

Senate Amendment "H" (S-389) was read by the Clerk and adopted in concurrence.

Under suspension of the rules, the Bill was read a second time.

Mr. Palmer of Nobleboro offered House Amendment "A" and moved its adoption.

House Amendment "A" (H-901) was read by the Clerk.

The SPEAKER: The Chair recognizes the gentleman from Nobleboro, Mr. Palmer.

Mr. PALMER: Mr. Speaker, Ladies and Gentlemen of the House: This amendment does two things both agreed upon by the Republican and Democratic parties with a little bit of housecleaning work. (1) If you look at the Statement of Fact, this amendment repeals the provisions requiring that political party state committees be elected during conventions. That is the first part of the amendment.

The second one allows committees and candidates from outside the state including the inational party committee to conduct certain activities in the state without having to file separate reports with the commission as long as the copy of their federal reports are filed with the commission.

Thereupon, House Amendment "A" was adopted.

Mr. Greenlaw of Stonington offered House Amendment "B" and moved its adoption.

House Amendment "B" (H-904) was read by the Clerk.

The SPEAKER: The Chair recognizes the gentleman from Stonington, Mr. Greenlaw.

Mr. GREENLAW: Mr. Speaker, Ladies and Gentlemen of the House: This amendment attempts to clarify and correct two problems with a bill which I sponsored pertaining to the Board of Registration for Architects and Landscape Architects. Actually, what the bill did was provide for a registration procedure for landscape architects. In the first part of the amendment, there establishes a procedure for appointing those landscape architects to the board of registration. The problem was that the bill, as it was written and as it had been enacted by both Houses, said that the landscape architects had to be qualified to serve on the board. There are none that are qualified in the sense of being registered by the state so we had to set up a procedure whereby the Governor could appoint two landscape architects to the board before they are qualified by the board itself. What the first section of the amendment does is say that they shall be eligible to be qualified for admission.

The second section perhaps is a little bit more of a change to the present law than an error and inconsistency. What the second section does is

change the procedure by which the board could fill vacancies if the Governor didn't fill any such vacancy within a two month period. I think this is probably the only board that could fill its own vacancies if the chief executive failed to act. It seemed rather unnecessary and useless.

Thereupon, House Amendment "B" was adopted.

Mrs. Post of Owls Head offered House Amendment "C" and moved its adoption.

House Amendment "C" (H-906) was read by the Clerk.

The SPEAKER: The Chair recognizes the gentlewoman from Owls Head, Mrs. Post.

Mrs. POST: Mr. Speaker, Men and Women of the House: This bill strikes out two sections of the errors and inconsistencies law which originated from the Department of Marine Resources. We had decided that we didn't want to put these two sections in the errors and inconsistencies because they were actually substantial changes in the law which should go to public hearing and which we wanted to deal with when we did the complete revision of the Marine Resources statutes.

Thereupon, House Amendment "C" was adopted.

Mr. Greenlaw of Stonington offered House Amendment "D" and moved its adoption.

House Amendment "D" (H-907) was read by the Clerk.

The SPEAKER: The Chair recognizes the gentleman from Stonington, Mr. Greenlaw.

Mr. GREENLAW: Mr. Speaker, Men and Women of the House: I don't know how to describe this amendment, whether it is an error, an inconsistency or a housekeeping measure or what.

Approximately a month ago, I was informed that the Town of Castine had a problem with transferring some monies in their school account to the general account. It was my understanding that the problem had been resolved by the Department of Education. Frankly, I think there was a breakdown of communication.

Late last week, I discovered the situation hadn't been resolved. Rather than ask to have a new bill introduced, it seemed to me appropriate that we could take care of it in the errors and inconsistency bill. This amendment was prepared at my request by the Commissioner of Education. I will just very briefly explain it so you will know what it is.

The past two fiscal years, the Town of Castine has raised the amount of money that they have been assessed by the uniform property tax through their town warrant. I don't know why it was done this way. It seems rather confusing to me. For some reason, this money was deposited in the school account. As the auditors went through the accounts of the Town of Castine, this came to our attention. What, in effect, was taking place is that there is a balance of some \$98,000 in the school account and a potential overdraft of roughly the same amount in the general fund account. It was the opinion of the Commissioner of Education that there needed to be a change in the statutes that allowed the Town of Castine to transfer this money from the school account into the general account. That is what this amendment does. I think it provides sufficient safeguards to make sure that the procedure is in compliance with all the state laws. I frankly apologize for having to introduce it.

Thereupon, House Amendment "D" was adopted.

Mr. Goodwin of South Berwick offered House Amendment "I" and moved its adoption.

House Amendment "I" (H-913) was read by the Clerk.

The SPEAKER: The Chair recognizes the gentleman from South Berwick, Mr. Goodwin.

Mr. GOODWIN: Mr. Speaker, Ladies and Gentlemen of the House: This amendment, too, deals with helmets. I would like to explain this. As you remember a short few minutes ago, we killed the Senate Amendment dealing with helmets relating to motorcycles.

This amendment specifically deals with the

moped bill, which we have already passed and passed as an emergency measure. It was my understanding as a co-sponsor of that bill, from the day one that that was introduced, that it was in the original bill that mopeds would be taken out of the section relating to the requirement to have helmets. It went through the amendment process and everything else. It came out as a committee amendment. I was still under the impression that because of the new classification that was set up that a moped rider would not be required to be wearing a helmet. We did pass this. We passed it as an emergency measure as I stated. If you remember, I haven't had time because I just found this problem out, that during the debate on the bill, the Representative from Portland, Mr. Jensen, introduced an amendment to the bill to require dealers to have helmets available for those people who wanted them, the assumption being, that in the bill itself, the helmets wouldn't be required for riders of mopeds but we wondered if a dealer or a person renting them out, if a person wanted to have a helmet, they could get one from that particular dealer or renter. It went along its merry way.

Then I happened to meet in the hall, a couple of days ago, an attorney from the Secretary of State's Office. He explained to me there was a little problem in the moped bill. Even though we set up a separate classification of mopeds, it was defined as a motorized bicycle in the definition capable of no more than 30 m.p.h. etc., etc. The specific language of the bill didn't delete motorized bicycles from the requirements that they had to wear helmets. I tried to check today with the attorney general. The people I guess were gone to Presque Isle at the hearings or something like that so I checked with Legislative Research and they were unsure as to what would happen because it is unclear.

What I have done is had this amendment prepared that would amend the chapter that we have already passed and the Governor has already signed into law and is now law to set up a separate classification of mopeds. In that chapter, this would appear that this section shall not apply to mopeds. Basically, what this does is it does allow people that will be using mopeds this summer to ride without a helmet.

I will admit and this is why I did not fight the previous Senate Amendment that the Representative from Lisbon Falls was correct that it was setting a bad precedent with the Senate Amendment and everything else. I have to admit that he was correct. However, this amendment, I feel, is a true error because I was under the impression and I feel that the majority of this House was under the impression that when we passed the mopeds that they wouldn't be required to ride with a helmet on. I have found since then that because of the wording of Committee Amendment "A" that we passed, that that is unclear so I am offering this amendment in good faith to do just what I thought the bill did all the way along.

Thereupon, House Amendment "I" was adopted.

Mr. Tierney of Lisbon Falls offered House Amendment "J" and moved its adoption.

House Amendment "J" (H-914) was read by the Clerk.

The SPEAKER: The Chair recognizes the gentleman from Lisbon Falls, Mr. Tierney.

Mr. TIERNEY: Mr. Speaker, Ladies and Gentlemen of the House: Under present law, as probably most of you know, the various members of leadership have the authority to hire a personal staff assistant. What this bill does is just to provide a little more flexibility in that process so that we could hire perhaps two individuals as long as the aggregate salary doesn't exceed that of one person. It just simply adds some flexibility and we hope to supplement this with a budgetary process at a later date.

Thereupon, House Amendment "J" was adopted.

Mrs. Najarian of Portland offered House Amendment "K" and moved its adoption.

House Amendment "K" (H-916) was read by the Clerk.

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

Mrs. NAJARIAN: Mr. Speaker, Ladies and Gentlemen of the House: What this amendment does is, prior to the elimination of the executive council, the commissioners of the housing authority had to be approved by the executive council after the Governor made the appointment. What the errors and inconsistency bill does is simply removes the language "Executive Council" and doesn't leave any confirmation proceedings for the Commissioners of the Maine State Housing Authority. What this does is it would require that the Governor shall appoint the commissioners and they shall be subject to the review by the Joint Standing Committee on State Government and then confirmed by the Legislature. The reason for requiring confirmation by legislative committee is that these commissioners are responsible for the oversight of the Housing Authority, which has broad powers and duties including the oversight of \$150,000,000. It is, therefore, most important that these commissioners be qualified and responsible people. That is why they should receive confirmation by the legislature.

Thereupon, House Amendment "K" was adopted.

Mrs. Najarian of Portland offered House Amendment "L" and moved its adoption.

House Amendment "L" (H-917) was read by the Clerk.

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

Mrs. NAJARIAN: Mr. Speaker and Members of the House: The purpose of this amendment is to provide for use of the single phrase, "residential housing" or "housing project," in several areas of the Housing Authorities enabling legislation which now uses language that is inconsistent and confusing. The term "housing project" was redefined in legislation that was passed in 1975 to make it a more specific functional term, but then that term was not keyed into the other areas of the legislation where it should have been used. So this has led to some concern that the difference of the language may cause the story to have slightly different powers in each of the different areas, and this was not the intent, and the amendment should simply clarify this situation.

Thereupon, House Amendment "L" was adopted.

Mr. Gray of Rockland offered House Amendment "M" and moved its adoption.

House Amendment "M" (H-918) was read by the Clerk.

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

Mr. GRAY: Mr. Speaker, Men and Women of the House: Certain supervisory personnel in the Department of Mental Health and Corrections are required to live in state-owned housing close by the institution. Under current provisions, in addition to paying utilities, they are required to pay rent and maintenance. Promotion beyond the level of 23-E results in a decrease, because at that level they must pay rent based on 15 percent of the assessed value of the property. I am sure it was not the intent of the new pay plan to in fact promote an individual, saddle him with additional responsibilities and because of the current law have him lose salary in the process. This would eliminate rent and maintenance. However, personnel living in state-owned housing would continue to pay their own utility costs, as they would anywhere else.

The SPEAKER: The Chair recognizes the gentleman from Lisbon Falls, Mr. Tierney.

Mr. TIERNEY: Mr. Speaker, Ladies and Gentlemen of the House: I guess I am not sure I understood anything the good gentleman from Rockland said, quite frankly. Perhaps he could break this down and tell us exactly where this bill came from and why it is being introduced at this time and in this manner.

The SPEAKER: The Chair recognizes the

gentleman from Rockland, Mr. Gray.

Mr. GRAY: Mr. Speaker, Men and Women of the House: This problem was brought to my attention first by the warden at the State Prison. This has caused considerable burden to personnel when they are promoted beyond the grade level. It was 21, then they moved it to 23-E, and the problem is, when they go beyond 23-E, the law says that they must pay rent and maintenance in addition to utilities. In fact, when they reach this pay level they find out that it usually results in a reduction in pay, and this has caused a considerable morale problem with certain personnel at the State Prison.

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

Mr. SPENCER: Mr. Speaker and Members of the House: I would like to pose another question to the gentleman from Rockland. It seems to me that what this amendment provides is that the employees will be charged the costs of the utilities for the houses, and I wonder how that helps the employee who finds himself above the grade level where the state is paying for his housing.

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

Mr. GRAY: Mr. Speaker, Men and Women of the House: In response to the previous question, if you refer to the Statement of Fact, the legislative intent in this is that this amendment will not result in additional charges to the state employees. In other words, they will continue to pay utilities but will not be required to pay rent and maintenance, as now is the case.

The SPEAKER: The Chair recognizes the gentleman from Lisbon Falls, Mr. Tierney.

Mr. TIERNEY: Mr. Speaker, Ladies and Gentlemen of the House: I am going to follow a time-worn precedent when I don't understand something and it is coming up in errors and inconsistencies at eight o'clock at night. Mr. Speaker, I move the indefinite postponement of House Amendment "M".

The SPEAKER: The Chair will order a vote. The pending question is on the motion of the gentleman from Lisbon Falls, Mr. Tierney, that House Amendment "M" be indefinitely postponed. All those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

44 having voted in the affirmative and 31 having voted in the negative, the motion did prevail.

Mr. Burns of Anson offered House Amendment "B" and moved its adoption.

House Amendment "B" (H-921) was read by the Clerk.

The SPEAKER: The Chair recognizes the gentleman from Anson, Mr. Burns.

Mr. BURNS: Mr. Speaker, Ladies and Gentlemen of the House: I am referring now to House Amendment "P", but it also will refer to House Amendment "Q", so I will explain them both at the same time. Under House Amendment "P", the Arbor Week that we enacted was placed into law whereby requiring the Governor to sign a proclamation each year in order to have arbor week set aside. This request, as well as House Amendment "Q", came out of the Governor's office asking that the law be changed just establishing a law whereby it will not require anybody in the Governor's Office to keep track of the time and allow anyone that wants to celebrate the day or the week.

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

Mrs. LOCKE: Mr. Speaker, Men and Women of the House: I am speaking now just in reference to House Amendment "O". This amendment is not a correction of an error or an inconsistency. The Governor is trying to make a substantive change in a bill that had a unanimous committee report, passed both the House and the other body, was allowed to become law. Arbor Day has been a Governor's Proclamation for many years, and I want Arbor Week also to be proclaimed by the Governor.

In light of our ever increasing energy crisis and

air pollution, and the fact that wood is our only renewable resource, it deserves and needs the highest form of announcement it can get. If the Governor wants to make a substantive change in any law, he should do so by introducing a bill in the next session and let it go through the full legislative process. Needless to say, I am very disturbed and I am upset to think our Governor would try to do something like this.

Mr. Speaker, I move for the indefinite postponement of this amendment.

The SPEAKER: The Chair will order a vote. The pending question is on the motion of the gentleman from Sebec, Mrs. Locke, that House Amendment "P" be indefinitely postponed. All those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

71 having voted in the affirmative and 8 having voted in the negative, the motion did prevail.

Mr. Burns of Anson offered House Amendment "Q" and moved its adoption.

House Amendment "Q" (H-922) was read by the Clerk.

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

Mr. MORTON: Mr. Speaker, Ladies and Gentlemen of the House: For the same reasons that the gentledady from Sebec moved the indefinite postponement of House Amendment "P", I am going to move the indefinite postponement of House Amendment "Q". It is a definite change in the law. It was attempted to have it introduced into the Judiciary Committee for the errors and inconsistencies bill, they refused to do it, and I feel this House should refuse to accept it. I hope you accept the motion to indefinitely postpone it.

The SPEAKER: The Chair will order a vote. The pending question is on the motion of the gentleman from Farmington, Mr. Morton, that House Amendment "Q" be indefinitely postponed. All those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

63 having voted in the affirmative and 4 having voted in the negative, the motion did prevail.

Mr. Burns of Anson offered House Amendment "R" and moved its adoption.

House Amendment "R" (H-923) was read by the Clerk.

The SPEAKER: The Chair recognizes the gentleman from Anson, Mr. Burns.

Mr. BURNS: Mr. Speaker, Ladies and Gentlemen of the House: This is an inconsistency in the law. We enacted Chapter 442 and it has the exact reading as Chapter 425 does. So this just removes one of the laws. There would be no change in the law, just clearing up the law.

Thereupon, House Amendment "R" was adopted.

Mr. Spencer of Standish offered House Amendment "O" and moved its adoption.

House Amendment "O" (H-920) was read by the Clerk.

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

Mr. SPENCER: Mr. Speaker, Ladies and Gentlemen of the House: In the amendments to the tort claims act which went through this morning, in establishing the limit on liability and the insurance for state employees, the words "property damage" were used where we should have used the words "property damage or loss." We can't amend the bill that went through this morning because it doesn't have a chapter number, but by amending the original tort claims act, we are able to take care of that problem.

What this does is, it insures that the negligent state employee whose liability is limited to \$10,000 is protected both where there is physical damage to property and also where there might be a loss of income to someone.

Thereupon, House Amendment "O" was adopted.

Mr. Henderson of Bangor offered House Amendment "S" and moved its adoption.

House Amendment "S" (H-924) was read by the Clerk.

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

Mr. HENDERSON: Mr. Speaker, Ladies and Gentlemen of the House: This amendment is proposed by the Governor's Office and it is the consequence of a bill that we passed earlier, L. D. 224, having to do with deputy sheriffs and their duties and so forth. In that bill there is a line similar to the one that is under "Number 1. Sheriff's duties" and it reads in the bill which has now been signed that the sheriff shall act as the chief law enforcement officer of the county and shall be responsible and so forth. That prompted the State Police to inquire about whether the sheriff would then in fact be in charge of law enforcement in the county and if there were any conflict over jurisdiction, would he be superior, and the answer from the Attorney General was yes. As a result of this, the Governor's Office offered this amendment.

Many people in this House and my sheriff, among others, felt that that was now the case, that the sheriff is supreme within the county whenever there is a conflict over jurisdiction, but upon reviewing the law books, apparently that isn't the case, although many people believed it to be. I spoke to my sheriff who felt that it was the case and felt that it ought to be, in effect, that we ought to leave the law the way it is, that is the way we passed it this session, and there has been some concern expressed that if nobody has ultimate jurisdiction, there is confusion of jurisdiction and that could lead to tragedy in some cases with lack of coordination of law enforcement in a particular case.

The other side of this argument is that there may be cases where after an investigation has been conducted by the state police and local police, that a sheriff's department may come in and bump those people out. Now, I must say that regardless of what we do in this proposal, that may still be the case with respect to the sheriff and the local police as it is now. There is also the question of two county jurisdictions and who should be in charge.

Personally, I just want to give the relatively balanced view because, although I sponsored this, I am not an enthusiastic sponsor. I do think that there ought to be some fixed responsibility and in a county I feel that it is reasonable to have that fixed responsibility held by the sheriff, but I would admit, that was not the original intention of this bill although it is the consequence of it. Others will be speaking on it, so thank you, Mr. Speaker.

The SPEAKER: The Chair recognizes the gentleman from Old Town, Mr. Pearson.

Mr. PEARSON: Mr. Speaker and Members of the House: I would like to pose a question through the Chair to the gentleman from Bangor, Mr. Henderson, and the question is: If you had suspicion of corruption in the sheriff's department, how would you deal with that with this amendment?

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

Mr. HENDERSON: Mr. Speaker, Ladies and Gentlemen of the House: This amendment would make it easier to investigate corruption in the sheriff's department, the amendment would. Because one interpretation of the bill that we passed was that the chief law enforcement officer in the county is the sheriff, and theoretically, I suppose, he could order anybody investigating him out of the way. I think that is impractical on a practical basis, but if you want to insure that sheriffs may be investigated without any interference from the sheriffs themselves, you would want to support this amendment.

The SPEAKER: The Chair recognizes the gentleman from Calais, Mr. Gillis.

Mr. GILLIS: Mr. Speaker and Members of the House: I would like to direct a question through the Chair to the gentleman from Bangor, Mr. Henderson. In essence what you are telling us is that the sheriff has jurisdictional authorization over the local police departments?

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

Mr. HENDERSON: Mr. Speaker and Members

of the House: As it is under the law, before L. D. 224 goes into effect, it has been signed but it is not in effect, under the current law, sheriffs are obliged to patrol the whole county. By statute, they are obliged to enforce all laws in a county, so that would mean under current law that if a sheriff felt that a municipal police force wasn't doing its job, the sheriff has an obligation to make sure the laws are enforced in that town and would have to go in. L. D. 224 modified that somewhat and just said that sheriffs may enforce the laws in communities that have organized police forces but they are not obligated to make sure that the laws are enforced. That is a little softer, and it basically says he doesn't have to mess around in Calais or any other place that has an organized police force, but he may. This would not affect that one way or the other; the amendment would not affect that relationship.

The SPEAKER: The Chair recognizes the gentleman from Anson, Mr. Burns.

Mr. BURNS: Mr. Speaker, Ladies and Gentlemen of the House: In that the sheriff is the only elected law enforcement officer within this state and is the only one who is answerable directly to the voters, I believe that he should be the supreme law enforcement officer within each county and should know what is going on within that county. If he is not doing his job, there are ample provisions whereby he can be removed from office. Therefore, I would move the indefinite postponement of this amendment.

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

Mr. JOYCE: Mr. Speaker, Ladies and Gentlemen of the House: This is a good amendment. If we do not put this correction in there, we are going to have a whole can of worms.

As for any concern that people raised here today about corruption, the Attorney General is really the Chief Enforcement Officer of the state and he certainly would step in and handle any problems in any law enforcement unit. In several places in the statute, the statute speaks directly to state police, giving them prime jurisdiction in homicides in about 99 percent of the state's area, and I think this is a good amendment and I urge, for the sake of good law enforcement, that you defeat the motion to indefinitely postpone.

The SPEAKER: The Chair will order a vote. The pending question is on the motion of the gentleman from Anson, Mr. Burns, that House Amendment "S" be indefinitely postponed. All those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

15 having voted in the affirmative and 52 having voted in the negative, the motion did not prevail.

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

Mr. CARROLL: Mr. Speaker and Members of the House: I have a question, and that question is: Who is in command now?

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

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

Mr. JOYCE: Mr. Speaker, Ladies and Gentlemen of the House: To answer the gentleman's question, there is esprit de corps there, cooperation, one depends on the other, and primary jurisdiction will rest with the local police department, and then when they need assistance in major crimes, they will turn either to the sheriffs or to the state police. There is no problem the way it is working now that I know of throughout the state, and it has worked for years that way.

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

Mr. CARROLL: Mr. Speaker, Ladies and Gentlemen of the House: I was present at a shoot-out in Limerick quite a few years ago, and part of the reason why certain people died at this shoot-out was the fact that they came through a barrier, came charging in without reporting to the officer

in charge, and my interpretation of the law at that time was that the county sheriff had complete charge of that. He had taken charge and arrived there, and nobody reported to him when they came there. They were coming from all directions. I don't want to see a repeat performance of that little act.

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

Mr. HENDERSON: Mr. Speaker, Ladies and Gentlemen of the House: I did sponsor this request of the Governor's Office and that is why I voted to indefinitely postpone it, but I do want to clarify the answer to the gentleman's question. The answer is, nobody is in charge. I think it is fair to say that nobody would be in charge of any investigations or shootouts or whatever if all three or whatever police departments came on the scene. It is argued that maybe we ought to deal with that question in another bill at another time, but the fact is, if we do adopt this amendment, nobody will be in charge. If we don't somebody will be in charge.

The SPEAKER: The Chair recognizes the gentleman from Rumford, Mr. Theriault.

Mr. THERIAULT: Mr. Speaker, Ladies and Gentlemen of the House: Having been a police officer for many years and having been chief of the department for many years, I was the Chief of Police in Rumford when the Limerick accident happened, and because of that incident, every department in the State of Maine set up a system where if any such thing were to happen again, the first department that was called to the scene of any accident or any crime was the department that would be in charge, and everyone, as far as I know, agreed to that. So the person in charge at the time that they get a call for anything, any criminal action, any accident, any incident, the department that is called first would be the one that would be in charge.

The SPEAKER: The Chair will order a vote. The pending question is on the adoption of House Amendment "S". All those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

56 having voted in the affirmative and 18 having voted in the negative, House Amendment "S" was adopted.

Mr. Jensen of Portland offered House Amendment "N" and moved its adoption.

House Amendment "N" (H-919) was read by the Clerk.

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

Mr. JENSEN: Mr. Speaker, Ladies and Gentlemen of the House: This amendment was drafted by the Executive Director of the Maine State Retirement System at my request and with his concurrence. What the amendment does is, it grants any recipient of a state retirement check the ability to refuse a portion of or all of that check. Presently the law says he has no alternative.

The SPEAKER: The Chair recognizes the gentleman from Rumford, Mr. Theriault.

Mr. THERIAULT: Mr. Speaker, Ladies and Gentlemen of the House: As far as I know that is correct. I have been trying to get ahold of Mr. Gingrow of the Retirement System and I haven't been able to contact him. But Mr. Jensen had talked to me about this a couple of weeks ago and I then talked to Mr. Blodgett and he saw no problem at that time but he wanted time to check on it. He never did get back to me, but Mr. Jensen says that he is the one who drew up the amendment, so I have no objection.

Thereupon, House Amendment "N" was adopted.

Mr. Lynch of Livermore Falls offered House Amendment "T" and moved its adoption.

House Amendment "T" (H-925) was read by the Clerk.

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

Mr. LYNCH: Mr. Speaker, Ladies and Gentlemen of the House: In the interest of saving

time, I would defer to Representative McMahon who also has an interest in this.

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

Mr. McMAHON: Mr. Speaker, Ladies and Gentlemen of the House: I truly apologize for bringing something that appears to be this complicated before you at this hour, but the whole situation has arisen within the last 48 hours and there was no other way to do it.

I have talked to many of you privately, I wish I could have talked to all of you, it has been an interesting day, but all of you with whom I have spoken I think understand what I am going to say to the rest of you. Because the hour is late and because I am kind of fuzzy-headed at the moment, I wrote down my comments so that I could present them to you in a logical way.

This amendment deals with the present law pertaining to school budget meetings and particularly that part of the law that addresses reconsideration meetings. For any of you that have Title 20 handy, you might want to look at Section 3752, which is the paper supplement, because this law was enacted last session. The present law requires that meeting moderators actually count the votes for or against each appropriation article on the warrant. Whether you have a line item approach or any other format, the requirement, the way this is worded in Subsection 6 of the law, requires the moderators to do that. Due to the wording of the present law, it could also even be interpreted to apply to municipal town meetings and municipal budgets, although it certainly was not intended to do so.

The current law provides that meetings to reconsider action taken by the previous meeting or to ask for an additional appropriation may be called if those meetings are requested within 30 days. This amendment does not change that at all. It in no way affects the ability of people to request a meeting to reconsider. However, it does change the procedure that is followed at those meetings. It is an important issue, it is a procedural change that I am proposing and not really a substantive one, although I think you might interpret it as both.

The law now requires that when a reconsideration meeting is called, the same number or more citizens must vote on each article as voted in the original meeting. The amendment makes the procedure to be followed at school budget meetings, conform more closely to the procedure followed at municipal town meetings. Some meeting moderators, this past spring, have ignored the provisions in the present law and definite problems are on the horizon. I will digress for a moment.

You are aware of Title 30 and municipal laws as they apply to your municipal town meetings, for those of you that live in towns that do not have charters and that operate under the general statutes in Title 30. If you come from a town meeting town or from an SAD, what I am talking about concerns you. If you come from a town that has a charter, what I am talking about has no impact at all on your situation.

You know as well as I, if you come from a town meeting town, that the usual procedure is for the moderator to call for a vote after the debate is over, and he will say, all in favor please rise, or raise your hands, all opposed the same, and then the moderator declares the vote. That is the time-honored way of doing things in Maine since statehood, and most of our old time moderators either did not know about this quirk in Title 20 or, if they did know about it, didn't understand it, and it is that quirk that we are addressing in this amendment.

At least one town in York County, the moderator ran the town meeting which was for school budget purposes according to the regular town meeting procedure, and did not follow the procedure required in this present law, which requires an individual counting of hands. That means that if there are 400 people present the present law says, if the vote is 300 to 1, the moderator must have all

301 people counted, 300 here, one person there. Needless to say, that takes a tremendous amount of time and it is also inconsistent with the normal procedures followed at municipal meetings. So if you attended your budget meetings for school budgets, think to yourselves, was the procedure that I just described followed or not?

What does the amendment do? The amendment requires, number one, that there shall be a checklist; the checklist is the voting list, and when people come through the door, they check off their names. The amendment requires that there shall be one and that that check list shall be conclusive proof of the number of persons present at the meeting. It eliminates the requirement for the individual counting of the yes and no votes on each article. So in the event of a reconsideration meeting, the only requirement would be that the same number of persons or more be present at the meeting, and not that the same number of persons or more vote on each article, which the present law seems to require.

The adoption of this amendment will not affect requests that might be pending now under the present law for reconsideration. Those meetings could still be held, the only difference is the requirements for the individual count by the moderator and for the recording of individual yeas and nays would not apply. The moderator would simply follow regular town meeting procedures.

The amendment takes effect on January 1, 1978, and it should make the procedures to be followed at next year's school budget meetings much easier to follow in line with regular town meeting procedures and it will result in little or no confusion on the part of the moderator and the people present.

To digress again for a minute. You folks that come from town meeting towns know that the moderator, under the rules, will call for a vote. If the people present at the town meeting disapprove of the moderator's action, they will challenge his action, and the body can direct the moderator to do anything the body wishes him to do. We are not changing any of that. We are simply saying that it is unrealistic to expect our moderators in this state, many of whom have been moderating for 30 and 40 years, to be aware of these peculiar restrictions that exist in Title 20 and, in fact, exist in a section of the law that is entirely different. The section of the law that this present restriction is in pertains to reconsideration meetings, and yet the section itself pertains to all meetings.

The amendment simply repeals and replaces the two offending sections. At the same time, we do not at all destroy the concept that this body voted in the previous legislature wherein you have to have an equal number of people or more present to reconsider action taken at a previous meeting. We keep that concept, we simply change the procedures.

I would be happy to answer questions. This amendment has been worked on with the Commissioner of Education, the Attorney General's Office and the Mine Municipal Association. We hope that it is as perfect as anything can be up here. I do hope you adopt it. I will predict to you that if you don't, serious questions will result in those school districts where the moderators didn't follow this procedure, largely because they didn't understand it or didn't know it.

One final comment. The question might be asked, well, if we repeal and replace Sections 5 and 6 now but make the new Sections 5 and 6 take effect January 1st, what effect will that have on the reconsideration meetings? As I said a moment ago in the prepared text, it won't have any, except it does rule out that the moderator has to perform certain functions. Those meetings can still be held and a moderator would simply function according to the moderator's manual or whatever procedure the body directs him to follow. This is not a devious amendment. Those of you that I have spoken to, I think you will agree with me. In my view it is mandatory that we adopt it.

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

Mr. MORTON: Mr. Speaker, Ladies and Gentlemen of the House: This does amend language which I helped to introduce last year. I have gone over it. I think the amendment is a fine one and I certainly hope that you will go along with Mr. McMahon.

The SPEAKER: The Chair recognizes the gentleman from Old Town, Mr. Pearson.

Mr. PEARSON: Mr. Speaker, Ladies and Gentlemen of the House: I would like to pose a question through the Chair to the gentleman from Kennebunk, Mr. McMahon. That question is this, if everybody who goes to a reconsideration meeting has to go through the door and be checked off on a voting list as they enter, in order to establish that there are an equal number or more people there as there were at the preceding meeting, what would happen if you had five or six articles that were going to be reconsidered and they were lengthy ones and say that the third or fourth article, 25 percent or half of your people left? Would the articles that you take up after that period of time be valid articles if there were not, indeed, still as many people or more as were there at the previous meeting?

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

Mr. McMAHON: Mr. Speaker, Ladies and Gentlemen of the House: To answer the question, the articles, of course, would be valid. The only requirement that we are proposing in the amendment and the only requirement that exists in the present law is that an equal or larger number of people attend the second meeting. Presumably, if you had people that were concerned enough to petition for a reconsideration meeting and, by the way, that must be done within 30 days of the regular meeting or else it can't be done. If you had people sufficiently interested to do that, under the present law, they would have to stay there and vote on each particular article. The situation the gentleman suggests could happen, more under the present law I submit than under the proposal that we are suggesting. Under the proposal that we are suggesting, they have the previous checklist from the previous meeting. If it shows that 300 people attended the previous school budget meeting, then 300 people or more must attend the second meeting. Whether or not people leave halfway through the meeting would have no bearing at all on the action under the amendment that we are proposing. Presumably, if they came for a reconsideration meeting, they would stay for it.

The SPEAKER: The Chair recognizes the gentleman from Old Town, Mr. Pearson.

Mr. PEARSON: Mr. Speaker, Ladies and Gentlemen of the House: I would point out to the gentleman from Kennebunk, Mr. McMahon, that there were a number of people who were interested enough to run for the state legislature but who are not here today.

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

Mr. NADEAU: Mr. Speaker, Ladies and Gentlemen of the House: I would like to pose a question to the gentleman from Kennebunk, Mr. McMahon. Correct me if I am wrong but Sanford is unique in that we have representative town meeting members. We do have a quorum. If one night we have 95 members and then we had a reconsideration meeting, even though we had a quorum but we had less than 95, we would then, under this amendment, not be able to attend to the facts?

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

Mr. McMAHON: Mr. Speaker, Ladies and Gentlemen of the House: To answer the gentleman's question, Sanford has a charter written in the 30's. It is my understanding that Sanford's town charter would have to be amended to spell out the budget format that the school directors and the selectmen together in Sanford would use. In absent, any amendment to the Sanford charter, none of this law applies to Sanford, either the present law or what we are proposing to do.

Thereupon, House Amendment "T" was adopted.

Mr. Spencer of Standish offered House Amendment "U" and moved its adoption.

House Amendment "U" (H-926) was read by the Clerk.

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

Mr. SPENCER: Mr. Speaker, Ladies and Gentlemen of the House: House Amendment "U" would add two words "develop and build upon" into the penalty section of the subdivision law. This change was recommended by the Maine Municipal Association in light of a case, which I gather just came down, which pointed out that although the subdivision law prohibits people from developing or building upon lots in subdivisions, the penalty clause doesn't contain those two words. Although we have prohibited it, there is no penalty for it. This would make the penalty section consistent with the prohibition in the subdivision law.

Thereupon, House Amendment "U" was adopted.

Mr. Perkins of Blue Hill offered House Amendment "X" and moved its adoption.

House Amendment "X" (H-929) was read by the Clerk.

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

Mr. PERKINS: Mr. Speaker, Ladies and Gentlemen of the House: I have two amendments regarding the Maine Guarantee Authority. I would have to frankly admit to you right off that the only thing I am very familiar with the Maine Guarantee Authority is that it deals with monies lent. I would say to you that this H-929 changes the wording and adds into the wording of the lending of this a condition of economic feasibility under this section and this has been requested.

The SPEAKER: The Chair recognizes the gentleman from Lisbon Falls, Mr. Tierney.

Mr. TIERNEY: Mr. Speaker, Ladies and Gentlemen of the House: A question to the gentleman from Blue Hill, Mr. Perkins. Obviously, we are repealing the last sentence of the present law of Title X, Section 702 and I would like him to tell us exactly what we are repealing.

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

Mr. PERKINS: Mr. Speaker, Ladies and Gentlemen of the House: The sentence we are repealing and I will read it to you, "The Maine Industrial Building Authority is created to encourage the making of mortgage loans for the purpose of furthering expansion of such enterprises in the state." We are replacing it with this, "The Maine Guarantee Authority is created to encourage the making of mortgage loans by using economic factors to determine the probability of enterprises achieving the purpose of furthering the expansion of such enterprises within the state."

The SPEAKER: The Chair recognizes the gentleman from Lisbon Falls, Mr. Tierney.

Mr. TIERNEY: Mr. Speaker, Ladies and Gentlemen of the House: Now, that the good gentleman has told me what we are repealing and what he is trying to replace it with, I am starting to get an understanding. Is the purpose of the amendment to limit the M.G.A. to only using economic factors in making its determination on what funds to lend to that extent excluding other factors such as the development in the area, the rate of unemployment, the whole myriad of various social factors which could be an element?

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

Mr. PERKINS: Mr. Speaker, Ladies and Gentlemen of the House: It is my interpretation that the whole economic feasibility would be studied in this area. While I feel it is an incomplete job, I feel it is an improvement over the other. It is my impression that the area of jobs, the theory or the formula of success of the business and the return of the funds lent are to be factors considered in the lending.

The SPEAKER: The Chair recognizes the gentleman from Lisbon Falls, Mr. Tierney.

Mr. TIERNEY: Mr. Speaker, Ladies and Gentlemen of the House: I gather from the good gentleman's tone and from some of his facial expressions that he is not entirely an expert in this area. I can assure you that I am not. I think it is clear that we are, in essence, limiting the hands of the M.G.A. in an area that I am not sure any of us fully understand, including the sponsor of this amendment. Again, following the principle which I followed earlier, I move the indefinite postponement of House Amendment "X".

The SPEAKER: The Chair recognizes the gentleman from Nobleboro, Mr. Palmer.

Mr. PALMER: Mr. Speaker, Ladies and Gentlemen of the House: Before we do that, I would like to ask the gentleman from Lisbon Falls for a further explanation of why he is doing this because the other factors he mentioned that we couldn't take into consideration such as unemployment, item number one, is certainly an economic factor. What factors he is thinking about that wouldn't be economic that the Maine Guarantee Authority should be thinking about in placing of?

The SPEAKER: The Chair recognizes the gentleman from Waterville, Mrs. Kany.

Mrs. KANY: Mr. Speaker, Ladies and Gentlemen of the House: I don't think this amendment adds very much. Economic factors are not very well defined. They could include a lot of things and exclude a lot of other things. If the idea is to present a policy or a balance or a weighing of certain items, I don't think this amendment does it. I know there has been controversy over if M.G.A. should be for jobs or for long run profitability or for what; I personally go along with the motion of the gentleman from Lisbon Falls.

The SPEAKER: The Chair recognizes the gentleman from Lisbon Falls, Mr. Tierney.

Mr. TIERNEY: Mr. Speaker, Ladies and Gentlemen of the House: In reply to the gentleman from Nobleboro, Mr. Palmer, I think it is time that each and every one of us ask ourselves precisely what we are doing with House Amendment "Y". That means this is the 23rd House Amendment and we have got some more to go. We should very seriously consider what we are doing when we are altering the fundamental procedures and the fundamental criteria that will be used by the Maine Guarantee Authority in granting loans. The answer is, I am not sure. We are dealing with issues which are obviously substantive, issues which have never been placed before us in bill form, issues which haven't had a public hearing. I think it is an extremely dangerous way to make legislation. I am being corrected. We are talking about House Amendment "X", House Amendment "Y" is the next one and I am going to move indefinite postponement of that too. I would say, ladies and gentlemen, that we should be extremely careful about making changes which we obviously don't fully understand at this hour. I am certainly not going to do it with my vote, especially when you consider that this is emergency legislation and whatever we do will be effective for all of the people of the State of Maine within a week.

I urge that we indefinitely postpone this amendment or any amendment that we don't fully understand.

The SPEAKER: The Chair recognizes the gentleman from Nobleboro, Mr. Palmer.

Mr. PALMER: Mr. Speaker, Ladies and Gentlemen of the House: I am sorry I didn't introduce this amendment but I think that the good gentleman from Lisbon Falls is making a mountain out of a mole hill. The one sentence which is being repealed and I think when we look at the experiences we have had with some of the business experiences with the Maine Guarantee Authority, there may very well be a good reason for changing this. All it says is "the Maine Industrial Building Authority is created to encourage the making of mortgage loans for the purpose of furthering expansion of such enterprises in the state" That is what you are taking out. What you are putting in is a sentence which encourages us to make mortgage loans by using economic factors to determine the

probability of the enterprises, achieving the purposes of further expansion. I think it is about time we did take some economic factors into consideration. When we think about the bills we have had before this legislature one for example recently on the Pittsfield experience, where we are reimbursing the town of Pittsfield for the monies in lieu of taxes because of a loan which has some problems. There are other enterprises throughout the State of Maine that are having problems. Maybe the Maine Guarantee Authority should take into consideration some good, sound, economic factors when they make loans. I think that is all they are asking. It is not a great big problem. I submit that on the basis of what we have been doing up to this point in time with the Maine Guarantee Authority, perhaps we ought to look at economic factors.

The SPEAKER: The Chair recognizes the gentleman from Lisbon Falls, Mr. Tierney.

Mr. TIERNEY: Mr. Speaker, Ladies and Gentlemen of the House: I would like to pose a question to the good gentleman from Nobleboro. I would like to ask him for any evidence he has that the M.G.A. at the present time is not considering economic factors. I would assume that they would be.

The SPEAKER: The Chair recognizes the gentleman from Nobleboro, Mr. Palmer.

Mr. PALMER: Mr. Speaker, Ladies and Gentlemen of the House: All I am referring to, Mr. Tierney, is a sentence which is being deleted. It simply says that it would encourage the making of mortgage loans for the purpose of furthering expansion of such enterprises in this state without regard to the fact of whether the enterprise can succeed or fail. All this simply says is, lets find out whether or not they can succeed or fail before we encourage more mortgage loans. I think it is a sensible amendment and I hope we won't indefinitely postpone.

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

Mrs. LEWIS: Mr. Speaker, Ladies and Gentlemen of the House: I think when we dealt with issues like this before, the word "environmental" has always been included too. I am wondering if this was deliberately left out. This is a very important change if that isn't part of it too.

The SPEAKER: The Chair will order a vote. The pending question before the House is the motion of the gentleman from Lisbon Falls, Mr. Tierney, that House Amendment "X" be indefinitely postponed. Those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

47 having voted in the affirmative and 46 in the negative, the motion did prevail.

Mr. Perkins of Blue Hill offered House Amendment "Y" and moved its adoption.

House Amendment "Y" (H-930) was read by the Clerk.

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

Mr. PERKINS: Mr. Speaker, Ladies and Gentlemen of the House: After the editorial, I would like to proceed and lend some more expertise in my area of the Maine Guarantee Authority and suggest to you that this amendment would clear up some ambiguity as regard to the funding of the Maine Guarantee Authority and also inserts the legislative process and the legislature in the funding which hasn't been there in the past.

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

Mr. SPENCER: Mr. Speaker, Ladies and Gentlemen of the House: House Amendment "Y" is an amendment which I don't fully understand. I think I am in the same position as the sponsor but I may be doing him an injustice. The amendment was presented to me just before we came into session by Andy Brown from the Governor's Office. At that time, the third word in the amendment was "may." The Governor "may" transfer to that fund sufficient monies for the appropriate purpose from the state contingent account and so on. As far as I have been able to figure out, so far, and I haven't had time to really get into this in any great

detail, the current law sets up a mortgage insurance fund. It provides that if the guarantee authority or the industrial building authority needs additional monies to meet obligations, the current law provides that the Governor "shall" transfer funds over to the mortgage insurance account to meet those obligations, whatever they are. I was concerned that if we put the word "may" into the statute instead of "shall" that we might somehow be jeopardizing the status of the bonds of the guarantee authority because bond council might look at the word "may" and say that there was a question as to whether the Governor would transfer the funds if this mortgage insurance fund, whatever it is, needed additional money to meet its obligations.

I got a note after raising the question from Andy Brown which says: "Representative Spencer, the word 'shall' remains in the amendment, amending 10 MRSA, Section 802. Thanks Andy Brown. You ask good questions." The problem is that the word "shall" remains in the amendment but there is an "or". The "or" is that he "shall" transfer from the fund sufficient monies "or" request an appropriation from the legislature. If the word "may" would result in some uncertainty which somehow might jeopardize the guarantee authority and I am not sure whether it would or not, the word that he "shall do it" "or else" request an appropriation from the legislature, I think would strike the same fear in the heart of bond council if... What I am trying to say is that if there was a problem with "may", changing it to "shall" doesn't do any good because we still have that "or" about requesting an appropriation.

I would ask that the sponsor either reassure me that this would not be a problem or table until later in today and I will run out and try to make some phone calls and see if it would create a problem.

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

Mr. PERKINS: Mr. Speaker, Ladies and Gentlemen of the House: I am very obviously in an area that I have a lot of background and expertise in so I would only ask that the gentleman from Standish that my interpretation of this is that the word "shall" is in there and I will read it to him and ask if he still interprets it the same way. It says that the Governor "shall" transfer to the funds sufficient monies for the appropriate purpose from the state contingent account or from the proceeds of bonds to be issued as provided in this section or by requesting an appropriation from the legislature. I have no legal expertise but I would only say that if there were no proceeds from bonds, then he would well then come to the legislature. I don't think it is an "or" thing. I suspect that if there were no proceeds from bonds, then he will come to the legislature, hence, my explanation that the legislative process is inserted into this.

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

Mr. SPENCER: Mr. Speaker, Ladies and Gentlemen of the House: I move that this matter be tabled until later in today's session.

The SPEAKER: The Chair would advise the gentleman that tabling will table the whole bill.

Mr. SPENCER: Mr. Speaker, I move the indefinite postponement of House Amendment "Y" and then will go and make my inquiries and move reconsideration later if, in fact, there isn't a problem.

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

Mr. CAREY: Mr. Speaker, Ladies and Gentlemen of the House: I was wondering if it wouldn't be much more appropriate if the gentleman would withdraw his motion, if the gentleman from Blue Hill would withdraw consideration of his amendment at this time.

Thereupon, Mr. Perkins of Blue Hill withdrew House Amendment "Y".

Mrs. Kany of Waterville offered House Amendment "Z" and moved its adoption.

House Amendment "Z" (H-931) was read by the Clerk.

The SPEAKER: The Chair recognizes the gentlewoman from Waterville, Mrs. Kany.

Mrs. KANY: Mr. Speaker, Ladies and Gentlemen of the House: Sorry folks, this amendment isn't too interesting either. Basically, all it does is to assure that revenue bonds would be evaluated in addition to all bonds which wouldn't be self liquidating.

Earlier this session, we passed a bill asking the Commissioner of Finance and Administration and the State Treasurer to analyze proposed bond issues except those which would be self-liquidating which would be removed under this amendment.

Thereupon, House Amendment "Z" was adopted.

Mr. Devoe of Orono offered House Amendment "A" and moved its adoption.

House Amendment "AA" (H-932) was read by the Clerk.

The SPEAKER: The Chair recognizes the gentlewoman from Bath, Ms. Goodwin.

Ms. GOODWIN: Mr. Speaker, Men and Women of the House: While I realize there are some serious problems with age and apprenticeship programs, I feel that in light of what appears to be about to happen in this legislature as a result of action taken in the other body earlier, that we are about to abolish mandatory retirement in the State of Maine. The legislation will read, "it is the intent of the legislature that discrimination based on age against any person who seeks employment or who is already employed shall not be tolerated." Perhaps this amendment is out of order. I also feel very strongly that this is a substantive change. This is the type of legislation which should have had a public hearing and doesn't belong in an errors and inconsistencies law.

The SPEAKER: The Chair recognizes the gentleman from Lisbon Falls, Mr. Tierney.

Mr. TIERNEY: Mr. Speaker, Ladies and Gentlemen of the House: I was approached to sponsor a piece of legislation which is House Amendment "AA" last September, which I think was nine months ago. This bill is directly coming from the cooperation of both the Maine AFL-CIO and the Great Northern Paper Company and a few other large industries that had ample opportunity to put this bill in as a bill during the regular session and they failed to do so. It may be a good bill but I think it is totally improper at this time and I would like to extend my skin to four in a row.

On motion of Mr. Tierney of Lisbon Falls, House Amendment "AA" was indefinitely postponed.

Mr. Hughes of Auburn offered House Amendment "BB" and moved its adoption.

House Amendment "BB" (H-933) was read by the Clerk.

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

Mr. HUGHES: Mr. Speaker, Ladies and Gentlemen of the House: I present this amendment as Chairman of the Androscoggin County Delegation. It bears the rare imprimatur having been agreed to by the sheriff of the county and the county commissioners and all the members of the delegation who attended the meeting they had last week on this subject. That is quite a claim for it. We had a new sheriff in Androscoggin County who made the mistake of ordering the new uniforms he would need before he was officially sworn into office. He has been properly chastened and understands his mistake. We were informed by the attorney for the County Commissioners, who is the District Attorney, that it would be improper for them to pay that bill since it was not incurred properly. The County Commissioners want to pay the bill. The sheriff certainly wants them to pay it. He has paid it out of his own pocket and has borne that expense for the past six months. Everybody agrees, although mistakes were made and people should learn from those mistakes that the bill ought to be paid. It ought to come from the uniform account which is in the budget which we have passed as a legislature. This change will cost no more money. It simply will allow the commissioners to pay a bill they want to pay. As I say, all parties to the often disputatious conduct of county

government and Androscoggin County agreed that this is a good amendment. I commend it to you for adoption.

The SPEAKER: The Chair recognizes the gentleman from Anson, Mr. Burns.

Mr. BURNS: Mr. Speaker, Ladies and Gentlemen of the House: I can't resist this. "BB" isn't here.

Thereupon, House Amendment "BB" was adopted.

On motion of Ms. Clark of Freeport, the House reconsidered its action whereby House Amendment "N" was adopted.

The SPEAKER: The Chair recognizes the gentleman from Freeport, Ms. Clark.

Ms. CLARK: Mr. Speaker, Ladies and Gentlemen of the House: The majority floor leader has stated multiple times already the reason for moving indefinite postponement. That would be my ultimate motion. While I hate to do this to my friend and colleague, Representative Jensen from Portland, House Amendment "N" is neither an error nor an inconsistency. It is, in fact, a substantive change in the policies in administrative procedures governing the Maine State Retirement System. As a matter of fact, it would be a very good bill to submit to the second regular session of this 108th Legislature.

Therefore, I move indefinite postponement.

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

Mrs. NAJARIAN: Mr. Speaker, Ladies and Gentlemen of the House: I am just curious. I wanted to ask this question before and the hammer came down on it. Why would any person want to return part of their retirement check or not receive it?

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

Mr. JENSEN: Mr. Speaker, Ladies and Gentlemen of the House: In response to the gentlelady's comment, let me explain how this amendment came about. I had a constituent come up to me recently, attempting to get into a nursing home very close to me. What occurred was that in the process of trying to get him into the nursing home, he is in his late 70's or early 80's and simply unable to stay at home at this point, the problem is this, under current state law, regulations, or whatever, in order to get into a nursing home, a person's income has got to be something like \$503 per month, don't quote me on the figures. If a person's income is less than that, what occurs is that person applies to the state. The state takes his entire check, gives him \$25 for spending money and then covers the cost of him going to the nursing home. The state pays a total of \$503 per month for that individual to stay in a nursing home. The idea is that if an individual is earning more than that, he can go into a nursing home and pay for it himself without going through the bureaucracy or any administrative problems. What the nursing homes have done is they have set up a situation where somebody going into a nursing home, if they are a state patient, pays \$503 per month. The state pays it. However, if he is earning more than that, the state refuses to accept him. That individual must then pay another rate. You have a two-tier system, whereas a person who isn't a state patient is forced to pay \$600, \$700 or \$800. The particular constituent that I got involved with was such whose income didn't meet that. He was in the middle, has a tremendous problem, has no assets. I don't know what we are going to do with that individual if this amendment is, in fact, indefinitely postponed. Presently, within the retirement system law, there are provisions I believe for veterans and for teachers, retired teachers, to allow them to do something very similar to this. It is an amendment that was drafted by the retirement system executive director, with his concurrence, it would, in fact, save them some money, very possibly cost the State of Maine some money on a marginal basis within Health and Welfare but I don't believe it would be significant.

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

Mr. CAREY: Mr. Speaker, Ladies and Gentlemen of the House: I thank the gentleman from Portland very much for his explanation because the City of Waterville just lost such a court case with a gentleman who retired from the state prison as a guard and then went to work for the Waterville Public School System and retired again on Social Security and the two combined incomes put him over the limit. He is unable to get any aid at all. However, I think if you do pass this amendment, you will have to realize that it may end up costing you more in the long run because currently the man is getting a little over \$500.00 in retirement pay but his costs at the nursing home run around \$750.00 a month.

I would certainly support the amendment.

The SPEAKER: The Chair recognizes the gentleman from South Berwick, Mr. Goodwin.

Mr. GOODWIN: Mr. Speaker, Men and Women of the House: I support the amendment too. This is a problem that I have been aware of for quite some time in working with legislation dealing with nursing and boarding homes. There is quite a discrepancy between what the state pays for state patients in most nursing homes and what they charge for private homes. If you are in between what the state pays as a state patient and what you would have to pay as a private patient, you are just plain out of luck.

I submit to you that this is an inconsistency in the law because the law already takes care of some people, as Representative Jensen has said, they are able to do something, retired teachers or someone to disavow some of their retirement and I also submit to you that there is an inconsistency in the law because it is inconsistent, I think, that we, as a state government, should say that if you have this much money, we will take care of you or if you have that much money, you have to take care of yourself, but if you are in the middle, no one is going to be able to take care of you. I feel that if that isn't an inconsistency in our laws, nothing is.

The SPEAKER: The Chair recognizes the gentleman from Freeport, Ms. Clark.

Ms. CLARK: Mr. Speaker, Men and Women of the House: I hesitate to disagree with the people who have spoken on this floor relative to this amendment. The fact is that it isn't an inconsistency and it has some nebulous, if not large, fiscal impact, whether it be a savings to the Maine State Retirement System and an increased unfounded liability, or unknown liability to the Human Services Program. I will bide by the decision of this House.

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

A vote of the House was taken.

Mr. Goodwin of South Berwick requested 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 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 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 Old Town, Mr. Pearson.

Mr. PEARSON: Mr. Speaker, Ladies and Gentlemen of the House: I will be brief. It has happened to two of my constituents in Old Town. It is a real tragedy when it does happen and they don't have enough money to pay for it themselves and they can't qualify for help. I would ask you to adopt this amendment.

The SPEAKER: The Chair recognizes the gentleman from South Berwick, Mr. Goodwin.

Mr. GOODWIN: Mr. Speaker, Ladies and Gentlemen of the House: I would just like to address two points on this. First, I still believe

that this is an inconsistency in the law. I don't believe that it is intended for any of our laws to set up a class of citizens as we have done with the laws we have presently on the books. I don't believe, in the little time since Representative Jensen has told me about this amendment, I have tried to check into it somewhat and the way this is worded, that it is going to cost any more because it allows a person to not accept a certain amount of his retirement down to a point where he would be eligible. That would mean that the state would have to put in maybe one dollar or so for each individual just to make them eligible for that particular amount.

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

Mrs. MARTIN: Mr. Speaker, Ladies and Gentlemen: I have just gone through this with a close relative of mine, not my husband, but a very close relative, and I tell you it was awful.

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

Mr. JENSEN: Mr. Speaker and Members of the House: I simply wish to point out that with the particular constituent that I have run into the problem with, what will likely occur is that he is in the hospital right now and he will stay there until we are able to find some solution. I would submit that a hospital bed that costs well over \$100.00 per day is certainly going to be a great deal more than any potential couple of dollars per month that this amendment would ever involve. I would suggest that the fiscal impact is going to be extremely minimal.

The SPEAKER: A roll call has been ordered. The pending question before the House is the adoption of House Amendment "N". Those in favor will vote yes; those opposed will vote no.

ROLL CALL

YEA — Ault, Bagley, Beaulieu, Bennett, Benoit, Berry, Biron, Blodgett, Boudreau, A.; Boudreau, P.; Brown, K. L.; Brown, K. C.; Bunker, Burns, Bustin, Carey, Carroll, Chonko, Churchill, Connolly, Curran, Devoe, Dexter, Diamond, Drinkwater, Dudley, Dutremble, Fenlason, Flanagan, Fowlie, Gillis, Goodwin, H.; Gould, Gray, Green, Greenlaw, Hall, Henderson, Hickey, Hobbins, Jackson, Jensen, Joyce, Kane, Kany, Kerry, Laffin, LaPlante, Lizotte, Locke, Lynch, Mackel, Mahany, Marshall, Martin, A.; Maxwell, McMahon, McPherson, Mitchell, Nadeau, Najarian, Nelson, M.; Norris, Peakes, Pearson, Peterson, Post, Prescott, Rideout, Rollins, Spencer, Stubbs, Talbot, Tarbell, Tarr, Tierney, Torrey, Trafton, Valentine, Wilfong, Wood.

NAY — Alopis, Berube, Birt, Carter, F.; Clark, Cox, Cunningham, Durgin, Garsoe, Gill, Higgins, Howe, Huber, Hunter, Immonen, Kilcoyne, Lewis, Littlefield, Lougee, Masterman, Masterton, McBrearty, McHenry, Morton, Nelson, N.; Palmer, Peltier, Perkins, Plourde, Raymond, Sewall, Shute, Silsby, Smith, Sprowl, Strout, Teague, Theriault.

ABSENT — Austin, Bachrach, Brennerman, Carrier, Carter, D.; Conners, Cote, Davies, Dow, Elias, Gauthier, Goodwin, K.; Hughes, Jacques, Jalbert, Kelleher, LeBlanc, Lunt, MacEachern, McKean, Mills, Moody, Quinn, Stover, Tozier, Truman, Twitchell, Tyndale, Whittemore, Wyman, The Speaker.

Yes, 81; No, 39; Absent, 30.

The SPEAKER: Eighty-one having voted in the affirmative and thirty-nine in the negative, with thirty being absent, the motion does prevail.

At this point, House Rule 22 was suspended in order to conduct business after 9:00 p.m.

Mrs. Boudreau of Portland offered House Amendment "V" and moved its adoption.

House Amendment "V" (H-927) was read by the Clerk.

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

Mrs. BOUDREAU: Mr. Speaker, Men and Women of the House: This amendment corrects an error in the reapportionment of the City of Portland.

The SPEAKER: The Chair recognizes the gentleman from Nobleboro, Mr. Palmer.

Mr. PALMER: Mr. Speaker and Members of the House: I would just like to inquire as to the error.

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

Mrs. BOUDREAU: Mr. Speaker, Men and Women of the House: In District 9, we had used Mayland Street and Mayland Street doesn't extend all the way as we had it in the reapportionment and if where they think the line of Mayland Street would be, it would have cut the convent right in two.

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

Mr. BUSTIN: Mr. Speaker, Ladies and Gentlemen of the House: I just want to say that it seems to me like the gentleman from Nobleboro, Mr. Palmer, almost sounded like he was questioning the motives of the good gentlewoman from Portland.

Thereupon, House Amendment "V" was adopted.

Mr. Burns of Anson offered House Amendment "W" and moved its adoption.

House Amendment "W" (H-929) was read by the Clerk.

The SPEAKER: The Chair recognizes the gentleman from Anson, Mr. Burns.

Mr. BURNS: Mr. Speaker, Ladies and Gentlemen of the House: The explanation of the amendment is contained in the Statement of Fact. This could be called the "errors and inconsistencies amendment to the errors and inconsistencies bill" and it is put together by the Committee on Second Reading, correcting all errors that had been uncovered to date that are correctable at this point. There are some other errors that will have to be corrected next year because the bills haven't been chaptered yet.

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

Mr. MORTON: Mr. Speaker, Ladies and Gentlemen of the House: I would just like to ask the gentleman from Anson, if there is anything in this five page amendment that has to do with county fairs?

The SPEAKER: The Chair recognizes the gentleman from Anson, Mr. Burns.

Mr. BURNS: Mr. Speaker, Ladies and Gentlemen of the House: This is the second time that I have had to answer a question in this regard. I answered it a little while ago to another amendment that I have put on and it is most emphatically "No".

Thereupon, House Amendment "W" was adopted.

Mr. Gray of Rockland offered House Amendment "DD" and moved its adoption.

House Amendment "DD" (H-935) was read by the Clerk.

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

Mr. GRAY: Mr. Speaker, Ladies and Gentlemen of the House: The purpose of this amendment is to put in no uncertain terms what the intent of Amendment "M" is and the language may be so simple here that a lawyer might not be able to understand it but the purpose of this amendment is to accomplish what Amendment "M" was to accomplish, which was "indefinitely postpone."

Thereupon, House Amendment "DD" was adopted.

On motion of Mr. Burns of Anson, the House reconsidered its action whereby Senate Amendment "A" was adopted.

The SPEAKER: The Chair recognizes the gentleman from Anson, Mr. Burns.

Mr. BURNS: Mr. Speaker and Members of

the House: Is there an explanation of this amendment now?

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

Mr. CAREY: Mr. Speaker, Ladies and Gentlemen of the House: I am quite certain that this is an amendment that was created by some problems that developed in an inconsistency where the tax collector would actually have to pay one dollar out of his own pocket to file tax liens because of an error that had occurred, and if you can wait just a second, I will get the Chairman of the Committee.

Thereupon, Senate Amendment "A" was adopted.

The Bill was passed to be engrossed as amended by Senate Amendments A, B, C, E, F, G, H and House Amendments A, B, C, D, I, J, K, L, N, O, R, S, T, U, V, W, Z, BB, and DD in non-concurrence and sent up for concurrence.

By unanimous consent, ordered sent forthwith to the Senate.

The following papers appearing on Supplement No. 21 were taken up out of order by unanimous consent:

On motion of Mr. Tierney of Lisbon Falls, the following Joint Order: (H. P. 1815) (Cosponsor: Mr. Palmer of Nobleboro)

ORDERED, the Senate concurring, that the Joint Rules be amended by adding a new Rule 36-A to read as follows:

36-A. Carry over of bills and resolves.

(1) Any bill or resolve introduced in the first regular session of the Legislature, whose subject matter is germane to the subject matter of the second regular session, may be carried over to the second regular session in the same status it was in at the time of adjournment upon written and signed request of 2/3 of the members appointed to the original committee of reference and the approval of the Legislative Council providing that the request is made at least 2 weeks prior to the final reporting deadline of the committee of reference.

(2) Any bill or resolve carried over must be reported out of committee no later than the 15th day of December preceding the convening of the second regular session in the even-numbered year.

The Order was read and pursuant to the rules, tabled pending passage and tomorrow assigned.

On motion of Mr. Tierney of Lisbon Falls, the following Joint Order: (H. P. 1814) (Cosponsor: Mr. Palmer of Nobleboro)

ORDERED, the Senate concurring, that the Joint Rules be amended by repealing and replacing Joint Rule 24 to read as follows:

24. Cloture; second regular session. All requests for bills and resolves shall be submitted to the Director of Legislative Research not later than 1 p.m. of the first Wednesday in November preceding the convening of the second regular session.

The Legislative Council shall review all requests for bills and resolves in order to ensure compliance with the requirements of the Maine Constitution, Article IV, Part Third, Section 1. The Legislative Council shall complete its review of all requests for bills and resolves by the 15th day of November. Legislators whose bills and resolves have been approved for introduction shall, within 15 days of that approval, transmit to the Director of Legislative Research sufficient information and data necessary for drafting.

All bills and resolves submitted for preparation to the Director of Legislative Research shall be introduced in the appropriate House, in complete final form, not later than 1 p.m. of the second Wednesday in January.

The Order was read and pursuant to the rules, tabled pending passage and tomorrow assigned.

On motion of Mr. Tierney of Lisbon Falls, the following Joint Order: (H. P. 1816) (Cosponsor: Mr. Palmer of Nobleboro)

ORDERED, the Senate concurring, that the Joint Rules be amended by repealing and replacing Joint Rule 22 to read as follows:

22. Departmental bills.

(1) No bill or resolve shall be introduced on behalf of any state department, agency or commission, except the Governor or Chief Justice, after the first day of December preceding the convening of the first regular legislative session. If the Governor has been newly elected in the November preceding the convening of the first regular session, a bill or resolve introduced on behalf of a state department, agency or commission, except the Governor or Chief Justice, shall be introduced within 30 days after the Governor is administered the oath of office.

(2) Each bill or resolve submitted to the Director of Legislative Research by an executive agency, department or commission for preparation shall clearly designate under the title, the department, agency or commission upon whose behalf the bill or resolve is submitted.

(3) Bills or resolves prefiled under this rule shall bear the designation of the title, "President of the Senate" or "Speaker of the House" for purposes of introduction unless a member of the Legislature sponsors or cosponsors that bill or resolve.

(4) A bill or resolve may be filed on behalf of the Governor or Chief Justice under the title of "President of the Senate" or the "Speaker of the House" provided that the bill bears on its jacket the appropriate designation that the bill or resolve has been introduced on behalf of the Governor or Chief Justice.

(5) Any departmental bill or resolve filed after the first day of December shall be considered late filed. All requests for such late-filed bills or resolves shall be transmitted to the Legislative Council by the Clerk of the House or the Secretary of the Senate. The Legislative Council shall ascertain from the department the facts supporting introduction notwithstanding cloture and, if 2/3 of the Legislative Council approves, the bill or resolve, following preparation, shall appear on the calendar of the appropriate House, duly noted as having been approved by 2/3 of the Legislative Council and the document shall be received.

Was read and pursuant to the rules, tabled pending passage and tomorrow assigned.

The following enactor appearing on Supplement No. 21 was taken up out of order by unanimous consent:

**Passed to Be Enacted
Emergency Measure**

"An Act Making Additional Appropriations for the Expenditures of State Government, to Make Allocations from the Highway Fund, Title II of the Public Works Act, and Changing Certain Provisions of the Law Necessary to the Proper Operations of State Government for the Fiscal Years Ending June 30, 1978 and June 30, 1979" (S. P. 588) (L. D. 1895) (S. "B" S-369; S. "C" S-370)

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

The SPEAKER: The Chair recognizes the gentleman from Lisbon Falls, Mr. Tierney.

Mr. TIERNEY: Mr. Speaker, Men and Women of the House: I would like to state for the record a matter of legislative intent on a particular section of this bill dealing with state employee pay increases. It is the intent of the legislature, on this particular matter, that the increases contained herein shall be sufficient for the first year of the biennium and that negotiated settlements shall not contain amounts of money through a retroactive clause