

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD

OF THE

One Hundred And Fourteenth Legislature

OF THE

State Of Maine

VOLUME I

FIRST REGULAR SESSION

December 7, 1988 to May 10, 1989

**ONE HUNDRED AND FOURTEENTH MAINE LEGISLATURE
FIRST REGULAR SESSION
51st Legislative Day
Thursday, April 27, 1989**

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

Prayer by Reverend Calvin O. Dame, All Souls Church, Unitarian Universalist, Augusta.

The Journal of Wednesday, April 26, 1989, was read and approved.

Quorum call was held.

PAPERS FROM THE SENATE

Bill "An Act to Equalize State Retiree Health Benefits" (S.P. 493) (L.D. 1367)

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

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

Bill "An Act to Authorize a Bond Issue in the Amount of \$5,000,000 to Deal with Asbestos and other Health Related Indoor Air Quality Hazards in Public School Facilities and State Facilities" (S.P. 494) (L.D. 1368)

Bill "An Act to Increase the Standard of Need for Aid to Families with Dependent Children" (EMERGENCY) (S.P. 495) (L.D. 1369)

Bill "An Act to Improve Foster Care in the State" (S.P. 497) (L.D. 1371)

Bill "An Act to Provide Funding for Transitional Living Programs" (S.P. 502) (L.D. 1376)

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

Were referred to the Committee on Appropriations and Financial Affairs in concurrence.

Bill "An Act Relating to Returned Check Charges" (S.P. 498) (L.D. 1372)

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

Was referred to the Committee on Banking and Insurance in concurrence.

Bill "An Act to Restrict Use of Antifreeze or Other Toxic Agents on Lakes, Ponds and Streams" (S.P. 499) (L.D. 1373)

Resolve, to Study the Feasibility of Establishing a Piscataqua River Basin Compact between Maine and New Hampshire (EMERGENCY) (S.P. 496) (L.D. 1370)

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

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

Bill "An Act Regarding the Potential Health Hazards of Paint Removal by Means of Heat" (S.P. 501) (L.D. 1375)

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

Was referred to the Committee on Human Resources in concurrence.

Bill "An Act to Clarify Reporting Requirements for Induced and Spontaneous Abortions" (S.P. 500) (L.D. 1374)

Bill "An Act to Regulate Child Support Enforcement by the Department of Human Services" (S.P. 503) (L.D. 1377)

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

Were referred to the Committee on Judiciary in concurrence.

Unanimous Ought Not To Pass

Report of the Committee on Energy and Natural Resources reporting "Ought Not to Pass" on Bill "An Act to Amend the Pollution Abatement Grants Program" (S.P. 446) (L.D. 1191)

Report of the Committee on Fisheries and Wildlife reporting "Ought Not to Pass" on Bill "An Act to Provide Honorably Discharged Maine Veterans of at Least 62 Years with Special Free Moose Permits" (S.P. 407) (L.D. 1051)

Report of the Committee on Legal Affairs reporting "Ought Not to Pass" on Bill "An Act to Amend the Liquor Laws" (S.P. 244) (L.D. 574)

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

Unanimous Leave to Withdraw

Report of the Committee on Aging, Retirement and Veterans reporting "Leave to Withdraw" on Bill "An Act Regarding Retirement Benefits for Confidential State Employees" (S.P. 363) (L.D. 980)

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

Refer to the Committee on Legal Affairs

Report of the Committee on Labor on Bill "An Act to Protect the Rights of Citizens During Labor Disputes and to Protect the Right of Peaceful Picketing" (S.P. 472) (L.D. 1269) reporting that it be referred to the Committee on Legal Affairs.

Came from the Senate with the report read and accepted and the Bill referred to the Committee on Legal Affairs.

Report was read and accepted and the Bill referred to the Committee on Legal Affairs in concurrence.

Divided Report

Later Today Assigned

Majority Report of the Committee on State and Local Government reporting "Ought Not to Pass" on Bill "An Act to Change the Process of Selecting the Commissioner of Educational and Cultural Services" (S.P. 205) (L.D. 483)

Signed:

Senators: BERUBE of Androscoggin

ESTY of Cumberland

CARPENTER of York

Representatives: LARRIVEE of Gorham

WENTWORTH of Wells

BEGLEY of Waldoboro

McCORMICK of Rockport

ROTONDI of Athens

HANLEY of Paris

JOSEPH of Waterville

Minority Report of the same Committee reporting "Ought to Pass" on same Bill.

Signed:

Representatives: DAGGETT of Augusta

HEESCHEN of Wilton

CAHILL of Mattawamkeag

Came from the Senate with the Majority "Ought Not to Pass" Report read and accepted.
Reports were read.

On motion of Representative Gwadosky of Fairfield, tabled pending acceptance of either report and later today assigned.

Non-Concurrent Matter

An Act to Correct Errors in the County and Municipal Law Recodification (EMERGENCY) (H.P. 859) (L.D. 1199) which was passed to be enacted in the House on April 25, 1989.

Came from the Senate passed to be engrossed as amended by Senate Amendment "A" (S-60) in non-concurrence.

The House voted to recede and concur.

**PETITIONS, BILLS AND RESOLVES
REQUIRING REFERENCE**

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

Aging, Retirement and Veterans

Bill "An Act to Provide for Public Bell Ringing on Veterans Day" (H.P. 991) (L.D. 1380) (Presented by Representative RICHARD of Madison) (Cosponsored by Senator ERWIN of Oxford and Representative PARADIS of Old Town)

Ordered Printed.

Sent up for Concurrence.

Appropriations and Financial Affairs

Bill "An Act to Improve Rest Areas in Mid-coast Maine" (H.P. 992) (L.D. 1381) (Presented by Representative KILKELLY of Wiscasset) (Cosponsored by Representative HOLT of Bath, Representative COLES of Harpswell and Senator HOLLOWAY of Lincoln)

Ordered Printed.

Sent up for Concurrence.

Later Today Assigned

Bill "An Act to Extend ASPIRE Transitional Medical Coverage" (H.P. 996) (L.D. 1385) (Presented by Representative FOSS of Yarmouth) (Cosponsored by Senator BRANNIGAN of Cumberland and Senator CAHILL of Sagadahoc)

(The Committee on Appropriations and Financial Affairs had been suggested.)

On motion of Representative Carter of Winslow, tabled pending reference and later today assigned.

Appropriations and Financial Affairs

Bill "An Act to Authorize a General Fund Bond Issue in the Amount of \$20,000,000 to Provide Funds for Acquiring Land for Affordable Housing" (H.P. 1000) (L.D. 1389) (Presented by Representative NADEAU of Lewiston) (Cosponsored by Senator DUTREMBLE of York, Representative MCGOWAN of Canaan and Representative GRAHAM of Houlton)

Ordered Printed.

Sent up for Concurrence.

Banking and Insurance

Bill "An Act to Amend the Maine Consumer Credit Code to Add Provisions Relating to Credit and Charge Card Disclosures" (H.P. 1002) (L.D. 1391) (Presented

by Representative REED of Falmouth) (Cosponsored by Senator THERIAULT of Aroostook)

Ordered Printed.

Sent up for Concurrence.

Later Today Assigned

Bill "An Act to Increase the Priority of Wage Claims Against Insolvent Employers" (H.P. 998) (L.D. 1387) (Presented by Representative PRIEST of Brunswick) (Cosponsored by Representative CONLEY of Portland, Representative MCHENRY of Madawaska and Senator MATTHEWS of Kennebec)

(The Committee on Business Legislation had been suggested.)

On motion of Representative Allen of Washington, tabled pending reference and later today assigned.

Human Resources

Bill "An Act to Correct Errors and Inconsistencies Regarding Reporting Requirements in the General Assistance Laws" (H.P. 997) (L.D. 1386) (Presented by Representative MANNING of Portland)

Bill "An Act to Establish a License Fee Schedule for Restaurants" (H.P. 990) (L.D. 1379) (Presented by Representative SMITH of Island Falls) (Cosponsored by Representative CAHILL of Mattawamkeag and Representative CLARK of Millinocket)

Ordered Printed.

Sent up for Concurrence.

Judiciary

Bill "An Act to Ensure that Child Support Payments Benefit the Family" (H.P. 1001) (L.D. 1390) (Presented by Representative ALLEN of Washington) (Cosponsored by Senator GAUVREAU of Androscoggin, Representative FARNSWORTH of Hallowell and Representative CONLEY of Portland)

Ordered Printed.

Sent up for Concurrence.

Labor

Bill "An Act to Improve Retraining Opportunities for Maine Workers" (H.P. 999) (L.D. 1388) (Presented by Speaker MARTIN of Eagle Lake) (Cosponsored by Representative PINEAU of Jay, Senator DUTREMBLE of York and Senator ESTY of Cumberland)

Ordered Printed.

Sent up for Concurrence.

Marine Resources

Bill "An Act Concerning Atlantic Salmon" (H.P. 993) (L.D. 1382) (Presented by Representative RUHLIN of Brewer) (Cosponsored by Representative DUFFY of Bangor, Senator BOST of Penobscot and Representative MITCHELL of Freeport)

Ordered Printed.

Sent up for Concurrence.

Taxation

Bill "An Act Concerning the Payment of the Sales and Use Tax" (H.P. 994) (L.D. 1383) (Presented by Representative COLES of Harpswell) (Cosponsored by Representative DORE of Auburn, Representative SWAZEY of Bucksport and Representative NADEAU of Saco)

Bill "An Act Concerning the Timing of Implementation of Local Property Tax Valuations" (EMERGENCY) (H.P. 995) (L.D. 1384) (Presented by Representative RYDELL of Brunswick) (Cosponsored by

Representative ROLDE of York, Representative McCORMICK of Rockport and Senator BALDACCI of Penobscot)
 Ordered Printed.
 Sent up for Concurrence.

REPORTS OF COMMITTEES

Unanimous Ought Not to Pass

Representative HICHBORN from the Committee on Transportation on Bill "An Act to Mandate the Use of Headlights during Inclement Weather" (H.P. 707) (L.D. 968) reporting "Ought Not to Pass"

Representative JACQUES from the Committee on Energy and Natural Resources on Bill "An Act to Reinstate Certain Preexisting Development Applications" (H.P. 850) (L.D. 1182) reporting "Ought Not to Pass"

Representative MICHAUD from the Committee on Energy and Natural Resources on Bill "An Act to Prohibit the Use of All-terrain Vehicles in State Parks" (H.P. 507) (L.D. 687) reporting "Ought Not to Pass"

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

Unanimous Leave to Withdraw

Representative MADEAU from the Committee on Taxation on Bill "An Act to Collect Maine Sales Tax on Mail Order Items Entering the State" (H.P. 558) (L.D. 756) reporting "Leave to Withdraw"

Representative Carter from the Committee on Appropriations and Financial Affairs on Resolve, Appropriating Funds for the Chester Dental Clinic (H.P. 175) (L.D. 240) reporting "Leave to Withdraw"

Representative MURPHY from the Committee on Legal Affairs on Resolve, Authorizing Brian Dreher of North Whitefield to Bring a Civil Action against the State of Maine (H.P. 704) (L.D. 965) reporting "Leave to Withdraw"

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

Ought to Pass as Amended

Representative CARTER from the Committee on Appropriations and Financial Affairs on Bill "An Act Making Allocations Relating to Federal Block Grants for the Expenditures of State Government for the Fiscal Years Ending June 30, 1990, and June 30, 1991" (EMERGENCY) (H.P. 657) (L.D. 891) reporting "Ought to Pass" as amended by Committee Amendment "A" (H-113)

Report was read and accepted, the Bill read once. Committee Amendment "A" was read by the Clerk and adopted.

Under suspension of the rules, the Bill was read a second time, passed to be engrossed as amended by Committee Amendment "A" and sent up for concurrence.

By unanimous consent, ordered sent forthwith to the Senate.

Ought to Pass Pursuant to Joint Order (H.P. 9)

Representative JOSEPH from the Committee on State and Local Government on Resolve, for Laying of the County Taxes and Authorizing Expenditures of Somerset County for the Year 1989 (EMERGENCY) (H.P. 989) (L.D. 1378) reporting "Ought to Pass" - Pursuant to Joint Order (H.P. 9)

Report was read and accepted, the Bill read once.

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

CONSENT CALENDAR

First Day

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

(H.P. 539) (L.D. 736) Bill "An Act to Provide Funding for the Beals Island Regional Shellfish Hatchery" Committee on Appropriations and Financial Affairs reporting "Ought to Pass"

(H.P. 362) (L.D. 493) Bill "An Act Relating to Theft of Services" Committee on Judiciary reporting "Ought to Pass"

(S.P. 250) (L.D. 580) Bill "An Act Relating to the Establishment of Reserve Funds by School Administrative Units" Committee on Education reporting "Ought to Pass" as amended by Committee Amendment "A" (S-57)

(H.P. 655) (L.D. 889) Bill "An Act to Improve Indoor Air Quality Through Accurate Testing and Effective Reduction of Radon Levels in Buildings" Committee on Energy and Natural Resources reporting "Ought to Pass" as amended by Committee Amendment "A" (H-111)

(H.P. 528) (L.D. 713) Bill "An Act to Improve the Air Quality by Limiting the Sulfur Content of Fuel Oils" Committee on Energy and Natural Resources reporting "Ought to Pass" as amended by Committee Amendment "A" (H-112)

There being no objections, the above items were ordered to appear on the Consent Calendar of Monday, May 1, 1989 under the listing of Second Day.

CONSENT CALENDAR

Second Day

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

(H.P. 625) (L.D. 848) Bill "An Act Relating to Ordinary Death Benefits Under the Maine State Retirement System" (C. "A" H-103)

(H.P. 241) (L.D. 353) Bill "An Act to Amend the Laws Relating to Notaries Public" (C. "A" H-105)

(S.P. 63) (L.D. 46) Bill "An Act to Improve the Early Childhood Educational Plans Grants Program" (C. "A" S-54)

(S.P. 152) (L.D. 272) Bill "An Act to Implement the Aroostook Band of Micmacs Settlement Act" (C. "A" S-53)

(H.P. 677) (L.D. 928) Bill "An Act Concerning Subpermitting of Moose Hunting Licenses"

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

PASSED TO BE ENACTED

Emergency Measure

An Act to Amend the Real Estate Licensure Laws (H.P. 31) (L.D. 31) (S. "A" S-56 to C. "A" H-73)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 122 voted in favor of the same and none against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

**PASSED TO BE ENACTED
Emergency Measure**

An Act Concerning the Regulation of General Use Pesticides (H.P. 135) (L.D. 179) (C. "A" H-77)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 126 voted in favor of the same and none against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

**PASSED TO BE ENACTED
Emergency Measure**

An Act to Prohibit and Provide a Penalty for Trespass by Animals (H.P. 153) (L.D. 205) (H. "A" H-92 to C. "A" H-79)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 122 voted in favor of the same and 4 against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

ENACTOR

Tabled and Assigned

An Act to Provide Greater Power to the Maine District Court in Emancipation Proceedings (H.P. 109) (L.D. 146) (C. "A" H-71)

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

On motion of Representative Gwadosky of Fairfield, tabled pending passage to be enacted and specially assigned for Monday, May 1, 1989.

PASSED TO BE ENACTED

An Act to Define and Clarify the Authority of the Board of Dental Examiners to Promulgate Rules (S.P. 132) (L.D. 217) (C. "A" S-44)

An Act to Increase the Compensation of the Board of Dental Examiners and Secretary-Treasurer of the Board (S.P. 168) (L.D. 325) (C. "A" S-45)

An Act Concerning Antique Automobiles and Horseless Carriages (H.P. 429) (L.D. 594) (C. "A" H-81)

An Act to Provide Consumers Notice of Restaurant Foods Containing Monosodium Glutamate (H.P. 494) (L.D. 674) (C. "A" H-82)

An Act to Clarify the Motor Vehicle Law Concerning the Operation of Motorcycles (H.P. 501) (L.D. 681) (C. "A" H-80)

An Act to Provide a Penalty on Delinquent Public Utilities (H.P. 568) (L.D. 772) (C. "A" H-85)

An Act to Allow the Department of Human Services to Share Information with Support Teams for Foster Parents (H.P. 642) (L.D. 876)

An Act to Allow Raffling of Livestock by Charitable Organizations for Charitable Purposes (H.P. 200) (L.D. 280) (C. "A" H-78)

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

**ORDERS OF THE DAY
TABLED AND TODAY ASSIGNED**

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

SENATE DIVIDED REPORT - Majority (9) "Ought to Pass" as amended by Committee Amendment "A" (S-52) - Minority (4) - "Ought Not to Pass" - Joint Select Committee on Corrections on Bill "An Act Relating to the Maine Correctional Advisory Commission" (Emergency) (S.P. 60) (L.D. 43)

- In Senate, Majority "Ought to Pass" Report read and accepted and Bill passed to be Engrossed as amended by Committee Amendment "A" (S-52) as amended by Senate Amendment "A" (S-58) thereto.

TABLED - April 26, 1989 by Representative MELENDY of Rockland.

PENDING - Motion of same Representative to accept the Majority "Ought to Pass" as amended Report.

On motion of Representative Gwadosky of Fairfield, retabled pending motion of Representative Melendy of Rockland that the House accept the Majority "Ought to Pass" as amended Report and later today assigned.

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

HOUSE DIVIDED REPORT - Majority (8) "Ought to Pass" as amended by Committee Amendment "A" (H-102) - Minority (4) - "Ought Not to Pass" - Committee on Energy and Natural Resources on Bill "An Act to Implement the Governor's Study to Regain Full Use of Maine's Class C Rivers" (H.P. 533) (L.D. 718)

TABLED - April 26, 1989 by Representative MICHAUD of East Millinocket.

PENDING - Motion of same Representative to accept the Majority "Ought to Pass" as amended Report.

Subsequently, the Majority "Ought to Pass" Report was accepted, the Bill read once.

Committee Amendment "A" (H-102) was read by the Clerk.

Representative Dexter of Kingfield offered House Amendment "A" (H-104) to Committee Amendment "A" (H-102) and moved its adoption.

House Amendment "A" to Committee Amendment "A" was read by the Clerk.

Representative Michaud of East Millinocket moved indefinite postponement of House Amendment "A" to Committee Amendment "A."

The SPEAKER: The Chair recognizes the Representative from Waterboro, Representative Lord.

Representative LORD: Mr. Speaker, my Learned Colleagues: This amendment that was just offered is an amendment that changes the method in which this will be done. The people on the Minority Report feel that we are getting the cart before the horse.

We realize something must be done, we want something done, but we need to know what it is going to take to do it. Is it technologically possible? Is it economically feasible? In order to do this, there will be a study under the direction of DEP. The paper mills will be paying for it. The DEP will come back to us with a recommendation of what should be done and the color standards that will be acceptable by them and be acted on by us.

There is going to be a lot of money involved, there is going to be some time involved, but we are not letting the paper companies get off the hook, no way. I think it would be advisable if we went ahead with this method of doing it.

The SPEAKER: The Chair recognizes the Representative from East Millinocket, Representative Michaud.

Representative MICHAUD: Mr. Speaker, Ladies and Gentlemen of the House: I hope you will go along with the indefinite postponement of this amendment.

The Representative from Waterboro talks about a study. There have been plenty of studies regarding this issue.

Briefly, I will give you an outline of some of the studies that have been done. About 15 years ago, NCASI, which stands for the National Council of Air and Stream Improvement had done a report. This is a paper company report that they had done, 15 years ago. They talked about the 20/40 color standards way back then.

Back in September of 1983, the Department of Environmental Protection had done another report entitled "Color Removal Technology" and the adverse impact on the waters of the State of Maine.

In November of 1985, Commissioner Dean Marriott had public hearings throughout the state to discuss reclassification hearings on the Androscoggin and Kennebec Rivers. I will quote what the Commissioner said regarding the interest on this very issue. "Four nights of hearings produced a constant message from 400 people who attended and the message was (1) the Androscoggin and the Kennebec Rivers are not clean enough; (2) the public did not realize that the cleanup program for those rivers was at an end."

Back in January of 1988, the Governor had asked the Board of Environmental Protection to prepare a report and report back by October of 1988 and explain what was necessary to clean up the rivers and the cost of cleaning up those rivers. The report came out on October 14, 1988. Basically, what was recommended in that report is what is in this bill. It is not identical, the bill is weaker than what was actually recommended in that report from DEP.

There has been a lot of concern on that report regarding the cost. The DEP had another recommendation which came out recently on March 15, 1989 and would require the mills to conduct their own study. Ladies and gentlemen of the House, this is a very important issue.

The amendment basically doesn't do anything. They say they want to do more studies -- I submit to this body that there have been enough studies done already. They want the water bureau to report back to the legislature with a recommendation by February 1, 1990. If you read a copy of the statutes that are currently on the books, the same bureau that Representative Dexter wants to report back to us with recommendations, we passed a water reclass bill back in 1986. They were supposed to adopt rules and regulations to implement that. They were supposed to have had that done by January of 1987. We still have not seen those rules and regulations. They are still not available. I doubt very much that this report will be available either.

The amendment also removes the final deadline when the Board of Environmental Protection is supposed to implement this program so it is totally open-ended. I submit if the Department and Bureau of Water Quality can't even get the work done that was supposed to have been done, I don't know how they are going to get this report done. All it is a delay tactic.

There has been a lot of pressure put on the members of the Energy and Natural Resources Committee. We couldn't even get in our committee room sometimes without being pinholed by lobbyists on both sides of the aisle on this very issue.

There have been reports done. There also has been talk about the technology not being there, the cost, this and that -- in the commissioner's testimony that he presented to the committee on this bill, he said that the technology is there. These are the recommendations of the original report back in October. What the majority of the committee had

done was put the standards in there and if what some of the companies are telling us is sincere that technology isn't there, we allowed the commission to extend the time from 1992 to 1995.

I will quote from the commissioner's testimony when he supported the intent of L.D. 718. "The proposed standards in this bill for color are taken from the department's report and were submitted by the National Council of Air and Stream Improvements. As I stated earlier, that council is the paper industry's council. The 20/40 color unit increase suggested in this bill represent the color change that can be perceived by 50 and 90 percent of the people respectively. As stated in our report, those color standards represent gold, which can be achieved in Maine rivers with existing technology." This was in a memo we received back in October. This was the commissioner's testimony on the bill itself so the technology, by his own admission, is there, it can be achieved.

I think it is time for this legislature to further clean up the rivers of this state. We are requiring municipalities to do it. They are spending millions of dollars. The town of Bethel has to do it and they are spending a lot of money.

I was reading a book "New England State Politics" which was quite interesting because about 34 years ago as of next Friday, there was a Republican legislator from Caribou who was elected to this body and one of his campaign themes in that election was to clean up the rivers. He submitted legislation to do that. I commend the gentleman for this foresight way back in the early 1950's but needless to say, that piece of legislation never got passed.

There was a lot of testimony heard at the public hearing. All businesses are not against this bill. We had the Chamber of Commerce from the Lewiston/Auburn area who came up and testified on this bill. They said it was about time, they don't want to do any more studies. The majority of the committee doesn't want to do any more studies. I think enough studies have been done. The department did their study back in October, those recommendations were in there, the bill is weaker than what they recommended and the cost estimates were also in that study.

I hope you will go along with me and indefinitely postpone this House Amendment.

The SPEAKER: The Chair recognizes the Representative from Kingfield, Representative Dexter.

Representative DEXTER: Mr. Speaker, Men and Women of the House: I apologize to the House, I haven't put an amendment on for quite a few years, I never had much luck with them anyway. When you are up against the fastest gavel in the east, one has to be careful. This is not meant to be disrespectful in any shape, way or manner. I thank the Speaker for helping me along here. I want that to be made perfectly clear -- to quote one famous man.

All of us want to clean up the rivers. That is not the question. The question is whether we go about it in a reasonable, prudent manner. You don't solve a problem by creating another problem. Sure, we can take the color out of the river today, all we have to do is end the pipe discharge but what does that do? That puts more sludge into the system. What are we going to do with sludge? We are trying to address that problem right now.

Color -- color is not a health problem, it is the level of perception. I would submit to you that, when you take the color out of there, we are going to see all kinds of strange things floating around with this municipal sewage overflow. That's really a health problem, storm drainage and so forth.

In discussing this with a biologist, a good friend of mine, he said that we do need the study. Furthermore, we have required the companies to conform to zero detectability dioxin in the rivers. That is going to take out some color.

All I am trying to do (and my colleagues) is to make sure that this cleanup does take place. I only offer this in the spirit of compromise, no one seems to like it. On the way to get the amendment signed, the companies that are involved tried to derail me. So, where no one likes this amendment, I am convinced now that it must be a good one. I urge you to give some careful thought here. Let's look at this as facts and data, not emotion. Just think about it.

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

Representative POULIOT: Mr. Speaker, Ladies and Gentlemen of the House: I don't happen to be on this committee but being from the community of Lewiston and Auburn and living in Androscoggin County, being a member of the city council of Lewiston, this bill has tremendous impact on my community. This river happens to flow right through my district. It is a beautiful river, it could be a much better river.

I don't have all the details and I am not going into the details that the committee will probably present to you. But I am willing to submit here that I know that a very small amount of pollution comes from the storm overflow drains in Lewiston. I want you to know that we have spent millions of dollars in correcting these problems and we are continuing to spend millions of dollars. I am going to tell you, ladies and gentlemen, it didn't take a study to tell us we had a problem. We took care of it out of hard taxpayers dollars. We don't have any profits of \$700,000,000 some odd in Lewiston, these are taxpayers dollars.

Both mayors of both cities, Lewiston and Auburn, support this, as you heard from Representative Michaud. The Chamber of Commerce came and testified. The business community favors this. You have on your desks the unanimous delegation support for this legislation. This is not a Republican-Democrat-Independent issue, this is a people issue. This is their river. They want it clean, they want it clean now. I will say it like one of my people back home said, "It looks like we are being used for a scapegoat but we are tired of it. We don't want to wait six or seven years."

The reason I got up, I happened to go home the other evening and I looked in my journal and to my amazement, I couldn't believe it but right on the front page, I have never seen anything like it in my lifetime, I thought I can't believe this, this may happen in my lifetime, "Atlantic Salmon Returning to Lewiston/Auburn area. Atlantic salmon will visit Lewiston on their own for the first time in 182 years." Think about that. It is going to start roughly in two weeks, once they open up this gate. What are these lovely salmon going to be treated with? I think you all know. So, all I ask you is that you defeat this amendment before you.

The SPEAKER: The Chair recognizes the Representative from Leeds, Representative Nutting.

Representative NUTTING: Mr. Speaker, Ladies and Gentlemen of the House: I rise today as the prime sponsor of the bill which resulted in this Majority Report, which is now Committee Amendment "A" that we adopted. I also rise to speak against the proposed House Amendment "A" because my constituents and the people of the Lewiston/Auburn area have demanded a cleaner Androscoggin River, one that is free of the objectional color, odor and foam.

I also have a personal interest in this issue as well. My farm in Leeds abuts the Androscoggin, I know the river well. The Androscoggin River has been and still is the dirtiest river in the state. The residents along the Androscoggin River alone, which is 12 percent of the state's population, wants a cleaner Androscoggin River as a cornerstone of new economic development and improved quality of life.

In the past several years, residents of river communities have rediscovered the river as a possible public resource that could serve all citizens. In 1987, when DEP held river classification hearings on the Kennebec and Androscoggin, over 400 people attended and overwhelmingly voiced support for a cleaner river. In January of this year, Commissioner Marriott addressed a breakfast meeting of the Lewiston/Auburn Chamber of Commerce on river issues. Two hundred people attended, just about all of them businessmen, and many more were turned away at the door. Lewiston/Auburn held an urban river fund design competition last year and have applied for a grant to the National Endowment for the Arts to assign a winning design so the cities can redevelop the downtown area. Several people connected with that competition have just decided to begin a monthly newsletter called the "River Watch" to inform the press and the public of events relating to the river. There is a strong endorsement of municipalities, Leeds, Turner, Livermore, Lewiston and Auburn to reorganize as the Androscoggin River Lands Preservation Committee and propose state acquisition from the Land for Maine Future Board of 2,000 acres of undeveloped land on Gulf Island Pond in Turner, 10 miles of Androscoggin River frontage.

If all of these projects are going to succeed and the many other activities beginning along the river, we must have improved water quality. They were begun because people were optimistic that state agencies and this legislature would take action to ensure the promises made to the people of Maine to be kept and that a date would be set, sometime in the future, for that cleanup to be completed.

The Majority Report of the Committee, which is Committee Amendment "A" takes a critical step forward in that cleanup eliminating over a period of three years, a significant portion of the waste color units in Maine's rivers. When color is removed and this is important, the elements causing odor and foam will also be removed. The Committee Amendment incorporates the basic recommendations of the 1988 DEP Draft Report on color, odor and foam for Class C rivers but does not go as far as that report recommended in cleaning up our rivers. It actually extends the length of time for compliance recommended in that report.

My first review of this report early last December, I was impressed by the considerable time, effort and initiative put into the color, odor and foam study by the DEP. At the request of Governor McKernan, the DEP water bureau staff of 13 people worked 10 months on this issue. They traveled over 5,000 miles conducting a factual, scientific, analytical and most important, non-political study of Maine's color, odor and foam river problems. They studied other old and new mills in other states who have been required to reduce their discharge into those rivers to an average of 135 pounds of color, odor and foam discharge per thousand pounds of paper produced. These are the mills in the other states that they studied.

What about Maine's mills? Maine mills currently discharge an average of 355 pounds of color, odor and foam per thousand pounds of paper produced. This Majority Report before you today would require

Maine's average discharge to be reduced over a three or possibly six year period to 175 pounds, which is still more than is currently being discharged by other mills that DEP studied that are operating today. With this reduction over a three or six year period from 355 pounds discharge to 175 discharge is achieved by the standard of 20 to 40 color units of change. The standard that was recommended by the Board of Environmental Protection in its report submitted to the Governor last October is not achieved by setting no standard at all, which is what is proposed in House Amendment "A." Other states have color controls that are stricter and are in place now, than those that are before us today.

The technology has been available to do this for years. The history of how DEP has handled this matter shows that the legislature should not leave it to rulemaking to solve it. That is the other problem I have with House Amendment "A" -- it leaves it all to rulemaking. Even after the results were in from the 1988 investigation on color, odor and foam, DEP's senior department officials have stated that DEP purposely chose not to implement DEP's October's recommendations through rulemaking. They wanted it to be a significant policy decision that should be made through legislation, not through rulemaking.

I believe and my constituents believe that the time has come to move forward to the next stage of river cleanup. Actually to move forward and catch up to what other states and other mills are already doing. We have the information that we need, I hope we have the courage.

We advertise Maine as the way life should be and yet we can't stand the odor of our rivers, we can't eat the fish that are in them and we can't swim in them because many of the mills we have (some of them making as much as \$780 million dollars worth of profit per year) are discharging three times into the river what other mills in other states already are. The people of Maine want their rivers back.

I urge this body to reject the House Amendment before us today and stay with the Committee Amendment already adopted.

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

Representative HICHBORN: Mr. Speaker, Ladies and Gentlemen of the House: If you want to kill a bill, refer it to a study. If you want to get a study that no one will believe, you want to set the fox out to watch the hens and apparently this is what is being recommended. I am not a rabid environmentalist, I have no vendetta against industry. My vote today is prejudice a little bit perhaps because of the fact that I live on a river too. It doesn't happen to be the Androscoggin River but we have some serious problems up that way too.

My concern is not so much about this particular bill but my vote is going to be determined because of the fact that there seems to be a double standard in enforcing the laws and the rules and regulations that are set up by a bureaucracy that the little fellow can't seem to understand and he certainly doesn't appreciate it.

We are dealing with a simple bill and it is designed, we are told, to implement the Governor's own study to regain full use of Maine's Class C rivers. I have been around here quite a number of years but I still am amazed sometimes to see the way politics works. I understand that a study was asked for, the study was made, the recommendations were made and now we seem to have the majority party asking to have that study implemented in order that the rivers may be cleaned up. We have another group saying, the minority group, "Oh no, we don't want to

do that, we want to study it." That is one way to kill it.

I would like to tell you why I am going to vote in support of implementing the Governor's study committee's recommendations. The double standard bothers me, a lot more than this particular bill bothers me. I happen to know of a little old lady who was a school teacher up in my area, her husband is dead, her son is in Minnesota, her daughter has gone away somewhere else and she decided that when she retired, she wanted to go back to the little town of Wypitlock. She was going back to the home farm. The buildings had fallen down so she had that cleared away, she bought a little trailer and moved up there. She bought herself a boat because there was a pond 200 or 300 yards away, she was going to do a little fishing and she was going to enjoy the tranquility and the peace of the countryside but she had one of the most miserable summers that she had had in years. They came and told her, the bureaucrats, she didn't understand business and they scared her half to death but they told her that she was in violation of a lot of laws. She had no right to take her trailer into this community on her own land. They threatened her with fines, threatened her in every way possible -- that is a double standard, that is nit-picking on some little thing that really wasn't that important. They said she was a threat to the environment, I couldn't see how she was threatening the environment, I didn't see how she was threatening anything.

I happen to know of somebody who had a camp and beside the camp was a little puddle of water where the mosquitoes bred and so he hauled in a few loads of gravel to fill up that little hole. I know and you know that that is against the law today but he didn't understand it, he didn't have any intention of harming the environment. The reason they gave for fining him for taking that gravel in there (and making him take the gravel out) was that the larva of the mosquitoes were a part of an ecological food chain. That is nit-picking in my view.

Now to go to the other extreme -- up in the town of Howland, they have been taking their drinking water out of the Piscataquis River for years. Thirty miles up the river in the town of Guilford, there is an industry that has been pouring carcinogen in the water for years. The Bureau of Health and Welfare told them that they couldn't drink the water, it was dangerous and prohibited them from doing that. They did persuade the company to provide drinking water and they provided thousands of gallons of drinking water over the years in gallon jugs to the people in Howland. The company was told to pay a fine and I presume they paid the fine. They were told not to continue the dumping of this into the water and, in talking with the town manager yesterday, I found out that the rate of contaminate in the water today is just as great as it was a year ago or two years ago. It is cheaper to furnish a little water in gallon jugs than it is to clean up the source of the problem.

On that same river, it is the Piscataquis and not the Androscoggin by the way, there were thousands of dead, rotting, stinking fish on the river banks all summer last year because of this. They also have a river in that area known as the Penobscot (some of you must have heard of it) and there is an alert coming out very shortly warning people that they must not eat the fish in the Penobscot River and that is above the point where the Piscataquis joins the Penobscot at Howland. That has gone on for two years and the bureaucracy tells us that they can't do anything about that so they let them continue to pour that in. I am concerned about this double standard.

If you are going to make a little old lady pay a penalty for what she has done, if you are going to make somebody trying to get rid of mosquitoes pay a penalty and a fine, it seems to me we ought to apply the same standards to the other boys too. The big boys and the little boys should play by the same rules. To favor the big boy over the little boy certainly bothers me.

I called some of my constituents and asked them what they thought about this bill and how I should vote. They said, "If you don't vote to clean up the rivers, we will shoot you when you come home." I don't know how good shots they are but you know there is something that bothers me ever more than that -- I think my family would disown me if I don't vote to pass this bill. Even if I didn't get shot and even if my family didn't disown me, there is something else that would bother me more, I think even my dog wouldn't accept me when I got home, I couldn't live with myself.

I hope that when we vote here today that we will give consideration to the little fellow just as much as we do the big boys. I hope that we keep politics out of this and vote for clean water in our Maine rivers.

The SPEAKER: The Chair recognizes the Representative from Waterboro, Representative Lord.

Representative LORD: Mr. Speaker, Ladies and Gentlemen of the House: If you don't see me Monday, you'll know somebody probably shot me.

I have here a memo from Matt Scott. Matt Scott is a fellow who used to work for DEP. He worked on some of this color, odor and foam project. He has made some recommendations that I think we should consider. Recommendation #1, tell the paper industry of Maine to support the project and research, the issue based on existing data. The DEP needs to be involved and even funded for this project. Number 2, review and research available technology for color reduction and then apply that technology to the problem. Number 3, establish a standard criteria as in Mr. Nutting's bill. He states that the above are not in order of preference but they all ought to be addressed under the issue of color.

I think this should be considered. In our committee this year, we have a lot of bills addressed, I think, to the industry that uses our natural resources. I think the legislature, sooner or later, maybe it is time now to fish or cut bait. Do we want the paper industry, do we want the logging industry, the sawmills, agriculture, clam diggers and do we want lobsterman -- we have had a number of bills and all of these bills have a tendency to kind of strangle these industries. I think we have got to make up our minds whether or not we want these industries or are we going to be a tourist state and be the recreation area for the northeast?

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

Representative JACQUES: Mr. Speaker, Men and Women of the House: Getting back to address the amendment -- I have served on Energy and Natural Resources for six terms now, I have a lot of respect and admiration for the minority signers in the House on this particular amendment but I do know that, deep down in their hearts, they are not 100 percent comfortable with this amendment. I will tell you why.

This amendment copies much of the agreement that was signed by DEP and the paper companies that was presented to the committee and was signed after Representative Nutting's bill was submitted. To quote a friend of mine who is a member in the other body, "The agreement had holes in it as big as Mt.

Katahdin." Now, if you have never seen Mt. Katahdin, it is quite a big hole.

Representative Lord brings up some interesting points. My contention has always been that the State of Maine has two great natural resources, the environment and its people. My contention 11 years ago when I ran for office was that, any company that had to take advantage of either one of those two natural resources, we do not want in the State of Maine. The people of Maine agree with that. The people of Maine have shown me that they agree with that.

This issue of color, odor and foam -- we have a program that has had much ado about it in this state called Maine Street '90. My Maine Street, men and women of the House, you could throw a rock to the Kennebec River. All the fancy pantsing, all the flag waving, all the crepe paper on Maine Street will not succeed in the direction that Maine Street '90 is supposed to go if that river is not cleaned up. All you are going to have is window dressing, all you are going to have is flags and banners but the river is still going to be dirty.

The day that we had the public hearing on this bill, Representative McGowan and I were up to Orono helping with the reintroduction program for the caribou. That program is established to try and reintroduce caribou in the State of Maine for the generations to come. We could not go to Baxter State Park and the main reason I couldn't go is because I had to come down here because we were having a public hearing on the color and foam. The outdoor nature show called "Discovery" was up there doing a show and we were talking about color, odor and foam and one of the graduate students from the University of Maine, Orono was sitting there, moved to the State of Maine from another state and had told Representative McGowan and I that he was going to stay in the State of Maine. That day we had one of those old people that Representative Hichborn affectionately talks about but this time, it was a real little people, it was Grady McGowan. When we discussed color, odor and foam, the guy from the University of Maine, the graduate student, said, "Paul, why do you bother? Why are you going down? The big companies always win. They will distort the facts, they will intimidate, they will threaten jobs, which has happened, this happened in the last few days around this legislature and the big companies are going to win, they always win. Why do you bother?" I told that student, "The people win sometimes, the companies don't always win and that is why I am here."

Today, ladies and gentlemen of the House, let's hope that the big companies don't win and let's hope today that the people of the State of Maine win. You know how the people of the State of Maine can win? Defeat this amendment, pass our bill, have the paper companies do what they promised to do for 15 years, then we can work together and see what standards should be adopted, if they are different than the ones we have put into this bill. Let's clean up the river, stop talking about it, stop waving the crepe paper and the flags and return the rivers to the people of this state. You can do that here today, it is very easy, it will not hurt you a bit, I guarantee you and your people back home will love you for it because it is their river and they are tired of the companies using it for a sewer. You can do that today and I hope today that the people of the State of Maine win because I think they deserve it.

Mr. Speaker, I request a roll call.

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

Representative NADEAU: Mr. Speaker, Men and Women of the House: I have heard some very eloquent testimony here this morning in support of this bill and proposing this amendment. I am always hesitant to follow Representative Jacques particularly on an issue in this area because of his long standing expertise.

I want to speak to you today from a personal point of view and from what I hope is kind of a different perspective. To give you some kind of idea of that perspective, my background, my history, my long-term involvement in this legislature on economic development issues, goes back a ways. A few years ago, I chaired a Joint Select Committee on Economic Development and we spent a great deal of time looking at how we ought to be approaching developing this state economically while preserving our quality of life. It was a fascinating period of time and much has come of it.

This legislature is constantly focusing emphasis on that objective and that goal. What we need to achieve in this state and, in this country for that matter, is balance. Balance between the needs of the economy, the needs of private industry and the needs of people. Obviously, the environment is an integral part of the needs of us all — the average citizen to the highest business executive in the biggest company. Without that quality of life we are all so proud of, I think the rest of it is quite meaningless. They can coexist.

What this issue seems to come down to is money. In listening to the debate today, something keeps ringing through my head, if at first you don't succeed, try, try again. I get a sense that this study was completed, certain interests looked at it, didn't quite come out the way they had hoped it would so I think they want to take another shot at it and see if adjustments can be made.

I think it is very clear from the testimony presented here on the floor and extensively in the Energy and Natural Resources Committee that a problem exists. I think it is clear, very clear, that the technology exists to do something about it. What seems to be a dispute here is the money it is going to take to resolve the situation. I suppose whether you are in government or in private business (I have been in both for quite some time) it usually comes down to money.

I read the Lewiston Daily Sun's Editorial on this issue and they were quoting implementation figures, relative to solving this problem of ranging from \$55 million to \$105 million. As I understand it, those were industry generated figures — pretty broad ranged to say the least.

I want to throw a couple of other numbers at you. Lewiston/Auburn, my district, a good chunk of my district sits literally on the banks of the Androscoggin River. A particular neighborhood in that district is called Little Canada and it was constructed by the mills. The Androscoggin River has a bright and checkered history in my community. The river was literally the life-blood of the creation and economic base of my community for generations or at least for decades. The mills were constructed and located there because of the power that the river generated to run those mills. It provided some good jobs for some good honest hardworking people for a lot of years. Times change. So, a river that was once the life-blood of my community turned into kind of an albatross to my community. The jokes about the Androscoggin River are well-known, those jokes have subsided, they have ended, the river has improved dramatically, I think, but has a long way to go.

My community, as has been mentioned on the floor today, has made a sizeable investment in looking at ways to improve the Androscoggin River's potential for our communities. The potential to once again contribute something positive to a very sizeable population of this state. The kinds of numbers that have been tossed around in my community, that's just the Lewiston/Auburn area, have ranged upwards of \$100 million to \$150 million investment, that is being discussed along the corridor of the Androscoggin River.

When you consider those kinds of numbers and then you look at (say Lewiston and Auburn) the city budgets probably range (I am not exactly sure, Representative Pouliot can probably tell you better) but the city of Lewiston budget is probably \$30 million or \$40 million. The city of Auburn somewhat less but those are the kinds of numbers you are talking about in terms of the resources that the community can generate through its revenue stream. So, when you consider those kinds of numbers and you listen to a number, such as Representative Nutting communicated to us of \$780 million in paper company profits, it is kind of an incredible difference relative to the resources that are available to those various interests.

To talk about spending the kind of money that has been mentioned to resolve the pollution problem in a river of this magnitude is kind of interesting. The hundreds of millions of dollars that the cities have spent on drainage and sewerage treatment plants and all of that other infrastructure designed to preserve our environment and when you consider the kind of money that the paper companies are being asked to spend, I guess I simply believe it is not too much to ask. We must coexist, we must find that balance, everybody must contribute. I really cannot see any reason why this amendment ought to pass or why this bill should not be enacted.

The SPEAKER: The Chair recognizes the Representative from Kingfield, Representative Dexter.

Representative DEXTER: Mr. Speaker, Men and Women of the House: You can see why I don't offer more amendments. First of all, we are all committed to cleaning up the river and this is an honest attempt to achieve that purpose. As far as the good Representative from LaGrange, a good friend of mine, I might simply say to him, two wrongs do not make a right and I think he knows what I mean.

You want to talk about double standards, the municipalities have been using the rivers as their own private sewer too. I know they are trying to clean it up and so are the companies. If you read Ed McDonald's column this morning, he takes us back a few years — you know when the paint was peeling and we have come a long way baby. I would hope that you do not defeat this amendment.

The question of cost — I mean, how much is too much? I don't know at this point in time. This amendment does hold their feet to the fire, meaning the pulp and paper companies. Let us go ahead and get this behind us.

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

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

The SPEAKER: The Chair recognizes the Representative from Bethel, Representative Mills.

Representative MILLS: Mr. Speaker, Men and Women of the House: Many of you are familiar with the Bethel area and the beauty that that area has. One of the areas that flows along Bethel is the river of the Androscoggin. When I was growing up in the area, we never went near the river, the river was always a very negative part of our living in the Bethel area. It is kind of exciting today -- within the last year, we formed a canoe group on the river, the department is starting to stock fish back in the river for the first time. It is very exciting to, once again, be able to know that we can use the river and to have something along the river that people can use besides just the fact that it is being used as a sewer.

The town of Bethel, with the help of DEP, and not so much necessarily wanting to do so but being actually forced to do something about their (as Representative Dexter said) double standard, they were using it as a sewer and they are spending millions of dollars to clean up their sewage so that we no longer just use the river for that purpose.

I think it is important to realize that, as has been mentioned here today, the pulp and paper industry is a very important industry to the State of Maine. I don't think anyone wants to do away with the pulp and paper industry. At the same time, I think it is important to realize that those same arguments have been used for years and years and years when it has come to cleaning up the rivers. History has shown as we have cleaned up the Androscoggin and the other rivers within this state that the profits of those industries that have dumped into that river have at the same time increased. So, history shows that as we have cleaned up those rivers and forced those industries to clean up the rivers their profits have also increased. I think that is very important to realize.

Once again, if we defeat this amendment and go on to pass Representative Nutting's bill, we are going to be passing a watered down version of the DEP's own study. I think that is very important to realize. DEP went around to many different states, saw what other states were doing -- I am sure that we all realize that the DEP is not going to come up with a study that is going to be putting those businesses out of business. I think it is important for us to realize that it was our own study and it is a watered down version. I hope we defeat this amendment and go on to pass the bill.

The SPEAKER: The pending question before the House is the motion of Representative Michaud of East Millinocket to indefinitely postpone House Amendment "A" to Committee Amendment "A."

The Chair recognizes the Representative from Milo, Representative Hussey.

Representative HUSSEY: Mr. Speaker, pursuant to House Rule 7, I request permission to pair my vote with Representative Melendy of Rockland. If Representative Melendy were here, she would be voting yea; I would be voting nay.

The SPEAKER: The pending question before the House is the motion of Representative Michaud of East Millinocket to indefinitely postpone House Amendment "A" to Committee Amendment "A." Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 11

YEA - Adams, Aikman, Aliberti, Allen, Anthony, Ault, Bell, Boutilier, Brewer, Burke, Cahill, T.; Carroll, D.; Carroll, J.; Carter, Cashman, Cathcart, Chonko, Clark, H.; Clark, M.; Coles, Conley, Constantine, Cote, Daggett, Dipietro, Dore, Duffy, Dutremble, L.; Erwin, P.; Farnsworth, Farnum, Foss, Foster, Gould, R. A.; Graham, Greenlaw, Gurney, Gwadosky, Hale, Handy, Hastings, Heeschen, Hichborn,

Hickey, Higgins, Hogle, Holt, Jacques, Jalbert, Joseph, Ketover, Kilkelly, LaPointe, Larrivee, Lawrence, Lisnik, Luther, Macomber, Mahany, Manning, Marston, Martin, H.; Mayo, McGowan, McHenry, McKeen, McPherson, McSweeney, Michaud, Mills, Mitchell, Moholland, Murphy, Nadeau, G. G.; Nadeau, G. R.; Norton, Nutting, O'Dea, O'Gara, Oliver, Paradis, E.; Paradis, J.; Paradis, P.; Paul, Pederson, Pendleton, Pineau, Plourde, Pouliot, Priest, Rand, Reed, Richard, Richards, Rolde, Rotondi, Ruhlin, Rydell, Sheltra, Simpson, Skoglund, Smith, Stevens, A.; Stevens, P.; Strout, D.; Swazey, Tammaro, Tardy, Townsend, Tracy, Tupper, Walker, The Speaker.

NAY - Anderson, Bailey, Begley, Butland, Curran, Dellert, Dexter, Donald, Farren, Garland, Hanley, Hepburn, Hutchins, Jackson, Lebowitz, Libby, Look, Lord, MacBride, Marsano, Marsh, McCormick, Merrill, Parent, Pines, Ridley, Seavey, Sherburne, Stevenson, Webster, M.; Wentworth, Whitcomb.

ABSENT - Crowley, Small, Strout, B.; Telow.

PAIRED - Hussey, Melendy.

Yes, 113; No, 32; Absent, 4; Paired, 2; Excused, 0.

113 having voted in the affirmative and 32 in the negative with 4 being absent and 2 paired, the motion did prevail.

Subsequently, Committee Amendment "A" was adopted.

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

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

Bill "An Act to Require a Tax Map Reference on a Declaration of Value" (H.P. 404) (L.D. 547)

TABLED - April 26, 1989 by Representative GWADOSKY of Fairfield.

PENDING - Passage to be Engrossed.

Subsequently, was passed to be engrossed and sent up for concurrence.

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

An Act to Provide Access to Retirement Benefits for Former Spouses of Members of the Armed Forces (H.P. 312) (L.D. 426) (C. "A" H-49)

TABLED - April 26, 1989 by Representative GWADOSKY of Fairfield.

PENDING - Passage to be Enacted.

On motion of Representative Gwadosky of Fairfield, retabled pending passage to be enacted and specially assigned for Monday, May 1, 1989.

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

Bill "An Act to Clarify Maintenance of Private Roads and Ways by Municipalities" (H.P. 271) (L.D. 383) (C. "A" H-84)

TABLED - April 26, 1989 by Representative GWADOSKY of Fairfield.

PENDING - Passage to be Engrossed. (Roll Call Ordered)

On motion of Representative Gwadosky of Fairfield, retabled pending passage to be engrossed (Roll Call Ordered) and later today assigned.

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

Bill "An Act to Allow Graduates of the Department of Corrections Vocational-electrical Program to be

Eligible to Apply for the Journeyman-in-training License" (S.P. 69) (L.D. 57)
 TABLED - April 26, 1989 by Representative GHADOSKY of Fairfield.

PENDING - Passage to be Engrossed.

Representative Allen of Washington offered House Amendment "A" (H-110) and moved its adoption.

House Amendment "A" (H-110) was read by the Clerk and adopted.

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

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

**PASSED TO BE ENACTED
 Emergency Measure**

An Act Making Allocations Relating to Federal Block Grants for the Expenditures of State Government for the Fiscal Year Ending June 30, 1989 (H.P. 657) (L.D. 891) (C. "A" H-113)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 128 voted in favor of the same and none against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

By unanimous consent, was ordered sent forthwith to the Senate.

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

PAPER FROM THE SENATE

The following Joint Order: (S.P. 512)

ORDERED, the House concurring, that when the House and Senate adjourn, they do so until Monday, May 1, 1989, at 9 O'clock in the morning.

Came from the Senate, read and passed.

Was read and passed in concurrence.

(Off Record Remarks)

(At Ease To Gong)

The House was called to order by the Speaker.

The Chair laid before the House the following matter: Majority Report of the Committee on State and Local Government reporting "Ought Not to Pass" on Bill "An Act to Change the Process of Selecting the Commissioner of Educational and Cultural Services" (S.P. 205) (L.D. 483) Minority Report (3) of the same Committee reporting "Ought to Pass" on same Bill (Came from the Senate with the Majority "Ought Not to Pass" Report read and accepted) which was tabled earlier in the day and later today assigned pending acceptance of either report.

On motion of Representative Joseph of Waterville, was recommitted to the Committee on State and Local Government.

The Chair laid before the House the following matter: Bill "An Act to Extend ASPIRE Transitional Medical Coverage" (H.P. 996) (L.D. 1385) (Presented by Representative FOSS of Yarmouth) (Cosponsored by Senator BRANNIGAN of Cumberland and Senator CAHILL of

Sagadahoc) which was tabled earlier in the day and later today assigned pending reference.

On motion of Representative Carter of Winslow, was referred to the Committee on Human Resources, ordered printed and sent up for concurrence.

The Chair laid before the House the following matter: Bill "An Act to Increase the Priority of Wage Claims Against Insolvent Employers" (H.P. 998) (L.D. 1387) (Presented by Representative PRIEST of Brunswick) (Cosponsored by Representative CONLEY of Portland, Representative McHENRY of Madawaska and Senator MATTHEWS of Kennebec) which was tabled earlier in the day and later today assigned pending reference.

On motion of Representative Allen of Washington, was referred to the Committee on Labor, ordered printed and sent up for concurrence.

The Chair laid before the House the following matter: SENATE DIVIDED REPORT - Majority (9) "Ought to Pass" as amended by Committee Amendment "A" (S-52) - Minority (4) - "Ought Not to Pass" - Joint Select Committee on Corrections on Bill "An Act Relating to the Maine Correctional Advisory Commission" (Emergency) (S.P. 60) (L.D. 43)

- In Senate, Majority "Ought to Pass" Report read and accepted and Bill passed to be Engrossed as amended by Committee Amendment "A" (S-52) as amended by Senate Amendment "A" (S-58) thereto. TABLED - April 26, 1989 by Representative MELENDY of Rockland.

PENDING - Motion of same Representative to accept the Majority "Ought to Pass" as amended Report which was tabled earlier in the day and later today assigned pending acceptance of the Majority "Ought to Pass" as amended Report.

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

Representative HEPBURN: Mr. Speaker, Ladies and Gentlemen of the House: I want to go over a few points with you here as to why this was a divided report and why some of us signed on the Minority Report. We have had a Correction Advisory Commission for some time, it hasn't been a very active commission. I think last year they had a budget that they received funds through the Department of Corrections. I think they spent about \$50 according to the Commissioner. The commission never met. It just seems to some of us that we have been getting along without this kind of expenditure so why do we now need to add two positions, expand the committee to 23 members and have a fiscal note of \$83,000? It is true that the department did speak in favor of this in kind of a lukewarm manner at the hearing.

The key in corrections these days is naturally like every other department in this state that our funds are limited and that if we need to -- if we are going to be spending this kind of money we ought to be spending it to put more probation officers in the field. So, I would request a division and hope you would side with the minority in this case.

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

Representative MAYO: Mr. Speaker, Men and Women of the House: I am a little amazed at the remarks from the good Representative from Skowhegan, Representative Hepburn, specifically in his statement when he says that we have been getting along so far. I don't regard the present crisis that we are facing in Corrections as getting along at all. I have known and worked with Commissioner Allen since I came to this body. I find Commissioner Allen to be a very

competent, hard working commissioner who is always operating under the strain of never being able to look five minutes into the future to plan anything. He is always dealing with the crisis of moving prisoners or inmates from Thomaston out of state, from one of the correctional facilities around this state to Thomaston or elsewhere. We are not getting along at all.

The Commissioner's support for this bill I would not describe as lukewarm. Commissioner Allen is a very forward thinking individual who would very much like to see the Department of Corrections operate under something other than crisis management. I consider his support for this to be more than lukewarm, very firm support for this legislation.

In terms of the Representative from Skowhegan's remarks concerning probation officers, I don't think there is anybody that would question the need for more probation officers. I certainly have supported that in the past. I think we all have. Yes, we need more probation officers but in a department that expends \$55 million each and every year -- at its present rate -- we need a little planning. We are looking at a \$45 million bond issue for corrections that has been proposed for this session. We need to be able to think more than five minutes into the future, as I have stated. I have not yet heard a good reason for not supporting this legislation. I would urge your support for this legislation.

Mr. Speaker, when the vote is taken I request the yeas and nays.

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

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

The SPEAKER: The pending question before the House is the motion of Representative Melendy of Rockland that the House accept the Majority "Ought to Pass" as amended Report. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 12

YEA - Adams, Aliberti, Allen, Anthony, Bell, Boutilier, Brewer, Burke, Cahill, T.; Carroll, D.; Carter, Cashman, Cathcart, Chonko, Clark, H.; Clark, M.; Coles, Conley, Constantine, Cote, Daggett, DiPietro, Dore, Duffy, Dutremble, L.; Erwin, P.; Farnsworth, Farnum, Gould, R. A.; Graham, Gurney, Gwadosky, Hale, Handy, Heesch, Hickey, Hoglund, Holt, Hussey, Jacques, Jalbert, Joseph, Ketover, Kilkelly, LaPointe, Larrivee, Lawrence, Lisnik, Luther, Macomber, Mahany, Manning, Marston, Martin, H.; Mayo, McGowan, McHenry, McKeen, McSweeney, Michaud, Mills, Mitchell, Moholland, Murphy, Nadeau, G. G.; Nadeau, G. R.; Nutting, O'Dea, O'Gara, Oliver, Paradis, J.; Paradis, P.; Paul, Pederson, Pineau, Plourde, Pouliot, Priest, Rand, Richard, Ridley, Rolde, Rotondi, Ruhlin, Rydell, Sheltra, Simpson, Skoglund, Smith, Swazey, Tamaro, Tardy, Townsend, Tracy, Walker, Wentworth, The Speaker.

NAY - Aikman, Anderson, Ault, Bailey, Begley, Butland, Carroll, J.; Curran, Dellert, Donald, Farren, Foss, Foster, Garland, Greenlaw, Hanley, Hastings, Hepburn, Hichborn, Higgins, Hutchins, Jackson, Lebowitz, Libby, Look, Lord, MacBride, Marsano, Marsh, McCormick, McPherson, Merrill, Norton, Paradis, E.; Parent, Pendleton, Pines, Reed, Richards, Seavey, Sherburne, Small, Stevens, A.; Stevenson, Strout, B.; Strout, D.; Tupper, Webster, M.; Whitcomb.

ABSENT - Crowley, Dexter, Melendy, Stevens, P.; Telow.

Yes, 97; No, 49; Absent, 5; Paired, 0; Excused, 0.

97 having voted in the affirmative, 49 in the negative with 5 being absent, the Majority "Ought to Pass" Report was accepted, the Bill was read once.

Committee Amendment "A" was read by the Clerk and adopted.

Senate Amendment "A" (S-58) to Committee Amendment "A" was read by the Clerk and adopted.

Committee Amendment "A" as amended by Senate Amendment "A" thereto was adopted and the Bill assigned for second reading Monday, May 1, 1989.

The following item appearing on Supplement No. 3 was taken up out of order by unanimous consent.

PAPER FROM THE SENATE

Ought to Pass as Amended

Report of the Committee on Banking and Insurance reporting "Ought to Pass" as Amended by Committee Amendment "A" (S-64) on Bill "An Act to Amend the Laws Relating to the Maine Insurance Guaranty Association and the Maine Self-insurance Guarantee Association" (EMERGENCY) (S.P. 286) (L.D. 750).

Came from the Senate, with the report read and accepted and the Bill Passed to be Engrossed as amended by Committee Amendment "A" (S-64) as amended by Senate Amendment "A" (S-65) thereto.

Report was read and accepted, the Bill read once. Committee Amendment "A" (S-64) was read by the Clerk.

Senate Amendment "A" (S-65) to Committee Amendment "A" (S-64) was read by the Clerk and adopted.

Committee Amendment "A" as amended by Senate Amendment "A" thereto adopted.

Under suspension of the rules, the Bill was read the second time, passed to be engrossed as amended by Committee Amendment "A" as amended by Senate Amendment "A" thereto in concurrence.

The Chair laid before the House the following matter: Bill "An Act to Clarify Maintenance of Private Roads and Ways by Municipalities" (H.P. 271) (L.D. 383) (C. "A" H-84) which was tabled earlier in the day pending Passage to be Engrossed and later today assigned. (Roll Call Ordered)

The SPEAKER: The Chair recognizes the Representative from Fryeburg, Representative Hastings.

Representative HASTINGS: Mr. Speaker, Men and Women of the House: I rise quickly to answer the statements made yesterday by my esteemed brother and Representative from Belfast, although my junior and underclassman. He has indicated that this is an unconstitutional bill. Again, I rise to tell you that I happen to be by age, perhaps not by wisdom, but also by years of experience, his dean in the field of law. Again, I tell you that I have reviewed as has others, and this is a constitutional bill. Regardless of those who would attack it on that ground, it is not one which you should faint from voting for on the basis of the alleged charge that it is unconstitutional.

Secondly, there are those who indicate that this bill will create dozens of lawsuits. I should not stand in opposition to that, of course. However, I tell you we have roads like this in my district, they have been there, acted on by towns for many years and not one single lawsuit has arisen from the maintenance of those roads by those towns.

Lastly, we come to the very issue of this bill. It is a home rule issue. I have heard people stand and indicate that their constituency, the people in their towns don't know how to take care of their roads, they would be coerced by people who come in and foster their ambitions over that of the selectmen of the towns so that by popular fervor, these roads would be taken over by a town.

I ask you, if those same people don't have the common sense and exercise it, perhaps even more regularly than we do, those same people who have the common sense to put each one of you in the seat that you remain in today, those people of our towns are pragmatic, hard working people. They only ask that they have the right, and this bill does nothing more than give to them the right to decide what, if any road, they will maintain. Nobody is going to charge the state for the maintenance of a road. We are not going to mandate that the towns take over private roads, we are only saying to a town, you may do as you wish, if the popular will of your good people is to support maintenance of a particular road. The committee has really fashioned and crafted in a very willing way that which the towns have sought. It does alleviate many of the problems and it does allow the towns that option if they choose it. I urge you to support the committee and vote on the motion that is on the floor.

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

Representative STROUT: Mr. Speaker, Men and Women of the House: Since we left here yesterday, I went back to my office and yesterday afternoon and last night, I did a little more research on what we should or shouldn't be doing with this bill. I want to relate to you today that for you people that think that I am a municipal official, I am not. I am an administrator of a town that would recommend through my board of selectmen what I think is right for that municipality and I hope today that what I relate to you is a recommendation for the whole State of Maine. I am going to tell you that this bill, as presented, no matter if it were to pass and you were to have a solemn occasion and send it to the courts, in my opinion, it is worse than what we have on the books today.

I want to cite to you in the Amendment, Section 4 which is under requirements -- there are three sections and I am going to use examples why I feel that this is wrong.

Section A of the Bill says that we will maintain, repair privately owned roads if -- it goes on to say if they are not obstructed, marked or etcetera to having no trespassing signs which would have the effect of discouraging public travel. Why I bring this out is because I see a situation, if this were to pass, that a municipality like mine could get a group of people to go to my town meeting and encourage the repair of this private road. In the spring of the year we could go out and we could put gravel on that road and fix it up to where the public would be able to travel over it and then be faced in September with the people who live on that road, the private citizens of putting up no trespassing signs that says that the public would not be able to go down that road, maybe to go hunting or for other purposes. That is one part that I don't see that I can agree with.

Section B, it says the road was constructed before the effective date of this section. The way I read this it says, that any roads out there that are constructed at the present time could be ten feet wide, it could be 16 feet wide with no standards for putting a certain amount of gravel or any ditching.

If this were to pass, it would require or allow the towns to maintain that road.

Then it goes on in Section C, another paragraph says that it requires all roads constructed within the municipality, after the effective date of this section, to be built to certain standards. You see, what you have done in one paragraph it says that roads that have already been constructed could be maintained with public funds. Then you go on to say with another section that you have got to have standards that are adopted after this bill becomes law.

I went back yesterday afternoon and I dug out some information that we have tried to gather over the years from Maine Municipal because I am involved with this on a daily basis as a road commissioner. I tried to -- I know some towns have done some of this plowing and sanding and in the winter you might have a situation where a town might want to widen out a road because of fire or ambulance purposes -- so I wanted to dig out an opinion that has been handed down many times by the Maine Supreme Court. I am going to read it to you today and tell you what it says. It says, on a number of occasions, the Maine Supreme Judicial Court has held that municipalities do not have the power to tax the public to raise money for private purposes but only for those which are public and they cite various cases. This holding is based on the courts interpretation of the legislative powers clause in Article IV, Part III, Section I of the Maine Constitution "In analyzing a proposed public expenditure to determine whether it has a public purpose, the Courts of Maine have looked to see whether a real and substantial economic benefit would result to the general public." I think these decisions have been handed down and I don't think we need to go any further with that.

I think it is very simple, as I said yesterday, that if those people on that road want it maintained by a municipality, what they should do is get it built up to standards, go to the town, ask the town to adopt this through the legislative body and deed that over to the town. That is one way. The other way is public easement.

I also would ask my good friend that spoke previous to me, seeing he is an attorney, I would ask him this question that I dug up yesterday and I would like to know if this would in effect have any liability to do with antitrust laws? I read into this where according to the United States Supreme Court's decision in the Communication Company Inc. vs. the City of Boulder, it says a municipality is not exempt from antitrust liability unless it can show that there is a precise, clearly articulated and affirmatively expressed state grant of power to engage in specific anticompetitive action. Maybe he would comment on this.

I would ask you today to consider what you are doing with this bill and I think that the best way to deal with this is to kill it today.

The SPEAKER: The Chair recognizes the Representative from Fryeburg, Representative Hastings.

Representative HASTINGS: Mr. Speaker, Men and Women of the House: I have been asked a couple of questions from the good Representative. You can fool me once, but don't fool me twice. It seems to me that if I improved a road with town money in the spring and it was blocked off in the fall, my quick reaction would be at the next March town meeting when again, by this law, the town must annually determine to spend money to plow a particular road or maintain it, I think I would consider that I had been fooled once and I wouldn't have to be fooled twice.

Again, I ask you to look to the common sense of the people that put us here. Don't think they are dumb, they are not, they are more astute than most of us are willing to give them credit for.

Secondly, it is an age old question for lawyers that if I don't have the facts, I will argue the law on the constitutionality. Lawyers do it all the time. I see it done in this body today. You raise the red flag that this is improper, it is unconstitutional. The facts are that it has never been ruled unconstitutional, it has been time in memorium by towns. Towns go on to private property all the time to defend the private property against fire, vandalism, with rescue units, police cars and fire trucks, they certainly have the right to go onto this private property to do the same thing.

Lastly, as to any antitrust law, that is the first time I have seen a municipality ordinance attacked on the basis of antitrust. I give this good gentleman a --- perhaps he should be a lawyer for his creativity. I have never seen any ordinance struck down as being in violation of our antitrust laws. So, I would only suggest to you and in answer to this question, that the law is constitutional, it is only leaving it up to the people, the people to make that decision on a year to year basis for a particular road in their town. Give them that right, let's not be dictators to them.

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

Representative JACKSON: Mr. Speaker, Ladies and Gentlemen of the House: I hadn't intended to speak on this bill but I have been listening with intent this morning and on the previous debates. I would just like to give you a little historical perspective how warrants get on a town warrant and to reaffirm the good gentleman from Fryeburg's debate, the process. I am sure the gentleman from Corinth is aware of how these articles are placed on a warrant, they are either placed there by the selectmen, particularly where the legislative body is the voters of the community, or through a referendum type situation where they select a number of signatures and then present this through the municipal officials for placement onto the warrant. Why I say this is that the concern that somebody is going to walk off the street or a group of people are going to walk off the street to a municipal meeting or town meeting and have this approved is incorrect, is invalid, can't happen.

We want to give our communities and we gave our communities home rule. Today we don't want them to continue that home rule, particularly in this issue. My community, the community that I live in, up until a year ago, maintained private ways. Information from the Maine Municipal Association to that community --- then they chose to terminate those types of services.

There are several people, and I am sure there are people in your communities that experienced the same thing that my people in my community experienced, they bought homes on these private ways when the town was maintaining those private ways, was plowing them, was grading them and hauling in gravel every once in a while to fill in the mud holes and the pot holes --- Today they have to hire that done privately. Some have chosen the route that the gentleman from Corinth suggested by deeding an easement to the community across those private ways.

But, I don't share the same concerns that some members of this body or some members who have spoke in this body where local residents in our communities can't or don't have the ability to think accurately or make intelligent decisions when it comes to

expenditures of their dollars. I disagree with that completely because I think that the purest form of government is a government that is closest to the people and that is municipal government. They make the decisions, they raise the money, they spend the money and they spend it appropriately what they feel is for the best public use of that community.

As the gentleman from Fryeburg stated, we have fire departments that enter onto private property, we have police protection that enters private property, they have to have access to this property for the public benefit and the public good of the community. I don't see any reason we should be disillusioned this morning in thinking that these very same people at the local level can't make the right decisions. They choose to maintain these private ways, they should be allowed to do that. If they choose not to do that, they should be allowed to do that and this is exactly what this bill does.

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

Representative DORE: Mr. Speaker, I would like to pose two questions through the Chair.

I would like to know the position of MMA on this issue. I would like to know from a coastal community member how this would affect some of the summer colonies where there are sometimes one or two year-round residents and the remainder are summer people?

The SPEAKER: The Representative from Auburn, Representative Dore, has posed a series of questions through the Chair to anyone who may respond if they so desire.

The Chair recognizes the Representative from Waterville, Representative Joseph.

Representative JOSEPH: Mr. Speaker, Men and Women of the House: In response to the first question; the Maine Municipal Association opposed the original bill. However, the Representative from the Maine Municipal Association participated in every workshop that the State and Local Government Committee had until the redraft was finally crafted. The last statement made in that committee was, "Is there anybody who has objections?" There were none. There were only questions dealing with the constitutionality which we are trying to resolve here today.

I ask for this body an affirmative vote on this issue, to respect the hard work of the State and Local Government Committee and the unanimous "Ought to Pass" Report of the 13 members of that committee.

The SPEAKER: The Chair recognizes the Representative from Princeton, Representative Moholland.

Representative MOHOLLAND: Mr. Speaker, Ladies and Gentlemen of the House: I hope that you don't vote in favor of this bill today. I think it is a local control bill. Take the example, if you take an 8 foot road going 15 and 20 miles to a lake and you plow that road and it gets all iced up and somebody goes on that road and gets killed, I would like to know who is going to pay the bill? In my district, we have probably 20 towns and I don't know how many townships and there hasn't been anything brought up about the townships with the private roads of 15, 20 and 25 miles to these lakes where some of these people live year-round so I would hope that you would vote against this bill here today.

The SPEAKER: The Chair recognizes the Representative from Winslow, Representative Carter.

Representative CARTER: Mr. Speaker, Ladies and Gentlemen of the House: I had no intention of rising on this bill until my good friend, Representative Jackson from Harrison, made reference to municipal

home rule and that communities with that constitutional amendment would have the right to spend public funds for private use. I would like to call his attention to Section 2 of the Municipal Home Rule, Article 8, which stipulates that the only area that public funds can be utilized for private endeavors is for fostering, encouraging, and assisting a physical location settlement and resettlement of industrial manufacturing enterprises. That is the extent of it.

While I am on my feet, I would like to pose a question through the Chair.

In my community where I serve as a town councilman and have for many years, we have requirements for road construction. We have certain specifications that have to be met. The town is insured, all its emergency vehicles are insured to operate on public property. I would like to know if the insurance company would honor a claim if a claim incurred on a private road?

The SPEAKER: The Representative from Winslow, Representative Carter, has posed a question through the Chair to anyone who may respond if they so desire.

The Chair recognizes the Representative from Corinth, Representative Strout.

Representative STROUT: Mr. Speaker, Ladies and Gentlemen of the House: This issue I have dealt with with our own local agents and I don't think he ever really gave me a clear answer to this. I think what he was telling me was that we could be at risk if we went on those private roads. There is no question. However, the answer that I have always gotten on this is, if we send a fire truck or an ambulance out on that private road, probably that first time they would cover us because we felt that we were doing something that was to the benefit of the health and welfare of our people. My guess would be that, if we continued to do something like that, that we would have problems renewing our liability policy for these commercial vehicles.

The SPEAKER: The Chair recognizes the Representative from Jonesboro, Representative Look.

Representative LOOK: Men and Women of the House: There is one other issue that I think everyone should consider here that has not been brought up. This original legislation asks for the right to plow and sand and I am sure that many of you are not as familiar with snow removal as I am. Just consider whether it is a municipal vehicle or a private contractor, you run the risk of severe damage to the operation of that vehicle. If you have a municipal vehicle on a private road you can very easily bend the frame, take out a rear end or do severe damage to the mechanism of that vehicle. If it happens in a blizzard or after a blizzard and you have another one coming along, you have a piece of equipment that is down and can't be used. You are going to be running short on equipment.

The SPEAKER: The Chair recognizes the Representative from Gray, Representative Carroll.

Representative CARROLL: Men and Women of the House: This issue is an issue that has been around for a long, long time. The first decision of the courts was back in the 1840's or even the 1830's when some town tried to roll and flatten the road to maintain public access. This bill, in its original draft, went to the Committee on State and Local Government and they worked very diligently (all 13 members along with MMA) to make this a workable solution to a problem that has been out there for a long, long time.

If I could refer to some of the sections of the bill that we referred to earlier such as Section A under Subsection 4 of the bill -- we talk about the

new definition of a private road -- that definition basically says what today's public easements are. A municipality, if they want to do and maintain a public easement, they can so do. In the same article that the fine gentleman from Corinth was reading -- if a road is merely a public easement of "a private way" the town has the authority to provide maintenance but no duty to do so.

All we are asking today is for that clarification to be made under definition of a private road. If there is access to that road and public access to that road, I see no reason why individuals paying tax dollars who have lived on those roads for a number of years, suddenly things are changing for them and they should have the same rights as every other citizen. That decision should be made by the local governing body, town meeting, town councils. The state law says that we can't do this; therefore, we won't do it. The whole thing became a real issue in my hometown with 200 people storming the town council chambers after they took the legal opinion for the fifth time from MMA saying we are not going to take care of your roads anymore. The issue is there, it will be there forever. This is a good, solid attempt by the committee to resolve that issue, once and for all, and to allow municipalities the right to choose and the right to figure out how they are going to assess for the maintenance of plowing and sanding of those roads. You don't have to use tax dollars for that, they can assess those people on those roads, it is now a public easement. The public has a right to access those roads and travel over those roads and I think it is a legitimate and a worthwhile piece of legislation. The committee has done a nice job and I urge your support of the unanimous committee report.

The SPEAKER: The pending question before the House is passage to be engrossed, a roll call having been ordered.

The SPEAKER: The Chair recognizes the Representative from Freeport, Representative Mitchell.

Representative MITCHELL: Pursuant to Joint Rule 10, I request leave of the House to be excused from this vote.

The SPEAKER: The Chair will grant that request pursuant to a conflict of interest.

The pending question before the House is passage to be engrossed. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 13

YEA - Adams, Anthony, Begley, Boutilier, Butland, Cahill, T.; Carroll, D.; Carroll, J.; Cashman, Cathcart, Clark, M.; Conley, Constantine, Cote, Curran, Daggett, Donald, Dore, Duffy, Erwin, P.; Farnsworth, Farnum, Greenlaw, Gurney, Gwadnosky, Hale, Handy, Hanley, Hastings, Heeschen, Hepburn, Hickey, Holt, Jackson, Joseph, Ketover, Kilkelly, LaPointe, Larrivee, Lawrence, Luther, Manning, Marsh, Martin, H.; Mayo, McCormick, McGowan, McKeen, McSweeney, Michaud, Mills, Murphy, Nadeau, G. G.; Nutting, O'Dea, O'Gara, Oliver, Paradis, E.; Paradis, J.; Paradis, P.; Parent, Paul, Pineau, Pines, Priest, Rand, Richard, Richards, Rolde, Rotondi, Ruhlin, Rydell, Simpson, Skoglund, Small, Stevenson, Strout, B.; Webster, M.; Wentworth, Whitcomb.

NAY - Aikman, Aliberti, Allen, Anderson, Ault, Bailey, Bell, Brewer, Burke, Carter, Chonko, Clark, H.; Coles, Dellert, Dipietro, Dutremble, L.; Farren, Foss, Foster, Garland, Gould, R. A.; Graham, Hichborn, Higgins, Hoglund, Hussey, Hutchins, Jacques, Jalbert, Lebowitz, Libby, Lisnik, Look, Lord, MacBride, Macomber, Mahany, Marsano, Marston, McHenry, McPherson, Merrill, Moholland, Nadeau, G. R.; Norton, Pederson, Pendleton, Plourde, Pouliot, Reed, Ridley, Seavey, Sheltra, Sherburne, Smith,

Stevens, A.; Strout, D.; Swazey, Tamaro, Tardy, Townsend, Tracy, Tupper, Walker.

ABSENT - Crowley, Dexter, Melendy, Stevens, P.; Telow, The Speaker.

EXCUSED - Mitchell.

Yes, 80; No, 64; Absent, 6; Paired, 0; Excused, 1.

80 having voted in the affirmative and 64 in the negative with 6 being absent and 1 excused, the Bill was passed to be engrossed as amended by Committee Amendment "A" and sent up for concurrence.

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

PASSED TO BE ENACTED

Emergency Measure

An Act to Amend the Laws Relating to the Maine Insurance Guaranty Association and the Maine Life and Health Insurance Guaranty Association (S.P. 286) (L.D. 750) (S. "A" S-65 to C. "A" S-64)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 128 voted in favor of the same and 3 against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

By unanimous consent, ordered sent forthwith to the Senate.

(Off Record Remarks)

On motion of Representative Ketover of Portland, Adjourned until Monday, May 1, 1989, at nine o'clock in the morning pursuant to Joint Order (S.P. 512).

STATE OF MAINE
ONE HUNDRED AND FOURTEENTH LEGISLATURE
FIRST REGULAR SESSION
JOURNAL OF THE SENATE

In Senate Chamber
Thursday
April 27, 1989

Senate called to Order by the President.

Prayer by Pastor Peter Inchcombe of the First Baptist Church in Hallowell.

PASTOR INCHCOMBE: Let us bow our heads in a word of prayer. As we pause this morning, O God, we are mindful of all of the blessings that we so often take for granted. We think of our health, our families, and our country and we just thank and praise You for these tremendous blessings this morning.

We pray for the President of the United States of America, the Vice-President, Congress, and those that serve throughout this land. We thank You especially for those that serve here, in this Senate in the State of Maine, who serve us, the people. We just ask in a very special way that Your presence might not only be felt here, but also that Your wisdom might be revealed, that common sense might prevail as those that have been chosen to serve the people served in this capacity.

We are mindful that whenever God's people sought the council of God, God was in favor of that. We just pray that at all times we might continuously seek Your wisdom, Your love, and Your grace. We just commit this session into Your hands, into Your keeping, praying for Your blessing upon each Senate member. For we ask all these things humbly and in the name of our Lord and Saviour, Jesus Christ. Amen.

Reading of the Journal of Yesterday.

Out of order and under suspension of the Rules, on motion by Senator DUTREMBLE of York, the following Joint Order:

S.P. 512

ORDERED, the House concurring, that when the House and Senate adjourn, they do so until Monday, May 1, 1989, at 9 o'clock in the morning.

Which was READ and PASSED.

Under suspension of the Rules, ordered sent down forthwith for concurrence.

Off Record Remarks

PAPERS FROM THE HOUSE

Non-concurrent Matter

Bill "An Act to Encourage Recycling of Lead-acid Batteries"

H.P. 108 L.D. 145

(C "A" H-56)

In Senate, April 13, 1989, PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-56), in concurrence.

Comes from the House PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-56) AS AMENDED BY HOUSE AMENDMENT "A" (H-107), thereto in NON-CONCURRENCE.

The Senate RECEDED and CONCURRED.

Non-concurrent Matter