

# MAINE STATE LEGISLATURE

The following document is provided by the  
**LAW AND LEGISLATIVE DIGITAL LIBRARY**  
at the Maine State Law and Legislative Reference Library  
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied  
(searchable text may contain some errors and/or omissions)

**LEGISLATIVE RECORD**

OF THE

**One Hundred And Fourteenth Legislature**

OF THE

**State Of Maine**

**VOLUME II**

**FIRST REGULAR SESSION**

May 10, 1989 to June 14, 1989

**ONE HUNDRED AND FOURTEENTH MAINE LEGISLATURE  
FIRST REGULAR SESSION  
83rd Legislative Day  
Wednesday, June 14, 1989**

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

Prayer by Reverend Ronald Fast, First Assembly of God Church, Fryeburg.

The Journal of Tuesday, June 13, 1989, was read and approved.

**PAPERS FROM THE SENATE**

**Unanimous Leave to Withdraw**

Report of the Committee on Banking and Insurance reporting "Leave to Withdraw" on Bill "An Act to Require Proration of Workers' Compensation Rates for Employees Who Perform Work Falling Under More than One Classification" (S.P. 623) (L.D. 1720)

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

**Ought to Pass as Amended**

Report of the Committee on Legal Affairs reporting "Ought to Pass" as Amended by Committee Amendment "A" (S-252) on Bill "An Act to Amend the Liquor Laws Relating to Wine Tasting" (S.P. 485) (L.D. 1327)

Came from the Senate, with the report read and accepted and the Bill Passed to be Engrossed as amended by Committee Amendment "A" (S-252) as amended by Senate Amendment "A" (S-271) thereto.

Report was read and accepted, the Bill read once. Committee Amendment "A" (S-252) was read by the Clerk.

Senate Amendment "A" (S-271) to Committee Amendment "A" (S-252) 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 later in today's session.

**Ought to Pass as Amended**

Report of the Committee on Aging, Retirement and Veterans reporting "Ought to Pass" as Amended by Committee Amendment "A" (S-251) on Bill "An Act Amending the Law Governing the Maine Committee on Aging" (S.P. 544) (L.D. 1515)

Came from the Senate, with the report read and accepted and the Bill Passed to be Engrossed as amended by Committee Amendment "A" (S-251) as amended by Senate Amendment "A" (S-268) thereto.

Report was read.

On motion of Representative Mayo of Thomaston, tabled pending acceptance of the Committee Report as amended and later today assigned.

**Divided Report**

Majority Report of the Committee on Labor reporting "Ought to Pass" as amended by Committee Amendment "A" (S-253) on Bill "An Act to Include Salaries, Pensions and Insurance for Binding Arbitration under the Municipal Public Employees Labor Relations Law" (S.P. 300) (L.D. 798)

Signed:

Senator: MATTHEWS of Kennebec  
Representatives: LUTHER of Mexico  
McKEEN of Windham  
McHENRY of Madawaska  
RAND of Portland

PINEAU of Jay  
RUHLIN of Brewer

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

Signed:

Senators: ESTY of Cumberland  
WHITMORE of Androscoggin  
Representatives: McCORMICK of Rockport  
BUTLAND of Cumberland  
TAMMARO of Baileyville  
REED of Falmouth

Came from the Senate with the Minority "Ought Not to Pass" Report read and accepted.

Reports were read.

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

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

We have worked many hours on this bill and many experts in the labor field agree it is the best method of binding arbitration that you can have. This is an issue by issue, last best offer. What that means ladies and gentlemen is your municipal officials put their last best offer before the collective bargaining unit that they are bargaining with and they, the collective bargaining unit, the employees put their last best offer before the municipal officers. By last best offer, I mean the last best offer, knowing that an arbitrator will look at these issues and will decide either for one or the other. The arbitrator has no right to add or subtract from the last best offer of either party. He or she must choose which one is best and he or she who is deciding this must also take into consideration eleven points of which the most important is the ability of that municipality to pay if he or she decides that they are going to render a decision which will increase the wages, for instance. They must consider all the facts and there are eleven of them. It is not an easy task. The way this bill is written is to encourage both parties. I assure you both parties must be serious and negotiate in good faith. After the arbitrator has made that decision, both parties still have ten days to come to an agreement, it is not binding yet. But, if those two parties do not wish to come to an understanding, the arbitrator's decision will be binding. This, ladies and gentlemen is the best method of negotiation there is.

We always talk about the level playing field. There is no level playing field when it comes to municipal government because we allow them to collectively bargain but we do not allow them to strike. So therefore, binding arbitration in the method that I have described is about the best thing that we can do for municipal officials as well as our state employees if we are serious about having a true, good faith, binding arbitration, this is the way to do it. Each and every issue has to be decided. The arbitrator may decide five issues for the municipality and may decide only one issue for the employees but then they (both parties) still have ten days to say, well, you know we can negotiate on these items, we can come to an understanding and they can come to a different conclusion and they can decide a different contract, a different decision, and the arbitrator -- his decision will not be binding if they come to an understanding before the ten days.

I assure you it is a very, very good way of bargaining. When these issues are put down item by item, each party can take out what they believe they can negotiate. You may have 15 items and one side

decides they can take three of them and say we can negotiate them. The other side says well, we can negotiate four of these. After all of this is done, only the remaining issues go before the binding arbitrator and the binding arbitrator, as I said before, cannot change one period in the last best offer. So, whatever he or she decides will be binding only after ten days after he or she made the decision that this is what I decided and the municipality and the employees still have a chance to turn that around and negotiate again in good faith, maybe a different contract, a different resolution.

I thank you ladies and gentlemen. In all my years, I think this is the best thing I have ever seen. It is binding arbitration -- we have a person who may not be a taxpayer in that municipality and may be from out of state, all kinds of red herrings -- well, those don't hold water because the way this bill is written, it is a decision of those people in that municipality.

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

Representative REED: Mr. Speaker, Men and Women of the House: We are now in the busy final days of this session when the amendments fly and supplements multiply and occasionally items move through the body very quickly. This is one that should not do that. We should stop and look carefully at this piece of legislation.

Our English language you know may not have the mystique and the history of some of the romance languages but it is still a language that is rich in words and phrases that have strong and instant symbolism. We have a great opportunity today with L.D. 798 to savor the expressive imagery of just such one of those phrases, binding arbitration.

Settle back in your chairs for a moment, lay down your amendments, close your eyes and conjure up the image of your municipal officials and employees seated around the negotiating table firmly bound and gagged by the concept embodied in L.D. 798. Not encouraged to negotiate in good faith for fair and equitable and affordable solution but rather tempted to indulge in a bit of a guessing game as to just how far or how little they ought to move from their initial position and still hope that the arbitrator will rule in their favor.

The arbitrator -- I have great respect for these folks, they are professionals and skilled at their craft but they don't live in your town, they don't pay taxes in your town, they will make a decision and walk away.

Binding arbitration -- it can't be cloaked with the respectability of saying, well, it is necessary for your children's education. It can't be camouflaged with the need of environmental clean up. Binding arbitration stands clearly in the harsh glare for public scrutiny for exactly what it is, an unfunded state mandate in its rawest and most egregious form.

We have all heard and talked much about the need for property tax relief here this session. If you support this bill, when you go home, what will you say when the person at the gas station or the grocery store says, "What did you do for property tax relief this session?" You will have to say, "Well, I decided that your local officials weren't really capable of handling the job of running your town and I decided that someone from outside ought to do that job. By the way, I decided it was okay for your town but not for the state." Do you really want to say that? I don't think so.

I hope that you will defeat the pending motion so that we may go on to accept the Minority "Ought Not

to Pass" Report and leave the authority for raising and spending local tax dollars right where it belongs, ladies and gentlemen, back in your local town hall.

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

The SPEAKER: The Chair recognizes the Representative from Jay, Representative Pineau.

Representative PINEAU: Mr. Speaker, Ladies and Gentlemen of the House: I am going to say like everyone else does, I wasn't going to get up on this. However, after hearing some of the accusations from my fellow comrade on the Labor Committee, I feel I have to get up to clear the camouflage clothing.

The property tax problem, the relief -- I know when I go back home, I don't want it at the expense of my public employees.

In the Labor Committee, I made the suggestion, let's give municipal employees, public employees, the right to strike. Oh no, we heard, that can't happen. So now we are dealing with second-class citizens in our work force. Just because they are a public employee, I feel the need to balance that playing field. I think we have to go a step further than we do in the private sector. As my Chair responded earlier in opening the debate, I think we did a real good job. We expressed the concerns of the municipal officers. All that on what a community has to pay out has to be taken into account even if it means it is going to drive the taxes up. Let's be serious, an arbitrator isn't going to go with it.

I just want you to know that those other people, those other employees who we need to plow our roads, who we need to run our town houses, who we need to run our county, need to run our state, I don't see them as second-class. I see this as a good working opportunity for them in the state and I would appreciate your support of the motion.

The SPEAKER: The Chair recognizes the Representative from Baileyville, Representative Tammaro.

Representative TAMMARO: Mr. Speaker, Ladies and Gentlemen of the House: I didn't support binding arbitration this time nor did I the last time, simply because I feel it would be a tax burden on the municipalities and we don't need any more taxes.

This arbitration is a costly system and the arbitrator will be making the decision instead of our elected officials. We can't stand any more costs. This bill removes the authority of our elected officials. The arbitrator could be the one taxing our towns and cities rather than the elected officials. I have been opposed to this and I have received several calls asking for opposition to this bill. I am in hopes that you people will vote with the Minority "Ought Not to Pass."

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

Representative MCHENRY: Mr. Speaker, Ladies and Gentlemen of the House: If you would read the amendment, the amendment says that the arbitrator must take into consideration the fiscal impact, the money. They must know that the municipality is able to pay. So, it has absolutely nothing to do with the ability to pay taxes. We say to the school board, for instance, you must put your last best offer knowing how much money you have and you must also tell the arbitrator how much money you have available. The employees must also tell them how much money there is. The arbitrator has to make a decision on facts, not fiction.

I would like to ask the opposition party -- what is the level playing field that they always love to bring up? Where is it? Tell me.

The SPEAKER: The Chair recognizes the Representative from Mexico, Representative Luther.

Representative LUTHER: Mr. Speaker, Ladies and Gentlemen of the House: I rise in support of L.D. 798. I am going to go home and tell my people that I voted for fair play today. This gives municipal people some degree of leverage which they have not had before. This bill is not going to add to the tax burden. The arbitrator is told up front that they must make their decision in regard as to how much money is available. It is simply a matter of fair play and I urge you to vote for it.

The SPEAKER: The Chair recognizes the Representative from Sanford, Representative Hale.

Representative HALE: Mr. Speaker, Ladies and Gentlemen of the House: I rise today to urge you to vote against the pending motion on the floor. Binding arbitration in any municipality is certainly not the answer. We talk about fiscal responsibility. The process for arbitration/mediation last best offer is already in place. but the municipal officials, the school boards, are the ones that make the decision.

When we talk about the arbitrator having access to the fiscal monies of the town, you must remember that fiscal responsibility also is based on estimated revenues as our estimated revenues come in here. If estimated revenues do not materialize, then the cost of this binding arbitration is borne by the taxpayer. In a town that has a town meeting form of government, this is crucial that it not pass. We would have to lay-off instead of retain our workers.

I will speak in terms of my own town. We have some of the best paid municipal employees in the State of Maine. Our public works department can make more money than the workers in the Maine Department of Transportation. This is all through contracts. This is what the town officials have agreed to. They have extensive benefits. I think that the municipalities should retain their rights to arbitration and make the decisions themselves.

If I am given a bunch of facts and figures as an arbitrator, I have to rely on those, but I will tell you one thing, even here as a member of this legislature, you don't think for one minute that I go by statistics or percentages. I don't. You have to have a base and that ladies and gentlemen is a basic fact of running your towns and retaining control through local control. You have the faith in the people that you elect to know what monies are there to be expended for these services and I urge you to vote against the pending motion.

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

Representative SMALL: Mr. Speaker, Ladies and Gentlemen of the House: For the past six years on the Education Committee, I have always tried to get up and warn this legislature whenever I thought a bill was coming out that was going to impact upon the local property taxes. While this is not an education issue, I still feel the need to get up and speak to the legislature on behalf of my local taxpayers.

I am quite amazed that this bill received a Majority "Ought to Pass" Report out of committee. How can this legislature talk property tax relief on one hand and then pass a bill that most certainly will raise our local taxes on the other hand?

The idea that an arbitrator is going to assess a community's ability to pay -- I would like to see them come in and determine whether my community can pay more. Perhaps the largest taxpayer in the community Bath Iron Works can, they will debate you on that. What about the lady that has the misfortune to live on the Kennebec River and is already paying

25 percent of her income in property taxes? Does she have the ability to pay any more? I am not sure that an arbitrator would go out and talk with that woman before he made his decision.

While we would all like to see our municipal employees receive good salaries, I believe the decision should rest with those responsible for raising taxes and not the outside arbitrator.

I live in a tax cap community, actually it is a spending cap, and if salaries are raised above what is allowable under the spending cap, if the arbitrator raises the salaries, people will be cut elsewhere, there is just no other way around it.

We have a finite pot of money and if you take more money from that than is allowed per person, cuts will be made. I don't want our school system and our municipal government cut by an arbitrator and that is simply what would happen if this bill were to go through.

One of the reasons Bath enacted a spending cap was because the citizens did not feel they had enough control in how much and where their money was spent. Can you imagine their indignation and outrage if the purse strings were removed further from the elected officials and placed with an outside arbitrator?

I hope that all of you that are here that feel that property tax is the major question before the legislature will vote against the "Ought to Pass" so we can go on and vote out the "Ought Not to Pass" Report.

The SPEAKER: The Chair recognizes the Representative from Lisbon, Representative Jalbert.

Representative JALBERT: Mr. Speaker, Ladies and Gentlemen of the House: I rise today as one who has served for over 25 years as a municipal official, both as a school board member for ten years and as a selectman for another ten, plus other positions. This bill would take away the initiative to negotiate.

Back a few years ago, when you negotiated salaries, you could negotiate and agree to any salary but if the town meeting said no and did not appropriate the funds, then the salaries would be in abeyance. Then the Supreme Court came out in a case involving one of our smaller cities and said, if the negotiators agree on a price, the towns and cities must appropriate that money.

It was my experience during all those years I negotiated with the teachers and with the municipal employees, the police department, the public works, on those issues that you could get binding arbitration, both sides, unfortunately, would bury their feet in cement and never budge. If this happens on pensions, salaries and insurance, there will be no need to negotiate, they will either say give me what I want or I will go to the arbitrator and get it. If you have ever sat for hours and hours with the arbitrator, you will find that they are trying to bring some kind of assemblage of an agreement. Many times it is a give and take and a lot of times, it is the taxpayers that have to pay.

I am not pro-management or pro-labor and I sincerely admire and respect every one of the members of the committee on both the Minority and Majority Reports. I am pleased to see the Minority Report is bipartisan. I say again, do not tie the hands of the small municipalities or the big municipalities -- say everything that is on the table could be binding arbitration because what you are saying in effect is, don't bother to negotiate, we will go to arbitration. I would ask that you support the Minority Report.

The SPEAKER: The Chair recognizes the Representative from Brewer, Representative Ruhlin.

Representative RUHLIN: Mr. Speaker, Ladies and Gentlemen of the House: Mr. Speaker, Ladies and Gentlemen of the House: I would like to lay before you this morning the scrutiny of a myth that I have heard all too often in this chamber, especially this morning. The tax rate in a municipality should be determined by the priorities that municipality puts on its spending dollars. If they want to spend, many many hundreds of thousands of taxpayers dollars in new buildings, and ignore the very basic rights of employment that most people in this state have by paying their municipal employees the proper amount of wages, then we have an opportunity this morning to address that. The people that we count on to educate our children do not have the right to go on strike. The people that we count on for fire safety do not have the right to go on strike, the people we count on to protect our families from violence do not have the right to go on strike, but we have the right as municipalities to say to them, we are not going to pay you what you should be getting. I am going to take this amount of money and build a brand new building memorializing this council, this board of selectmen and the taxpayers, but I am not going to pay you what you are entitled to or what you deserve. This is what you are in fact saying when you say that binding arbitration will lead to an increased tax rate. That is not the truth. The increased tax rate is determined by your priorities. Don't build your big fancy buildings, pay your employees what they should be entitled to and what they deserve. I hope you will do that this morning by voting for the Majority Report.

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

Representative ALIBERTI: Mr. Speaker, Ladies and Gentlemen of the House: I just wonder how many of us have ever had the opportunity to be in direct negotiations? I have had that unique experience just recently and I assure you, had we had binding arbitration in dealing with a certain segment of our education professional population, we would not have had the hassle and the continuous antagonism that finally was resolved last week. I believe binding arbitration is an honest way of negotiating. You don't go back and forth, back and forth, see how much antagonism you can create and in the final result, the morale of that very group that is so important to our segment of our population, the municipal employers, the teachers, seem to be left by the wayside. I honestly, having a little experience in economics, have failed to see one logical presentation here this morning (all due respect to those that made them) that convinced me or I feel convinced this body where this is the relief of the property tax issue. I can't see it.

Let's turn around once -- we have had the experience of considering our municipal employees and the teachers in legislation in the past as second-class citizens. Why is it so difficult to enlist support of this body for municipal employees and their welfare and the teachers and their welfare?

The SPEAKER: The Chair recognizes the Representative from South Portland, Representative Macomber.

Representative MACOMBER: Mr. Speaker, Ladies and Gentlemen of the House: I rise today as I did two years ago and four years in opposition to this same bill. I rise for the same reasons, only today I have even more reason to oppose this. I happen to live in a community where this past May or November established a three percent spending cap, not a tax cap, but a spending cap. In other words, I would

take home a million dollars tomorrow but my people couldn't spend it, it doesn't do them any good.

The good gentleman from Brewer and we have debated this several times before -- I just have to point out to him that if we go to binding arbitration with municipal employees and the arbitrator decides in favor of the employee, the only way we can meet this with our spending cap is to cut in other sectors and I don't think we have that much opportunity.

Some people got up today and they seemed to give the impression that municipal employees are all very badly treated people. I don't feel that way. In my city, I served as a municipal official, I served as a member of the council and the mayor of my city. I felt that, within the means that we had at hand, we did everything in the world we could to provide them with wages, benefits and all the other things that we all like to have. I don't really have any great opposition to binding arbitration in many areas but I think this is one area that we do have to be a little bit more careful with. The fact that they say -- I think the Representative from Madawaska, Representative McHenry, referred to it as a red herring -- somebody from outside your community would help determine your local tax rate but I think that is the truth. The arbitrator, whoever he might be, is not really one of yours if he does not pay the increase in taxes or anything else that might come about by this particular action.

I will ask the same question that I asked two years ago and four years ago -- if this is such a great bill, why didn't we include state employees?

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

Representative MCHENRY: Mr. Speaker, Ladies and Gentlemen of the House: Having not received an answer on the level playing field, I suppose there is no level playing field for the municipal employees. I would also like to point out, in reference to the good gentleman from South Portland's question, if they have a spending cap of 2 percent, the arbitrator must take that into consideration. The arbitrator must take every financial status of that community, the ability of that community to pay, and they cannot render a decision which would upset that because they can be brought to court and this is why I am saying, this is the best bill I have seen. I have been here 15 years and this bill, I think, addresses every possible solution to every possible problem. I think this is the best bill we have ever had.

Everything I hear from the opposition assumed that the arbitrator would be ruling for the employees -- why is it that we assume this? Is it because we know that we are not paying our municipal employees proper wages? Is it because of that? The good lady that spoke said that her municipality was being paid good wages -- she ought not to have any problem with this bill. My employees are being paid good wages, I have no problem but if you are not paying good wages, of course, you would have a problem, of course you are afraid of an arbitrator because you know darn well how they are going to rule. If you know that, then you assume you are not being fair.

The SPEAKER: The Chair recognizes the Representative from Penobscot, Representative Hutchins.

Representative HUTCHINS: Mr. Speaker, I would like to pose a question. I have a distinct problem with this bill. It seems to be pointing to the fact that our elected officials across the state are not capable of determining what negotiations should be done for the local employees. Aside from that, this arbitrator that will be hired -- who would pay the bill for the arbitrator?

The SPEAKER: The Representative from Penobscot, Representative Hutchins, has posed a question through the Chair to anyone who may respond if they so desire. The Chair recognizes the Representative from Mexico, Representative Luther.

Representative LUTHER: Mr. Speaker, Ladies and Gentlemen of the House: Under the current system, what is offered is patronage. In a Democratic society, working men and women should not be asked to stand with their hats in their hands and accept patronage, they should have a voice and they should have some degree of leverage and that will be given to them in this bill with binding arbitration.

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

Representative BELL: Mr. Speaker, Ladies and Gentlemen of the House: I am starting my fifteenth year on the Caribou City Council and I was on the personnel committee for about 8 years and negotiated many contracts with the fire department, police department and the highway department. We had one time of arbitration, not binding arbitration. That vehicle is still there but your arbitration is where the two sides can't get together, you can solve it that way without binding arbitration. If you get binding arbitration on the community level, it is going to be a nightmare for most communities because you get a binding arbitrator, the different localities from different parts of the state and there are different price ranges for different jobs and if they try to use the rate for people that are in Portland to a smaller community, there is no fairness in it because the communities may not be able to afford that type of a price. In the first place, the cost of living in that community is not as expensive as in your other communities, therefore, binding arbitration is bad for communities and I urge you to vote binding arbitration out.

The SPEAKER: The Chair recognizes the Representative from Shapleigh, Representative Ridley.

Representative RIDLEY: Mr. Speaker, Ladies and Gentlemen of the House: I would hope that you would vote against this bill and I would like to give you what I feel are some very good reasons. First, I think the vote of the people in the various towns and municipalities is sacred. I don't think we should be messing with it. If they say they want to raise so much money for this particular item, they should have that choice and that should be standing and binding. If you go into binding arbitration and they come out with a higher figure than what the towns people voted for with their tax dollars, I see one option, you would have to lay people off to stay within the constraints of the budget. I strongly feel that the people in these various towns have the good sense and the ability to make an intelligent choice when they go to these town meetings to vote X-number of dollars for different services that the workers provide.

Another thing is, anybody that applies for these jobs as was brought out the other day, they know what the job pays, they know when they have to work Sunday's so this is all known, they are not walking into something blind, we are not pushing something on to them that they were not aware of. I can't stretch enough that the vote of the people in the town is sacred and I don't think we should impose anything that would change that in any way, shape, or manner.

The SPEAKER: The Chair recognizes the Representative from Brewer, Representative Ruhlin.

Representative RUHLIN: Mr. Speaker, I will be very, very brief. I want to point out one other myth I keep hearing about this morning. Trained professionals are who we are referring to when we discuss binding arbitration, the same professionals

that everybody says, well they are going to automatically increase or they are automatically going to do this or do that or they may not understand the northern part of the state or the southern part of the state — these are trained professionals who are fully aware and fully capable to understand the economic issues involved, who will look at it line by line, issue by issue, in trying to reach a proper and fair settlement. In so doing, I thin what you are going to see after there are two or three cases to go by in history, then I think you are going to look at the communities and yes, we should do it ultimately on the state, but let's start somewhere, but you are going to look at the communities who will then be encouraged to make a fair offer to start with, rather than just saying they can't strike, they can't do anything, I'll offer as little as I can and build a building. I just wanted to clarify that point, that they are in fact trained professionals.

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

Representative MCHENRY: Mr. Speaker, Ladies and Gentlemen of the House: Who pays for the arbitrator? It will be the same people who pay for the arbitrator presently. We have mediation, fact-finding and then arbitration. In the present system, 30 days after fact-finding you can go to arbitration but with this bill, you will have to wait 45 days before you can go to binding arbitration. It is not a quicker way, it is a way with some caution in it.

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 Jay, Representative Pineau.

Representative PINEAU: Mr. Speaker, Men and Women of the House: In listening to the debate this morning, I just want to offer this, I know it is getting crazy but apparently a lot of those who debated on a bill that they voted against two or four years ago, did not read the committee amendment. I think if you had, all the issues I have heard this morning would have been satisfied that we did in fact act properly in committee.

The SPEAKER: The Chair recognizes the Representative from Sanford, Representative Hale.

Representative HALE: Mr. Speaker, Ladies and Gentlemen of the House: I assure you I have read the amendment. In fact, I have been waiting for this bill and I did intend to get up. Talking about myths, tax rates are no myths. I don't know what they are doing in Brewer or what the good Representative from Brewer does up in his town but I assure you we don't build new buildings and take away from our service suppliers in our town, whether it be educational, public works, fire or police. We do not neglect them. I think a level playing field is in existence right now in the hands of the local officials with all of the steps available to them.

Any organized unit cannot go on strike, do not have the right to strike without the permission of their local or national units. We say to municipal employees, this is the condition of employment. If they choose not to work under those conditions, they can refuse the job.

The SPEAKER: The pending question before the House is the motion of the Representative from Madawaska, Representative McHenry, that the House accept the Majority "Ought to Pass" Report. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 80

YEA - Adams, Aliberti, Allen, Anthony, Boutilier, Burke, Carroll, D.; Cashman, Cathcart, Chonko, Clark, H.; Clark, M.; Conley, Daggett, Dore, Duffy, Erwin, P.; Graham, Gurney, Gwadosky, Handy, Heeschen, Hogle, Holt, Jacques, Joseph, Ketover, Lawrence, Lisnik, Luther, Mahany, Mayo, McGowan, McHenry, McKeen, Melendy, Michaud, Mills, Mitchell, Nadeau, G. G.; Nadeau, G. R.; Nutting, O'Dea, Oliver, Paradis, J.; Paradis, P.; Pederson, Pineau, Priest, Rand, Rotondi, Ruhlin, Rydell, Simpson, Skoglund, Stevens, P.; Swazey, Tardy, Tracy, Walker, The Speaker.

NAY - Aikman, Anderson, Ault, Bailey, Begley, Bell, Brewer, Butland, Carroll, J.; Carter, Coles, Constantine, Cote, Curran, Dellert, Dexter, Dipietro, Donald, Dutremble, L.; Farnum, Farren, Foss, Foster, Garland, Gould, R. A.; Greenlaw, Hale, Hanley, Hastings, Hepburn, Hichborn, Hickey, Higgins, Hussey, Hutchins, Jackson, Jalbert, Kilkelly, LaPointe, Larrivee, Lebowitz, Libby, Look, Lord, MacBride, Macomber, Manning, Marsano, Marsh, Marston, Martin, H.; McCormick, McPherson, McSweeney, Merrill, Moholland, Murphy, Norton, O'Gara, Paradis, E.; Parent, Paul, Pendleton, Pines, Plourde, Reed, Richards, Ridley, Seavey, Sheltra, Small, Smith, Stevens, A.; Stevenson, Strout, B.; Strout, D.; Tammaro, Telow, Tupper, Webster, M.; Wentworth, Whitcomb.

ABSENT - Crowley, Farnsworth, Pouliot, Richard, Rolde, Sherburne, Townsend.

Yes, 61; No, 82; Absent, 7; Vacant, 1; Paired, 0; Excused, 0.

61 having voted in the affirmative and 82 in the negative with 7 being absent and 1 vacant, the motion did not prevail.

Subsequently, the Minority "Ought Not to Pass" Report was accepted in concurrence.

**Non-Concurrent Matter**

Bill "An Act Making It Illegal to Possess Lobsters Caught Illegally" (H.P. 693) (L.D. 945) which was passed to be engrossed as amended by Committee Amendment "A" (H-458) in the House on June 12, 1989.

Came from the Senate passed to be engrossed as amended by Senate Amendment "A" (S-261) in non-concurrence.

The House voted to recede and concur.

**Non-Concurrent Matter**

An Act to Strengthen Criminal Drug Laws in the State by Allowing Forfeiture of Firearms and Other Dangerous Weapons (H.P. 826) (L.D. 1158) (C. "A" H-336) which was passed to be enacted in the House on June 8, 1989.

Came from the Senate passed to be engrossed as amended by Committee Amendment "A" (H-336) and Senate Amendment "A" (S-258) in non-concurrence.

The House voted to recede and concur.

**Non-Concurrent Matter**

Bill "An Act Concerning Compensation for Sunday Employment" (H.P. 1040) (L.D. 1451) on which the Majority "Ought to Pass" as amended Report of the Committee on Labor was read and accepted and the Bill

passed to be engrossed as amended by Committee Amendment "A" (H-498) in the House on June 13, 1989.

Came from the Senate with the Minority "Ought Not to Pass" Report of the Committee on Labor read and accepted in non-concurrence.

The House voted to Insist.

**Non-Concurrent Matter**

An Act to Provide a Secure Treatment Facility at the Maine Youth Center (S.P. 90) (L.D. 95) which was passed to be enacted in the House on June 9, 1989.

Came from the Senate passed to be engrossed as amended by Senate Amendment "A" (S-272) in non-concurrence.

The House voted to recede and concur.

**Non-Concurrent Matter**

Bill "An Act to Reduce the Potential for Violence During Labor Disputes" (H.P. 292) (L.D. 404) which was passed to be engrossed as amended by Committee Amendment "A" (H-417) in the House on June 9, 1989.

Came from the Senate passed to be engrossed as amended by Committee Amendment "A" (H-417) and Senate Amendment "A" (S-262) in non-concurrence.

The House voted to recede and concur.

**Non-Concurrent Matter**

Bill "An Act to Prohibit Cemetery Corporations and Associations from Soliciting Prearranged Burials and Burial Business" (H.P. 1127) (L.D. 1570) on which the Minority "Ought to Pass" Report of the Committee on Business Legislation was read and accepted and the Bill passed to be engrossed in the House on June 13, 1989.

Came from the Senate with the Majority "Ought Not to Pass" Report of the Committee on Business Legislation read and accepted in non-concurrence.

The House voted to recede and concur.

**COMMUNICATIONS**

The following Communication:

STATE OF MAINE  
SUPREME JUDICIAL COURT  
PORTLAND, MAINE 04112  
June 13, 1989

The Honorable John L. Martin

Speaker of the House

State House

Augusta, ME 04333

Dear Mr. Speaker:

Acting pursuant to the provisions of section 3 of article VI of the Maine Constitution, the Justices of the Supreme Judicial Court herewith submit their response to the "House Order Propounding Questions of the Supreme Judicial Court" adopted on May 16, 1989.

Sincerely yours,  
S/Vincent L. McKusick

**ANSWERS OF THE JUSTICES**

To the Honorable House of Representatives of the State of Maine:

In compliance with the provisions of section 3 of article VI of the Constitution of Maine, we, the undersigned Justices of the Supreme Judicial Court, have the honor to submit the following responses to the questions propounded on May 16, 1989.

QUESTION NO. 1: Do the provisions of this bill allowing the use of municipal tax revenues for the purposes set out therein violate the "public purpose" limitation of the Constitution of Maine, Article IV, Part Third, Section 1?



We answer Question No. 1 in the affirmative. The legislative power under Article IV, Part Third, Section 1, of the Maine Constitution includes the power to tax, but only to the extent that the tax revenues are spent for public purposes. See Common Cause v. State, 455 A.2d 1, 8 (Me. 1983). The maintenance at taxpayer expense of privately owned roads as defined in L.D. 383 would be an unconstitutional appropriation of public funds for the benefit of the private property owners.

The public's access to "privately owned roads" as defined by L.D. 383 is both uncertain and potentially transitory. By the definition in the proposed section 3106(2), "the public has no legal right of travel" over any privately owned road on which the bill would authorize the expenditure of public funds. Any possible consent by the private owners to the public's use of the road at most would arise only by inference from the absence, at the time of expenditure, of any barrier or sign "hav(ing) the effect of discouraging public travel." But even that questionable implicit consent could disappear at the whim of owners who subsequently put up a "no trespassing" sign or similar barrier. Any indirect public benefits derived from the proposed public expenditures upon private roads from which the public is or may be barred are outweighed by the public detriment. See Common Cause v. State, 455 A.2d at 25. We have no occasion to comment on the validity of a general statute addressing the maintenance of access to private property for the use of emergency vehicles.

**QUESTION NO. 2:** Do the provisions of this bill, allowing a municipality by vote of its legislative body to assess the users of a right-of-way for the maintenance of that way, violate any provision of the United States Constitution or the Constitution of Maine?

We construe the term "users of a right-of-way" in Question No. 2 to be the equivalent of "those persons who possess a right-of-way to use the privately owned road" who under L.D. 383 could be assessed to pay municipal costs of maintaining that road. We answer Question No. 2 in the affirmative for essentially the same reasons as Question No. 1. For the special assessment that would be authorized by L.D. 383 to be valid, it must involve both a public purpose and a special benefit to the persons to be assessed over and above that accruing to the public. See City of Auburn v. Paul, 84 Me. 212, 215, 24 A. 817, 818 (1892); Montgomery County v. Schultze, 302 Md. 481, 489, 489 A.2d 16, 20 (1985). As we state in our answer to Question No. 1, maintenance of privately owned roads as contemplated in L.D. 383 does not meet the public purpose test.

Because of the absence of a public purpose, an involuntary assessment under L.D. 383 to pay for maintenance costs on a privately owned road would be invalid. L.D. 383 would authorize a municipality to require the owners of a privately owned road, over which the public has neither taken nor been given any public rights, to pay the municipal costs of maintaining their private road. The owners would be required to bear those costs even though some or all of them did not wish the road maintained by the municipality at all, or did not wish it maintained in the way elected by the municipality. The assessment system that would be authorized by L.D. 383 is not the voluntary contractual arrangement upheld by the New Hampshire Supreme Court in Clapp v. Town of Jaffrey, 97 N.H. 456, 91 A.2d 464 (1952), by which the private owners of the road contracted for municipal services. Imposing the proposed assessment on those owners whose private road the municipality

maintained against their will would violate the Due Process Clauses of both Constitutions. Me. Const. Art. I, sub-section 6-A; U.S. Const. amend. XIV.

**QUESTION NO. 3:** Do the restrictions in the definition of a "privately owned road" contained in the bill violate any provision of the United States Constitution or the Constitution of Maine? We construe Question No. 3 to address the constitutionality under the Equal Protection Clauses of the Maine and the United States Constitutions of the definitional limitation of "privately owned roads" to those that "serve as the primary means of access and egress to 2 or more private year-round residences." We conclude that if L.D. 383 were otherwise constitutional, that limitation would not contravene the constitutional requirements of equal protection of the laws. Under either the Fourteenth Amendment or section 6-A of the Maine Declaration of Rights, exercises of the police power that do not infringe on fundamental rights or implicate a suspect classification are subject to only a rational basis scrutiny. See Town of Kittery v. Campbell, 455 A.2d 30, 34 (Me. 1983). If the municipal expenditures under L.D. 383 passed constitutional muster as being for a public purpose, it would not violate the Equal Protection Clause of either Constitution to limit those expenditures to private roads that at the minimum serve more than one year-round home.

Dated: June 13, 1989

S/Vincent L. McKusick  
Chief Justice  
S/David G. Roberts  
S/Daniel E. Wathen  
S/Caroline D. Glassman  
S/Robert W. Clifford  
S/D. Brock Hornby  
S/Samuel W. Collins, Jr.  
Associate Justices

Was read and ordered placed on file.

The following Communication:  
INTERDEPARTMENTAL COUNCIL  
STATE HOUSE STATION #146  
AUGUSTA, MAINE 04333  
June, 1989

Honorable John L. Martin  
Speaker of the House  
State House Station 2  
Augusta, Maine 04333  
Dear Speaker Martin:

We are pleased to transmit to you this first annual report on the Committee for the Interdepartmental Coordination of Services to Children and Families, in accordance with Chapter 181.

The State of Maine has over a ten-year history of interagency collaboration. Members of the Interdepartmental Council, or IDC, as it is known, share a concern with the Legislature and the people of Maine for the well-being of our children and families in need. We believe that the IDC provides a valuable, cost-effective method to support the delivery of services to Maine's most needy children and families, and we remain committed to work together to provide the most effective system of quality services.

Sincerely,

S/Eve M. Bither  
Commissioner  
Educational & Cultural Services  
S/Rollin Ives  
Commissioner  
Human Services

S/Donald Allen  
Commissioner  
Corrections  
S/Susan B. Parker  
Commissioner  
Mental Health &  
Mental Retardation

Was read and with accompanying report ordered placed on file.

On motion of Representative Gwadosky of Fairfield, the following was removed from the Tabled and Unassigned matters:

An Act to Clarify Maintenance of Private Roads and Way by Municipalities (H.P. 271) (L.D. 383)

TABLED - May 8, 1989 by Representative Gwadosky of Fairfield.

PENDING - Passage to be Enacted.

On motion of Representative Joseph of Waterville, L.D. 383 and all its accompanying papers were indefinitely postponed. Sent up for concurrence.

The following Communication:

STATE OF MAINE  
ONE HUNDRED AND FOURTEENTH LEGISLATURE  
COMMITTEE ON LABOR

June 13, 1989

President Pray  
Speaker Martin  
State House  
Augusta, ME 04333

Dear President Pray and Speaker Martin:

The Subcommittee on Rehabilitation to study the use of vocational rehabilitation and retraining under the Workers' Compensation Act is pleased to submit its report to the Legislature pursuant to P.L. 1987, c. 779.

Sincerely,  
S/Rep. Richard P. Ruhlin,  
Chair

Was read and with accompanying report ordered placed on file.

**REPORTS OF COMMITTEES**

**Pursuant to Joint Rule 22**

From the Committee on Labor on Bill "An Act to Promote the Prompt and Peaceful Settlement of Labor Disputes" (EMERGENCY) (H.P. 555) (L.D. 753) (Received by the Clerk of the House on June 13, 1989 pursuant to Joint Rule 22.)

Subsequently, L.D. 753 was indefinitely postponed. Sent up for concurrence.

**CONSENT CALENDAR**

**First Day**

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

(S.P. 122) (L.D. 188) Bill "An Act Relating to Workers' Compensation Insurance" Committee on Banking and Insurance reporting "Ought to Pass" as amended by Committee Amendment "A" (S-264)

(S.P. 519) (L.D. 1426) Bill "An Act Relating to Certain Proprietary Information of Insurance Agents and Brokers" Committee on Banking and Insurance reporting "Ought to Pass" as amended by Committee Amendment "A" (S-263)

(S.P. 561) (L.D. 1564) Resolve, Creating the Special Commission to Study and Evaluate the Status of Education Reform in Maine (EMERGENCY) Committee on Education reporting "Ought to Pass" as amended by Committee Amendment "A" (S-266)

(S.P. 585) (L.D. 1647) Bill "An Act to Amend the Mandatory Shoreland Zoning Law" Committee on Energy and Natural Resources reporting "Ought to Pass" as amended by Committee Amendment "A" (S-267)

Under suspension of the rules, Second Day Consent Calendar notification was given, the Senate Papers were passed to be engrossed as amended in concurrence.

(S.P. 151) (L.D. 271) Bill "An Act to Require Liquor Sellers' Permits" Committee on Legal Affairs reporting "Ought to Pass" as amended by Committee Amendment "A" (S-265)

On motion of Representative Marsh of West Gardiner, was removed from the Consent Calendar, First Day.

The SPEAKER: The Chair recognizes the Representative from West Gardiner, Representative Marsh.

Representative MARSH: Mr. Speaker, I would like to pose a question through the Chair.

Does this bill, as written and amended, include locally-owned Ma and Pa stores, so-called?

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

The Chair recognizes the Representative from Brunswick, Representative Priest.

Representative PRIEST: Mr. Speaker, Ladies and Gentlemen of the House: I move that the House accept the Committee Report.

The question as I understand it was, does this include retail employees in grocery stores? The answer is, if they sell liquor or they sell wine or beer, yes. If they do not sell beer and wine, the answer is no.

Subsequently, the Committee Report was accepted, the Bill read once.

Committee Amendment "A" (S-265) was read and adopted and the Bill assigned for second reading later in today's session.

(S.P. 628) (L.D. 1722) Bill "An Act Modifying the Territory of the Lucerne-in-Maine Village Corporation" (EMERGENCY) Committee on State and Local Government reporting "Ought to Pass"

(S.P. 534) (L.D. 1469) Resolve, to Establish the School Organization Study Committee Committee on Education reporting "Ought to Pass" as amended by Committee Amendment "A" (S-270)

Under suspension of the rules, Second Day Consent Calendar notification was given, the Senate Papers were passed to be engrossed or passed to be engrossed as amended in concurrence.

**PASSED TO BE ENGROSSED**

RESOLUTION, Proposing an Amendment to the Constitution of Maine to Commit State Support of Affordable Housing (H.P. 1255) (L.D. 1754)

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

**PASSED TO BE ENACTED**

**Emergency Measure**

An Act to Provide for State Sharing of Certain Minor Capital Costs (S.P. 82) (L.D. 83) (S. "A" S-249 to C. "A" S-238)

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. 109 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 Permit Law Enforcement Officers to Solicit Funds for a Law Enforcement Officers' Memorial (S.P. 154) (L.D. 274) (H. "B" H-451 to C. "A" S-161)

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. 109 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 Amend the Banking Code (S.P. 635) (L.D. 1726) (H. "A" H-477)

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. 111 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 Making Unified Appropriations and Allocations for the Expenditures of State Government and Highway Funds Law Necessary to the Proper Operations of State Government for the Fiscal Years Ending June 30, 1990 and June 30, 1991 (H.P. 114) (L.D. 151) (H. "A" H-447 to C. "A" H-384)

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. 112 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.

**ENACTOR**  
**Emergency Measure**  
**Later Today Assigned**

An Act Amending Various Licensure Laws of Boards and Commissions within the Department of Professional and Financial Regulation (H.P. 225) (L.D. 305) (C. "A" H-404)

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

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

**PASSED TO BE ENACTED**  
**Emergency Measure**

An Act Making Unified Appropriations and Allocations for the Expenditures of State Government, Alcoholism Prevention, Education, Treatment and Research Funds, and Changing Certain Provisions of the Law Necessary to the Proper Operations of State Government for the Fiscal Years Ending June 30, 1990, and June 30, 1991 (H.P. 563) (L.D. 761) (C. "A" H-413)

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

emergency measure, a two-thirds vote of all the members elected to the House being necessary, a total was taken. 113 voted in favor of the same and none against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

**ENACTOR**  
**Emergency Measure**  
**Later Today Assigned**

An Act Relating to Sales Tax Exemptions and Revenues (H.P. 975) (L.D. 1353) (C. "A" H-446)

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

Representative Tracy of Rome requested a roll call.

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

Representative FOSS: Mr. Speaker, Ladies and Gentlemen of the House: I hope you will join me today in rejecting the bill before you. L.D. 1353 includes a new sales tax on video rentals and video rental equipment. I recognize that this bill is a unanimous committee report out of the Taxation Committee. I do respect the committee process and I understand the fragile nature of unanimous reports.

However, because I oppose this new tax, I feel compelled to speak against the bill. Last Friday, the amended version of L.D. 1353 arrived on our desks and I requested that it be tabled so I could have time to prepare an amendment. This courtesy was denied, therefore I ask that you vote against the entire bill today.

My research since last Friday has produced some interesting information I would like to share with you. L.D. 1353 imposes a new tax on videos. Some of you might support this new tax if it were used to increase the amount of available property tax relief. In fact, since the Taxation Committee has stated over and over in public hearings throughout the state that its number one priority is property tax relief, I fully expected the revenues from this new tax would be added to the \$23 million already set aside for the Appropriations Committee for property tax relief. However, this is not the case.

L.D. 1353 creates a new tax and it also creates 11 new sales tax exemptions. Let me read you the list of those exemptions: semi-trailers, trade-in equipment, Vietnam veterans' registry, centers for innovation, habitat for humanity, centers for the deaf, state-chartered credit unions, aquaculture, agricultural sod equipment and the scouts.

Surely these exemptions should compete with all the other critical issues that require funding this session, like property tax relief, homebased care for the elderly, solid waste, the head-injured, affordable housing, health care access and many others.

The issue before us today does not revolve around the benefits of the proposed tax exemptions in this bill. I understand that many of you support the scouting exemption or the agricultural exemption or the trade-in equipment exemption or any one of the others but the real issue, however, is we are imposing a new tax on video rentals to pay for those exemptions. In my opinion, these exemptions should compete in the open, in the sunshine for funding. If they are worthy, they do not need a special protection of a new tax.

L.D. 1353 raises \$6.2 million with the understanding that part of it will be used to buy some new tax exemptions. I oppose the new tax on video rentals for many of our citizens videos are their only weekly entertainment. Why should those

citizens subsidize the sales tax exemptions of special interest groups?

The recent decline in sales tax revenues indicates that the citizens of Maine are reducing their spending and becoming more conservative. It seems unfair for us to impose a new tax on them so that state government can increase its spending.

I hope you will join me in voting against this new tax.

The SPEAKER: The Chair recognizes the Representative from Fairfield, Representative Gwadosky.

Representative GWADOSKY: Mr. Speaker, Ladies and Gentlemen of the House: I would like to pose a question through the Chair.

Representative FOSS mentioned that she would like to put this bill in a position to offer an amendment and I would like to pose the question to Representative FOSS as to what that amendment would do and how she would like to have that amendment read?

The SPEAKER: Representative Gwadosky of Fairfield has posed a question through the Chair to Representative FOSS of Yarmouth who may respond if she so desires.

The Chair recognizes that Representative FOSS: Mr. Speaker, Ladies and Gentlemen of the House: I did not suggest that I would be amenable to an amendment, I stated that I do oppose the tax and I also oppose the spending limits in the proposal.

On motion of Representative Gwadosky of Fairfield, tabled pending passage to be enacted and later today assigned. (Roll call requested)

**PASSED TO BE ENACTED  
Emergency Measure**

An Act to Amend the Real Estate Brokerage License Laws (H.P. 1068) (L.D. 1490) (C. "A" H-421)

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. 109 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 Public Water Supplies in the Mid-coast Area (H.P. 1202) (L.D. 1672) (H. "A" H-448 to C. "A" H-340)

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. 115 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 Relating to Periodic Justification of Programs of State Government under the Maine Sunset Laws (H.P. 1218) (L.D. 1690) (C. "A" H-412)

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. 107 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**

Resolve, to Establish a Blue Ribbon Task Force to Promote Equity of Opportunity for Women in the Public School System (S.P. 389) (L.D. 1034) (H. "A" H-467 to C. "A" S-175)

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. 108 voted in favor of the same and 1 against and accordingly the Resolve was finally passed, signed by the Speaker and sent to the Senate.

**PASSED TO BE ENACTED**

An Act to Establish the Mental Health Advisory Committee on Medicaid (S.P. 467) (L.D. 1252) (H. "A" H-434 to C. "A" S-184)

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

The SPEAKER: The Chair recognizes the Representative from Gardiner, Representative DELLERT.

Representative DELLERT: Mr. Speaker, Ladies and Gentlemen of the House: I move that L.D. 1252 and all its accompanying papers be indefinitely postponed.

This bill is in direct conflict with one of the fundamental missions of the Medicaid single state agency. Medicaid, as you know, spends vast sums on purchasing health insurance, health care services. The bureau struggles all the time to allocate limited resources to its clients. L.D. 1252 would establish a precedent by forming an advisory group for one such category of service. Once established, there is no rational argument why all the other 38 Medicaid categories of service should not also have an advisory committee. We are having a proliferation of advisory committees rather than trying to work out some of the problems with the various agencies. There is a Medicaid Advisory Committee in the department which reviews proposed rulemaking and legislative activities. It would be far better to seek additional members on this committee than propose a new Medicaid Advisory Committee for mental health. I hope you vote against this bill.

I ask for a roll call.

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

Representative MANNING: Mr. Speaker, Ladies and Gentlemen of the House: I don't think I have to tell this House the problems that we have been dealing with in mental health throughout the whole state, let alone the AMHI situation.

This was a bill that was brought in by the people who deal with the communities who want to be able to maximize to the greatest extent the dollars that are spent in the communities. On many occasions, I have heard the message loud and clear from the Governor of the State of Maine and the Commissioner of the State of Maine that they want to maximize the state dollars.

This particular piece of legislation will set up a mental health advisory committee for Medicaid so that we can find out the best ways to maximize our dollars in mental health. If we don't want to do that and we want to spend our money differently, then fine and dandy, but I think this bill isn't going to cost the state anything. The Department has already indicated it is a wash and that they can utilize it with existing funds. There will be an amendment put on taking off the appropriation later on today. I think it is a good bill. Yes, it might be the start of a number of groups but the group that I think is

the most important group at this stage of the game is the group dealing with mental health in the community and I think we should all go along and vote for this.

This was a majority committee report and I hope you go against the indefinite postponement.

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

Representative HEPBURN: Mr. Speaker, Ladies and Gentlemen of the House: I just want to say a few words here in support of the motion to indefinitely postpone this bill.

We do have a Medicaid Advisory Committee now, as was stated by the Representative from Gardiner. It is the advisory committee that makes those choices and acts as the umbrella advisory committee for all of the Medicaid categories. Now, probably a lot of you don't realize this, I didn't realize until I was on the committee, but there are 38 different Medicaid categories. They are all served now under that same umbrella advisory committee. If we enact this bill, we will set aside for the mental health community a special advisory committee just for them. Then, the 37 other categories will have no advisory committee and will have to go through the umbrella committee.

Folks, I think this is a real Pandora's box we are opening here. If we enact this bill, then we are going to see an avalanche of legislation in the next legislative session for all the other Medicaid groups who rightfully will point to our actions this year and say "Gee, you established an advisory committee for the mental health folks, what about us?" What will be our argument? What will we say? Well, I guess you are right, we will have 38 advisory committees, all with their own separate little systems fighting against each other and we won't have any kind of a coordinated focused approach to how we are going to spend our \$324 million that we spend on Medicaid every year. I think it is a bad way to go, I think we have got a good advisory committee now that looks over the entire system and I think we should keep it that way.

The SPEAKER: The Chair recognizes the Representative from South Portland, Representative Anthony.

Representative ANTHONY: Mr. Speaker, I request permission to ask a question of the Chair.

Was this a unanimous committee report?

Subsequently, the Committee Report was read by the Clerk.

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 Dellert of Gardiner that this bill and all accompanying papers be indefinitely postponed. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 81

YEA - Aikman, Anderson, Ault, Bailey, Begley, Bolland, Carroll, J.; Curran, Dellert, DiPietro, Donald, Farnum, Farren, Foss, Foster, Garland, Greenlaw, Hanley, Hastings, Hepburn, Higgins, Hutchins, Jackson, Lebowitz, Libby, Look, Lord, MacBride, Marsano, Marsh, Martin, H.; McCormick, McPherson, Merrill, Murphy, Norton, Paradis, E.; Parent, Pendleton, Pines, Reed, Richards, Seavey, Small, Stevens, A.; Stevenson, Strout, B.; Telow, Tupper, Webster, M.; Wentworth, Whitcomb.

NAY - Adams, Aliberti, Allen, Anthony, Bell, Boutilier, Brewer, Burke, Carroll, D.; Carter, Cashman, Cathcart, Chonko, Clark, H.; Clark, M.; Coles, Conley, Constantine, Cote, Daggett, Dore, Duffy, Dutremble, L.; Erwin, P.; Farnsworth, Gould, R. A.; Gurney, Gwadosky, Hale, Handy, Heeschen, Hickey, Hoglund, Holt, Hussey, Jacques, Jalbert, Joseph, Ketover, Kilkelly, LaPointe, Larrivee, Lawrence, Lisnik, Luther, Macomber, Mahany, Manning, Marston, Mayo, McGowan, McHenry, McKeen, McSweeney, Melendy, Michaud, Mills, Mitchell, Moholland, Nadeau, G. R.; Nutting, O'Dea, O'Gara, Oliver, Paradis, J.; Paradis, P.; Pederson, Pineau, Plourde, Pouliot, Priest, Rand, Ridley, Rolde, Rotondi, Ruhlin, Rydell, Sheltra, Simpson, Skoglund, Smith, Stevens, P.; Swazey, Tammaro, Tardy, Tracy, Walker, The Speaker.

ABSENT - Crowley, Dexter, Graham, Hichborn, Nadeau, G. G.; Paul, Richard, Sherburne, Strout, D.; Townsend.

Yes, 52; No, 88; Absent, 10; Vacant, 1; Paired, 0; Excused, 0.

52 having voted in the affirmative, 88 in the negative, 10 being absent and 1 vacant, the motion to indefinitely postpone did not prevail.

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

PASSED TO BE ENACTED

An Act to Provide Adult Day Care Through Long-term Care Facilities and Other Community Sites (S.P. 110) (L.D. 165)

An Act to Provide for Continued Group Health Insurance Coverage to Certain Injured Employees (S.P. 142) (L.D. 262) (C. "A" S-237)

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.

ENACTOR  
(Reconsidered)

An Act to Clarify the Law Concerning Retired Teachers' Health Insurance and to Compensate Retired Teachers Who Are Ineligible for That Insurance (S.P. 337) (L.D. 898) (C. "A" S-221)

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

On motion of Representative Hickey of Augusta, under suspension of the rules, the House reconsidered its action whereby L.D. 898 was passed to be engrossed.

On further motion of the same Representative, under suspension of the rules, the House reconsidered its action whereby Committee Amendment "A" (S-221) was adopted.

The same Representative offered House Amendment "A" (H-480) to Committee Amendment "A" (S-221) and moved its adoption.

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

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

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

ENACTOR

Later Today Assigned

An Act Dealing with Removal of Dislodged Lobster Gear (S.P. 419) (L.D. 1130) (C. "A" S-234)

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

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

**PASSED TO BE ENACTED**

An Act Relating to School Construction (S.P. 459) (L.D. 1244) (C. "A" S-230)

An Act Concerning Fines Collected by the Courts (S.P. 551) (L.D. 1522) (C. "A" S-228)

An Act to Enhance the Management of the Fish and Game Resources of the State of Maine (H.P. 16) (L.D. 8) (C. "A" H-410)

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.

**ENACTOR**

**Later Today Assigned**

An Act to Improve Compliance with Truck Weight Limits (H.P. 36) (L.D. 36) (S. "B" S-242 and H. "A" H-420 to C. "A" H-277)

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

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

**PASSED TO BE ENACTED**

An Act Concerning Pilferage of Shopping Carts and Bakery and Dairy Product Containers (H.P. 106) (L.D. 143) (H. "B" H-466 to C. "A" H-292)

An Act to Prohibit the Establishment of Maximum Limit Reimbursement for Adjustments to the Prospective Rate for Nursing Staff Wages (H.P. 154) (L.D. 206) (C. "A" H-436)

An Act to Amend Certain Provisions of the Marine Resources Laws (H.P. 201) (L.D. 281) (C. "A" H-441)

An Act to Reduce the Lobster and Crab Fishing License Fee for Persons 70 Years of Age or Older (H.P. 342) (L.D. 461) (C. "A" H-414)

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.

**PASSED TO BE ENACTED**

An Act to Increase the Price Farmers Receive for Milk (H.P. 443) (L.D. 608) (H. "B" H-435 to C. "A" H-416)

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

The SPEAKER: The Chair recognizes the Representative from Waldo, Representative Whitcomb.

Representative WHITCOMB: Mr. Speaker, Men and Women of the House: I wish to state on the Record that this proposed legislation has no direct effect or benefit to myself, my family, my family's farm or any of the farms that sell to our small farmer cooperatives based out of Ellsworth.

I was asked by a group of dairy farmers to sponsor this bill that would prevent milk processing companies from using a 1950's rule to deduct excessive transportation costs from their checks. The sponsors of this bill, the Representative from Leeds, the Representative from Unity and myself, through this legislation, are urging the Maine Milk Commission to address a situation that may be unfairly lowering the price which most Maine farmers

receive for their product while not providing any benefit whatsoever to the consumers.

We want the Record to clearly state that the sponsors of this legislation and this legislature understand that the purpose of the original rule, which this bill addresses, was to provide relief in occasional emergency situations and not to be used in everyday situations.

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

**PASSED TO BE ENACTED**

An Act to Create a Northeast Interstate Dairy Compact (H.P. 614) (L.D. 837) (H. "A" H-450 to C. "A" H-374)

An Act to Establish Disability Retirement Benefits for Members of the Maine State Retirement System (H.P. 716) (L.D. 977) (C. "A" H-400)

An Act to Include the Unorganized Territory in Statutes Granting Minimum Subsidies for Education (H.P. 727) (L.D. 1004) (C. "A" H-424)

An Act to Require Distributor Reports on Bottle Deposits (H.P. 787) (L.D. 1099) (C. "A" H-438)

An Act to Allow Municipal Clerks to Inspect Sample Ballots before Election Day (H.P. 794) (L.D. 1106) (C. "A" H-398)

An Act Criminalizing the Unlawful Possession of Schedule Z Drugs (H.P. 798) (L.D. 1110) (C. "A" H-415)

An Act to Provide Adjustments in the Educational Funding Formula (H.P. 836) (L.D. 1168) (C. "A" H-437)

An Act to Adapt the Maine Milk Pool Law to Potential Changes in Milk Pricing (H.P. 844) (L.D. 1176) (C. "A" H-440)

An Act to Create a New Crop and Livestock Research and Development Program (H.P. 869) (L.D. 1208) (C. "A" H-442)

An Act to Prevent, Punish and Remedy Violations of Constitutional Rights (H.P. 896) (L.D. 1253) (C. "A" H-325; H. "A" H-363 and S. "A" S-236)

An Act to Require Municipalities to Leave the Names of Women Who Marry on Voting Registration Records (H.P. 961) (L.D. 1339) (C. "A" H-397)

An Act to Increase the Penalty for Illegal Netting of Atlantic Salmon (H.P. 979) (L.D. 1357) (C. "A" H-425)

An Act to Amend the Law Concerning Taxing of Costs in Civil Actions (H.P. 980) (L.D. 1358) (C. "A" H-427)

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.

**ENACTOR**

**Later Today Assigned**

An Act to Amend the Laws Relating to Small Claims (H.P. 1007) (L.D. 1405) (C. "A" H-396)

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

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

**ENACTOR**

**Later Today Assigned**

An Act to Establish the Child Welfare Advisory Committee and to Redesignate the Bureau of Social Services as the Bureau of Child and Family Services (H.P. 1024) (L.D. 1425) (C. "A" H-393 and H. "A" H-418)

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

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

**ENACTOR**

**Later Today Assigned**

An Act to Revise the Communicable Disease Law (H.P. 1122) (L.D. 1554) (C. "A" H-408)

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

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

**PASSED TO BE ENACTED**

An Act to Protect the Identity of Juveniles Prior to Filing of Petition (H.P. 1158) (L.D. 1612) (C. "A" H-428)

An Act to Facilitate District Court Judicial Administration (H.P. 1192) (L.D. 1659) (C. "A" H-426)

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.

**FINALLY PASSED**

Resolve, to Study the Feasibility of Establishing a Piscataqua River Basin Compact between Maine and New Hampshire (S.P. 496) (L.D. 1370) (S. "A" S-244 to C. "A" S-185)

Resolve, to Provide Respite Care Services for Families of the Mentally Ill (H.P. 1042) (L.D. 1453) (C. "A" H-395)

Resolve, Concerning Africanized Bees (H.P. 1055) (L.D. 1477) (C. "A" H-405)

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

(At Ease)

The House was called to order by the Speaker.

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

**PASSED TO BE ENGROSSED**

**As Amended**

Bill "An Act to Amend the Liquor Laws Relating to Wine Tasting" (S.P. 485) (L.D. 1327) (S. "A" S-271 to C. "A" S-252)

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

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

**CONSENT CALENDAR**

**First Day**

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

(H.P. 1153) (L.D. 1607) Bill "An Act to Permit Release of Treatment Records in Certain Cases" Committee on Judiciary reporting "Ought to Pass" as amended by Committee Amendment "A" (H-513)

(H.P. 1225) (L.D. 1697) Bill "An Act to Protect Tenant's Rights by Authorizing Municipalities to Escrow Certain Funds under the General Assistance

Laws" Committee on Legal Affairs reporting "Ought to Pass" as amended by Committee Amendment "A" (H-514)

Under suspension of the rules, Second Day Consent Calendar notification was given, the House Papers were passed to be engrossed as amended and sent up for concurrence.

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

**PAPERS FROM THE SENATE**

**Unanimous Leave to Withdraw**

Report of the Committee on Labor reporting "Leave to Withdraw" on Bill "An Act to Ensure Proper Payment of Fringe Benefit Contributions for Construction Workers" (S.P. 334) (L.D. 895)

Report of the Committee on Labor reporting "Leave to Withdraw" on Bill "An Act Concerning the Workers' Compensation Laws" (S.P. 638) (L.D. 1730)

Report of the Committee on State and Local Government reporting "Leave to Withdraw" on Bill "An Act to Change the Status of a Newly Established Position" (S.P. 644) (L.D. 1736)

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

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

**SECOND READER**

**As Amended**

**(Indefinitely Postponed)**

Bill "An Act to Require Liquor Sellers' Permits" (S.P. 151) (L.D. 271) (C. "A" S-265)

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

The SPEAKER: The Chair recognizes the Representative from Belfast, Representative Marsano.

Representative MARSANO: Mr. Speaker, Ladies and Gentlemen of the House: This bill, as I understand it, would require every waitress in the State of Maine to have a permit to carry drinks to a table, every waiter would be required to have a permit in order to do that. All of the Mom and Pop stores who have whatever number of employees who sell either wine or beer, they would also have to have these kind of permits. It strikes me that this is a terrible invasion by the state into this area. I hope that this bill will be defeated.

I would ask for a roll call on this when the vote is taken because I intend to vote against this bill.

The SPEAKER: The Chair recognizes the Representative from Brunswick, Representative Priest.

Representative PRIEST: Mr. Speaker, Men and Women of the House: I think this bill, which has been carefully worked by the Legal Affairs Committee, and which is the result of a lot of study in this area, needs some explanation. Let me make that explanation to you at this time.

This bill will do two things and that is it will help ensure that new liquor licensees and new employees who sell retail are educated in serving liquor and selling liquor in a safe manner.

It will also hold retail employees who sell liquor, including clerks in grocery stores, including waitresses and waiters, responsible for their actions if they violate the liquor laws, specifically by selling to minors or by selling to people who are intoxicated.

A little background is necessary on this bill. When the 112th Maine Legislature enacted the Maine Liquor Liability Act, education of retail employees was an important part of that act. The act itself, as you will recall, limits the liability of liquor licensees, that is owners of stores that sell beer and wine, owners of agency stores and restaurants, to \$250,000 if in fact one of their employees serves someone who is intoxicated and that person goes out and kills someone on the road. If they get sued, the limitation of their liability is \$250,000 excluding medical costs. No other industry in this state has that exemption, that limitation, that cap. It was done specifically because the liquor industry said that without that cap it couldn't exist any longer, they could not get insurance. This legislature accepted that compromise. It accepted the compromise on the condition that the liquor industry educate their employees so that we didn't have sales to minors and we didn't have sales to people who were intoxicated. Industry promised to do this and the Legal Affairs Committee each year has been asked how many of these retail employees have been educated. The answer, originally, was about 1,000 out of an estimated 30,000 to 80,000. We said, you have got to do better. They said, we will. The next year they came back again. How many people have been educated? 1,400. We said, you have got to do better or we will have to have some sort of mandatory education. How many people are going to be educated? This year, the answer was 2,600. Unfortunately, the industry has not educated its people. It is a result of this failure to educate and the result of continuing sales to minors and continuing sales to intoxicated persons that this bill is proposed for you.

The bill provides for licensees to complete an education course within six months of renewal of their license or by January 1, 1991. The course itself is not burdensome. The course itself is a four to six hour course which enables you to recognize when someone is trying to buy liquor and is intoxicated or when someone is trying to buy liquor and is a minor and how to identify false ID's. The courses are routinely given throughout the country and they are standard in the liquor industry.

The bill also provides for permit fees which will be reduced if a retail employee takes the course. The permit fee would normally be \$10.00 per year. If the course is taken by the retail employees, the fee is \$3.00 per year.

The retail employee does not have to take the course but if he or she takes the course, the fee is reduced. This is not an extraordinary burden to place on someone who sells liquor to people day in and day out. There is a grandfather clause for those who have been in the industry for more than five years, people who work in the industry fewer than five days a year are also exempted from this.

This bill will also hold retail sellers of liquor responsible for their actions. Right now, if a clerk sells to a minor or if a clerk sells to an intoxicated person and there is a violation found, the owner of the store or the restaurant is the one hauled into administrative court and that person pays a fine or in a difficult situation even loses the license. The clerk who is responsible for the violation goes off scot-free and then can find a job in some other area, some other store. No one keeps track, there is no indication of who violates the liquor laws or how often they violate them. The courts can't tell you and no other agency in this government can tell you. In fact, we have received

complaints of clerks who are responsible for selling liquor to minors who go from store to store to store.

This bill will establish a permit system, not a licensing system, only a permit system. It will enable the Bureau of Liquor Enforcement to keep track of who violates the law and will enable the administrative court to make sure the people who violate the law consistently do not stay in the industry. Again, this is a modest fee for the permit, \$3.00 a year. It requires filling out one form and sending it in. We have been very careful not to make this burdensome to the retail licensee, to the owner of the store or the owner of the restaurant. All that has to be done is the person who is going to work in the industry fills out one form and sends in the \$10.00 or \$3.00 if they have had the education and that is it. The permit is transferable, if someone goes from one licensee to another, one store to another, all they have got to do is show the permit to the storeowner and that is all, the person can go to work.

The bill deals, I think, in a reasonable way with the problem of continuing sales to minors and with the problem of continuing sales to intoxicated people. It will help get everybody educated, it will also hold retail employees as responsible as the storeowners and the restaurant owners if there are violations of the law.

Is there going to be a giant bureaucracy erected? That is what I have heard again and again. The answer is, no. The bill itself provides for two clerical positions to help keep track of the liquor permits, two liquor enforcement positions to help educate the people in the liquor industry and to help enforcement and two coordinators to help with the training -- that is six people. There are 5,000 licensees in the state, most of whom get visited once a year, if that. There are anywhere from 30,000 to 80,000 retail sellers of liquor in this state. We don't know how many there are because nobody keeps track. So, six people for that number is not a great deal, certainly not a bureaucracy.

The fears of those who oppose the bill, that this is going to impose a tremendous burden on the industry, I think, are unfounded. The bill itself will deal with the problem of sales to minors, the sales to intoxicated people and deal with it in a reasonable manner -- which is easy to administer.

This legislature has enacted an OUI law and it should have. It seems to me that we need to deal with both problems, not only what happens after someone who is drunk and killed someone, but also deal with the problem of the sale. This bill will help to do that and I would urge you to enact it.

The SPEAKER: The Chair recognizes the Representative from Canaan, Representative McGowan.

Representative MCGOWAN: Mr. Speaker, I would like to pose a question to the Chair of the committee.

As you all know, when I am not in the legislative session, I am the operator of a small family store in the town of Canaan and I do indeed hold a liquor license that I pay to the State of Maine. During the course of business, I have encountered the Bureau of Liquor Enforcement several times, as a matter of fact, more than once during an annual period, sometimes three and four times.

I would like to ask the Representative from Brunswick, Representative Priest, as to how I would determine whether someone is intoxicated when they are standing at my cash register, how would I determine that? Some people, when they consume alcohol, have the ability to hold their liquor very well. As the old saying goes, can indeed stand there with several drinks under their belt and purchase



liquor and a clerk wouldn't be able to tell whether or not that person is intoxicated. How would I tell whether or not someone was intoxicated?

I think there seems to be a mind-set that we are all a bunch of giant conglomerates that are being operated by multi-national corporations. Let me give you an example, my wife recently had a child and usually when I am usually in the legislature she runs our family store but she is now at home with our three children and my father is in the store running the business. He has had several years of retail experience and several years of experience in the beer and wine industry but does not qualify under this law to be exempt from the provision for the course. I would ask the Representative, how do I deal with that because he is a family member and he does work in the store at certain times but he does not come under this exemption for the employees?

I think that, despite the fact that most places in the State of Maine, most retail stores, are owned by the large out-of-state corporations that there are a few of us family businesses left, despite actions of some members of the legislature on some committees. Sometimes I wonder about individuals that have interests in businesses who may work a week, a year, or a couple of months a year to help their family members out or other employees. I know that the Speaker of the House has an interest in a store in Eagle Lake and spends sometimes a couple of days a week in there helping out in retail sales. I am wondering if this exemption applies to him also. I think that there is a bureaucracy growing out of this bill and I would ask the Representative from Brunswick to please address these matters that are important, not only to me, but several family-owned businesses that are still existing in the State of Maine.

The SPEAKER: Representative McGowan of Canaan has posed a question through the Chair to Representative Priest of Brunswick who may respond if he so desires.

The Chair recognizes that Representative.

Representative PRIEST: Mr. Speaker, Men and Women of the House: In response to the good Representative from Canaan, obviously there is no 100 percent way to recognize whether someone is intoxicated. He and I both recognize that there are some people that can hold their liquor so well that you will never know that they are intoxicated until they get out and do something that they shouldn't be doing, but for the majority of people there are signs. There are signs -- if you look at their eyes, whether they are glassy, whether there is a flush in their face, whether they slur their words, how they stand or how they move. There are signs that can be recognized if you are trained to recognize them or if you have a lot of experience in the industry. It is for that reason that we specifically said that those who have been in the industry for five years or longer are not required to take this training and they can get the reduced fee. Certainly their experience will tell them when someone is intoxicated or not. He is right, there is no absolute way to tell whether someone is intoxicated absolutely but there are signs for many people -- at least those people should not be sold alcohol.

As far as the family member, that is a legitimate concern, it is one which the committee tried to meet. Those who work five or fewer days need not get a permit. In other words, if you work for one or two days to help out in the store during holidays, you don't have to have a permit under this system. Those who have been in the business for a long time get the permit at a reduced fee. You can't do away with the

permit entirely because you have got to know who is out there selling liquor and who is not if you are going to keep track of who has the violations and who does not. We tried to make this as least burdensome as possible and I think we have succeeded.

The SPEAKER: The Chair recognizes the Representative from Houlton, Representative Graham.

Representative GRAHAM: Mr. Speaker, Men and Women of the House: I also am involved in a family business and we sell liquor. It is my responsibility as owner of the store to train my employees. I do train my employees not to sell to people who appear to be intoxicated. In eleven years of business, we have had one liquor violation and that was when a minor gave us a false ID.

If the point of this exercise is to prevent alcohol from coming into the possession of minors, then I would suggest two things, (a) that we hire more liquor inspectors since they have been decreasing in numbers over the past few years and (b) before we put this kind of legislation in place that we do a study to find out how it is that minors come into possession of liquor.

I would submit from my observations in my area that they come into possession of liquor because adults buy it for them.

I would also submit that the liquor enforcement officer in my territory is very effective, visits me on numerous occasions, and we get along very, very well. I am in a residential neighborhood and my point to my employees is that I want no violations of the liquor laws. My neighbors are very accommodating to me when I need variances to build on and I do not want to endanger that.

I would also remind everyone that in the last legislature a new law was passed that makes employees also liable if they sell liquor in violation of the law -- up to \$500. I, as that employee's employer, am still liable also and that is the way it should be. The system of putting these permits in, trying to keep track of them, employing six people to do this job, I think, is the wrong way to go about it. I think hiring more liquor enforcement officers and enforcing the laws we have now is the way to go. If anyone is confused on this issue, I will be more than glad to talk to them afterwards.

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

Representative RAND: Mr. Speaker, I would like to pose a question through the Chair.

Are waiters and waitresses obliged to get these permits?

The SPEAKER: Representative Rand of Portland has posed a question through the Chair to any member who may respond if they so desire.

The Chair recognizes the Representative from Brunswick, Representative Priest.

Representative PRIEST: Mr. Speaker, Ladies and Gentlemen of the House: If they serve liquor, the answer is yes. If they do not serve liquor, the answer is no.

The SPEAKER: The Chair recognizes the Representative from Berwick, Representative Murphy.

Representative MURPHY: Mr. Speaker, Ladies and Gentlemen of the House: I believe that this permit is a very important part of our liquor control. I was a member of the 112th who worked on the Maine Liquor Act and that was part of our program, that everyone have some form of training so that they could sell liquor responsibly.

I, too, spent 22 years in a convenience store, Mom and Pop store, and I ran it myself. It was my business, it was not my husband's. It was not in this state, it was across the river in New Hampshire. I

took a course in New Hampshire for this because New Hampshire's retail grocers association of which I was a member, gave this course. I even debated with myself whether I should take the day and go to Manchester to take that course. Well, it was probably one of the best decisions I ever made because I thought I could tell when someone had had a drink or if someone was a minor by checking ID's and make a quick decision. Remember, you make that decision in seconds, it is not something that you can think about for a day or so. What that course teaches you is not only how to check ID's and check for minors but it teaches you that, when someone comes in and has had a few drinks, there are a few mannerisms that almost everyone uses that you can tell. I think one of the most important things that it teaches you is how to handle a situation where a person really gets upset when you refuse to sell them beer or alcoholic beverages and believe me, they do get upset. That teaches you how to handle the situation and I never had a problem with a situation like that. You keep your cool, you take the beer off the counter -- these are things that we were taught.

Back when I was in the business, insurance for selling liquor to someone like that was \$345 a year. That is what I paid. The insurance to these sellers today is thousands of dollars. When we did the liquor act, that was one of the most important things. In fact, Senator Trafton was chairman of the committee and he actually had to fight with the insurance companies to get them to come in and discuss it with us and have them agree to certain things. It has cut down the insurance costs to these sellers. You have got to remember, the sellers of liquor, they are responsible, if someone goes out and kills somebody and they can prove that they have sold them that last drink, they have got a very serious problem. I know of one case in York County where the people took their suitcase and walked out of their home. They lost everything they had. It was still in debate as to whether they actually sold that last drink to that kid or not.

I think that my good chairman from Brunswick, Representative Priest, has explained this bill excellently. I think he has told it exactly the way it is and told how important that we as a committee feel this is to the liquor industry in the State of Maine. I would hope that you would support him and the rest of the Legal Affairs Committee. It was a unanimous report and there was not one of us on there that had a question but what this is a very important part of the Liquor Act.

The SPEAKER: The Chair recognizes the Representative from South Portland, Representative DiPietro.

Representative DIPIETRO: Mr. Speaker, Ladies and Gentlemen of the House: I, too, happen to be one of those people that have a little small Mom and Pop store. What I don't sell, I eat, as you can see.

To get back to the point at hand, you know members of the legislature before us have put a lot of burden on the Mom and Pop stores. We started off many years ago with the sales tax. They make us the collector, we collect the state sales tax, we send it up here and if (God forbid) we should be late, we get penalized for doing that. Meanwhile, we are a collection agency for the state.

Several years after that, they decided to put the bottle bill in and where did they put it, they put it back to the Mom and Pop stores so we now collect bottles. We get paid for it but we also collect bottles. When you collect bottles, you have a tendency to have small little people crawling around in your store, so every week you have got to have an

exterminator come in and exterminate, which is another expense that you have to pick up. Now you are putting another burden on the Mom and Pop stores. It seems to me that this bill that you are trying to put here is for the larger stores. If you keep hitting Mom and Pop, Mom and Pop is going to die. You hear of somebody going out of business all the time because they just can't afford it. The old license that we used to get from the State of Maine used to be \$50, now it is \$125. If you have wine, it is more.

Last night, I sat down and I filled out an application for the federal government so I could have a special license for my beer license. When Ronald Reagan was in office, he never increased taxes but my special license fee went from \$54 to \$250.

What I am saying to you people here today is, if you want to educate us, educate us, we will send our people to get educated, but don't put any more burdens on us with permits. I have kids that work for me two weeks, three weeks, a month, then they leave. I buy a permit, they are gone. If you want them to accept the responsibility of liability, they are saying to me as I talked to them -- does this mean I have to go out and buy an insurance policy? I don't have the money -- if I have to be liable for something I have done in your place. They feel I should be the person that is liable. As some of them say to me, your name is out on the front and you make the big bucks so I think you should take care of the expense.

The SPEAKER: The Chair recognizes the Representative from Milo, Representative Hussey.

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

On the books currently, there is a law that these Mom and Pop stores, if they are like a pizza parlor or sandwich store, that 17-year olds are able to deliver for that particular business and they are able to deliver beer. Who is going to be responsible and what does this bill do if that 17 year old goes and delivers to a house and there is a minor there? Do you know whether he is selling to a minor or delivering to the person that ordered this? What does this bill do to take care of that problem and who is responsible?

The SPEAKER: Representative Hussey of Milo has posed a question through the Chair to any member who may respond if they so desire.

The Chair recognizes the Representative from Brunswick, Representative Priest.

Representative PRIEST: Mr. Speaker, Men and Women of the House: As far as the liability of the licensee for a sale to a minor because one of his employees has taken a case of liquor and delivered it into a minors hand's somewhere else, the bill doesn't change that. Present law forbids sales to minors and obviously that law is interpreted by the courts and regulations of the liquor enforcement commission, the bill doesn't change that. What the bill attempts to do, however, is make the retail employee, if in fact the retail employee commits a violation of law, he can be equally responsible in the administrative court as the owner of the store who employs that person. Right now, although it is true that there are criminal sanctions against clerks who make sales to minors, judges unfortunately are not taking those seriously. The committee has recommended legislation which we have passed to try to increase and make mandatory fines but in fact criminal sanctions are not an effective way to deal with this problem because they haven't worked. It is very difficult to get judges to enforce them uniformly.

This bill will allow retail employees who violate the law be brought into administrative court and they stand to lose their permit. If they are a consistent violator, they will be out of the industry. Right now they are not out of the industry but they will be out of the industry.

While I am up, let me say one more thing. Believe me, if we could have exempted small stores from this act, we certainly would have done so. We can certainly count as well as anyone else as to how many small storeowners there are. We tried to make this as easy as possible for the small storeowner. The small storeowners do not buy the permit under this, the employees themselves buy the permit. But, the testimony before our committee was overwhelming, that in fact most violations happen with small stores, not with large stores, but small stores. It would be irresponsible for us, I am afraid, to exempt out small stores because that is precisely the area where most of our violations happen.

The SPEAKER: The Chair recognizes the Representative from Presque Isle, Representative Lisnik.

Representative LISNIK: Mr. Speaker, Men and Women of the House: I would like to pose an additional question if I may.

Being legally impaired, I am assuming means .08, is that correct?

The SPEAKER: Representative Lisnik of Presque Isle has posed a question through the Chair to any member who may respond if they so desire.

The Chair recognizes the Representative from Brunswick, Representative Priest.

Representative PRIEST: Mr. Speaker, Ladies and Gentlemen of the House: That is correct, if you are operating a motor vehicle.

The SPEAKER: The Chair recognizes the Representative from Presque Isle, Representative Lisnik.

Representative LISNIK: Mr. Speaker, Men and Women of the House: Then I guess what you are saying is, if Representative DiPietro or Representative McGowan have an employee at the store, a 17, 18 year old employee, that you expect them to recognize an individual who walks through that door and according to the chart has had somewhere between four and five drinks. I think that is going to be very, very difficult to do.

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

Representative BELL: Mr. Speaker, Ladies and Gentlemen of the House: When we get into the large stores, I have been managing supermarkets for 33 years. At the end of the year, I had 12 cashiers, six men that ran registers besides 18 people running cash registers. All these years, not once did we ever have any infraction of the law of selling liquor to someone too young or someone that was intoxicated. We have had instances where we had intoxicated people come in, the cashiers refused them, they had a hard time, they called for me and I gently and nicely took them out the door. All these years, we have never had any infractions whatsoever. I have gone to a lot of seminars and most supermarkets have never had that problem.

I have always trained my cashiers through the years, told them what was expected of them when they were selling beer and wine and they followed that right to the letter and we never had a problem.

This bill is, again, one of these mandates that is driving business a little kooky. These are the type of mandates that the retail industry doesn't need. There are enough regulations on the books now to take care of all the problems that you could

foresee. I think this is a bad bill and I urge everybody to vote it down.

The SPEAKER: The Chair recognizes the Representative from Lisbon, Representative Jalbert.

Representative JALBERT: Mr. Speaker, Ladies and Gentlemen of the House: I supported the bill along with the majority of the committee. When the bill first came to us, which was about two months ago, there were many, many sections of it which I and other members of the committee could not support. It just went too far.

One thing that should be brought out is that our main concern is that the young people do get their hands on intoxicating beverages or controlled liquor and that is the only concern that I have. As you probably remember two days ago, we passed a new law on selling or furnishing liquor to minors. It is one of the strictest in the country. We knew that we would have problems from the Innkeepers Association, we knew we would have problems with the Retailers Association and I must commend the Senate Chair and the House Chair -- how they got those parties together, (I don't know if the House Chair locked them into the room) put them in a room and said, "I want you to come out of there with an agreement."

This is a bill that was hammered out over two months and every member of the committee had reservations about it and every one of those reservations were taken care of. All of the representatives of the Innkeepers Association and the Retailers Association had grave reservations but we grilled and grilled the liquor enforcement chief, John Martin, as to why he needed it and how it would be enforced. I must say that there is nothing wrong with this bill, it is needed. They say that young people are getting drinks -- yes, they are. The new law says that if you furnish liquor to a minor (under 14) it is mandatory that they must give a 6-months sentence and a \$500 fine. Over 14 to 21, the second offense is a \$500 fine and a third offense is a mandatory 6-months sentence with a \$500 fine.

I sympathize with the small storeowners because they can't be in the store every minute of the day but if I were in business to make money selling liquor, beer or whatever it is, I have a certain amount of responsibility to the public if I am going to make the dollar bill. I should be responsible to the public and if I am not able to do that, then I think we should come forward and say, we will also make the clerk responsible for it. That is the main point, as the Representative from Brunswick said -- finally the clerk who works there and who, through peer pressure, when the boss is not around, would sell liquor to a 17 or 18 year old, that is the main point. What happens? We have had many reports that a person who is working as a clerk in a store would sell liquor to a minor, the storeowner would say, you're out, you are finished, that same person would go to another store and start selling liquor to minors. Under this bill, once that person who has a permit and has been selling to a minor, the permit is lifted after a violation. That same person might go to another store and the owner will ask him or her where their permit is and the person will say that he or she doesn't have one anymore, the owner will say, get going, I am not hiring you. That is the main thing.

Since 1937, this state has been determined to control liquor and that is why we still have the liquor stores. If we are to control liquor and the consumption of liquor, we should have some strict laws.

I would ask that you vote for this bill.

The SPEAKER: The Chair recognizes the Representative from Norway, Representative Walker.

Representative WALKER: Mr. Speaker, Ladies and Gentlemen of the House: As a cosponsor of this bill and in business for many years selling beer (like Representative McGowan) I think this legislation is long overdue. It would be something to give protection to the owner. It may not solve all the problems of selling to minors but I think if the clerk sells to that minor he or she would have to think twice and be a little more careful to who they sell to.

The SPEAKER: The Chair recognizes the Representative from Orrington, Representative Tupper.

Representative TUPPER: Mr. Speaker, Ladies and Gentlemen of the House: The Legal Affairs Committee worked long and hard on this bill. We feel responsible to the people of Maine and we had the support of the Mothers Against Drunk Drivers. This is just one more bill to help our OUI, it is one more piece of pie and that OUI bill is working so well, I urge your support of this legislation.

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 West Gardiner, Representative Marsh.

Representative MARSH: Mr. Speaker, Men and Women of the House: I certainly felt uncomfortable when I asked my Mom and Pop question this morning in the First Reading of the unanimous report but now I am glad that I did.

I feel that this bill is definitely too much and I question how much protection it actually gives to the storeowner. Education is the answer and not further licensing. I certainly urge that you remember the words of Representative DePietro as I feel that he best covered the problem. I urge that you vote against this measure.

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

Representative CONLEY: Mr. Speaker, Ladies and Gentlemen of the House: Although many members of the Legal Affairs Committee have expressed their comfort with this bill, I feel compelled to let this body know that many of these small stores and neighborhood taverns in my district (and I live in a residential area) are not comfortable with this bill. There is nothing more scary than to be behind the counter and have one of these men in green come into your establishment. Many may not know this but these law enforcement officials probably possess more powers than even game wardens do. They can go through everything in a store, they can go through everything in the back of the store, they have absolute entry powers into your establishment. Now with this bill, they are going to have entry powers into the wallets and pocketbooks of the employees who work in those stores and that, to me, is too much.

I think what we are doing here is passing a mandate which is going to require stores to come up with monies to train these people to do things that they are not required to do now. My family establishment is already doing that because there is enough incentive there to be sued under the Dramshop Act if you do not act responsibly and stay within the law.

Where is this going to end? Are we going to require these stores to have their employees have permits to sell cigarettes? Are we going to require employees in firearm stores to have them have permits to sell firearms or munitions? I think I know where it is going to end -- before it is over, you are going to have to have a permit to get a drink. Being Irish, I am a little nervous about that.

The SPEAKER: The Chair recognizes the Representative from Sanford, Representative Paul.

Representative PAUL: Mr. Speaker, Ladies and Gentlemen of the House: As a member of the Legal Affairs Committee, I fully support this bill. Every year the state spends huge amounts of money on the abuse side of this alcohol product. It seems to me that it would make a lot of sense to require improvement on the supply side in order to educate the servers and the sellers. Ladies and gentlemen of the House, we are dealing with a what sometimes proves to be a very dangerous product. This bill is urgently needed and I intend to vote for it and I hope you will.

The SPEAKER: The Chair recognizes the Representative from Biddeford, Representative Plourde.

Representative PLOURDE: Mr. Speaker, Men and Women of the House: I serve on the Committee on Legal Affairs and I had some reservations, deep reservations, as most of the members of that committee were aware of, but I must say that we worked very hard on this bill to deal with many of the problems that might come up. I definitely feel that we have put a very decent package together, especially when you consider that the Retail Stores Association, Innkeepers, Restaurateurs, all worked together very hard to put a good piece of legislation together and I feel that we have done that.

What disturbs me is that those same associations, retailers, the grocers, the restaurateurs, the innkeepers, three or four years ago, were asked on a voluntary system to implace an educational program. They were given ample time and failed to do so, so the committee came out and said, we would like to see this take place, we are going to monitor it in the next two years to see how it is working out. I strongly believe that this is a good step and I hope that you will support the measure.

The SPEAKER: The Chair recognizes the Representative from Southwest Harbor, Representative Carroll.

Representative CARROLL: Mr. Speaker, I would like to pose a question through the Chair.

Representative Priest -- does this involve the State Liquor Store employees also?

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

The Chair recognizes the Representative from Brunswick, Representative Priest.

Representative PRIEST: Mr. Speaker, Ladies and Gentlemen of the House: Yes, it does.

The SPEAKER: The Chair recognizes the Representative from Southwest Harbor, Representative Carroll.

Representative CARROLL: Mr. Speaker, I would like to pose another question through the Chair.

In the past Representative Priest, I thought I encountered where there was a violation of a liquor store, that was a no, no. But if you came out of a Shop 'N Save with a six-pack of beer, that was a different story altogether. That was why I wanted to pose that question. At the State Liquor Store, the clerk has got to be licensed as well as the Mom & Pop stores?

The SPEAKER: The Chair recognizes the Representative from Brunswick, Representative Priest.

Representative PRIEST: Men and Women of the House: It is not a license, it is a permit, but yes, the clerk working in the State Liquor Store has to have a permit as well as the other retail stores.

The SPEAKER: The Chair recognizes the Representative from Southwest Harbor, Representative Carroll.

Representative CARROLL: Thank you.

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

Representative DORE: Men and Women of the House: I am sorry but I am inclined to vote against the Legal Affairs unanimous report, it makes me a little uncomfortable. I would like to pose a question though.

I believe it is not illegal to walk around the streets above .08 -- could you tell me what happens in a resort community or neighborhood community if a buyer walks in and claims they are not driving?

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

The Chair recognizes the Representative from Brunswick, Representative Priest.

Representative PRIEST: Mr. Speaker, Ladies and Gentlemen of the House: It may not be legal to walk around if you are intoxicated -- in fact, the Legislature was very careful to remove that from the criminal statutes some time ago but it is illegal under current law to sell liquor or alcohol to someone who is legally intoxicated. As to how you recognize that visible intoxication, I gave you a few signs but there are many more including smelling liquor on someone's breath. That would help you make your mind up on that. That is current law so this bill does not change that whatsoever.

The SPEAKER: The Chair recognizes the Representative from Lisbon, Representative Jalbert.

Representative JALBERT: Mr. Speaker, Ladies and Gentlemen of the House: In response to my good friend, the Representative from Portland, Representative Conley, we are not talking about selling apples or oranges or bread -- may I remind you, we are dealing with intoxicating liquor, that is the main thing. I am not a puritanical person. I drink as much as anyone else, but let's remember one thing (I don't think we will get as far as what the Representative from Portland is concerned about being able to buy a drink, if that be the case, I will buy him a license providing he buys me a drink in return) we are dealing now with a controlled substance, which is called an intoxicating beverage, we are not dealing with apples.

The SPEAKER: The Chair recognizes the Representative from Canaan, Representative McGowan.

Representative MCGOWAN: Mr. Speaker, Ladies and Gentlemen of the House: I rise to bring some final points to this debate and I realize that many of you have sat through this thing with a lot of patience and I appreciate that as one who has great interest in this.

I ask you to walk into a business in this state, especially a small store, convenience store, and ask them what they have for licenses to operate. You walk into the store and they have a liquor license on the wall for which they are charged a great deal of money, they have a Human Services license and if they are participating in any of the WIC programs, the federal food stamp program, they have an underground tank license if they sell gasoline or kerosene, they have a victualer license, they have an agricultural license for rural food and resources, they have an

alcohol, tobacco, and firearm permit from the federal government, their pumps have to be stamped by a state inspector -- I tell you ladies and gentlemen that this state has imposed more regulations on the small businesses than any other one.

I would suggest we have some specific licenses for attorneys to practice in this state, that we give them a license to do divorces, give them a license to do deeds, give them a license to do wills and that we impose a fee every time that they do one of these things.

There are some good things in this bill but the only thing I can see is a transfer of the liability because a person who owns a business that is open 7 days a week, 14 hours a day, cannot be in that business at all times. I also would tell you that enough thought has been given and I don't care who sat in on any meeting with the Legal Affairs Committee, Representative Jalbert, I don't care if the Association of Restaurants, the Maine Bar Association sat in on a meeting -- they didn't represent the people that runs small businesses in my area from what I can see. This is an imposition that just further drives the nail in the coffin of the small businesses of this state. I would tell you if you are going to further impose regulations on one particular industry and we do that -- when we need taxes, where do we go? Video tax, small stores are now into videos in this state so they make a little money, you are going after them on a tax. We went after them last year on smokeless tobacco, we went after them two years ago on alcohol premium and then we went after them again on another bill and I am telling you that it has got to stop at some point in time.

Mr. Speaker, I move indefinite postponement of this bill and all its accompanying papers.

The SPEAKER: The Chair recognizes the Representative from Sabattus, Representative Stevens.

Representative STEVENS: Mr. Speaker, Men and Women of the House: I think you can see what we went through in the Legal Affairs Committee. There wasn't a vote that was taken very lightly. There were a number of workshops and I think it has been very well explained and debated on the floor but back in the 112th, we were trying to find a way just to keep insurance for these same businesses that we are now asking for \$5 or \$10 for a permit so they can sell their alcohol. At that time, they were supposed to educate the people who were serving it and that's what created the problem.

Representative Marsano of Belfast requested a roll call vote on indefinite postponement.

The SPEAKER: The Chair recognizes the Representative from Houlton, Representative Graham.

Representative GRAHAM: Mr. Speaker, I would like to pose a question through the Chair.

The main point that the people in favor of this bill is making is that they want to ensure that liquor does not fall into the hands of minors. My personal belief is that we shouldn't make a law unless there is a need for it so my question is, what data do we have to support the proposition that minors are getting their liquor from stores? Do we have any studies or any hard data on that?

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

The Chair recognizes the Representative from Brunswick, Representative Priest.

Representative PRIEST: Mr. Speaker, Ladies and Gentlemen of the House: The evidence that we had was the testimony of John Martin who is head of the Liquor Enforcement, that, in fact, there was a

continuing increase with the problem of minors getting liquor through licensees. As far as the number of violations in the state, one of our difficulties was that beyond that evidence, there is no one area in state government that keeps track of violations committed by retail employees. It simply doesn't exist. I can't tell you and no one else can tell you.

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

Representative BEGLEY: Mr. Speaker, Men and Women of the House: Mr. Speaker, Ladies and Gentlemen of the House: As a new member on the Legal Affairs Committee this year, I found a history was attached to L.D. 271 which Representative Priest and others have brought out to you today, that this goes back to some work that was laid in the 112th and some of the expectations that were to come from that. We did spend a lot of time on this bill, as has been mentioned to you by many committee members.

I would just like to make two points. It was my understanding as a member of the committee that the Grocers and Restaurant Association groups did finally end up agreeing with this bill. The second point is, there is a need for more education for people selling liquor and a need for each seller to be held more accountable. I believe this unanimous report is a step in the right direction and urge your support.

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

Representative SMITH: Mr. Speaker, Ladies and Gentlemen of the House: I believe I am the last one to speak on this bill possibly and the people in my area would think I was absent if I didn't say something.

It seems just a few short years ago that we heard the small stores crying about they wanted younger sales clerks -- well, they got them and now they have a problem. I think that is what created the problem and to address it, we need this bill.

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

A vote of the House was taken and 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 Berwick, Representative Murphy.

Representative MURPHY: Mr. Speaker, Ladies and Gentlemen of the House: It has been suggested that we don't have statistics on minors getting alcoholic beverages -- well, I have a very close friend whose 14 year old granddaughter became an alcoholic. Believe me, that 14 year old did not buy it herself and if we look at some of our rehabilitation centers and see the age limit in there, we have statistics that teenagers are getting alcoholic beverages. They are not buying it, it is either being sold to them or someone is buying it for them.

The SPEAKER: The Chair would make note regarding two comments that were made during the debate so there will be no misunderstanding, that John Martin to which they referred is not the person who stands here. There is a John S. Martin who is the Director of Liquor Control in the Department of Public Safety. I do get those calls from time to time asking about their liquor licenses.

Secondly, in deference to the comment that Representative McGowan made that I spent two days a week working in the store, my nephew would be pleased

to hear that comment, it is obviously incorrect, it is probably about two days a year.

The pending question before the House is the motion of the Representative from Canaan, Representative McGowan, that L.D. 271 and all accompanying papers be indefinitely postponed. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 82

YEA - Aikman, Aliberti, Anderson, Ault, Bailey, Bell, Brewer, Burke, Butland, Carroll, J.; Carter, Cashman, Cathcart, Chonko, Clark, H.; Conley, Constantine, Cote, Curran, Dellert, Dexter, Dipietro, Donald, Dore, Duffy, Dutremble, L.; Erwin, P.; Farnsworth, Farnum, Farren, Foss, Foster, Garland, Gould, R. A.; Graham, Greenlaw, Gurney, Hanley, Hastings, Heesch, Hepburn, Hickey, Higgins, Hoggund, Hussey, Hutchins, Jacques, Joseph, Ketover, Kilkelly, Larrivee, Lebowitz, Libby, Lisnik, Look, Lord, Luther, Macomber, Mahany, Marsano, Marsh, Marston, Martin, H.; McCormick, McGowan, McHenry, McKeen, McPherson, McSweeney, Michaud, Mills, Moholland, Nadeau, G. R.; Norton, Nutting, O'Dea, Paradis, E.; Paradis, J.; Parent, Pendleton, Pineau, Pouliot, Rand, Reed, Richards, Ridley, Rotondi, Ruhlman, Sheltra, Skoglund, Small, Stevenson, Strout, D.; Swazey, Tamaro, Tardy, Telow, Tracy, Webster, M.; Wentworth.

NAY - Adams, Allen, Anthony, Begley, Boutilier, Carroll, D.; Clark, M.; Coles, Crowley, Daggett, Gwadosky, Hale, Handy, Hichborn, Jalbert, LaPointe, Lawrence, MacBride, Manning, Mayo, Melendy, Merrill, Mitchell, Murphy, O'Gara, Paradis, P.; Paul, Pines, Plourde, Priest, Rolde, Rydell, Simpson, Smith, Stevens, A.; Stevens, P.; Strout, B.; Tupper, Walker.

ABSENT - Holt, Jackson, Nadeau, G. G.; Oliver, Pederson, Richard, Seavey, Sherburne, Townsend, Whitcomb, The Speaker.

Yes, 100; No, 39; Absent, 11; Vacant, 1; Paired, 0; Excused, 0.

100 having voted in the affirmative and 39 in the negative with 11 being absent and 1 vacant, the motion to indefinitely postpone did prevail. Sent up for concurrence.

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

**PAPER FROM THE SENATE  
Non-Concurrent Matter**

Bill "An Act to Allow Recovery for Wrongful Death of Unborn Children" (H.P. 408) (L.D. 551) which was passed to be engrossed as amended by Committee Amendment "A" (H-429) in the House on June 9, 1989.

Came from the Senate passed to be engrossed as amended by Committee Amendment "A" (H-429) as amended by Senate Amendment "A" (S-274) thereto in non-concurrence.

The House voted to recede and concur.

The following item appearing on Supplement No. 6 was taken up out of order by unanimous consent:

**COMMUNICATION**

The following Communication: (S.P. 653)

114TH MAINE LEGISLATURE

June 9, 1989

Senator Dennis L. Dutremble  
Representative Gregory G. Nadeau  
Chairpersons  
Joint Standing Committee on Housing and Economic Development  
114th Legislature  
Augusta, Maine 04333  
Dear Chairs:

Please be advised that Governor John R. McKernan, Jr. has nominated Raymond L. Edmond, Jr. of Auburn, Gail Lawley of Winslow, Thelma H. Pray of East Lebanon, Arthur Redman of Augusta, Michael J. Levensaler of Friendship, Roland Bracy of Portland and Daniel Parker of Westbrook for appointments to the Adaptive Equipment Loan Program Fund Board.

Pursuant to Public Law 1989, Chapter 276, these nominations will require review by the Joint Standing Committee on Housing and Economic Development and confirmation by the Senate.

Sincerely,  
S/Charles P. Pray  
President of the Senate  
S/John L. Martin  
Speaker of the House

Came from the Senate. Read and Referred to the Committee on Housing and Economic Development.

Was Read and Referred to the Committee on Housing and Economic Development in concurrence.

(Off Record Remarks)

(At Ease to the Gong)

The House was called to order by the Speaker.

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

PAPER FROM THE SENATE

Divided Report

Majority Report of the Committee on Labor reporting "Ought to Pass" as amended by Committee Amendment "A" (S-269) on Bill "An Act to Clarify the Definition of State Employee under the State Employee Labor Relations Act" (S.P. 442) (L.D. 1195)

Signed:

Senators: ESTY of Cumberland  
MATTHEWS of Kennebec  
Representatives: PINEAU of Jay  
McHENRY of Madawaska  
McKEEN of Windham  
LUTHER of Mexico  
RUHLIN of Brewer  
TAMMARO of Baileyville  
RAND of Portland

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

Signed:

Senator: WHITMORE of Androscoggin  
Representatives: REED of Falmouth  
BUTLAND of Cumberland  
McCORMICK of Rockport

Came from the Senate with the Majority "Ought to Pass" as amended Report read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (S-269)

Reports were read.

On motion of Representative McHenry of Madawaska, the House accepted the Majority "Ought to Pass" Report. the Bill read once.

Committee Amendment "A" (S-269) was read by the Clerk and adopted.

Under suspension of the rules, the Bill was read the second time, passed to be engrossed as amended in concurrence.

The Chair laid before the House the following matter: An Act Dealing with Removal of Dislodged

Lobster Gear (S.P. 419) (L.D. 1130) (C. "A" S-234) which was tabled earlier in the day and later today assigned pending passage to be enacted.

On motion of Representative Mitchell of Freeport, under suspension of the rules, the House reconsidered its action whereby L.D. 1130 was passed to be engrossed.

On further motion of the same Representative, under suspension of the rules, the House reconsidered its action whereby Committee Amendment "A" (S-234) was adopted.

The same Representative offered House Amendment "A" (H-516) to Committee Amendment "A" (S-234) and moved its adoption.

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

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

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

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

Representative Bell of Caribou was granted unanimous consent to address the House:

Representative BELL: Mr. Speaker, Men and Women of the House: I have a quote that is appropriate for the day. "We take the stars from the heaven, and the red from the Mother Country, separating it by the white stripes, thus showing we are separated from her. The white stripes shall go down to posterity representing Liberty." George Washington, June 14, 1777.

(Off Record Remarks)

(At Ease to the Gong)

The House was called to order by the Speaker.

The following items appearing on Supplement No. 7 were taken up out of order by unanimous consent:

PAPERS FROM THE SENATE

Ought to Pass as Amended

Report of the Committee on Taxation reporting "Ought to Pass" as Amended by Committee Amendment "A" (S-277) on Bill "An Act Concerning the Maine Railroad Excise Tax" (S.P. 235) (L.D. 565)

Came from the Senate, with the report read and accepted and the Bill Passed to be Engrossed as amended by Committee Amendment "A" (S-277).

Report was read and accepted, the Bill read once. Committee Amendment "A" (S-277) was read by the Clerk and adopted.

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

CONSENT CALENDAR

First Day

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

(S.P. 583) (L.D. 1645) Resolve, to Establish the Commission on New Standards of Fire Safety for Buildings Occupied by State Workers Committee on State and Local Government reporting "Ought to Pass" as amended by Committee Amendment "A" (S-275)

Under suspension of the rules, Second Day Consent Calendar notification was given.

On motion of Representative Cashman of Old Town, tabled pending passage to be engrossed as amended and specially assigned for Thursday, June 15, 1989.

The following item appearing on Supplement No. 8 was taken up out of order by unanimous consent:

**PAPER FROM THE SENATE  
Non-Concurrent Matter**

Bill "An Act to Create a Minimum Lot Size for Mobile Home Parks Not Located on Public Water and Sewer Lines" (H.P. 866) (L.D. 1205) which was passed to be engrossed as amended by Committee Amendment "A" (H-510) in the House on June 13, 1989.

Came from the Senate passed to be engrossed as amended by Committee Amendment "A" (H-510) and Senate Amendment "A" (S-280) in non-concurrence.

The House voted to recede and concur.

The following items appearing on Supplement No. 9 were taken up out of order by unanimous consent:

**PAPER FROM THE SENATE  
Non-Concurrent Matter**

Bill "An Act to Amend the Lobster and Crab Fishing License Law" (H.P. 1215) (L.D. 1687) which was passed to be engrossed as amended by Committee Amendment "A" (H-459) in the House on June 13, 1989.

Came from the Senate passed to be engrossed as amended by Committee Amendment "A" (H-459) as amended by Senate Amendment "A" (S-278) thereto in non-concurrence.

The House voted to recede and concur.

**Non-Concurrent Matter**

Bill "An Act to Transfer Jurisdiction over County Jails from County Government to the Department of Corrections" (H.P. 857) (L.D. 1189) which was passed to be engrossed as amended by Committee Amendment "A" (H-445) in the House on June 9, 1989.

Came from the Senate passed to be engrossed as amended by Committee Amendment "A" (H-445) as amended by Senate Amendment "A" (S-279) thereto in non-concurrence.

On motion of Representative Mayo of Thomaston, tabled Unassigned pending further consideration.

The following items appearing on Supplement No. 10 were taken up out of order by unanimous consent:

**CONSENT CALENDAR  
First Day**

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

(H.P. 1033) (L.D. 1439) Bill "An Act to Provide a Minimum Level of State Educational Funding for Schools" Committee on Education reporting "Ought to Pass" as amended by Committee Amendment "A" (H-517)

(H.P. 970) (L.D. 1348) Bill "An Act to Protect Children from Illegal Tobacco Sales" Committee on Business Legislation reporting "Ought to Pass" as amended by Committee Amendment "A" (H-518)

(H.P. 1164) (L.D. 1618) Bill "An Act to Facilitate Collaboration Among School Agencies and Community Leaders Working on Behalf of At-risk

Children" Committee on Education reporting "Ought to Pass" as amended by Committee Amendment "A" (H-519)

(H.P. 993) (L.D. 1382) Bill "An Act Concerning Atlantic Salmon" Committee on Marine Resources reporting "Ought to Pass" as amended by Committee Amendment "A" (H-520)

(H.P. 1174) (L.D. 1628) Bill "An Act to Clarify the Subdivision Laws" Committee on Energy and Natural Resources reporting "Ought to Pass" as amended by Committee Amendment "A" (H-521)

(H.P. 1095) (L.D. 1528) Resolve, to Establish as a Demonstration Project Recreational Vehicle Dumping Stations Committee on Transportation reporting "Ought to Pass" as amended by Committee Amendment "A" (H-522)

(H.P. 1002) (L.D. 1391) Bill "An Act to Amend the Maine Consumer Credit Code to Add Provisions Relating to Credit and Charge Card Disclosures" Committee on Banking and Insurance reporting "Ought to Pass" as amended by Committee Amendment "A" (H-526)

Under suspension of the rules, Second Day Consent Calendar notification was given and the House Papers were passed to be engrossed or passed to be engrossed as amended and sent up for concurrence.

At this point, the rules were suspended for the purpose of removing jackets for the remainder of today's session.

The following items appearing on Supplement No. 11 were taken up out of order by unanimous consent:

**PASSED TO BE ENACTED  
Emergency Measure**

An Act to Facilitate the Expeditious Resolution of Certain Superior Court Cases (S.P. 532) (L.D. 1467) (C. "A" S-239)

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. 106 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 Clarify the Responsibilities of School Boards (H.P. 385) (L.D. 516) (C. "A" H-457)

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. 105 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 Establish State Guidelines for Child Support Awards (H.P. 706) (L.D. 967) (H. "A" H-499 to C. "A" H-349)

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. 106 voted in favor of the same and 2 against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.



**PASSED TO BE ENACTED**  
**Emergency Measure**

An Act to Promote Landowner Relations (H.P. 1057) (L.D. 1479) (C. "A" H-452)

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. 117 voted in favor of the same and 2 against and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

**FINALLY PASSED**  
**Emergency Measure**

Resolve, that the Deadline for the Revision of the State's Motor Vehicle Laws be Extended (S.P. 569) (L.D. 1597) (C. "A" S-248)

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. 118 voted in favor of the same and none against and accordingly the Resolve was finally passed, signed by the Speaker and sent to the Senate.

**FINALLY PASSED**  
**Emergency Measure**

Resolve, to Provide for a Commemorative Motor Vehicle License Plate to Celebrate the Bicentennial of Vinalhaven (S.P. 601) (L.D. 1678)

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 Resolve was finally passed, signed by the Speaker and sent to the Senate.

**FINALLY PASSED**  
**Emergency Measure**

Resolve, Creating the Special Commission to Study Instructional Time in Schools (H.P. 131) (L.D. 175) (C. "A" H-479)

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. 108 voted in favor of the same and 8 against and accordingly the Resolve was finally passed, signed by the Speaker and sent to the Senate.

**FINALLY PASSED**  
**Emergency Measure**

Resolve, to Establish the Commission to Study Real Estate Appraiser Certification and Licensing (H.P. 1069) (L.D. 1491) (C. "A" H-465)

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. 109 voted in favor of the same and 9 against and accordingly the Resolve was finally passed, signed by the Speaker and sent to the Senate.

**PASSED TO BE ENACTED**

An Act to Amend the Community Corrections Law (S.P. 277) (L.D. 723) (C. "A" S-255)

An Act Concerning the Construction of Portable Classrooms (S.P. 412) (L.D. 1078) (C. "A" S-241)

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.

**PASSED TO BE ENACTED**

An Act Providing Confidentiality for Public Sector Job Applicants (S.P. 486) (L.D. 1328) (H. "A" H-468 to C. "A" S-232 and H. "A" H-472)

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

The SPEAKER: The Chair recognizes the Representative from Augusta, Representative Paradis.

Representative PARADIS: Mr. Speaker, Ladies and Gentlemen of the House: Before we enact this bill, I would like to briefly ask anyone who was a majority signer of the report if they could answer a question for me.

In the bill itself, in the Committee Amendment "A" to the bill, which is the bill, the term is used on confidentiality and I quote "information they contain", i.e. it makes that information they contain, the resume, the file, the folder of the applicant confidential. I would like someone, please for the record, as we are establishing the parameters of this bill, to please define for me what that confidentiality means.

The SPEAKER: Representative Paradis of Augusta has posed a question through the Chair to any member who may respond if they so desire.

The Chair recognizes the Representative from Fryeburg, Representative Hastings.

Representative HASTINGS: Mr. Speaker, Ladies and Gentlemen of the House: The law provides for confidentiality of the reports. However, I believe what is being suggested is that it is over-confidential. I believe that the law does at times use common sense in determining what constitutes the confidentiality of those reports, that is, I believe it would not prohibit inquiry of those persons giving references as to the substance of those references by further information. It would however prohibit disclosure of those references to others. I do not believe that it is so limited by the suggestion that the question implies that it would prohibit the use of that information in discovering other information.

The SPEAKER: The Chair recognizes the Representative from South Portland, Representative Anthony.

Representative ANTHONY: Mr. Speaker, Men and Women of the House: To further answer the gentleman's question -- confidentiality can always be waived by the person enjoying the protection accorded by the confidentiality. It would seem to me appropriate that it be established as a matter of legislative history of this particular action that an applicant for a job could allow the confidentiality that is afforded to him or her in accordance with this measure and to be able to be waived in certain circumstances such as to inquire about job references and that sort of thing. For that matter, I fully believe that the individual protected by the confidentiality here could allow a total waiver to allow the information to go to the press. But, the material is confidential in that it would not be able to be disclosed except through the permission of the person protected by it.

The SPEAKER: The Chair recognizes the Representative from Augusta, Representative Paradis.

Representative PARADIS: Mr. Speaker, Men and Women of the House: I appreciate the answers that both members of my committee have given. I still have the question in mind that I raised several days

ago regarding this bill as to the unrestrained discretion of the hiring authority. There has been a lot mentioned about this bill in the hallways of this legislature that perhaps some people are voting against this bill in order to send the Maine Press Association a message, the press people who write stories and who report what goes on in the hallways of the legislature and in the bureaucracy. That is a judgment that you have to make. If there is an idea that we are going to use this bill in order to bash the press, I don't accuse anyone of doing that, but that thought has surfaced and those terms have been mentioned.

I would hope, however, that we wouldn't pass this type of legislation in order to send the press a message that we want to keep certain files confidential. Because, in the process of doing that, we are enacting a bill that has far too many questions that need to be answered about it. Notwithstanding the comments of the good Representative from Fryeburg or the good Representative from South Portland, there are still unanswered questions.

I ask another one, not a rhetorical question, but what if the Maine Human Rights Commission were asked to investigate a job complaint? Could not the bureaucracy hide behind the confidentiality as stated in this bill that we have before us the information contained in the resume is confidential by this act of the legislature -- how would that impede the Maine Human Rights Commission from investigating discrimination on the basis of color or sex or creed that we have filed almost everyday? We would impede their ability to adjudicate and present the evidence that they need. I don't think that is fair and I don't think that is right whether it is in the name of bashing the press -- we are not going to circumvent the good work that the Human Rights Commission has done on our behalf.

I cannot understand, on this beautiful June day, why a citizens legislature wants to protect the bureaucracy in this state, whether it is the local or county or state bureaucracy. Let that fresh air come in and let that sun shine as it does today so that we can have access to the process. If we make confidential that process so that at only the discretion of the hiring authority is the law, if only that person can reveal to anyone they want only what they want to reveal, are we doing the process a real service? Are we helping the people that we intend to help? Are we making a statement here in 1989 that completely goes back to the old spoil system where you only hired the person you wanted to hire regardless of merit, regardless of qualification, regardless of need, you only hire that person you wanted to hire? I think we have made far too many in-roads into that, we have provided too many good opportunities for good people to be hired on the merit system to have to go back to that system. I think the questions about this bill as contained in the report that has been accepted by this body twice now are far too important to be left cast aside. to be enacted into law, and then to have those problems creep up this summer and next fall when we are not in session and we have a scandal and the Human Rights Commission or another group needs the documents and that document is not available to them. I would ask you, please do not enact this bill.

Mr. Speaker, I ask for the yeas and nays on enactment.

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

Representative RICHARDS: Mr. Speaker, Ladies and Gentlemen of the House: I think I speak for the

majority of the people on the report to say that this is not a press-bashing piece of legislation. What it is is a trade-off on an assault on our individual privacy and nothing more.

As far as the Human Rights Commission investigation, certainly the individual that is raising the complaint can have his records released. With the bill that we are about to enact, the individual that is hired, those records would be released and that is the comparison you need to go forward with the claim. So, I think that would answer that particular question. That poses no problem.

The Chair recognizes the Representative from Lisbon, Representative Jalbert.

Representative JALBERT: Mr. Speaker, Ladies and Gentlemen of the House: In response to my good friend, the Representative from Augusta, Representative Paradis, we are not trying to protect the bureaucracy. This protects the individual employees so that their rights are not violated by the press or whoever it is or anybody that wants to be nosy. If we are going to get closer to home, this very situation is going to happen right here in the House. Anyone could walk into the Speaker's Office and request to see the names of any young man or young lady that may have applied to be a Page, then they would go over to the Clerk's Office and do the same. They could go down to the Majority Office and say, I wish to see the names of the people you have interviewed, then go to the Minority Office and ask the same thing. Then they could see Sally Diamond and the Committee Chairs and probably the first one they would approach would be the House Chair of the Judiciary Committee who would have to reveal the names of the people that they have interviewed. As I said, my good friend from Augusta talked about stagnant normalcy -- if we allow this to continue, there will not be any stagnant normalcy because there will not be any normalcy around. That is what is going to happen, we are protecting the rights of the individuals out there, not the bureaucracy.

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 passage to be enacted. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 83

YEA - Adams, Aikman, Aliberti, Anderson, Anthony, Ault, Bailey, Begley, Bell, Butland, Carroll, D.; Carroll, J.; Cashman, Clark, M.; Conley, Cote, Crowley, Curran, Daggett, Dellert, Dexter, Dipietro, Donald, Dore, Duffy, Erwin, P.; Farnsworth, Farnum, Farren, Foss, Garland, Greenlaw, Handy, Hanley, Hastings, Hepburn, Hichborn, Higgins, Hogle, Holt, Hussey, Jackson, Jacques, Jalbert, Joseph, LaPointe, Larrivee, Lawrence, Lebowitz, Libby, Lisnik, Look, Lord, MacBride, Macomber, Mahany, Manning, Marsano, Marsh, Martin, H.; Mayo, McCormick, McPherson, McSweeney, Merrill, Michaud, Mills, Mitchell, Moholland, Murphy, Nadeau, G. R.; Norton, Nutting, O'Dea, O'Gara, Oliver, Paradis, E.; Paradis, J.; Parent, Paul, Pendleton, Pines, Plourde, Reed, Richards, Ridley, Rotondi, Seavey, Sheltra, Sherburne, Simpson, Skoglund, Small, Smith, Stevens, A.; Stevens, P.; Stevenson, Strout, B.; Strout, D.;

Tammaro, Tardy, Telow, Tracy, Tupper, Walker, Wentworth.

NAY - Allen, Boutilier, Burke, Carter, Cathcart, Chonko, Clark, H.; Coles, Constantine, Foster, Graham, Gurney, Gwadosky, Hale, Heesch, Hickey, Hutchins, Kilkelly, Luther, Marston, McGowan, McHenry, McKeen, Melendy, Paradis, P.; Pederson, Pineau, Pouliot, Priest, Rand, Rolde, Ruhlman, Rydell, Swazey, The Speaker.

ABSENT - Brewer, Dutremble, L.; Gould, R. A.; Ketover, Nadeau, G. G.; Richard, Townsend, Webster, M.; Whitcomb.

Yes, 106; No, 35; Absent, 9; Vacant, 1; Paired, 0; Excused, 0.

106 having voted in the affirmative, 35 in the negative, with 9 being absent and 1 vacant, the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

**PASSED TO BE ENACTED**

An Act to Provide Additional Protection in Cases of Domestic Abuse (S.P. 553) (L.D. 1556) (C. "A" S-254)

An Act to Authorize the Blue Hill School Committee to Enter into Long-term Leases of Land and Buildings for School Purposes (S.P. 591) (L.D. 1668) (C. "A" S-245)

An Act to Amend the Definition of Labels in the Beverage Container Deposit Law (S.P. 610) (L.D. 1704) (C. "A" S-246)

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.

**ENACTOR**

**Later Today Assigned**

An Act to Increase the Motor Vehicle Inspection Fees (H.P. 49) (L.D. 70) (C. "A" H-470)

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

Representative Tracy of Rome requested a roll call vote on enactment.

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 passage to be enacted. Those in favor will vote yes; those opposed will vote no.

**ROLL CALL NO. 84**

YEA - Adams, Anthony, Begley, Bell, Boutilier, Burke, Butland, Carroll, D.; Carter, Cashman, Chonko, Coles, Conley, Crowley, Curran, Daggett, Dellert, Dore, Erwin, P.; Gwadosky, Hale, Handy, Hastings, Heesch, Hichborn, Hickey, Higgins, Hutchins, Jackson, Larrivee, Lebowitz, Libby, Look, Lord, Macomber, Manning, Marston, Martin, H.; Mayo, McGowan, McPherson, Melendy, Mitchell, Moholland, Murphy, Nadeau, G. R.; Nutting, O'Gara, Oliver, Paradis, E.; Paradis, J.; Paul, Pederson, Pendleton, Pineau, Pines, Plourde, Pouliot, Priest, Rand, Ridley, Ruhlman, Rydell, Sheltra, Simpson, Skoglund, Smith, Stevens, A.; Stevens, P.; Swazey, Tammaro, Tardy, Telow, Walker, The Speaker.

NAY - Aikman, Aliberti, Allen, Anderson, Ault, Bailey, Carroll, J.; Cathcart, Clark, H.; Clark, M.; Constantine, Cote, Dexter, Dipietro, Donald, Duffy,

Farnsworth, Farnum, Farren, Foss, Foster, Garland, Graham, Greenlaw, Gurney, Hanley, Hepburn, Hoglund, Holt, Hussey, Jacques, Jalbert, Joseph, Kilkelly, LaPointe, Lawrence, Lisnik, Luther, MacBride, Mahany, Marsano, Marsh, McCormick, McHenry, McKeen, McSweeney, Merrill, Michaud, Mills, Norton, O'Dea, Paradis, P.; Parent, Reed, Richards, Rolde, Rotondi, Seavey, Sherburne, Small, Stevenson, Strout, B.; Strout, D.; Tracy, Tupper, Wentworth.

ABSENT - Brewer, Dutremble, L.; Gould, R. A.; Ketover, Nadeau, G. G.; Richard, Townsend, Webster, M.; Whitcomb.

Yes, 75; No, 66; Absent, 9; Vacant, 1; Paired, 0; Excused, 0.

75 having voted in the affirmative, 66 in the negative, with 9 being absent and 1 vacant, the Bill was passed to be enacted.

Representative Mayo of Thomaston, having voted on the prevailing side, moved that the House reconsider its action whereby the L.D. 70 was passed to be enacted.

On further motion of the same Representative, tabled pending his motion to reconsider and later today assigned.

**PASSED TO BE ENACTED**

An Act Concerning Potato Varieties (H.P. 586) (L.D. 790) (C. "A" H-449)

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

The SPEAKER: The Chair recognizes the Representative from Rockland, Representative Melendy.

Representative MELENDY: Mr. Speaker, Men and Women of the House: I wonder if anyone could answer a question for me? Is this bill going to make a difference when I go to purchase potatoes, will I know what I am buying? When we had Agriculture Day, I tried a special potato that they showed me and it was called the Coastal Variety. It was probably one of the best tasting potatoes I have ever tasted. The only thing is I can't find them in the store. Is this going to help me find what I am looking for?

The SPEAKER: Representative Melendy of Rockland, has posed a question through the Chair to any member who may respond if they so desire.

The Chair recognizes the Representative from Palmyra, Representative Tardy.

Representative TARDY: Mr. Speaker, Men and Women of the House: Yes, ma'am. I realize the frustration of the Representative from Island Falls in not having a mandatory labeling bill which is what I cosponsored with him. We both felt that the women and the housewives and the men can discriminate between varieties of potatoes except the Maine potato farmers seem to want to sell us round whites. There are approximately 25 varieties of round whites, several varieties of russets -- you mentioned the coastal russet, which a gentleman named Duke Reed is growing up in the county.

What this bill would do is create an incentive for farmers to start selling their potatoes by variety, by giving them a three cent reduction in their inspection fees. If they are using the red, white and blue bag, and that is probably the best way to be assured of a good quality potato is to make sure you buy one that is in the red, white and blue Maine bag, because they have higher standards than what is called U.S. #1 which really doesn't mean much, they will receive a three cent reduction, their inspection would be six cents a hundred weight. If they are having their potatoes inspected and they are not in the Maine bag but they do sell them by variety, instead of 12 cents, they would pay 9 cents

a hundred weight. This is funded entirely out of the state/federal inspection monies.

During our work sessions, two of the major supermarket chains plus Maine Grocers Association have indicated to us that they are going to start looking to buy potatoes and market potatoes by variety so that perhaps we will have the ability to discriminate when we buy round white potatoes instead of buying what the commissioner called an undifferentiated product.

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

Representative SMITH: Mr. Speaker, Ladies and Gentlemen of the House: Oh, what a tangled web we weave when first we practice to deceive. That is exactly what this is all about. Even the Bangor Daily News supported me on this bill. You all heard about the contract they got with Burger King, well they didn't get that by giving them a potato they wanted to raise, they gave them a potato that Burger King wanted. If they don't continue giving them that potato, they will lose it.

There have been a number of articles in the paper and I have been a collector of those articles. One of the articles gave a recipe for using Idaho potatoes. The lady took them to do for that, saying they should have used Maine spuds. Well, the response was, if you try the recipe with Maine spuds, you will understand why we said to use Idaho spuds.

I believe the bag should be marked so you and I know what we are getting. I have heard a number of reasons why we should not have this. The first one was the expense of marking these bags which could be done in a number of ways and then because of the inventory of bags necessary. Well, it wasn't two days after that that I was in the market over here and I found an eight pound bag on the market. Why? Well, you have been used to buying a ten pound bag so now you are picking up an eight pound bag. Deception? Yes. That is exactly what it was all about. The price of potatoes was up so they give you an eight pound bag.

I was also told there are over 80 varieties. Well, what is your chance of picking up the same variety twice? I then wanted to limit it to five which I said would be a compromise, the five leading brands raised, but that failed.

The russet has a number of varieties. I thought, if you could try to save the russet, at least mark the russet varieties before we get too many because we are going to be the same as we were with the round whites. We will have probably 80 of those in a short time because all they seem to want to do is increase the number of varieties rather than stick to a quality.

Idaho markets an Idaho potato here in the state and they have been picking up much of the market and we wonder why. Well, they mark it and when you pick it up, you know what it is. I believe that is the way the State of Maine should be doing. I have been around here for over 60 years and they say, "Well, it is too early, we are not ready." I have heard it for almost that long, as I recall.

I had support for this bill from pretty high places. In fact, when the bill came out, in the Hall of the House, I had a gentleman from a high place said he supported me on it. Another gentleman called me in support of it but when it came to the hearing, those gentlemen did not testify in favor. Pressure? Yes. Pressure from the packers. They are the ones that are running this. Today I feel this is just on a voluntary basis. I believe no bill at all is

better than a bill that does nothing. That is exactly what this bill does.

I ask for a Division, Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Easton, Representative Mahany.

Representative MAHANY: Mr. Speaker, Men and Women of the House: I, too, think that the concept of labeling the bag is a good one. But, after hearing all of the argumentations and presentations in the Agriculture Committee, I was convinced that there are simply too many hurdles at this time to make that giant step into mandating (all of a sudden) and pushing down the throats of the agricultural community and farmers the obligation to mark or label their potato bags with the variety.

I was convinced after hearing the testimony that the inventory of bags for the many varieties of potatoes that we have was simply too unreasonable at this time. We do have many, many varieties of potatoes in Maine, as Representative Smith said. Moreover, it would create some additional expense in addition to having to keep several different kinds of bags on hand. An individual farmer, for example, that packs his own potatoes as some of them do in Aroostook County would have to keep an inventory of bags on hand and also it would create additional labor costs to handle the process of labeling. This is what my farmers told me. This is what those representatives of the potato industry from Aroostook County told me who came down to testify.

I think it is much better to create some incentive among the farmers and packers to get what we want than it is to drive something down their throats. I also think this bill makes it possible for us to monitor the process and to come to a conclusion as to what the best steps next year or the year after should be in order to take us further down the road of labeling our various potato varieties. So I am appealing to your common sense. I think the gradual approach, the rational approach, creating incentive on the part of the industry, is the best way to go. I do think that the concept of labeling is a good one.

The SPEAKER: The Chair recognizes the Representative from Palmyra, Representative Tardy.

Representative TARDY: Mr. Speaker, Men and Women of the House: Before we all vote to support this unanimous committee report, in response to some of the notes that I have been getting, I would like to let this body know that when I get home at night many times I do dishes just like everyone else.

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

Representative ALIBERTI: Mr. Speaker, Men and Women of the House: In testimony, the one person that really, really went overboard in the marketing of Maine products to the extent of being successful was the Commissioner of Agriculture. His standards are credible and, not only do I respect them, I find that in testimony the commissioner assured us that his intensive approach to the marketing of the potato products to be the finest possible would continue. And, in no way, would he jeopardize the opportunity for Representative Melendy or Representative Tardy or Representative Aliberti to enjoy the finest potato possible. I take him at his word and his credibility.

The SPEAKER: The Chair will order a vote. The pending question before the House is passage to be enacted. Those in favor of that motion will vote yes; those opposed will vote no.

A vote of the House was taken.

93 having voted in the affirmative and 11 in the negative, the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

**PASSED TO BE ENACTED**

An Act to Increase the Penalties for Repeat Violations of the Prostitution Laws (H.P. 757) (L.D. 1061) (S. "A" S-259 to C. "A" H-338)

An Act to Amend the Natural Resources Protection Act (H.P. 813) (L.D. 1125) (C. "A" H-399)

An Act to Prohibit the Sale of Unlawful Drugs in or near Schools (H.P. 816) (L.D. 1144) (S. "A" S-257 to C. "A" H-342)

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.

**PASSED TO BE ENACTED**

An Act Requiring School Boards to Adopt Written Policies Regarding Student Rights and Responsibilities (H.P. 827) (L.D. 1159) (H. "A" H-471 to C. "A" H-443)

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

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

Representative HANDY: Mr. Speaker, Ladies and Gentlemen of the House: This enactor comes to you today as a Majority Report from the Education Committee and I was one of the signers of the Minority Report (minority of 3). On behalf of that minority and the sponsors of the legislation, I just wanted to indicate the essence of the feelings of the minority signers.

We recognized that those rights guaranteed to students by the United States Constitution and the Constitution of Maine -- these would include the rights guaranteed by Tinker v. Des Moines Independent School District which recognizes that students do not shed their constitutional rights at the schoolhouse gate, while also recognizing that schools need to maintain order to achieve those educational purposes.

I hope you would support the enactment of this legislation.

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

**PASSED TO BE ENACTED**

An Act to Increase Funding of Legal Services for the Elderly (H.P. 888) (L.D. 1232) (C. "A" H-411)

An Act Relating to the Status of Nursing Professions in Maine (H.P. 956) (L.D. 1324) (H. "A" H-475 to C. "A" H-453)

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.

**PASSED TO BE ENACTED**

An Act to Strengthen Maine's Restaurant Smoking Law (H.P. 966) (L.D. 1344) (C. "A" H-409)

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

Representative Hepburn of Skowhegan moved that L.D. 1344 and all accompanying papers be indefinitely postponed.

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

Representative MANNING: Mr. Speaker, Ladies and Gentlemen of the House: This piece of legislation is a 12 to 1 Committee Report that I think has addressed a lot of concerns people have about smoking in restaurants. It is allowing the Department of Human Services the ability to come up with a reasonable

calculation. I would hope that you would go along with the 12 to 1 Committee Report.

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

Representative HEPBURN: Mr. Speaker, Ladies and Gentlemen of the House: To be perfectly honest with you, I don't consider this piece of legislation to be world ending. I do consider it to be meddlesome, picayune, intrusive and kind of a nuisance.

It is significantly better than it was when it started off but it is still not that great. In fact, I think its demerits are greater than its merits and that is why I am standing before you today. It requires the Department of Human Services, by rule, to determine what a reasonably calculated smoking area is. We batted it around in committee a little bit and we couldn't seem to come up with a definition but maybe the Department of Human Services will have better luck in rulemaking.

I don't know what reasonable is. We had a number of restaurateurs come in and said that restaurants in different parts of the state have different amounts of people come in and smoke, that percentages change from hour to hour, from day to day, from one part of town to the other. They couldn't come up with a number. Now we are asking the department to do that.

The bill also says that the policy must be posted outside the restaurant or as the people come into the restaurant or must be verbally communicated to the patrons as they enter. I don't know why we are doing this, why we have to have these charts with tables that says tables 1 through 12 are non-smoking and 12 through 20 are smoking, but evidently we figured that we knew better than everyone else did and that we would mandate this.

The department says there is 90 percent compliance with the current law. We have never fined anybody for this. I think a lot of us realize that occasionally that the smoking laws are violated. Perhaps we ought to look at enforcement a little bit and maybe we ought to fine one or two people and the word would get out that we are serious about the current smoking law. That doesn't seem to be the way we have decided to go with this bill, unfortunately, and we have increased the maximum fine by 500 percent up to \$500.

It is just for these reasons, folks, that I oppose this bill and I hope you will go along with me.

The SPEAKER: The Chair will order a vote. The pending question before the House is the motion of Representative Hepburn of Skowhegan that L.D. 1344 and all accompanying papers be indefinitely postponed. Those in favor of that motion will vote yes; those opposed will vote no.

A vote of the House was taken.

35 having voted in the affirmative and 76 in the negative, the motion did not prevail.

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

**PASSED TO BE ENACTED**

An Act to Increase the Authority of the Department of Human Services to Assess the Medical and Active Treatment Needs of Individuals Applying for Admission to Nursing Homes (H.P. 1012) (L.D. 1410) (H. "A" H-474 to C. "A" H-461)

An Act to Simplify the Process by Which People with Disabilities Are Able to Acquire Information and Apply for Services (H.P. 1032) (L.D. 1438) (H. "A" H-473 to C. "A" H-391)

An Act to Limit Municipalities' Responsibility to Reopen an Abandoned Road (H.P. 1138) (L.D. 1581)

An Act Regarding the Handicap Parking Privilege to Veterans with Disabled Veterans License Plates (H.P. 1161) (L.D. 1615) (C. "A" H-469)

An Act to Increase the Borrowing Authority of the Ogunquit Sewer District (H.P. 1209) (L.D. 1681) (C. "A" H-455)

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.

**FINALLY PASSED**

Resolve, to Request that the Board of Trustees of the University of Maine System Determine the Cost of Establishing a Training Program for Nurse Practitioners in Northern Maine (H.P. 935) (L.D. 1300) (C. "A" H-464)

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

The following item appearing on Supplement No. 12 was taken up out of order by unanimous consent:

**REPORTS OF COMMITTEES**

**Divided Report**

Seven Members of the Committee on Marine Resources on Bill "An Act to Amend the Nonresident Clam Digging Laws" (H.P. 620) (L.D. 843) report in Report "A" that the same "Ought Not to Pass"

Signed:  
 Representatives: MITCHELL of Freeport  
 CONSTANTINE of Bar Harbor  
 HUTCHINS of Penobscot  
 LOOK of Jonesboro  
 HOLT of Bath  
 SKOGLUND of St. George  
 COLES of Harpswell

Five Members of the same Committee on same Bill reports in Report "B" that the same "Ought to Pass"

Signed:  
 Senators: BRANNIGAN of Cumberland  
 BRAUN of Knox  
 ESTES of York  
 Representatives: TOWNSEND of Eastport  
 RUHLIN of Brewer

One Member of the same Committee on same Bill reports in Report "C" that the same "Ought to Pass" as amended by Committee Amendment "A" (H-523)

Signed:  
 Representative: MARSH of West Gardiner  
 Reports were read.

On motion of Representative Mitchell of Freeport, the Majority "Ought Not to Pass" Report was accepted. Sent up for concurrence.

The following item appearing on Supplement No. 13 was taken up out of order by unanimous consent:

**REPORTS OF COMMITTEES**

**Divided Report**

Majority Report of the Committee on Education reporting "Ought Not to Pass" on Resolve, to Establish Statewide Secondary School Competency Examinations (H.P. 957) (L.D. 1335)

Signed:  
 Senators: ESTES of York  
 BOST of Penobscot  
 Representatives: PARADIS of Frenchville  
 CROWLEY of Stockton Springs  
 HANDY of Lewiston  
 O'GARA of Westbrook  
 NORTON of Winthrop  
 OLIVER of Portland

**O'DEA of Orono**

Minority Report of the same Committee reporting "Ought to Pass" as amended by Committee Amendment "A" (H-524) on same Resolve.

Signed:  
 Senator: GILL of Cumberland  
 Representatives: SMALL of Bath  
 AULT of Wayne

Representative KILKELLY of Wiscasset - of the House - Abstaining

Reports were read.

Representative Crowley of Stockton Springs moved that the House accept the Majority "Ought Not to Pass" Report.

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

Representative SMALL: Mr. Speaker, Men and Women of the House: I hope you will not accept the "Ought Not to Pass" Report so that we can then go on to accept the Minority "Ought to Pass" Report.

L.D. 1335 is a Resolve to Establish a Statewide Secondary School Competency Examination. This bill does not deal with just testing seniors for competency in math and language skills. It is much broader than that. If I could read for a moment to what the amendment (which is not the bill) says -- "Resolve that the commissioner can conduct a study of the best method of implementing the program to identify academically at risk students and to assist school administrative units in providing assistance to identified students to ensure they acquire the necessary competencies prior to graduation. The study and recommendations made in the commissioners report shall include the following:

1. A method to utilize the results of the eighth grade Maine educational assessment examination to identify students needing intervention assistance.
2. Guidelines for use by school administrative units in providing intervention assistance to identify students.
3. Identification of a test or method of assessing identified students to determine whether they have attained the competencies required for graduation or whether additional intervention assistance is required.
4. The projected budget needs of the department to ensure that intervention assistance is fully funded by the state.
5. A schedule for implementation of an intervention assistance program beginning with initial use of eighth grade testing to develop student intervention assistant plans and reaching the stage of applying graduation competency testing or assessment to students for whom intervention assistance has been provided when those students reach graduation age."

This legislation basically requires the Department to use the eighth grade assessment test, which they are already conducting, to determine which students are way below average on math and reading skills and to set up remediation programs for these students at state cost.

Four years after the first eighth was tested and remediation had begun, the eighth graders, now seniors, will be tested to determine if they may graduate. This bill is not designed to punish students who cannot do basic math, reading and writing. It is designed to catch the kids who have passed year after year and still have not mastered very basic skills needed long after graduation.

Time after time, we hear stories of graduates who cannot read or solve elementary math problems. How can a student pass 12 years of school and still fail to grasp these skills? Well, I don't blame the

teachers, I think they are doing the best they can in a very frustrating situation. Do you keep a child back until he is older and several feet taller than the rest of his classmates? Or, do you practice social passing, even if the student, as we heard in testimony before our committee, only attended a total of 15 days that year?

With this bill, once a student is determined to be at risk in eighth grade, remediation will begin and that student will be worked with until he or she has an acceptable comprehension of language and math skills. Since this bill excludes all special ed children, there is no reason why children in the eighth grade cannot be worked with and helped in time to ensure they graduate with basic skills necessary for them to go out and lead productive lives.

I hope you will reject the "Ought Not to Pass" Report so that we can then go on and vote for the "Ought to Pass" Report on this legislation.

The SPEAKER: The Chair recognizes the Representative from Stockton Springs, Representative Crowley.

Representative CROWLEY: Mr. Speaker, Ladies and Gentlemen of the House: Competency examinations theoretically make a great deal of sense but in actuality it would put just a little more pressure on the students trying to go through, a little more pressure on the teachers and I think they have enough now. I think the dropout rate is high enough and I am afraid this bill with competency examination testing would be a wrong signal now to both students and teachers. I hope you vote the "Ought Not to Pass" Report.

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

Representative FOSS: Mr. Speaker, Ladies and Gentlemen of the House: As sponsor of this legislation, I hope you will reject the Majority "Ought Not to Pass" Report so we can enact this bill.

Competency tests are a measure of accountability for the increasing dollars we are spending on education. Even more importantly, they will help to ensure that all Maine students have the knowledge of basic skills so they can become productive members of society.

Recent tests of our 11th grade students statewide indicate that almost two-thirds of the non-college bound students in Maine scored in the lowest category possible. Hopefully, early intervention and remedial help may aid these students and may even lower the statewide high school dropout rate.

Over 20 states now require the passage of competency tests for graduation.

In a recent capitol news service telephone survey last fall, almost 96 percent of the Maine citizens said such a test should be required for graduation, one of the highest positive responses ever received in all of that news services surveys on various issues.

I believe that every Maine student, except those in special ed programs who meet other criteria, should be able to demonstrate that they can read, write and compute upon high school graduation. If not, we have failed them.

Our Commissioner of Labor has indicated that as much as one-third of the state's job training and retraining dollars are used for teaching basic skills that should have been acquired in high school, if not before. If this money were not necessary for remedial programs, it could be redirected to training more people for other jobs to keep current with changing technology. The job market is increasingly competitive and is not fair to graduate students who

are unprepared of basic skills. The Maine Chamber of Commerce, I might add, strongly supports this bill.

It is clear that at some point the state gets involved in paying for remedial help, why not as early as possible at a time when we may preserve the students self-esteem?

All fourth, eighth and eleventh grade students now take the Maine Educational Assessment Test. This bill proposes that any eighth grade student who shows deficiency in reading, writing or math on that test will be given remedial help at state expense through his or her high school years to help prepare him or her for passing the competency test. Both the administration of the test and the remedial help will not burden local school budgets because the state will pay for them.

The Department of Education projects that 15 percent of the students will need this remedial instruction.

Opposition to this competency test requirement has taken the form that will require teaching to a test. My response to that criticism is that minimal reading, writing and computing skills should be integral to all teaching in all disciplines. If we are failing in this basic area, how can it hurt to alert people to those shortcomings so that remedial help can occur? We owe all of our students the opportunity to compete for jobs by requiring these basic skills. And, we owe the taxpayers of Maine the assurance that our tremendous financial investment in education in recent years is paying off. Maine was number one in the nation last year in growth of state-supported education, almost a 25 percent increase versus a national average rate of 7.5 percent. We cannot afford to leave our graduating seniors unprepared for their futures. We have an obligation to all our students, not just the best and the brightest.

I ask for your support of the Minority Report so that every student in Maine will have an opportunity to overcome any learning deficiencies and be confident in his or her future.

Mr. Speaker, I ask for a roll call.

The SPEAKER: The Chair recognizes the Representative from Orono, Representative O'Dea.

Representative O'DEA: Mr. Speaker, Men and Women of the House: This bill has two problems with it. Number one, the eighth grade assessment test were initially sold as a device to measure schools and for nothing else. They were not designed to be used as a diagnostic tool for students.

Secondly, competency testing results in one thing, and that is teaching to the test. Time and time again in states where this is in place, it has been shown that the test becomes the standard to which students are taught. Instead of raising expectation of our students, this bill causes teachers to teach at the lowest common denominator.

I urge all the members of this body to vote against this bill.

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

Representative FOSS: Mr. Speaker, Ladies and Gentlemen of the House: In response to the question of the results and the purpose of the Maine Educational Assessment Test, I would like to quote from the testimony of the Associate Commissioner of the Bureau of Instruction who in his testimony before the committee stated, "The MEA program suggests that there is a significant population of non-special ed students who need long-term assistance if they are going to successfully complete their education with the necessary skills to be productive citizens. Currently, we estimate that the target population of

the eighth grade level will be 2,000 to 3,000 annually."

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 Crowley of Stockton Springs that the House accept the Majority "Ought Not to Pass" Report. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 85

YEA - Adams, Aliberti, Anthony, Begley, Bell, Boutilier, Carroll, D.; Carter, Cashman, Cathcart, Chonko, Clark, H.; Clark, M.; Coles, Conley, Constantine, Cote, Crowley, Daggett, Dipietro, Dore, Duffy, Erwin, P.; Farnsworth, Farnum, Gurney, Gwadosky, Hale, Handy, Heesch, Hichborn, Hickey, Hoglund, Holt, Hussey, Jacques, Jalbert, Joseph, Kilkelly, LaPointe, Larrivee, Lawrence, Lisnik, Luther, Macomber, Mahany, Manning, Marston, Martin, H.; Mayo, McGowan, McKeen, McPherson, McSweeney, Melendy, Michaud, Mills, Mitchell, Moholland, Murphy, Nadeau, G. R.; Norton, Nutting, O'Dea, O'Gara, Oliver, Paradis, J.; Paradis, P.; Parent, Paul, Pineau, Plourde, Pouliot, Priest, Rand, Richard, Rolde, Rotondi, Rullin, Rydell, Sheltra, Simpson, Skoglund, Smith, Stevens, P.; Stevenson, Strout, D.; Swazey, Tammaro, Tardy, Telow, Tracy, Walker, The Speaker.

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

ABSENT - Allen, Brewer, Burke, Dutremble, L.; Gould, R. A.; Graham, Ketover, McHenry, Nadeau, G. G.; Pederson, Ridley, Townsend, Webster, M.; Whitcomb. Yes, 94; No, 42; Absent, 14; Vacant, 1; Paired, 0; Excused, 0.

94 having voted in the affirmative, 42 in the negative, with 14 being absent and 1 vacant, the Majority "Ought Not to Pass" Report was accepted. Sent up for concurrence.

The following item appearing on Supplement No. 14 was taken up out of order by unanimous consent:

REPORTS OF COMMITTEES  
Divided Report

Majority Report of the Committee on Fisheries and Wildlife reporting "Ought to Pass" as amended by Committee Amendment "A" (H-525) on Bill "An Act to Require a Permit to Hunt for Bear Prior to the Firearm Season on Deer" (H.P. 116) (L.D. 153)

Signed:  
Senators: ERWIN of Oxford  
GOULD of Waldo  
Representatives: JACQUES of Waterville  
SMITH of Island Falls  
DUFFY of Bangor  
WALKER of Norway  
ROTONDI of Athens  
GREENLAW of Standish  
FARREN of Cherryfield  
CARROLL of Southwest Harbor

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

Signed:  
Representative: CLARK of Millinocket  
Representative TRACY of Rome - of the House - Abstaining  
Reports were read.

On motion of Representative Jacques of Waterville, the House accepted the Majority "Ought to Pass" Report, the Bill read once.

Committee Amendment "A" (H-525) 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 and sent up for concurrence.

The following items appearing on Supplement No. 15 were taken up out of order by unanimous consent

REPORTS OF COMMITTEES  
Unanimous Ought Not to Pass

Representative STROUT from the Committee on Transportation on Bill "An Act Concerning Reduction of Speed Limits in Inclement Weather" (EMERGENCY) (H.P. 1253) (L.D. 1752) reporting "Ought Not to Pass" Was placed in the Legislative Files without further action pursuant to Joint Rule 15 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. 368) (L.D. 499) Bill "An Act to Prohibit Local Assessors from Using the Phantom House Lot Method of Valuation" Committee on Taxation reporting "Ought to Pass" as amended by Committee Amendment "A" (H-528)

Under suspension of the rules, Second Day Consent Calendar notification was given, the House Paper was passed to be engrossed as amended and sent up for concurrence.



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

CONSENT CALENDAR

First Day

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

(S.P. 498) (L.D. 1372) Bill "An Act Relating to Returned Check Charges" Committee on Banking and Insurance reporting "Ought to Pass" as amended by Committee Amendment "A" (S-283)

(S.P. 611) (L.D. 1705) Bill "An Act to Prohibit Unfair Rating Practices in Small Group Health Insurance" Committee on Banking and Insurance reporting "Ought to Pass" as amended by Committee Amendment "A" (S-282)

(S.P. 617) (L.D. 1712) Resolve, Authorizing the Director of the Bureau of Public Lands to Convey Certain State Property Within the City of Biddeford Committee on Energy and Natural Resources reporting "Ought to Pass" as amended by Committee Amendment "A" (S-284)

(S.P. 523) (L.D. 1430) Resolve, to Establish a Charter Commission to Review Androscoggin County Government (EMERGENCY) Committee on State and Local Government reporting "Ought to Pass" as amended by Committee Amendment "A" (S-285)

Under suspension of the rules, Second Day Consent Calendar notification was given, the Senate Papers were passed to be engrossed as amended in concurrence.

Representative Marsano of Belfast moved that the House reconsider its action whereby the House voted to recede and concur on Bill "An Act to Amend the Lobster and Crab Fishing License Law" (H.P. 1215) (L.D. 1687) which was passed to be engrossed as amended by Committee Amendment "A" (H-459) in the House on June 13, 1989 and came from the Senate passed to be engrossed as amended by Committee Amendment "A" (H-459) as amended by Senate Amendment "A" (S-278) thereto in non-concurrence.

The SPEAKER: The Chair recognizes the Representative from Belfast, Representative Marsano.

Representative MARSANO: Mr. Speaker, Ladies and Gentlemen of the House: There was a member of this House who was engaged in another matter briefly at the time this matter slipped by and would like to have an opportunity to speak on this. I would urge the House to allow him that opportunity.

The SPEAKER: The Chair recognizes the Representative from Fairfield, Representative Gwadosky.

Representative GWADOSKY: Mr. Speaker, Ladies and Gentlemen of the House: I really have no objections to allowing that but I do have a question that I would like to pose through the Chair.

My question will be at the end of my statement perhaps so if the members would bear with me for a moment.

I read an article recently that dealt with this particular bill during the week of June 6th in the Downeast Coastal Press. It is entitled "Sea Burial for Lobster Bill" and if members would bear with me for a moment, I would like to mention some of the description of this particular bill. I should have known better. But for a while there, I thought we would be spared one of those silly bills in the legislature that tries to dismantle an industry that has survived for a century because it is based on individual endeavor.

Nope, a sneaky lobster bill is in the Augusta legislative hopper. It is L.D. 1687 which amends the Maine Lobster and Crab Fishing License law.

What the bill would accomplish is to separate the current single lobster license to three classes. Call it a divide-and-conquer legislation.

A Class I License would be what the industry currently has at the present time. An individual license costing \$53.

A Class II License would allow the holder to have one unlicensed crew member, a sternman, if you will. The license fee would be \$106 annually.

A Class III License would allow the holder to have two unlicensed crew members and the fee would be \$159 a year.

The Lobster Fund, which is a catch-all pool which allocates money for lobster research and buys those expensive seed and female lobsters that the state releases each year, would be enriched according to the license sold. That is \$10 of the Class I License fee would go to the Lobster Fund (as it does now); \$20 from the Class II; and \$30 from the Class III.

There is nothing, absolutely nothing, that justifies this bill except greed and ignorance.

The Maine lobster and the lobsterman have survived together for more than a century because they are remarkably alike -- individual animals of individual character. Both prey and hunter have so far rejected a corporate takeover of their turf.

It has been a rather simple defense. One man, one license, one lobster, one hole.

Not that the fishcrats haven't tried to legislate both animals out of existence. Boy, have they! Common sense has mysteriously prevailed and the devastating laws have been rejected.

If L.D. 1687 becomes law, the change would raise many questions, the main one being whether the Maine lobster industry will survive. Once "classics" of lobstermen are in place, there will be a vehicle to alter, amend and generally scatter the remains of lobstermen all over the rock-bound coast of Maine."

I appreciate the members bearing with me as I purge through the rest of this.

"Allowing unlicensed workers into the industry will attack the credibility of lobstering. Today, sternmen are licensed. They take pride in, and care of, the industry. Picking an unlicensed crew off the dock every morning will change the role of lobstering forever.

Lobstermen will also be able to put more gear in the water because they can use unskilled, lower paid crews (not paid from a boat's share) to run shore errands and handle gear. As a lobster conservation measure, this bill accomplishes just the opposite.

And there is the view from the IRS window. Unlicensed crewmen will undoubtedly become classified as employees, a designation that the lobster industry fought for years against arguing (successfully) that sternmen were individual entrepreneurs paid from a share of the day's catch.

This bill deserves a quick, silent, burial at sea."

Normally, I wouldn't have given a second thought to this particular editorial except it followed several editorials that we have seen in a variety of newspapers this year. A little bit earlier, there happened to be an editorial also from this same writer under the title of "Kittle Cargoes." This was also an attack on a democratically sponsored bill. The comments from this same editorial writer is, "There has been an erosion of local control for years. It is a Democratic objective to eliminate independent local authority and pucker the treasury

purse strings entirely at the seat of power which is now the Democratic-controlled legislature."

Further on it says, "This bill represents a political position in which all activities of individuals are coordinated within a great scheme of social life in which the state is supreme."

And finally, the same editorial writer who has graced us with these two editorials also in an editorial called "Donkey Ball" -- let me read from a portion of this. "There is no more cutting example of how entrenched incumbency in government alters the perceptions of democracy than that of Louis Jalbert of Lewiston who died last week.

Jalbert was a member of the Maine Legislature for 40 years. And whatever good he may have done for his constituency, he was also a convicted felon, once found guilty by the judicial system of laws of this state trying to bribe a judge. Last week the state flag over the State Capitol flew at half-staff for Louis Jalbert. Why? Longevity breeds imbalances in government and contempt for the system.

Rather than addressing the runaway costs of government, the Democrats have chosen, instead, to exploit their political game plan believing that it will further their entrenched majority next go-round at the polls. Their obvious objective is to first lather the land with rhetorical promises of something for everybody, knowing full-well there is not any money to buy those pipe dreams. That is nothing new in the Democrat credo, just a continuation of their dog and pony show.

The second part of the Democratic plan is more oblique and that is to bloody Gov. John McKernan with ricochet bullets hoping he will be wounded when his allegiance to GOP candidates will be an asset next fall. They are doing this by attacking the Governor's appointed commissioners at every turn. Hence, the Augusta Mental Hospital flap. How can the Democrats lose by wanting to give more to the unfortunate people in such an institution? Don't we all? And hence the attacks on Rollin Ives who is the commissioner attempting to deal with a nearly impossible human welfare problem.

The citizens of Maine must keep in mind that the Democrats control the state legislature. They can trample the vineyards of finance and play about in rhetorical left field almost at will with the help of the State House press that gets most of its "news" straight from the donkey's mouth."

Now, I wouldn't be anywhere near as amused as I am concerned because in fact each of these articles, first on this, secondly on another bill, and now today on a lobster bill, was written in fact by a legislative aide who is employed by the House Minority Office. Each of these articles appears simply by Mike Brown, not legislative aide, not Republican assistant, by Mike Brown, citizen. We have discussed this on several occasions with members of the Minority Leadership and discussed that we thought it was inappropriate. At the very least, if their office was going to be utilizing their staff people for this type of garbage, they should at least have the common courtesy to list that that particular gentleman is eating off the public troll of the State of Maine.

My question is, Representative Marsano, given the various news releases that have been produced by a member of your office, the most recent being his opposition to this simple bill before us, are these in fact official positions of the Minority Office?

The SPEAKER: Representative Gwadosky of Fairfield has posed a question through the Chair to Representative Marsano of Belfast, who may respond if he so desires.

The Chair recognizes that Representative.

Representative MARSANO: Mr. Speaker, Ladies and Gentlemen of the House: I would just answer the Representative from Fairfield by saying that Mr. Brown exercises his rights as he has discussed them with the Speaker of this House on occasions at which I was present. I represent the town of Northport where Mr. Brown lives, he doesn't represent the town of Northport and the gentleman who wants to speak on this bill comes from Penobscot and represents some people who elected him to come here and speak about bills. I didn't read that article and I would suggest to the gentleman from Fairfield that he can avoid an awful lot of aggravation by simply not reading some of these things that come out. Sometimes there appear things in the press to all of us that are not worth reading. Everybody that writes has some kind of constituency and in the pages of many papers there are those things that appeal to them. I make no public defense of Mr. Brown as to -- or I do make public defense here to Mr. Brown as to what he writes. I think he has a right to write. I think the paper -- in response, the paper that that article appeared in, in response to a suggestion made by the Speaker of this House, indicated that for henceforward, he would be identified in whatever capacity he wrote in and that was certainly satisfactory to me.

I know when I write letters to that paper in response to misstatements that they make about me in connection with things I say over here, they identify me as the Representative from Belfast and Northport and that is perfectly acceptable to me, I assume it would be to Mr. Brown.

The point is that I didn't know about this material until you just read it to me and I don't apologize for that because I don't have an obligation to read things I am not interested in and I wasn't interested in that opinion.

However, I am interested in the opinions of a gentleman in this House who simply made a technical error and didn't get here in time to say what he wanted to about a piece of legislation. I would appreciate it if you would support the motion to reconsider so we can hear from this elected Representative for whom I do have a lot of respect.

The SPEAKER: The Chair recognizes the Representative from Fairfield, Representative Gwadosky.

Representative GWADOSKY: Mr. Speaker, Ladies and Gentlemen of the House: Representative Marsano indicated quite correctly that the Republican Journal did indicate that in the future they had anticipated disclosing Mr. Brown's employer. Let me read an editorial in the Republican Journal which says that "Brown is a former editor of this newspaper and a long-time observer of local and state politics. We suspect that there are few journal readers who are unaware of Brown's journalistic background. In the future to avoid any misunderstanding, when Brown or any other columnists wade into the state's political waters, we will publish and identify it with this column that details his job status with us and others." That was an editorial that was produced on April 27th of this year. The editorial which I just gave to you appears much later than that date, indeed, last week.

Mr. Speaker, I request a roll call.

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

A vote of the House was taken and 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 Penobscot, Representative Hutchins.

Representative HUTCHINS: Mr. Speaker, Ladies and Gentlemen of the House: I apologize for not getting up the first time around -- Ed Dexter talks about the fastest gavel in the East and I think perhaps he is right.

My point on this issue that I am trying to make is that when we look at the Maine lobster -- when we go into any restaurant in the state or any state in this Union as far as that goes, and we look at the menu we always look at the most expensive dish on the menu, almost always being the Maine lobster.

If I can paint a little bit of a picture -- when they advertise the Maine lobster, whether it is coming from any of the northeastern states, they always say the Maine lobster because of the picture they are trying to paint in our minds. They talk about or at least make you think about a lobster that is caught by a small boat and a small crew. What I am trying to do with drawing your attention is the fact that I think we will only have that as a perception if this bill is enacted.

I think what will happen is, this is the first step towards larger boats. We will still have the lobsters, they will still advertise them as Maine lobsters. They will still want you to think about them as coming from small boats when in fact they will be coming from larger boats. I really, firmly feel that this will lead to crew boats.

I realize the amendment that the other body put on only says a maximum of two, but that is a step toward making it different than it is.

As I said yesterday, since 1917, we have had one license for each crew member. I do think that it leads to the demise of what we think of as the lobster industry in the State of Maine, what we think of when we go into a restaurant and look at the menu in any place in this country and in fact in many parts of the world. I think we will end up with a step towards losing the lobster industry -- with the small boat industry as we know it today. At this particular point in time, the lobster industry is the strongest fishing industry in this state and it is so (I believe) because of the way it has been handled for nearly three-quarters of a century with the licensing procedure.

I think if this is a good bill, which I don't think it is, it will be a good bill another term when we will have more time to think about it. This came in late and I think it is a problem because of that.

I would like to make the motion that this bill and all its accompanying papers be indefinitely postponed.

The SPEAKER: The motion to indefinitely postpone is out of order. The pending motion is the motion to reconsider.

The Chair recognizes the Representative from Freeport, Representative Mitchell.

Representative MITCHELL: Mr. Speaker, Men and Women of the House: This is my seventh year serving on the Marine Resources Committee and in those seven years, there have been two issues that were brought before the committee that were partisan issues. One of them was in my first year in the committee that dealt with a seaweed bill. I was on the prevailing side of the seaweed bill, it was bad public policy. This session I put in a bill (which passed) and is sitting on the Appropriations Table to adjust that

and change that. There is no place for partisanship in Marine Resource Law. I hope that this is the last partisan issue that I have to deal with.

The bill before you makes a minor incremental adjustment in the fishing law, the lobster fishing law. It was suggested by lobstermen, fishermen, who wanted to make it easier to fish. The fishermen came to the committee, the Lobsterman's Association made a proposal that they thought would make it easier for lobstermen to fish. It is very reasonable. There were some questions presented by Representative Hutchins yesterday and Senator Perkins presented an amendment and many of his issues were addressed by that amendment.

I hope you will vote against the motion to reconsider. I think this is a fine bill, it is a real small adjustment in the law, we pass these bills probably every session. I also hope that it is the last partisan issue that that particular committee sees because the fishing industry is not served by partisanship.

The SPEAKER: The Chair recognizes the Representative from Penobscot, Representative Hutchins.

Representative HUTCHINS: Mr. Speaker, Ladies and Gentlemen of the House: I, in no way, intended for this to be a partisan issue. I respect all of the members on my committee, especially Representative Mitchell. I think he is one of the best members we have on the committee, he is very knowledgeable. I just happen to disagree with him on this issue. It is not because he happens to be in a different party than I am in.

The SPEAKER: The Chair recognizes the Representative from Belfast, Representative Marsano.

Representative MARSANO: Mr. Speaker, Men and Women of the House: I apologize for speaking again on this matter but I do want to make it clear that I did not raise this as a partisan matter either. I think that Representative Hutchins has some legitimate feelings about this bill which he made known to me after it became clear that procedurally he had not had an opportunity to make the motion that he wanted to with respect to this bill. Sometimes procedure is important in that it can let the body know exactly what it wants and that is the reason that we have this motion to reconsider before us. I hope that you will vote on the motion to reconsider and then let Representative Hutchins' views on the bill either fail because they are not persuasive or persuade you because they are. That ought to be the way in which the bill comes down finally. I can assure you that I don't have any partisan feelings about this and I know very little about lobsters except that occasionally I like to eat them when we are not in the House.

The SPEAKER: A roll call has been ordered. The pending question before the House is the motion of Representative Marsano of Belfast that the House reconsider its action whereby the House voted to recede and concur. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 86

YEA - Aikman, Anderson, Ault, Bailey, Begley, Butland, Curran, Dellert, Dexter, Donald, Farnum, Farren, Foss, Garland, Greenlaw, Hanley, Hastings, Hepburn, Hichborn, Higgins, Hutchins, Jackson, Lebowitz, Libby, Look, Lord, MacBride, Marsano, Marsh, McCormick, McPherson, Merrill, Murphy, Norton, Paradis, E.; Parent, Pendleton, Pines, Reed, Richards, Seavey, Sherburne, Simpson, Small, Stevenson, Strout, B.; Strout, D.; Telow, Wentworth.

NAY - Adams, Aliberti, Anthony, Bell, Boutilier, Burke, Carroll, D.; Carroll, J.; Carter, Cashman,

Cathcart, Clark, H.; Clark, M.; Coles, Conley, Constantine, Cote, Crowley, Daggett, Dipietro, Dore, Duffy, Erwin, P.; Farnsworth, Foster, Graham, Gurney, Gwadosky, Hale, Handy, Heesch, Hickey, Holt, Hussey, Jacques, Jalbert, Joseph, Kilkelly, LaPointe, Larrivee, Lawrence, Lisnik, Luther, Macomber, Mahany, Manning, Marston, Martin, H.; Mayo, McGowan, McHenry, McKeen, McSweeney, Melendy, Michaud, Mills, Mitchell, Moholland, 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, Skoglund, Smith, Stevens, A.; Stevens, P.; Swazey, Tammaro, Tardy, Tracy, Tupper, Walker, The Speaker.

ABSENT - Allen, Brewer, Chonko, Duremble, L.; Gould, R. A.; Hoglund, Ketover, Nadeau, G. G.; Townsend, Webster, M.; Whitcomb.

Yes, 49; No, 90; Absent, 11; Vacant, 1; Paired, 0; Excused, 0.

49 having voted in the affirmative, 90 in the negative, with 11 being absent and 1 vacant, the motion to reconsider did not prevail.

The following item appearing on Supplement No. 18 was taken up out of order by unanimous consent:

PAPER FROM THE SENATE  
Non-Concurrent Matter

Bill "An Act to Require Liquor Sellers' Permits" (S.P. 151) (L.D. 271) (C. "A" S-265) on which the Bill and accompanying papers were indefinitely postponed in the House on June 14, 1989.

Came from the Senate with that Body having insisted on its former action whereby the Bill was passed to be engrossed as amended by Committee Amendment "A" (S-265) in non-concurrence.

Representative Priest of Brunswick moved that the House Insist and Ask for a Committee of Conference.

The SPEAKER: The Chair recognizes the Representative from Belfast, Representative Marsano.

Representative MARSANO: Mr. Speaker, I would ask for a roll call on this and I would hope that the motion would be defeated.

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 Priest of Brunswick that the House Insist and Ask for a Committee of Conference. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 87

YEA - Adams, Aliberti, Anderson, Anthony, Begley, Boutilier, Burke, Carroll, D.; Carroll, J.; Carter, Cashman, Cathcart, Chonko, Clark, H.; Clark, M.; Coles, Cote, Crowley, Daggett, Dore, Duffy, Erwin, P.; Farnum, Farren, Gurney, Gwadosky, Hale, Handy, Heesch, Hickey, Holt, Hussey, Jackson, Jacques, Jalbert, Joseph, LaPointe, Larrivee, Lawrence, Lisnik, Lord, Luther, Macomber, Mahany, Manning, Marston, Martin, H.; Mayo, McGowan, McHenry, McKeen, McSweeney, Melendy, Michaud, Mills, Mitchell, Moholland, Murphy, Nadeau, G. R.; Nutting, O'Dea, O'Gara, Oliver, Paradis, J.; Paradis, P.; Paul, Pederson, Pineau, Pines, Plourde, Pouliot, Priest, Rand, Richard, Ridley, Rolde, Rotondi, Ruhlin, Rydell, Sheltra, Simpson, Skoglund, Smith, Stevens,

A.; Stevens, P.; Swazey, Tammaro, Tardy, Tracy, Tupper, Walker, The Speaker.

MAY - Aikman, Ault, Bailey, Bell, Butland, Conley, Constantine, Curran, Dellert, Dexter, Dipietro, Donald, Farnsworth, Foss, Foster, Garland, Graham, Greenlaw, Hanley, Hastings, Hepburn, Hichborn, Higgins, Hoglund, Hutchins, Kilkelly, Lebowitz, Libby, Look, MacBride, Marsano, Marsh, McCormick, McPherson, Merrill, Norton, Paradis, E.; Parent, Pendleton, Reed, Richards, Seavey, Sherburne, Small, Stevenson, Strout, B.; Strout, D.; Telow, Wentworth.

ABSENT - Allen, Brewer, Dutremble, L.; Gould, R. A.; Ketover, Nadeau, G. G.; Townsend, Webster, M.; Whitcomb.

Yes, 92; No, 49; Absent, 9; Vacant, 1; Paired, 0; Excused, 0.

92 having voted in the affirmative, 49 in the negative, with 9 being absent and 1 vacant, the motion to Insist and Ask for a Committee of Conference did prevail.

The Chair appointed the following Conferees on the part of the House:

Representative MARTIN of Eagle Lake  
Representative MARSH of West Gardiner  
Representative MCGOWAN of Canaan

The following items appearing on Supplement No. 16 were taken up out of order by unanimous consent:

**PASSED TO BE ENACTED**

**Bond Issue**

An Act to Authorize Department of Transportation Bond Issues in the Amount of \$21,000,000 to Match Available Federal Funds for Highway, State and Local Bridges, Harbor and Airport Improvements (H.P. 1223) (L.D. 1695) (C. "A" H-493)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. In accordance with the provisions of Section 14 of Article IX of the Constitution, a two-thirds vote of the House being necessary, a total was taken. 120 voted in favor of same and none against, and accordingly the Bond Issue was passed to be enacted, signed by the Speaker and sent to the Senate.

**PASSED TO BE ENACTED**

**Emergency Measure**

An Act to Clarify the Maine Municipal Bond Bank's and the Maine Public Utility Financing Bank's Ability to Hold, Own and Sell Real and Personal Property (H.P. 1097) (L.D. 1530)

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. 116 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 Ensure the Continuity of Mental Health Services (H.P. 1211) (L.D. 1683) (C. "A" H-494)

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. 106 voted in favor of the same and 1

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

**FINALLY PASSED  
Emergency Measure**

Resolve, Reimbursing Certain Municipalities for Taxes Lost Due to Lands being Classified under the Maine Tree Growth Tax Law (S.P. 624) (L.D. 1721)

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. 116 voted in favor of the same and 1 against and accordingly the Resolve was finally passed, signed by the Speaker and sent to the Senate.

**FINALLY PASSED  
Emergency Measure**

Resolve, to Assess the Needs of the Equine Industry and to Establish a Commission to Study the Creation of a Statewide Horse Council (H.P. 878) (L.D. 1221) (C. "A" H-506)

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. 111 voted in favor of the same and 6 against and accordingly the Resolve was finally passed, signed by the Speaker and sent to the Senate.

**PASSED TO BE ENACTED**

An Act to Grant the Power of Equitable Jurisdiction to the Maine District Court (H.P. 167) (L.D. 232) (C. "A" H-508)

An Act Concerning Agents Selling Hunting and Fishing Licenses (H.P. 181) (L.D. 246) (C. "A" H-483)

An Act Concerning Educational Enhancement (H.P. 762) (L.D. 1066) (C. "A" H-501)

An Act to Amend the Overboard Discharge Laws (H.P. 855) (L.D. 1187) (C. "A" H-502)

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.

**PASSED TO BE ENGROSSED**

An Act to Ensure Notification and Participation by the Public in Licensing and Relicensing of Hydroelectric Dams and to Further Ensure the Equal Consideration of Fisheries and Recreational Uses in Licensing and Relicensing (H.P. 1167) (L.D. 1621) (C. "A" H-497)

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

On motion of Representative Michaud of East Millinocket, under suspension of the rules, the House reconsidered its action whereby L.D. 1621 was passed to be engrossed.

On further motion of the same Representative, under suspension of the rules, the House reconsidered its action whereby Committee Amendment "A" (H-497) was adopted.

The same Representative offered House Amendment "A" (H-515) to Committee Amendment "A" (H-497) and moved its adoption.

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

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

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

**ENACTOR**

**Tabled and Assigned**

An Act Creating the St. Francis Water District (H.P. 1200) (L.D. 1667) (C. "A" H-456)

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 Thursday, June 15, 1989.

**ENACTOR**

**Tabled and Assigned**

An Act to Amend the Procedure for Approval of the Lincoln County Budget (H.P. 1250) (L.D. 1748)

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 Thursday, June 15, 1989.

**PASSED TO BE ENACTED**

An Act to Permit a 7-day Recall to Work Period (H.P. 1254) (L.D. 1753)

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

The Chair laid before the House the following matter: An Act to Clarify Procedural Aspects of the Forcible Entry and Detainer Law (H.P. 446) (L.D. 611) (C. "A" H-265) which was tabled earlier in the day and later today assigned pending passage to be enacted.

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

The Chair laid before the House the following matter: An Act to Improve Compliance with Truck Weight Limits (H.P. 36) (L.D. 36) (S. "B" S-242 and H. "A" H-420 to C. "A" H-277) which was tabled earlier in the day and later today assigned pending passage to be enacted.

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

The Chair laid before the House the following matter: An Act to Establish the Child Welfare Advisory Committee and to Redesignate the Bureau of Social Services as the Bureau of Child and Family Services (H.P. 1024) (L.D. 1425) (C. "A" H-393 and H. "A" H-418) which was tabled earlier in the day and later today assigned pending passage to be enacted.

On motion of Representative Manning of Portland, under suspension of the rules, the House reconsidered its action whereby L.D. 1425 was passed to be engrossed.

The same Representative offered House Amendment "B" (H-532) and moved its adoption.

House Amendment "B" was read by the Clerk and adopted.

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

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

**CONSENT CALENDAR**

**First Day**

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

(H.P. 988) (L.D. 1366) Bill "An Act to Amend Certain Laws Affecting the Department of Environmental Protection" Committee on Energy and Natural Resources reporting "Ought to Pass" as amended by Committee Amendment "A" (H-529)

(H.P. 1034) (L.D. 1440) Resolve, to Create a Commission to Study Crab Fishing in Maine Committee on Marine Resources reporting "Ought to Pass" as amended by Committee Amendment "A" (H-530)

(H.P. 670) (L.D. 918) Bill "An Act to Make the Department of Marine Resources Responsible for Coastal Search and Rescue" Committee on Marine Resources reporting "Ought to Pass" as amended by Committee Amendment "A" (H-531)

(H.P. 713) (L.D. 974) Bill "An Act to Increase the Property Tax Exemption for Veterans" Committee on Taxation reporting "Ought to Pass" as amended by Committee Amendment "A" (H-534)

Under suspension of the rules, Second Day Consent Calendar notification was given, the House Papers were passed to be engrossed as amended and sent up for concurrence.

**(Off Record Remarks)**

Representative Holt of Bath was granted unanimous consent to address the House:

Representative HOLT: Mr. Speaker, Men and Women of the House: Yesterday, Seabrook Nuclear Power Plant started splitting atoms by the man-made process described by our father of the atomic age as "knowing sin." Even the low powered testing process creates nuclear waste, waste that no one knows how to safely isolate for the length of the thousands and millions of years some of it will be deadly.

Seabrook is the most expensive power source in New England -- "The only people who stand to gain from it are the shareholders", that is a direct quote from an editorial found in the June 5th Boston Globe from one of our own Maine Public Utilities Commissioners. She went on to state that "We in New England have enough power without Seabrook. In fact, three of our states put out requests for power purchases and found enough offers to make up nine Seabrooks." Nine Seabrooks. The blackouts and the brownouts experienced in the Boston area last summer were caused by inadequate transmission capacity, not inadequate generating capacity. That problem has already been addressed by a new line tying into Boston Edison's grid, I do believe putting the concerns of many of us about the health effects of radiation aside. I believe Seabrook should not be allowed to operate unless it can meet least cost standards. Seabrook, like Maine Yankee, is a 1000 megawatt reactor. Under New England Power Pool rules, it requires a large amount of backup power. Nuclear plants have to shut down, you know, for repairs, sometimes for months, even years at a time. It is an unforgiving technology, it requires stringent precautions.

Costs of these additional reserves as backup will cost even Maine ratepayers many millions of dollars over the years of Seabrook's life if it is allowed to

operate. That so little protest about Seabrook has come from the political leaders of Maine is astonishing to me, because more of our constituents will now become nuclear downwinders and possibly evacuees. This is a sign of how little we understand the present and long-term risks. The time is long overdue that we stand up and be counted for a safe energy policy of economic benefits to everyone, not just the stockholders who have invested in a source of electricity for which the federal authorities actually and knowingly decided to allow to cause just a little more cancer and just a few more birth defects.

On motion of Representative Strout of Corinth,  
Adjourned until Thursday, June 15, 1989, at 8:15  
a.m..

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

In Senate Chamber  
Wednesday  
June 14, 1989

Senate called to Order by the President.

Prayer by the Honorable Dennis L. Dutremble of York.  
SENATOR DUTREMBLE: Let us pray. Each of us in this Maine Senate Chamber, O Lord, dedicate our gifts of serve to the glory of Your name today. Use these gifts across our State of Maine as instruments of Your love and signs of Your presence among us. Amen.

Reading of the Journal of Yesterday.

PAPERS FROM THE HOUSE  
Non-concurrent Matter

Bill "An Act to Require Installation of Sewage Pump-out Facilities at Certain Marinas"

S.P. 600 L.D. 1677  
(C "A" S-243)

In Senate, June 12, 1989, PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-243).

Comes from the House PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-243) AS AMENDED BY HOUSE AMENDMENT "A" (H-511) thereto, in NON-CONCURRENCE.

The Senate RECEDED and CONCURRED.

COMMUNICATIONS

The Following Communication: S.P. 653  
114TH MAINE LEGISLATURE  
June 9, 1989

Senator Dennis L. Dutremble  
Representative Gregory G. Nadeau  
Chairpersons  
Joint Standing Committee on Housing and Economic Development  
114th Legislature  
Augusta, Maine 04333  
Dear Chairs:

Please be advised that Governor John R. McKernan, Jr. has nominated Raymond L. Edmond, Jr. of Auburn, Gail Lawley of Winslow, Thelma H. Pray of East Lebanon, Arthur Redman of Augusta, Michael J. Levensaler of Friendship, Roland Bracy of Portland and Daniel Parker of Westbrook for appointments to the Adaptive Equipment Loan Program Fund Board.

Pursuant to Public Law 1989, Chapter 276, these nominations will require review by the Joint Standing Committee on Housing and Economic Development and confirmation by the Senate.

Sincerely,  
S/Charles P. Pray  
President of the Senate  
S/John L. Martin  
Speaker of the House

Which was READ and referred to the Committee on HOUSING AND ECONOMIC DEVELOPMENT.  
Sent down for concurrence.

The Following Communication:  
INTERDEPARTMENTAL COUNCIL  
STATE HOUSE STATION 146  
AUGUSTA, MAINE 04333  
June, 1989