

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 V

SECOND REGULAR SESSION

March 20, 1990 to April 14, 1990

Index

HOUSE & SENATE LEGISLATIVE SENTIMENTS

December 7, 1988 to April 14, 1990

**ONE HUNDRED AND FOURTEENTH MAINE LEGISLATURE
SECOND REGULAR SESSION
36th Legislative Day
Tuesday, March 20, 1990**

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

Prayer by Reverend Stephen Ericson, Second Christian Congregational Church, Kittery.

The Journal of Monday, March 19, 1990, was read and approved.

Quorum call was held.

PAPERS FROM THE SENATE

The following Communication:

Maine State Senate
Augusta, Maine 04333

March 19, 1990

Honorable Edwin H. Pert

Clerk of the House

State House Station 2

Augusta, Maine 04333

Dear Clerk Pert:

Please be advised that the Senate today Adhered to its former action whereby it accepted the Majority Ought Not To Pass Report on the Bill "An Act to Annex Township 4, Range 3 WELS to the Town of Island Falls" (H.P. 164) (L.D. 229).

Sincerely,

S/Joy J. O'Brien

Secretary of the Senate

Was read and ordered placed on file.

Bill "An Act to Increase the Bonding Limit for the Maine Court Facilities Authority" (S.P. 973) (L.D. 2439)

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

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

Bill "An Act Concerning the Authority of the Public Utilities Commission to Order Competitive Bidding" (S.P. 972) (L.D. 2438)

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

Was referred to the Committee on Utilities in concurrence.

ORDERS

On motion of Representative NADEAU of Lewiston, the following Joint Order: (H.P. 1773)

Ordered, the Senate concurring, that the Joint Standing Committee on Housing and Economic Development report out a "RESOLUTION, Proposing an Amendment to the Constitution of Maine to Commit State Support of Affordable Housing" to the House.

Was read and passed and sent up for concurrence.

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

REPORTS OF COMMITTEES

Unanimous Leave to Withdraw

Representative PARADIS from the Committee on Judiciary on Bill "An Act to Amend the Statute of Limitations with Respect to Medical Malpractice Prelitigation Screening Panels" (H.P. 1516) (L.D. 2101) reporting "Leave to Withdraw"

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:

(S.P. 82) (L.D. 83) Bill "An Act to Move Certain Minor Capital Costs from the Operating Allocation to the Debt Service Allocation under the School Finance Act of 1985" (Emergency) Committee on Education reporting "Ought to Pass" as amended by Committee Amendment "B" (S-587)

(S.P. 886) (L.D. 2262) Bill "An Act Relating to Pharmacy Services to Nursing Home Residents" Committee on Human Resources reporting "Ought to Pass" as amended by Committee Amendment "A" (S-586)

(H.P. 1751) (L.D. 2413) Bill "An Act Regarding Security and Training Functions within the Bureau of Capitol Security" (EMERGENCY) Committee on Audit and Program Review reporting "Ought to Pass" as amended by Committee Amendment "A" (H-945)

(H.P. 1379) (L.D. 1910) Bill "An Act to Adjust Commercial Motor Vehicle Fees" Committee on Transportation reporting "Ought to Pass" as amended by Committee Amendment "A" (H-948)

(H.P. 1664) (L.D. 2304) Bill "An Act to Amend Certain Provisions in Marine Resources Laws" (EMERGENCY) Committee on Marine Resources reporting "Ought to Pass" as amended by Committee Amendment "A" (H-949)

(H.P. 1602) (L.D. 2214) Bill "An Act to Clarify the Role of the Board of Environmental Protection" Committee on Energy and Natural Resources reporting "Ought to Pass" as amended by Committee Amendment "A" (H-950)

There being no objections, the above items were ordered to appear on the Consent Calendar of Thursday, March 22, 1990, under the listing of Second Day.

CONSENT CALENDAR

Second Day

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

(S.P. 871) (L.D. 2233) Bill "An Act to Continue the Driver Education Evaluation Program" (EMERGENCY) (C. "A" S-584)

(S.P. 938) (L.D. 2373) Bill "An Act to Encourage Local and Regional Health Planning and Provide Research and Technical Assistance Related to Responsibilities of the Maine Health Policy Advisory Council" (C. "A" S-583)

(H.P. 1761) (L.D. 2426) Bill "An Act to Promote the Well-being and Rehabilitation of Children in Need of Care, Treatment or Shelter" (C. "A" H-938)

(H.P. 1686) (L.D. 2334) Resolve, Authorizing the State to Release Its Interest in Certain Real Property in Richmond, Maine (C. "A" H-942)

(H.P. 1749) (L.D. 2412) Bill "An Act to Provide for a Study of the Harness Racing Industry" (EMERGENCY) (C. "A" H-941)

(H.P. 1736) (L.D. 2397) Bill "An Act Concerning Private Wells Contaminated by Hazardous Substances" (EMERGENCY) (C. "A" H-943)

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

House Papers were Passed to be Engrossed as Amended and sent up for concurrence.

ENACTOR
Emergency Measure
Tabled and Assigned

An Act to Create an Appeals Procedure for the State Bidding Process (S.P. 895) (L.D. 2277) (S. "A" S-576; C. "A" S-571)

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, March 22, 1990.

PASSED TO BE ENACTED
Emergency Measure

An Act to Amend the Minimum Standards for Planting Laws (S.P. 923) (L.D. 2332) (C. "A" S-575)

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

An Act to Allow the Maine State Employees Health Insurance Program to Self-insure Health or Dental Insurance (S.P. 806) (L.D. 2069) (C. "A" S-578)

An Act to Help Fund County Government (S.P. 850) (L.D. 2179) (C. "A" S-577)

An Act to Protect Consumer Privacy by Regulating Automated Telephone Solicitations (H.P. 1421) (L.D. 1973) (H. "B" H-926 to C. "A" H-835; H. "A" H-855)

An Act to Amend the Maine Human Rights Act with Regard to Housing Discrimination on the Basis of Handicap (H.P. 1542) (L.D. 2127) (S. "A" S-580 to C. "A" H-868)

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 Limit the Role of Rating Organizations in Property and Casualty Rate Making (H.P. 1627) (L.D. 2249) (C. "A" H-905)

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 later today assigned.

PASSED TO BE ENACTED

An Act Regarding Foreign Trade Zones (H.P. 1662) (L.D. 2302)

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.

ORDERS OF THE DAY
UNFINISHED BUSINESS

The following matters, in the consideration of which the House was engaged at the time of adjournment yesterday, have preference in the Orders

of the Day and continue with such preference until disposed of as provided by Rule 24.

The Chair laid before the House the first item of Unfinished Business:

An Act Concerning Educational Enhancement (H.P. 762) (L.D. 1066) (C. "B" H-896)

TABLED - March 19, 1990 (Till Later Today) by Representative GWADOSKY of Fairfield.

PENDING - Passage to be Enacted.

On motion of Representative Crowley of Stockton Springs, under suspension of the rules, the House reconsidered its action whereby L.D. 1066 was passed to be engrossed.

On motion of the same Representative, under suspension of the rules, the House reconsidered its action whereby Committee Amendment "B" (H-896) was adopted.

The same Representative offered House Amendment "A" (H-959) to Committee Amendment "B" (H-896) and moved its adoption.

House Amendment "A" (H-959) to Committee Amendment "B" (H-896) was read by the Clerk.

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

Representative CROWLEY: Mr. Speaker, Ladies and Gentlemen of the House: This amendment is a minor rewording to clarify the intent of the legislation.

Subsequently, House Amendment "A" to Committee Amendment "B" was adopted.

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

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

The Chair laid before the House the second item of Unfinished Business:

An Act Related to Overcompensation (S.P. 743) (L.D. 1947) (C. "A" S-524)

TABLED - March 19, 1990 (Till Later Today) by Representative GWADOSKY of Fairfield.

PENDING - Passage to be Enacted.

On motion of Representative Gwadosky of Fairfield, retabled pending passage to be enacted and later today assigned.

The Chair laid before the House the third item of Unfinished Business:

An Act Concerning Public Utilities (S.P. 761) (L.D. 1986) (S. "A" S-574 to C. "A" S-561)

TABLED - March 19, 1990 (Till Later Today) by Representative GWADOSKY of Fairfield.

PENDING - Passage to be Enacted.

On motion of Representative Gwadosky of Fairfield, retabled pending passage to be enacted and later today assigned.

The Chair laid before the House the fourth item of Unfinished Business:

An Act to Provide Warranties for Manufactured Housing Purchased from Out-of-state Dealers (H.P. 1500) (L.D. 2077) (C. "A" H-877)

TABLED - March 19, 1990 (Till Later Today) by Representative GWADOSKY of Fairfield.

PENDING - Passage to be Enacted.

On motion of Representative Gwadosky of Fairfield, retabled pending passage to be enacted and later today assigned.

The Chair laid before the House the fifth item of Unfinished Business:

An Act to Clarify the Laws Regarding Recovery of Medicaid Payments from Liable Third Parties (H.P. 1540) (L.D. 2125) (C. "A" H-864)

TABLED - March 19, 1990 (Till Later Today) by Representative GWADOSKY of Fairfield.

PENDING - Passage to be Enacted.

On motion of Representative Gwadosky of Fairfield, retabled pending passage to be enacted and later today assigned.

The Chair laid before the House the sixth item of Unfinished Business:

An Act to Establish Licensing Requirements and a Cooperative Monitoring Program for Mahogany Quahogs (H.P. 1541) (L.D. 2126) (C."A" H-874)

TABLED - March 19, 1990 (Till Later Today) by Representative GWADOSKY of Fairfield.

PENDING - Passage to be Enacted.

On motion of Representative Gwadosky of Fairfield, retabled pending passage to be enacted and later today assigned.

TABLED AND TODAY ASSIGNED

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

Bill "An Act Regarding Eligibility for Participation in Extracurricular Activities" (EMERGENCY) (H.P. 1676) (L.D. 2318)

- In House, Minority "Ought to Pass as amended" Report of the Committee on Education was read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (H-903) on March 15, 1990.

- In Senate, Majority "Ought Not to Pass" Report of the Committee on Education read and accepted in non-concurrence.

TABLED - March 19, 1990 by Representative GWADOSKY of Fairfield.

PENDING - Further Consideration.

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

Representative MAHANY: Mr. Speaker, Ladies and Gentlemen of the House: I move that the House recede and concur.

I would like to thank all of those who supported this bill on my behalf and on behalf of the Novak family.

I would also like to make it clear that even though I am moving to recede and concur because of the vote in the other body, which was 21 to 7 against, I believe this is the wiser of the two Houses, but I want to make it very clear that my own position remains that I believe the principle of public policy guaranteeing the quality of opportunity and equal access to athletics on the secondary level is desirable. I am not at all sure, in fact I am quite convinced, that the step we are taking may not be in the best interests of secondary school children.

Bear in mind please, that if the proposal of the MSSPA to put enrollment policy on the local level and let the local school boards decide whether or not home schoolers may or may not participate in athletics on the secondary level, will not really resolve the problem that we were trying to resolve because in any given administrator's district, we may still be confronted with a David Novak situation, should that district decide not to let home schoolers participate in secondary school athletics. So even though I think the proposal of the MSSPA to some extent is a step in the right direction, please keep

in mind that it does not necessarily resolve the problem in any given school administrative district. We could still have a David Novak case and we could still have as a result of that a student winding up with de facto with only one year of eligibility.

I hope that the future will prove me wrong. Time will tell. We will see. I will be watching. I encourage all of you to be watching too. I encourage you to be watching to see to what extent the power of the MSSPA is growing. It is in my judgment worth watching and needs to be watched.

So, with some reluctance, I move to recede and concur. In the present situation, I think that is the wiser of the options open to us.

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

Representative CROWLEY: Mr. Speaker, Men and Women of the House: I admire the stand that Representative Mahany is taking in behalf of her constituent but I do appreciate the fact that the committee can now go on and pursue this home schooler situation which is new and growing and have some control over it, not just athletically but also academically, and I will assure her that the committee will continue to do this as we did last year and this year.

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

Representative HOLT: Mr. Speaker, Men and Women of the House: I, too, am pleased that we are going to keep more careful watch over the activities of the MSSPA as they apply to home schoolers. I simply wish to state for the Record, as probably one of the first home schoolers in the State of Maine and one of the parents who worked very hard with the state to develop guidelines for home schools, that control over home schools is now adequate, has been arrived at through careful, very careful, negotiations and that my plea here today is, remember good State of Maine that you are one of the states that has developed a sensible policy dealing with home schools. Now what we must be sure to do is protect the right of choice of parents and children and, in protecting right of choice in education, we must not apply rules inflexibly on the home schools. When the rules are applied inflexibly you see this kind of situation developing. Home schools follow the rules of this state and the rules of the state should not force home schools to comply with their rules before they enter the public situation. Going back and forth from home school should be easy, it should help create more diversity in education in this state and rules should not be applied inflexibly to the home situation. When a home schooler enters the public school, he or she is ready and wants to do that full heartedly. They should not be restricted in their ability to enter into extracurricular activities in the public school either before or after they reach the public schools. When they get into the public schools, they should be allowed to play in sports on the same level as public school children and I firmly believe that the actions of the MSSPA, now as in the past, have been based on prejudice against those people who dare to exercise their right of choice in education.

Subsequently, the House voted to recede and concur.

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

An Act to Authorize the Annexation of Land Adjacent to the Town of East Millinocket (EMERGENCY) (S.P. 746) (L.D. 1950) (H. "A" H-900 to C. "A" S-547) TABLED - March 19, 1990 by Representative MAYO of Thomaston.

PENDING - Passage to be Enacted.

On motion of Representative Michaud of East Millinocket, retabled pending passage to be enacted and later today assigned.

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

An Act to Authorize the Department of Human Services to Impose Civil Penalties on Vendors Who Violate the Requirements of the Women, Infants and Children Special Supplemental Food Program (H.P. 1521) (L.D. 2106) (H. "A" H-913 to C. "A" H-830)

TABLED - March 19, 1990 by Representative GWADOSKY of Fairfield.

PENDING - Passage to be Enacted.

On motion of Representative Gwadosky of Fairfield, retabled pending passage to be enacted and later today assigned.

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

Bill "An Act Related to the State Board of Substance Abuse Counselors" (EMERGENCY) (S.P. 699) (L.D. 1837)

- In House, Passed to be Engrossed as amended by Committee Amendment "A" (S-483) as amended by House Amendment "A" (H-860) thereto and Senate Amendment "A" (S-506) on March 2, 1990.

- In Senate, Passed to be Engrossed as amended by Committee Amendment "A" (S-483) as amended by Senate Amendment "A" (S-525) thereto and Senate Amendment "A" (S-506) in non-concurrence.

TABLED - March 19, 1990 by Representative GWADOSKY of Fairfield.

PENDING - Further Consideration.

On motion of Representative Gwadosky of Fairfield, retabled pending further consideration and specially assigned for Thursday, March 22, 1990.

BILLS HELD

Bill "An Act to Amend the Laws Relating to Whitewater Rafting" (H.P. 1648) (L.D. 2281)

- In House, Passed to be Engrossed as amended by Committee Amendment "A" (H-935).

HELD at the request of Representative GOULD of Greenville.

On motion of Representative Gould of Greenville, the House reconsidered its action whereby L.D. 2281 was passed to be engrossed.

On motion of the same Representative, the House reconsidered its action whereby Committee Amendment "A" (H-935) was adopted.

The same Representative offered House Amendment "A" (H-954) to Committee Amendment "A" (H-935) and moved its adoption.

House Amendment "A" (H-954) to Committee Amendment "A" (H-935) was read by the Clerk.

The SPEAKER: The Chair recognizes the Representative from Greenville, Representative Gould.

Representative GOULD: Mr. Speaker, Men and Women of the House: I represent two rafting companies in Greenville, one of them is one of the largest rafting company in this state, one of them is the smallest rafting company in the state. I recently spoke with them about allocation on Sunday. Both of these companies, Eastern River and Pine Tree Whitewater

would like to see the Sunday allocation done away with. This amendment would do away with the allocation on Sunday.

I would like to explain to you the reason why they would like to have this done. What an allocation means is that a company can carry a certain number of people on the river on any given day -- the day we are talking about is Sunday in this particular case. If you do not have an allocation, you cannot take anyone on the river, which reminds me, I would like to point out to you that the rivers of the State of Maine belong to everybody, whether you are a large rafter or a small one. So by deallocating on Sunday, you will not be preventing small rafters from using the river.

Will we increase the number of people using the rivers? Very unlikely and I would like to explain to you exactly why. In order to keep your allocation, you have to carry a certain number of people. You have to maintain your allocation, keep the allocation up. What these companies have to do, in many instances and this was told to me by Eastern River, is they carry people at a discounted rate. In fact, sometimes they will go into the Boom Chain Restaurant in Greenville and say, "Does anybody want to go down the river for \$10?" This is not a wise business decision, it actually costs them money. The reason they do it is to hold their allocations up. What they are doing is carrying more people than they ordinarily would carry on a normal business day and using normal business practices. That is why Eastern River would like to see it deallocated so they could practice efficient business and not have to sell at a lower rate to maintain their allocations. Some people will tell you that if we deallocate, we will take more people down the river than the river can hold -- the way the law is set up now, there is a cap on the number of people that can use the river. That has been in effect for quite some period of time. So, actually it should not increase the number of people going down the river.

I would like to close by giving you just one brief statistic. There are 10,080 spaces allocated on Sunday, 10,080 spaces, that means we can have 10,080 people going down the river on Sunday. Last year, 4,928 of those spaces were used. Remember, that includes some of these rafting companies selling at a discounted rate just to try to hold their allocation up so you can see that less than 50 percent of the possible spaces were used. Remember, when those are not used, the companies that don't have an allocation cannot use them and are small companies and cannot use the waters of the state. So, if we pass this amendment, we will allow the smaller rafting companies to be able to use the waters that belong to all of us and most likely, given the statistics that I just gave you, we are not even going to come close to reaching the number of allocated spaces that we have available to us. Obviously, if you are using techniques designed to increase the number of people by selling at a lower rate, if you still only sell 50 percent and if you remove allocations and allow businesses to charge a full price, you really won't increase the number used by that many. Even if you did, you still have the law on the books that prevent certain a number of people from going down the river.

Representative Jacques of Waterville moved the indefinite postponement of House Amendment "A" (H-954).

Representative Gould of Greenville requested a roll call vote on the motion to indefinitely postpone House Amendment "A" (H-954).

The SPEAKER: The Chair recognizes the Representative from Millinocket, Representative Clark.

Representative CLARK: Mr. Speaker, Men and Women of the House: I hate to differ from my good colleague from Greenville, Representative Gould, but I am at difference with him on this amendment.

This is a unanimous committee report that came out of the Committee on Fisheries and Wildlife and we talked about this amendment at some length in committee. As you know, I represent the town of Millinocket. We have a lot of rafters that come up in that area, particularly on the West Branch of the Penobscot. I am very fortunate, in the summer time, I live at my camp most of the summer from June until September, so I have a great deal of information on the whitewater rafting. Not only that, I was elected to serve under the Speaker on a Whitewater Rafting Committee with a few other members of this body. It really gave me some information on this industry.

You have got to wonder where this amendment is coming from, mainly because there are 560 people that are allocated to run the Penobscot during the week. By taking off the allocation on the Penobscot (for example) on a Sunday, if the rafters wanted to, they could run all 560 on a Sunday. You know the Penobscot River and the West Branch belongs to everybody in the State of Maine, not only the rafters, it belongs to everyone. It belongs to the fishermen, the tourists, whoever wants to go up there and look at the mountains or whatever. If you have any time, I would like to have you come up this summer and see what goes on when the rafters come down the river. You are going to be really surprised what goes on. The freedom that we used to have up there no longer exists. The people come up there have, more or less, taken over the West Branch of the Penobscot. There is no more relaxation, there is no more fun up there. People that used to fish up there for years along the river for salmon do not come back anymore, they don't have the freedom.

The rafters that get on the river at eight o'clock in the morning are supposed to be off at five. That does not happen. You could be fishing on the river at six-thirty and still see rafts come by.

The only thing I ask you today is to turn down this amendment. The committee put out a unanimous report, we discussed it at length in the committee. We are not trying to hurt anyone. Next year, I think the Department of Fisheries and Wildlife is going to reallocate allocations, there is a lot to this bill, we put a lot of time in it. I know Representative Jacques and Representative McGowan, who also served on that committee knows full-well, in detail, what rafting stands for and what they are able to do. I hope when you vote this morning, you vote to turn down the amendment.

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

Representative JACQUES: Mr. Speaker, Men and Women of the House: You are going to get a crash course on whitewater rafting this morning. I am not sure you want it, but here it is.

What this amendment effectively does is -- somehow or other the small companies think that if we adopt this amendment and remove the allocation on Sunday on the West Branch of the Penobscot, it will help them. It will not help them. I will tell you why. Allocations are given on Saturday's on the Kennebec and Saturday's and Sunday's on the Penobscot. Up until last year, there were no whitewater rafting trips on the Kennebec on Sunday. It was just last year that CMP had a little extra water and they started having releases on Sunday on

the Kennebec and allowed the rafting companies to go down. They can't do this every year, there was no guarantee it would be done every year, they just said, this year we can do it.

So, if you remove that option, you are going to have rafting on three days, Saturday on the Kennebec, Saturday and Sunday on the Penobscot.

The reason that we allocated Sunday's on the Penobscot was that when you give an allocation it was for three years. After next year, it is going to be for five years. That means when a big company gets an allocation, if that allocation is 80 passengers a day, they have to meet at least 80 (or close to 80) on those allocated days, vis-a-vis Saturday on the Kennebec, Saturday and Sunday on the Penobscot. If you unallocate Sunday's on the Penobscot, that means that the big companies don't have to meet that allocation and all they have to do is worry about the Saturday on the Kennebec and the Saturday on the Penobscot, which according to the rafters are the busiest times and thereby will be virtually guaranteed of keeping their large allocation from a five year period to five year period, because they won't have to meet that allocation on Sunday either.

According to the rafters own words, Saturday's are the cream of the crop. So, if you remove the allocation on Sunday on the Penobscot, a rafter, a big rafter, won't have to meet that allocation. He won't have to worry about that extra allocated day, all they will do is concentrate on the two Saturdays. Men and women of the House, a small rafting company will never, never be able to make inroads on those allocations because those big companies will keep those Saturday slots filled up, they will meet their allocations and, under the criteria set up by the Legislature, they will keep their allocations every five years as long as they want to stay in the business. That is effectively what will happen.

We tried to have a fair balance where the big companies would not have an undue advantage over the little companies and yet the little aggressive company would be able to improve and increase the amount of allocation he had.

The original bill would have required that all a company had to do was meet 75 percent of the industry average and they would automatically be given their allocation. The committee rejected that because obviously it is to the benefit of the large company. The original bill said that they would be able to run 120 instead of 80. They would have 40 more if you were a large company but that 40 would have to go to the end of the line and put their rafts in. In certain years, water releases are short so the 40 on the end of the line wouldn't be guaranteed. But effectively, by being able to do that, a large company would be able to book 120 passengers and therefore the 40 passengers that he wouldn't be able to take before that went to the smaller company would not go to the smaller company. The committee looked at everything across the board and tried to be fair with everyone.

Another thing we did this year was we allowed for the first time someone to sell their operations on the Penobscot or the Kennebec, whatever the case may be. They don't sell their allocation but they could sell their operation. Wayne Hawkmiere from the Forks wants to get off the Penobscot and concentrate on the Kennebec. So what he is going to do is sell his Pocwockamus Campground as his base camp and his equipment to somebody else and there will be a new rafting company on the West Branch of the Penobscot. They will just be operating on the West Branch, not on the Kennebec. Mr. Hawkmiere will concentrate his

efforts on the Kennebec. What will happen is, all these players are going to change. Some of these little guys, I have a fear, if they don't pay attention to what is going on, aren't going to be around...period. Some of the big guys are going to change.

This is the last year of the allocation so what we had hoped and what we directed is that we would leave things alone this year to see how the allocations worked out in order to be able to see if there is going to be a problem on the West Branch of the Penobscot on Sunday. Alan Clark from the department said he would pay special attention to that, give us the accurate numbers next year. Next year, all the companies will come back to the barrel to get a new allocation, but this time it is going to be for five years.

I would strongly suggest to the members of the House, if you want to worry about the little guy, then you want to vote this amendment down because effectively this amendment will blow the little guy right out of the water. They will be able to run on Sunday, true, but according to all our old statistics, Sunday is not the best day for business. As a matter of fact, they have to give the trip away. If you have to give a trip away and you are a big outfitter who has got all that money to spend on promotion, who has the motels, the hotels and the restaurants, just think what a small company who can't even compete in the field is going to have to do to even come close to using the Sunday allocation on the Penobscot. Think about it just from a purely business point of view. All they are going to gain is being able to run somebody and not have it be an allocated day on Sunday on the Penobscot but they are going to gain no business advantage by doing that and the big guys will keep those two Saturdays locked up, concentrate on those two Saturdays because they won't have to worry about Sunday any more. If they run 12 on Sunday, it won't be held against them; if they run 80 on Sunday, that will be fine. They will concentrate on those two Saturdays and, for the next 50 years, those big companies will have those Saturdays sewn up and those little guys are all going to starve to death because they will not be able to make a go of it on Sundays. It just won't be able to happen. So, if you want to protect the little guy, at least for one more year, let us get the department to look at these figures again. Defeat this amendment.

The SPEAKER: The Chair recognizes the Representative from Greenville, Representative Gould.

Representative GOULD: Mr. Speaker, Ladies and Gentlemen of the House: I won't prolong this too long but there are a couple of points that I would like to make. My friend from Millinocket, Representative Clark said that this was a unanimous report and I know it was and I respect the committee's actions. I testified before the committee and talked to them at workshops, so I do respect their position.

However, the only opportunity that I have to change anything which does not fit what my constituents would like to see -- and after all I was elected to represent my constituents -- is here on the floor of the House because I, too, serve on a committee and a rather busy committee and I am not always able to go to other committees and talk. My constituents, as I pointed out to you, one of them the smallest rafting company in the State of Maine, Pine Tree Whitewater, and the other one is the largest, Eastern River, both favor this. I know both gentlemen very well. The gentleman from Pine Tree is a very intelligent man, he and I taught school

together for quite a number of years. He is running his business and is a person I would call fairly intelligent, fairly knowledgeable, and I don't think that he would be touting some practice which is going to literally put him out of business.

Mr. Edwards is a very intelligent young man and I think he probably has a pretty good idea of what he is doing. With all due respect with what my good friend Representative Jacques says, I do respect Mr. Edwards and I think he knows what he wants. I think he knows what he is trying to get and I think by deallocating -- and by the way, he thinks so much about it that he has called me every night for two weeks and that includes Saturday's and Sunday's, so he is quite interested in it. I respect whatever decision you people make but I do ask you to support this amendment.

The SPEAKER: The Chair recognizes the Representative from Millinocket, Representative Clark.

Representative CLARK: Mr. Speaker, Men and Women of the House: I don't disagree with a lot of what the good Representative from Greenville has stated, I agree with him somewhat, but if it wasn't for the Fisheries and Wildlife Committee, we wouldn't be having this amendment today because there wouldn't be any small companies. The committee virtually cut the small companies afloat because if it wasn't for the committee itself, there wouldn't be any small companies, the big companies would have gobbled them up some time ago.

I still strongly believe that this amendment is not going to help the small companies one bit. As has been said by Representative Jacques, this bill isn't going to help them at all. I hope when you do vote today, you vote to kill the amendment and get on with the work that needs to be done.

The SPEAKER: The Chair recognizes the Representative from Standish, Representative Greenlaw.

Representative GREENLAW: Mr. Speaker, Ladies and Gentlemen of the House: I was going to get up and say we have given this bill all the time that it deserves but I won't say that. I think any time there is a problem with the people out there, we should give it more time than it deserves and we have.

As one person just stated, a call everyday for two weeks -- I know that both parties have met other than in committee with these people. They have had more than a fair shake and I ask you to vote for indefinite postponement.

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

Representative JACQUES: Mr. Speaker, Ladies and Gentlemen of the House: Just so you will understand that we do not think that the gentleman that owns Pine Tree Whitewater is of sub-intelligence, we understand what his concerns are but, unfortunately, what is happening in the industry is that the big guys have told the little guys that we want this changed. If you don't go along with this change, we are going to bury you. The little guys have been intimidated to the point where they came to the Fish and Wildlife Committee and got up and testified in public but then get out in the hall and tell the members of the committee, we are really against this because it will kill us but we thought had to come down because the big guys threatened us if we didn't.

I know that that is a bad situation. The Representative from Greenville is doing what his constituent asked him to do but his constituent is 100 percent wrong because there is no guarantee this is going to keep him in business. The problem he has is, he came into the business very late in the whole situation. You are going to see this problem arise

because there are some people out there that think whitewater rafting is this multi-multimillion dollar business. They experienced a 30 percent decline in business last year and I predict to you that they are going to experience more of a decline because there is just so many people that are going to pay a hundred bucks to go down those rivers. Once they have done that once, that is probably enough. They may do it twice, one on each river.

The problem is that this gentleman is in a tight spot, he wants those Saturday allocations but he can't get them so he thinks that if we unallocate on a Sunday, he will be able to make inroads but he will not make inroads. I will predict to you that if we do pass this amendment, this man will be in business later on but it will not be in whitewater rafting. He will not be able to make those inroads in those two Saturdays that are the bread and butter of the industry.

Mr. Conley from Eastern River would love to see you unallocate Sundays and I will tell you why and that is for the very reason that I have explained. He is a big business, he gets the people up here, he will run on a Saturday to keep his allocation up and everything on Sunday will be gravy. If he can't make his allocation on that Sunday and only makes half of it, that is 40 passengers he is going to take down but the fact that he had 40 shy will not be held against him when the reallocation period comes up and those allocated slots won't be available to the little guys -- Pine Tree Whitewater -- because he won't have to worry about Sundays.

After 12 years of dealing with whitewater rafters, 12 1-o-n-g years, every time we have a system in the play that is working well and is fair for someone, someone comes along and wants to change the system to meet their particular needs. You and I both know that we can't do that. When we started out by trying to mold the legislation to take care of individual outfitters, we got sued. We worried about the little guy and the little guy sued us. We tried to be fair to the big guy and the big guy sued us so we were faced with a position that we had to go to the AG's office every time we changed the whitewater law. Their advice to us this time was, stick to the law that you have on the books, it is constitutionally sound, it is fair and you won't be in trouble if you stick as much as you can to the law that you now have. We have tried to do that.

With all due respect to the gentleman from Pine Tree, he knows not what he is doing. This will blow him out of the water and I really shouldn't care about that because I don't represent a rafter, probably never will, and hopefully never will. We tried to be fair and look out for everybody's interest across the board without casting any dispersions on the intelligence of anyone. He is in between a rock and a hard place and I understand that. If he lets the law work the way it is now, he will have his opportunity; if he changes it, he will not.

I strongly recommend that if you want to let the little guys compete, then vote against this amendment.

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 Jacques of

Waterville that House Amendment "A" (H-954) to Committee Amendment "A" (H-935) be indefinitely postponed. Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 190

YEA - Adams, Aikman, Anderson, Anthony, Bailey, Begley, Bell, Brewer, Burke, Cahill, M.; Carroll, J.; Carter, Cashman, Cathcart, Clark, H.; Conley, Constantine, Cote, Crowley, Curran, Daggett, Dellert, Donald, Dore, Erwin, P.; Farnsworth, Farren, Foster, Garland, Graham, Greenlaw, Gwadosky, Hale, Hastings, Heesch, Hepburn, Hichborn, Hickey, Higgins, Hoglund, Holt, Jackson, Jacques, Joseph, Ketover, LaPointe, Larrivee, Lawrence, Libby, Look, MacBride, Mahany, Manning, Marsano, Mayo, McCormick, McGowan, McHenry, McKeen, McSweeney, Melendy, Michaud, Mills, Mitchell, Moholland, Nadeau, G. G.; Nadeau, G. R.; Norton, Nutting, O'Dea, Oliver, Paradis, E.; Parent, Paul, Pederson, Pendleton, Pineau, Pines, Plourde, Pouliot, Priest, Rand, Richard, Richards, Ridley, Rolde, Ruhlin, Rydell, Simpson, Skoglund, Smith, Stevenson, Strout, B.; Strout, D.; Swazey, Tamaro, Tardy, Telow, Townsend, Tracy, Tupper, Walker, Webster, M..

NAY - Aliberti, Ault, Butland, Carroll, D.; Chonko, Coles, Dexter, DiPietro, Dutremble, L.; Foss, Gould, R. A.; Handy, Hanley, Hussey, Hutchins, Jalbert, Kilkelly, Lebowitz, Lord, McPherson, Merrill, Murphy, O'Gara, Reed, Rotondi, Seavey, Sheltra, Small, Stevens, A.; Wentworth.

ABSENT - Allen, Boutilier, Clark, M.; Duffy, Farnum, Gurney, Lisnik, Luther, Macomber, Marsh, Marston, Martin, H.; Paradis, J.; Paradis, P.; Sherburne, Stevens, P.; Whitcomb, The Speaker.

Yes, 103; No, 30; Absent, 18; Paired, 0; Excused, 0.

103 having voted in the affirmative and 30 in the negative with 18 being absent, the motion did prevail.

Subsequently, Committee Amendment "A" (H-935) was adopted.

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

Bill "An Act to Continue the Effort to Preserve and Promote Affordable Housing and Economic Opportunities for Maine People" (H.P. 1564) (L.D. 2170)

- In House, Passed to be Engrossed as amended by Committee Amendment "A" (H-931).

HELD at the request of Representative NADEAU of Lewiston.

On motion of Representative Nadeau of Lewiston, the House reconsidered its action whereby L.D. 2170 was passed to be engrossed.

On motion of the same Representative, the House reconsidered its action whereby Committee Amendment "A" (H-931) was adopted.

The same Representative offered House Amendment "A" (H-953) to Committee Amendment "A" (H-931) and moved its adoption.

House Amendment "A" (H-953) to Committee Amendment "A" (H-931) 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.

Bill "An Act to Enhance Enforcement of the Driving Under the Influence of Alcohol and Drug Laws" (H.P. 814) (L.D. 1126)

- In House, Passed to be Engrossed as amended by Committee Amendment "A" (H-775) as amended by House Amendment "B" (H-930) thereto on March 15, 1990.

- In Senate, Passed to be Engrossed as amended by Committee Amendment "A" (H-775) as amended by Senate Amendment "A" (S-589) thereto in non-concurrence on March 16, 1990.

- In House, House Receded and Concurred.
HELD at the Request of Representative PRIEST of Brunswick.

On motion of Representative Priest of Brunswick, the House reconsidered its action whereby the House voted to recede and concur.

On motion of the same Representative, the House voted to recede.

Senate Amendment "A" (S-589) to Committee Amendment "A" (S-775) was read by the Clerk.

On motion of Representative Priest of Brunswick, Senate Amendment "A" (S-775) was indefinitely postponed.

On motion of the same Representative, House Amendment "B" (H-930) to Senate Amendment "A" (S-589) was indefinitely postponed.

The same Representative offered House Amendment "C" (H-958) to Committee Amendment "A" (S-775) and moved its adoption.

House Amendment "C" (H-958) to Committee Amendment "A" (S-775) was read by the Clerk.

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

Representative PRIEST: Mr. Speaker, Men and Women of the House: House Amendment "C" is in response to a request that the Attorney General made of us to ensure that when a person raises the defense that he is ignorant of the effect of the prescription drug, that defense is an affirmative defense and the burden of proof is on the defendant, not only to raise that but to prove it. The Attorney General was concerned that, without a specific statement that it was an affirmative defense, the state might have the burden of proving it, once the defendant had raised it. We don't want to do that, we want to make sure that the burden is on the defendant. That is in line with what the committee had asked for and we are presenting this at the request of the Attorney General for clarification.

Subsequently, House Amendment "C" (H-958) to Committee Amendment "A" (H-775) was adopted.

Committee Amendment "A" (H-775) as amended by House Amendment "C" (H-958) thereto was adopted.

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

The Chair laid before the House the following matter: An Act to Authorize the Annexation of Land Adjacent to the Town of East Millinocket (EMERGENCY) (S.P. 746) (L.D. 1950) (H. "A" H-900 to C. "A" S-547) which was tabled earlier in the day and later today assigned pending passage to be enacted.

On motion of Representative Michaud of East Millinocket, under suspension of the rules, the House reconsidered its action whereby L.D. 1950 was passed to be engrossed.

On motion of the same Representative, the House reconsidered its action whereby Committee Amendment "A" (S-547) as amended by House Amendment "A" (H-900) was adopted.

The same Representative offered House Amendment "B" (H-955) to Committee Amendment "A" (S-547) and moved its adoption.

House Amendment "B" (H-955) to Committee Amendment "A" (S-547) was read by the Clerk.

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

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

The Statement of Facts in the proposed language seems to be inconsistent. Could the gentleman from East Millinocket explain it to the House, please?

The SPEAKER: The Representative from Belfast, Representative Marsano, has posed a question through the Chair to the Representative from East Millinocket who may respond if he so desires.

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

Representative MICHAUD: Mr. Speaker, Ladies and Gentlemen of the House: It is my understanding that there is only one individual who lives in that unorganized territory so, therefore, this amendment is supposed to eliminate the minimum turnouts since there is only one.

Representative Wentworth of Wells requested a roll call.

The SPEAKER: A roll call has been requested. For the Chair to order a roll call, it must have the expressed desire of 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.

On motion of Representative Marsano of Belfast, tabled pending adoption of House Amendment "B" (H-955) to Committee Amendment "A" (S-547) and later today assigned.

The Chair laid before the House the following matter: An Act to Provide Warranties for Manufactured Housing Purchased from Out-of-state Dealers (H.P. 1500) (L.D. 2077) (C. "A" H-877) which was tabled earlier in the day and later today assigned pending passage to be enacted.

On motion of Representative Priest of Brunswick, under suspension of the rules, the House reconsidered its action whereby L.D. 2077 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-877) was adopted.

The same Representative offered House Amendment "A" (H-957) to Committee Amendment "A" (H-877) and moved its adoption.

House Amendment "A" (H-957) to Committee Amendment "A" (H-877) 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.

The Chair laid before the House the following matter: An Act to Authorize the Annexation of Land Adjacent to the Town of East Millinocket (EMERGENCY) (S.P. 746) (L.D. 1950) (H. "A" H-900 to C. "A" S-547) which was tabled earlier in the day and later today assigned pending adoption of House Amendment "B"

(H-955) to Committee Amendment "A" (S-547). (Roll Call ordered)

The SPEAKER: A roll call has been ordered. The pending question before the House is adoption of House Amendment "B" (H-955) to Committee Amendment "A" (S-547).

The Chair recognizes the Representative from Thomaston, Representative Mayo.

Representative MAYO: Mr. Speaker, pursuant to House Rule 7, I wish to pair my vote with Representative Clark of Brunswick. If Representative Clark were present and voting, she would be voting nay; I would be voting yea.

The SPEAKER: A roll call has been ordered. The pending question before the House is adoption of House Amendment "B" (H-955) to Committee Amendment "A" (S-547). Those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 191

YEA - Adams, Aliberti, Bell, Brewer, Burke, Cahill, M.; Carter, Cashman, Cathcart, Chonko, Coles, Conley, Constantine, Cote, Crowley, Daggett, DiPietro, Dore, Duffy, Erwin, P.; Gould, R. A.; Graham, Gwadosky, Hale, Handy, Heeschen, Hichborn, Hickey, Holt, Jacques, Jalbert, Joseph, Ketover, LaPointe, Larrievé, Lawrence, Mahany, Manning, McGowan, McSweeney, Melendy, Michaud, Mills, Mitchell, Moholland, Nadeau, G. G.; Nadeau, G. R.; Nutting, O'Dea, O'Gara, Oliver, Paul, Pederson, Pineau, Plourde, Pouliot, Priest, Rand, Richard, Ridley, Rolde, Rotondi, Ruhlin, Rydell, Skoglund, Stevens, A.; Stevens, P.; Strout, D.; Swazey, Tamaro, Telow, Tracy, Walker.

NAY - Aikman, Anderson, Anthony, Ault, Bailey, Begley, Butland, Carroll, J.; Clark, H.; Curran, Dellert, Donald, Dutremble, L.; Farren, Foss, Foster, Garland, Greenlaw, Hanley, Hastings, Higgins, Hussey, Hutchins, Jackson, Lebowitz, Libby, Look, Lord, MacBride, Marsano, Marsh, McCormick, McHenry, McPherson, Merrill, Murphy, Norton, Paradis, E.; Parent, Pendleton, Pines, Reed, Richards, Seavey, Sheltra, Small, Smith, Stevenson, Strout, B.; Tardy, Tupper, Webster, M.; Wentworth, Whitcomb.

ABSENT - Allen, Boutilier, Carroll, D.; Dexter, Farnsworth, Farnum, Gurney, Hepburn, Høglund, Kilkelly, Lisnik, Luther, Macomber, Marston, Martin, H.; McKeen, Paradis, J.; Paradis, P.; Sherburne, Simpson, Townsend, The Speaker.

PAIRED - Clark, M.; Mayo.

Yes, 73; No, 54; Absent, 22; Paired, 2; Excused, 0.

73 having voted in the affirmative, 54 in the negative, with 22 being absent and 2 having paired, House Amendment "B" (H-955) to Committee Amendment "A" (S-547) was adopted.

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

The Bill was passed to be engrossed as amended by Committee Amendment "A" (S-547) as amended by House Amendment "A" (H-900) and House Amendment "B" (H-955) thereto in non-concurrence and sent up for concurrence.

The Chair laid before the House the following matter: An Act to Authorize the Department of Human Services to Impose Civil Penalties on Vendors Who Violate the Requirements of the Women, Infants and Children Special Supplemental Food Program (H.P. 1521) (L.D. 2106) (H. "A" H-913 to C. "A" H-830) which was tabled earlier in the day and later today assigned pending passage to be enacted.

Subsequently, the Bill 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 Related to Overcompensation (S.P. 743) (L.D. 1947) (C. "A" S-524) which was tabled earlier in the day and later today assigned pending passage to be enacted.

On motion of Representative Gwadosky of Fairfield, under suspension of the rules, the House reconsidered its action whereby L.D. 1947 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-524) was adopted.

On further motion of the same Representative, the House reconsidered its action whereby House Amendment "B" (H-890) was indefinitely postponed.

House Amendment "B" (H-890) to Committee Amendment "A" (S-524) was adopted.

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

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

(At Ease)

The House was called to order by the Speaker.

On motion of Representative Gwadosky of Fairfield, the House reconsidered its action whereby An Act to Help Fund County Government (S.P. 850) (L.D. 2179) (C. "A" S-577) was passed to be enacted.

On further motion of the same Representative, under suspension of the rules, the House reconsidered its action whereby L.D. 2179 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-577) was adopted.

On further motion of the same Representative, L.D. 2179 was Tabled Unassigned pending passage to be engrossed.

The Chair laid before the House the following matter: An Act to Clarify the Laws Regarding Recovery of Medicaid Payments from Liable Third Parties (H.P. 1540) (L.D. 2125) (C. "A" H-864) which was tabled earlier in the day and later today assigned pending passage to be enacted.

Subsequently, the Bill was passed to be enacted, 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. 3 was taken up out of order by unanimous consent.

REPORTS OF COMMITTEES

Divided Report

Majority Report of the Committee on Human Resources reporting "Ought Not to Pass" on Bill "An

Act to Expand Estate Recovery from Certain Medicaid Recipients" (H.P. 1524) (L.D. 2109)

Signed:

Senators:

GAUVREAU of Androscoggin
TITCOMB of Cumberland
MANNING of Portland
CATHCART of Orono
BOUTILIER of Lewiston
CLARK of Brunswick
ROLDE of York
PEDERSON of Bangor
BURKE of Vassalboro

Representatives:

Minority Report of the same Committee reporting "Ought to Pass" as amended by Committee Amendment "A" (H-947) on same Bill.

Signed:

Senator:

Representatives:

RANDALL of Washington
PENDLETON of Scarborough
DELLERT of Gardiner
HEPBURN of Skowhegan

Reports were read.

The SPEAKER: The Chair recognizes the Representative from Portland, Representative Manning. Representative MANNING: Mr. Speaker, Ladies and Gentlemen of the House: I move that the House accept the Majority "Ought Not to Pass" Report.

This bill, as it was proposed, was debated long and hard in the committee. I think why the majority of the committee had a real problem with it was because it came down to the fact that the advocates for the elderly, the Maine Committee on Aging and AARP both came in and opposed this bill and said that this would really be a detriment to those individuals who would be going into nursing homes. They indicated to us, and I quite frankly have to believe them because they are the ones that deal with the elderly more so than probably anybody, that they felt that, if an elderly person had to sign away their home and knowing that when they went in a nursing home and died, that that home would have a lien on it and whatever they could get out of it up to 50 percent would go back to the state. They indicated that those people who were going into the nursing homes would not go into the nursing homes. They said that people would rather die in their own homes than give up their homes.

Currently under the system, if you go into a nursing home and are under the Medicaid program and indicate to the Department of Human Services that your intention is to go back home, then the Department of Human Services cannot use that home of yours as part of their formula dealing with the assets that you might have. Under this bill, they will be able to use it.

We were told by the advocates that if that's the case, people then would say, I am not going to give up my home and I am not going into the nursing home. What would end up happening is people who really should be in nursing homes would now be in their own homes and most likely would die in their own homes.

The advocates were very upset that this would happen and were very afraid that many people who need nursing home care would not get it. We all know that there isn't much care outside of nursing homes now because of the fact that the home based care is tapped right to its budget and the other programs that are available to those people in the homes are very hard to come by. So, I think what the committee really felt was that, if the elderly felt that they would not go in their homes and that it would be a detriment to the elderly, then we ought not to be putting this in legislation because we should have people going in there when they really need to get in there.

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

Representative DELLERT: Mr. Speaker, Men and Women of the House: I hope you will vote against the "Ought Not to Pass" Report so that we may then vote on the "Ought to Pass" Report.

Recovering from estates is the only available effective means of recovering nursing home costs, the largest Medicaid service at about 40 percent. Claims would never be placed as long as the spouse, children under 21, or dependents due to disability are in the home or if anyone currently residing in the home has resided there at least one year prior to the recipients entering the nursing home, no spouse would be affected. Estate recovery claims would only be used for those who have received institutionalized care and will only be placed after death. No claim can be placed for recovery of Medicaid expenditures that were made on behalf of a recipient who is eligible in the community. No recovery will ever exceed 50 percent of the value of the property, heirs will always receive at least 50 percent of the value.

In the amended note, you will notice that that money is part of the budget for the amount that is expected to be recovered. We have the deappropriation of \$285,000 in the supplemental budget. I hope that you will realize that this is not to hurt those that are in the nursing homes but it is to help the state recover some of that money which they have used to keep the recipient in the nursing home.

I hope you will vote against the "Ought Not to Pass" Report. I would ask for a roll call.

The SPEAKER: The Chair recognizes the Representative from Vassalboro, Representative Burke.

Representative BURKE: Mr. Speaker, Ladies and Gentlemen of the House: As Representative Manning indicated, this bill received extensive scrutiny in our committee. I feel very strongly that this bill, in essence, allows DHS to tax our elderly to the grave and beyond. It provides that should someone need Medicaid assistance when they are in a nursing home, that upon their death, DHS can garner recovery of the Medicaid payments by attaching a lien on the homes of these people. It does not limit or stop the activity of some people to put their homes and assets in a trust for their children and accept Medicaid payments from the state. It only provides that elderly Medicaid clients who do not know how to do estate planning and essentially spend down their assets honestly and become dependent upon the state are punished for being that honest by having their homes taken from their estate after they die.

Some of the more interesting facets of this bill is that when it was first proposed and the state could take 100 percent value of the house, regardless of who lived there, and we said that this was absolutely untenable in our eyes. DHS came back with an amendment that said, okay, we will only take half of the value of the house and, if you have dependent children or spouse or a friend who has cared for you for 12 months before you entered the nursing home, they can stay there or they can mortgage the other half of the house. Under the original bill and under the amendment, the state was going to garner \$1 million whether they take half the value of the house or whether they take the full value of the house. I found that to be extremely creative math.

I cannot urge you strongly enough, in fact I hesitate to say this, but the term that this bill became known by among the people who opposed this bill and felt it should not pass is it became known as the "grave robber bill."

I urge you very strongly to accept the Majority "Ought Not to Pass" Report.

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

Representative HEPBURN: Mr. Speaker, Ladies and Gentlemen of the House: I guess it is no surprise to anyone that we are a few dollars short this year in state government and this is, I think, a reasonable proposal in the direction of perhaps garnering some more funds for the Medicaid program, approximately \$360,000 worth.

I think one of the fundamental questions we have to ask here is, if a person receives Medicaid payment for services they receive in nursing homes, who should pay the bill on this? Ultimately, someone is going to have to pay the bill. The money does not magically appear from Washington or some other place. So, the question then became incumbent upon us, should the estate of the person who receives the services pay this bill or should the taxpayer of the State of Maine or the United States Government pay the bill? I think the obvious answer is that we should first go to the people who have received the services or the estate of those people and proceed in that direction.

I would urge that you vote against the motion on the floor so that we can go to accept the "Ought to Pass" Report on this department bill.

The SPEAKER: The Chair recognizes the Representative from York, Representative Rolde.

Representative ROLDE: Mr. Speaker, Ladies and Gentlemen of the House: Just a brief bit of history on a bill that was perhaps similar many years ago when we first put in for property tax relief for senior citizens and the idea of the lien was attached to that particular proposal. In fact, when the law was first put in, there was a lien provision. I think in the first two years that that bill was in operation only six people, six elderly people within the entire State of Maine, would have applied for it. Maine elderly people are proud and I think the word lien would scare anyone off about going into a nursing home. Therefore, I urge you also to accept the Majority Report.

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

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

My question is, if a person had very limited resources in the bank or what have you, had basically their own house, then had to have a total hip surgery that perhaps put them in a nursing home for eight months, can you tell me what would happen to that person's home in that short interim?

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 Gardiner, Representative Dellert.

Representative DELLERT: Mr. Speaker, Men and Women of the House: Anyone who is planning to go back to their home, nothing would happen. Their home is theirs if they are in a nursing home temporarily. They are spoken to when they first go into the nursing home about the possibility of any estate that they may give away which has to be done two and a half years prior to their entering to be protected.

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

Representative MELENDY: Mr. Speaker, Men and Women of the House: If I may follow up please -- whether it were a total hip surgery that just required a number of months or maybe if it went into

something that was going to require four or five years, I think what we have to be concerned here is, what is therapeutic? Can you imagine an elderly person being in a nursing home, go on beyond the time, and now all of a sudden there is a lien attached to their home. I don't believe that would be therapeutic. People that go into nursing homes usually hope beyond hope that they some day will go back to their own home. I am sure that they would not be working as hard to heal if they knew that their home was then going to be taken by the state. I urge you to support Representative Manning's motion.

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

Representative ANTHONY: Mr. Speaker, I wish to pose a question through the Chair.

As I read this proposed legislation, there is no bottom limit on this so that if somebody died leaving an estate totaling, let's say only \$2,000 and no home, am I correct that the state would have a lien against \$1,000 of that \$2,000 total estate?

The SPEAKER: The Representative from South Portland, Representative Anthony, has posed a question through the Chair to anyone on the committee who may respond if they so desire.

The Chair recognizes the Representative from Gardiner, Representative Dellert.

Representative DELLERT: Mr. Speaker, Men and Women of the House: I believe it is one-half of what is left. After all, the state bears the cost of all the Medicaid patients in the nursing homes.

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

Representative DIPIETRO: Mr. Speaker, Ladies and Gentlemen of the House: I would just like to say, let your conscience be your guide when you vote today. The reason for that is there are a lot of us who still do have our parents living with us. We know what our parents have worked for and worked very hard for and it would be a shame to have the State of Maine be in the real estate business. I support Representative Manning's bill.

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

Representative MARSANO: Mr. Speaker, Men and Women of the House: I rise basically this morning because I can't believe this House does not understand that that property which is acquired by people exist for the purposes of supporting them. That is what I think we all work hard for in trying to acquire property. One of the difficulties is that there is this confusion. There is still no ability for the person to take property beyond the grave, you simply cannot take it with you and the question is, what happens to property that a person has acquired in order to see them through their life? It seems to me as though it is to meet their responsibilities and to allow them to live their lives in comfort. The whole lien process existed for the purposes of allowing people to do exactly that.

Adopting the "Ought Not to Pass" Report will urge people to beggar themselves so that the state will support them while their children profit or others profit from them. I don't think that that is a good policy for the State of Maine. I think that this process of state government has created an opportunity for people to live with dignity in their homes.

I would point out that incorporated into the 50 percent provision is the idea that a joint tenancy in which the survivorship would preclude the lien being filed against the decedent is carried forward with

the idea that at least half of the property will exist for the benefit of those who would have been the heir of the person who was not involved in the lien process. This is a good policy.

I realize that I am a lot older than many members of this House and when I started practicing law back in the early 1960's, the State of Maine had a very innocent Home Assistance Program for the elderly, which worked wonderfully well. Many, many old people continued to live in their homes just as so many of the older people of Maine still want to do. They recognized that when they passed on that, in some fashion, the costs that were associated with their care in their declining years would be repaid by them out of the assets which they had. I find no objection with this and I would urge you to support the Minority "Ought to Pass" Report and defeat the present motion.

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

Representative MAYO: Mr. Speaker, Men and Women of the House: I rise in support of the pending motion, "Ought Not to Pass" on this legislation. I have heard a couple of things mentioned so far on the floor this morning that really surprised me. First of all, justification of this legislation because of budget woes of the state. I can't believe that we would actually consider trying to balance the budget on the backs of those individuals who are the least able to afford that. I can't believe that we would consider going after a home that may have been in the family for hundreds of years, simply to get recompense for a service that was provided to someone who lived in this state. Are we going to attach liens on the states to recoup the cost of education? That certainly would be a lot more sensible to take out of the state coffers for that program than it does for this. Are we going to attach liens to businesses who enjoy tax breaks provided to them, such as job opportunity zones and other things like that? I don't think so.

I think there is a clear question in this House that we can answer the morning. I would urge this House to follow the "Ought Not to Pass" Report.

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

Representative ANTHONY: Mr. Speaker, Men and Women of the House: I, too, would support the "Ought Not to Pass" Report. I am not an expert in the area of the federal rules regarding this but I am aware that the Social Security rules do require a certain amount of spending down before you become eligible for Medicaid. It appears to me that one of the results of this particular proposal is that people who do in fact comply with those rules spend down to the point where they are eligible and then receive Medicaid assistance in a nursing home. Those people now have very small assets, very small estates that they will be leaving behind, and this bill would take that little bit of estate and divide it so that one-half of it would go to the estate. It doesn't make sense to me to attack, not only the elderly but the poorest section of elderly. It seems to me that this bill is carefully targeted at those people.

I would also point out another thing. On the second page of the proposed Committee Amendment "A", there is a proposal that says, if you live in the home for 12 months with your elderly parents, this would not apply to you. I can envision situations where you are now going to be, because of this state policy if it were passed, conditioning decisions about who lives with whom in order to protect property and that doesn't make sense. We shouldn't

be setting up a situation where decisions as to staying with one's parents are made in order to protect property. We might even have the situation where you would be holding somebody alive for longer than might be otherwise desired by the elderly person in order to make sure that the 12 months have expired. That, again, does not make sense from a policy point of view.

What we would be doing if we were to pass this bill is to set up a whole series of financial determinations in the appropriate care that really distorts what is good sound public policy in terms of individual decisions made by people because of the existence of a law like this.

I strongly urge the support of the "Ought Not to Pass" Report.

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

Representative HALE: Mr. Speaker, Ladies and Gentlemen of the House: I will be brief, if possible. I, too, urge you to support the "Ought Not to Pass" Report. I ask you to think, and of course the good Representative Hepburn brought it to mind when he spoke about the taxpayer picking up the bill -- who is the taxpayer? Who created what we have today? It is the elderly. We, as a nation, are sending hundreds of millions of dollars to support the world. Who pays that bill? The people of the State of Maine and every other state. We are asked to send \$300 million to Nicaragua, to continue to send over \$400 million to El Salvador so I am sure that we can afford to take care of the elderly here in the State of Maine at no cost to the surviving spouse. If they have worked all of their lives to have a house, then the surviving spouse should be secure in the knowledge that it is there, that we, their Representatives, do care, that we are providing for them. That is what we are here for -- on the local, county, state or federal level. If there is a deficit that exists, it is because it has been created by too much giving outside of the United States of America. Remember ladies and gentlemen, charity begins at home. We must take care of our own before we can worry about other people and I urge you to vote "Ought Not to Pass."

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

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

We look at Maine agencies providing assistance to our people -- are any of these agencies requesting reimbursement for these allocations that they have provided to people?

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

The Chair recognizes the Representative from Portland, Representative Manning.

Representative MANNING: Mr. Speaker, Ladies and Gentlemen of the House: Are any of the agencies that came in front of our committee requesting more money -- is that the question? Naturally, the Committee on Aging would like to see more money put into the field. Home base care has been a number one issue for them, expanding the home base care program has been a major proposal of theirs.

The SPEAKER: The Chair recognizes the Representative from Vassalboro, Representative Burke.

Representative BURKE: Mr. Speaker, Ladies and Gentlemen of the House: In answer to Representative Hickey's question, no, no other agency attempts to recoup payments made to people because they were dependent upon the system. Certainly if anyone ever proposed that Medicare try to recoup what it had paid

out to Medicare recipients, we would fill this State House with people absolutely appalled at the very idea. Because this bill is aimed only at the poor elderly, these people do not generally have a voice, we have to act as their voice and say, absolutely no. This is an appalling idea.

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

Representative MARSANO: Mr. Speaker, Ladies and Gentlemen of the House: The suggestion that has been made by the Representative from Vassalboro and the argument that has been made by Representative Hale is simply not consistent with the language of Paragraph C in the proposed "Ought to Pass" Report. If the motion is defeated, what they would be protecting is the home or primary residence in the event that there were these associated people, spouses, children, siblings and that sort of thing, as the Representative from Skowhegan said.

What is important to understand is that these people who they refer to as poor are protected in their homes, their residences and that sort of thing. What this would apply to is other property, primarily. The residence is protected. The sacred concept that they are talking about is already protected and it seems to me as though the arguments are specious with respect to the proposed Minority Report and I would urge the defeat of the pending motion so that may be adopted.

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

Representative ALIBERTI: Mr. Speaker, Ladies and Gentlemen of the House: I am a member, along with three or four others in this illustrious body, that is targeted, along with the many, many other elderly. Certainly this group is becoming the targeted group in the United States and now the State is picking the same target. Oh, how I wish that the great illustrious person and defendant of the elderly was still with us, the Honorable Claude Pepper. I wonder how he would react to what this bill is asking for the elderly?

I did not amass what I have today by myself. I am privileged because, at this time, I do not need Medicaid, but who is to say that a year from now I may not be in the position that I am today. All that we together developed as security and assets, as I interpret this in a general way, could be threatened. What has happened to frugality? To the opportunity that was given to us to go out there and compete and enjoy a standard of living and also have a little extra? I find that I am jeopardized and threatened again as a member of that targeted group. It is about time they left the elderly alone. They did it with catastrophic insurance and they are continually doing it.

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

Representative BELL: Mr. Speaker, Men and Women of the House: It makes me sad to see how deep that we are willing to dig for funds during a financial crisis. I urge you all to support the "Ought Not to Pass" Report.

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 clarify a few points that may have led people astray in the debate today concerning the 12 month rule that appears in the amendment. That was put into the amendment and I think it was one of the positive outgrowths of the committee discussion to put in a 12 month rule concerning anyone who had resided with the person whose estate might be proceeded against here. The

idea is that it was brought before us in the committee was that in many cases of friends, or more often relatives of an individual who ultimately receives nursing home care have lived with that elderly person and provided care free of charge to that individual before they have needed more intensive type of care that would be available at a nursing home. As a way of helping that person or in a sense compensating that person, we instituted this 12 month rule, which would make the lien of no effect in case of a person who had resided with that person for that period of time. There was some discussion as to whether it should 6 months, 12 months or two years, how long a period of time an individual should live with an elderly person before they should have the benefits of the estate willed to them, which is often the case, but we ultimately decided upon 12 months as being a reasonable amount of time. The insinuation was made that a piece of property or house would be sold out from underneath a surviving spouse but that is absolutely not the case and would not be allowed under the language of the amendment.

It is important to realize that not everyone who receives Medicaid funding for nursing home care is indigent. Technically they may be indigent but they have property assets which are considerable. A person may have spent down their assets but under Medicaid rules they are allowed to have a rather sizable house, which is not included in their asset calculation in terms of Medicaid benefits.

Why should the survivors of this individual, after the individual passes on, be entitled to this bonanza at the expense of the other taxpayers in the State of Maine? Why? There is no answer to that question. The only reasonable thing, I think, is to expect the estate of the person who received the services to kick in a certain amount of money, that's all.

There have been other comments that this is an attempt to balance the budget on the backs of the elderly or some group -- this type of legislation has been passed by a number of states, long before this budget problem that has been sweeping the various states in the northeast came to fruition, so there is nothing new about this. It has been recommended by the federal government; in fact, it may even be mandated to us next year. I think it is a reasonable way to recoup some money, \$400,000 is \$400,000 we could use somewhere else. I just think it is a reasonable way in which the taxpayers of the State of Maine can expect to get back part of what they have given to some people.

I hope that you will oppose the motion on the floor.

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

Representative GWADOSKY: Mr. Speaker, Ladies and Gentlemen of the House: I apologize for interrupting the debate but I would like to request that someone table this until later in today's session. I know that there are a couple of items that we have to move today, one including the budget. So, I would ask that somebody table this until later in today's session so we could take it up in a few moments.

On motion of Representative Mayo of Thomaston, tabled pending the motion of Representative Manning of Portland that the House accept the Majority "Ought Not to Pass" Report and later today assigned.

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

Emergency Measure

An Act to Make Supplemental Appropriations and Allocations for the Expenditures of State Government and to Change Certain Provisions of the Law Necessary to the Proper Operations of State Government for the Fiscal Year Ending June 30, 1990 (H.P. 1649) (L.D. 2282) (C. "A" H-944)

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

By unanimous consent, ordered sent forthwith to the Senate.

The Chair laid before the House the following matter: Bill "An Act to Expand Estate Recovery from Certain Medicaid Recipients" (H.P. 1524) (L.D. 2109) which was tabled earlier in the day and later today assigned pending the motion of Representative Manning of Portland that the House accept the Majority "Ought Not to Pass" Report.

At this point, the Speaker appointed Representative Gwadlosky of Fairfield to act as Speaker pro tem

The House was called to order by the Speaker pro tem.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Eagle Lake, Representative Martin.

Representative MARTIN: Mr. Speaker, Men and Women of the House: I thought I would take a moment to perhaps give you a little history because I think it is important as to how far we have gone in dealing with senior citizens in this state, especially those who least afford to do so.

I was a sponsor some 22 years ago to repeal the lien provision for persons who used to receive help under the old OAA program. Some of your neighbors and friends who have passed away, if you knew and remember some of the problems they had, you may recall what that was like some 20 odd years ago. That bill was enacted and signed into law. Subsequently, the OAA program was abolished and transferred into what we now know as Medicaid for senior citizens. SSI is what it was called. Anyone who received any money under the program (Old Age Assistance) for senior citizens who didn't have any Social Security money received what we now know as SSI. When the federal government took over, the state continued to pay into the program under the same ratio. That is the history.

What has happened now and some say is because of the financial crunch -- I am a little bit more cynical than that because of where the idea originated, which was the Department of Human Services. I am cynical because I am convinced that there really are people who are in that higher echelon of that operation who have something about ethnic people, ethnic backgrounds, minorities and old people as well, if you will look at some of the things that have happened and come out in the last two years. That really does disturb me and it ought to disturb you as members of the legislature who represent the constituents in this state.

Let's look at this proposal. I have some vague understanding of it because I deal with this so often with senior citizens in my area. I deal with it because Aroostook County has the highest number of people in Medicaid percentage-wise in nursing homes of any section in Maine. Frankly, that is because of their income over the years. They worked in the woods, they have been farmers, and they have very little outside income upon which to draw Social Security. Their Social Security tends to be low and, as a result, they get an SSI payment. Most of the time, all they have left when they get to the point they have to go to a nursing home is a little money, perhaps \$7,000, \$8,000 or \$10,000 and a home that they worked hard for and maintained for 40 or 50 years, the only thing which they have to leave to their children.

Let me tell you why I think this bill will only get to those people. It is because they don't have the lawyers to help them draw up a will. They don't have the accountant to tell them how to handle the money before the state or the federal government gets their hands on it. They can't set up the estate planning because they don't know who to turn to and they haven't got money to pay for it. This bill will get only to those that we ought not to be getting to. If this is a piece of legislation to get to the people that Representative Marsano from Belfast represents, for example in his law practice, those who have moved in from out-of-state have set up estates to protect themselves and to give it to their children and heirs forever -- then that would be one thing, but this won't do that.

Let me explain to you how the Medicaid law works. As some of you may know, I have been treasurer of a non-profit nursing home for some 20 years so I deal with that issue literally every single week. I had one recently with total income of about \$6,000 a year Social Security and his wife's SSI. Total assets, \$8,000 in the bank and a small home, the home that he would like to leave to his son who is now in Connecticut. What do I do? I said, you can set up a mortuary fund for both of you. Then you have \$2,500 that is exempt and, as long as you remain in the home, there is no problem and you don't have to sell it and use that money under the present law. After that, the money that is in the bank will have to be divided half and half and she will have to spend down. That is what is going to have to be paid. Before it was all over, what she will have to pay towards the care in the nursing home will be \$1,200 or \$1,300 a month, have \$2,500 left in the bank account in her name and the house, as long as he doesn't enter the nursing home or doesn't pass away. He is fine, as long as she passes away before him, under the present law. Then the problem down the road occurs for him.

What we are talking about in this piece of legislation is that we are setting up additional guidelines and we are going to try to recover a little money. Men and women of the House, all they have to do is find themselves a good lawyer, a good accountant and we collect zero. Not one single dime will be collected. That is pretty sad because what will happen is, yes some will be collected but it will be for those who have worked for peanuts all their lives, who have no assets left because they spent it all getting to age 80 or 90 and they can't afford an accountant or lawyer to draft it for them and they are the ones who we are going to go after. If you think that is fair, vote no today. If you believe that the State of Maine ought not to be going after those citizens, then vote yes and kill this piece of legislation that should never have been

introduced by anyone in this state, by any administration, supported by any Governor or any legislator. Send this bill to where it properly belongs, the legislative dead file. That will demonstrate to the people of Maine that we are not heartless and that we will not continue to pass laws that will benefit only the elderly rich. If that is what you want to do and you want to support the rich who buy the attorneys and accountants, vote no, and support Representative Marsano's position. That is a very clear cut and simple distinction that you can make today and I hope that, once this roll call is produced, that the citizens of Maine will make the distinction.

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

Representative JACQUES: Mr. Speaker, Fellow Representatives of the People: Somebody once said that hard times bring out the best and the worst in us. Today, it has indeed brought out the worst in us.

I have a large population of elderly in my district and yes, they are all from different types of ethnic backgrounds, different religions, different financial means, but they all have one thing in common, they are all proud, hard working people.

It was with great interest when I read everyone's campaign brochures this last election -- how we were all going to do something to relieve the burden of property tax on all of the citizens of the State of Maine so they could afford to keep their homes and property which they had worked so hard for. I think next year's campaign brochure should have a little asterisk and say, "Once we have taken care of your property taxes so you can keep your property, don't get sick and go into a nursing home because we are going to take it away from you." I look forward with the greatest anticipation on how those campaign brochures are going to read in the next election.

I have a man in my district that worked in the woods all his life. He doesn't have a big, fancy house, has a nice house, lives across the street from where I live right now. He worked and bought pieces of property all over the city of Waterville, I think he had eight or nine apartments at the time. He was 74 or 75 years old and still worked in the woods everyday, still had the same brown paper bag lunch. He had a massive stroke, this man is in real good shape, he has been in a nursing home now for almost four years. He was told by the state that he had to sell all his property except his home. He did that, he sold all the apartment houses, put the money aside, and he pays the long dollar, \$2,600 a month (almost that) to stay in a nursing home because he had the apartment houses and he had the money. Those are gone, his kids aren't going to see it. If he lives too much longer, I don't think there will be much money left. That was discouraging to him but he understood it. That's what the state made him do.

Representative Hepburn has talked about other states passing this bill -- well, I don't pride myself in being a Representative from another state, I pride myself in being a Representative of the State of Maine. I never would have believed that this state, the State of Maine, would have ever stooped so low to scrape the scum off the bottom of the barrel and go after some certain senior citizens of our state.

Representative Burke called this a grave robber bill and I think that is appropriate. I would call it shameful, disgraceful, maybe even outrageous, and the bottom line was when Representative Hepburn said, this may even be federally mandated to us in the future. Men and women of the House, looking at the

past ten year record of the federal government, it would be no surprise to me.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Cape Elizabeth, Representative Webster.

Representative WEBSTER: Mr. Speaker, Ladies and Gentlemen of the House: This is that time of the year in the legislative process that I enjoy a great deal. It is a time when a lot of the work that we have done from the beginning of the session comes to pass and we have an opportunity to make the decisions that we have been working toward for the last several months. We have all the facts and information before us and we make those decisions based on honest differences of opinions. It is the honest differences of opinion between Republicans and Democrats, between liberals and conservatives, sometimes between people from the northern part of the state or the southern part of the state, sometimes between men and women, on different issues. It is those honest differences of opinions that I think enriches this legislative process for everybody.

No one here in this body or anyone in the State of Maine is well-served by partisan personal attacks on each other or on members of the cabinet or members of either caucus in this body, either through innuendo or snide remarks. I personally urge your no vote on this matter based on the facts and based on the real differences of opinions and beliefs and not on some of the emotional hyperbole that we have seen here today. Our real differences of opinion are what makes this legislative process an important one for the people in this state.

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

Representative MANNING: Mr. Speaker, Ladies and Gentlemen of the House: I am sorry to cause the late delay in our lunch today but most of us know that we don't have much time for lunch around this time of year anyway.

I would just like to bring you back to what I stated early on. The reason why I voted against this bill was because of the Maine Committee on Aging -- what group in this state represents the aged population more so than the Maine Committee on Aging? Those are people who, quite frankly, have spent many years out in the field, they are appointed by the Governor, they have been working under many different programs -- they just looked at this and said, "This is a bad piece of legislation because it will stop people (and that is the thing that concerns me the most) from going into nursing homes."

I have had a rough winter, I lost two uncles and a couple of other good friends in the family. I look at these people and say, if they knew they had to sign away their homes -- would they do that? Or would they say, no, I am going to die in my own home. That's the thing that scares the living daylights out of me. I get concerned about these people, these are people who we try to deal with in our committee every year, the elderly population.

When they say to us, "I will not go into that nursing home, I will die." Some of these people need to be in, not ICF's, but they need to be in SNF beds, the highest level possible. Do we want people to die unmercifully in their homes because they refuse to sign over? I don't think so. I think that is what we really have to look at.

If we need to raise the dollars, then let's go out and raise them so everybody understands how we are going to raise them. Let's not put it on the backs of those people. I would venture to say there is not one person in this House who has not faced

that circumstance where somebody has to go in a nursing home. They cannot, and I repeat, they cannot live any longer at home because we, as sons and daughters, mothers and fathers, have tried to keep them in their home. There is nobody that I have ever heard about who really wants to go into a nursing home. How many of you have heard them say, "I will never go into a nursing home, I will die in my home." We all know that it gets to a point when those people need to be in a nursing home and if this bill is going to force those people to die in their homes because they don't want to turn it over to the state, I don't want to be a part of it. I want those people to die and die with dignity.

Representative Hepburn of Skowhegan was granted permission to speak a third time.

Representative HEPBURN: Mr. Speaker, Ladies and Gentlemen of the House: When I supported this particular report, I knew that the chances of a very emotional debate being engendered by this were quite good and certainly that has been the case. I didn't expect charges of racism against members of the Department of Human Services but sometimes things happen in the legislature we don't always expect.

The important thing to keep in mind is that none of us like to think about death but it is going to happen to every one of us. We leave this world exactly the same way that we came into it and that is with absolutely nothing. The reality is, however, that when an individual has nursing home care for a number of months, in many cases years -- at the end of their life, there is a bill to be paid. Who is going to pay the bill? That doesn't evaporate when a person's life ebbs away, the bill is still there, there are still obligations to take care of. Who is going to pay the bill?

What happens to a home of an elderly person who dies? Most often, the home is sold and the money is dispersed to the heirs. That is what happens. Under this particular amendment, anyone who is living with a person 12 months prior to the time they entered a nursing home, would receive the home just as they do now or receive their share. The way it works is, the home is sold and everybody walks off with a check, so who should pay? Should the estate pay part of the cost of nursing home services or should the taxpayer? I simply feel that the estate of the person should pay that bill and that the taxpayers of the State of Maine should be spared of at least one additional burden. It only makes sense to me that the estate of the person who received the services should pay for the service. That, ladies and gentlemen, is why I would respectfully request that you vote no on the pending motion.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Eastport, Representative Townsend.

Representative TOWNSEND: Mr. Speaker, Men and Women of the House: I didn't stand today to knock the system down, I didn't stand to give you rhetoric, I stood to tell you a very simple story.

I represent a lot of elderly people in my district and I am going to point one out today. Her name is Marjorie Richards. She was born in 1889 and she raised her children who became functional members of society paying in taxes. She helped raise her grandchildren. She also went on to help raise her great-grandchildren, very influential all up through the generations. She did this, ladies and gentlemen of the House, by working in a sardine factory until she was 89 years old. When she was 89 years old, she fell and broke her hip. At that time, she was the third fastest packer at Wilson's Packing in Eastport. She still went on to maintain her own home until she was 95, would not accept food stamps, would

not accept fuel assistance, she didn't earn it, she didn't want it. Finally, at age 95, she had no choice, she had to go into a nursing home.

I contend to you that that lady has paid in enough taxes in her life time and contributed enough to society that you owe her, she does not owe you. One of her great-grandchildren is standing in front of you today and the good Lord willing, in April of this year, she will be 101 years old and she is still contributing to society.

I urge you to vote Majority "Ought Not to Pass."

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

Representative STROUT: Mr. Speaker, Men and Women of the House: In my other profession that I have when I am not here, I deal with these people on a weekly basis. They come to me a good many times and I want to give a couple of examples that bothers me. I think the good gentleman from Portland, Representative Manning, has hit the nail right on the head. The concerns that I have is, when you talk with these people that come into my office, that after they get a certain age and they have no children in school, they continue to pay taxes. They wonder why they have to pay these high tax bills but, nevertheless, they don't complain and they continue to do this, just like all of us.

Then we start dealing with this issue today and I am afraid in order to take care of part of our shortfall, we are going the wrong route. I have heard both sides here today explain why we should or why we shouldn't do this. I think there are other areas that we could look at rather than to go after one group of people.

My father lived to be 86 years old and he didn't have the luxuries that a lot of people have. If he was alive today, it would really bother him to think that that home he had, that he treasured, would be gone. He never had to go into a nursing home, he lived to be 86, went into the hospital just that one time and that one time was his last time. What he had, he left to his family with no strings attached and he never asked for any help all of his life. I am telling you today that to take care of a small part of the shortfall, I would hope that when we vote that you would think twice before you vote for this bill.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Greenville, Representative Gould.

Representative GOULD: Mr. Speaker, Men and Women of the House: I generally try to be quite rational and quite objective so you will forgive me if this time I am a little bit emotional.

Recently, as most of you know, I suffered a severe injury that almost put me in the grave. If there is one thing that I have, just one thing, that my wife and my five children and I have worked together to get, it has been a struggle all of our lives and I have never had much except the love of children and the love of a good wife, and that one thing is my home. I want to leave that home to my children or at least one of my children when I go. I am going to tell you right straight forward, if I thought that I would have ended up in a nursing home due to this accident and my family would have lost that house, I would have wished to God that it had put me right into the ground so that I had never gone anywhere. Excuse me for being emotional but let's get off the back of our elderly and start doing something to other people for a change.

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

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

Would anybody from the committee have any idea as to how many houses -- because this bill can only apply to one home -- would this have applied to in the State of Maine?

The SPEAKER PRO TEM: The Representative from Fryeburg, Representative Hastings, has posed a question through the Chair to anyone who may respond if they so desire.

The Chair recognizes the Representative from Portland, Representative Manning.

Representative MANNING: Mr. Speaker, Ladies and Gentlemen of the House: Quite frankly, I can't really tell you that because I think, as Representative Burke had indicated earlier, that the original bill came in with the same recovery as what all the amendments to the bill has done. So we are kind of baffled in the fact that they still claim they can save a million dollars when we put all these amendments on the bill.

As you know, the original bill did not have anything about 12 months. The original bill didn't have anything else about all the other parts of the amendment but yet the same fiscal note is on the bill. I don't know. I don't think, quite frankly, that \$285,000 is the right figure simply because they started with a million dollars, then put all these amendments on -- we have talked about these, we really felt uncomfortable with it and asked them to go back. They did and came back with a lot of these amendments and said, we can live with this, we can live with that and still the amount is one million dollars, total, and \$258,000 for the state. I question whether or not that is even the correct figure.

If the original bill had a million dollars and it still has a million, I don't know, I can't really tell you that Representative Hastings.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Eagle Lake, Representative Martin.

Representative MARTIN: Mr. Speaker, Ladies and Gentlemen of the House: I would like to respond -- if you look at the proposed amendment, keeping in mind that you are talking a situation here where about two-thirds of that money is federal, would be returned to the federal government under the agreement that we have and one-third would be kept here. So, for every dollar that we would collect, we would return two-thirds roughly. If you were to assume, I say this because the way this is drafted and the impact, you have to look at the overall number of people in nursing homes in this state and then ascertain what percentage of those people in nursing homes are private pay today because that tends to be the overall figure over a period of time and it remains that way. You will find, for example, in Aroostook County about 85 percent of all nursing home patients are under Medicaid and about 15 are private pay. That ratio tends to change as you move south or along the coast. In those instances, you will find in many facilities that that may well be as high as 70 percent private pay.

If you assume that most of those homes are mostly in northern Maine and Washington County and those general areas, and assume that most of those homes are probably in the range of \$40,000 to \$50,000 -- quite frankly, that would be the case in Fryeburg and I suspect my hometown, etcetera and those are the ones who can't afford the attorney to get them put into an estate or into a trust. I have seen it happen to people in my area of over \$100,000 -- if you do that division, it looks like between 20 and 25 homes a year. It seems to be that is what this projection is based on. I think that is really not a

very good precedent to be setting especially in terms of where we are as a society.

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

Representative HASTINGS: Thank you. Mr. Speaker, Ladies and Gentlemen of the House: I mentally went through the same exercise that I just heard reiterated because this really does only apply to homes and the mathematics of it would indicate that maybe an average house is worth \$40,000. That means that really, for what the state is getting, selling nine houses and selling approximately 16 to go to the federal government and that is the mechanics of it. I am not sure how you want to vote but it is about 25 houses a year.

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

Representative JALBERT: Mr. Speaker, Ladies and Gentlemen of the House: Fourteen days ago, I turned 65 and already the vultures are on me. I did make a promise that when I reached that, I would not speak until spoken to but this morning I have to break that promise after I heard the vultures coming towards me. If anybody is worried about my house, the bank has a mortgage on it, the car has a mortgage on it at the Credit Union and the rest of it you can lug away because it needs replacing anyway.

I came from a family of 15 children and to the day that my mother passed away (my father died when he was very young) I had all I could do to persuade her to please apply for SSI. I think it was well iterated today from the gentleman from Corinth that these people have been paying for a long time. The good Representative from Fryeburg asked the question which was eloquently answered by the gentleman from Eagle Lake -- I don't care if it is one single house that has to be given up for this, it is not right.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Vassalboro, Representative Burke.

Representative BURKE: Mr. Speaker, Men and Women of the House: Also in answer to the Representative from Fryeburg's question, other states that do attempt to garner some of these funds have reported back that they are not getting what they anticipated getting. Oregon, which is supposed to be the paramount collector apparently, garnered less than half of what they anticipated they would get. So, we are not even sure that these million dollars that DHS feels that they will get will, in fact, materialize.

In answer to something that Representative Marsano said earlier, I just want to point out, that in order to qualify for Medicaid, you can only have about \$2,500 in assets and your home. We all know that there are those who are receiving Medicaid benefits who probably shouldn't be receiving them. They may have hidden their assets and given it in trust for their children. They could be milking the state of Medicaid benefits by being in a nursing home and having hidden these assets. If true, we all feel that this is grossly unfair. However, this bill does nothing to address that, this bill punishes the poor who do not know how to protect what little assets they have. When they die, they have only their home, the \$2,500 in assets and the casket in which they will be buried. We should not tolerate the taking of the only asset which they have, which their spouse, siblings or elderly children now occupy. If we are willing to do this, perhaps the next step we should allow is to attach half the value of the casket in which they are buried. These caskets are very expensive and perhaps the state could garner a few bucks there too.

Basically, I urge you very strongly to support the "Ought Not to Pass" recommendation.

Representative Marsano of Belfast was granted permission to speak a third time.

Representative MARSANO: Mr. Speaker, Ladies and Gentlemen of the House: Thank you for allowing me to address this matter a third time.

I would simply point out that the last statement made by the Representative from Vassalboro is in error. It is part of the error that was perpetrated, probably unintentionally by the otherwise learned gentleman from Eagle Lake -- the point is that Paragraph 2HA(1) deals exactly with the kind of situation that the Representative from Vassalboro was talking about and what it is that the Representative from Eagle Lake was talking about when he talked about clever lawyers. I have had the privilege of representing people in my home county, one of the poorest counties in the state, Washington and Waldo fight about who is poorer, but we have at least our fair share of poor people and, as you know, we have the largest number of unemployed people in the state; however, they are all proud. One of the things that they like to do is honor the old Maine ethic of paying their bills and they really do.

I want to point out one of the things that seems to me to be disjointed in the logic which this House is advancing today. When I first campaigned to come over here, one of the things that I really hoped to accomplish was to get a reverse annuity mortgage program introduced. I went every place that I could to see if I could do it. A reverse annuity mortgage is simply, if a person owns a house, the person who owns it gets money on a recurring basis for it and when it is used up, the lien continues to exist so that after death, the mortgage is paid off, it takes the persons home. It is a fair way of using the capital that they have accrued for their declining years for the purposes for which they want them. It was a device that I thought of as being originated by clever lawyers, Representative Martin from Eagle Lake, whose purpose was to recognize the importance of property in the American value system. I was ever so pleased when I saw, just a couple of months ago without debate, without the kind of excoriating language that has been levied here today, a program finally, a demonstration project for reverse annuity mortgages through the Maine State Housing Authority. It was ordained and praised by one of the people who now seeks to be a Congress person from this state. I applaud that because it is the proper use of property. I can say that the lawyers that I know are confounded by the logic that emanates from this place. The question is whether or not we are going to abandon property interests, whether or not we are going to say that people shouldn't be applauded for recognizing that they saved money and try to use their money to pay their just bills and that their estate settle their charges. That is what happens, you don't get forgiven of any debts, this is just simply another kind of debt. It is a fair way of doing it.

I was able, I want to tell the Representative from Eagle Lake, to get the legal services for the elderly to finally come to Waldo County. I think we are the last county in the state to get that. That is, as I am sure the Speaker knows, an organization which exists for the purposes of giving legal services without charge to people over 60. I point out that Representative Jalbert now qualifies.

The point is that the system attempts as best it can to deal with the incredibly important values that we have and no one, least of all I, would ever suggest that the home is not the most important part of a persons life but, at the same time, the person does not have a right to benefit heirs at the expense

of others if we are going to retain the basic value of property that we have.

This bill simply tries to reinstitute that and I applaud the Minority Report and hope that eventually it will become the policy of this state because I think it is consistent with the Maine work ethic and the Maine responsibility for taking care of yourself. No, I will not address the House again and therefore I do feel it is important to say that the kinds of lawyers to which the gentleman from Eagle Lake responds, and I have no doubt that they exist, I have clients all the time to whom I try and explain this complicated arrangement, are legitimately concerned but they want most of all to retain their homes and lawyers who attempt to help them do that are not wrong. These trusts that you make mention of are invainable under this paragraph I, that is the purpose of that. You should, therefore, encourage it and should want it to be the law so that if there is this impropriety, it will be attended to.

I remember one time not long ago when I went to a trust on the impoverished seminar trying to teach us how to impoverish the elderly. They call that an impoverishment trust. What you do is spin out these assets so that society will pay your bills and there will be this trust somewhere that will do some other things. I have never drafted such a trust. I refuse to draft those. I don't think that they are right in principle or in policy. What I will do, if I have a client who insists upon information about that, is I will send them a lawyer who will do that. I can assure you that there are lawyers who will impoverish people for the purpose of having society pay their bills so that their children, their relatives, their whatever they are, can get the money that would otherwise be lawfully used to pay their bills.

The great philosophical objection I have is that it is harmful to the basic ethics which has made Maine great. The reason that I live in Maine and want to continue to live in Maine and take my chances with the Maine society is because of her wonderful people. This Minority Report is simply an attempt to recognize the value of the real benefit of the Maine ethics.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Eagle Lake, Representative Martin.

Representative MARTIN: Mr. Speaker and Members of the House: Just a couple of points. First of all, in reference to the remarks of the Representative from Belfast, the proposal from AARP that was adopted by this state of reversible mortgages is one that I supported and certainly everyone in this legislature supported. It is one that I think is very helpful for individuals who want to maintain their home when, after all they have left quite frankly is their home, and they can draw from it to continue to remain there. That is a separate issue.

In reference to this particular bill, remember that this deals with someone who is now going to be going into a nursing home and assuming that they were on the SSI program, they have already impoverished themselves because they had no choice in order to get on SSI. You can only have \$2,500, you can have a pre-burial account and your home. You can't have a multimillion dollar farm. You can't have lots around the lake, those things are sold. You have to sell them, you have to dispose of them. Of course, if a trust could have been created, you could avoid that but that is the way.

I must say to the Representative from Belfast, Representative Marsano, that for a program which he supported, there are 43 people as of yesterday that have applied for this reversible mortgage. Men and

women of the House, guess what? That is one of the programs the Governor has postponed as well. I would suggest to the Representative from Belfast that he talk to his Chief Executive in a hurry.

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

Representative MAYO: Mr. Speaker, Men and Women of the House: I want to refer back to some comments I had heard earlier about how some individuals want to pass on their homes to their children and their children will simply sell their homes and take the money. That may well be the fact where that Representative comes from, but in my part of the world, the land means an awful lot to people. We are talking about homesteads that have been passed down from generation to generation that mean more than anything, anything else, other than family. To suggest that individuals would be doing that and we are only protecting them to enrich them monetarily I think is denying the fact that there are many, many, many others who want to maintain their ancestral homes.

If we pass this legislation, we will step away from that and there will be fewer and fewer ancestral homes in my part of the world on the coast and more and more of those homes sold by the state to people from New Jersey and California who are invading us on the coast.

I remember back to some statements said by a very good friend of mine who served in this body and who served with me on the Taxation Committee, Representative Steve Zirnkilton of Mount Desert, when referring to a fee that was being proposed. He said quite eloquently one day, "If it walks like a duck, and quacks like a duck, it is a duck." Well, ladies and gentlemen, this may be a fee, it may be an assessment after death, but this is a tax, it is a confiscatory tax, a 100 percent tax, but nonetheless a tax. So, I would just like to add to the debate this morning, if you vote for the Minority Report, you are voting in effect for a tax increase. All the gratuitous statements that have been made about no new taxes over the years, well, here we have one ladies and gentlemen. I urge you to vote for the Majority "Ought Not to Pass" Report.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Brunswick, Representative Rydell.

Representative RYDELL: Mr. Speaker, Men and Women of the House: I have listened carefully to the debate today and I think perhaps we have forgotten a few things that we ought to be reminded of. We do have a crisis in long-term care. We are only beginning to offer long-term care insurance policies and most of them are unaffordable by the majority of the citizens of this state. Long-term care is very expensive and nursing home care is the most expensive of that type of care.

As has been said before, Medicaid does require recipients to spend down nearly all of their assets. This bill, as I read it in its amended form, would take away, not just 50 percent of the home but 50 percent of all the assets that the person had left. The assets besides the home may definitely be needed by someone who is left behind and there is not very much of that left because the person has spent it all down.

However, this amended version, this bill, is also discriminatory. It is discriminatory because it singles out one group of people, only that group of people who, in the final days of their lives, have their health so deteriorated that they need the most expensive form of long-term care, they need nursing home care.

We do offer home health care in our state, unfortunately, not to enough of our senior citizens. We don't have it available in all parts of our state to all who need it, to all who could stay in their own home and hence not be subject to this onerous bill if that home health care were available.

What we intend to do if one were to consider passing this bill would be to penalize just that group of citizens who are denied home health care and are forced into a nursing home because of their health needs. None of us sitting here today knows what the final days of our life will be. We don't know whether we will need nursing home care or whether we will be able to exist in our own home, whether we will have home health care available to us, whether we will have family and friends and neighbors who will care for us. We don't know that. All of those things make it possible for people to stay out of nursing homes and they make it impossible by their lack of availability for others to stay out of nursing homes. What we would be doing by urging the passage of this bill would be to penalize just that group, no other group, no other group of elderly people. That to me is very, very wrong.

I would like to remind you of one other aspect of this debate and that was brought up by Representative Mayo concerning taxes. I would like to remind this body of action taken by the federal government not too many years ago, an action paralleled by our state and that was to increase extensively the size of an estate that would be subject to inheritance tax. We made a decision in our country and in our state that we would allow elderly people to pass on estates of sizable amounts, hundreds of thousands of dollars, and we would impose no inheritance tax on that estate. Now what we are saying is that people who have far less, who have a very, very small estate because of the previous requirements of Medicaid, that we would impose a 50 percent tax on that estate, not on the estate of others who have hundreds of thousands of dollars, just on a very small estate of those persons, who because of their health needs or the lack of someone to be able to provide home health care, are forced to choose a nursing home. Now we want to tax their estate by 50 percent if they happen to be on Medicaid, 50 percent.

I think that if we were to really consider the fairness of this in relation to our tax laws and inheritance in relation to how we are treating other people of the same age and, in some cases, even the same health status but who are able to choose care outside of the nursing home because of some other series of events or people that are available to them, that we are singling out and we are discriminating this one small group of people. Whether or not it yields the amount of money budgeted, that doesn't matter to me, what matters to me is that people in Maine expect the legislature to be fair, to treat citizens equally.

I would urge you to please not vote to support this bill, vote that this bill should not pass and we should relegate it to the dead legislative files and never consider it again.

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

Representative MURPHY: Mr. Speaker, Ladies and Gentlemen of the House: I think I look at this bill in a little different perspective than some of the others that have spoken here today. The reason I can't support the passage of this bill is because I know of a couple of cases where people did turn their homes over to their children to make sure in their old age they would have left them something. I believe this bill would force people to do that and

they don't always get the best treatment from their children after they do it. One special case that I know of, the woman signed her house over and her son-in-law didn't treat her very well. I was there one day when her grandchildren actually kicked her. Well, if that home could have stayed in her own name until she died and she knew that that family home was going to go to them no matter what, I am sure she would not have been so quick to turn that home over to them and probably would have been treated a lot better if they didn't know quite what was going to happen or who was going to get it.

In another case, it was an only child and this gentleman (this was not in Maine, this was in New Hampshire) turned all his property over to his son and daughter-in-law. They chose to put a big mortgage on it and then they blew the money and they foreclosed. He knocked on their door for a place to stay and the daughter-in-law kicked him out. The man was put on to the state in New Hampshire. I call that brutality when it comes to our elderly. We all know that our elderly are mistreated by their own children.

I believe that this bill is just going to force people to sign their property over to the children before the time comes when they should. Most children will take care of their parents and treat them well, but there are a few out there who wouldn't. I have had a few cases of that in my district and I just cannot force my elderly people to sign their homes over to somebody else because they are afraid they cannot hand it on because it is a family home. I urge you to vote for the "Ought Not to Pass" Report.

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

Representative HASTINGS: Mr. Speaker, Men and Women of the House: In fairness, if you look at this bill carefully or the amendment that is in effect the bill. I don't think anybody here can be against the first provision of that bill, which is really a fraudulent provision. That provision should be the law of the state. I don't think anybody here wants somebody to secrete, conceal, put away their property, get Medicaid, then turn around and die and leave this property which they should not have had and nobody be able to reclaim the property. That provision is a good provision. That's the first paragraph or A-1.

A-2 is the one that we have spent all the time discussing this morning. I guess I agree (based on the numbers) that it is very de minimus for us to be sitting here arguing hours, in my opinion, to try and claim a very, very few homes for the State of Maine. I very much so like the first one because that says if somebody has secreted their property and because of that became eligible for Medicaid, then died and that property comes to light, I don't think anybody should benefit from it.

The bill, in my opinion, is flawed because it has some good parts and some bad parts. The bad part though does overwhelm it in my opinion.

Representative Martin of Eagle Lake was granted permission to speak a third time.

Representative MARTIN: Mr. Speaker and Members of the House: Very quickly, to respond to the comments of the Representative from Fryeburg, what the Representative is referring to in Section 2HA-1 is already present law. If you will notice above Section 1, 22 MRSA 14 etcetera, etcetera, what is being repealed and then is being put back in in Section 2 in the completion, it is our method of drafting legislation in Maine.

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

Representative MELENDY: Mr. Speaker, Men and Women of the House: I think I spoke earlier briefly about the value of a therapeutic atmosphere in which to heal or for a person to stay healthy. I think one of the things that we are missing here is the pride that our Maine elderly have is what actually keeps them from being able to get assistance and that is because they have a hard time to ask for help. Many of our elderly hesitate to take help even from their own children saying, I cannot afford to hire help, why should you quit your job and stay home and take care of me? The stories go on and on as to what happens.

One of the things that happens quite often is that families will want to do whatever they can for their families or relatives and right now the thing that sticks in my mind the most is a young family, the man is disabled, however he set up a little efficiency apartment in the other side of his home, took in an elderly couple and they have been there for 13 years. The man has since died, the lady is now 87 years old, they had no children. He has been charging them \$25 a week. He could be easily using the money by renting out that apartment to someone else because where he is disabled he could use some additional money. However, he knows that these people need help. This lady has no one to turn to, has no relatives. I think that if we were to pass this type of a bill, she is going on thinking that eventually some day she can leave whatever little she is able to accumulate in this time in order to pay him back. However he is charging her, like I said, only \$25 a week for rent, a three room apartment. She has a wheelchair in there, meals are brought in every day. Let's let this woman hold her head up and many senior citizens in our state to do likewise.

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

Representative SMITH: Mr. Speaker, Ladies and Gentlemen of the House: There is an expression which I guess I can't use here today, but nevertheless, is this really a first step? I say that in this fashion, if a person was not fortunate enough to have had a home and goes into the nursing home, establishes quite a debt, are they then going to go to the children of this person who maybe had a little luck in accumulating something, is that the next step? I think we should leave it as it is right now and kill this bill.

The SPEAKER PRO TEM: The Chair recognizes the Representative from Rockport, Representative McCormick.

Representative MCCORMICK: Mr. Speaker, Men and Women of the House: I stand to speak on this issue with some mixed emotions. I think there is one important factor that should be pointed out. I think we are forgetting one major group of people in this country and in this state. That is the people who have to pay for the bills for Medicare and Medicaid and all of these costs and that is middle-income America. Middle-income America and small businesses pay 90 percent of the taxes in this nation. I think so often we tend to overlook those people. Twenty-five percent of those people cannot afford health care insurance. They are having great difficulty trying to pay for child care, both husband and wife are working in most cases.

I interviewed three homeless people recently, all three of those people have been married at one time, none of them could afford health care, they couldn't afford a decent home, they couldn't afford a lot of

things and eventually their families broke up. I think we have to start recognizing that you can't pile everything on the backs of middle-income America.

As I said, I have mixed emotions about this bill, whether to vote for or against it. I think it does start to recognize that we have to start placing some of the costs on the people who are benefiting from it, and in this case, it is the estate of the person who has passed away.

I just ask you to please remember the people who are really footing most of the bills in this country. I don't very often see anybody in the legislature, I don't know as I have ever seen anybody in this legislature, lobbying to help the middle-income people who pay the bulk of the taxes in this country. I think it is time that we started to recognize that and that we can't pass every cost for every program in this nation back to middle-income America or we are going to have an awful lot more of them on the homeless rolls.

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

Representative BELL: Mr. Speaker, Ladies and Gentlemen of the House: When I ran for this seat, I told the senior citizens in my district that I would try my hardest to watch out for their interests and protect their rights while I sit here in the House. With this bill we have here today. I am going to vote "Ought Not to Pass", and with that vote, I can drive back to my community and look my senior citizens right in the eye and say, I was there and I protected your rights.

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

Representative PINEAU: Mr. Speaker, Men and Women of the House: I, like everyone else that the good Representative from Waterville said, on our campaign fliers we said we were going to do something for the elderly, not to the elderly.

Mr. Speaker, I guess we are supposed to feel all right with what we put on the average middle-income taxpayer on the bail-out of the S&L's. I urge this body to vote "Ought Not to Pass."

The SPEAKER PRO TEM: The Chair recognizes the Representative from Brunswick, Representative Clark.

Representative CLARK: Mr. Speaker, Ladies and Gentlemen of the House: Let me suggest, first of all, that it is those middle-income taxpayers whose parents we are trying to protect by this kind of legislation. Let me also suggest another possibility. I don't know how many of you work with young adults, live with young adults — my daughter is 19 and one of the things that has struck me the most in the last year is that, when I was 19, I didn't worry about whether I would have a home, I assumed that I would be able to do that. I am overwhelmed as I listen to the young people in my life tell me about their very real concerns about being able to buy a home. This legislator has been concerned about that in a variety of ways, we have made low income loans available for first-time homeowners, we have done other things to assist that process. Another thing that we can do is to help people leave their homes to their grandchildren or to their great-grandchildren. This bill helps them do that. It helps them give something to the next generation.

There is a young couple, not in my district but who live in Brunswick, who had a baby when they were quite young. They are married and they were able to move into the grandmother's house. They visit the grandmother regularly in a nursing home, they give a lot of emotional support to that grandmother. If that grandmother's home would have to be sold under

this legislation, that young couple would probably be at our door saying, we have got to have help. We are working at minimum wage, we can't make it otherwise. This is one way for us to help the next generation achieve the dream that I think all of us hold and that is to be able to have our own home and to be able to pass them on to the next generation.

I strongly urge you to support the "Ought Not to Pass" Report.

The SPEAKER PRO TEM: 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.

At this point, Speaker Martin resumed the Chair.

The House was called to order by the Speaker.

The SPEAKER: The pending question before the House is the motion of Representative Manning of Portland 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. 192

YEA - Adams, Aliberti, Anderson, Anthony, Ault, Bailey, Bell, Brewer, Burke, Butland, Cahill, M.; Carroll, D.; Carroll, J.; Carter, Cashman, Cathcart, Chonko, Clark, H.; Clark, M.; Coles, Conley, Constantine, Cote, Crowley, Curran, Daggett, Dexter, DiPietro, Donald, Dore, Duffy, Dutremble, L.; Erwin, P.; Farnsworth, Farren, Foster, Gould, R. A.; Graham, Greenlaw, Gwadosky, Hale, Handy, Hastings, Heeschen, Hichborn, Hickey, Hognlund, Holt, Hussey, Hutchins, Jacques, Jalbert, Ketover, Kilkelly, LaPointe, Larrivee, Lawrence, Libby, Look, MacBride, Mahany, Manning, Marsh, Mayo, McGowan, McHenry, McKeen, McPherson, McSweeney, Melendy, Merrill, Michaud, Mills, Mitchell, Moholland, Murphy, Nadeau, G. G.; Nadeau, G. R.; Norton, Nutting, O'Dea, O'Gara, Oliver, Paradis, P.; Paul, Pederson, Pineau, Pines, Plourde, Pouliot, Priest, Richard, Richards, Ridley, Rolde, Rotondi, Rydell, Seavey, Sheltra, Simpson, Skoglund, Smith, Stevens, A.; Stevens, P.; Stevenson, Strout, D.; Swazey, Tamaro, Tardy, Telow, Townsend, Tracy, Tupper, Walker, Wentworth, The Speaker.

NAY - Aikman, Begley, Dellert, Foss, Garland, Hepburn, Lebowitz, Marsano, McCormick, Paradis, E.; Parent, Pendleton, Reed, Strout, B.; Webster, M.

ABSENT - Allen, Boutilier, Farnum, Gurney, Hanley, Higgins, Jackson, Joseph, Lisnik, Lord, Luther, Macomber, Marston, Martin, H.; Paradis, J.; Rand, Ruhlin, Sherburne, Small, Whitcomb.

Yes, 116; No, 15; Absent, 20; Paired, 0; Excused, 0.

116 having voted in the affirmative, 15 in the negative, with 20 being absent, the motion to accept the Majority "Ought Not to Pass" Report was accepted. Sent up for concurrence.

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

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

REPORTS OF COMMITTEES
Divided Report

Majority Report of the Committee on Legal Affairs reporting "Ought to Pass" as amended by Committee Amendment "A" (H-951) on Bill "An Act Regarding Importation of Liquor" (H.P. 1741) (L.D. 2405)

Signed:

Senators: MATTHEWS of Kennebec
BALDACCI of Penobscot
DILLENBACK of Cumberland
Representatives: PRIEST of Brunswick
PAUL of Sanford
JALBERT of Lisbon
LAPOINTE of Auburn
LAWRENCE of Kittery
PLOURDE of Biddeford
BEGLEY of Waldoboro
STEVENS of Sabattus
TUPPER of Orrington

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

Signed:

Representative: MURPHY of Berwick
Reports were read.

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

Representative PRIEST: Mr. Speaker, I move that the House accept the Majority "Ought to Pass" Report.

This bill deals with the question of importation of liquor into the State of Maine. As you know, it is now illegal to import into this state more than four quarts of spirits, three gallons of malt liquor or four quarts of wine.

As you also know, this state has passed a returnable bottle provision which applies to containers of spirits, will apply to containers of wine, and applies to beer containers. The price difference now between Maine and New Hampshire is approximately 27 percent. The effect of this price differential is that there has been a larger and larger amount of liquor which is being imported into the State of Maine in violation of Maine tax laws.

What this bill would do is to establish a prima facie presumption that if you are importing more than eight quarts of spirits or six gallons of malt liquor or eight quarts of wine, then prima facie you in violation of the importation law. That only means the state has to only show that you have that amount of liquor and that they are without the returnable bottle stickers that are supposed to be on those bottles. You are still able to get up if you want to show that you purchased those bottles in the State of Maine and make that case. All this does is make it easier for the liquor control people to try to get convictions when people import large quantities of liquor into the state in violation of the statutes.

You may notice that the bill itself has limits which are twice that, which constitute a violation of the statutes. In other words, we are not going after the person who buys one quart too many or one six-pack too many. We are talking about a violation which happens to be twice as much as the amount which establishes a violation under Maine law.

We heard evidence before our committee that there are in fact increasing numbers of people who are bringing in large quantities of liquor into the state. The effect of allowing that to continue is obviously to lead to a decrease in the amount of money they get from our liquor tax. It seems to me that if you seek to get a decrease in the amount of money that you get for liquor tax that you should lower the taxes but not enforce the statute. This is only an enforcement tool, it does not change the law now as to the importation of liquor. Those limits are still on the books and are not changed by this at all. This does not affect the small person.

Remember, you would have to bring in more than 2 gallons of spirits, more than six gallons of beer, more than 8 quarts of wine from another state to be concerned about this. This is a needed enforcement tool, we have been requested to have this enacted by Captain John Martin and I would urge you to adopt it.

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

Representative MURPHY: Mr. Speaker, Ladies and Gentlemen of the House: I rise today on this bill, not because I don't realize that there is a problem on enforcement there, because there is. My problem with it is that it is an enforcement problem that I think we created ourselves right here in this legislature.

Back in the 112th, the owners of restaurants and lounges could go and buy their liquor from the state liquor stores and get a 15 percent discount because they were in the retail business. Every business in this state or in this country has to make a profit from what they buy to what they sell. I believe that is just good business. We took that 15 percent discount away from them. At the same time, we let the agency stores make 8 percent because they buy from the liquor stores and we give them an 8 percent discount so they can make 8 percent on the sale of spirits or alcoholic beverages. I don't have a problem with that.

Then when the innkeepers, lounge people and the restaurants started buying their liquor from the agency stores because the agency stores would give them the 8 percent discount, we passed a law and took that 8 percent away from them, making it illegal for them to buy at agency stores. They had to buy from the liquor stores.

Some of these people came in and told us that they had to travel 30, 60 and 100 miles to buy their liquor in order to be near a liquor store. Now they claim that they are going to New Hampshire to buy their liquor. I can't believe that too many of them are and this bill is supposed to close that loophole. In my opinion, this bill is harassment to us who live on the border.

We had a bill in this legislature to allow another discount store on the border, in fact, some of us supported to have more. It would have kept a lot of money in Maine and I believe probably another million dollars would have been brought in if we had been able to do that. We chose not to do it so now we are going after the people down there who live on the border who could be coming across the river. They did add another gallon on thinking I'd go with it but it didn't work. To me, it is just an harassment of these people. Those who live in my district, we don't have a choice, we can drive 20 miles to Sanford to the nearest liquor or agency store or we can drive 15 miles to Kittery. It is just not going to happen, people are not going to drive that distance and I just can't imagine having harassment of coming across the bridge and happened to be stopped for a speeding ticket or something else and having this law on the books where the police can enforce it. I believe we live in the United States and I have a right to spend my money wherever and whenever I want to.

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

Representative CONLEY: Mr. Speaker, Men and Women of the House: I can see that this report is a strong report in favor of passing this bill but I rise today to join my good friend, Representative Murphy from Berwick. We don't have the same problems in my part of the state that people on the border do with businesses down there losing so much to our good

friends from New Hampshire but, taking a look at this, it scares me again to see the way that a committee can continue to give so much power to law enforcement authorities. I sympathize with the good Representative from Berwick, it happens time and time again that our good Captain John Martin comes before this legislature and comes before the Appropriations Committee seeking more and more law enforcement officers to enforce these very laws which we pass here little by little by little to give them the authority they seek.

It seems to me that if we are going to continue on this route, I hope more people continue to bring back little pieces of that wall from East Berlin because we are going to erect it right across our own state line and we will have little "check point Charlies" so you can't get into this state unless you go through one of them and pass their inspection.

I hope we go along with the good Representative from Berwick.

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

Representative HALE: Mr. Speaker, Ladies and Gentlemen of the House: I, too, rise to support the good Representative from Berwick. When we speak of enforcing on the border, we speak of Kittery. What about the rest of the border lines in New Hampshire? What about Fryeburg that is right across from Conway? What about all these other little towns up and down the border? Do we have enough enforcement personnel to go and check them? This is positively asinine. I have to go to my friend and see what I am supposed to buy to fill my little old liquor thing when they bring it for me. If someone asked me to bring something when I happen to be going to New Hampshire, even though I am paying taxes in the State of Maine, I keep everything I can in the State of Maine, but there are a lot of people in the State of Maine who do not have that privilege. They don't have stores to purchase from, whether it be white goods, brown goods or liquor. We don't have an agency store in Sanford, we have a state liquor store and we intend to keep it that way. I urge you to support the Minority Report.

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

Representative PRIEST: Mr. Speaker, Men and Women of the House: The last few speeches have been interesting but you should ask yourself I think whether or not they are related to this particular bill that we have before us. There may be some general philosophical concerns with the concept of having limits on liquor importation but this bill doesn't deal with those concerns. If you don't like that concept, if you don't want to have a limitation on liquor importation, then deal with that issue. There may be some concerns on the amount of taxes on liquor and that is a legitimate concern. Our committee has great concerns, frankly, as to the amount of taxes which are being put on liquor but that is something which does not have anything to do with this bill.

What this bill will do is enable even enforcement of the liquor importation laws and will stop large importation of liquor. Those of you who do not live on the border, and there are people who cannot get to a New Hampshire liquor store, those people will go to a state liquor store and pay the normal price. That is what they should do and that is the way it is supposed to be done. They obviously want to have even enforcement of the liquor importation laws and that is the way it should be. They don't mind an occasional person going over and purchasing too much but they do mind someone getting into large scale

importation. They do mind a pickup truck being filled with cases and cases of liquor which in fact has been seen and then brought across the border and trucked up to a business to be bought. It is the question of even enforcement of the liquor importation laws. That's all it is. If you don't like the basic liquor policy, that is another question, you may very well want to change that in the future. This bill doesn't deal with that.

The SPEAKER: The Chair recognizes the Representative from Kittery, Representative Lawrence.

Representative LAWRENCE: Mr. Speaker, Ladies and Gentlemen of the House: It has been stated that this bill is harassment for the people who live along the border. I have to tell you that when I wake up in the morning, if I get out on the wrong side of the bed, I end up in Portsmouth, New Hampshire and I can tell you this bill is not harassment for people on the border. I would encourage people like the Representative from Berwick, Representative Murphy, to not shop in New Hampshire and to shop in the liquor store in Kittery where she should be shopping.

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

Representative TUPPER: Mr. Speaker, Ladies and Gentlemen of the House: In all due respect to my good friend and seatmate, Representative Murphy, I urge you to support this bill.

As a former code enforcement officer, sometimes it was frustrating to enforce some of the laws on our books. This law is a tool which would make the liquor enforcement more effective.

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

Representative PLOURDE: Mr. Speaker, Ladies and Gentlemen of the House: I stand here today because one of my great concerns is that we love to pass laws and we surely have done so over the years. We never seem to give the law enforcement officials the ability to impose or act on these laws. We wrestled with this particular issue and the bottom line is that we heard that there is large importations of alcohol being brought into this state and it simply was not a means to harass individuals but to check and balance what is being imported by businesses, large businesses as well as small businesses.

I urge you to support the Majority Report.

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

Representative PAUL: Mr. Speaker, Ladies and Gentlemen of the House: I have to tell you that last Saturday afternoon I happened to be in a parking lot of a liquor store in New Hampshire. Naturally I went in and bought what I believe and I am sure was within the law that I could carry across the line. The other packages, the brown bags that I saw come out of the store, I don't believe were brown paper bags containing Tri-State Megabucks.

In the original bill, it called for a possession of not more than four quarts of spirits. In our committee work session, with Captain John S. Martin present, we finally ended up with an amendment that I feel is very reasonable. It allows up to four quarts of spirits with redemption stickers under the state bottle law to cross the line.

It has been mentioned about a certain amount of harassment of people going to New Hampshire to get their liquor -- I don't place any weight on that because, in my past experience over many years in law enforcement, I can say to you today that the rules of evidence has been very strongly improved and we are looking after the protection of people's rights. Law enforcement is more in tune today in enforcing our many laws and protecting people's rights so I don't

place any weight on this claim of a certain amount of harassment. The liquor enforcement people don't operate that way.

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

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

Did the brown paper bag have a Maine license on it?

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

A vote of the House was taken.

66 having voted in the affirmative and 44 in the negative, the Majority "Ought to Pass" Report was accepted, the Bill read once.

Committee Amendment "A" (H-951) was read by the Clerk and adopted.

The Bill assigned for second reading Thursday, March 22, 1990.

(Off Record Remarks)

On motion of Representative Telow of Lewiston, Adjourned until Thursday, March 22, 1990, at eight-thirty in the morning.

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

In Senate Chamber

Tuesday

March 20, 1990

Senate called to Order by the President.

Prayer by Reverend Calvin Dame of the All Souls Unitarian Church in Augusta.

REVEREND CALVIN DAME: Let us pray. O great and gracious Spirit, known to all ages and all people, called by a thousand names and called by no name at all. We give thanks this day for the great gift of life which is ours, life a gift we did not ask for, life a gift we did not earn, life a mystery beyond our poor powers of apprehension.

May our thankfulness for this gift, and our awe and reverence for this mystery in which we share, issue forth in a dedication to serve life. This day and every day may we work for that which we know to be good, stand firm for that which we know to be right, struggle for those who are oppressed and dispossessed. And strive always to know ourselves and to be counted with those who serve life. Amen.

Reading of the Journal of Monday, March 19, 1990.

Off Record Remarks

PAPERS FROM THE HOUSE
Non-concurrent Matter

Bill "An Act to Promote and Assist Barrier-free Construction in Places of Public Accommodation and Places of Employment"

S.P. 733 L.D. 1932
(H "A" H-907 to C "A"
S-536; S "B" S-568)

In Senate, March 14, 1990, PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-536) AS AMENDED BY HOUSE AMENDMENT "A" (H-907) thereto, AND SENATE AMENDMENT "B" (S-568), in concurrence.

Comes from the House PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-536) AND SENATE AMENDMENT "B" (S-568) in NON-CONCURRENCE.

On motion by Senator CLARK of Cumberland, the Senate RECEDED and CONCURRED.

Non-concurrent Matter

Bill "An Act to Regulate the Handling of Manure"

H.P. 1575 L.D. 2182
(C "A" H-910; S "A"
S-565)

In House, March 14, 1990, PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-910).

In Senate, March 15, 1990, PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-910) AND SENATE AMENDMENT "A" (S-565) in NON-CONCURRENCE.

Comes from the House PASSED TO BE ENGROSSED AS AMENDED BY SENATE AMENDMENT "A" (S-565) AS AMENDED BY HOUSE AMENDMENT "A" (H-946) thereto, AND COMMITTEE AMENDMENT "A" (H-910) in NON-CONCURRENCE.

The Senate RECEDED and CONCURRED.

House Papers