

MAINE STATE LEGISLATURE

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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

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

In Senate Chamber
 Friday
 March 23, 1990

Senate called to Order by the President.

Prayer by Reverend Anthony Lombardi of the South Lewiston Baptist Church in Lewiston.

REVEREND ANTHONY LOMBARDI: I want to thank you first for inviting me to be here for this session. I also want you to know that my prayers for you are not just a short prayer this afternoon, but continue on a steady basis. You may not need or like broccoli, but you need prayer. Let's pray together.

Holy Father, as we read in Your word commands us to honor all men, love the brotherhood, fear of God, honor the King, or those in executive office.

Grant us Lord, the grace to obey these commands. Your holy word further tells us that every soul be subject to the higher powers, for there is no power but of God, for the powers that be are ordained by God. Grant us, O God, that wisdom and that grace to believe this, for promotion comes not neither from the East nor the West, nor from the South, but from God, who is the judge of all the Earth, and puts down one and sets up another.

These Senators who have been voted into office by the people of this great state, have been also favored by You to sit in these honored chairs. Impress upon them, O Lord, that they are accountable to You. Accountable to You, ultimately, for they have many decisions to make. Decisions, Lord, here on the floor, reports to give, they must serve on Committees, many of the responsibilities, so grant them grace in everything they do. We pray that that wisdom that we ask for them and promised by You will be there, for You said if any man lacked wisdom, let him ask of God who gives to all men liberally, or generously, and finds no fault and it shall be given him. And as pressure groups, and lobbyists, and those who are solicitors, or favor solicitors, seek to squeeze promises from these in Legislature, and this Legislative Body, O God, grant them the wisdom to resist what is wrong, and to vote what is right, and what pleases You. Provide that divine wisdom for them, as we ask even now.

And O Lord, we pray Thy blessings upon them, that the words of Thy great poet will be impressed upon them, who said, "Truth forever on the scaffold, wrong forever on the throne, yet the scaffold sways the future, and behind the dim unknown stands God within the shadows, keeping watch above His own."

We ask these things in the name of Your son, our Savior, Messiah and Lord, Jesus Christ. Amen.

Reading of the Journal of Thursday, March 22, 1990.

PAPERS FROM THE HOUSE

Non-concurrent Matter

Bill "An Act Related to the State Board of Substance Abuse Counselors" (Emergency)

S.P. 699 L.D. 1837
 (S "A" S-525 to C "A"
 S-483; S "A" S-506)

In Senate, February 16, 1990, PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-483) AND SENATE AMENDMENT "A" (S-506) in NON-CONCURRENCE.

In House, March 2, 1990, 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) in NON-CONCURRENCE.

In Senate, March 9, 1990, 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.

Comes from the House, PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-483) AS AMENDED BY HOUSE AMENDMENT "B" (H-963) thereto, AND SENATE AMENDMENT "A" (S-506) in NON-CONCURRENCE.

On motion by Senator MATTHEWS of Kennebec, the Senate RECEDED and CONCURRED.

Non-concurrent Matter

Bill "An Act to Create an Appeals Procedure for the State Bidding Process" (Emergency)

S.P. 895 L.D. 2277
 (C "A" S-571; S "A" S-576)

In Senate, March 13, 1990, PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-571) AND SENATE AMENDMENT "A" (S-576).

Comes from the House PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-571) AND SENATE AMENDMENT "A" (S-576) AND HOUSE AMENDMENT "A" (H-968) in NON-CONCURRENCE.

The Senate RECEDED and CONCURRED.

Non-concurrent Matter

Bill "An Act to Amend the Solid Waste Landfill Remediation and Closure Laws Administered by the Department of Environmental Protection" (Emergency)

H.P. 1712 L.D. 2363

In House, March 16, 1990, referred to the Committee on JUDICIARY.

In Senate, March 20, 1990, referred to the Committee on LEGAL AFFAIRS in NON-CONCURRENCE.

Comes from the House, that Body ADHERED.

The Senate ADHERED.

The Secretary has so informed the Speaker of the House.

House Papers

Bill "An Act to Make Supplemental Allocations from the Highway Fund for the Fiscal Years Ending June 30, 1990, and June 30, 1991" (Emergency)

H.P. 1776 L.D. 2444

Comes from the House referred to the Committee on TRANSPORTATION and ORDERED PRINTED.

Which was referred to the Committee on TRANSPORTATION and ORDERED PRINTED, in concurrence.

Pursuant to Resolves

SUPREME JUDICIAL COURT PLAN AND DESIGN COMMISSION
 The SUPREME JUDICIAL COURT PLAN AND DESIGN COMMISSION, pursuant to Resolves 1987, Chapter 107, as amended by Public Law 1989, chapter 501, part P, sections 34 to 36, ask leave to submit its findings and to report that the accompanying Bill "An Act to Provide Funds for a Design Competition for the Construction of a New Supreme Judicial Court Facility in Augusta"

H.P. 1774 L.D. 2442

Be referred to the Joint Standing Committee on APPROPRIATIONS AND FINANCIAL AFFAIRS for Public Hearing and printed pursuant to Joint Rule 18.

Comes from the House with the Report READ and ACCEPTED and the Bill referred to the Committee on

APPROPRIATIONS AND FINANCIAL AFFAIRS and ORDERED PRINTED, pursuant to Joint Rule 18.

Which Report was READ and ACCEPTED, in concurrence.

The Bill referred to the Committee on APPROPRIATIONS AND FINANCIAL AFFAIRS and ORDERED PRINTED, pursuant to Joint Rule 18, in concurrence.

Pursuant to Resolves

SUPREME JUDICIAL COURT PLAN AND DESIGN COMMISSION

The SUPREME JUDICIAL COURT PLAN AND DESIGN COMMISSION, pursuant to Resolves 1987, Chapter 107, ask leave to submit its findings and to report that the accompanying Bill "An Act to Authorize a General Fund Bond Issue in the Amount of \$18,989,530 for a New Supreme Judicial Court Facility in Augusta"

H.P. 1775 L.D. 2443

Be referred to the Joint Standing Committee on APPROPRIATIONS AND FINANCIAL AFFAIRS for Public Hearing and printed pursuant to Joint Rule 18.

Comes from the House with the Report READ and ACCEPTED and the Bill referred to the Committee on APPROPRIATIONS AND FINANCIAL AFFAIRS and ORDERED PRINTED, pursuant to Joint Rule 18.

Which Report was READ and ACCEPTED, in concurrence.

The Bill referred to the Committee on APPROPRIATIONS AND FINANCIAL AFFAIRS and ORDERED PRINTED, pursuant to Joint Rule 18, in concurrence.

Joint Resolution

The Following Joint Resolution: H.P. 1777

JOINT RESOLUTION IN HONOR OF THE MAINE FARMER AND MAINE AGRICULTURE

WHEREAS, farmers in the business of food and fiber production for world markets are one fifth of our national work force, accounting for 18% of the gross national product; and

WHEREAS, the Maine farmer provides \$400,000,000 in total farm income and is credited with a \$1,000,000,000 contribution to Maine's economy; and

WHEREAS, the Maine agrarian society makes a pivotal contribution to the cultural and social foundations of our rural way of life and in turn to the very heartbeat of America; now, therefore, be it

RESOLVED: That We, the Members of the One Hundred and Fourteenth Legislature of the State of Maine, now assembled in the Second Regular Session, pause in our deliberations to honor Maine farmers and innovators who have contributed so much to the betterment of our State and to pledge our support and encouragement, and urge the youth of Maine to pursue the growing opportunities for careers in today's technologically advanced agricultural industry; and be it further

RESOLVED: That suitable copies of this resolution, duly authenticated by the Secretary of State, be transmitted to the Commissioner of Agriculture, Food and Rural Resources in token of the esteem in which those in this vital field are held.

Comes from the House READ and ADOPTED.

Which was READ and ADOPTED, in concurrence.

COMMITTEE REPORTS

House

Ought to Pass As Amended

The Committee on AUDIT AND PROGRAM REVIEW on Bill "An Act Regarding Security and Training Functions within the Bureau of Capitol Security" (Emergency)

H.P. 1751 L.D. 2413

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-945).

Comes from the House, with the Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-945).

Which Report was READ and ACCEPTED, in concurrence.

The Bill READ ONCE.

Committee Amendment "A" (H-945) READ and ADOPTED, in concurrence.

The Bill as Amended, TOMORROW ASSIGNED FOR SECOND READING.

The Committee on ENERGY AND NATURAL RESOURCES on Bill "An Act to Clarify the Role of the Board of Environmental Protection"

H.P. 1602 L.D. 2214

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-950).

Comes from the House, with the Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-950).

Which Report was READ and ACCEPTED, in concurrence.

The Bill READ ONCE.

Committee Amendment "A" (H-950) READ and ADOPTED, in concurrence.

The Bill as Amended, TOMORROW ASSIGNED FOR SECOND READING.

Under suspension of the Rules, all matters thus acted upon were ordered sent down forthwith for concurrence.

The Committee on MARINE RESOURCES on Bill "An Act to Amend Certain Provisions in Marine Resources Laws" (Emergency)

H.P. 1664 L.D. 2304

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-949).

Comes from the House, with the Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-949).

Which Report was READ and ACCEPTED, in concurrence.

The Bill READ ONCE.

Committee Amendment "A" (H-949) READ and ADOPTED, in concurrence.

The Bill as Amended, TOMORROW ASSIGNED FOR SECOND READING.

The Committee on TRANSPORTATION on Bill "An Act to Adjust Commercial Motor Vehicle Fees"

H.P. 1379 L.D. 1910

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-948).

Comes from the House, with the Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-948).

Which Report was READ and ACCEPTED, in concurrence.

The Bill READ ONCE.

Committee Amendment "A" (H-948) READ and ADOPTED, in concurrence.

The Bill as Amended, TOMORROW ASSIGNED FOR SECOND READING.

Divided Report

The Majority of the Committee on LEGAL AFFAIRS on Bill "An Act Regarding Importation of Liquor"

H.P. 1741 L.D. 2405

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (H-951).

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

The Minority of the same Committee on the same subject reported that the same Ought Not to Pass.

Signed:

Representative:

MURPHY of Berwick

Comes from the House the Majority OUGHT TO PASS AS AMENDED Report READ and ACCEPTED and the Bill PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-951).

Which Reports were READ.

The Majority OUGHT TO PASS AS AMENDED Report was ACCEPTED, in concurrence.

The Bill READ ONCE.

Committee Amendment "A" (H-951) READ.

On motion by Senator MATTHEWS of Kennebec, Senate Amendment "A" (S-604) to Committee Amendment "A" (H-951) READ and ADOPTED.

Committee Amendment "A" (H-951), as Amended by Senate Amendment "A" (S-604) thereto, ADOPTED, in NON-CONCURRENCE.

The Bill as Amended, TOMORROW ASSIGNED FOR SECOND READING.

Senate

Ought to Pass As Amended

Senator TITCOMB for the Committee on AGING, RETIREMENT AND VETERANS on Bill "An Act to Establish a Consolidated Retirement Plan in the Maine State Retirement System for Participating Local Districts" (Emergency)

S.P. 742 L.D. 1946

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (S-605).

Which Report was READ and ACCEPTED.

The Bill READ ONCE.

Committee Amendment "A" (S-605) READ and ADOPTED.

The Bill as Amended, TOMORROW ASSIGNED FOR SECOND READING.

Senator BOST for the Committee on UTILITIES on Bill "An Act Creating the Long Pond Water District"

S.P. 916 L.D. 2322

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (S-606).

Which Report was READ and ACCEPTED.

The Bill READ ONCE.

Committee Amendment "A" (S-606) READ and ADOPTED.

The Bill as Amended, TOMORROW ASSIGNED FOR SECOND READING.

Senator BOST for the Committee on UTILITIES on Bill "An Act to Create the Winter Harbor Water District"

S.P. 917 L.D. 2323

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (S-607).

Which Report was READ and ACCEPTED.

The Bill READ ONCE.

Committee Amendment "A" (S-607) READ and ADOPTED.

The Bill as Amended, TOMORROW ASSIGNED FOR SECOND READING.

Senator BOST for the Committee on UTILITIES on Bill "An Act to Create the Columbia Falls Water District" (Emergency)

S.P. 939 L.D. 2374

Reported that the same Ought to Pass as Amended by Committee Amendment "A" (S-608).

Which Report was READ and ACCEPTED.

The Bill READ ONCE.

Committee Amendment "A" (S-608) READ and ADOPTED.

The Bill as Amended, TOMORROW ASSIGNED FOR SECOND READING.

SECOND READERS

The Committee on Bills in the Second Reading reported the following:

House As Amended

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

(H "A" H-953 to C "A" H-931)

Resolve, Authorizing the State to Release Its Interest in Certain Real Property in Richmond, Maine

H.P. 1686 L.D. 2334

(C "A" H-942)

Bill "An Act Concerning Private Wells Contaminated by Hazardous Substances" (Emergency)

H.P. 1736 L.D. 2397

(C "A" H-943)

Bill "An Act to Provide for a Study of the Harness Racing Industry" (Emergency)

H.P. 1749 L.D. 2412

(C "A" H-941)

Bill "An Act to Promote the Well-being and Rehabilitation of Children in Need of Care, Treatment or Shelter"

H.P. 1761 L.D. 2426

(C "A" H-938)

Which were READ A SECOND TIME and PASSED TO BE ENGROSSED, as Amended, in concurrence.

Senate As Amended

Bill "An Act to Amend Vital Statistics Provisions Pertaining to Adoptions"

S.P. 818 L.D. 2094

(C "A" S-602)

Which was READ A SECOND TIME and PASSED TO BE ENGROSSED, as Amended.

Sent down for concurrence.

Bill "An Act to Make Revisions in the Drug Testing Laws"

S.P. 801 L.D. 2049

(C "A" S-600)

Which was READ A SECOND TIME.

On motion by Senator CLARK of Cumberland, Tabled 1 Legislative Day, pending PASSAGE TO BE ENGROSSED AS AMENDED.

ENACTORS

The Committee on Engrossed Bills reported as truly and strictly engrossed the following:

An Act to Purchase the Development Rights to Farmland

H.P. 1545 L.D. 2130
(C "A" H-911)

On motion by Senator BRANNIGAN of Cumberland, placed on the SPECIAL APPROPRIATIONS TABLE, pending ENACTMENT.

Emergency

An Act to Amend the Workers' Compensation Insurance Laws

H.P. 1565 L.D. 2171
(H "A" H-914 to C "A" H-904)

This being an Emergency Measure and having received the affirmative vote of 26 Members of the Senate, with No Senators having voted in negative, and 26 being more than two-thirds of the entire elected Membership of the Senate, was PASSED TO BE ENACTED and having been signed by the President, was presented by the Secretary to the Governor for his approval.

Emergency

An Act to Amend the Charter of the Van Buren Water District

H.P. 1734 L.D. 2393

This being an Emergency Measure and having received the affirmative vote of 25 Members of the Senate, with No Senators having voted in negative, and 25 being more than two-thirds of the entire elected Membership of the Senate, was PASSED TO BE ENACTED and having been signed by the President, was presented by the Secretary to the Governor for his approval.

ORDERS OF THE DAY

The Chair laid before the Senate the Tabled and Specially Assigned matter:

Bill "An Act to Amend the Laws Relating to Whitewater Rafting"

H.P. 1648 L.D. 2281

Tabled - March 22, 1990, by Senator CLARK of Cumberland.

Pending - Motion of Senator WEBSTER of Franklin to ADOPT Senate Amendment "A" (S-601) to Committee Amendment "A" (H-935)

(In Senate, March 22, 1990, on motion by Senator WEBSTER of Franklin, Senate Amendment "A" to Committee Amendment "A" READ.)

(In House, March 20, 1990, PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-935).

Senator ERWIN of Oxford, moved the INDEFINITE POSTPONEMENT of Senate Amendment "A" (S-601).

THE PRESIDENT: The Chair recognizes the Senator from Franklin, Senator Webster.

Senator WEBSTER: Thank you Mr. President. Ladies and Gentlemen of the Senate. This is an Amendment which I offer, which deals with the Whitewater Rafting Industry, affecting mostly my part of the state, Somerset County. I will explain to you briefly what the Amendment does.

Several years ago, this Legislature set up an allocation system to protect the resources, to protect the rivers of this state from having too many people on the rivers. There was a Committee established, limiting the number of people to a maximum of eighty that could be on the river during a given day. There were just so many slots made for each day, including Sunday, and this also included the Penobscot River. To get your allocations, there

is a formula devised within the Department of Inland Fisheries and Wildlife.

A couple of years ago, things changed. The Central Maine Power Company started opening up the Kennebec River on Sundays, prior to that there was no whitewater rafting or water released from the dams on the Kennebec River.

By keeping the allocation on the Penobscot River, you are forcing the rafters to go to the Penobscot, rather than the Kennebec. It seems to me that the people should have the ability to go to whichever river they choose, without being forced to go to an area of the state that they do not want to go, and for that reason I offer this Amendment. I think it is a local issue that affects the people I represent, and I believe we should pass this law so they can choose whichever river they want to go to.

THE PRESIDENT: The Chair recognizes the Senator from Oxford, Senator Erwin.

Senator ERWIN: Thank you Mr. President. Ladies and Gentlemen of the Senate. In the 113th Legislature, I requested that I be placed on the Whitewater Rafting Committee, and I was told that, do you know what you are requesting, and it would not be a very pleasant job. I can assure you that has proved to be true.

A little knowledge can be dangerous, and I was somewhat in that position, as Senate Chairman of the Fisheries and Wildlife Committee. I wanted to gain as much knowledge as I could, and as fast as I could, concerning whitewater rafting. I can assure you I am still learning.

Let me make several points about this Bill. This was a unanimous Committee Report that came out of the Committee on Fisheries and Wildlife. We talked about this Amendment at length in Committee, and we gave everyone, and I stress everyone that wanted to speak, that opportunity. I gave them every courtesy that I could consider giving them. And still this was a unanimous report.

You have to wonder where this Amendment comes from, it comes from the fact there is some 560 people that are allocated to run the Penobscot during the week. By taking off the allocation on the Penobscot, for example, a Sunday, if a rafter wanted to, I am told they could run all 560 on Sunday alone.

You know the Penobscot River and the West Branch is owned by everybody in the State of Maine, and not just the rafters. The river belongs to everyone, fisherman, tourists, residence, whoever wants to go up there and look at the mountains, and the animals, and the scenery. But those freedoms that we used to enjoy so much don't seem to exist there any longer.

The West Branch has been taken over, many people that used to fish on the river for salmon, do not come back any more because they don't have the freedoms they used to, the rafters that get on the river at 8:00 in the morning, are supposedly, and I stress supposedly, off the river by 5:00. I am told that this does not happen. You could be fishing the river at 6:30 in the evening and still see rafters go by. Suppose once in your life you hook that monster of a fish, and a raft comes along and breaks your line, would you be happy?

What does this Amendment do, somehow or other the small companies think that if we adopt this Amendment, and remove the allocations on Sunday on the West Branch of the Penobscot, it will help them. I am told it will not. Allocations are given on Sundays on the Kennebec, and Saturdays and Sundays 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 that allowed rafting companies to go down. I am told they cannot do this every year, and there is no guarantee that it will be done every year, why, because they may not have the water to do so.

The original Bill would have required all companies to meet a 75% of the industry average, and they would have been automatically given that allocation. The Committee rejected this because it was obvious it would benefit the larger companies. The original Bill said they would be able to run 120 instead of 80. Large companies would have 40 more slots, but those 40 would have to go to the end of the line, and they would have to put their rafts in last, and be the last rafts to go down the river, if there was enough water. In certain years, water releases are short, and the 40 on the end of the line could not be guaranteed. But by being able to do that, a large company would be able to book 120 passengers, and therefore, the 40 passengers that can't be taken under the present law, would not go to the smaller companies. So is this Amendment, and is the original Bill put in to help the smaller companies or the larger ones? Let me assure you, that the Committee looked at everything across the board, and tried to be fair with everyone.

Another thing we did this year was to allow for the first time, someone to sell their operations on the Penobscot or the Kennebec. After twelve years of dealing with whitewater rafters, twelve long years, everytime we have had a system in place, that is working and well and fair, someone comes along and wants to change the system to meet their particular needs or desires. You and I know we can't do that. We started out by trying to mold legislation to take care of the individual outfitters. We tried, as some people put it, to protect the little guys and the big guys. What happened? We got sued! We have been put in a position of having to ask the Attorney General's Office everytime we change the whitewater rafting laws. They advise us this time to stick to the constitutional sound and existing law. It is fair, and we will stay out of trouble if we don't change it.

Let's stop and think for a minute, what is the mission of the Inland Fisheries and Wildlife? It is to protect our fish and our wildlife. That is their primary mission. They do not have the training, the background, to regulate a business, and this is what they are forced to do. So everytime that they have to get into an argument, and it happens many times with the rafters, whether one side or the other, everytime any changes are made, they have to be very, very, careful, or they will end up back in court again.

Would you think that this is something good to be forcing upon Commissioner Bill Vail, and his very dedicated people, when they are trying to handle their general mission? I don't. I hope you support me in voting that this Amendment be killed.

THE PRESIDENT: The Chair recognizes the Senator from Franklin, Senator Webster.

Senator WEBSTER: Thank you Mr. President. Ladies and Gentlemen of the Senate. I respect the good Senator from Oxford, Senator Erwin, and his arguments, although he has spent most of his debate discussing the original Bill and what it did or did not do, and has yet to convince me, and the people I represent almost unanimously has not told me that they did not support this part of the original Bill.

We are not discussing the original Bill, this Amendment was part of the original Bill, and it was a part the Rafting Industry feels important. Not only is it important to the Rafting Industry, but it is important to the public. No one has convinced me yet

why we ought to force people to go on that river. The State of Maine says the people that live up there and run a business, you have so many slots in the river, and you run them, or you loose them. Every year there is a system established, where they have to do certain things to get an award. Once they get the award of 40 or 80, or whatever they get, at that point they are required to meet that goal, and only to that limit.

Now what we are doing by not passing this Amendment, is we are forcing business people to run that river, when they would rather run somewhere else. We are forcing fisherman, and people who want to look at the trees, we are forcing them to wait while the rafts go down before they can enjoy that part of the state. That is a very simple fact. If you tell these people they have to go up there, they will have to go up there, because they are in business. What I am saying is, they do not want to go up there. They are not going to stay on the Kennebec if you tell them they have to go to the Penobscot. It is obviously a complex issue, and I do not claim to be an expert, and I am sure there are others here that will say they know more about this, but I feel that representing this part of the state, that it makes more sense to have this Amendment and allow these people the flexibility to go where they want to go, and for that reason I would ask you to support me. I would also request a Roll Call. Thank you.

Off Record Remarks

THE PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Clark.

Senator CLARK: Thank you Mr. President. Ladies and Gentlemen of the Senate. I am sure that there are those among you who are wondering what in the world is this coastal Legislator doing and standing, and about to address you on a Whitewater Rafting Bill.

Well, frankly, it's no surprise that I would be, for if the good Senator from Franklin can speak on clamming and shellfish harvesting Bills, that line our coast and that come before us, it seems equally appropriate that this coastal Legislator, have an interest in whitewater rafting.

In addition to that, to lend at least some creditability to what I am about to say, I would draw your attention to a Bill, L.D. 1998, of which I was the co-sponsor. This Bill would have removed allocations from all of the whitewater rafting opportunities across the state. And those here today, who are represented in this Amendment that we are about to address, spoke against L.D. 1998, long and loud and vociferously. So impressive was their testimony, that you can well imagine, and it really wasn't a big surprise, after attending that long, public hearing, that L.D. 1998 went, frankly, down the tubes.

And I find it so interesting, that those licensees, who were so articulate in opposition to an open, free market, non-allocated, whitewater rafting system, as proposed in L.D. 1998, would now wish to remove the allocation, from guess where...the Penobscot.

Let me tell you from my prospective why, and why I am going to support the Senate Chair of the Committee on Inland Fisheries and Wildlife, for he, too, has convinced me, and the wisdom of that Committee and their report, was another feature in my standing this afternoon and addressing you.

As the Kennebec opens up, and we know its rafting

area is located much nearer to the center of tourist interest, and tourist access, than is the Penobscot, we find those who hold allocations on the Penobscot, also, having activity on the Kennebec, as well as in some instances, the Dead River. Parenthetically, I never yet have understood why some small enterprising business person, hasn't recognized the whiterafting water opportunities for about two or three weeks on the Androscoggin, of all places. Frankly, in lower or southern Androscoggin and Cumberland County, for it does, in fact, occur, or at least the potential does exist. But these people who would have us remove the allocation on Sunday, on the Penobscot, are doing it because the potential for more traffic on the Kennebec, means that their business may, in fact, decline on the Penobscot. And the allocation system is organized in such a fashion that if you don't use your allocation, the next time it comes up for reallocation, your allocation may be less, and low and behold we don't want any new small enterprising competitors in this field of whitewater rafting. Oh no, we don't want that! So we purport to want free enterprise on one system, but not anywhere else.

Truthfully, men and women of the Senate, the good Senator from Oxford, Senator Erwin, is right on target. There is only one responsible action, consistent responsible action, that can occur this afternoon, and that is to support the pending motion to Indefinitely Postpone this Amendment. Thank you.

On motion by Senator WEBSTER of Franklin, supported by a Division of one-fifth of the members present and voting, a Roll Call was ordered.

THE PRESIDENT: The pending question before the Senate is the motion of Senator ERWIN of Oxford to INDEFINITELY POSTPONE Senate Amendment "A" (S-601) to Committee Amendment "A" (H-935).

The Chair noted the absence of the Senator from Cumberland, Senator ANDREWS and excused him from today's Roll Call votes.

A vote of Yes will be in favor of INDEFINITE POSTPONEMENT.

A vote of No will be opposed.

Is the Senate ready for the question?

The PRESIDENT who would have voted NAY requested and received Leave of the Senate to pair his vote with Senator PEARSON of Penobscot who would have voted YEA.

The Doorkeepers will secure the Chamber.

The Secretary will call the Roll.

ROLL CALL

YEAS: Senators BALDACCII, BERUBE, BOST, BRANNIGAN, BUSTIN, CARPENTER, CLARK, DUTREMBLE, ERWIN, ESTES, ESTY, GAUVREAU, GILL, GOULD, HOBBSINS, HOLLOWAY, KANY, LUDWIG, MATTHEWS, TITCOMB, TWITCHELL

NAYS: Senators BRAUN, CAHILL, COLLINS, DILLENBACK, EMERSON, RANDALL, WEBSTER, WEYMOUTH

PAIRED: Senators PEARSON, THE PRESIDENT - CHARLES P. PRAY

EXCUSED: Senator ANDREWS

ABSENT: Senators PERKINS, THERIAULT, WHITMORE

21 Senators having voted in the affirmative and 8 Senators having voted in the negative, with 2 Senators having paired their votes, and 3 Senators being absent, and 1 Senator being excused, the motion by Senator ERWIN of Oxford to INDEFINITELY POSTPONE Senate Amendment "A" (S-601) to Committee Amendment "A" (H-935), PREVAILED.

On motion by Senator CLARK of Cumberland, Senate Amendment "B" (S-610) to Committee Amendment "A" (H-935) READ and ADOPTED.

Committee Amendment "A" (H-935), as Amended by Senate Amendment "B" (S-610) thereto, ADOPTED in NON-CONCURRENCE.

Senator WEBSTER of Franklin moved the INDEFINITE POSTPONEMENT of the Bill and Accompanying Papers.

At the request of Senator CLARK of Cumberland a Division was had. 7 Senators having voted in the affirmative and 22 Senators having voted in the negative, the motion of Senator WEBSTER of Franklin, to INDEFINITELY POSTPONE Bill and Accompanying Papers, FAILED.

The Bill as Amended, TOMORROW ASSIGNED FOR SECOND READING.

Off Record Remarks

Senator CAHILL of Sagadahoc was granted unanimous consent to address the Senate on the Record.

Senator CAHILL: Thank you Mr. President. Ladies and Gentlemen of the Senate. I will be very brief because I know it is Friday and everyone wants to get home, but I think this is an important issue.

There was a packet placed on our desks by the good Senate President, a manila envelope, and ordinarily I would have looked at something like that and probably filed it, permanently. But, I started to read the letter that was received in that packet of information, and feel that that letter probably borders on libelous. It is a letter about a former member of this Body, a member or two of the legal profession, and a member of the Judiciary. And I am not sure perhaps that this is something that should have appeared on our desks or not, but I think it is truly a matter that is pending before the law court right now, and to have any kind of legislative intervention I would think would violate the separation of the branches of Government.

In the wisdom of the entire Senate, if this is indeed something that everyone should take a look at, than I would hope that we would give the members mentioned in this letter equal opportunity to somehow address this Legislature.

The President requested the Sergeant-at-Arms to escort the Senator from York, Senator HOBBSINS to the rostrum where he assumed the duties of President Pro-Tem.

The President then took a seat on the Floor of the Senate.

Senate called to order by the President Pro Tem.

Senator PRAY of Penobscot was granted unanimous consent to address the Senate on the Record.

Senator PRAY: Thank you Mr. President. Ladies and Gentlemen of the Senate. I felt that it was my responsibility as the Senator from Senate District 5 to respond to the comments of the good Senator from Sagadahoc, Senator Cahill, in reference to the packet that I had placed upon your desks, of which each and every member of this Chamber has the privilege and the opportunity of doing.

Mr. Mack, who had sent to my address here at the Senate, a package of sufficient materials for not only members of the Legislature who now serve, but also former members of the Legislature, which I suspect came from the fact that he probably had some outdated materials as who was elected as individuals, but wanted to bring to Legislator's attention, a situation that he felt at least in his own mind, was some inaccuracies in the law.

I read the materials and tried to make a determination, as to first of all, the issue itself, and then the question as to rather on not he should have access to elected officials, when he felt that Maine law had some type of implications upon himself and his family situation, and since his mother and they were from Millinocket at one time, I made the decision that I would distribute that materials. But I wanted to make sure that the good Senator from Sagadahoc, Senator Cahill, who serves on the Legislative Council, that she would be well aware of any particular proposal that might come into the Legislature because it would have to have approval of the Council in the Second Session, and there has been no such proposals presented.

But I think it behooves all of us that any time people of this state, or people who have some attachment to Maine at one time or another, raises concerns about the laws that we have passed, that we have an obligation and responsibility to look at it, and to consider the points that they raise. We may or may not disagree with them, we may feel that the system operates fine. All of us in our responsibilities of serving our constituency, I am sure have had calls from constituents who have disagreed with the laws that we have on the books.

I can remember one morning about 2:30 in the morning, I got a call from one of my constituents who happened to be sitting in the county jail because of O.U.I., and he wanted to talk about the laws that we had passed. On his one phone call, he decided to drop in a long distance dime and call me at home. I think that is his right if he disagrees with the laws we passed. I haven't changed my position on the O.U.I. law, but he has the right to address us on those situations.

This particular issue here, each and everyone of us can read it and have the concerns of our own potential parents, or our own potential constituents, who may find themselves caught between the system of the court system and the probate system, and wonder if it is the best way we can do it. I think it behooves us on a continuing basis to never accept the laws that are on the books as perfect, they always require the review of us, and I would hope there was no indication that the Senator from Sagadahoc, Senator Cahill, said if there was any type of future activity, that the individuals who were addressed in this particular issue, as to whether they would have access to this Legislature, I want to assure that Senator that they would have access to this Legislature, but it would not be a Bill pertaining to these particular individuals, while Mr. Mack brought forth a particular case that he had concerns about and used examples of those who were involved in the case. I think that any type of legislation, we have to understand, would not be one that would address these particular individuals, but the process itself. To insinuate otherwise, or to take any constituent who writes or distributes materials to us, that we are going to start standing up and saying that we need to have some type of protection, belittles the system that we have, and that system of address is available to all the citizens of this state, and I pride myself as being part of the Legislative Institution that allows the public such great access to those elected representatives who serve them of all political philosophies. Thank you Mr. President.

Senator CAHILL: Thank you Mr. President. Ladies and Gentlemen of the Senate. I appreciate the good Senator from Penobscot, Senator Pray's response, and I agree with him that people should have access to the legislative process.

I simply feel, and I was not insinuating otherwise, that the letter that we have before us makes some very, very strong accusations, and I am just not sure of the appropriateness of that letter. I started to read the letter just before the Senate went into session today, and I was able to briefly chat with one of the individuals, and I'll say it was former State Senator Dana Devoe from Penobscot County. He will be available to discuss this next week, he will let us know all in advance if anyone would like to talk to him and hear his side of the story.

Off Record Remarks

On motion by Senator TITCOMB of Cumberland, ADJOURNED until Monday, March 26, 1990, at 8:30 in the morning.

Senator CAHILL of Penobscot was granted unanimous consent to address the Senate on the Record.