

MAINE STATE LEGISLATURE

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LEGISLATIVE RECORD
OF THE
One Hundred And Seventeenth Legislature
OF THE
State Of Maine

VOLUME I

FIRST REGULAR SESSION

House of Representatives
December 7, 1994 to May 23, 1995

ONE HUNDRED AND SEVENTEENTH MAINE LEGISLATURE
FIRST REGULAR SESSION
32nd Legislative Day
Wednesday, April 12, 1995

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

Prayer by Pastor Nathan B. Seckinger, The Bethel Alliance Church.

The Journal of yesterday was read and approved.

At this point the Speaker appointed Representative STROUT of Corinth to serve as Speaker Pro Tem.

The House was called to order by the Speaker Pro Tem.

PETITIONS, BILLS AND RESOLVES REQUIRING REFERENCE

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

Business and Economic Development

Bill "An Act to Make Minor Technical Adjustments to Various Professional Licensing Boards" (H.P. 933) (L.D. 1314) (Presented by Representative POVICH of Ellsworth) (Submitted by the Department of Professional and Financial Regulation pursuant to Joint Rule 24.)

Criminal Justice

Bill "An Act to Clarify the Supervision of Juveniles Under Observation" (H.P. 924) (L.D. 1305) (Presented by Representative JOHNSON of South Portland) (Cosponsored by Representative: CLUKEY of Houlton, Senators: CAREY of Kennebec, KIEFFER of Aroostook) (Submitted by the Department of Corrections pursuant to Joint Rule 24.)

Bill "An Act to Regulate Bank Accounts of Clients of the Department of Corrections" (H.P. 928) (L.D. 1309) (Presented by Representative THOMPSON of Naples) (Cosponsored by Representative: PENDLETON of Scarborough, Senators: HALL of Piscataquis, O'DEA of Penobscot) (Submitted by the Department of Corrections pursuant to Joint Rule 24.)

Education and Cultural Affairs

Bill "An Act to Provide for the Position of President of the University of Maine System" (H.P. 932) (L.D. 1313) (Presented by Representative AHEARNE of Madawaska) (Cosponsored by Representatives: CLARK of Millinocket, CROSS of Dover-Foxcroft, JOY of Crystal, MORRISON of Bangor)

Judiciary

Bill "An Act to Amend the Laws Governing Civil Liability for Individual Medical Providers with Whom the Department of Corrections Contracts" (H.P. 925) (L.D. 1306) (Presented by Representative CLARK of Millinocket) (Cosponsored by Representative: PENDLETON

of Scarborough, Senator: CAREY of Kennebec) (Submitted by the Department of Corrections pursuant to Joint Rule 24.)

Bill "An Act to Require that Fact-finding Hearings of the Maine Human Rights Commission be Recorded" (H.P. 926) (L.D. 1307) (Presented by Representative TREAT of Gardiner) (Cosponsored by Representatives: ADAMS of Portland, KERR of Old Orchard Beach, MADORE of Augusta, MORRISON of Bangor, SAXL of Bangor, Senators: McCORMICK of Kennebec, PARADIS of Aroostook)

Marine Resources

Bill "An Act Concerning Inspection at Sea" (H.P. 929) (L.D. 1310) (Presented by Representative BIGL of Bucksport) (Cosponsored by Representative: PINKHAM of Lamoine) (Submitted by the Department of Marine Resources pursuant to Joint Rule 24.)

Natural Resources

Bill "An Act Regarding the Motor Vehicle Emission Inspection Program" (EMERGENCY) (H.P. 930) (L.D. 1311) (Presented by Representative ADAMS of Portland)

Taxation

Resolve, Authorizing the State Tax Assessor to Convey the Interest of the State in Certain Real Estate in the Unorganized Territory (H.P. 934) (L.D. 1315) (Presented by Representative DORE of Auburn) (Cosponsored by Representative TUTTLE of Sanford, Senators: CAREY of Kennebec, FERGUSON of Oxford, HATHAWAY of York) (Submitted by the Department of Administrative and Financial Services pursuant to Joint Rule 24.)

Transportation

Resolve, to Create the Maine 175th Anniversary of Statehood License Plate (EMERGENCY) (H.P. 931) (L.D. 1312) (Presented by Representative ADAMS of Portland)

Bill "An Act to Require Roll Bars in Emergency Response Vehicles" (H.P. 927) (L.D. 1308) (Presented by Representative McALEVEY of Waterboro) (Cosponsored by Senator CAREY of Kennebec and Representatives: BUCK of Yarmouth, BUNKER of Kossuth Township, CHICK of Lebanon, CLARK of Millinocket, CROSS of Dover-Foxcroft, FARNUM of South Berwick, HICHBORN of Lagrange, JONES of Pittsfield, KNEELAND of Easton, MARSHALL of Eliot, MAYO of Bath, POIRIER of Saco, STEDMAN of Hartland, THOMPSON of Naples, WHEELER of Bridgewater, Senators: CARPENTER of York, LORD of York)

Reference to the Committee on Transportation suggested.

On motion of Representative RICKER of Lewiston, tabled pending reference and later today assigned.

REPORTS OF COMMITTEES

Ought to Pass as Amended

Representative CLARK from the Committee on Criminal Justice on Bill "An Act to Prohibit Private Indecency" (H.P. 131) (L.D. 179) reporting "Ought to Pass" as amended by Committee Amendment "A" (H-95)

Report was read and accepted. The Bill read once.

Committee Amendment "A" (H-95) was read by the Clerk and adopted and the Bill assigned for second reading Thursday, April 13, 1995.

Ought to Pass as Amended

Representative STROUT from the Committee on Transportation on Bill "An Act to Create a Separate License Plate for Sheriffs" (H.P. 139) (L.D. 187) reporting "Ought to Pass" as amended by Committee Amendment "A" (H-99)

Report was read and accepted. The Bill read once. Committee Amendment "A" (H-99) was read by the Clerk and adopted and the Bill assigned for second reading Thursday, April 13, 1995.

Divided Report

Majority Report of the Committee on Business and Economic Development reporting "Ought Not to Pass" on Bill "An Act to Direct the Office of Tourism to Promote All Regions of the State" (H.P. 13) (L.D. 7)

Signed:

Senators: HARRIMAN of Cumberland
GOLDTHWAIT of Hancock
Representatives: ROWE of Portland
DAVIDSON of Brunswick
KONTOS of Windham
REED of Dexter
SIROIS of Caribou

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

Signed:

Representatives: CAMERON of Rumford
POVICH of Ellsworth

Was read.

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

Representative ROWE: Thank you Mr. Speaker. I move that the House accept the "Ought Not to Pass" Report and I would like to speak to my motion.

The SPEAKER PRO TEM: The Representative from Portland, Representative Rowe moves we accept the Majority "Ought Not to Pass" Report. The Gentlemen may proceed.

Representative ROWE: Thank you Mr. Speaker, Men and Women of the House: L.D. 7 was a bill that would add to the statute which set forth the duties of the Office of Tourism and it would have added a section that would have stated as follows: Insure that consideration is given to the expansion and growth of the travel industry and all geographical areas of the State. The statement of fact says this bill requires that the Office of Tourism consider the expansion and growth of the travel industry and all geographical areas of the State.

We heard in the committee testimony from Representative Look about Washington County. We heard testimony from the then director of Office of Tourism, Ms. St. Clair and also from a gentleman who was representing the Maine Campground Owners Association. The majority of the committee decided that this was not required. It was not necessary because, in fact, this is already being done.

Additionally, there is additional language in the preamble to the Department of Community and Economic Development that states that an economic development strategy must recognize and reflect the needs, conditions, and opportunities of the several different economic regions of the State. It goes on

to say that this strategy must be flexible and periodically evaluated to make it consistent with changes in conditions and opportunities that arise.

We also heard from the Maine Campground Owners Association a caution that we allow the Bureau of Tourism or Office of Tourism to retain their flexibility to use the tourism resources where they can be focused most effectively.

Just one other thing, the Director of the Office of Tourism did state that in 1988 the Department of Economic and Community Development initiated the Regional Tourism Development Program. Under the program, six grants were awarded to regional planning agencies and as a result of these efforts there have been special marketing and development organizations established. These includes Kennebec Valley Tourism Council, Washington County Promotion Board and St. John Valley Visitors Bureau to name a few.

There is additional language in the Travel Promotion Matching Fund Program statute that does state that the Office of Tourism shall administer the Travel Promotion Program with flexibility to bring about the most effective and economical travel promotion program possible. Applications from all regions of the State must be equally considered. So with all this in mind, we felt that this additional language in the statute was unnecessary and, in fact, it may serve to inhibit the Office of Tourism from using their resources most effectively.

Those were the reasons supporting the Majority "Ought Not to Pass" Report and I would ask that you support the pending motion. Thank you Mr. Speaker.

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

Representative LOOK: Thank you Mr. Speaker, Ladies and Gentlemen of the House: I introduce this bill because it was an attempt to perhaps acquaint the rest of the world with the Down East area and all the rural areas of Maine that may not be so well known throughout the tourism world as it is now.

Tourism is something that is spreading across Maine and we are very happy about that. In the rural areas, people are finding that perhaps they do have features that the rest of the world would like to know about, the quiet corners of Maine. I think one of the things that prompted me to do this was one day when I was in the town of Jonesport and I saw a cruise boat coming up into Moosabec Reach. I thought well if one gets up there perhaps another one can.

From this, I thought maybe this will inspire other people to work toward the efforts of getting more tourism into rural Maine. Hopefully just the fact that this bill has been here, it may do that very thing. I did talk to the lady who heads the tourism office and she promised me that she would discuss this with people in Washington County and other counties. I am satisfied that this may be a development that will go forth. Thank you very much.

Subsequently, on motion of Representative ROWE of Portland, the Majority "Ought Not to Pass" Report was accepted and sent up for concurrence.

By unanimous consent, all matters having been acted upon were ordered sent forthwith.

Divided Report

Majority Report of the Committee on State and Local

Government reporting **"Ought Not to Pass"** on Bill "An Act to Require Legislators to Pay a Portion of Their Health and Dental Insurance Premiums" (H.P. 187) (L.D. 246)

Signed:

Senators:

CARPENTER of York
LONGLEY of Waldo
AHEARNE of Madawaska
LEMKE of Westbrook
YACKOBITZ of Hermon
DAGGETT of Augusta
SAXL of Bangor
GERRY of Auburn
ROSEBUSH of East Millinocket

Representatives:

Minority Report of the same Committee reporting **"Ought to Pass"** as amended by Committee Amendment "A" (H-93) on same Bill.

Signed:

Senator:

AMERO of Cumberland

Representatives:

LANE of Enfield
SAVAGE of Union
ROBICHAUD of Caribou

Was read.

Representative DAGGETT of Augusta moved that the House accept the Majority **"Ought Not to Pass"** Report.

On further motion of the same Representative, tabled pending her motion to accept the Majority **"Ought Not to Pass"** Report and later today assigned.

CONSENT CALENDAR

First Day

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

(H.P. 28) (L.D. 22) Bill "An Act to Decrease the Minimum Required Amount of Liability Insurance for Certain Intrastate Vehicles" Committee on Transportation reporting **"Ought to Pass"** as amended by Committee Amendment "A" (H-103)

(H.P. 186) (L.D. 245) Bill "An Act to Ensure Children's Protection against Rabies by Requiring Proof of Rabies Vaccinations of Pets at Day Care Centers" Committee on Human Resources reporting **"Ought to Pass"** as amended by Committee Amendment "A" (H-96)

(H.P. 245) (L.D. 347) Bill "An Act to Clarify the Requirements for Truck Widths" Committee on Transportation reporting **"Ought to Pass"** as amended by Committee Amendment "A" (H-101)

There being no objections, the above items were ordered to appear on the Consent Calendar of Thursday, April 13, 1995 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. 56) (L.D. 85) Bill "An Act to Repeal the Prohibition against Nursing Home Owners and Employees Becoming Guardians of Patients" (C. "A" S-42)

(S.P. 152) (L.D. 338) Bill "An Act to Amend the Laws Pertaining to the Return of Security Deposits and Nonpayment of Rent or Utility Charges" (C. "A" S-43)

(H.P. 308) (L.D. 412) Bill "An Act Relating to Building Permit Ordinances"

(H.P. 79) (L.D. 115) Bill "An Act to Require

Insurance Companies to Provide Loss Information to Insured Groups" (C. "A" H-91)

(H.P. 291) (L.D. 395) Bill "An Act Concerning the Rights and Responsibilities of Innkeepers" (C. "A" H-81)

(H.P. 305) (L.D. 409) Bill "An Act to Continue Requiring Probable Cause before the Exercise of Protective Custody" (C. "A" H-84)

(H.P. 318) (L.D. 439) Bill "An Act Requiring That Disbursement Warrants Receive an Affirmative Vote by Municipal Officers" (C. "A" H-82)

(H.P. 350) (L.D. 470) Resolve, to Require the Special Commission to Erect a Plaque in the Hall of Flags Honoring Medal of Honor Recipients from Maine to Submit 2 Reports and to Appoint Members by May 1, 1995 (EMERGENCY) (C. "A" H-94)

(H.P. 385) (L.D. 520) Bill "An Act to Stop the Alewives Restoration Program in the St. Croix River" (C. "A" H-78)

(H.P. 414) (L.D. 571) Bill "An Act to Eliminate the Personal Property Tax on Individuals in the State" (C. "A" H-87)

(H.P. 419) (L.D. 576) Bill "An Act to Facilitate the Use of the Installment Method for the Collection of Sewer Assessments and Charges" (C. "A" H-83)

(H.P. 443) (L.D. 609) Resolve, to Extend the Reporting Date of the Commission to Study Biotechnology and Genetic Engineering (EMERGENCY) (C. "A" H-89)

(H.P. 481) (L.D. 662) Bill "An Act to Amend the Municipal Subdivision Laws Regarding Application Requirements" (C. "A" H-90)

(H.P. 613) (L.D. 823) Bill "An Act to Dedicate a Percentage of the Actual Individual Income Taxes from Each Community to Be Returned to the Community for School Funding" (C. "A" H-80)

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

(H.P. 183) (L.D. 231) Bill "An Act to Correct Errors and Inconsistencies Related to the Recodification of the Maine Revised Statutes, Title 29" (EMERGENCY) (C. "A" H-79)

On motion of Representative CAMERON of Rumford, was removed from the Second Day Consent Calendar.

Report was read and accepted. The Bill was read once. Committee Amendment "A" (H-79) was read by the Clerk and adopted. The Bill was assigned for second reading Thursday, April 13, 1995.

BILLS IN THE SECOND READING

As Amended

Resolve, Authorizing the Transfer of a Certain Parcel of Land Known as Kole Kill Island in West Grand Lake upon Payment of Back Taxes (H.P. 197) (L.D. 256) (C. "A" H-86)

Bill "An Act to Establish an Equitable Sales Tax Structure for Bottled Water" (H.P. 258) (L.D. 360) (C. "A" H-85)

Bill "An Act to Repeal the Retail Seed Dealer's License" (H.P. 382) (L.D. 517) (C. "A" H-72)

Bill "An Act to Amend the Laws Governing Retail Credit Cards" (H.P. 420) (L.D. 577) (C. "A" H-92)

Were reported by the Committee on Bills in the Second Reading, read the second time, the House

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

Bill "An Act to Repeal the Laws Regarding Consumer Information Pamphlets" (H.P. 307) (L.D. 411) (C. "A" H-88)

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

On motion of Representative DAGGETT of Augusta was set aside.

On further motion of the same Representative, tabled pending passage to be engrossed and later today assigned.

UNFINISHED BUSINESS

The following matters, in the consideration of which the House was engaged at the time of adjournment Tuesday, April 11, 1995, have preference in the Orders of the Day and continue with such preference until disposed of as provided by Rule 24.

Bill "An Act Relating to the Maine Health Program" (EMERGENCY) (H.P. 271) (L.D. 373)

- In House, Majority "Ought to Pass" as amended Report of the Committee on Human Resources read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (H-15) on March 28, 1995.

- In Senate, Passed to be engrossed in non-concurrence.

TABLED - April 11, 1995 (Till Later Today) by Representative FITZPATRICK of Durham.

PENDING - Further Consideration.

On motion of Representative JACQUES of Waterville, tabled pending further consideration and specially assigned for Thursday, April 13, 1995.

HOUSE DIVIDED REPORT - Majority (11) "Ought Not to Pass" - Minority (2) "Ought to Pass" as amended by Committee Amendment "A" (H-77) - Committee on Judiciary on Bill "An Act to Authorize the Broadcasting of Information about Persons Who Are Delinquent with Child Support Payments" (H.P. 250) (L.D. 352)

TABLED - April 11, 1995 (Till Later Today) by Representative TREAT of Gardiner.

PENDING - Motion of same Representative to accept the Majority "Ought Not to Pass" Report.

On motion of Representative JACQUES of Waterville, tabled pending the motion of Representative TREAT of Gardiner to accept the Majority "Ought Not to Pass" Report and specially assigned for Tuesday, April 25, 1995.

At this point Speaker Gwadosky resumed the Chair. The House was called to order by the Speaker.

Bill "An Act to Amend the Laws Pertaining to Governmentally Constructed Jetties" (EMERGENCY) (S.P. 72) (L.D. 160) (C. "A" S-36)

TABLED - April 11, 1995 (Till Later Today) by Representative ETNIER of Harpswell.

PENDING - Passage to be Engrossed.

On motion of Representative ETNIER of Harpswell, the rules were suspended for the purpose of reconsideration.

On further motion of the same Representative, the House reconsidered its action whereby Committee Amendment "A" (S-36) was adopted.

The same Representative presented House Amendment "B" (H-98) to Committee Amendment "A" (S-36), which was read by the Clerk.

The SPEAKER: The Chair recognizes the Representative from Harpswell, Representative Etner.

Representative ETNIER: Thank you Mr. Speaker. I wish to speak to my motion.

The SPEAKER: The Representative may proceed at this time.

Representative ETNIER: Thank you Mr. Speaker, Ladies and Gentlemen of the House for indulging me on this one. I know that this is a unanimous "Ought to Pass" committee report from the Committee on Natural Resources. I mean them no disrespect by questioning this. I think there are some members here today who are on that committee who may well speak who have some concerns about, well I guess this one got away from them to an extent.

My concerns on this Committee Amendment that we are discussing and also the House Amendment which I have offered, the Committee Amendment I feel really the question on that does not revolve around partisan issues. It does not revolve around even environmental issues. To me it revolves primarily around government accountability issues.

To give you a little bit of a background on this because understandably probably most of you out there have no idea what we are talking about here with governmentally constructed jetties or the bill or the amendment. As briefly as possible, the title of the original bill was "An Act to Amend the Laws Pertaining to Government Reconstructed Jetties". Elsewhere in the bill the actual language of the bill refers to the existence of governmentally constructed jetties in two places and of course, in the statement of fact as well. This is not the issue.

The issue is the language and the public hearing that was held on this bill which was a very specific bill pertaining to my understanding from the Maine Geological Survey people. Five governmentally constructed jetties, I guess they are the only jetties in the state, but be that as it may, there are evidently five of them in the state that we know of. They are down in the southern part of the state. I believe Wells, Scarborough, well, anyhow, here we go, Kennebunk and York.

That is not the issue. To me, the issue is what happened in the Committee Amendment which came out and changed the language of the bill completely including changing the title to the new title. The new title is "An Act to Protect the Integrity of Seawalls and Retaining Walls. Deleting the previous mention to governmentally constructed jetties.

Elsewhere in the Committee Amendment which is under consideration they changed the language from the jetties to coastal sand dune systems. In effect, by doing that they expanded the intent, not the intent, possibly, but the effect of this bill to encompass the entire State of Maine.

My feeling is just in terms again of government accountability and what we have all heard a lot about. That when we come up here and have a public hearing with two weeks public notice on a bill that is very specifically worded relating to five particular jetties which very well have a legitimate concern and a legitimate problem. The people who turned out at that public hearing and addressed that

issue turned out based on the language that they see before them. What came out of the work session evidently to me and to a number of other people is quite a bit different in so far as it expanded the intent of the effect of the entire coast.

In my district, I also have areas now that would fall into the jurisdiction of this new Committee Amendment in terms of coastal sand dunes systems. I have Popham Beach, Reid State Park, Small Point those are the ones that come to mind. They are certainly major coastal sand dune systems. A number of those have residences on them.

The people of my district would have liked the chance, if they had known there was a bill coming up before this House and or the other body to come to a public hearing and there would have been a percentage that would have spoken in favor of that bill and or that amendment. There would have been a percentage that would have spoken against it. That is the reason we have this public process.

Referring now to my House Amendment, In working with the good Representative, Representative Carleton, we have tried to resolve this as best we can. I came up with an amendment in an attempt to do that. The amendment changes that coastal sand dune system language to read a sand beach area effected by a governmentally erected jettie. Thereby, changing the Committee Amendment to more accurately reflect, I believe, the intent of the original bill that public hearing was held on. That is my only issue with this bill and the amendment.

The Committee Amendment I have no wish to obstruct the concerns that may well be justifiable of the people in the southern part of the State. I just wish that if there was going to be a bill that covers the entire State of Maine that should be the bill that is mentioned in the public hearing format. Notices sent out and anyone in the State of Maine who may be effected by this either pro or con be given notice and be allowed to turn out and testify either in favor or against. That is why we have this process as I said before. Thank you for your indulgence and Thank you, Mr. Speaker.

The SPEAKER: The Chair recognizes the Representative from Eliot, Representative Marshall.

Representative MARSHALL: Thank you Mr. Speaker and colleagues of the House. I rise to oppose this amendment to this unanimous Committee Amendment. The situation is rather simple. We have some beaches, I guess in Southern Maine and probably elsewhere that because of or not because of governmentally constructed jetties the beaches are moving. Moving away from these homes.

Many years ago the homes in order to keep the storm waters and the rocks out of their living rooms erected storm walls or seawalls. They are roughly eight feet high and there is a foot in a half to two feet sticking out. In most cases, these walls were fifty or so feet away from high tide level. The water never reached them except in a storm. Over the period of time, and as a result that seems very apparent to me of a governmentally constructed jettie these beaches moved. They moved down toward the jettie and have left not only the walls exposed, but the footings of these walls exposed in many cases.

The situation becomes where in a storm situation where if we get a serious tropical storm or hurricane or whatever you want to call it. If these walls are tipped over, because of this, because of being exposed the homeowner has a matter of hours to

protect their home and in many cases you have seen them on the news where the house just slides off into the ocean.

What we were intending to do is allow these homeowners at their own expense to protect their walls. So as to protect their homes and also would be protecting your tax base and your communities. The present situation without this amendment or without this bill that the committee put forth allows the homeowner to put riprap in front of the seawall, but he must remove it in seven months because he is not allowed to put in anything any longer than seven months and at very high expense. The expense to us was told around \$20,000 each time they moved it.

So what it amounts to is in the beginning of the storm season they put the riprap in and at the end of the storm season they have to take it out every year if they want to protect their home. This bill simply allows that in an emergency situation where the wall has become in danger. With the approval of the town Code Enforcement Officer, that they can put this riprap in and leave it.

This still however though it waives the DEP piece of it, you still have to get the town approval to put it in. It doesn't change that at all. What concerns me is that we are willing to give some protection or the ability to protect their homes, but only on a limited basis. I think for that purpose we need to defeat this amendment and go on to approve the committee amendment.

The SPEAKER: The Chair recognizes the Representative from Livermore, Representative Berry.

Representative BERRY: Thank you Mr. Speaker, Ladies and Gentlemen of the House: I sit on the Natural Resource Committee and I was on the subcommittee on L.D. 160. Our goal, as Representative Marshall has said, was to come up with a solution that would be good for the coast of Maine. I think that was our intent. I think after talking to Representative Etnier, he made some good points on who else should have been included in that debate. I don't think that was allowed. I support his proposed amendment, Amendment "B".

I think he has concerns for his area and the solutions that we have, we had hoped would be good for the coastline. I am not so sure this is going to be the answer for everything. The riprap can be very detrimental to our coastline. As part of our education we gotten in our committee, it should be used sparingly and under the proper practices.

I think our first goal is to protect our coast lands and first intent isn't to protect seawalls, it is to protect our coast lines. I understand the property owners in some of these areas and we tried to meet some of their concerns.

I support the Committee Amendment "A" and I also support Representative Etnier's proposed Amendment "B". I would ask that the House support that also.

The SPEAKER: The Chair recognizes the Representative from Wells, Representative Carleton.

Representative CARLETON: Thank you Mr. Speaker. This bill arises out of a situation in my town, Wells, in which a home located behind an existing seawall was almost washed out to sea last winter. Under existing laws, as the Representative from Eliot has said, homeowners whose homes are threatened can place on a temporary basis riprap. That is rocks in front of a seawall that is threatened by destruction by winter storms.

When we originally submitted this bill, a member of the other body and myself submitted nearly similar bills. We wanted to narrow the focus of the remedy which we had. So we included language which made reference to beaches or property that surrounded governmentally erected jetties, of which there are five, as the good Representative has pointed out.

In going through the process of the committee hearings there were various objections raised about the term effected by governmentally erected jetties. It turns out that there is a dispute about what the effects are of governmentally erected jetties in general and Wells in particular. We didn't think there was a dispute. We had understood that the Maine Geological Survey and the DEP had agreed that the jetties in Wells had effected the beach sand with the result that it was being swept away.

However, at the hearing I understand that the Geological Survey had backed away from that statement that the problem with the seawalls had been effected by the governmentally erected jetties now they are saying we don't know. To me it all indicated that there was at least a chance that somebody who didn't want a homeowner to be able to make emergency repairs would come in and say, well how do you know that the problem was caused by governmentally erected jetties.

The result of all this was the committee amendment which did away with that particular language and put in procedural protections which required action by the code enforcement officer to certify that there was a problem and applied it generally to sand beaches.

To my knowledge everyone who wanted to have a say in that process had a say in that process. The organizations which might be opposed to this were represented there. I think the objection that people didn't know what was going on or had a chance to have input in the process is a triumph of form over substance.

The House Amendment that is being considered now puts back into the bill the term, affected by governmentally erected jetties. We have heard the Maine Geological Survey say that it is difficult to determine when, in fact, that occurs. I think to add this amendment would be to simply muddy the waters on a bill that would otherwise simply allow homeowners to make emergency repairs for their property. It doesn't cost the government any money. It doesn't allow additional seawalls. It doesn't allow additional construction behind seawalls. All it does is allow homeowners to protect their property when the seawall is being threatened.

I hope you will oppose this proposed House Amendment.

The SPEAKER: The Chair recognizes the Representative from Eliot, Representative Marshall.

Representative MARSHALL: Thank you Mr. Speaker, Colleagues of the House: I don't like to get up a second time, but Representative Carleton raised an excellent point on where this problem has arisen from. Basically, I think, most of the committee agreed that the problem we are having right now is a little bit of a turf war between the GSA, the Corp of Engineers and the DEP. To my way of observation it appeared that we had three little boys saying back and forth, yes it is, no it isn't, yes it is, no it isn't. I guess this is not a big deal until somebody's house is threatened and is going to fall into the ocean.

All we were asking for was without tying this to the governmentally controlled or constructed jetties, that they would be able to fix or reinforce or protect their seawall. The reason why this to me is dangerous to tie this with the governmentally constructed jetties is because the Corp of Engineers emphatically says that this erosion is not a result of the governmentally constructed jetties.

We have seen the maps of the area and I would be very happy to show you the maps over time and what has happened around these jetties and I think it would be very difficult to say that it is not a result of these jetties, but to tie it together could be very dangerous.

The SPEAKER: The Chair recognizes the Representative from Bowdoinham, Representative Shiah.

Representative SHIAH: Thank you Mr. Speaker, Ladies and Gentlemen of the House: I want to thank Representative Etnier from bringing this issue forward, as a member of the Natural Resources Committee, I will be the first to admit I was a little bit confused on this issue when we debated the Committee Amendment on this.

I, too, thought we were just dealing with governmentally constructed jetties of which there are about five in the state. The information that I had gotten at the time was not accurate.

I did sign on to the "Ought to Pass" Report. I will be supporting this amendment from Representative Etnier today with the filing number (H-98).

Again, I think Representative Etnier brings up a good point, we originally thought this bill was dealing with governmentally constructed jetties. There was not, I don't think, the notice given statewide that this bill would, in fact, deal with the entire coast. Which is different from just the five jetties that we are speaking of.

I certainly sympathize with the people of Wells and I want to try to do what we can to help them and their problem. I know they have been working on this for some time. I think when we go coast wide with this amendment from the committee, I will be the first to admit I made a mistake in supporting that realizing now that it did not stick with the five jetties as the bill originally proposed. I know it is a complex subject and I am sorry we have to bring it up, but Representative Etnier has brought up an excellent point. I would urge the House to support his amendment. Thank you.

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

Representative GOULD: Thank you Mr. Speaker, Ladies and Gentlemen of the House: I will be extremely brief. I hope. There are a few points that I think I need to make concerning this bill.

The first one is that this bill didn't get away from anybody. This bill was put out to a subcommittee who took a very long time in going over it and determining what would be the best for the people of the State of Maine. When they came back to full committee and went over this and discussed it and this is what the committee came out with.

The second point that I would like to make is that it requires either the certification of a certified state geologist or the code enforcement officer of that community to determine that this is indeed the action to take. The second point on that particular part of it is that this is a temporary thing that if the plan so calls for it will be made for this. The

plans then call for them to remove the riprap that they have put in.

The third point that I would like to make out is that it is extremely difficult to determine what causes the damage. I think the important point and I will wrap it up with this, but this to me is the most important point, these people built their houses legally. Those houses are cited legally. I think it is extremely important that we allow them the opportunity to protect their legally cited and constructed property.

As you well know, where I come from Moosehead Lake doesn't have a great deal of problem with this, but I still feel that these people have a right to protect their legally cited property and you don't have a great deal of time to do this. It is extremely difficult to determine what is eroding your property is caused by a governmentally constructed jettie or what it may be. I strongly urge you to go against the amendment and support the unanimous committee position. Thank you.

The SPEAKER: The Chair recognizes the Representative from Livermore, Representative Berry.

Representative BERRY: Thank you Mr. Speaker, Ladies and Gentlemen of the House: I guess I rise to speak again to clarify a couple of points. One thing the Corp of Engineers doesn't want to say that the erosion is caused by the jetties because they do not want to assume responsibility for the damages.

The geological survey, the state geologists and the studies along the eastern coast of the United States says that these jetties and the riprap that has been put up causes more damage to surrounding areas. Camp Ellis, the Corp of Engineers, I read the other day, is going to do a project on their jettie. They already have erosion and the Corp says this won't cure the erosion problem.

The purpose of our bill was to find a solution and to tell you the truth it was a local issue. It was for the town of Wells. I agree. We have to protect these homes. They allow these people to protect their homes and I don't think if they are looking for a long term solution by putting the riprap in and taking it out every seven months is just an expense that doesn't solve the problem either. I would like to see it tied back to the jettie towns. If it is the five towns, then lets call it that.

I hate to see this stir up some areas where we don't know the other situations and I hate to see people using the riprap if something else is more appropriate. They are saying that the sand bags that they can use is less damaging than the riprap that is put in, the granite riprap. Like I said I was on a subcommittee and I guess I regret voting the way I did, but here is my chance to make it right. I hope that you will support the amendment. Thank you.

The SPEAKER: The Chair recognizes the Representative from Harpswell, Representative Etnier.

Representative ETNIER: Thank you once again Mr. Speaker, Ladies and Gentlemen of the House for hearing this out.

I just want to make one point, sort of an analogy to this situation that arose the other day in the esteemed Marine Resources Committee which I serve, which is probably the finest committee in the House.

A similar situation did come up where we had a group in there debating a scallop bill up in Eastport. The bill that was before us pertained to a very small section of a Bay in Eastport. The majority of the people there said that they supported

this bill, but the only problem with it was that they wished it was broader.

They gave us two alternative proposals that would have expanded the extent of this bill which was basically a limit on the size of scallop gear to cover broader areas. Just about everybody in that room would have agreed that this would have been a perfectly good way to go, but we also in the wisdom of that committee told the individuals who were there to testify that although we may concur with you, we don't feel it is right to move at this time on your suggestion. We would rather open this up to another public hearing and allow other interested parties who would be effected by this elsewhere in the bay and on the coast to come forward and give us their opinions.

I offer that as an analogy and I do not wish to dispute the good Representative Carleton's assertion of the problem and the gravity of the problem in Wells and Kennebunk, etc. I just feel that my amendment that I am offering to you today addresses those concerns as well as tightens this committee amendment back up to what the original intent was and what the public hearing was held on. Thank you again for your time.

Thank you again Mr. Speaker. I ask that when the vote be taken they be taken by the yeas and nays.

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

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

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

Representative LOOK: Thank you Mr. Speaker, Ladies and Gentlemen of the House: I was present during the presentation and I just happened to be in the Natural Resources room and this was of extreme interest to me as to the way it might effect the rest of the coast. I think there is a great deal more that many of us need to know about this because the use of riprap along the coast of Maine is very essential to prevent erosion. I am familiar with that in eastern Maine.

Mr. Speaker if I may, if it is proper I would like to have this tabled. Is two days to much to research this and find out the extent of it across the rest of coastal Maine?

The SPEAKER: The Chair would respond to the good Representative that anyone is free to make that motion at this time. As you have debated it, you would not be able to make the motion yourself, but someone could make the motion at any time.

On motion of Representative JACQUES of Waterville, tabled pending the motion to adopt House Amendment "B" (H-98) to Committee Amendment "A" (S-36) and specially assigned for Tuesday, April 25, 1995. (Roll Call Ordered)

By unanimous consent, all matters having been acted upon were ordered sent forthwith.

The following items were taken up out of order by unanimous consent:

SENATE PAPERS

Bill "An Act to Establish the DNA Data Base and Data Bank Act" (S.P. 480) (L.D. 1304)
 Came from the Senate, referred to the Committee on Criminal Justice and Ordered Printed.
 Was referred to the Committee on Criminal Justice in concurrence.

Bill "An Act to Clarify Definitions Under the Laws Concerning Games of Chance" (EMERGENCY) (S.P. 479) (L.D. 1303)
 Came from the Senate, referred to the Committee on Legal and Veterans Affairs and Ordered Printed.
 Was referred to the Committee on Legal and Veterans Affairs in concurrence.

Bill "An Act to Grant the Department of Environmental Protection the Authority to Waive the 180-day Limit to Apply for Coverage under the Insurance Fund" (S.P. 478) (L.D. 1302)
 Came from the Senate, referred to the Committee on Natural Resources and Ordered Printed.
 Was referred to the Committee on Natural Resources in concurrence.

Ought to Pass as Amended

Report of the Committee on Taxation reporting "Ought to Pass" as amended by Committee Amendment "A" (S-45) on Bill "An Act to Decrease the Paperwork Burden on Maine Businesses by Decreasing the Number of Tax Filings for Retailers" (S.P. 79) (L.D. 167)
 Came from the Senate with the Report read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (S-45).
 Report was read and accepted. The Bill read once. Committee Amendment "A" (S-45) was read by the Clerk and adopted and the Bill assigned for second reading Thursday, April 13, 1995.

Divided Report

Majority Report of the Committee on State and Local Government reporting "Ought to Pass" as amended by Committee Amendment "A" (S-47) on RESOLUTION, Proposing an Amendment to the Constitution of Maine to Require the Popular Election of the Secretary of State (S.P. 49) (L.D. 79)

Signed:

Senators: AMERO of Cumberland
 CARPENTER of York

Representatives: LANE of Enfield
 SAVAGE of Union
 ROBICHAUD of Caribou
 YACKOBITZ of Hermon
 GERRY of Auburn

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

Signed:

Senator: LONGLEY of Waldo
 Representatives: LEMKE of Westbrook
 ROSEBUSH of East Millinocket
 DAGGETT of Augusta
 SAXL of Bangor
 AHEARNE of Madawaska

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

Representative DAGGETT of Augusta moved that the House accept the Minority "Ought Not to Pass" Report.
 On further motion of the same Representative, tabled pending her motion to accept the Minority "Ought Not to Pass" Report and later today assigned.

Divided Report

Majority Report of the Committee on Marine Resources reporting "Ought to Pass" as amended by Committee Amendment "A" (S-48) on Bill "An Act to Enhance the Clam Industry in the State" (S.P. 103) (L.D. 243)

Signed:

Senators: BUTLAND of Cumberland
 GOLDTHWAIT of Hancock
 Representatives: CLOUTIER of South Portland
 ADAMS of Portland
 BENEDIKT of Brunswick
 BIGL of Bucksport
 ETNIER of Harpswell
 LOOK of Jonesboro
 VOLENIK of Sedgwick

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

Signed:

Representatives: LAYTON of Cherryfield
 PINKHAM of Lamoine
 RICE of South Bristol

Came from the Senate with the Majority "Ought to Pass" as amended Report read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (S-48).

Was read.

Representative CLOUTIER of South Portland moved that the House accept the Majority "Ought to Pass" Report.

On further motion of the same Representative, tabled pending his motion to accept the Majority "Ought to Pass" Report and specially assigned for Thursday, April 13, 1995.

Divided Report

Majority Report of the Committee on State and Local Government reporting "Ought Not to Pass" on Bill "An Act to Eliminate Benefits Offered to Legislators" (S.P. 211) (L.D. 553)

Signed:

Senators: AMERO of Cumberland
 CARPENTER of York
 LONGLEY of Waldo
 Representatives: DAGGETT of Augusta
 AHEARNE of Madawaska
 LEMKE of Westbrook
 SAXL of Bangor
 GERRY of Auburn
 ROSEBUSH of East Millinocket
 LANE of Enfield
 YACKOBITZ of Hermon

Minority Report of the same Committee reporting "Ought to Pass" as amended by Committee Amendment "A" (S-55) on same Bill.

Signed:

Representatives: ROBICHAUD of Caribou
 SAVAGE of Union

Came from the Senate with the Reports read and the Bill and accompanying papers indefinitely postponed.
 Was read.

Representative DAGGETT of Augusta moved that the House accept the Majority **"Ought Not to Pass"** Report. On further motion of the same Representative, tabled pending her motion to accept the Majority **"Ought Not to Pass"** Report and later today assigned.

CONSENT CALENDAR

First Day

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

(S.P. 203) (L.D. 546) Bill "An Act to Change the Law That Determines When a Sentence in Excess of 20 Years May Be Imposed for a Class A Crime" Committee on Criminal Justice reporting **"Ought to Pass"** as amended by Committee Amendment "A" (S-44)

(S.P. 212) (L.D. 554) Bill "An Act Concerning the System of State Law Libraries" (EMERGENCY) Committee on Judiciary reporting **"Ought to Pass"** as amended by Committee Amendment "A" (S-50)

There being no objections, the above items were ordered to appear on the Consent Calendar of Thursday, April 13, 1995 under the listing of Second Day.

SENATE PAPERS

Ought to Pass as Amended

Report of the Committee on Education and Cultural Affairs reporting **"Ought to Pass"** as amended by Committee Amendment "A" (S-61) on Bill "An Act to Authorize the Towns of Mechanic Falls, Minot and Poland to Form a Community School District" (EMERGENCY) (S.P. 355) (L.D. 983)

Came from the Senate with the Report read and accepted and the Bill passed to be engrossed as amended by Committee Amendment "A" (S-61).

Report was read and accepted. The Bill read once. Committee Amendment "A" (S-61) was read by the Clerk and adopted.

Under suspension of the rules, the Bill was given its second reading without reference to the Committee on Bills in the Second Reading.

Under further suspension of the rules, the Bill was passed to be engrossed as amended by Committee Amendment "A" (S-61) in concurrence. Ordered sent forthwith.

UNFINISHED BUSINESS

The following matter, in the consideration of which the House was engaged at the time of adjournment Tuesday, April 11, 1995, has preference in the Orders of the Day and continue with such preference until disposed of as provided by Rule 24.

An Act Concerning Municipal Shellfish Conservation Program Penalties (H.P. 194) (L.D. 253) TABLED - April 11, 1995 (Till Later Today) by Representative JACQUES of Waterville.

PENDING - Passage to be Enacted. (ROLL CALL REQUESTED)

The SPEAKER: The Chair recognizes the Representative from Wiscasset, Representative KilKelly.

Representative KILKELLY: Thank you Mr. Speaker, Men and Women of the House: Just as a reminder, at the time when I asked for a roll call, I explained what my concerns about this bill were. I had gotten calls over the weekend from some clam folks in my district who were concerned that this particular bill would pose a significant hardship on folks.

Now obviously it is on folks who have broken the law and I appreciate that. However, what I would like to share with you is what current law is and what this change would be. For harvesting shellfish from a closed area or digging shellfish without a license, currently the first offense a fine of not less than three hundred dollars and not more than fifteen hundred dollars. For subsequent offenses, a fine of not less than five hundred dollars and not more than fifteen hundred dollars. The court may not suspend the fine imposed under this paragraph. The new language is, or impose a penalty other than the monetary payment of a fine as provided in this section.

Again, I don't defend or condone breaking the law, but I do believe that fines and how we impose those fines ought to be equitable with the situation that they are being imposed for. In my area the folks that are digging clams are not folks who have great monetary resources and to expect for those folks that the only penalty would be a cash penalty, I believe, and agree with the people in my district that it is very unfair.

As a matter a fact, I am a selectmen in Wiscasset and we do general assistance and some other things and I know that there are folks who have had community service penalties for digging clams in a closed area or digging clams without a license and they have come and worked off that time. I think there are other alternatives. This bill would prohibit any of those alternatives from being explored. I would urge you to vote against enactment. Thank you.

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

Representative CLOUTIER: Thank you Mr. Speaker, Ladies and Gentlemen of the House. Although I sympathize with the Representative from Wiscasset's dilemma with her clam diggers in Wiscasset, I would like to point out to you that we also have clamers in the southern half of this state in South Portland and Cape Elizabeth and north of Wiscasset along the coast. They have absolutely no problem with this bill.

What we did on the Committee Report, this is a twelve to one Committee Report, we put some teeth into this legislation. If you don't put teeth into a piece of legislation, then there is no sense having the legislation. If you drink and drive, you have to pay the fine. If you take short lobsters, you have to pay the fine. If you speed on our highways, you have to pay the fine. If you break the law, Ladies and Gentlemen, you have to pay the fine. If you harvest shellfish without a license, you should pay the fine.

I move acceptance of the twelve to one "Ought to Pass" Report, Ladies and Gentlemen. Thank you.

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

Representative DAVIDSON: Thank you Mr. Speaker. I just want to give you a little background on why this bill was put in. My fiend from Wiscasset talks about folks in her district who have problems paying these fines. This bill comes out of cases that are brought before judges in the State of Maine from many people from away. Many people who are tourists up here for the summer. Many people who go in and have literally raked up hundreds and hundreds and hundreds

of dollars of shellfish in these areas without a license.

Now we have a Judge in a newspaper article talking about this bill who said well it is exactly like someone who is a drunk driver, sometimes they can't afford to pay the fine. I would much rather err on the side of the people who make their living as shellfish harvesters than I would for people who go in and break the law. This bill is coming out twelve to one because we had people from all across the state come in and say we want you to protect our way of life. We don't want people from away or people who feel like having some clams for dinner that night to go out and rake up a couple hundred bucks of clams and take it out of my pocket and my kids pockets. It is as simple as that.

I strongly urge that you support the twelve to one Majority Report out of committee. Thank you Mr. Speaker.

The Chair recognizes the Representative from Jonesboro, Representative Look.

Representative LOOK: Thank you Mr. Speaker, Ladies and Gentlemen of the House: For those of you who are new in the House, I want to say that the first debate I had on the floor was regarding clams.

What has happened in the clamming industry over the years, it has developed from a hit or miss situation to a very responsible aquaculture project in many of these communities. A classic example of what can be done if the clamers will cooperate is what is happening in the Bath/Brunswick area and down in the Scarborough area. They have taken their area. They have worked it hard. They have seeded their flats and they rotate these flats to allow these organisms to grow to a size that is valuable.

What has happened here and the reason for this legislation was that people are coming in and digging those conservation areas and selling them and getting away with it by just a slap on the wrist. The towns have invested tax dollars into these programs and they would like to make it and continue to make it a viable business that is going to help these people who are reliant upon harvesting these ocean organisms.

I support this bill and I hope that you will. We have got to continue to allow some of our people who do this for a living to have an area to procure their living from. They are getting away with doing community service and, yes, it is fine for the towns, they don't have to pay for having this work done, but stop and think of what it is taking away. I fully support this type of legislation and I hope you will too.

The SPEAKER: The Chair recognizes the Representative from Wiscasset, Representative Kilkelly.

Representative KILKELLY: Thank you Mr. Speaker, Men and Women of the House: I feel I need to clarify a couple of points.

I certainly do not condone breaking the law, but what I do believe is that we have a system of government that includes judges and the judges ought to have the right to make a decision about whether a penalty should be a monetary penalty or whether the penalty should be something else. They are the people that are in a position to look at each case one at a time, each situation individually and determine what is best in this situation.

Whenever we make a blanket statement that the only way to respond to a certain crime is doing something a particular way. We are almost ignoring the fact

that there may be thousands and thousands of cases that will come before judges in the future in which this particular crime has been committed and in each of those situations something may be different. That is all I am saying.

It is not that we need to support people who break the law, certainly not. What we need to do is support judges too, in fact, enforce the law in a way that they see fit based on individual circumstances. Thank you.

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

Representative CLOUTIER: Thank you Mr. Speaker, Ladies and Gentlemen of the House: As I mentioned before, if you break the law and there is no penalty, then you are going to continue breaking the law. I talked with some lobstermen the other day and I asked them if you saw a thousand lobsters would you take them all or would you save some for conservation and they just laughed.

Of course they are going to take them all. If there is no teeth in this bill, then people are going to continue to take things without any ramifications. I ask you to support the twelve to one Committee Report and pass this legislation. Thank you Ladies and Gentlemen.

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

ROLL CALL NO. 37

YEA - Adams, Ahearne, Aikman, Ault, Bailey, Barth, Benedikt, Berry, Bigl, Bouffard, Brennan, Bunker, Cameron, Carleton, Chartrand, Chick, Chizmar, Clark, Cloutier, Clukey, Cross, Daggett, Damren, Davidson, Desmond, Dexter, DiPietro, Donnelly, Dunn, Etnier, Farnum, Fisher, Gamache, Gerry, Gieringer, Gooley, Gould, Green, Greenlaw, Guerrette, Hartnett, Hatch, Heeschen, Heino, Hichborn, Jacques, Johnson, Jones, K.; Jones, S.; Joseph, Joy, Joyce, Joyner, Keane, Kerr, Kneeland, Kontos, Labrecque, LaFontaine, Lane, Layton, Lemaire, Lemont, Libby JD; Libby JL; Lindahl, Look, Lovett, Lumbra, Madore, Marshall, Martin, Marvin, Mayo, McAlevey, McElroy, Meres, Mitchell EH; Mitchell JE; Morrison, Murphy, Nadeau, Nass, Nickerson, O'Neal, Ott, Paul, Pendleton, Perkins, Pinkham, Poirier, Poulin, Pouliot, Reed, G.; Reed, W.; Richardson, Ricker, Robichaud, Rosebush, Rowe, Samson, Savage, Saxl, M.; Shiah, Sirois, Spear, Stedman, Stevens, Stone, Strout, Taylor, Thompson, Townsend, Treat, Tripp, True, Truman, Tufts, Tuttle, Tyler, Underwood, Vigue, Volenik, Waterhouse, Watson, Wheeler, Whitcomb, Winglass, Winn, Winsor, Yackobitz.

NAY - Chase, Gates, Kilkelly, Peavey, Rice.

ABSENT - Birney, Buck, Campbell, Dore, Driscoll, Fitzpatrick, Lemke, Luther, O'Gara, Plowman, Povich, Rotondi, Saxl, J.; Simoneau, The Speaker.

Yes, 131; No, 5; Absent, 15; Paired, 0; Excused, 0. 131 having voted in the affirmative and 5 voted in the negative, with 15 being absent, the Bill was

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

TABLED AND TODAY ASSIGNED

The Chair laid before the House the following items which were Tabled and Today Assigned:

HOUSE ORDER - Relative to amending the House Rules by adding a new House Rule 59 (H.O. 20)

- In House, Read on April 11, 1995.

TABLED - April 11, 1995 by Representative ADAMS of Portland.

PENDING - Passage. (2/3 Vote Required)

The SPEAKER: The Chair recognizes the Representative from Wells, Representative Carleton.

Representative CARLETON: Thank you Mr. Speaker, Men and Women of the House: This proposed order, which was presented by Representative Adams from Portland would amend the Rules of the House so as to prohibit L.D.'s from being passed around and signed by anybody but sponsors or cosponsors.

We didn't use to have this practice occur. It has risen up only in the past couple of years since we have had unlimited sponsorship. The practice now exists for a few people to go around the halls and you see lobbyists pass around bills to try to get additional sponsors for bills.

To me this seems somewhat unseemly. There is a public perception out there that lobbyists have more of a role in running this place than they actually do. Members of the public see lobbyists running around trying to sign up legislators on their bills. I think it leaves a bad public perception. It is a matter of perception. It is not something that we should stand for and I urge support for the amendment by the good Representative from Portland.

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

Representative ADAMS: Thank you Mr. Speaker, Men and Women of the House: The House Rule before you now, which appeared on yesterday's calendar on page 8 would clarify that if the bill does arise in this body, then only the sponsor and the cosponsors may circulate it for signatures or alternatively the bill may be left for signatures in the Office of the Speaker, Majority Leaders, Minority Leaders or it could be left in the Revisor's Office for signatures. That is present practice.

We have notices on our desks inviting to cosponsor bills on that basis that have dealt with everything from bicycle safety to banning door to door sales fraud on our elderly. Those bills have been signed and are on our desks now. We know that this process works and it works well for us especially because all bills that deal with revenue, that is the pocketbook issues, have to arise in this chamber. The House of the people.

I do agree that so much of what we do here and so much of how we are judged here depends upon perception. I believe that since we are sponsoring the bills we should be circulating the bills and when it comes to bills being circulated for signature by any other party, especially those that are hired to do so and take a special interest in the matter. It does look wrong and it does feel wrong and it is wrong. This will be an opportunity for us to quietly take care of our own house and proceed onto the matters at hand. I would urge your positive vote. Thank you.

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

Representative JACQUES: Thank you Mr. Speaker. Mr. Speaker I request the yeas and nays please.

The SPEAKER: A roll call has been requested. For the Chair to order a roll it must have the expressed desire of more than one-fifth of members present and voting. All 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 pending question is Passage of the House Order. A two-thirds vote is required. All those in favor will vote yes; those opposed will vote no.

ROLL CALL NO. 38

YEA - Adams, Ahearne, Aikman, Ault, Bailey, Barth, Benedikt, Berry, Bigl, Bouffard, Brennan, Bunker, Cameron, Carleton, Chartrand, Chase, Chick, Chizmar, Clark, Cloutier, Clukey, Cross, Daggett, Damren, Davidson, Desmond, Dexter, DiPietro, Donnelly, Dunn, Etnier, Farnum, Fisher, Gamache, Gates, Gerry, Gieringer, Gooley, Gould, Green, Greenlaw, Guerrette, Hartnett, Hatch, Heeschen, Heino, Hichborn, Jacques, Johnson, Jones, K.; Jones, S.; Joseph, Joy, Joyce, Joyner, Keane, Kerr, Kil Kelly, Kneeland, Kontos, Labrecque, LaFountain, Lane, Layton, Lemaire, Lemont, Libby JD; Libby JL; Lindahl, Look, Lovett, Lumbr, Madore, Marshall, Martin, Marvin, Mayo, McAlevey, McElroy, Meres, Mitchell EH; Mitchell JE; Morrison, Murphy, Nadeau, Nass, Nickerson, O'Neal, Ott, Paul, Peavey, Pendleton, Perkins, Pinkham, Poirier, Poulin, Pouliot, Povich, Reed, G.; Reed, W.; Rice, Richardson, Ricker, Robichaud, Rosebush, Rowe, Samson, Savage, Saxl, M.; Shiah, Sirois, Spear, Stedman, Stevens, Stone, Strout, Taylor, Thompson, Townsend, Treat, Tripp, True, Truman, Tufts, Tuttle, Tyler, Underwood, Vigue, Volenik, Waterhouse, Watson, Wheeler, Whitcomb, Winglass, Winn, Winsor, Yackobitz.

ABSENT - Birney, Buck, Campbell, Dore, Driscoll, Fitzpatrick, Lemke, Luther, O'Gara, Plowman, Rotondi, Saxl, J.; Simoneau, The Speaker.

Yes, 137; No, 0; Absent, 14; Paired, 0; Excused, 0. 137 having voted in the affirmative and 0 voted in the negative, with 14 being absent, a two-thirds vote being necessary, the House Order (H.O. 20) was passed.

An Act to Reduce the Number of Days a Tenant May Be in Arrears for Rent Payments (S.P. 76) (L.D. 164) (C. "A" S-28)

TABLED - April 11, 1995 by Representative JACQUES of Waterville.

PENDING - Passage to be Enacted.

On motion of Representative JACQUES of Waterville, tabled pending passage to be enacted and specially assigned for Thursday, April 13, 1995.

An Act to Establish the Maine Commission on Community Service (H.P. 282) (L.D. 386) (C. "A" H-57)

TABLED - April 11, 1995 by Representative JACQUES of Waterville.

PENDING - Passage to be Enacted.

On motion of Representative DAGGETT of Augusta, under suspension of the rules, the House reconsidered its action whereby L.D. 386 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-57) was adopted.

The same Representative presented House Amendment "A" (H-102) to Committee Amendment "A" (H-57) which was read by the Clerk and adopted.

Committee Amendment "A" (H-57) as amended by House Amendment "A" (H-102) thereto was adopted.

The Bill was passed to be engrossed as amended by Committee Amendment "A" (H-57) as amended by House Amendment "A" (H-102) thereto in non-concurrence and sent up for concurrence.

The following item was taken up out of order by unanimous consent:

SENATE PAPER

The following Joint Order: (S.P. 481)

ORDERED, the House concurring, that Bill, "An Act to Allow Liens on Claims Not Sounding in Tort," S.P. 144, L.D. 330, and all its accompanying papers, be recalled from the Governor's Desk to the Senate.

Came from the Senate, read and passed.

Was read and passed in concurrence.

By unanimous consent, all matters having been acted upon were ordered sent forthwith.

On motion of Representative GREEN of Monmouth, the House adjourned at 12:31 p.m., until 8:30 a.m., Thursday, April, 13, 1995.