

# MAINE STATE LEGISLATURE

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**LEGISLATIVE RECORD**

OF THE

***One Hundred and Eleventh  
Legislature***

OF THE

**STATE OF MAINE**

**Volume I**

**FIRST REGULAR SESSION**

**December 1, 1982 to May 13, 1983**

## HOUSE

Thursday, February 10, 1983

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

Prayer by Father Roland A. LaJoie, S.M., St. John the Baptist Rectory, Brunswick.

The journal of yesterday was read and approved.

**Papers from the Senate****Unanimous Leave to Withdraw**

Report of the Committee on Energy and Natural Resources reporting "Leave to Withdraw" on Bill "An Act Limiting all Dimensional Requirements in Land Use Control Ordinances and Regulations to those Necessary to Protect the Public's Health and Safety" (S. P. 85) (L. D. 216)

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

**Divided Report**

Majority Report of the Committee on Energy and Natural Resources reporting "Ought to Pass" on Bill "An Act Relating to the Regulation of Septage Disposal" (S. P. 50) (L. D. 143)

Report was signed by the following members:  
Senators:

KANY of Kennebec  
PEARSON of Penobscot  
McBREAIRTY of Aroostook

— of the Senate.

Representatives:

JACQUES of Waterville  
RIDLEY of Shapleigh  
MICAUD of East Millinocket  
DEXTER of Kingfield  
HALL of Sangerville  
MITCHELL of Freeport  
McGOWAN of Pittsfield  
KIESMAN of Fryeburg  
MICHAEL of Auburn

— of the House.

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

Report was signed by the following member:  
Representative:

BROWN of Livermore Falls

— of the House.

Came from the Senate with the Majority "Ought to Pass" Report read and accepted and the Bill passed to be engrossed.

In the House: Reports were read.

On motion of Mr. Hall of Sangerville, the Majority "Ought to Pass" Report was accepted in concurrence, the Bill read once and assigned for second reading later in today's session.

**Messages and Documents**

The following Communication: (S. P. 206)

The Senate of Maine  
Augusta

February 7, 1983

The Honorable Gerard P. Conley  
President of the Maine Senate  
111th Legislature  
The Honorable John L. Martin  
Speaker of the Maine House  
111th Legislature

Dear President Conley and Speaker Martin:

Please be advised that today nine bills were received by the Secretary of the Senate.

Pursuant to the provisions of Joint Rule 14, these bills were referred to the Joint Standing Committees on February 7, 1983 as follows:

**Appropriations and Financial Affairs:**

Bill, An Act to Create a Fund to Encourage Local Soil and Water Conservation Projects. (S. P. 197) (L. D. 619) (Presented by Senator Erwin of Oxford.) (Cospponsored by Representative McCollister of Canton, Representative Mahany of Easton and Representative Lisnik of Presque Isle.)

Bill, An Act Making Additional Authorizations and Allocations Relating to Federal Block

Grants for the Expenditures of State Government for the Fiscal Year Ending June 30, 1983. (S. P. 198) (L. D. 620) (Presented by Senator Brown of Washington) (Cospponsored by Representative Masterton of Cape Elizabeth, Representative Connolly of Portland and Senator Perkins of Hancock.) (EMERGENCY) Submitted by the Department of Finance and Administration pursuant to Joint Rule 24.

**Business Legislation:**

Bill, An Act to Establish the Third-party Prescription Program Act. (S. P. 199) (L. D. 621) (Presented by Senator Twitchell of Oxford.) (Cospponsored by Representative MacBride of Presque Isle.)

Bill, An Act to Amend the Late Payment Provisions of the Maine Insurance Code. (S. P. 200) (L. D. 622) (Presented by Senator Perkins of Hancock.) (Cospponsored by Representative Conary of Oakland.)

**Energy and Natural Resources:**

Bill, An Act Relating to the Fee for Camp Lot Leases on Public Lands. (S. P. 201) (L. D. 623) (Presented by Senator McBreairty of Aroostook.) (Cospponsored by Representative Dexter of Kingfield, Senator Pray of Penobscot and Representative Michaud of E. Millinocket.)

**Judiciary:**

Bill, An Act Concerning Uniform Crime Reports of Child Abuse, Incest and Gross Sexual Misconduct. (S. P. 202) (L. D. 624) (Presented by Senator Trafton of Androscoggin.) (Cospponsored by Representative Soule of Westport and Representative Nelson of Portland.)

Bill, An Act to Provide Equal Access to Justice. (S. P. 203) (L. D. 625) (Presented by Senator Clark of Cumberland.) (Cospponsored by Representative Kelleher of Bangor and Senator Perkins of Hancock.)

**Labor:**

Bill, An Act Relating to Attorney's Fees Under the Workers' Compensation Law. (S. P. 204) (L. D. 626) (Presented by Senator Twitchell of Oxford.)

**Transportation:**

Bill, An Act to Transfer Responsibility for Bridge Improvement and Maintenance on Reclassified Roads to the Department of Transportation. (S. P. 205) (L. D. 627) (Emergency) (Presented by Senator Kany of Kennebec.) (Cospponsored by Senator Twitchell of Oxford, Representative Daggett of Manchester and Representative Mitchell of Vassalboro.)

Sincerely,

S/JOY J. O'BRIEN

Secretary of the Senate

S/EDWIN H. PERT

Clerk of the House

Came from the Senate read and ordered placed on file.

In the House, was read and ordered placed on file in concurrence.

By unanimous consent, ordered sent forthwith to the Senate.

The following Communication: (S. P. 215)

The Senate of Maine  
Augusta

February 7, 1983

The Honorable Gerard P. Conley  
President of the Maine Senate  
111th Legislature  
The Honorable John L. Martin  
Speaker of the Maine House  
111th Legislature

Dear President Conley and Speaker Martin:

Please be advised that today eight bills were received by the Secretary of the Senate.

Pursuant to the provisions of Joint Rule 14, these bills were referred to the Joint Standing Committees and ordered printed on February 7, 1983 as follows:

**Aging, Retirement and Veterans:**

Bill, An Act to Eliminate Discrimination Against Retired Maine Residents who have Previously been Members of the Maine State Retirement System. (S. P. 207) (L. D. 628)

(Presented by Senator Teague of Somerset.) (Cospponsored by Representative Hickey of Augusta and Representative Walker of Skowhegan.)

Bill, An Act to Give the Maine Association of Retired Proper Representation on the Board of Trustees for the Maine State Retirement System. (S. P. 208) (L. D. 629) (Presented by Senator Teague of Somerset) (Cospponsored by Representative Perkins of Brooksville.)

**Appropriations and Financial Affairs:**

Bill, An Act to Establish Wage-based, Cost-of-Living Adjustments for Retired State Employees, Teachers and Beneficiaries. (S. P. 209) (L. D. 630) (Presented by Senator Dow of Kennebec.) (Cospponsored by Senator Brown of Washington, Senator Pray of Penobscot and Representative Mitchell of Vassalboro.)

**Health and Institutional Services:**

Bill, An Act to Prohibit Hospital Services Price Discrimination. (S. P. 210) (L. D. 631) (Presented by Senator Dow of Kennebec.) (Cospponsored by Representative Conary of Oakland.)

Bill, An Act to Permit the Use of the Drug Dimethyl Sulfoxide for Human Consumption. (S. P. 211) (L. D. 632) (Presented by Senator Dutremble of York.)

Bill, An Act Relating to Accounting Procedures for the Early and Periodic Screening, Diagnosis and Treatment Programs. (S. P. 212) (L. D. 633) (Presented by Senator Gill of Cumberland.) (Cospponsored by Representative Pines of Limestone, Melendy of Rockland and Nelson of Portland.)

**Labor:**

Bill, An Act to Preserve Negotiated Contracts Between School Committees and Various Bargaining Agents. (S. P. 213) (L. D. 634) (Presented by Senator Dutremble of York.)

**Transportation:**

RESOLVE, to Designate a Certain Portion of Route 1 to Old Orchard Beach Town Line as "Centennial Way" to Commemorate the Year of the 100th Anniversary of the Town of Old Orchard Beach. (S. P. 214) (L. D. 635) (Emergency) (Presented by Senator Danton of York.) (Cospponsored by Representative McSweeney of Old Orchard Beach.)

Sincerely,

S/JOY J. O'BRIEN

Secretary of the Senate

S/EDWIN H. PERT

Clerk of the House

Came from the Senate read and ordered placed on file.

In the House, was read and ordered placed on file in concurrence.

By unanimous consent, ordered sent forthwith to the Senate.

The following Communication: (H. P. 567)

State of Maine  
Department of Conservation  
State House Station 22  
Augusta, Maine 04333

February 9, 1983

The Honorable John L. Martin  
Speaker of the House of Representatives  
State House Station #2  
Augusta, Maine 04333  
The Honorable Gerard P. Conley  
President of the Senate  
State House Station #3  
Augusta, Maine 04333

Dear Speaker Martin and President Conley:

As provided by 12 M.R.S.A. Section 685-A, Subsection 8, amendments to the Land Use Regulation Commission's land use standards must be submitted to the Legislature for review and consideration. Accordingly, I am submitting to you an amendment which the Commission adopted on January 19, 1983. Pursuant to its review, the Legislature may take whatever action it deems appropriate. Our statute specifies that if the Legislature chooses to take no action, these amendments will remain in effect

as adopted.

Attached to this letter is a document which sets forth the amended standard. This amendment deals with the Recreation Protection (P-RR) Subdistrict and was prompted in part by the Governor's 1982 Executive Order on Maine Rivers Policy.

Prior to Commission adoption, this amendment to the standards was the subject of a full public hearing process, which, in this case, was particularly well attended and thorough. In response to oral and written comments made during the hearing process, the Commission made substantial changes in arriving at the adopted amendment.

We strongly believe that this revised standard is more effective in protecting the State's outstanding river resources than was the standard prior to amendment, and it has been structured so as to minimize the burden on affected landowners. The Commission and its staff remain committed to an ongoing process of reviewing and improving these standards in order to assure that they are fully responsive to LURC's statutory mandate.

I will be happy to meet with the appropriate legislative committee and/or yourselves to further explain these amendments.

Thank you for your consideration.

Sincerely,  
S/THOMAS S. RADSKY  
Acting Director

Was read and with accompanying papers referred to the Committee on Energy and Natural Resources and sent up for concurrence.

#### **Petitions, Bills and Resolves Requiring Reference**

The following Bills and Resolves were received and, upon recommendation of the Committee on Reference of Bills, were referred to the following Committees:

##### **Agriculture**

Bill "An Act to Amend the Soil and Water Conservation Districts' Law" (H. P. 530) (Presented by Representative Lisnik of Presque Isle) (Cosponsors: Senator Erwin of Oxford, Representatives Sherburne of Dexter, and McCollister of Canton) (Submitted by the Department of Agriculture, Food and Rural Resources pursuant to Joint Rule 24)

Bill "An Act to Establish Mandatory Minimum Fines on Agricultural or Forestry Products Theft" (H. P. 531) (Presented by Representative Drinkwater of Belfast)

(Ordered Printed)

Sent up for concurrence.

##### **Appropriations and Financial Affairs**

Bill "An Act to Establish Funding for Programs of Preventive Intervention and Family Support" (H. P. 532) (Presented by Representative Ketover of Portland) (Cosponsors: Senators Kany of Kennebec, Bustin of Kennebec, and Representative Joseph of Waterville)

Bill "An Act to Provide State Assistance for Municipalities with Excessive Refuse Disposal Costs" (H. P. 533) (Presented by Representative Livesay of Brunswick)

Bill "An Act Relating to the Promotion of Tourism in Maine" (H. P. 534) (Presented by Representative Melendy of Rockland) (Cosponsors: Senator Baldacci of Penobscot, Representatives Kelly of Camden, and Murphy of Kennebunk)

Bill "An Act to Provide Funds for Alternate Crop Research" (H. P. 535) (Presented by Representative Lisnik of Presque Isle) (Cosponsors: Representatives Crouse of Washburn, Mahany of Easton, and Senator McBreairey of Aroostook) (Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27)

(Ordered Printed)

Sent up for concurrence.

#### **Business Legislation**

Bill "An Act Concerning Insurance Coverage for Persons Referred by a Physician for Hospital Emergency Room Treatment or Evaluation" (H. P. 536) (Presented by Representative Beau-lieu of Portland)

Bill "An Act Regarding Requirements to Reactivate an Inactive Real Estate Agent License" (H. P. 537) (Presented by Representative Brannigan of Portland)

Bill "An Act Concerning the Disclosure of Information on Used Cars Sold by Used Car Dealers" (H. P. 538) (Presented by Representative Willey of Hampden)

Bill "An Act Requiring Prior Notice for Closure of a Demand Deposit Account" (H. P. 539) (Presented by Representative Curtis of Waldoboro)

(Ordered Printed)

Sent up for concurrence.

##### **Education**

Bill "An Act to Permit Persons Under 18 years of age who pass the Test for General Educational Development to Receive a High School Equivalency Certificate at that Time" (H. P. 540) (Presented by Representative Locke of Sebec)

Bill "An Act Relating to Powers of the Board of Trustees of the Maine Maritime Academy and to Authorize Conferral of the Master of Science Degree in Maritime Management" (H. P. 541) (Presented by Representative Jalbert of Lewiston) (Cosponsors: Senator Perkins of Hancock and Representative Kelleher of Bangor)

(Ordered Printed)

Sent up for concurrence.

##### **Election Laws**

Bill "An Act to Place Spending Ceilings on Political Candidates" (H. P. 542) (Presented by Representative Brown of Gorham) (Cosponsor: Representative Rolde of York)

Bill "An Act to Permit Young Children to Accompany their Parents into the Voting Booth" (H. P. 543) (Presented by Representative Holloway of Edgecomb) (Cosponsor: Representative Cahill of Woolwich)

(Ordered Printed)

Sent up for concurrence.

##### **Energy and Natural Resources**

Bill "An Act Relating to Ownership of Land Adjoining Public Ways under the Law Defining Subdivision" (H. P. 544) (Presented by Representative Stevens of Bangor) (Cosponsors: Representatives Jackson of Harrison and McGowan of Pittsfield)

Bill "An Act Relating to the Powers of the Department of Environmental Protection in the Granting of Temporary Permits and Licenses" (H. P. 545) (Presented by Representative Melendy of Rockland) (Cosponsors: Senator Pray of Penobscot, Representatives Crowley of Stockton Springs, and Mayo of Thomaston)

(Ordered Printed)

Sent up for concurrence.

##### **Fisheries and Wildlife**

Bill "An Act Concerning the Taking of Antlered Deer in Certain Areas of the State" (H. P. 546) (Presented by Representative Conners of Franklin)

Bill "An Act to Prohibit Hunting on Davis Island, Lincoln County" (H. P. 547) (Presented by Representative Holloway of Edgecomb)

(Ordered Printed)

Sent up for concurrence.

##### **Health and Institutional Services**

Bill "An Act to Amend the Definition of Hospital in the Maine Health and Higher Education Facilities Authority Act" (H. P. 548) (Presented by Representative Brannigan of Portland)

Bill "An Act Relating to the Identification

and the Hazards of Exposure to Toxic and Hazardous Substances" (H. P. 549) (Presented by Representative Michael of Auburn) (Cosponsors: Representative Gauvreau of Lewiston, Senators Bustin of Kennebec, and Pearson of Penobscot)

(Ordered Printed)

Sent up for concurrence.

##### **Judiciary**

Bill "An Act Concerning Penalties Enforced against Victims of Accidents who Fail to File Accident Reports" (H. P. 550) (Presented by Representative Ingraham of Houlton)

Bill "An Act to Permit a Verdict of Guilty but Suffering from Mental Disease or Defect" (H. P. 551) (Presented by Representative Benoit of South Portland) (Cosponsors: Senators Diamond of Cumberland, Pearson of Penobscot, and Representative Masterton of Cape Elizabeth)

Bill "An Act to Provide Adoption Information to Unwed Mothers" (H. P. 552) (Presented by Representative Small of Bath) (Cosponsor: Representative Nelson of Portland)

Bill "An Act Concerning Access to Adoption Records" (H. P. 553) (Presented by Representative Benoit of South Portland) (Cosponsors: Representatives Crouse of Washburn and Masterman of Cape Elizabeth)

Bill "An Act to Provide Equity for Former Military Wives" (H. P. 554) (Presented by Representative Holloway of Edgecomb) (Cosponsor: Representative Soule of Westport)

(Ordered Printed)

Sent up for concurrence.

##### **Labor**

Bill "An Act to Provide Equitable Treatment in the Determination of Maximum Unemployment Compensation Benefits" (H. P. 555) (Presented by Representative Brodeur of Auburn)

Bill "An Act to Amend the Municipal Public Employees Labor Relations Law" (H. P. 556) (Presented by Representative Tuttle of Sanford) (Cosponsor: Representative Michael of Auburn)

Bill "An Act to Guarantee Teachers the Right to Negotiate Seniority Clauses in Collective Bargaining Agreements" (H. P. 557) (Presented by Representative Baker of Portland)

Bill "An Act to Amend the University of Maine Labor Relations Act" (H. P. 558) (Presented by Representative Tuttle of Sanford) (Cosponsor: Senator Hayes of Penobscot)

(Ordered Printed)

Sent up for concurrence.

##### **Legal Affairs**

Bill "An Act to Change the Definition of Full-time Officers in the Mandatory Officer Training Law" (H. P. 559) (Presented by Representative Mitchell of Freeport) (Cosponsor: Representative Carroll of Gray)

(Ordered Printed)

Sent up for concurrence.

##### **Local and County Government**

Bill "An Act to Authorize a July 1st to June 30th Fiscal Year for Counties" (H. P. 560) (Presented by Representative Higgins of Portland) (Cosponsors: Representatives Cooper of Windham and Brown of Gorham)

(Ordered Printed)

Sent up for concurrence.

##### **Marine Resources**

Bill "An Act to Change the Season during which Scallops may be Taken" (H. P. 561) (Presented by Representative Conners of Franklin)

(Ordered Printed)

Sent up for concurrence.

##### **Public Utilities**

Bill "An Act to Require Public Power Com-

panies to Amortize the Cost of Disconnected Municipal Street Light Fixtures" (H. P. 563) (Presented by Representative Theriault of Fort Kent) (Cosponsors: Senator Charette of Androscoggin, Representatives Carroll of Limerick, and Allen of Washington)

RESOLVE, to Authorize a Pole and Transmission Line Easement on Chokecherry Island and Mattanawcook Island and a Portion of the Penobscot River in the County of Penobscot (H. P. 562) (Presented by Representative MacEachern of Lincoln) (Cosponsor: Senator Pearson of Penobscot)

(Ordered Printed)

Sent up for concurrence.

#### State Government

Bill "An Act Concerning the Use of Public Funds for Lobbying" (H. P. 564) (Presented by Representative Lewis of Auburn) (Cosponsors: Representatives Brown of Livermore Falls, Dudley of Enfield, and Senator Minkowsky of Androscoggin)

(Ordered Printed)

Sent up for concurrence.

#### Transportation

Bill "An Act Amending the Motor Vehicle Registration Law" (H. P. 565) (Presented by Representative Randall of East Machias)

Bill "An Act to Prohibit Crossing Double Yellow Lines on the Highway" (H. P. 566) (Presented by Representative Randall of East Machias)

(Ordered Printed)

Sent up for concurrence.

#### Study Report Committee on Taxation

Representative Cashman from the Committee on Taxation to which was referred the study relative to municipal taxes pursuant to Public Laws of 1981, Chapter 711, of the 110th Legislature have had the same under consideration, and ask leave to submit its findings and to report that the accompanying RESOLUTION, Proposing an Amendment to the Constitution of Maine to Change the Municipal Tax Loss Reimbursement Formula, to Change the Penalty for the Withdrawal of Land from Current Use Valuation and to Require a Two-thirds Vote for the Expenditure of Funds from the Mining Excise Tax Trust Fund (H. P. 502) (L. D. 652) be referred to the Joint Standing Committee on Taxation for public hearing and printed pursuant to Joint Rule 18.

Report was read and accepted, the Resolution referred to the Committee on Taxation and sent up for concurrence.

#### House Reports of Committees

##### Divided Report

##### Later Today Assigned

Majority Report of the Committee on Labor reporting "Ought Not to Pass" on Bill "An Act to Repeal the Severance Pay Provision of Maine's Labor Laws" (H. P. 99) (L. D. 106)

Report was signed by the following members:

Senators:

DUTREMBLE of York  
HAYES of Penobscot

— of the Senate.

Representatives:

TAMMARO of Baileyville  
NORTON of Biddeford  
BEAULIEU of Portland  
TUTTLE of Sanford  
GAUVREAU of Lewiston

— of the House.

Minority Report of the same Committee reporting "Ought to Pass" in New Draft (H. P. 511) (L. D. 599) on same Bill.

Report was signed by the following members:

Senator:

SEWALL of Lincoln

Representatives:

ZIRNKILTON of Mount Desert  
BONNEY of Falmouth  
SWAZEY of Bucksport  
WILLEY of Hampden  
LEWIS of Auburn

— of the House.

Reports were read.

On motion of Mrs. Beaulieu of Portland, tabled pending acceptance of either report and later today assigned.

#### Divided Report

##### Later Today Assigned

Majority Report of the Committee on Labor reporting "Ought Not to Pass" on Bill "An Act to Permit Certain Small Businesses to Exempt Themselves from the Workers' Compensation Law" (H. P. 68) (L. D. 74)

Report was signed by the following members:

Senators:

DUTREMBLE of York  
HAYES of Penobscot  
SEWALL of Lincoln

— of the Senate.

Representatives:

TAMMARO of Baileyville  
SWAZEY of Bucksport  
BEAULIEU of Portland  
TUTTLE of Sanford  
GAUVREAU of Lewiston

— of the House.

Minority Report of the same Committee reporting "Ought to Pass" in New Draft (H. P. 512) (L. D. 600) on same Bill.

Report was signed by the following members:

Representatives:

NORTON of Biddeford  
LEWIS of Auburn  
BONNEY of Falmouth  
WILLEY of Hampden  
ZIRNKILTON of Mount Desert

— of the House.

Reports were read.

On motion of Mrs. Beaulieu of Portland, tabled pending acceptance of either report and later today assigned.

#### Consent Calendar

##### Second Day

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

(H. P. 75) (L. D. 80) Bill "An Act to Establish a Sign on the Maine Turnpike to Guide Visitors to Norway, South Paris and the Oxford Hills Region"

(H. P. 112) (L. D. 119) Bill "An Act Concerning Fees and Costs Under the Dog Control Laws" (C. "A" H-8)

(H. P. 183) (L. D. 212) Bill "An Act to Clarify the Time during which a Utility is Restricted from Filing a Rate Case under the Public Utility Law" (C. "A" H-9)

No objections having been noted at the end of the Second Legislative Day, the House Papers were passed to be engrossed and sent up for concurrence.

#### Passed to Be Engrossed

Bill "An Act to Create a Revolving Fund for Publications of the Department of Agriculture, Food and Rural Resources" (S. P. 26) (L. D. 27)

Bill "An Act Regarding the Recording of Instruments in the Day Book of Registry of Deeds" (H. P. 500) (L. D. 566)

RESOLVE, Providing for the Expenditure of Public Service Tax Receipts Credited to Edmunds Township (H. P. 501) (L. D. 567)

Were reported by the Committee on Bills in the Second Reading, read the second time, the Senate Paper was passed to be engrossed in concurrence and the House Papers were passed to be engrossed and sent up for

— of the Senate.

concurrence.

(Off Record Remarks)

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

#### Passed to Be Enacted Emergency Measure

An Act Relating to the Charter of the Van Buren Water District (S. P. 102) (L. D. 234) (C. "A" S-6)

Was reported by the Committee on Engrossed Bills as truly and strictly engrossed. This being an emergency measure and a two-thirds vote of all the members elected to the House being necessary, a total was taken. 124 voted in favor of same and none against, and accordingly the Bill was passed to be enacted, signed by the Speaker and sent to the Senate.

By unanimous consent, ordered sent forthwith.

On motion of Mr. Jalbert of Lewiston, Recessed until four-thirty in the afternoon.

#### After Recess

4:30 p.m.

The House was called to order by the Speaker.

By unanimous consent, all matters requiring Senate concurrence were ordered sent forthwith.

#### Orders of the Day

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

#### Consent Calendar

##### First Day

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

(H. P. 377) (L. D. 460) Bill "An Act to Provide for Identification on Dentures" — Committee on Business Legislation reporting "Ought to Pass"

No objections being noted, the above items were ordered to appear on the Consent Calendar of February 14 under listing of the Second Day.

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

#### Petitions, Bills and Resolves Requiring Reference

Bill "An Act to Adjust the Service Fee and Allocations of the Low-Level Waste Siting Fund, and to Adjust the Membership of the Low-Level Waste Siting Commission" (Emergency) (H. P. 568) (Presented by Representative Mitchell of Freeport) (Cosponsors: Senator Kany of Kennebec and Representative Hall of Sangerville)

The Bill was referred to the Committee on Energy and Natural Resources, ordered printed and sent up for concurrence.

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

#### Divided Report

Majority Report of the Committee on Legal Affairs reporting "Ought to Pass" on Bill "An Act to Permit Bowling Alleys to Sell Spirituous, Vinous and Malt Liquor" (H. P. 178) (L. D. 207)

Report was signed by the following members:

Senators:

CHARETTE of Androscoggin  
DANTON of York  
SHUTE of Waldo

— of the Senate.

Representatives:

DUDLEY of Enfield

McSWEENEY of Old Orchard Beach  
COX of Brewer  
SWAZEY of Bucksport  
PERRY of Mexico  
STUDLEY of Berwick  
HANDY of Lewiston  
COTE of Auburn  
DILLENBACK of Cumberland

— of the House.

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

Report was signed by the following member: Representative:

STOVER of West Bath

— of the House.

Reports were read.

The SPEAKER: The Chair recognizes the gentleman from Brewer, Mr. Cox.

Mr. COX: Mr. Speaker, I move acceptance of the Majority "Ought to Pass" Report.

The SPEAKER: The gentleman from Brewer, Mr. Cox, moves that the Majority "Ought to Pass" Report be accepted.

The Chair recognizes the gentleman from West Bath, Mr. Stover.

Mr. STOVER: Mr. Speaker, Ladies and Gentlemen of the House: I have been on the Legal Affairs Committee now for four years. As you know, all the liquor bills go before that committee, and one thing I have learned about the liquor industry in the State of Maine, it is consistent about one thing, and that is to increase consumption of alcoholic beverages in the state. They don't seem to care too much about what happens to the individual or what kind of problems they create for society as a whole. So what we have here is sort of a collision course. The State of Maine, of course, has taken the position that they want to control this industry because of the problems that are created by the consumption of liquor.

I was rather interested in reading in the Maine Sunday Telegram an article by Lloyd Ferris, who is a staff writer for the Sunday Telegram, and he mentioned the fact that there are now 39 alcoholism rehabilitation centers in the State of Maine. The latest one that was brought into line was down at the Mercy Hospital. Another thing he said that was of interest to me was that Maine ranks eighth highest in the nation in the consumption of alcohol, and we have now an estimated 80,000 alcoholics in the State of Maine. It seems to me that we have outlets enough so that people can get all the liquor they want and they certainly don't need any more.

Back some months ago, we had a big scare in the nation. Out in Chicago somebody took Tylenol pills and they put cyanide in some of them, some maniac did. Eight people died and immediately hysteria swept the nation and the shelves of all the drugstores in the nation were swept clean of Tylenol until such time as they could get this problem resolved.

I was just reading a little magazine that came across my desk today from the Local 6 Union at Bath Iron Works, and it said here that last month, not last year, last month in the State of Maine 17 people were killed in Maine traffic accidents and 8 were killed in accidents that had alcohol involved. In the nation last year 26,000 people were killed in alcohol-related automobile accidents.

It seems to me that we don't need anymore outlets. And as far as bowling alleys are concerned, it seems to me that that is sort of a family oriented thing and it is kind of nice to have one place where the family can go, where young people can go, and they aren't subjected to the pressures of "let's go and have a drink."

I urge you to join me in voting "ought not to pass" on this bill, and I ask for a roll call.

The SPEAKER: The Chair recognizes the gentleman from Cumberland, Mr. Dillenback.

Mr. DILLENBACK: Mr. Speaker, Ladies and Gentlemen of the House: This is a bill that one of my constituents came to me about and he

just thought it was very unfair that they allow people to have in civic auditoriums and Class A restaurants, clubs with catering privileges, dining cars, golf clubs, hotels, indoor skating clubs, indoor tennis clubs, and many other places to serve liquor, including all your restaurants in the State of Maine.

They presently now serve in these bowling lanes — they do not like to be called bowling alleys — but in these bowling lanes they now serve and are able to serve wine and beer, and many of the bowling lanes that are large enough have a Class A restaurant where they serve liquor, so I don't see any great problem here with this bill because I guess it is a trend where everybody who goes into a restaurant is able to buy a drink.

There would be an increase of fees to the State of Maine of approximately \$2,000 for licensing. It is only allowed for a certain size unit, and the liquor would be served in a designated area in the bowling alley where there would be chairs and tables and it would be under the direction of the state liquor inspectors. It is just a normal procedure that does not discriminate against people who are allowed to sell liquor in the state. I don't think it is a moral problem or anything else, and I would appreciate your passing the majority report on this bill.

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

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

The SPEAKER: The pending question is on the motion of the gentleman from Brewer, Mr. Cox, that the Majority "Ought to Pass" Report be accepted. All those in favor will vote yes; those opposed will vote no.

#### ROLL CALL

YEA—Ainsworth, Allen, Anderson, Andrews, Armstrong, Bonney, Bott, Carroll, D.P.; Carter, Connors, Cooper, Cote, Cox, Crouse, Crowley, Daggett Diamond, Dillenback, Dudley, Erwin, Foster, Gauvreau, Greenlaw, Gwadosky, Hall, Handy, Hickey, Higgins, H.C.; Higgins, L.M.; Hobbins, Ingraham, Jackson, Joseph, Kane, Kelleher, Kelly, Ketover, Lebowitz, Lehoux, Lewis, MacEachern, Macomber, Mahany, Manning, Masterman, McGowan, McPherson, McSweeney, Michael, Michaud, Murray, Norton, Paradis, P.E.; Paul, Pouliot, Racine, Randall, Richard, Roberts, Roderick, Rotondi, Salsbury, Soucy, Stevens, Studley, Swazey, Tammaro, Theriault, Tuttle, Vose, Walker, Weymouth, Willey, Zirkilton.

NAY—Baker, Beaulieu, Bell, Benoit, Bost, Brodeur, Brown, A.K.; Brown, D.N.; Cahill, Callahan, Carroll, G.A.; Chonko, Clark, Conary, Connolly, Curtis, Davis, Day, Dexter, Drinkwater, Hayden, Holloway, Jacques, Jalbert, Kilcoyne, LaPlante, Lisnik, Livesay, Locke, MacBride, Martin, H.C.; Matthews, K.L.; Matthews, Z.E.; Maybury, Mayo, McCollister, McHenry, Melendy, Mitchell, E.H.; Mitchell, J.; Moholland, Murphy, Nelson, Parent, Pines, Reeves, J.W.; Reeves, P.; Ridley, Rolde, Scarpino, Seavey, Sherburne, Small, Smith, C.B.; Smith, C.W.; Sproul, Stevenson, Stover, Webster, Wentworth, The Speaker.

ABSENT—Brannigan, Brown, K.L.; Carrier, Cashman, Joyce, Kiesman, Martin, A.C.; Masterton, Nadeau, Paradis, E.J.; Perkins, Perry, Soule, Strout, Telow, Thompson.

Yes, 74; No, 61; Absent, 16.

The SPEAKER: Seventy-four having voted in the affirmative and sixty-one in the negative, with sixteen being absent, the motion does prevail.

Thereupon, the Bill was read once and assigned for second reading the next legislative day.

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

#### Passed to Be Enacted

An Act to Remove the Sunset Provision on the Regulation of Business Between Motion Picture Exhibitors and Distributors (H. P. 164) (L. D. 195)

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

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

#### Passed to Be Engrossed

Bill "An Act Relating to the Regulation of Septage Disposal" (S. P. 50) (L. D. 143)

Was reported by the Committee on Bills in the Second Reading, read the second time, and passed to be engrossed in concurrence.

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

The following Joint Order: (S. P. 232)

ORDERED, the House concurring, that when the House and Senate adjourn, they adjourn to Monday, February 14, 1983, at 9:00 o'clock in the morning.

Came from the Senate read and passed.

In the House, the Order was read and passed in concurrence.

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

#### Ought to Pass

Report of the Committee on Legal Affairs reporting "Ought to Pass" on Bill "An Act Pertaining to Local Public Hearings on Liquor License Applications" (S. P. 32) (L. D. 87)

Came from the Senate with the Report read and accepted and the Bill passed to be engrossed as amended by Senate Amendment "A" (S-7).

In the House, the Report was read and accepted in concurrence and the Bill read once.

Senate Amendment "A" (S-7) was read by the Clerk.

On motion of Mr. Cox of Brewer, Senate Amendment "A" was indefinitely postponed in non-concurrence.

The SPEAKER: The Chair recognizes the gentleman from Scarborough, Mr. Higgins.

Mr. HIGGINS: Mr. Speaker, I move reconsideration of the indefinite postponement of Senate Amendment "A".

Whereupon, Mrs. Mitchell of Vassalboro requested a division.

The SPEAKER: The Chair recognizes the gentleman from Scarborough, Mr. Higgins.

Mr. HIGGINS: Mr. Speaker, Ladies and Gentlemen of the House: My motion is simply for the opportunity for someone to debate the difference between Senate Amendment "A" and the House version. Apparently, the gentleman from Lewiston, Mr. Jalbert, was interested in the distinction between the two, and that is the only reason I made the motion. Perhaps someone here can enlighten this body as to why we ought to indefinitely postpone it and then we won't have to have a vote.

The SPEAKER: The Chair recognizes the gentleman from Brewer, Mr. Cox.

Mr. COX: Mr. Speaker, Ladies and Gentlemen of the House: The problem with this amendment is that this original bill was passed with a unanimous "ought to pass" report. This amendment completely rewrites the bill, puts in material that is important enough to require its own L.D. and advertised hearings on the subject matter that is in the amendment.

The SPEAKER: The Chair recognizes the gentleman from Lewiston, Mr. Jalbert.

Mr. JALBERT: Mr. Speaker and Members of

the House: I want to take issue with this thing here. I know I can't say that the amendment was unanimous because it is against the rules, but the last paragraph in this amendment is really the Statement of Fact.

"The amendment grants authority to the extension of the license during completion of any pending action before local, county or state authority, thereby eliminating the possibility of a business being closed during any appeals process."

The amendment merely means this—that any man who is not too versed in the present laws as they are, or the procedure, doesn't know what is going on, if his license was in some sort of trouble in some area—certainly if it were criminal that would be the end of it because it would be heard by another body—but the applicant for a hearing would have some sort of an area to go to by just merely notifying the licensing authority that he would go to Augusta and explain his position so that he might have some access to the laws that are presently on the books. That is all the amendment does. It is very simple, it just gives the little fellow a little break, that's all.

The SPEAKER: The pending question is on the motion of the gentleman from Scarborough, Mr. Higgins, that the House reconsider its action whereby Senate Amendment "A" (S-7) was indefinitely postponed in non-concurrence. All those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

77 having voted in the affirmative and 52 having voted in the negative, the motion to reconsider did prevail.

The SPEAKER: The Chair recognizes the gentleman from Lewiston, Mr. Jalbert.

Mr. JALBERT: Mr. Speaker, for the same reason that I said, to give the little fellow a break, I hope you vote against the motion to indefinitely postpone the amendment.

The SPEAKER: The Chair recognizes the gentleman from Brewer, Mr. Cox.

Mr. COX: Mr. Speaker, a parliamentary inquiry. Is this amendment germane to the bill?

The SPEAKER: In response to the request of the gentleman from Brewer, Mr. Cox, the Chair would advise him and members of the House that Senate Amendment "A," in effect, removes the right of public hearings from the process. It is a substantive change, but based on the title of the amendment and based on the content and based on the title of the bill, even though it is a substantive change, it does conform with the title of the bill and the Chair would rule that Senate Amendment "A" is germane.

The Chair recognizes the gentleman from Brewer, Mr. Cox.

Mr. COX: Mr. Speaker, I had hoped to avoid prolonging this but I guess I will have to debate the substance of the amendment.

I would point out that the original bill simply removed the necessity for mandatory public hearings on renewal of liquor licenses. This bill also allows the owner, the operator of one of these premises, to continue in operation, even after the municipality has disapproved his license, pending the appeal of this license. This whole area has been a considerable area of controversy between the powers of the Liquor Commission and the powers of the municipal officials. Regardless of your position on this power struggle between the municipal officials and the Liquor Commission, I feel that a substantive change as important as this should not be put through on an amendment without any public hearing and attached to a bill that the Maine Municipal Association had put in and approved.

It also has a section on extension of part-time licenses, which has nothing to do with hearings.

As I told the sponsor of this when it was presented, I considered this was too extensive a change to be done without a public hearing,

and that is my chief objection to this amendment.

The SPEAKER: The Chair recognizes the gentleman from Lewiston, Mr. Jalbert.

Mr. JALBERT: Mr. Speaker and Members of the House: There was a public hearing on this bill. It came out of committee and then it was amended by a member of the committee.

The Statement of Fact that you should look at on this bill is the last five lines. I'm not going to stand here forever arguing about a booze bill, I guarantee you.

The amendment grants authority for the extension of the license during the completion of any pending action before a local, county or state authority thereby eliminating the possibility of a business being closed during an appeals process. It just gives the permission to a person to stay open while there might be something wrong in that writing up of the application for his license or something wrong with the payment or something wrong with the way he made out his check, or there could be a dozen reasons. It merely gives them an opportunity to pick up the phone and say, "Whatever's wrong, would you tell me and I'll drive right to Augusta and I'll correct it." It is as simple as that.

The SPEAKER: The Chair recognizes the gentleman from Cumberland, Mr. Dillenback.

Mr. DILLENBACK: Mr. Speaker, Ladies and Gentlemen of the House: This hearing we had brought up these very points. We decided that when you go out to buy a license for anything that you do, whether it be your registration for your car or anything else, you have to be there on time, you have to be there prior to the expiration of your license. This gives anybody an opportunity to go two months without renewing their license. I don't think we have that under any other forms. Why should anybody be allowed a two-month grace, particularly if the license may be revoked and it may be revoked for a very serious matter, like selling to a minor or something like that? Yet, they can operate for two more months, and I don't think that was the intent of the law.

Mr. Jalbert of Lewiston was granted permission to speak a third time.

Mr. JALBERT: Mr. Speaker and Members of the House: This, by no means, would give an opportunity to any licensee to stay open for two or three months after his license has been revoked, and Mr. Dillenback knows that. If he doesn't know it, he had better start reading the law.

As far as the automobile licenses are concerned, just don't drive your car if you don't renew your license.

This here just merely indicates that while an appeal process is going on, it would give the privilege to the licensee who may not be aware, may not have an attorney like many people have who would be looking out for these things and call up a liquor inspector, or call up the liquor agency in Augusta and say, "What is wrong?" They tell him it can be straightened out for the reasons that I have attested to and then straightened out right then and there. It just gives them that opportunity. There is no two or three months involved. If there were, I would be against it. There is no time on here. It is pending an appeal of the application of his license. That is all that amendment does and Mr. Dillenback knows that to be so. I can see him smiling and nodding that I am right.

The SPEAKER: The Chair will order a vote. The pending question is on the motion of the gentleman from Brewer, Mr. Cox, that Senate Amendment "A" (S-7) be indefinitely postponed. All those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

97 having voted in the affirmative and 29 having voted in the negative, the motion did prevail.

Thereupon, the Bill was assigned for second

reading the next legislative day.

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

The Following Communication: (S. P. 231)  
State of Maine  
Department of Conservation  
State House Station 22  
Augusta, Maine 04333

February 8, 1983

Honorable Gerard P. Conley  
President of the Senate  
111th Maine Legislature  
State House Station #3  
Augusta, Maine 04333  
Dear Senator Conley:

In conjunction with 12 M.R.S.A. §8426, I hereby submit my budget estimate for the planned 1983 Spruce Budworm Project.

The Department of Conservation is working with the Governor's Office to draft a bill to provide Legislative authorization for this year's budget.

Should you have any questions regarding the attached budget, please contact Annee Tara, Director of Programs and Planning (Ext. 2211).

Sincerely,  
S/KENNETH G. STRATTON  
Director

Came from the Senate read and with accompanying paper referred to the Committee on Energy and Natural Resources.

In the House, the Communication was read.

On motion of Mr. Carter of Winslow, tabled pending reference to Committee on Energy and Natural Resources and later today assigned.

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

#### Unanimous Leave to Withdraw

Representative MacEachern from the Committee on Fisheries and Wildlife on Bill "An Act to Establish a Fixed, Uniform Hunting Season for Game Birds" (H. P. 56) (L. D. 62) reporting "Leave to Withdraw"

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

The following papers from the Senate appearing on Supplement No. 12 were taken up out of order by unanimous consent:

Bill "An Act Relating to the Training of Journeymen Electricians" (S. P. 226)

Came from the Senate referred to the Committee on Business Legislation and ordered printed.

In the House, was referred to the Committee on Business Legislation in concurrence.

Bill "An Act to Include the Municipalities of Gilead and Upton within Northern Oxford County Vocational Region 9" (Emergency) (S. P. 227)

Came from the Senate referred to the Committee on Education and ordered printed.

In the House, was referred to the Committee on Education in concurrence.

The following papers from the Senate appearing on Supplement No. 13 were taken up out of order by unanimous consent:

Bill "An Act Relating to Changes in Method that Unemployment Benefits are Charged to Experience Rating Records" (S. P. 228)

Came from the Senate referred to the Committee on Labor and ordered printed.

In the House, was referred to the Committee on Labor in concurrence.

Bill "An Act to Increase the Permissible State Discount to State Agency Stores to 12% Under the Alcoholic Beverages Statutes" (S. P. 229)



Came from the Senate referred to the Committee on Legal Affairs and ordered printed.

In the House, was referred to the Committee on Legal Affairs in concurrence.

The following paper from the Senate appearing on Supplement No. 14 was taken up out of order by unanimous consent:

Bill "An Act Concerning Posted Roads" (S. P. 230)

Came from the Senate referred to the Committee on Transportation and ordered printed.

In the House, was referred to the Committee on Transportation in concurrence.

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

Bill "An Act to Provide Additional Retirement Fund for Public School Coaches" (H. P. 569) (Presented by Representative Tuttle of Sanford) (Cosponsors: Representatives Crowley of Stockton Springs and Tammaro of Baileyville)

Was referred to the Committee on Aging, Retirement and Veterans, ordered printed and sent up for concurrence.

Bill "An Act to Amend the Unfair Trade Practices Law" (H. P. 570) (Presented by Representative Mitchell of Vassalboro) (Cosponsors: Representatives Reeves of Pittston, Hayden of Durham and Senator Violette of Aroostook)

Was referred to the Committee on Business Legislation, ordered printed and sent up for concurrence.

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

Bill "An Act Relating to Mobile Home Parks" (H. P. 571) (Presented by Representative Reeves of Pittston) (Cosponsors: Representatives Swazey of Bucksport, Brown of Gorham, and Roberts of Buxton)

Bill "An Act to Permit Real Estate Agents to be Considered Independent Contractors for Purposes of Workers' Compensation Insurance" (H. P. 572) (Presented by Representative Stevens of Bangor) (Cosponsor: Representative Cashman of Old Town)

Bill "An Act to Limit Access to Confidential Data" (H. P. 573) (Presented by Representative Davis of Monmouth) (Cosponsors: Representative Armstrong of Wilton and Beaulieu of Portland)

Were referred to the Committee on Business Legislation, ordered printed and sent up for concurrence.

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

Bill "An Act to Clarify and Improve upon the Purposes of the Probationary Period in the Employment of Teachers" (H. P. 574) (Presented by Representative Carroll of Limerick)

Was referred to the Committee on Education, ordered printed and sent up for concurrence.

Bill "An Act to Strengthen the Shoreland Wetlands Alterations Law" (H. P. 575) (Presented by Representative Paradis of Old Town)

Was referred to the Committee on Energy and Natural Resources, ordered printed and sent up for concurrence.

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

Bill "An Act to Permit the Appeal of Denials of the Suppression of Evidence by Criminal Defendants" (H. P. 576) (Presented by Representative Bell of Paris) (Cosponsor: Representative Livesay of Brunswick)

Bill "An Act to Clarify the Maine Motor Vehi-

cle Habitual Offender Statute" (H. P. 577) (Presented by Representative Gauvreau of Lewiston) (Cosponsors: Representative Zirnklton of Mount Desert and Senator Trafton of Androscoggin)

Were referred to the Committee on Judiciary, ordered printed and sent up for concurrence.

The following papers appearing on Supplement No. 19 were taken up out of order by unanimous consent:

Bill "An Act to Set the On-premise Liquor License Fees in Accordance with Population" (H. P. 578) (Presented by Representative Michaud of East Millinocket) (Cosponsors: Representatives Martin of Van Buren and Swazey of Bucksport)

Bill "An Act Regarding Franchise Practices in the Business of Beverage Distributors" (H. P. 579) (Presented by Representative Mitchell of Freeport) (Cosponsor: Senator Clark of Cumberland)

Were referred to the Committee on Legal Affairs, ordered printed and sent up for concurrence.

The following papers appearing on Supplement No. 20 were taken up out of order by unanimous consent:

Bill "An Act Relating to Handicapped Parking Space Designation" (Emergency) (H. P. 580) (Presented by Representative Andrews of Portland) (Cosponsor: Representative Murphy of Kennebunk)

Was referred to the Committee on Local and County Government, ordered printed and sent up for concurrence.

Bill "An Act Concerning the Taking of Scalops" (H. P. 581) (Presented by Representative Livesay of Brunswick) (Cosponsors: Representatives Holloway of Edgecomb and Cahill of Woolwich)

Was referred to the Committee on Marine Resources, ordered printed and sent up for concurrence.

The following paper appearing on Supplement No. 21 was taken up out of order by unanimous consent:

Bill "An Act to Provide a Uniform Excise Tax on Watercraft" (Emergency) (H. P. 582) (Presented by Representative Higgins of Portland)

Was referred to the Committee on Taxation, ordered printed and sent up for concurrence.

The Chair laid before the House the following matter:

Senate Paper 231, Communication and budget estimate from Department of Conservation relative to the planned 1983 Spruce Budworm Project.

Which was tabled and later today assigned pending reference. (Committee on Energy and Natural Resources was suggested)

On motion of Mr. Carter of Winslow, was referred to the Committee on Appropriations and Financial Affairs in non-concurrence and sent up for concurrence.

The Chair laid before the House the following matter:

HOUSE DIVIDED REPORT—Majority (7) "Ought Not to Pass"—Minority (6) "Ought to Pass" in New Draft (H. P. 511) (L. D. 599) — Committee on Labor on Bill "An Act to Repeal the Severance Pay Provision of Maine's Labor Laws" (H. P. 99) (L. D. 106) which was tabled and later today assigned pending acceptance of either Report.

THE SPEAKER: The Chair recognizes the gentlewoman from Portland, Mrs. Beaulieu.

Mrs. BEAULIEU: Mr. Speaker, I move acceptance of the Majority "Ought Not to Pass" Report.

THE SPEAKER: The gentlewoman from Portland, Mrs. Beaulieu, moves that the Majority

"Ought Not to Pass" Report be accepted.

The Chair recognizes the gentleman from Augusta, Mr. Sproul.

Mr. SPROUL: Mr. Speaker Ladies and Gentlemen of the House: I speak against the motion so that we may accept the Minority "Ought to Pass" in New Draft Report.

The major portion of this new draft would prevent severance pay liability from being passed to subsequent owners. It also strengthens the advance notice requirement of closing or relocation by raising the fine from \$500 to \$1,000 for failure to provide notice.

The purpose of this bill is to create a more favorable business climate for the State of Maine. Currently, Maine is the only state in the nation with severance pay liability forwarded to new owners. This is a black mark against Maine to those prospective owners interested in keeping a business going and workers employed in Maine.

At this time, I would like to give you a brief history of the severance pay provision in Maine. First, in 1971, L. D. 424 was passed. This bill required businesses of over 100 to give employees either a 30-day written notice or severance pay not to exceed one month's wages. On the floor of the House of Representatives on June 10, 1971, Representative McTeague, a name familiar to anyone who follows organized labor in this state, said, "The object, again, is not to have severance pay paid so much as it is for the protection of these people to get advance notice."

State Representative David Bustin, also a familiar name, on that same day said, "This severance pay provision is only an incentive to be decent. He only has to pay severance pay if he doesn't give the 30-day notice that the business is going to be closed."

Let me emphasize, this bill only called for severance pay if no notice was given to employees.

In 1973, there was an amendment passed which affected only closing to relocations of 150 miles. Then, in 1975, an amendment was filed in the Office of the Clerk of the House on June 9, and after no debate — and I repeat, no debate — in either the House or the Senate, that amendment was passed. From that moment on, Maine has been handicapped in its ability to attract large businesses to the state and create permanent jobs in Maine.

After no debate, companies of more than 100 had to give a 60-day written notice to the Director of the Bureau of Labor instead of a 30-day notice to the employees.

After no debate, unions could file suit against companies relocating or closing.

After no debate, the distance was narrowed from 150 to 100 miles.

And most importantly, also after no debate, companies were now required, for the first time, to give both notice and severance pay. In addition to this, the necessary years of service of an employee to a company to qualify for severance pay was reduced from five years to three, and the amount of severance pay collected increased from one month to twenty weeks—quite a radical change to take place with no discussion.

Finally, Amendment "A" in 1981 to L. D. 351 provided 60-day notice to employees and the affected municipality instead of the Director of the Bureau of Labor.

So, for the first time since 1971, we are now discussing this issue on the floor of the Maine House of Representatives.

The bottom line is this, ladies and gentlemen, the new draft removes previous severance pay liability from new owners provided they remain open for six months, twenty-six weeks. This does two things. First, it makes the sale of large businesses in Maine more attractive to prospective buyers. Secondly, this is better for the employee. Would you rather receive one check for 20 weeks of work and suffer the psy-



chological trauma of being unemployed, as under current law, or would you rather be guaranteed checks for 26 weeks, probably receive many more, and retain the self-esteem of being a productive worker as under the new draft?

I urge you to vote no so that we may pass the new draft. Mr. Speaker, I call for the yeas and nays.

The SPEAKER: The Chair recognizes the gentleman from Mount Desert, Mr. Zirkilton.

Mr. ZIRNKILTON: Mr. Speaker, Ladies and Gentlemen of the House: I, too, have risen today to ask you not to accept the Majority "Ought Not to Pass" Report. While I cannot totally accept the existing Minority Report in its current form, I could if it included the amendment that I hope to propose to you at a later time.

It is clear to all of us, as other members of this body have stated before me, that something must be done to improve Maine's business climate. I believe this legislation will be a step in the right direction, and I might add, at minimal cost to Maine's employers and employees.

I ask you to reject the Majority "Ought Not to Pass" Report and instead give me the opportunity to present to you what I believe to be an excellent compromise. I ask you to accept the Minority "Ought to Pass" Report in new draft so that I may have the chance to present that amendment to you at a later date.

The SPEAKER: The Chair recognizes the gentleman from Portland, Mrs. Beaulieu.

Mrs. BEAULIEU: Mr. Speaker, Ladies and Gentlemen of the House: Those of us who signed out the Majority "Ought Not to Pass" Report contend that this is not the time to start discussing repeal, and it certainly is not the time to begin amending Maine's severance pay law.

First of all, the New Draft before you and the other amendment proposed, as you see it on your desks, I contend were conceived and drafted hastily and they address only a couple of issues presented by our current law.

The purpose of the law in the first place was (a) if an employer relocated or terminated his business, then an employee could use his severance pay to live on while she or he hunted for another job; (b) it applies only if there are 100 or more employees for that one employer. If only a few employees are put out of work in the area, the local economy, not only the employees, would be likely to absorb them into new jobs and that is in the Legislative Record throughout whenever debate occurred on the floor of the House on these issues.

Currently, if a hundred or more employees are put out of work at one time, it is almost impossible for them all to find work immediately. It causes a hardship for area businesses. They depend on the payroll checks being spent for products and services and for local governments. (c) The severance pay must be all to an older worker and potentially all that an older worker would get at the end of a long service to an employer. These are the reasons why we have a severance pay law in this state, and while I cannot stand here and defend what preceding legislatures have done, since you have heard a long record of no debate whenever the issues were brought up or the laws were amended, it probably could be that there was no debate because there was concurrence that what was being done was right and potentially that it was concurrence on both sides of the aisle.

The arguments against changing the law, trying to be promoted through the new draft and/or the potential new amendment, are — and it changes a lot more than what you have been told — first of all, it proposes a change to require that an employee has been employed five years rather than the current three years. So, if three years employment shows that this

worker had made the grade and was doing satisfactory work, the employee had to make a continuing commitment to that employer by staying that long and probably planned to stay on indefinitely. So I contend that the employee has already invested his labor and time in the success of that company and that going from three to five years would make no difference. This change wouldn't make much difference in an employer's total liability either, but it would make a difference of impact on the employee's life and his future.

(d) There is a proposed change eliminating severance pay if a new employer assumes ownership and operates the establishment for at least six months. The present law requires an employer to pay severance pay if the company relocates to a location 100 or more miles away from its original location or terminates business by substantially ceasing its operations. The employer is required to pay in a lump sum within one regular pay period after the employee's last day of work. The new draft eliminates liability for severance pay if a new employer assumes ownership and operates the establishment for at least six months. The sponsors argue that this is an incentive for a new owner to come in and reopen the business and that it is better for the employee to have a job for six months than to get severance pay — that is not always the case.

First, a lump sum payment of severance pay would enable an employee to move to a new location, to find a job or retrain for this new job. If an employee gives up these advantages to gamble on the new company staying in business for more than six months, he has lost the options he had before since he no longer can use his severance pay to retrain or find a new job, plus he has already incurred somewhat related expenses. This is especially tragic for the older employee who has put in many years for the first employer and he may have been entitled to more severance pay than he made in that six months' time, potentially.

Second, the first employer gets a windfall that other employers in the same situation do not get, those who do not have employees under 100, by not having to pay severance pay. This just plainly helps an employer who is no longer in business, has nothing to do with providing incentives to a new employer to open an operation in Maine. A new employer will open up for sound business reasons — at least we hope they do — not to let the first employer off the hook for severance pay liability.

I know the amendment states that the subsequent employer must operate the business for six consecutive months; yet, under the law, the severance pay is due in one lump sum soon after the employee stops work. Is the employee suppose to wait around for several months to see if a second employer can be found to reopen the business and then to run it for only six months? The first employer, we contend, could use this as a convenient excuse to delay payment by simply claiming it is negotiating a sale to a new owner.

If, indeed, there is a need or a desire on the part of this legislature to make any changes in our current law, I think it is important that we weigh heavily some of the things that would need to be done that the amendments will never address, especially on this issue right now. If any changes were or are to be made, it certainly should not be to repeal or amend. They should be made only through a thorough analysis. That analysis should include the real history of the severance pay law, the needs of Maine employees and employers and the interpretation of the current law by our courts, and we must, and potentially should, at some point in time begin to deal with that firm who has over 100 employees but 30 of them are located in a store in Portland, 40 in Presque Isle and 50 in Caribou. They don't even come under our severance pay law; yet, they can announce

on Monday that they are closing their shop on Friday and they cannot be touched. I do not recommend any changes be made to it at this time.

The other critical reason why we should not is that the law should remain intact because there are now several law cases pending before the courts in this state right now. Before we tinker with the law, I think we should wait until the courts have had a chance to hear and decide the arguments which are now being raised about the law, and based upon those decisions, the legislature can enact a more comprehensive statute, if we need to do so.

I don't think this legislature should be used to circumvent the state's judicial system.

Finally, ladies and gentlemen, over a period of 18 months, it is important to note that 1,374 employees have been paid a total lump sum of \$2,219,614 in severance pay, as required under this law, without necessity of legal action because employers felt that it was an earned right, by statute, for those employees, and that amount does not include the recent settlement between the Union and Timberland, Inc.

As to the argument that this allows a deterrent to new businesses coming into Maine, let me point out that during our hearing that question was posed to a proponent of the repeal of the law and his response was that he knew of three personally; two firms in New Hampshire and one from Maine had not come here because of our current law. At least that was what he had been told was cited as a primary reason for not coming. No other data was ever provided since that hearing.

To counter that argument, I have statistics from the State Planning Bureau, which reports that in the past three years more than 15 companies, employing more than 100 employees, have indeed come to Maine and apparently it has not served as a deterrent to them.

Ladies and gentlemen, I simply contend and ask you to accept the "ought not to pass" report. It is untimely, and I think I have tried to provide you with a broad basis of rationalizations as to why we should accept the "ought not to pass" report.

The SPEAKER: The Chair recognizes the gentleman from Auburn, Miss Lewis.

Miss LEWIS: Mr. Speaker, Ladies and Gentlemen of the House: This is the time to discuss changes in Maine's severance pay provisions, because this is a time when Maine's business climate is ranked 40th of the 50th states. Several large businesses have closed in Maine recently, among them Wyandotte Industries and Fort Halifax. In both instances, these businesses were on the verge of being reopened when the new ownership discovered that they would be liable for severance pay and therefore backed out of the deal. Jobs were lost in both of these industries, jobs that could have been saved.

This is not a hastily thought out proposal. Representative Judy Kany offered a bill to the effect of this new draft to the 110th Legislature; we are trying to preserve her intent, which was to save Wyandotte Industries at that time.

The point of the six months' provision is to see if a business is going to be able to make a go of it. If a business does change owners and goes under in two or three months, anything less than six months, all of those employers would get every bit of that back severance pay, but if the business can last six months, chances are that it can last for six years or more, and that way these employees would have jobs. Maine workers want to work and we are trying to help them work by trying to make a law that will allow some of these businesses to stay open during a period when it is very difficult to do business.

Furthermore, I would like to point out that

employees would receive unemployment compensation, of course, should they lose their jobs. For these reasons, I hope that you will vote against the "ought not to pass" report.

The SPEAKER: The Chair recognizes the gentleman from Freeport, Mr. Mitchell.

Mr. MITCHELL: Mr. Speaker, Men and Women of the House: The purpose of the severance pay law is to protect Maine workers by giving them a little money to tide themselves over until they can find another job if the plant that they are working in happens to close down. It is also a way to minimize the social disruption that causes in any community by a large plant closing. A sudden closing of a factory can cause a great deal of emotional and financial hardship, first of all for the employees of the plant, and, secondly, it causes great disruptions for government, all levels of government, federal government, state government and especially local government.

The argument is made here that the severance pay law inhibits economic development in Maine. It is said that it creates a cool business climate. Maine workers are universally known to be hard working, conscientious and reliable, yet wages in Maine remain well below the national average. I called the Department of Labor today and asked what the statistic was, and I learned that Maine wages are 44th in the nation.

Every campaign that I have ever heard of to promote Maine economically has always promoted Maine workers. We always get to work on time, we have low absenteeism and everything, but it seems to me that if we are such good workers, the people of Maine are good workers, the very least that they should get—and they get paid hardly anything—the least that they should get is a little bit of severance pay if one of these companies goes out of business.

In my own town of Freeport, there was a shoe company called the Loree Footwear Corporation, it closed its doors in the Spring of 1980 putting over 100 people out of work. Out of those 100 people, there were 40 of them that were entitled to severance pay which amounted to more than \$29,000. Not one of those people has yet to receive a dollar from the Loree Footwear Corp. or Loree's Footwear's parent company, which is known as the Leigh-Hi Valley Industries Incorporated in New York City.

I think that we need to strengthen our severance pay law, not weaken it. We need to tighten it up so that these interlocking directorates, as the one that existed between Leigh-Hi Valley Industries and the Loree Footwear Corporation, can't use their corporate structure to slip out from under their social responsibilities.

Men and women of the House, I hope that you will accept the "ought not to pass" report.

The SPEAKER: The Chair recognizes the gentleman from Thomaston, Mr. Mayo.

Mr. MAYO: Mr. Speaker, Members of the House: I would like to bring to your attention the situation currently going on where severance pay is being paid. Last Friday in Thomaston, the fire went out in the kiln of the only cement plant in New England. Now, this is a great problem for the town plus a tragedy for many workers down there. Many of these people have worked 15 or 20 years for this company, in their 40's, and now they find themselves without a job and with very little chance of replacing their past earnings. While they will, of course, file for unemployment compensation, it will hardly be sufficient to allow them to retain their homes and to retrain themselves for other employment. The job picture in Knox County is as bleak as any area in the state. Severance pay will allow these people to stretch out their assets, continue their efforts a bit longer to get back into the mainstream and be taxpayers, not welfare recipients.

plicants.

I do not believe that this is the case of a company going bankrupt but rather one wishing to put their assets and efforts in ventures with higher profitability. The closing will mean that Maine and much of New England will now have to get cement from Canada and New York State.

In closing, please do not vote to take severance pay away from other workers in the future. Support the "ought not to pass" report on L.D. 106.

The SPEAKER: The Chair recognizes the gentleman from Durham, Mr. Hayden.

Mr. HAYDEN: Mr. Speaker, Ladies and Gentlemen of the House: This is a point of clarification. The gentlewoman from Auburn mentioned the cases of Wyandotte and Fort Halifax, I think there has been an inaccuracy in her speech that the House should be aware of. As a matter of fact, litigation now involving severance pay is pending in both of those cases and that fact should tell us all something about the reality of the way this law works and why it is important to the working people of this state. What happens in a situation where an employer leaves and severance pay becomes a question is, then the Director of Labor, who supervises severance pay payments, has some leverage with that employer, the new employer that wants to come in and the old employer that has left.

For example, one of the issues that rises in a severance pay case is what happens with those older workers? What happens with the workers who have worked in that mill in that town for 25 years and they are old, the chances of their getting hurt are greater. They are going to retire soon; they may cost the employer money. The new employer wants to get rid of those people, throw them out like an old outdated machine. Well, this law can give our state the leverage in negotiating with these employers to make sure that doesn't happen, to make sure that when a new employer comes in, he can't come in with a bunch of young bucks and throw out the people that have worked for 25 years. He has got to take some responsibility for the people that have made a real commitment to a community and to a town and to an industry. If we tamper with this law, we are tampering with a tool that we now have to force the new industrial, the new manufacturing citizens of this state, to be responsible and protect the people that have lived and worked here and toiled here for years.

The other argument that comes up, and it comes up every time that an amendment to change or cripple this law is brought up, is that if we don't change severance pay, we are going to have a gloomy business climate and these new vibrant businesses that are going to inject money into our economy may shy away. Well, ladies and gentlemen of the House, I suggest to you that these new business neighbors who want to come to this state but want protection so they aren't going to have liability when they leave in a few years, or want protection so they can leave within a few months and leave our people destitute in joblessness, may not be the people that we want as our new neighbors.

I think that we can handle our problems ourselves. I think our industries have gotten along pretty well as things are. I am not sure that we need to prostrate ourselves, to give away the powers and protection that we have right now, for this kind of legislation. I think we can do well without these neighbors and we can do well without a change in this law.

The SPEAKER: The Chair recognizes the gentleman from Mt. Desert, Mr. Zirkilton.

Mr. ZIRNKILTON: Mr. Speaker, Ladies and Gentlemen of the House: I am hearing only talk about companies that have nothing but bad intentions toward the employees in the state of Maine. As mentioned before, the time needed to be eligible for severance pay was five years

prior to 1975; after that it was changed to only three years. I have been led to believe that the reason for this change was to penalize these employers who had no intentions of making long-term commitment to the people of Maine. This was done at the expense of those companies who had good intentions and who were operating with nothing but good faith.

A week ago, this body of Representatives, by a majority vote, said it was wrong to place a penalty on those who were caught abusing the fuel assistance program—why? Because they said it was wrong for us to penalize the majority when only a few abused the system. In a way, these two situations are very much alike. Personally, I don't consider three years to be a long period of time, certainly not a period that should be considered a long-term career commitment on the part of the employee. On the other hand, five years does represent a significant commitment on the part of the employee.

We must face the fact that starting a business at this point in time can be extremely risky. For us to penalize those employers who attempt to get a business off the ground and supply Maine people with jobs is certainly not an attempt to bring business into Maine, so I urge you not to accept the majority "ought not to pass" report.

The SPEAKER: The Chair recognizes the gentleman from Sanford, Mr. Tuttle.

Mr. TUTTLE: Mr. Speaker, Ladies and Gentlemen of the House: It seems that in our debate so far we have just seemed to address these issues of the present. I would like to capsize and maybe refresh a few people here recalling those situations in the past, the reason why we initially passed legislation like this. I have some very strong feelings pertaining to the issue of severance pay.

As most of you know, in the early 1950's, many textile mills relocated from the State of Maine and moved down south at the expense of Maine workers. My own community of Sanford was affected by such a closing without notice, I believe it was a couple of days, that nearly bankrupted not only the citizens of Sanford but my community. I had relatives who had worked at the same location, some of them between 30 and 40 years. When the Goodall Mill closed, it left them without retirement, without pensions, without anything for all those years of hard work and dedication to the company.

I feel that the law is there for a reason, not only historically but for the sake of what I feel is right and fair and what we truly believe as Maine people.

Somebody once said that we seem quickly to forget and when we do history has a tendency to repeat itself. I plead with you today not to forget the past and not to forget those working men and women of Maine, for, if we do, I feel we are doomed to relive the past and I hope we don't.

I urge you to support the majority "ought not to pass" report.

The SPEAKER: The Chair recognizes the gentleman from Augusta, Mr. Paradis.

Mr. PARADIS: Mr. Speaker, Ladies and Gentlemen of the House: There is an awful lot of blood being shed here late tonight on behalf of the working men and women of the State of Maine.

I wanted to bring to the attention to this House an article that appeared in this morning's paper regarding how the rather large corporations in this country take care of their own executives and we are supposed to take care of the working men and women of this state. Well, this is an example of how they take care of their own. Bill Agee was fired recently from his position as Chairman of the Board of the Bendix Corporation. Well, they signed a termination agreement and gave him a little severance pay. They don't call it severance pay, they called it a golden parachute —

\$825,000 for the next six years.

The SPEAKER: The Chair recognizes the gentlewoman from Portland, Mrs. Beaulieu.

Mrs. BEAULIEU: Mr. Speaker, Ladies and Gentlemen of the House: As Chair of the Labor Committee, I feel a responsibility to stand and indicate that none of us who signed the "ought not to pass" report are doing this because we think all businesses are potentially bad. I think for the record I wish to point out that we have some businesses who have come into our state in the last few years where the severance pay issue was not a great concern to them because they are constructive businesses and they are here to provide jobs for our men and women and they intend to stay. Let's take a look at them: Spencer Press in Wells, Lemford Corp. in Brewer, Bass Shoe in Bangor, LaPacific in New Limerick, Computer Vision in Sanford, Blue Ribbon Sports in Lewiston, Blue Cross-Blue Shield in Biddeford, Wolverine Worldwide, Presque Isle, Bangor and Belfast; J.M. Huber in Easton; Encore Shoe in Sanford; New Balance Athletic Shoes in Skowhegan, Tic-Tac-Toe, Skowhegan; American Homes of Northeast Fidelity Management and Research, Lewiston. These are good companies who employ more than 100 people. They are here and this severance pay provision did not scare them because they are the kind of employers we want in our state.

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

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

The SPEAKER: The pending question before the House is on the motion of the gentlewoman from Portland, Mrs. Beaulieu, that the House accept the Majority "Ought Not to Pass" Report. Those in favor will vote yes; those opposed will vote no.

The Chair recognizes the gentleman from Milo, Mr. Masterman.

Mr. MASTERMAN: I would request permission to pair my vote with the gentleman from Old Town, Mr. Cashman. If Mr. Cashman were voting, he would be voting yes; if Mr. Masterman were voting, he would be voting no.

#### ROLL CALL

YEA—Ainsworth, Allen, Andrews, Baker, Beaulieu, Benoit, Bost, Bott, Brodeur, Carroll, D.P.; Carroll, G.A.; Chonko, Clark, Connolly, Cooper, Cote, Cox, Crouse, Crowley, Daggett, Diamond, Erwin, Gauvreau, Gwadnoski, Hall, Handy, Hayden, Hickey, Higgins, H.C.; Hobbins, Jacques, Jalbert, Joseph, Kane, Kelleher, Kelly, Ketover, Kilcoyne, LaPlante, Lehoux, Lisnik, Locke, MacEachern, Macomber, Mahany, Manning, Martin, H.C.; Matthews, Z.E.; Mayo, McColister, McGowan, McHenry, McSweeney, Melendy, Michael, Michaud, Mitchell, E.H.; Mitchell, J.; Moholland, Murray, Nadeau, Nelson, Norton, Paradis, P.E.; Paul, Pouliot, Racine, Reeves, P.; Richard, Rolde, Rotondi, Smith, C.B.; Soucy, Stevens, Tammaro, Theriault, Tuttle, Vose, The Speaker.

NAY—Anderson, Armstrong, Bell, Bonney, Brown, A.K.; Brown, D.N.; Cahill, Callahan, Carter, Conary, Connors, Curtis, Day, Dexter, Dillenback, Drinkwater, Dudley, Foster, Greenlaw, Higgins, L.M.; Holloway, Ingraham, Jackson, Lebowitz, Lewis, Livesay, MacBride, Masterton, Matthews, K.L.; Maybury, McPherson, Murphy, Parent, Pines, Randall, Reeves, J.W.; Ridley, Roberts, Roderick, Salisbury, Scarpino, Seavey, Sherburne, Small, Smith, C.W.; Sproul, Stevenson, Stover, Studley, Swazey, Walker, Webster, Wentworth, Weymouth, Willey, Zirnkilton.

ABSENT—Brannigan, Brown, K.L.; Carrier, Davis, Joyce, Kiesman, Martin, A.C.; Paradis, E.J.; Perkins, Perry, Soule, Strout, Telow,

Thompson.

PAIRED—Cashman-Masterman.

Yes, 79; No, 56, Absent, 14; Paired, 2.

The SPEAKER: Seventy-nine having voted in the affirmative and fifty-six in the negative, with fourteen being absent and two paired, the motion does prevail.

The Chair recognizes the gentlewoman from Portland, Mrs. Beaulieu.

Mrs. BEAULIEU: Mr. Speaker, having voted on the prevailing side, I now move reconsideration and ask that you vote against me.

The SPEAKER: The gentlewoman from Portland, Mrs. Beaulieu, having voted on the prevailing side, now moves that the House reconsider its action whereby it voted to accept the Majority "Ought Not to Pass" Report. Those in favor will say yes; those opposed will say no.

A viva voce vote being taken, the motion does not prevail.

Sent up for concurrence.

The Chair laid before the House the following matter:

HOUSE DIVIDED REPORT — Majority (8) "Ought Not to Pass" — Minority (5) "Ought to Pass" in Draft (H. P. 512) (L. D. 600) — Committee on Labor on Bill "An Act to Permit Certain Small Businesses to Exempt Themselves from the Workers' Compensation Law" (H. P. 68) (L. D. 74) which was tabled and later today assigned pending acceptance of either Report.

The SPEAKER: The Chair recognizes the gentlewoman from Portland, Mrs. Beaulieu.

Mrs. BEAULIEU: Mr. Speaker, I move acceptance of the Majority "Ought Not to Pass" Report.

The SPEAKER: The gentlewoman from Portland, Mrs. Beaulieu, moves that the Majority "Ought Not to Pass" Report be accepted.

The Chair recognizes the gentleman from Kingfield, Mr. Dexter.

Mr. DEXTER: Mr. Speaker, Men and Women of the House: Usually when I stand up here I only have one or two votes, but I have a whole majority of five on this one, I can't get over it. I have served on the Labor Committee for two years, and the most I ever had was two votes, and one of them was mine.

This is an attempt to help the little small businessman. To lay it right on the line as my good friend from Portland, Representative Joyce, says — this doesn't help me one bit. In fact, I should be against this bill because it is going to help some enterprising young fellow to be my competitor, and if you know anything about the lumbering business, you don't need anymore competition right now. But I have got to represent my people, and that is what I have tried to do.

If you know anything about workmen's compensation, you know it is too high. For seven years I have listened to people say we have got to do something. In seven years, where has it gone? In my business, \$18 on a hundred; now it's \$32.45, and if this new rate goes through it will be \$45 on a hundred.

Now, everyone isn't college material. You take some young fellow who gets out of high school and he wants to go into the woods — I'll talk about the woods because that is all I know, anyway — so he buys a skidder for \$50,000-plus. Well, he can't make that huge payment alone, that's for sure, so he has got to hire someone. Okay, then he has to pay workmen's comp. That has to be paid up front, three months in advance, before he turns a wheel. How is he going to get the money? It's \$32 on a hundred, if he is lucky to have a friendly banker it's 18 percent more, and he simply can't cope with it.

This bill here, it does say that you have to have insurance. You can get an insurance, a private insurance, that would cover you seven days a week, both on and off the job; workmen's

comp is only on the job. I ask you, why can't we give some struggling young man, or person, I should say, a chance to get started. Then, if he gets to the point where he hires three men or more, then soak it to him, which I am sure you will do.

I don't see anything that is mandatory in here, that you have to not accept workmen's comp. See, one argument is that this protects the employer under the no-fault system. Any of you who don't understand workmen's comp, in other words, if you have a sloppy operator or one of his men gets hurt, he can't be sued. Of course, as far as I am concerned, the sloppy operator should be sued, but that is another argument. This is just a small attempt to help the little guy.

Just think, here in this body we have big business represented and organized labor — where does that leave the guy in the middle? Eighty seven percent of the businesses in Maine are run by small business persons — 87 percent. Who keeps the employee on in the spring or when there are slack times? It is the small guy because he knows that person, and he keeps him on at his own expense. That has been proven in the Labor Committee when I was on it. It was even admitted to by Mr. Gorham.

That is all I have got to say. I didn't think this was going to be debated today. I thought it was going to be a couple of days from now. Anyway, it's in your hands.

The SPEAKER: The Chair recognizes the gentlewoman from Portland, Mrs. Beaulieu.

Mrs. BEAULIEU: Mr. Speaker, Ladies and Gentlemen of the House: I don't think I or anyone elected here in this body today should question the sincerity of the act's sponsors in their attempt to provide some manner of relief for the small employer, we all want to do that, but I think we have to be very serious and very cautious about the approach we use in getting the job done.

I think it is imperative that you look at the amended version because there are a lot of loopholes in it and I am going to raise them for your consideration to just think about. Let me begin with the number one issue. All employers in this state must carry workers' comp insurance, unless they have been specifically exempted by statute.

The minority report proposes an exemption for a small employer who does not regularly employ more than two persons if he provides at least \$200,000 worth of liability and major medical insurance, and each new employee waives all workers' comp benefits. There are a lot of problems with this proposal.

What does "regularly employ" mean? How many employees could be employed occasionally and then let go, thus enabling the employer to evade the workers' comp laws? These are questions you need to ask.

Would the liability coverage apply only to full-time employees or part-time employees, regular — the bill is very unclear in this area and a lawyer's field day.

The workers' comp laws are set up for a no-fault system to avoid expensive court battles, plus delayed payment, especially when it means to return to standard liability insurance would lead to situations where an employee is not paid for months or even years as a case waits on crowded court dockets, thus leading to greater delays, the very problem that the Speaker's committee is trying to correct.

Just what is meant by liability insurance? In insurance terms, liability usually means liability to a third party, not coverage for yourself, for example, homeowner's insurance and not a liability insurance.

This bill could create more confusion for everyone in trying to interpret the wording in the amended minority report.

The proposed insurance coverage would not provide in any way the same level of benefits

for employees. The medical and disability payments would be less and probably involve the worker paying a deductible from his own pocket. Also, there is a \$200,000 top figure collectible, no matter how severe the injury. It would also open up legal battles to recover pain. Plus, suffering, mental anguish, loss of consortium and other damages that are now covered under workers' comp couldn't possibly be covered under liability insurance rather than sticking close to the issues of medical benefits, lost wages and disability.

Just to make sure that I had some concept of what I was talking about and since the new draft is premised on a promise that alternative insurance will do the job, we contend that not to be true from the employee's protection point of view and especially from the employer point of view, because under a liability insurance, I would contend he is open to suit. Workers' comp preempts any suit.

We researched the alternative insurance proposal with major carriers in this state and their comments were, and we use the language in the new draft—from Maine Bonding and Casualty Co., they said they would not offer such insurance and say it probably would cost more than workers' comp insurance. Liberty Mutual, which is the largest workers' comp carrier in Maine, their comments were: Major medical policies usually exclude work-related injuries. The liability factor in this act is wrong. That would only give coverage to a third party who is hurt, something like homeowners' insurance does, and it excludes work-related injuries. A very large company might be able to buy this kind of policy, but no company wants to bother for a small employer with only two or less employees. Comments from Union Mutual were: It is so expensive, no company could afford it for two or less employees.

So the promise that a liability insurance is going to do the job for the employee is inaccurate. We have a workers' comp system in this state. Trustingly, through the Speaker's recommendations through other bills in the process before Business Legislation, we will be able to begin to try to find some solutions to help the small employer. But, believe me, ladies and gentlemen, this is not the way to do.

The SPEAKER: The Chair recognizes the gentleman from Kingfield, Mr. Dexter.

Mr. DEXTER: Mr. Speaker, Ladies and Gentlemen of the House: It is clear to me what is happening; they are just going to run the small guy into the ground.

I can remember an incident years ago when I had a visitor with a small child. We had a kitten that was running around then. This child picked up the kitten, grabbed it by the neck and was choking it to death, so I intervened and the kid's mother said, he's just loving that kitten. This is what we are doing to the small guy—we're just loving him to death.

Six or seven years ago now we discussed this, only my bill that time was five employees or less. Representative Carroll got up and defended me. I thought that was quite an honor from a veteran, I was a lowly freshman. He told about the woodsman that was working alone and couldn't afford workmen's comp—this was seven years ago at \$18—he laid there all day under the tree, all day long. Representative Carroll said, "What about that guy?" I can remember it just as though it was yesterday.

If you want to talk about accidents, where do most accidents happen? You people know. I'll tell you where they happen, right in the home. I have a private insurance on myself and it covers me seven days a week, \$200 a week if I am laid up, \$100,000 to my widow, and so forth.

You talk about workmen's comp. Have you ever tried to get a settlement on that? I have had people come to me for three years and they haven't got settled, three years. If you have got a reputable insurance company, and there are some, you can get settled right away, you can

have money coming in.

If you will look at this divided report, in the other body there are three people that signed against that. Let's send this over there and let them kill it. Then when it comes back, the gentlelady can get up, the gentlelady by the way of Eagle Lake, as Representative Joyce says, she will get up and move to recede and concur and I will sit here quietly and take my lumps. Let's give it a chance.

Thereupon, Mrs. Beaulieu of Portland requested a roll call vote.

The SPEAKER: For the Chair to order a roll call, it must have the expressed desire of one fifth of the members present and voting. All those desiring a roll call vote will vote yes; those opposed will vote no.

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

The SPEAKER: The pending question is on the motion of the gentlewoman from Portland, Mrs. Beaulieu, that the Majority "Ought Not to Pass" Report be accepted.

The Chair recognizes the gentleman from Winslow, Mr. Carter.

Mr. CARTER: Mr. Speaker, pursuant to Joint Rule 19, I request to be excused.

The SPEAKER: The Chair will excuse the gentleman from Winslow, Mr. Carter, from voting on this issue pursuant to Joint Rule 19.

Mr. MASTERMAN: Mr. Speaker, I would like to pair my vote with Mr. Cashman of Old Town. If Mr. Cashman were here, he would be voting yea and I would be voting nay.

The SPEAKER: The Chair recognizes the gentlewoman from Cape Elizabeth, Mrs. Masterton.

Mrs. MASTERTON: Mr. Speaker, I would like permission to pair my vote with Representative Benoit of South Portland. If she were here, she would be voting yea; if I were voting, I would be voting nay.

The SPEAKER: The pending question is on the motion of the gentlewoman from Portland, Mrs. Beaulieu, that the Majority "Ought Not to Pass" Report be accepted. All those in favor will vote yes; those opposed will vote no.

#### ROLL CALL

YE—Ainsworth, Andrews, Baker, Beaulieu, Bost, Brodeur, Carroll, D.P.; Chonko, Clark, Connolly, Cooper, Cote, Cox, Crouse, Crowley, Diamond, Erwin, Gauvreau, Gwadosky, Hall, Handy, Hayden, Hickey, Higgins, H.C.; Hobbins, Jacques, Jalbert, Joseph, Kane, Kelleher, Kelly, Ketover, Kilcoyne, LaPlante, Lebowitz, Lehoux, Lisnik, Locke, MacEachern, Mahany, Manning, Martin, H.C.; Matthews, Z.E.; Mayo, McCollier, McGowan, McHenry, McSweeney, Melendy, Michael, Michaud, Mitchell, E.H.; Mitchell, J.; Murray, Nadeau, Paradis, P.E.; Pouliot, Racine, Reeves, P.; Richard, Roberts, Rolde, Rotondi, Soucy, Stevens, Swazey, Theriault, Tuttle, Vose, The Speaker.

NAY—Allen, Anderson, Armstrong, Bell, Bonney, Bott, Brown, A.K.; Brown, D.N.; Cahill, Callahan, Carroll, G.A.; Conary, Connors, Curtis, Daggett, Day, Dexter, Dillenback, Drinkwater, Dudley, Foster, Greenlaw, Higgins, L.M.; Holloway, Ingraham, Jackson, Lewis, Livesay, MacBride, Macomber, Matthews, K.L.; Maybury, McPherson, Moholland, Murphy, Nelson, Norton, Parent, Paul, Pines, Randall, Reeves, J.W.; Ridley, Roderick, Salsbury, Scarpino, Seavey, Sherburne, Small, Smith, C.B.; Smith, C.W.; Sproul, Stevenson, Stover, Studley, Tammara, Walker, Webster, Wentworth, Weymouth, Willey, Zirnkilton.

ABSENT—Brannigan, Brown, K.L.; Carrier, Davis, Joyce, Kiesman, Martin, A.C.; Paradis, E.J.; Perkins, Perry, Soule, Strout, Telow, Thompson.

PAIRED—Benoit-Masterton; Cashman-Masterman.

EXCUSED—Carter.

Yes, 70; No, 62; Absent, 14; Paired, 4; Ex-

cused, 1.

The SPEAKER: Seventh having voted in the affirmative and sixty-two in the negative, with fourteen being absent, four paired and one excused, the motion does prevail.

The Chair recognizes the gentlewoman from Portland, Mrs. Beaulieu.

Mrs. BEAULIEU: Mr. Speaker, having voted on the prevailing side, I move we reconsider where by we accepted the Majority "Ought Not to Pass" Report, and I ask that you vote against me.

Whereupon, Mr. Dexter of Kingfield requested a roll call vote.

The SPEAKER: For the Chair to order a roll call, it must have the expressed desire of one fifth of the members present and voting. All those desiring a roll call vote will vote yes; those opposed will vote no.

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

The SPEAKER: The pending question is on the motion of the gentlewoman from Portland, Mrs. Beaulieu, that the House reconsider its action whereby it accepted the Majority "Ought Not to Pass" Report. All those in favor will vote yes; those opposed will vote no.

#### ROLL CALL

YE—Allen, Anderson, Armstrong, Bell, Bonney, Bott, Brown, A.K.; Brown, D.N.; Cahill, Callahan, Carroll, G.A.; Conary, Connors, Curtis, Daggett, Day, Dexter, Dillenback, Drinkwater, Dudley, Foster, Greenlaw, Higgins, L.M.; Holloway, Ingraham, Jackson, Kelly, Lebowitz, Lewis, Livesay, MacBride, Macomber, Manning, Martin, H.C.; Masterman, Masterton, Matthews, K.L.; Maybury, McGowan, McPherson, Moholland, Murphy, Nelson, Norton, Parent, Paul, Pines, Randall, Reeves, J.W.; Ridley, Roderick, Salsbury, Scarpino, Seavey, Sherburne, Small, Smith, C.B.; Smith, C.W.; Sproul, Stevenson, Stover, Studley, Tammara, Walker, Webster, Wentworth, Weymouth, Willey, Zirnkilton.

NAY—Ainsworth, Andrews, Baker, Beaulieu, Bost, Brodeur, Carroll, D.P.; Chonko, Clark, Connolly, Cooper, Cote, Cox, Crouse, Crowley, Diamond, Erwin, Gauvreau, Gwadosky, Hall, Handy, Hayden, Hickey, Higgins, H.C.; Hobbins, Jacques, Jalbert, Joseph, Kane, Kelleher, Ketover, Kilcoyne, LaPlante, Lehoux, Lisnik, Locke, MacEachern, Mahany, Matthews, Z.E.; Mayo, McCollier, McGowan, McHenry, McSweeney, Melendy, Michael, Michaud, Mitchell, E.H.; Mitchell, J.; Murray, Nadeau, Paradis, P.E.; Pouliot, Racine, Reeves, P.; Richard, Roberts, Rolde, Rotondi, Soucy, Stevens, Swazey, Theriault, Tuttle, Vose, The Speaker.

ABSENT—Benoit, Brannigan, Brown, K.L.; Carrier, Carter, Cashman, Davis, Joyce, Kiesman, Martin, A.C.; Paradis, E.J.; Perkins, Perry, Soule, Strout, Telow, Thompson.

Yes, 69; No, 65; Absent, 17.

The SPEAKER: Sixty-nine having voted in the affirmative and sixty-five in the negative, with seventeen being absent, the motion to reconsider does prevail.

The Chair recognizes the gentleman from Kingfield, Mr. Dexter.

Mr. DEXTER: Mr. Speaker, I move this lie on the table two legislative days.

Whereupon, Mrs. Mitchell of Vassalboro requested a vote.

The SPEAKER: The pending question is on the motion of the gentleman from Kingfield, Mr. Dexter, that this matter be tabled for two legislative days pending the motion to accept the Majority "Ought Not to Pass" Report. All those in favor will vote yes; those opposed will vote no.

A vote of the House was taken.

61 having voted in the affirmative and 72 having voted in the negative, the motion did not prevail.

The SPEAKER: The Chair recognizes the gentleman from Lewiston, Mr. Jalbert.

Mr. JALBERT: Mr. Speaker, I move that this Bill and all its accompanying papers be indefinitely postponed, and when the vote is taken, I request it be taken by the yeas and nays.

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

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

The SPEAKER: The pending question is on the motion of the gentleman from Lewiston, Mr. Jalbert, that this Bill (L. D. 74) and all its accompanying papers be indefinitely postponed. All those in favor will vote yes; those opposed will vote no.

#### ROLL CALL

YEA—Ainsworth, Allen, Andrews, Baker, Beaulieu, Bost, Brodeur, Carroll, D.P., Chonko, Clark, Connolly, Cooper, Cote, Cox, Crouse, Crowley, Daggett, Diamond, Dudley, Erwin, Gauvreau, Gwadosky, Hall, Handy, Hayden, Hickey, Higgins, H.C.; Hobbins, Jacques, Jalbert, Joseph, Kane, Kelleher, Kelly, Ketover, Kilcoyne, LaPlante, Lehoux, Lisnik, Locke, MacEachern, Macomber, Mahany, Manning, Martin, H.C.; Matthews, Z.E.; Mayo, McCollister, McGowan, McHenry, McSweeney, Melendy, Michael, Michaud, Mitchell, E.H.; Mitchell, J.; Murray, Nadeau, Paradis, P.E.; Pouliot, Racine, Reeves, P.; Richard, Roberts, Rolde, Rotondi, Soucy, Stevens, Swazey, Tammaro, Theriault, Tuttle, Vose, The Speaker.

NAY—Anderson, Armstrong, Bell, Bonney, Bott, Brown, A.K.; Brown, D.N.; Cahill, Callahan, Conary, Conners, Curtis, Day, Dexter, Dillenback, Drinkwater, Foster, Greenlaw, Higgins, L.M.; Holloway, Ingraham, Jackson, Lebowitz, Lewis, Livesay, MacBride, Masterman, Masterton, Matthews, K.L.; Maybury, McPherson, Moholland, Murphy, Nelson, Norton, Parent, Paul, Pines, Randall, Reeves, J.W.; Ridley, Roderick, Salsbury, Scarpino, Seavey, Sherburne, Small, Smith, C.B.; Smith, C.W.; Sproul, Stevenson, Stover, Studley, Walker, Webster, Wentworth, Weymouth, Willey, Zirkilton.

ABSENT—Benoit, Brannigan, Brown, K.L.; Carrier, Carter, Cashman, Davis, Joyce, Kisman, Martin, A.C.; Paradis, E.J.; Perkins, Perry, Soule, Strout, Telow, Thompson.

Yes, 74; No, 60; Absent, 17.

The SPEAKER: Seventy-four having voted in the affirmative and sixty having voted in the negative, with seventeen being absent, the motion does prevail.

The Chair recognizes the gentleman from Lewiston, Mr. Jalbert.

Mr. JALBERT: Mr. Speaker, I move that we reconsider our action whereby we indefinitely postponed this Bill and all its papers, I would ask for a roll call vote, and when you vote, vote against me.

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

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

The SPEAKER: The pending question is on the motion of the gentleman from Lewiston, Mr. Jalbert, that the House reconsider its action whereby this Bill and all its accompanying papers were indefinitely postponed. All those in favor will vote yes; those opposed will vote no.

#### ROLL CALL

YEA—Anderson, Armstrong, Bell, Bonney,

Brannigan, Brown, A.K.; Brown, D.N.; Cahill, Callahan, Conary, Conners, Curtis, Day, Dexter, Dillenback, Drinkwater, Foster, Greenlaw, Higgins, L.M.; Holloway, Ingraham, Jackson, Kelly, Lebowitz, Lewis, Livesay, MacBride, Masterman, Masterton, Matthews, K.L.; Maybury, McCollister, McGowan, McPherson, Michael, Moholland, Murphy, Nelson, Norton, Parent, Paul, Pines, Randall, Reeves, J.W.; Richard, Ridley, Roderick, Salsbury, Scarpino, Seavey, Sherburne, Small, Smith, C.B.; Smith, C.W.; Sproul, Stevens, Stevenson, Stover, Studley, Walker, Webster, Wentworth, Weymouth, Willey, Zirkilton.

NAY—Ainsworth, Allen, Andrews, Baker, Beaulieu, Bost, Brodeur, Carroll, D.P.; Carroll, G.A.; Chonko, Clark, Connolly, Cooper, Cote, Cox, Crouse, Crowley, Daggett, Diamond, Dudley, Erwin, Gauvreau, Gwadosky, Hall, Handy, Hayden, Hickey, Higgins, H.C.; Hobbins, Jacques, Jalbert, Joseph, Kane, Kelleher, Ketover, Kilcoyne, LaPlante, Lehoux, Lisnik, Locke, MacEachern, Macomber, Mahany, Manning, Martin, H.C.; Matthews, Z.E.; Mayo, McHenry, McSweeney, Melendy, Michaud, Mitchell, E.H.; Mitchell, J.; Murray, Nadeau, Paradis, P.E.; Pouliot, Racine, Reeves, P.; Roberts, Rolde, Rotondi, Soucy, Swazey, Tammaro, Theriault, Tuttle, Vose, The Speaker.

ABSENT—Benoit, Brannigan, Brown, K.L.; Carrier, Carter, Cashman, Davis, Joyce, Kisman, Martin, A.C.; Paradis, E.J.; Perkins, Perry, Soule, Strout, Telow, Thompson.

Yes, 65; No, 69; Absent, 17.

The SPEAKER: Sixty-five having voted in the affirmative and sixty-nine in the negative, with seventeen being absent, the motion to reconsider does not prevail.

Sent up for concurrence.

#### (Off Record Remarks)

On motion of Mr. Callahan of Mechanic Falls, Adjourned until Monday, February 14, at nine o'clock in the morning.