

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

Monday, March 28, 1983

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

Prayer by the Reverend Maynard W. Hammond of the Federated Church, Skowhegan.

The members stood for the National Anthem by the Skowhegan High School Band.

The journal of the previous session was read and approved.

Papers from the Senate

The following Communication:
The Senate of Maine
Augusta

March 25, 1983

The Honorable John L. Martin
Speaker of the House
111th Maine Legislature
State House
Augusta, Maine 04333
Dear Speaker Martin:

In accordance with Joint Rule 38, please be advised that the Senate today confirmed, upon the recommendation of the Joint Standing Committee on Education, the nomination of Peter Johnston of Fort Fairfield to the Board of Trustees of the University of Maine.

Sincerely,

S/JOY J. O'BRIEN
Secretary of the Senate

The Communication was read and ordered placed on file.

Bill "An Act Relating to Drinking in Public" (S. P. 420) (L. D. 1273)

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.

Bill "An Act to Raise the Annual Public Utilities Commission Regulatory Fund Assessments to \$1,450,000 for Fiscal Year 1984 and \$1,500,000 for Fiscal Year 1985" (Emergency) (S. P. 421) (L. D. 1274)

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

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

Bill "An Act to Provide a Corporate Tax Credit for Donations of Technological Equipment to Maine Elementary and Secondary Schools" (S. P. 422) (L. D. 1275)

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

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

Reports of Committees**Unanimous Leave to Withdraw**

Report of the Committee on Labor reporting "Leave to Withdraw" on Bill "An Act to Preserve Negotiated Contracts Between School Committees and Various Agents" (Emergency) (S. P. 331) (L. D. 976)

Report of the Committee on Labor reporting "Leave to Withdraw" on Bill "An Act to Provide for the Negotiation of Seniority Provisions" (Emergency) (S. P. 177) (L. D. 544)

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

Divided Report

Majority Report of the Committee on Appropriations and Financial Affairs on Bill "An Act Making Unified Appropriations and Allocations for the Expenditures of State Government, General Fund, and Changing Certain Provisions of the Law Necessary for the Proper Operations of State Government for the Fiscal Years Ending June 30, 1984, and June 30, 1985" (Emergency) (S. P. 115) (L. D. 281) reporting "Ought to Pass" in New Draft (Emergency) (S. P. 423) (L. D. 1285)

Report was signed by the following members:
Senators:

NAJARIAN of Cumberland

BROWN of Washington

— of the Senate.

Representatives:

CARTER of Winslow

KELLEHER of Bangor

CHONKO of Topsham

LISNIK of Presque Isle

CONNOLLY of Portland

— of the House.

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

Report was signed by the following members:
Senator:

PERKINS of Hancock

— of the Senate.

Representatives:

SMITH of Mars Hill

BELL of Paris

ARMSTRONG of Wilton

MASTERTON of Cape Elizabeth

— of the House.

Representative JALBERT of Lewiston — of the House — abstaining.

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

In the House: Reports were read.

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

Mr. CARTER: Mr. Speaker, I move we accept the Majority "Ought to Pass" Report and I would like to speak briefly.

The SPEAKER: The gentleman from Winslow, Mr. Carter, moves that the Majority "Ought to Pass" in New Draft Report be accepted in concurrence.

The gentleman may proceed.

Mr. CARTER: Mr. Speaker, Ladies and Gentlemen of the House: This is the first time since I have been on this committee, and this goes back a few years, back to the 105th session, as a matter of fact, that we have had a split report on the Part I of the Current Services Budget. I also believe that this is the first time that this has ever happened in the legislature.

I cannot understand why the minority party has taken this position. We didn't do anything different than we have ever done before. We followed the same procedure and stuck fast to our principle of dealing only with current services or Part I items. As an example, as you know, the problem caused by the indexing issue left the Governor little choice and he included about \$30 million of Part I items into the Part II budget. This was done because of his targeting budgeting and his self-imposed 5 percent growth restrictions on the budget.

According to our normal procedure, we transferred these items back into the Part I. Nobody on the committee objected to this procedure. As a matter of fact, part way through the procedure, a motion was made to include the bulk of this transfer, namely, the general purpose to education funding, which amounted to about \$18 million, back into the Part I so that the communities back home would know what they could expect from the legislature from this year's funding of the education budget.

This is by far the most conservative current services budget since I have seen on this committee. It reflects only a 5 percent growth in each year of the biennium.

We went through the entire budget, item by item without any major hitches, no hitches, that is, until the 11th hour when apparently the minority party decided they wanted to play politics with the current services budget. I cannot understand why the minority party would want to take such a position. Both of my colleagues who sit down in the left-hand corner have served on the Appropriations Committee and they are well aware of the process and well aware of how we deal with the

Part I and how it has been done in the past. This appears to me to be nothing more than bare face obstructionism.

I thought the minority party was the Republican Party, not the Obstructionist Party; however, if we are dealing with a new image, that of being obstructionists, I am sure that this is only a small portion or a small fraction of the party, and I would hope that the more level-headed in the party will prevail and the obstructionist viewpoint will be short lived and go the way that the Whig and Tory Parties went, that is back into history, and that can't be any too soon for me. The reason I say this should be obvious to those who are responsible for this entire situation.

The 111th session started out like no other session that I have been involved with previously. We were immediately faced with the indexing issue. Nevertheless, the leadership of both parties, despite the indexing issue, agreed to do everything in their power to speed up the legislative process so that we could get our work done and get out of here early and go home. Special pre-filing rules were put into place, a different way of referring bills to committee was also put into place, the whole process was moving along at an accelerated pace and the democratic process was not denied anyone. As a matter of fact, I believe that during this process we were ahead about three weeks of any previous session when the obstructionist element in the minority party reared its ugly head.

The chairs of the Appropriations Committee were aware of the fact that enactment of Part I also plays a major role in this process — it can speed up or delay legislative adjournment. Nothing really moves until the Part I or current services budget is put to bed. To that end, the Appropriation's Chairs agreed to do what we could to help speed up this process without denying anyone his day in court, so to speak. We therefore set a goal — March 18th was our goal to report out the Part I bill. We accomplished this goal. We went at it without taking Wednesdays off, like we normally did in the past. We also decided not to sandwich in any hearings on other legislative documents, like we did in the past, and we also decided to break up our work sessions by working mornings and afternoons with a lunch break. You know, working on a budget can be a tedious chore at times.

The end result was that we put in as many days working on the Part I as we did in any previous session. We had 19 days of public hearings and we had 9 days of work sessions on a double session basis, that is mornings and afternoons. The schedule saw us complete our hearings and work sessions one day ahead of the March 18th target date. The freshmen members of the minority party wanted more time and we agreed to a four-day delay. I suspected then, when I went along with their request, that nothing would change with a four-day delay and, unfortunately, I was right. However, I felt that a four-day delay was a reasonable request. To be fair again, however, I must tell you that we didn't receive the post-index revenue figures from the Finance Office until a few days before we were done with our work. When we compared the current figures with the Part I and the revenue figures, they showed that there was only a million and a half dollars left for other L.D.'s. I suspect that this came as a shock to some people; the realization that the cupboard was bare was now a fact. Here, at last, was the reality of indexing. This meant that any new legislative proposal that required monies, the monies would have to either come from cuts in existing programs or by raising new revenues either by increasing taxes or fees. And this, ladies and gentlemen of the House, is exactly what the Governor is doing and this is exactly what he said he would do in his State of the State Message.

The Governor is providing means of funding

for his proposed programs, and I might also add that this is what the citizens of this state expected when the 4 voted indexing in.

Delaying passage of the Current Services budget, or the Part I, can only serve to delay the entire legislative process. Until the Part I is put to bed, the uncertainty about the availability of funds for other L.D.'s will only slow up the process. The efforts of leadership to really speed up the legislative process will flounder, and this could mean spending even more dollars than it is really necessary, by keeping the legislature in session longer than really needed.

It is now costing \$14,530 per day for supportive services to keep this legislature in session — simple mathematics, multiply three weeks' delay times \$14,530, and you will find a sum of \$217,950 that the taxpayers will be asked to pay for which is needless, irresponsible. I would hope that everyone that has been elected to represent the people of this state in these hallowed chambers will act responsibly and accept the majority report so that we can enact the Current Services Budget and get on with our work. Mr. Speaker, when the vote is taken, I request the yeas and nays.

The SPEAKER: The Chair recognizes the gentlewoman from Paris, Miss Bell.

Miss BELL: Mr. Speaker, Men and Women of the House: Very briefly, we are not here to block this budget today, we believe that it is a reasonable document by itself. Once the uncertainty of the state's financial picture is resolved, we may highly endorse its passage, but with the budget so tight, based on revised estimate revenues that is one to one and a half months early, it seems sensible to us to take some time to examine the new spending and bore-in proposals.

The SPEAKER: The Chair recognizes the gentleman from Bangor, Mr. Kelleher.

Mr. KELLEHER: Mr. Speaker, Ladies and Gentlemen of the House: This budget document that you have before you this morning has been certified that there will be monies there to fund it. I would ask my colleague on the committee, Miss Bell, did she have information to the contrary that she can document here this morning?

Mr. Carter of Winslow withdrew his request for a roll call vote.

Thereupon, the Majority "Ought to Pass" Report was accepted, the New Draft read once and assigned for second reading tomorrow.

Non-Concurrent Matter

Bill "An Act to Authorize the Department of Human Services to Operate a Grant Diversion Program for Recipients of Aid to Families with Dependent Children" (Emergency) (H. P. 977) (L. D. 1278) which was referred to the Committee on Health and Institutional Services in the House on March 22, 1983.

Came from the Senate referred to the Committee on Appropriations and Financial Affairs in non-concurrence.

In the House: The House voted to recede and concur.

Non-Concurrent Matter

Bill "An Act Relating to Meritorious Good Time" (H. P. 978) (L. D. 1279) which was referred to the Committee on Health and Institutional Services in the House on March 22, 1983.

Came from the Senate referred to the Committee on Judiciary in non-concurrence.

In the House: The House voted to recede and concur.

Non-Concurrent Matter

Bill "An Act to Provide Advocacy Services to Residents of Children's Homes" (H. P. 970) (L. D. 1265) which was referred to the Committee on Appropriations and Financial Affairs in the House on March 18, 1983.

Came from the Senate referred to the Committee on Health and Institutional Services in non-concurrence.

In the House: The House voted to recede and concur.

Non-Concurrent Matter

Bill "An Act Concerning Sales Prices of Spirituous and Vinous Liquors, Except Table Wine, Sold by State Agency Liquor Stores" (S. P. 385) (L. D. 1165) (S. "A" S-24) on which the Bill and Accompanying Papers were Indefinitely Postponed in the House on March 24, 1983.

Came from the Senate Passed to be Enacted in non-concurrence.

In the House:

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

Mr. COX: Mr. Speaker, I move that we recede and concur and would speak briefly.

The SPEAKER: The gentleman from Brewer, Mr. Cox, moves that the House recede and concur.

The gentleman may proceed.

Mr. COX: Mr. Speaker, Ladies and Gentlemen of the House: I do feel that this bill had inadequate debate when we had it the other day since it was a unanimous committee report and had reached the enactment stage with no voice being raised against it. There were no members of the committee who were prepared to deal with it on the floor that day.

The question of price equity was raised — well, I see no problem with price equity with this bill, this bill affects all the areas of the state equally in that what it does is allow agency stores, if they so choose, to mark the price of their liquor up to no more than 5 percent above the price charged in the state stores.

Let's look briefly at the nature of these agency stores. Most of them, if not all of them, are in the nature of convenience stores, where I think we would have to consider the state stores more in the nature of the supermarket business that can buy its stuff cheaper because of the volume purchases. I think we all expect that when we go to a convenience store, we are going to have to pay a little more than we would in a supermarket, and it seemed only fair to us that these stores should have the option of getting a little higher markup. Eight percent did not seem like a very high markup. A business I am more used to, we consider a 25 to 30 percent markup. Admittedly, it is not the liquor business but this seems to be not too unusual a markup in retail business.

It was said in the debate that these stores, none of them had turned in their licenses, so that must mean they were satisfied. The ones that came and testified before our committee were not satisfied and I hope that we do not have to wait until some of these stores go out of business before we decide to treat them the same as convenience stores normally operating in our state.

The SPEAKER: The Chair recognizes the gentleman from Bangor, Mr. Kelleher.

Mr. KELLEHER: Mr. Speaker, Ladies and Gentlemen of the House: The House took a very firm position on this bill last week by not enacting it, by killing it.

We have approximately 57 or 58 agency stores in this state, and they were created to accommodate towns where the state felt it was not practical to open up its own stores. When we created the agency stores, we did it just for that reason, it was an accommodation with a margin of profit for those who were fortunate enough in their request to get the opportunity to operate them.

It is not really a very competitive business because they have a controlled market, meaning that they are the only shop in town that you are able to purchase liquor at, the bottles. I think it would be remiss for us here today to create another 57 different prices, possible different prices, of costs of liquor in this state, as we have a differential in price with those in southern Maine.

I don't have one in my community but there are a great many of you here who do have them in your communities, and if you are wil-

ling to allow an adjustment of price, a greater price in your community for the price of liquor, that is your business and I would suggest that you vote for it. But if you want equity, and that is why this bill was presented when we created agency stores years ago, equity in terms of people having an opportunity to purchase liquor if they so desired, there was a reasonable profit margin established, and I think that this House would be incorrect and wrong if we supported this document today.

I would ask for the yeas and nays and urge you not to recede and concur and we could stand by our vote of a few days ago, which was to adhere, and kill 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 House recede and concur. All those in favor will vote yes; those opposed will vote no.

ROLL CALL

YEA—Allen, Armstrong, Bott, Brannigan, Cahill, Carter, Cote, Cox, Davis, Dillenback, Hall, Handy, Higgins, L.M.; Hobbins, Holloway, Ingraham, Lebowitz, Lewis, Manning, Master-ton, McSweeney, Melendy, Michael, Murphy, Nadeau, Perkins, Perry, Racine, Roberts, Rotondi, Salsbury, Seavey, Small, Swazey, Walker, Weymouth, Zirkilton.

NAY—Ainsworth, Anderson, Andrews, Beau-lieu, Bell, Benoit, Bost, Brown, A.K.; Brown, D.N.; Callahan, Carrier, Carroll, D.P.; Carroll, G.A.; Cashman, Chonko, Clark, Conary, Conners, Connolly, Cooper, Crouse, Crowley, Daggett, Day, Dexter, Diamond, Drinkwater, Erwin, Foster, Gauvreau, Greenlaw, Gwadosky, Hayden, Hickey, Higgins, H.C.; Jacques, Jalbert, Joseph, Joyce, Kelleher, Kelly, Ketover, Kiesman, Kilcoyne, LaPlante, Lehoux, Lisnik, Locke, MacBride, MacEachern, Macomber, Martin, A.C.; Masterman, Matthews, K.L.; Matthews, Z.E.; Maybury, McCollister, McGowan, McHenry, Michaud, Mitchell, E.H.; Mitchell, J.; Moholland, Murray, Nelson, Norton, Murdis, E.J.; Paradis, P.E.; Parent, Paul, Pines, Pouliot, Randall, Reeves, J.W.; Reeves, P.; Richard, Ridley, Roderick, Rolde, Scarpino, Smith, C.B.; Smith, C.W.; Soucy, Soule, Sproul, Stevens, Stevenson, Stover, Strout, Tammara, Telow, Thompson, Vose, Wentworth, Willey.

ABSENT—Baker, Bonney, Brodeur, Brown, K.L.; Curtis, Dudley, Jackson, Kane, Livesay, Mahany, Martin, H.C.; Mayo, McPherson, Sherburne, Studley, Theriault, Tuttle, Webster, Mr. Speaker.

Yes, 37; No, 95; Absent, 19.

The SPEAKER: Thirty-seven having voted in the affirmative and ninety-five in the negative, with 19 being absent, the motion does not prevail.

Thereupon, on Motion of Mr. Kelleher of Bangor, the House voted to adhere.

Messages and Documents

The Following Communication: (S. P. 436)

111th Maine Legislature

March 24, 1983

Honorable Nancy Randall Clark
Honorable Joseph C. Brannigan
Chairs

Joint Standing Committee on

Business Legislation

State House

Augusta, Maine 04333

Dear Chairs Clark and Brannigan:

Please be advised that Governor Joseph E. Brennan today nominated Robert A. Burgess of Augusta for appointment as Superintendent

ent of the Bureau of Consumer Credit Protection.

Pursuant to Title 9-A MRSA Section 6-103, this nomination will require review by the Joint Standing Committee on Business Legislation and confirmation by the Senate.

Sincerely,
S/GERARD P. CONLEY
President of the Senate
S/JOHN L. MARTIN
Speaker of the House

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

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

Petitions, Bills and Resolves Requiring Reference

The following Bill was received and, upon recommendation of the Committee on Reference of Bills, was referred to the following Committee:

Judiciary

Bill "An Act Concerning Compensation for Witnesses" (H. P. 1021) (Presented by Representative Swazey of Bucksport)

(Ordered Printed)

Sent up for concurrence.

House Reports of Committees Unanimous Ought Not to Pass

Representative Beaulieu from the Committee on Labor on Bill "An Act to Guarantee Teachers the Right to Negotiate Seniority Clauses in Collective Bargaining Agreements" (H. P. 557) (L. D. 708) reporting "Ought Not to Pass"

Representative Willey from the Committee on Labor on Bill "An Act to Encourage Small Businesses to Participate in Apprenticeship Programs" (H. P. 763) (L. D. 994) reporting "Ought Not to Pass"

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

Unanimous Leave to Withdraw

Representative Lewis from the Committee on Labor on Bill "An Act to Establish a Voluntary System of Shared-Work Unemployment Compensation" (H. P. 831) (L. D. 1069) reporting "Leave to Withdraw"

Representative Beaulieu from the Committee on Labor on Bill "An Act to Provide for Local Option on the Issue of Seniority for Teachers" (H. P. 485) (L. D. 582) reporting "Leave to Withdraw"

Representative Salsbury from the Committee on Marine Resources on Bill "An Act to Conserve the Marine Resources of the Medomak River" (H. P. 489) (L. D. 586) reporting "Leave to Withdraw"

Representative Hobbins from the Committee on Judiciary on Bill "An Act Relating to the Statute of Limitations for the Probate of Estates under the Maine Probate Code" (H. P. 441) (L. D. 534) reporting "Leave to Withdraw"

Representative Benoit from the Committee on Judiciary on Bill "An Act Concerning the Statute of Limitations for the Probate of Estates Under the Maine Probate Code" (H. P. 442) (L. D. 535) reporting "Leave to Withdraw"

Representative Soule from the Committee on Judiciary on Bill "An Act Clarifying the Authority of the District Court's Violations Clerk" (H. P. 731) (L. D. 940) reporting "Leave to Withdraw"

Representative Gwadosky from the Committee on State Government on Bill "An Act Concerning Processing Fees for Loan Applications Filed With the Maine Guarantee Authority" (H. P. 740) (L. D. 949) reporting "Leave to Withdraw"

Representative Cooper from the Committee on State Government on Bill "An Act to Establish the Least Cost Principle" (H. P. 741) (L. D. 950) reporting "Leave to Withdraw"

Representative Foster from the Committee on Judiciary on Bill "An Act Establishing a Commission to Study the Defense of Insanity and the Treatment of Persons Adjudged Not Guilty by Reason of Insanity" (Emergency) (H. P. 443) (L. D. 536) reporting "Leave to Withdraw"

Representative Foster from the Committee on Judiciary on Bill "An Act Relating to Insanity as a Defense in Criminal Proceedings" (H. P. 482) (L. D. 579) reporting "Leave to Withdraw"

Representative Foster from the Committee on Judiciary on Bill "An Act Concerning the Plea of Innocent by Reason of Insanity" (H. P. 484) (L. D. 581) reporting "Leave to Withdraw"

Representative Foster from the Committee on Judiciary on Bill "An Act to Permit a Verdict of Guilty but Suffering from Mental Disease or Defect" (H. P. 551) (L. D. 702) reporting "Leave to Withdraw"

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

Ought to Pass in New Draft

Representative Ketover from the Committee on State Government on RESOLVE, Authorizing the State Director of Public Improvements to Convey a Right-of-way Across the Elizabeth Levinson Center in Bangor (H. P. 645) (L. D. 809) reporting "Ought to Pass" in New Draft (H. P. 1018) (L. D. 1315)

Representative Soucy from the Committee on Education on Bill "An Act to Permit Persons Under 18 years of age who pass the Test for General Education Development to Receive a High School Equivalency Certificate at that Time" (H. P. 540) (L. D. 693) reporting "Ought to Pass" in New Draft (H. P. 1022) (L. D. 1323)

Representative Lebowitz from the Committee on State Government on RESOLVE, Authorizing the Conveyance of a Certain Unused Building and Land Owned by the State to the Town of Wells for \$10,000 (H. P. 282) (L. D. 342) reporting "Ought to Pass" in New Draft (H. P. 1024) (L. D. 1325)

Reports were read and accepted, the New Draft read once and assigned for second reading tomorrow.

Ought to Pass in New Draft/New Title

Representative Joyce from the Committee on Judiciary on Bill "An Act to Provide for Mandatory Jail Sentences for Repeat Offenders who Commit Certain Crimes on or to a Person 60 Years of Age or Older" (H. P. 225) (L. D. 273) reporting "Ought to Pass" in New Draft under New Title Bill "An Act to Provide for Consideration of the Age of the Victim in Sentencing Criminal Offenders" (H. P. 1027) (L. D. 1328)

Report was read and accepted, the New Draft read once and assigned for second reading tomorrow.

Ought to Pass

Pursuant to Joint Order H. P. 159

Representative McHenry from the Committee on Local and County Government on RESOLVE, for Laying of the County Taxes and Authorizing Expenditures of Franklin County for the Year 1983 (Emergency) (H. P. 1025) (L. D. 1326) reporting "Ought to Pass"—pursuant to Joint Order (H. P. 159)

Report was read and accepted and the Resolve read once. Under suspension of the rules, the Resolve was read the second time, passed to be engrossed and sent up for concurrence.

By unanimous consent, ordered sent forthwith to the Senate.

Representative McHenry from the Committee on Local and County Government on RESOLVE, for Laying of the County Taxes and Authorizing Expenditures of Knox County for the Year 1983 (Emergency) (H. P. 1026) (L. D. 1327) reporting "Ought to Pass"—pursuant to Joint Order (H. P. 159)

Report was read and accepted and the Re-

solve read once. Under suspension of the rules, the Resolve was read the second time, passed to be engrossed and sent up for concurrence.

By unanimous consent, ordered sent forthwith to the Senate.

Divided Report

Majority Report of the Committee on Fisheries and Wildlife on Bill "An Act to Prohibit Shooting within 100 Yards of any Dwelling During Hunting Season" (H. P. 167) (L. D. 198) reporting "Ought Not to Pass"

Report was signed by the following members:

Senators:

DOW of Kennebec
USHER of Cumberland
REDMOND of Somerset

— of the Senate.

Representatives:

MacEACHERN of Lincoln
ERWIN of Rumford
PAUL of Sanford
CLARK of Millinocket
JACQUES of Waterville
KELLY of Camden
RODERICK of Oxford

— of the House.

Minority Report of the same Committee reporting "Ought to Pass" as amended by Committee Amendment "A" (H-90) on same Bill.

Report was signed by the following members:

Representatives:

CONNERS of Franklin
GREENLAW of Standish
SMITH of Island Falls

— of the House.

Reports were read.

The SPEAKER: The Chair recognizes the gentleman from Lincoln, Mr. MacEachern.

Mr. MacEACHERN: Mr. Speaker, I move we accept the Majority "Ought Not to Pass" Report.

The SPEAKER: The gentleman from Lincoln, Mr. MacEachern, moves that the Majority "Ought Not to Pass" Report be accepted.

The Chair recognizes the gentlewoman from Auburn, Miss Lewis.

Miss LEWIS: Mr. Speaker, Ladies and Gentlemen of the House: I was the sponsor of this bill because of some concerns of some constituents in my area who felt that hunters were shooting just too close to their homes during hunting season.

Right now by current law in Maine, hunters can only hunt up to a hundred feet from an individual's house, and it seems that this hundred foot protection is just not enough. There have been cases in Maine where people's buildings have been shot, there are cases in Maine where people's cows, dogs and horses have been shot. It has gotten in Maine so that you can't even go out into your own yard and rake leaves or hang clothes on your clothes line during hunting season.

It seems that we should all be able to enjoy the Fall in our own yards. What this bill does is, it removes this hundred foot limit to a hundred yard limit.

At the public hearing on this bill, both the Sportsmen's Alliance of Maine, as well as the Maine Trappers Association, spoke in favor of this bill because they felt that although it is common sense that you don't shoot close to people's houses, that if this bill were passed it would mean that everyone could enjoy the hunting season and there would be less antagonism from the non-hunters against the hunters and vice versa. Any questions that were raised at the public hearing I think have been worked out in the Committee Amendment that is already attached to this report.

I hope that you will vote against the "ought not to pass" report so that we can go on to pass this good bill into law so that all of our constituents can enjoy the beautiful Maine Fall.

The SPEAKER: The Chair recognizes the gentleman from Lincoln, Mr. MacEachern.

Mr. MacEACHERN: Mr. Speaker, Ladies and

Gentlemen of the House: This original bill, on the face of it, sounds sensible and reasonable, but the committee, after having a hearing and considering all the angles on it, pretty much decided that it would be a monstrosity to try to enforce. For example, if you have a house that is on a rural road and there's 50 feet behind the house that is cleared and then there's woods beyond that, somebody might be hunting out in that section of woods and inadvertently come within a hundred yards of the house and not even know it; yet, he could be in violation of the law.

Secondly, if there are two houses side by side, closer than a hundred yards to each other, this would preclude the owner of one house going out in his backyard and firing a gun because he would be within a hundred yards of his neighbor and that would put him in violation. There are so many ramifications to the bill that make it unenforceable and cumbersome that we just felt that we should leave it as it is.

The SPEAKER: The Chair recognizes the gentleman from Standish, Mr. Greenlaw.

Mr. GREENLAW: Mr. Speaker, Ladies and Gentlemen of the House: I supported this bill and I voted it out in the minority, and I ask for the yeas and nays.

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

Mr. SMITH: Mr. Speaker and Members of the House: I also signed this bill out as a minority report. We have had more complaints about this, or nearly as many, as we had about the coyote and I believe we should do something about it.

The enforcement of any law, if we always consider that it is going to be hard to enforce, we probably wouldn't pass many laws, so I don't believe that we should use that as an argument against this bill.

Further, I think the amendment that is on this has taken care of the property owner, so I would hope that you would vote against the motion.

The SPEAKER: The Chair recognizes the gentleman from Pittsfield, Mr. McGowan.

Mr. MCGOWAN: Mr. Speaker, I would like to pose a question to the sponsor of this bill. If I woke up one morning and saw a groundhog in my garden and stuck my rifle out the window and shot it, would I be in violation of this law?

The SPEAKER: The gentleman from Pittsfield, Mr. McGowan, has posed a question through the Chair to anyone who may care to answer.

The Chair recognizes the gentlewoman from Auburn, Miss Lewis.

Miss LEWIS: Mr. Speaker and Members of the House: This law only prohibits hunting without the permission of the owner or the occupant of the building. So if you were the occupant of the building, you can do whatever you please on your own property.

What the committee amendment does in addition to that is say that any hunter on his own property is exempted from this law, and any guest that he has with him is also exempted. So certainly you may hunt on your own property and do whatever you please. This is just to give protection to people on their own property who don't want hunters within a hundred yards of their home.

The SPEAKER: The Chair recognizes the gentleman from Waterville, Mr. Jacques.

Mr. JACQUES: Mr. Speaker, Ladies and Gentlemen of the House: I hate to disagree with the gentlelady from Auburn, but according to Lieutenant Trask, who is now the deputy commissioner, if this bill passes the way it is and my good friend Representative McGowan shot the woodchuck in his garden and he was within a hundred yards of his neighbor's property, that neighbor could file a complaint and would win; he would be in violation of the law.

One other thing I would like to point out, Sportsmen's Alliance of Maine did not speak in

favor of this bill. We just checked with the representative in the hallway and made sure, and as it is amended they are even more opposed.

We were told that this bill would be very difficult to enforce. The one we have on the books now is hard to enforce, but this one would be even more difficult to enforce. I can just see a game warden out there now with his tape measure measuring off 300 feet every time somebody complains about somebody discharging a firearm.

One other thing I would like to say—the gentlelady did sponsor this bill for a constituent, not constituents.

The SPEAKER: The Chair recognizes the gentlewoman from Bath, Ms. Small.

Ms. SMALL: Mr. Speaker, Ladies and Gentlemen of the House: I hadn't planned to speak on this bill today, but I just felt that the constituent that I had that complained about the same thing at least ought to have his views aired. Perhaps this law wouldn't help him. He has had several infractions on his property. He has had hunters shoot his truck while he was trying to drive onto his property. He speaks of hunters quite a few times shooting across the road to shoot up a powerline. They park their cars and they wait and if they see anything coming across the open powerline, they shoot across the road. Yes, these things are already illegal, but they are not being enforced.

I guess I might just ask the committee that if these infractions are happening and this bill won't prevent it, what are they going to do to protect the people that are being harassed by hunters, that are having their property rights violated by the hunters?

The SPEAKER: The Chair recognizes the gentleman from Waterville, Mr. Jacques.

Mr. JACQUES: Mr. Speaker. I would be more than happy to answer that question. All they have to do is call a game warden. If the game warden doesn't come, all they have to do is call you. I have run into this problem more than once, and believe me, when I call a game warden, they move, and they should move if every one of you call.

This problem can be solved. If your constituents have a problem with the hunters, post the land. Changing the law from a hundred feet to a hundred yards or two hundred yards to one mile, somebody at the hearing talked about one mile to prohibit the discharge of a firearm, one mile from a building or a dwelling, it is ridiculous, post the land and enforce that posting, that will take care of the problem.

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

Mr. DILLENBACK: Mr. Speaker, Ladies and Gentlemen of the House: You can call a warden all right, I have called them, it takes an hour for the warden to get there. Usually they have to come from Augusta or somewhere.

If a warden goes out with a tape measure and has to measure the distance, I wonder how he arrives at the hundred feet that he has to measure now; I don't think that is the problem. Those of you who are sportsmen, who like to use your rifles, if you don't put a law like this on the books, you are going to end up like we do in Cumberland and Falmouth and other communities, you are going to have a shot gun ordinance only. I think you would be well advised to pass this law.

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

Mr. MASTERMAN: Mr. Speaker, Men and Women of the House: In answer to Mr. McGowan, I don't think it is showing very good judgment when you use a rifle, particularly a high powered rifle, to take care of a woodchuck in close proximity of any dwelling. Why not use poison or use a trap and not endanger your neighbor?

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 Lincoln, Mr. MacEachern, that the Majority "Ought Not to Pass" Report be accepted. All those in favor will vote yes; those opposed will vote no.

ROLL CALL

YEA—Ainsworth, Allen, Andrews, Armstrong, Baker, Bell, Brannigan, Carroll, G.A.; Carter, Clark, Connolly, Cooper, Cote, Cox, Diamond, Drinkwater, Dudley, Erwin, Gauvreau, Hall, Hayden, Hickey, Higgins, H.C.; Hobbins, Jacques, Jalbert, Joseph, Kelleher, Kilcoyne, Lehoux, Locke, MacEachern, Macomber, Manning, Martin, H.C.; McCollister, McGowan, McHenry, McSweeney, Melendy, Mitchell, E.H.; Moholland, Murray, Nadeau, Norton, Paradis, P.E.; Parent, Perry, Pouliot, Roberts, Roderick, Rotondi, Scarpino, Soule, Stevens, Strout, Tammaro, Vose.

NAY—Anderson, Beaulieu, Bost, Bott, Brown, A.K.; Brown, D.N.; Cahill, Callahan, Carrier, Carroll, D.P.; Cashman, Chonko, Conary, Conners, Crouse, Crowley, Daggett, Davis, Day, Dexter, Dillenback, Foster, Greenlaw, Gwadzky, Handy, Higgins, L.M.; Holloway, Ingraham, Joyce, Kelly, Ketover, Kiesman, LaPlante, Lebowitz, Lewis, Lisnik, MacBride, Martin, A.C.; Masterman, Masterton, Matthews, K.L.; Matthews, Z.E.; Maybury, McPherson, Michael, Michaud, Mitchell, J.; Murphy, Nelson, Paradis, E.J.; Paul, Perkins, Pines, Racine, Randall, Reeves, J.W.; Reeves, P.; Richard, Ridley, Rolde, Salisbury, Seavey, Small, Smith, C.B.; Smith, C.W.; Soucy, Sproul, Stevenson, Stover, Swazey, Telow, Thompson, Walker, Wentworth, Willey, Zirkilton.

ABSENT—Benoit, Bonney, Brodeur, Brown, K.L.; Curtis, Jackson, Kane, Livesay, Mahany, Mayo, Sherburne, Studley, Theriault, Tuttle, Webster, The Speaker.

Yes, 58; No, 77; Absent, 16.

The SPEAKER: Fifty-eight having voted in the affirmative and seventy-seven in the negative, with 16 being absent, the motion does not prevail.

Thereupon, the Minority "Ought to Pass" Report was accepted and the Bill read once.

Committee Amendment "A" (H-90) was read by the Clerk and adopted and the Bill assigned for second reading tomorrow.

Consent Calendar First Day

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

(H. P. 340) (L. D. 399) Bill "An Act Relating to Unreasonable or Unjust Rent in Mobile Home Parks"—Committee on Business Legislation reporting "Ought to Pass"

(S. P. 221) (L. D. 658) Bill "An Act to Amend the Statutes Relating to Coordination Services for Preschool Handicapped Children"—Committee on Education reporting "Ought to Pass"

(H. P. 745) (L. D. 957) Bill "An Act to Transfer Residual Jurisdiction of the Public Utilities Commission Over Municipal Transit Districts to the Department of Transportation"—Committee on Public Utilities reporting "Ought to Pass"

(H. P. 748) (L. D. 960) Bill "An Act to Amend the Act Restricting Rate Increase Proposals by Public Utilities"—Committee on Public Utilities reporting "Ought to Pass"

(H. P. 749) (L. D. 961) Bill "An Act to Require the Public Utilities Commission to Expediently Process Consumer Complaints"—Committee on Public Utilities reporting "Ought to Pass"

No objections being noted, the above items were ordered to appear on the Consent Ca-

lendar of March 29, under the listing of Second Day.

Consent Calendar Second Day

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

(H. P. 476) (L. D. 573) Bill "An Act to Include Water and Sewer Districts in the Local Government Energy Conservation Program"

(H. P. 766) (L. D. 996) Bill "An Act to Clarify the Definition of Child or Children and to Delete Restrictions on Death Benefits to Spouses in the Retirement System Statutes"

(H. P. 170) (L. D. 200) Bill "An Act Limiting Positions of Trust for Prisoners in Jails to those Prisoners Sentenced or Transferred to that Particular Jail" (C. "A" H-87)

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

Passed to Be Engrossed

Bill "An Act to Establish Mandatory Minimum Fines for Unauthorized Taking of Agricultural or Forestry Products" (H. P. 1017) (L. D. 1314)

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

Bill "An Act to Amend the Statute Relative to the Appointment of the Commissioner of Educational and Cultural Services" (S. P. 416) (L. D. 1263)

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

Mrs. Locke of Sebec offered House Amendment "A" and moved its adoption.

House Amendment "A" (H-91) was read by the Clerk and adopted.

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

Enactor

Tabled and Assigned

An Act to Conform Maine Garnishment Laws to the United States Code, Title 15, Section 1673, the Federal Consumer Credit Protection Act (S. P. 110) (L. D. 262) (S. "A" S-32 and C. "A" S-26)

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

On motion of Mrs. Mitchell of Vassalboro, tabled pending passage to be enacted and tomorrow assigned.

Passed to Be Enacted

An Act Raising the Limit on Speeding Violations which can be Processed by the District Court Traffic Violations Bureau (S. P. 151) (L. D. 442)

An Act to Amend the Maine Statutes to Provide for the Sale of Kerosene or Similar Illuminating or Fuel Oils which Flash over 100 degrees Fahrenheit, Closed Cup Test (H. P. 154) (L. D. 179) (C. "A" H-73)

An Act to Provide Consistency in the Filing of Mechanics' Liens (H. P. 263) (L. D. 323) (C. "A" H-72)

An Act to Increase the Penalty for Nonpayment of Reportable Wages under the Unemployment Compensation Laws (H. P. 506) (L. D. 604) (C. "A" H-67)

An Act to Prohibit Skiing in Out-of-bounds Areas (H. P. 524) (L. D. 649) (S. "A" S-33) to C. "A" H-45)

An Act to Strengthen the Enforcement of the Collection Agency Law (H. P. 666) (L. D. 849)

An Act to Amend the Fraud Provisions of the Maine State Retirement System Statutes (H. P. 693) (L. D. 882)

An Act Limiting the Cost of Local Pay Telephone Calls (H. P. 943) (L. D. 1213)

An Act Concerning the Use of Purse Seines in Washington County (H. P. 944) (L. D. 1214)

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

Orders of the Day

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

HOUSE REPORT—"Ought to Pass"—Committee on Local and County Government on Bill "An Act Concerning the Financial Responsibility of the County for Medical Expenses of Prisoners" (H. P. 671) (L. D. 854)

Tabled—March 24, 1983 by Representative McHenry of Madawaska.

Pending—Acceptance of Committee Report.

On motion of Mr. McHenry of Madawaska, retabled pending acceptance of the Committee Report and specially assigned for Wednesday, March 30.

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

Bill "An Act Relating to Motor Fuel Taxes" (H. P. 130) (L. D. 138)

Tabled—March 25, 1983 by Representative Macomber of South Portland.

Pending—Passage to be Engrossed.

Mr. Macomber of South Portland offered House Amendment "A" and moved its adoption.

House Amendment "A" (H-92) was read by the Clerk and adopted.

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

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

An Act to Clarify the Definition of Chiropractic (S. P. 164) (L. D. 519) (C. "A" S-25)

Tabled—March 25, 1983 by Representative Murray of Bangor.

Pending—Passage to be Enacted.

The SPEAKER: The Chair recognizes the gentleman from Portland, Mr. Brannigan.

Mr. BRANNIGAN: Mr. Speaker, Men and Women of the House: I thank Representative Murray for tabling this matter when I was not here on Friday. The reason that this was tabled at enactment is because I wish to place a statement on the record dealing with the definition of chiropractic.

We dealt with this issue at the request of the Attorney General's Office because there was a discrepancy between two laws, one defining chiropractic back in the 1920's and the other which gave some doubt as to the first.

After a tremendous amount of debate and difference within our committee, chiropractic in this bill is defined in terms that relate to chiropractic today. Some members of the committee wished not to define it as we have. The members who promoted a broader definition placed within the bill a term that talked about chiropractic being limited primary care within the scope of practice.

After a great deal of compromise by those who wished not to go with the definition and by many of us who were willing to go with the whole bill except for the word "primary," the problem came down to that one word. The words "primary care" are used a great deal in common parlance and in various ways dealing with hospitals and medical care, primary care, tertiary care, secondary care, some do some and some do both.

Some of us felt that it is not used in licensing law, and some of us, including myself, did not want to use the word "primary" at this time in this law. It was a compromise that that word would be taken out. However, that does not necessarily mean that because we did not vote in favor of the word "primary," it does not

mean that many members of the committee did not feel that chiropractic is a portal of entry for certain conditions.

Thereupon, the Bill was passed to be enacted, signed by the speaker and sent to the Senate.

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

An Act to License the Harvest of Seaweeds (S. P. 388) (L. D. 1171)

Tabled—March 25, 1983 by Representative Diamond of Bangor.

Pending—Passage to be Enacted. (Roll Call Requested)

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

ROLL CALL

YEA—Ainsworth, Allen, Andrews, Baker, Beaulieu, Benoit, Bost, Brannigan, Brown, A.K.; Callahan, Carrier, Carroll, D. P.; Carroll, G.A.; Carter, Cashman, 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, Joyce, Kelleher, Kelly, Ketover, Kilcoyne, LaPlante, Lehoux, Lisnik, Locke, MacEachern, Macomber, Manning, Martin, A.C.; Matthews, Z.E.; McCollister, McHenry, McSweeney, Melendy, Michael, Michaud, Mitchell, E.H.; Mitchell, J.; Moholland, Murray, Nadeau, Nelson, Paradis, P.E.; Paul, Perry, Pouliot, Racine, Reeves, P.; Richard, Ridley, Roberts, Rolde, Rotondi, Smith, C.B.; Soucy, Stevens, Swazey, Tammara, Thompson, Vose, The Speaker.

NAY—Anderson, Armstrong, Bell, Bott, Brown, D.N.; Cahill, Conary, Connors, Davis, Day, Dexter, Dillenback, Drinkwater, Foster, Greenlaw, Higgins, L.M.; Holloway, Ingraham, Kiesman, Lebowitz, Lewis, MacBride, Martin, H.C.; Masterman, Masterton, Matthews, K.L.; Maybury, McGowan, McPherson, Murphy, Norton, Paradis, E.J.; Parent, Perkins, Pines, Randall, Reeves, J.W.; Roderick, Salsbury, Scarpino, Seavey, Small, Smith, C.W.; Soule, Sproul, Stevenson, Stover, Strout, Telow, Walker, Wentworth, Weymouth, Willey, Zirkilton.

ABSENT—Bonney, Brodeur, Brown, K.L.; Curtis, Jackson, Kane, Livesay, Mahany, Mayo, Sherburne, Studley, Theriault, Tuttle, Webster.

Yes, 83; No, 54; Absent, 14.

The SPEAKER: Eighty-three having voted in the affirmative and fifty-four in the negative, with fourteen being absent, the motion does prevail.

Signed by the Speaker and sent to the Senate.

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

An Act to Prohibit the Commercial Sale of Chain Saws and Skidders not Equipped with Spark Arresters (H. P. 379) (L. D. 462)

Tabled—March 25, 1983 by Representative Racine of Biddeford.

Pending—Passage to be Enacted.

The SPEAKER: The Chair recognizes the gentleman from Biddeford, Mr. Racine.

Mr. RACINE: Mr. Speaker, Ladies and Gentlemen of the House: I now move that L. D. 462 and all its accompanying papers be indefinitely postponed and further request that the vote be taken by the yeas and nays.

If you recall, when this bill came before this body there was some debate pro and con as to whether or not this bill should become law.

Those of us that were opposed to including chain saws were of the opinion that a division would be made. However, that was not the case because a division was not requested by the Chairman of the Business Legislation Committee and this bill passed under the hammer.

If you recall, the debate pertained to whether or not a chain saw is hazardous in the woods if it does not have a spark arrester, number one. Number two, whether or not if a woodcutter removes the spark arrester, should the dealer be forced, if brought into court, to pay a fine; that is the issue.

You are probably wondering why the motion on the floor is to indefinitely postpone the whole bill. The reason the motion is on the floor is because skidders that are being sold within this state normally have spark arresters and they are not a problem unless they are removed by the operator.

Also, to refresh your memory, I personally stated that we had asked for a report from the Department of Conservation as to how many fires were caused by chain saws, and the report came back and I believe I indicated to this body that there were approximately three forest fires that had been classified as having been started by a chain saw. I would like to correct that because at that time I did not have the Department of Forestry's report in front of me. There were actually four reports that were directly attributed by the Forestry Department as having been started by chain saws. I would like to go over these reports with you to show to this body how dangerous and hazardous a chain saw is.

The first report that I will discuss with you — there was no law that was violated, so that means that the chain saw did have a spark arrester and there are no remarks in the story as to what happened, all it says is that the fire that was reported was handled by the town warden.

The second report that I have in front of me indicates that there was no law that was violated pertaining to this fire, and under the remarks section it states that the fire was started by a chain saw. The individual, and I won't say his name, under the remarks section, was cutting wood along a field where the fire started. He said, after putting gas in the chain saw, he turned around and the field was on fire. The fire department used tanks and boosters to put it out, so this fire was attributed to the chain saw but the spark arrester had nothing to do with it. The other one was, a fire was started by a landowner who set his chain saw down and the hot exhaust started a fire in the dry leaves, so again, the spark arrester had nothing to do with that particular fire. The third one pertained to the Department of Transportation cutting dead trees along the side of the road and the story of the fire indicates that DOT crew was in the area cutting dead elms on May 1st, all saws had spark arrester equipment in place but was not maintained well enough as far as cleaning. Fires were started in two of eight cuts in a dead elm tree.

What I am trying to convey to this body is that we don't have a problem concerning spark arresters on chain saws and as far as skidders are concerned, we don't have a problem because they all come equipped.

The problem is this, some of your woodcutters are not cleaning and maintaining and taking care of their equipment properly. What this bill does, if a spark arrester is not on these chain saws when inspected by the forestry department, the storeowner would be responsible.

There is another item that I want to bring forward here which was not discussed last Friday and I just want to discuss this very briefly. We got the impression that every violation that occurs in the woods, the individual cutter is immediately brought into court; this is not the case. Fire wardens will give individuals warnings, and if the warnings do not cor-

rect the situation, then individuals will be brought in.

They didn't have any figures as to how many people were actually brought in on chain saw violations. There is a report that indicates that there was a total of 103 court cases, of which 79 pertained to machine use fires. This was not broken down because it did not have those figures, so if you want to put the onus on the storeowner, then you would support the bill, but if you want to be fair about this and you don't want to clutter up our statutes with unnecessary legislation, then I would urge you to vote for the pending motion, which is to indefinitely postpone this bill. Let's put it in a pine box and let's bury that in the woods.

The SPEAKER: The Chair recognizes the gentleman from Fryeburg, Mr. Kiesman.

Mr. KIESMAN: Mr. Speaker, Ladies and Gentlemen of the House: This poor little bill is a common sense bill and that is probably why it is having such a tortuous path through the process.

Let's just start back a little bit and deal with what the bill does. The present law says that it is illegal to have a chain saw in the woods without a spark arrester installed; that is the present law. What this bill proposes to do is to say that it is also illegal to sell in commercial sales, not casual sales between you and me, but a commercial sale, a retailer who is making a living just selling chain saws, to sell a chain saw without a spark arrester installed and that is all it does.

The only people this will affect is those people who have an intention or are intentionally breaking the law. It does help those who are buying illegal chain saws and taking them out in the woods and thereby being in violation of the law and not even know they are in violation of the law, because they presume that when they buy a brand new chain saw, that it is properly equipped. All of the reputable chain saw dealers, the dealers that sell and maintain chain saws, wouldn't consider putting out a chain saw without a spark arresting muffler. After all, their livelihood depends on the forests and they don't want them to burn down.

I told you last week, what this deals with is the department stores who have got into the chain saw business as a result of the weekend woodcutters who are going in and buying an inexpensive chain saw and going out on a weekend to cut their winter firewood. Yes, they are starting fires. Anybody that could oppose this proposal to make the dealers responsible that they are selling a safe product must also be in opposition of our teenage liquor laws because our teenage liquor laws say that it is illegal for a teenager to possess booze. It also says that it is illegal for you to sell booze to that teenager, and this is the same situation.

I have these four reports that the gentleman from Biddeford read to you, and according to the information I received from the Director of the Bureau of Fire Suppression, these were examples that he brought over just to show an example of the reports that come in from the field. What he told me was that according to the reports that came in from his rangers, there were 2,234 chain saws inspected in the woods; 504 of them did not pass, they failed inspection; 504 out of 2,234, that is about one-fourth that did not pass for one reason or another.

He also told me that their computer system does not break down to where he could tell me how many fires were started with chain saws. He had a total of 79 fires started by equipment sources, he said you can presume that about two thirds of them were by chain saws.

You must also remember that a majority of our chain saws are being used by responsible woodcutters and they have a fire and they put it out themselves and it never gets reported. It is only those that get away from someone that get reported. Let me tell you that the weekend

woodcutter is more likely to panic when he has a fire and let it get away from him than is the professional woodcutter.

So I would urge you not to vote for indefinite postponement. It makes sense, it is not going to affect the retailer that is obeying the law. There seems to be a concern that if someone is caught out in the woods with an illegal saw, they are going to go back and haul the dealer into court — well, obviously it takes proof to take someone into court and make a case on it. What the warden would do is to go to the dealer where the individual bought the saw and look at the saws he has on the shelf to sell, and if those saws that he has on the shelf do not have spark arresters on them, he probably would issue him a citation, and rightfully he should.

I urge you to vote against the pending motion and pass this and put a common sense law on the books.

The SPEAKER: The Chair recognizes the gentleman from Biddeford, Mr. Racine.

Mr. RACINE: Mr. Speaker, Ladies and Gentlemen of the House: I would like to correct one comment that was made. When we had our work session, we asked the representatives from the Forestry Department how many forest fires had been started by chain saws and to bring in the documentation pertaining to such. We did not ask for examples, we asked for the actual number, and the report that I read to you this morning is what they gave us as being actual numbers. Now, whether or not they said something else to somebody else, we have no way of knowing, but the committee was quite concerned that we were making a mountain out of a molehill because we were not aware or had no information that had been supplied at the public hearing as to the number of forest fires that were started by chain saws. So the committee asked that we be given a report as to how many forest fires had been started by chain saws and this is the report that we have. They had been started by chain saws but it was when they poured the gasoline in them, which is quite different than when you are looking at a spark arrester.

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

Mr. MASTERMAN: Mr. Speaker, Men and Women of the House: I had no intention of getting up on this matter this morning, but because of the omission of something that should be said, it seems to me that as I hear the debate in opposition to this bill, there is a concern, and I think it is a legitimate one, that they may be putting the dealer in jeopardy because the user may in fact remove the spark arrester which should be there.

I would just call to your attention that the simplest manner in the world to protect that dealer and also help in the enforcement area too, because then the violation would be where it should be, with the gentleman or the operator who removes the spark arrester, usually when you buy an item, you either have a bill of sale or at least a sales slip, so the simplest thing in the world, if in fact the dealer is a reputable dealer, is just write on that sales slip that this piece of equipment is equipped with a spark arrester. I don't think you have to worry about that dealer at all.

I would hope that you would vote not to indefinitely postpone 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. 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 Chair recognizes the gentleman from Portland, Mr. Brannigan.

Mr. BRANNIGAN: Mr. Speaker, Men and Women of the House: I am sure this hasn't been

an important enough issue for many of you, I haven't heard anyone say that they had been home to discuss this with their dealers, especially those of you who live in the rural areas. I would say to you, though, that members of the committee, as we debated and discussed this bill, did talk to their dealers and did reflect that they felt that with the onus put on them, it was something that their dealers did not want.

Also, the Speaker's concern, others from Aroostook County and those along the New Hampshire border, many of you have said that your concern is of things being sold in New Hampshire and brought across or in Canada and brought across, this bill would have nothing to do with those issues. We weighed the issue of the dangers from spark arresters versus the onus put on our honest dealers and our decision was to come down on the side of our dealers.

The SPEAKER: The Chair recognizes the gentleman from Fryeburg, Mr. Kiesman.

Mr. KIESMAN: Mr. Speaker, Ladies and Gentlemen of the House: Maybe the dealers don't want this bill to pass, but let me tell you who does want this bill to pass, they are the people you have put out there with the government trust to enforce our laws. The rangers and the fire wardens and the fire chiefs who have the responsibility for enforcing the law as it deals with fire protection, they are the people who want this bill to pass. It was in their behalf that I submitted this bill.

Like most everybody in this chamber, I would assume, I was not aware that it was not illegal to sell a saw in the state of Maine without a spark arrester until it was brought to my attention. It was as a result of a substantial number of rangers and wardens that this was brought to my attention, and after I did some investigation and found out that their statements were correct, I submitted this bill. They are the ones that want this to pass. I agree, if there are some woodpeckers out there that don't want a bill to pass because it might affect the sales that they might make, I understand that, but understand that the people who are trying to enforce the fire laws and prevent forest fires, our state heritage is the most important single resource in this state, they are the ones that want it to pass.

The SPEAKER: A roll call has been ordered. The pending question before the House is on the motion of the gentleman from Biddeford, Mr. Racine, that this Bill and all its accompanying papers be indefinitely postponed. Those in favor will vote yes; those opposed will vote no.

ROLL CALL

YEA—Ainsworth, Andrews, Baker, Bell, Brannigan, Brown, A.K.; Carrier, Conary, Connolly, Cote, Dudley, Gauvreau, Gwadosky, Handy, Hayden, Hickey, Higgins, H.C.; Hobbins, Jacques, Jalbert, Joseph, Joyce, Kelly, Ketover, Kilcoyne, Lehoux, MacBride, Macomber, Manning, Martin, H.C.; Matthews, Z.E.; McSweeney, Murray, Nadeau, Norton, Perkins, Pines, Pouliot, Racine, Rolde, Salisbury, Smith, C.W.; Soucy, Stevens, Tammara, Telow.

NAY—Allen, Anderson, Armstrong, Beaulieu, Benoit, Bost, Bott, Brown, D.N.; Cahill, Callahan, Carroll, D.P.; Carroll, G.A.; Carter, Cashman, Chonko, Clark, Conners, Cooper, Cox, Crouse, Crowley, Daggett, Davis, Day, Diamond, Dillenback, Drinkwater, Erwin, Foster, Greenlaw, Hall, Higgins, L.M.; Holloway, Ingraham, Kiesman, LaPlante, Lebowitz, Lewis, Lisnik, Locke, MacEachern, Martin, A.C.; Masterman, Masterton, Matthews, K.L.; Maybury, McCollister, McGowan, McHenry, McPherson, Melendy, Michael, Michaud, Mitchell, E.H.; Mitchell, J.; Moholland, Murphy, Nelson, Paradis, E.J.; Paradis, P.E.; Parent, Paul, Perry, Randall, Reeves, J.W.; Reeves, P.; Richard, Ridley, Roberts, Roderick, Rotondi, Scarpino, Seavey, Small, Smith, C.B.; Soule, Sproul, Stevenson, Stover, Strout, Swazey, Thompson, Vose, Walker, Wentworth, Weymouth, Willey, Zirnkilton, The Speaker.

ABSENT—Bonney, Brodeur, Brown, K.L.; Curtis, Dexter, Jackson, Kane, Kelleher, Livesay, Mahany, Mayo, Sherburne, Studley, Theriault, Tuttle, Webster.

Yes, 46; No, 89; Absent, 16.

The SPEAKER: Forty-six having voted in the affirmative and eighty-nine in the negative, with sixteen being absent, the motion does not prevail.

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

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

Bill "An Act Relating to Attorneys Searching and Certifying Title to Real Estate" (H. P. 969) (L. D. 1225)

Tabled—March 25, 1983 by Representative Racine of Biddeford.

Pending—Passage to be Engrossed.

Mr. Brannigan of Portland offered House Amendment "A" and moved its adoption.

House Amendment "A" (H-86) was read by the Clerk.

The SPEAKER: The Chair recognizes the gentleman from Saco, Mr. Hobbins.

Mr. HOBBS: Mr. Speaker, could we have a brief explanation of what this amendment does?

The SPEAKER: The gentleman from Saco, Mr. Hobbins, has posed a question through the Chair to anyone who may care to respond.

The Chair recognizes the gentleman from Portland, Mr. Brannigan.

Mr. BRANNIGAN: Mr. Speaker, Men and Women of the House: For some time we have been working, not just some time this year but several years, working to make sure that people buying a house may be able to choose their own attorney rather than to use a bank assigned attorney that they pay for in order to search the title. This has been done successfully, or we thought successfully, in the past but each year this concept seems to need fine tuning because attorneys have some way I cost no aspersions on the gentleman who asked the question—of trying to or having some problems with it. Before I get to the amendment to the bill, some banks were saying that their own attorney had to certify, you could have your own attorney search, but he had to certify. In the case of mortgage companies, you couldn't, it was only banks, so this bill would make it that you can still choose your own attorney and your attorney can search title and certify to a mortgage company.

This amendment further fine tunes it in relation to title insurance. As you may or may not know, unfortunately title insurance has become almost mandatory now because of the new mortgage market and the selling of a secondary market throughout the country. So this fine tunes regarding certification by your attorney to a title insurance company.

Thereupon, House Amendment "A" was adopted.

On motion of Mrs. Mitchell of Vassalboro, tabled pending passage to be enacted and tomorrow assigned.

Mr. Hobbins of Saco was granted unanimous consent to address the House.

Mr. HOBBS: Mr. Speaker, Ladies and Gentlemen of the House: This statement, I think, is warranted for the record; I rise to offer a word of explanation about the Judiciary Committee's reports on L. D.'s 536, 579, 581, and 702.

As you know, these bills were presented to the committee with various suggestions to change or study Maine's insanity defense law. I want to personally commend, on behalf of the committee, the sponsors of each of these bills, Representative Sharon Benoit, Representative Merle Nelson, Representative Harriet Ketover, and Representative Harriet Lewis, for providing the opportunity for a needed investigation of how Maine's insanity defense law is working.

Their interest in this issue generated helpful interest on the part of others.

For example: In January, the Department of Mental Health and Mental Retardation, and the University of Maine School of Law, presented a conference on Maine's insanity defense. It brought together experienced defense attorneys, prosecutors, and mental health professionals.

The results of this conference suggested that Maine's insanity defense is working well.

The Judiciary Committee, in addition to its hearings on these bills, offered its own seminar on the history of the insanity defense and the current law.

So, the committee has closely examined this issue and we have had the input of many knowledgeable people in doing so.

Our conclusion is that Maine has a modern insanity defense law that is protecting society. Let me mention some of the issues which we learned in our discussions of the insanity defense.

First, Maine's insanity defense law places the burden on the defendant to prove his insanity. In the Hinkley case, the prosecution had to prove Mr. Hinkley was sane.

Second, in Maine a psychiatrist or psychologist testifying in court may not give an opinion as to whether the defendant claiming insanity was responsible for his actions. Maine law recognizes that the question of criminal responsibility is for the jury, not the experts, to answer.

Moreover, and this is significant, in the past twelve years, with one exception, no Maine jury has found a defendant not guilty by reason of insanity in a case tried by the Attorney General's Office.

Finally, the clinical director of AMHI has records demonstrating that it is not an easy task for a person found not guilty by reason of insanity to gain part-time release, let alone full-time discharge from a mental institution.

So, let me again thank the sponsors of these insanity defense bills that are presently before us, which are on the Leave to Withdraw Calendar today. It is because of them and the information their efforts have generated that I can report to you the good news, that we have an excellent insanity defense law in Maine. On behalf of the Judiciary Committee, we would like to commend those sponsors for their efforts.

(Off Record Remarks)

On motion of Mr. Perry of Mexico, Adjourned until nine o'clock tomorrow morning.